

COUNTY BOARD SUMMARY REPORT

TO : County Clerk: Attn: Meggan Reppert-Funke/Cori Beattie

FROM : David R. Cary, Director of Planning

RE : **County Text Amendment 21011**
(Amend Article 2-Definitions; Article 4-AG Agricultural; Article 5-AGR Agricultural Residential; Article 6-Residential; Article 7-Business; Article 13-Special Permit, and Article 17-Additional Height and Area Regulations of the Lancaster County Zoning Regulations by restructuring Article 13 and reformatting the zoning code)

DATE : February 17, 2022

1. On February 16, 2022, the Planning Commission held a public hearing on County Text Amendment 21011.

2. Attached is the Planning staff report that includes the proposed text amendment for **County Text Amendment 21011**, to amend the Lancaster County Zoning Regulations. The proposed application is to amend Article 2 Definitions, Article 4 AG Agricultural, Article 5 AGR Agricultural Residential, Article 13 Special Permit and Article 17 Additional Height and Area Regulations of the Lancaster County Zoning Regulations. The proposed text will reformat the zoning regulations by moving some special permit uses to either a permitted use or conditional permitted use. Conditions have been added to some special permits and a few will require a separate text amendment.

The few uses requiring a separate text amendment are more complex and need input from other departments such as Lincoln-Lancaster County Health Department and Lancaster County Engineering Department.

3. The staff recommendation is based upon the Analysis as set forth on pp.1-3, concluding that having conditions for all special permits will allow for consistency in reviewing each special permit application. This will ensure the applicant knows from the beginning what is required. This change may limit the ability to add conditions at the time of special permit review depending upon how specific the conditions are. The staff presentation and Planning Commission discussion is found on pp.18-20.

4. There was no testimony in support or in opposition to this proposed amendment.

5. On February 16, 2022, the Planning Commission voted 9-0 to recommend approval of this text amendment.

The Planning staff is scheduled to brief the County Board on this amendment at their regular staff meeting on Thursday, March 3, 2022, at approximately 9:15 a.m., in Room 113 of the County-City Building, 555 South 10th Street, Lincoln, Nebraska. The public hearing before the County Board is pending at this time.

If you need any further information, please let me know (402-441-7491).

cc: County Board
Jenifer Holloway, County Attorney's Office
Terry Kathe, Building & Safety
Tom Cajka

Kristy Bauer, County Commissioners
John Ward, County Attorney's Office
David Derbin, County Commissioners

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 #21011	FINAL ACTION? No
PLANNING COMMISSION HEARING DATE February 16, 2022	RELATED APPLICATIONS None

RECOMMENDATION: APPROVAL

BRIEF SUMMARY OF REQUEST

The Lancaster County Board of Commissioners requested the Planning Department to amend the Lancaster County Zoning Regulations. The proposed application is to amend Article 2 Definitions, Article 4 AG Agricultural, Article 5 AGR Agricultural Residential, Article 13 Special Permit and Article 17 Additional Height and Area Regulations of the Lancaster County Zoning Regulations. The proposed text will reformat the zoning regulations by moving some special permit uses to either a permitted use or conditional permitted use. Conditions have been added to some special permits and a few will require a separate text amendment.

The few uses requiring a separate text amendment are more complex and need input from other departments such as Lincoln-Lancaster County Health Department and Lancaster County Engineering Department.

JUSTIFICATION FOR RECOMMENDATION

Having conditions for all special permits will allow for consistency in reviewing each special permit application. This will ensure the applicant knows from the beginning what is required. This change may limit the ability to add conditions at the time of special permit review depending upon how specific the conditions are.

APPLICANT

David Cary, Planning Director

STAFF CONTACT

Tom Cajka, County Planner
402-441-5662 or tcajka@lincoln.ne.gov

COMPATIBILITY WITH THE COMPREHENSIVE PLAN

The proposed text amendment is compatible with the Comprehensive Plan goals of streamlining the process and striving for predictability.

KEY QUOTES FROM THE 2050 COMPREHENSIVE PLAN

Page 4.25 Policy 12 - Economic Growth: Promote and foster appropriate, balanced, and focused future economic growth that maintains the quality of life of the community.

Action Steps

6. Explore additional opportunities for streamlining the zoning and building permitting processes.

Page 4.31 Policy 17- Strive for predictability for neighborhoods and developers.

Action Steps

1. Continue to make updates as needed to zoning and subdivision ordinances, along with design standards, to support economic development, complete neighborhoods, and other PlanForward initiatives.

ANALYSIS

1. The main purpose of this text amendment is to reorganize Article 13 Special Permit by adding conditions for certain special permits, reclassifying certain special permits as a permitted use or conditional use, placing some on a temporary hold status and eliminating certain special permits. In addition, changes are proposed for Article 17 Additional Height and Area Regulations Section 17.003 to exceed the height regulations and Section 17.023 to allow more than one primary building on a lot.

2. Article 2-Definitions is amended to add a new definition “Private Recreational Facilities and/or Activities”. This definition will clarify what is allowed on property that does not have a dwelling. This allows a recreational use as a primary or accessory use on the property. The use is not open to the public. Uses may include, but not limited to fitness course, deer stands, boat docks, fishing piers and accessory buildings. An accessory building could have electricity, heating, air conditioning, bathroom, and sitting area, but does not qualify as a dwelling unit. Currently this is not allowed.
3. Article 17 Additional Height and Area Regulations Section 17.003 is amended to delete “place of religious assembly steeples” and add meteorological tower. Place of religious assembly steeple is allowed to exceed the height limit in Section 17.031 and therefor is not needed in 17.003. Meteorological tower is a use consistent with other uses allowed to exceed the height of the district. A meteorological tower may be constructed by someone wanting to gather data on wind.
4. Seven special permits are being removed from Article 13 Special Permit. Each special permit is discussed in more detail. The uses proposed to be removed from Article 13 are:
 - Health Care Facilities Non-Residential,
 - Cemeteries,
 - Private Recreational Activities,
 - Riding Stables and Private Stables,
 - Pet Cemeteries,
 - Sale Barns and
 - Places of Religious Assembly Steeples, Towers and Ornamental Spires.
5. A special permit for Health Care Facilities Non-Residential has never been submitted. A non-residential Health Care facility would be a hospital or medical clinic. Hospitals or clinics are most likely to be located within a town and not in the rural unincorporated area of the County. This use is not appropriate for the unincorporated area of the county.
6. A special permit for a Cemetery in the R or I District has never been submitted. Currently cemeteries in the R and I zoning district require a special permit. This use requires a sufficient amount of land and there is only small amounts of R and I district in rural Lancaster County. Cemeteries should be in AG or AGR Districts when outside incorporated towns. Cemeteries are not allowed in the B District.
7. There has been one special permit application for Private Recreational Activities. The special permit was to allow a cabin that did not meet building code for a dwelling on property in the AG Agricultural District. This proposal would change this use from a special permit to a permitted use. The name is changed to “Private Recreational Facilities and/or Activities.” This would allow accessory building(s) and/ or activities on vacant land without a dwelling.
8. There have been 2 special permits for Riding Stables and Private Stables. One was to allow two main uses on a lot and the other was due to the lot being less than 10 acres. This use is already listed as a permitted use in the AG and AGR District. The special permit was to allow an applicant to request a modification to the AG or AGR area regulations.
9. There has been one special permit application for Pet Cemeteries. This amendment proposes to move pet cemetery from special permit to conditional use in the AG and AGR district. The only condition is that the pet cemetery must contain a minimum of 5 acres.
10. There has been one special permit for a Sale Barn since 1979. That special permit was to allow for auctions of farm equipment and livestock. Due to this special permit only being used once, there does not appear to be a need for it. This use will no longer be allowed in any district.
11. There has been one special permit for Places of Religious Assembly Steeples, Towers, and Ornamental Spires to exceed the height limit. The special permit was for a meteorological tower. Meteorological tower is being added as a conditional use in the AG District. Places of Religious Assembly Steeples, Towers, and Ornamental Spires can exceed the height limit per Sections 17.003 and 17.031.

12. This text amendment also proposes to amend Article 13-Special Permit by adding conditions. Adding conditions will allow for consistency for each application. The applicant will be aware of the conditions from the beginning, rather than waiting for the Planning Commission or County Board to decide the conditions. The Planning Commission or County Board will still have the option to add conditions if appropriate. Each special permit is discussed below.

Conditions for “Academies, Private schools, or Post-Secondary Education Facilities” include requiring information on number of students, number of staff and setting number of required parking stalls.

Conditions for “Clubs” include setting minimum lot size, maximum floor area, required parking and restrictions on outdoor lighting.

Conditions for “Health Care Facilities, Residential” include establishing minimum parking and maximum number of residents per zoning district.

Conditions for “Dwellings for Members of Religious Orders” include a conversion plan, maximum number of residents per zoning district and parking.

Conditions for “Recreation Facilities” include parking, outdoor lighting and information on type of events.

Conditions for “Veterinary Facilities” include setting minimum lot size, maximum building size, and setback for outdoor areas.

13. The following seven special permits are proposed to be placed on a hold while conditions can be developed for each use. These uses can be controversial and require additional time to develop conditions. The Industrial uses would require consulting with Lincoln-Lancaster County Health Department. The uses are:

Mobile Home Courts

Campground

Industrial

Facilities for the Commercial Storage or Sale of Fertilizer or Toxic Flammable Agricultural Chemicals.

Garden Centers

Non-Commercial distillation and storage of fuel and fuel products.

Off Premises Signs

Prepared by

Tom Cajka, Planner

Date: February 7, 2022

Applicant: David Cary, Planning Director

Contact: Tom Cajka, County Planner
402-441-5662 or tcajka@lincoln.ne.gov

<https://linclanc.sharepoint.com/sites/PlanningDept-DevReview/Shared Documents/DevReview/TX/21000/TX21011 County special permit.tjc.docx>

ARTICLE 2 DEFINITIONS

2.017. P.

Paint Filter Test shall mean a test on waste conducted in compliance with EPA Method 9095B to determine if the waste contains free liquids. (Resolution No. [R-17-0040](#), May 30, 2017)

Parking Space shall mean aAn area, enclosed or unenclosed, sufficient in size to store one (1) automobile, together with a driveway connecting the parking space with a street or alley and permitting ingress and egress of an automobile.

Participating Property shall mean any premises where a property owner has a contractual arrangement regarding a proposed or existing special permitted use. (Resolution No. [R-20-0037](#), July 14, 2020)

Place of Religious Assembly shall mean aAny use of a building or premises by a religious organization, as defined in the Nebraska Administrative Code, for religious worship, religious services, and/or religious training (Title 350, Chapter 40-Property Tax Exemption Regulations, or as may be amended from time to time by the State of Nebraska). (Resolution No. [R-17-0040](#), May 30, 2017)

Private Electric Supplier shall mean an electric supplier producing electricity from a privately developed renewable energy generation facility (e.g., solar facility, biogas, geothermal) that is not a public power district, a public power and irrigation district, a municipality, a registered group of municipalities, an electric cooperative, an electric membership association, any other governmental entity, or any combination thereof.

Private Recreational Facilities and/or Activities shall mean a recreational use which is the primary use or accessory use of the property by the property owner and guests, is not open to the public or intended for private club or private membership, and may include but not be limited to swimming, fishing, hunting, obstacle or fitness courses and other such activities. Such use may include an accessory building(s).

Private School shall mean privately owned education and instruction facilities that meet the State of Nebraska requirements for elementary or secondary education. Private school shall not mean academies, early childhood care facilities, private colleges, or vocational schools. (Resolution No. [R-17-0040](#), May 30, 2017)

Premises A shall mean a tract of land consisting of one platted lot or irregular tract, or more than one platted lot or irregular tract, provided such lots or tracts are under common ownership and contiguous.

Public Electric Supplier shall mean a legal entity supplying, producing, or distributing electricity within the County for sale at wholesale or retail that is a public power district, a public power and irrigation district, a municipality, a registered group of municipalities, an electric cooperative, an electric membership association, any other governmental entity, or any combination thereof. (Resolution No. [R-20-0037](#), July 14, 2020)

ARTICLE 4 "AG" AGRICULTURAL DISTRICT

4.003 Permitted Uses.

- a. **Agriculture**, except commercial feedlots;
- b. Breeding, raising, management and sale of fur-bearing animals and the produce thereof;
- c. Dog breeding establishments and kennels;
- d. Stables, riding stables and riding **academies**;
- e. Public uses: Including but not limited to public parks, playgrounds, golf courses and recreational uses; fire stations; schools; publicly owned or operated **airports**; and public utilities and utility distribution systems; excluding governmental landfill operations; (Approved Resolution No. 5367, August 26, 1996)
- f. **Single family dwellings**;
- g. Places of Religious Assembly;
- h. Cable and fiber optic communication distribution systems; (Resolution No. R-01-21, April 4, 2001)
- i. **Wind energy conversion systems** (WECS). (Resolution No. **R-17-0040**, May 30, 2017; Resolution No. R-08-0090, October 15, 2008)
- j. **Small Solar Facility**; (Resolution No. **R-20-0037**, July 14, 2020)
- k. Private Recreational Facilities and/or Activities**

4.005 Permitted Conditional Uses

A **building** or **premises** may be used for the following purpose in the "AG" Agricultural **District**, in conformance with the conditions prescribed herein:

m. Pet Cemeteries

- 1. Any pet cemetery established after the effective date of this title shall contain an area of five (5) acres or more.**

n. Meteorological Tower

- 1. The tower shall be set back a distance no less than one half the height of the structure from property lines.**
- 2. The tower shall allowed for four (4) years from the date of installation.**

4.007 Permitted Special Uses

A **building** or **premises** may be used for the following purposes in the "AG" Agricultural **District** if a special permit for such use has been obtained in conformance with the requirements of **ARTICLE 13**:

- a. **Academies, Private Schools**, or Post-Secondary Education Facilities; (Resolution No. **R-17-0040**, May 30, 2017);
- b. **Recreational facilities**;

- c. **Dwellings** for members of religious orders;
- d. **Broadcast Towers**; (Resolution No. **R-17-0040**, May 30, 2017; Resolution No. 3958, August 21, 1984);
- e. **Campgrounds**;
- f. Veterinary facilities;
- g. **Excavation**; (Resolution No. **R-17-0040**, May 30, 2017);
- ~~h. Sale barns;~~
- ~~h.~~ **h. Garden centers**;
- ~~j.~~ **i.** Facilities for the commercial storage or sale of fertilizer or toxic or flammable agricultural chemicals;
- ~~k. Except as provided in Section 17.031, place of religious assembly steeples, towers and ornamental spires which exceed the maximum district height; (Resolution No. R-17-0040, May 30, 2017; Resolution No. 5408, November 19, 1996);~~
- ~~l.~~ **j.** Expansion of non-conforming use;
- ~~m.~~ **k.** Historic Preservation;
- ~~n.~~ **l.** Pet cemeteries; minimum area shall be five (5) acres;
- ~~o.~~ **i.** **Clubs**; (Resolution No. **R-17-0040**, May 30, 2017; Resolution No. 3569, March 10, 1981);
- ~~p.~~ **m.** Health Care Facilities, Residential; (Resolution No. **R-17-0040**, May 30, 2017; Resolution No. 3569, March 10, 1981);
- ~~q.~~ **n.** Non-commercial distillation and storage of fuel and fuel products produced in whole or in part from agricultural products raised within the County; (Resolution No. 3501, July 29, 1980);
- ~~r.~~ **o.** Mobile homes; (Resolution No. **R-17-0040**, May 30, 2017);
- ~~s.~~ **p.** **Heritage center**; (Resolution No. 4277, April 28, 1987);
- ~~t.~~ **g.** **Airfields, Commercial Agriculture Airfields and Heliports**; (Resolution No. **R-17-0040**, May 30, 2017; Resolution No. 5367, August 26, 1996);
- ~~u.~~ **r.** Storage of agricultural conservation construction equipment; (Resolution No. 5367, August 26, 1996);
- ~~v.~~ **s.** ~~u.~~ Race track, drag strip or motor sport facility; (Resolution No. R-07-0061, July 24, 2007);
- ~~w.~~ **t.** Expanded **home occupations**; (Resolution No. **R-09-0076**, September 29, 2009);
- ~~x.~~ **u.** **Commercial Wind Energy Conversion Systems/Turbines**; (Resolution No. **R-11-0022**, March 29, 2011);
- ~~y.~~ **v.** **Market Garden**; (Resolution No. **R-12-0023**, March 20, 2012);
- ~~z.~~ **w.** **Commercial Composting Operation** (Resolution No. **R-14-0007**, Jan. 28, 2014);
- ~~aa.~~ **x.** Commercial feedlot, if the special permit application for a Commercial Feedlot under Section 13.035(a) is received prior to March 10, 2020 (Resolution No. **R-20-0011**, March 10, 2020); (Resolution No. **R-17-0040**, May 30, 2017)
- ~~ab.~~ **y.** Community Unit Plan; (Resolution No. **R-17-0040**, May 30, 2017);
- ~~ac.~~ **Health Care Facilities Non-Residential**; (Resolution No. **R-17-0040**, May 30, 2017);
- ~~ad.~~ **Private Recreational Activities**; (Resolution No. **R-17-0040**, May 30, 2017);
- ~~ae.~~ **z.** **Flood Plain Construction**; (Resolution No. **R-17-0040**, May 30, 2017);

- ~~af.~~ **aa.** Personal Wireless Services Facility; (Resolution No. [R-17-0040](#), May 30, 2017); and
- ~~ag.~~ **ab.** Early Childhood Care Facilities; (Resolution No. [R-18-0078](#), November 20, 2018).
- ~~ah.~~ **ac.** Accessory Dwelling Unit. (Resolution No. [R-18-0094](#), December 18, 2018).
- ~~ai.~~ **ad.** Large Solar Facility. (Resolution No. [R-20-0037](#), July 14, 2020)
- ~~aj.~~ **ae.** Medium or Large Animal Feeding Operation. (Resolution No. [R-20-0011](#), March 10, 2020)

ARTICLE 5 "AGR" AGRICULTURAL RESIDENTIAL DISTRICT

5.005. Permitted Conditional Uses

A building or premises may be used for the following purposes in the "AGR" Agricultural Residential District in conformance with the conditions prescribed herein:

j. Pet Cemeteries

- 1. Any pet cemetery established after the effective date of this title shall contain an area of five (5) acres or more.**

5.007. Permitted Special Uses

A building or premise may be used for the following purpose in the "AGR" Agricultural Residential District if a special permit for such use has been obtained in conformance with the requirements of [ARTICLE 13](#):

- a. Academies, Private Schools, or Post-Secondary Education Facilities; (Resolution No. [R-17-0040](#), May 30, 2017);
- b. Recreational facilities;
- c. Dwellings for members of religious orders;
- d. Broadcast towers;
- e. Excavation; (Resolution No. [R-17-0040](#), May 30, 2017);
- f. Garden centers;
- ~~g.~~ Except as provided in [Section 17.031](#), places of religious assembly steeples, towers and ornamental spires which exceed the maximum district height; (Resolution No. [R-17-0040](#), May 30, 2017; Resolution No. [5408](#), November 19, 1996);
- ~~h.~~ **g.** Community unit plans shall be permitted in conformance with the provisions of [ARTICLE 14](#);
- ~~i.~~ **h.** Expansion of non-conforming use;
- ~~j.~~ **i.** Historic preservation;
- ~~k.~~ **j.** Mobile homes; (Resolution No. [R-17-0040](#), May 30, 2017; Resolution No. [R-18-0078](#), November 20, 2018);
- ~~l.~~ **k.** Airfields, Commercial Agriculture Airfields and Heliports; (Resolution No. [R-17-0040](#), May 30, 2017; Resolution No. [5367](#), August 26, 1996);
- ~~m.~~ **l.** Family airfields; (Resolution No. [5367](#), August 26, 1996);
- ~~n.~~ **m.** Dwellings within 1,320' of the property line of a publicly owned lake property of more than thirty (30) acres in size; (Resolution No. [5428](#), January 22, 1997);
- ~~o.~~ **n.** Market Garden; (Resolution No. [R-12-0023](#), March 20, 2012);

- ~~p. o.~~ Clubs (Resolution No. R-17-0040, May 30, 2017);
- ~~q.~~ Pet Cemeteries; (Resolution No. ~~R-17-0040~~, May 30, 2017);
- ~~r. p.~~ Flood Plain Construction; (Resolution No. R-17-0040, May 30, 2017);
- ~~s. q.~~ Personal Wireless Services Facility; (Resolution No. R-17-0040, May 30, 2017);
- ~~t. r.~~ Early Childhood Care Facilities. (Resolution No. R-18-0078, November 20, 2018)
- ~~u. s.~~ Small Solar Facility. (Resolution No. R-20-0037, July 14, 2020)

ARTICLE 6 "R" RESIDENTIAL DISTRICT

6.004 Permitted Conditional Regulations

A building or premises may be used for the following purposes in the "R" Residential District in conformance with the conditions prescribed herein:

a.) Group homes:

- 1) Group homes shall comply with all parking, sign, height and area regulations of the district and all provisions of the County Building Code.
- 2) The distance between the proposed use and any existing group home measured from lot line to lot line is not less than one-half (½) mile.
- 3) Such use shall be permitted only so long as the facility continues to be validly licensed by the State of Nebraska.

b.) Early childhood care facilities under the following conditions:

- 1) No more than a maximum of fifteen (15) children shall be present in the facility at any time.
- 2) Such facility shall be used as the permanent residence of the licensed child care provider.
- 3) If the facility is located in a mobile home, the facility shall have a severe weather emergency action plan approved by the Health Department.

(Note: Early childhood care facilities with sixteen (16) or more children and early childhood care facilities with fifteen (15) or fewer children not meeting the specified conditions for the above permitted conditional use may be allowed upon approval of a special permit.) (Resolution No. [R-18-0078](#), November 20, 2018).

c. Mobile homes:

1. The mobile home has:

- i. No less than an eight hundred (800) square foot floor area excluding garages.**
- ii. No less than an eighteen (18) foot exterior width.**
- iii. A three (3) inch in twelve (12) inch pitched roof or steeper.**
- iv. A non-reflective exterior siding material which is or simulates wood, stucco or masonry.**
- v. A non-reflective roof material which is or simulates asphalt or wood shingles, tile or rock.**
- vi. Permanent connections to permanently located utilities complying with plumbing codes and electrical codes.**
- vii. A certificate stating the construction complies with the Federal Department of Housing and Urban Development's mobile home construction and safety standards.**

The mobile home's longest exterior dimension is less than three (3) times the most narrow exterior dimension.

2. The towing bar and hitch, wheels and tires, and axles are removed.
3. The mobile home's exterior siding extends to the ground and is supported to withstand wind loads as set forth in the [building code](#) or the foundation forms a complete enclosure under the exterior walls. The space beneath the [mobile home](#) shall be properly ventilated.
4. The [mobile home](#) is securely and permanently attached to a permanent foundation complying with the [building code](#).
5. The mobile home's placement is inspected and complies with this resolution before the [mobile home](#) is occupied. (Resolution No. 3777, January 18, 1983).

6.005. Permitted Special Uses

A [building](#) or [premises](#) may be used for the following purposes in the "R" Residential [district](#) if a special permit for such use has been obtained in conformance with the requirements of [ARTICLE 13](#).

5. Expansion of non-conforming use;
6. Historical preservation;
7. Academies, Private Schools, or Post-Secondary Education Facilities; (Resolution No. R-17-0040, May 30, 2017)
- ~~8. Health Care Facilities, Non-Residential provided, however, that such [buildings](#) occupy not over forty (40) percent of the total area of the [lot](#) and will not have any serious and depreciating effect upon the value of the surrounding property and provided further, that the [buildings](#) shall be setback from all [yard lines](#) a distance of not less than one (1) foot for each foot of [building](#) height and that adequate off-street [parking space](#) will be provided; (Resolution No. R-17-0040, May 30, 2017).~~
- ~~9. Cemeteries;~~
- ~~f. d. Reserved; (Resolution No. R-17-0040, May 30, 2017).~~
- ~~g. e. Mobile home courts; (Resolution No. R-17-0040, May 30, 2017; Resolution No. 3777, January 18, 1983).~~
- ~~h. Except as provided in Section [17.031](#), places of religious assembly steeples, towers, and ornamental spires which exceed the maximum [district](#) height; (Resolution No. 5408, November 19, 1996).~~
- ~~i. f. Community unit plans;~~
- ~~j. g. Health Care Facilities, Residential; (Resolution No. R-17-0040, May 30, 2017).~~
- ~~k. h. Wind energy conversion systems over the [district](#) height; (Resolution R-08-0090, Approved October 15, 2008; Resolution No. 3744A, October 5, 1982).~~
- ~~l. A [mobile home](#) on an individual [lot](#) subject to the following conditions: (Resolution No. 3777, January 18, 1983)~~
 - ~~a. The [lot](#) meets all the height and area regulations of this [district](#) except the Planning Commission may increase the yard areas. (Resolution No. R-11-0023, March 29, 2011).~~
 - ~~b. The [mobile home](#) has:~~

- ~~i.~~ No less than an eight hundred (800) square foot floor area excluding garages.
- ~~ii.~~ No less than an eighteen (18) foot exterior width.
- ~~iii.~~ A three (3) inch in twelve (12) inch pitched roof or steeper.
- ~~iv.~~ A non-reflective exterior siding material which is or simulates wood, stucco or masonry.
- ~~v.~~ A non-reflective roof material which is or simulates asphalt or wood shingles, tile or rock.
- ~~vi.~~ Permanent connections to permanently located utilities complying with plumbing codes and electrical codes.
- ~~vii.~~ A certificate stating the construction complies with the Federal Department of Housing and Urban Development's mobile home construction and safety standards.
- ~~c.~~ The mobile home's longest exterior dimension is less than three (3) times the most narrow exterior dimension.
- ~~d.~~ The towing bar and hitch, wheels and tires, and axles are removed.
- ~~e.~~ The mobile home's exterior siding extends to the ground and is supported to withstand wind loads as set forth in the building code or the foundation forms a complete enclosure under the exterior walls. The space beneath the mobile home shall be properly ventilated.
- ~~f.~~ The mobile home is securely and permanently attached to a permanent foundation complying with the building code.
- ~~g.~~ The mobile home's placement is inspected and complies with this resolution before the mobile home is occupied. (Resolution No. 3777, January 18, 1983).
- ~~m.~~ i. Dwellings for Members of Religious Orders; (Resolution No. R-17-0040, May 30, 2017);
- ~~n.~~ j. Flood Plain Construction; (Resolution No. R-17-0040, May 30, 2017);
- ~~o.~~ k. Broadcast Towers; (Resolution No. R-17-0040, May 30, 2017);
- ~~p.~~ l. Personal Wireless Services Facility; (Resolution No. R-17-0040, May 30, 2017); and
- ~~q.~~ m. Early Childhood Care Facilities; (Resolution No. R-18-0078, November 20, 2018);
- ~~r.~~ n. Small Solar Facility. (Resolution No. R-20-0037, July 14, 2020)

ARTICLE 7 "B" BUSINESS DISTRICT

7.005. Permitted Special Uses

A building or premises may be used for the following purposes in the "B" Business District if a special permit for such use has been obtained in conformance with the requirements of ARTICLE 13.

- a. Expansion of non-conforming use;
- b. Historical preservation;
- c. Academies, Private Schools, or Post-Secondary Education Facilities; (Resolution No. R-17-0040, May 30, 2017)

- ~~d.~~ Health Care Facilities, Non-Residential provided, however, that such buildings occupy not over forty (40) percent of the total area of the lot and will not have any serious and depreciating effect upon the value of the surrounding property and provided further, that the buildings shall be set back from all ~~yard lines~~ a distance of not less than one (1) foot for each foot of building height and that adequate off-street ~~parking space~~ will be provided; (Resolution No. ~~R-17-0040~~, May 30, 2017)
- ~~e.~~ Except as provided in Section ~~17.031~~, places of religious assembly steeples, towers and ornamental spires which exceed the maximum district height; (Resolution No. ~~R-17-0040~~, May 30, 2017; Resolution No. 5408, November 19, 1996)
- ~~f.~~ ~~d.~~ Broadcast Towers; (Resolution No. ~~R-17-0040~~, May 30, 2017)
- ~~g.~~ ~~e.~~ Health Care Facilities, Residential; (Resolution No. ~~R-17-0040~~, May 30, 2017)
- ~~h.~~ ~~f.~~ Wind energy conversion systems over the district height; (Resolution R-08-0090, Approved October 15, 2008; Resolution No. 3744A, October 5, 1982)
- ~~i.~~ ~~g.~~ Personal Wireless Services Facility; (Resolution No. ~~R-17-0040~~, May 30, 2017)
- ~~j.~~ ~~h.~~ Floodplain Construction; (Resolution No. ~~R-17-0040~~, May 30, 2017)
- ~~k.~~ ~~i.~~ Off-premises Signs. (Resolution No. ~~R-17-0040~~, May 30, 2017)

ARTICLE 13 SPECIAL PERMIT

13.002. Procedures

a. An application and copies of the plot plan drawn to an accurate scale and showing all pertinent information shall be filed in writing with the Planning Department. Before the issuance of any special permit of any ~~buildings~~ or uses, the County Board shall refer the proposed application to the Planning Commission. The Planning Commission shall hold a public hearing and shall consider the effect of such proposed building or uses upon the character of the neighborhood, traffic conditions, public utility facilities, the Comprehensive Plan and other matters relating to the public health, safety and general welfare. Any action by the Planning Commission may be appealed to the County Board. An existing use of the type listed in this Chapter lawfully established on the effective date of this resolution shall be deemed to have received a special permit as herein required and shall be provided with such a permit by the Building Inspector upon request and shall not be a ~~nonconforming use~~; provided, however, that such an existing use shall require a special permit for enlargement, extension or relocation. Applications for Special Permits shall expire as provided in Section 22.019. (Resolution No. ~~R-17-0040~~, May 30, 2017)

b. Prior to the start of the procedures provided in subsection (a) above, a text amendment shall be completed upon receipt of an application for a special permit for the following types of special permits:

1. Mobile Home Courts;

2. Campgrounds;

3. Industrial;

4. Facilities for the Commercial Storage or Sale of Fertilizer or Toxic Flammable Agricultural Chemicals;

5. Garden Centers;

6. Non-commercial distillation and storage of fuel and fuel products;

7. Off-premises Signs

13.008. Academies, Private Schools, or Post-Secondary Education Facilities.

a. Academies, private schools, or post-secondary education facilities may be allowed by special permit in the AG, AGR, R or B zoning districts.

b. The application for a special permit shall include the following information:

- 1. Number of students, time separation between classes, number of staff members on the largest shift, and limitations on hours and classes to minimize the number of persons on site at any one time.**
- 2. Required parking shall be one space for every three (3) students allowed per class session plus one space for every employee. In those instances where two sessions of classes occur one after another, without at least one-half hour separation between sessions, the maximum number of students allowed at both sessions shall be combined in determining the amount of required parking per class session.**

(Resolution No. R-17-0040, May 30, 2017; Resolution No. R-18-0078, November 20, 2018).

13.009. Health Care Facilities, Non-Residential.

Non-residential health care facilities may be allowed by special permit in the AG, R and B zoning districts provided, however, that such buildings occupy not over forty (40) percent of the total area of the lot and will not have any serious and depreciating effect upon the value of the surrounding property and provided further, that the buildings shall be set back from all yard lines a distance of not less than one (1) foot for each foot of building height and that adequate off-street parking space will be provided. (Resolution No. R-17-0040, May 30, 2017; Resolution No. R-18-0078, November 20, 2018).

13.010. Cemeteries

Cemeteries may be allowed by special permit in the R and I zoning districts.

13.013. Mobile Home Courts

Mobile home courts may be allowed by special permit in the R zoning district **upon completion of the procedures pursuant to Section 13.002(b).** (Resolution No. R-17-0040, May 30, 2017; Resolution No. 3777, January 18, 1983; Resolution No. R-18-0078, November 20, 2018).

13.014. Campground

Campground may be allowed by special permit in the AG zoning district **upon completion of the procedures pursuant to Section 13.002(b).** (Resolution No. R-17-0040, May 30, 2017; Resolution No. R-18-0078, November 20, 2018).

13.015. Private Recreational Activities

Private recreational activities including cabins and mobile homes not used as a residency may be allowed by special permit in the AG zoning district. (Resolution No. R-18-0078, November 20, 2018).

13.016. Riding Stables and Private Stables

Riding stables and private stables may be allowed by special permit in the AG and AGR zoning districts. (Resolution No. [R-17-0040](#), May 30, 2017; Resolution No. [R-18-0078](#), November 20, 2018).

13.020. Clubs

Clubs may be allowed by special permit in the AG and AGR zoning districts under the following conditions:

- a. The minimum lot size shall be per the zoning district.**
- b. The total floor area for all buildings used for said use shall not be more than ten thousand (10,000) square feet or twenty thousand (20,000) square feet where the lot size is twenty (20) acres or more;**
- c. No parking shall be permitted on any required yard. The application shall include applicant's estimate of the parking needs of the proposed club. Additional parking regulations, parking ingress and egress location control and buffering may be imposed.**
- d. Outdoor lighting of the outdoor recreational facility may be permitted with the following conditions:**
 - 1. No illumination source shall exceed initial output of 4050 lumens unless it is within a cutoff or full cutoff luminaire, except for luminous tube lighting such as neon, cold cathode, and fiber optic cable.**
 - 2. All fixtures greater than 4050 lumens shall be cutoff or full cutoff and mounted level in the horizontal and vertical axis with the central part of the beam directed vertically downward.**
 - 3. The installation of any mercury vapor luminaires for use as outdoor lighting is prohibited.**
 - 4. No more than 2.0 foot-candles are allowed. Foot-candle is measured on a vertical plane located at the property line of the adjacent property.**
- e. The application shall include the following information: Type of activity, expected peak use and building capacity, anticipated time of peak activity, and expected expansion of facilities. Activity shall not exceed five (5) consecutive days nor five (5) days in any calendar week. Limitation to the number of persons at any one time may be imposed as it relates to the limitations of the site, including but not limited to parking, and impacts on surrounding land uses.**

13.021. Health Care Facilities, Residential

Health Care Facilities, Residential may be allowed by special permit in the AG, AGR, R and B zoning districts under the following conditions:

- a. Parking shall be one (1) space for every four (4) residents and two (2) spaces for every three (3) employees on the largest shift, provided that no parking shall be permitted in the required front or side yards.**
- b. The total number of client or employee residents shall not exceed the lot area ratio below except as provided for in this section, and provided that all facilities may have up to four individuals sixty years of age or older and one family acting as the residential caretaker:**
 - 1. AG zoning district: One person for five thousand (5,000) square feet of lot area;**
 - 2. AGR zoning district: One person for three thousand (3,000) square feet of lot area;**
 - 3. R zoning district: One person per three thousand (3,000) square feet of lot area;**

- 4. B zoning district: One person per seven hundred fifty (750) square feet of lot area.**
- c. Depending on the character of the development and impacts on adjacent land uses, the Planning Commission, and if appealed, the County Board may grant an increase in the number of residents allowed in (b) above. Such increase shall not exceed fifty (50%) percent.**

(Resolution No. R-17-0040, May 30, 2017; Resolution No. R-18-0078, November 20, 2018)

13.022. Industrial

Industrial **uses as provided in Section 9.003** may be allowed by special permit ~~on uses upon which the Planning Commission is required to pass under ARTICLE 9~~ only in the "I" Industrial District **upon completion of the procedures pursuant to Section 13.002(b).**

13.023. Dwellings for Members of Religious Orders

Dwellings for members of religious orders may be allowed by special permit in the AG, AGR and R zoning **districts under the following conditions:**

- a. If the proposed facility is for more than one dwelling, the application must include a conversion plan that details how the site can be converted to a permitted use, permitted conditional use, or permitted special use for the applicable district.**
- b. In the AG zoning district, dwellings for members of a religious order shall be on a minimum of ten (10) acres.**
- c. The maximum number of members occupying such a facility shall not exceed the following ratios between the resident and the lot area:**
 - AG district One resident per ten thousand (10,000) square feet**
 - AGR district One resident per five thousand (5,000) square feet**
 - R district One resident per three thousand (3,000) square feet**
- d. The Planning Commission may establish the parking requirements based on a determination of the parking needs and operation of the proposed use; no parking shall be permitted in any required yard.**

13.024. Pet Cemeteries

Pet cemeteries may be allowed by special permit in the AG and AGR zoning districts, provided they contain a minimum of five (5) acres.

13.026. Recreation Facilities

Recreation facilities may be allowed by special permit in the AG and AGR zoning **districts under the following conditions:**

- a. The application for such special permit shall include the following information:**
 - 1. The maximum proposed occupancy and event frequency for the recreation facility. Limits to the number of participants per event and limits to the maximum number of events over a certain time period may be imposed.**

- 2. A statement describing all proposed accessory uses and accessory buildings to be included as part of the recreation facility.
- b. Yard requirements in excess of those required in the district may be imposed.
- c. Parking requirements may be established based on a determination of the parking needs and operation of the proposed uses; no parking shall be permitted in any required yard. The application shall include the applicant's estimate of parking needed for the proposed facility.
- d. Outdoor lighting of the recreation facility may be permitted with the following conditions:
 - 1. No illumination source shall exceed initial output of 4050 lumens unless it is within a cutoff or full cutoff luminaire, except for luminous tube lighting such as neon, cold cathode, and fiber optic cable.
 - 2. All fixtures greater than 4050 lumens shall be cutoff or full cutoff and mounted level in the horizontal and vertical axis with the central part of the beam directed vertically downward.
 - 3. The installation of any mercury vapor luminaires for use as outdoor lighting is prohibited.
 - 4. No more than 2.0 foot-candles are allowed. Foot-candles are measured on a vertical plane located at the property line of the adjacent property.
- e. The Planning Commission, and if appealed, the County Board may authorize structures which exceed the maximum height requirements of the district in which they are located upon a finding by the Planning Commission or County Board that there is sufficient justification for such an adjustment and that there will be no significant adverse effect on existing or reasonably anticipated future uses in the surrounding area.

13.027. Veterinary Facilities

Veterinary facilities may be allowed by special permit in the AG zoning district under the following conditions:

- a) The minimum lot size shall be ten (10) acres.
- b) The maximum building size shall be ten thousand (10,000) square feet except that the maximum building size shall be allowed be up to twenty thousand (20,000) square feet including accessory buildings for lots twenty (20) acres or more in size.
- c) All outdoor areas shall have a setback of at least one hundred (100) feet from the nearest property line.
- d) The Planning Commission, and if appealed, the County Board may limit the number of animals allowed in any outdoor area at any one time.

13.028. Sale Barns

Sale barns may be allowed by special permit in the AG zoning district. (Resolution No. R-17-0040, May 30, 2017; Resolution No. R-18-0078, November 20, 2018).

13.029. Facilities for the Commercial Storage or Sale of Fertilizer or Toxic or Flammable Agricultural Chemicals

Facilities for the commercial storage or sale of fertilizer or toxic or flammable agricultural chemicals may be allowed by special permit in the AG zoning **district upon completion of the procedures pursuant to Section 13.002(b).**

(Resolution No. [R-17-0040](#), May 30, 2017; Resolution No. [R-18-0078](#), November 20, 2018).

13.030 Places of Religious Assembly Steeples, Towers, and Ornamental Spires

Except as provided in Section 17.031 ~~place of religious assembly~~ steeples, towers, and ornamental spires which exceed the maximum ~~district~~ height may be allowed by special permit in the AG, AGR, R, B and I zoning districts. (Resolution No. [R-17-0040](#), May 30, 2017; Resolution No. 5408, November 19, 1996; Resolution No. [R-18-0078](#), November 20, 2018).

13.033. Garden Centers

Garden centers may be allowed by special permit in the AG and AGR zoning **districts upon completion of the procedures pursuant to Section 13.002(b).** (Resolution No. [R-17-0040](#), May 30, 2017; Resolution No. [R-18-0078](#), November 20, 2018).

13.034. Non-commercial distillation and storage of fuel and fuel products

Non-commercial distillation and storage of fuel and fuel products produced in whole or in part from agricultural products raised within the County may be allowed by special permit in the AG zoning **district upon completion of the procedures pursuant to Section 13.002(b).** ~~provided that stills be set up in compliance with the requirements of National Fire Protection Association pamphlet #30, 1973 edition, in regard to handling, manufacturing, use and storage of flammable and combustible liquid.~~ (Resolution No. 3501, July 29, 1980; Resolution No. [R-17-0040](#), **May 30, 2017**; Resolution No. [R-18-0078](#), November 20, 2018).

13.045. Off-Premises Signs

Off-premise **signs** which do not meet the siting limitations of [ARTICLE 16.07 b\)2\)3\) and 4\)](#) may be allowed by special permit in B and I zoning **districts** upon a finding that the character of the protected area shall be preserved and upon a finding that approval of the special permit provides a public benefit to the community and **upon completion of the procedures pursuant to Section 13.002(b).** (Resolution R-00-10, January 26, 2000; Resolution No. [R-17-0040](#), May 30, 2017)

17.003 Exceptions to Height Requirements

Barns, chimneys, ~~place of religious assembly, steeples,~~ cooling towers, **meteorological tower,** elevator bulkheads, fire towers, grain elevators, and storage **structures,** monuments, ornamental towers, silos, spires, stacks, stage towers of scenery lofts, tanks, water towers, **and WECS** over the **district** height authorized by conditional use or special permit, ~~wireless towers, or necessary mechanical appurtenances~~ are exempt from the height regulations as contained herein.

SECS and WECS are permitted accessory uses associated with a primary use on the premises in all zoning districts provided they are in conformance with the provisions of Article 17 and any other applicable regulations of this Resolution and have a rated capacity of twenty-five (25) kilowatts (kW) (ac) or less.

- a. SECS and WECS that are part of the main structure shall comply with the applicable district's height, front, side, and rear yard requirements of the main structure.
- b. SECS and WECS that are not part of the main structure shall comply with the height, front, side, and rear yard requirements applicable to accessory buildings as described in Section 17.005 of this Resolution.
- c. Accessory SECS and WECS located on top of a building are exempt from the height regulations as contained herein.

(Resolution No. 3744A, October 5, 1982; Resolution R-08-0090, Approved October 15, 2008; Resolution No. R-17-0040, May 30, 2017; Resolution No. R-20-0037, July 14, 2020)

17.023 More than one main use

Where a lot or tract is used for farming or for a commercial or industrial purpose more than one (1) ~~main~~ **primary building** may be located upon the lot or tract, but only when such buildings conform to all open space requirements around the lot for the **district** in which the lot or tract is located. **A lot or tract in the AG District of twenty (20) acres or more may have one additional primary building or use but shall still be limited to one (1) single-family dwelling per lot or tract.**

TEXT AMENDMENT 21011

TEXT AMENDMENT 21011

TO AMEND ARTICLE 2 – DEFINITIONS; ARTICLE 4 - AG AGRICULTURAL; ARTICLE 5 – AGR AGRICULTURAL RESIDENTIAL; ARTICLE 6 – RESIDENTIAL; ARTICLE 7 – BUSINESS; ARTICLE 13 – SPECIAL PERMIT AND ARTICLE 17 – ADDITIONAL HEIGHT AND AREA REGULATIONS OF THE LANCASTER COUNTY ZONING REGULATIONS BY RESTRUCTURING ARTICLE 13 AND REFORMATTING THE ZONING CODE

PUBLIC HEARING:

February 16, 2022

Members present: Ball, Campbell, Corr, Cruz, Eddins, Edgerton, Joy, Rodenburg and Ryman Yost.

Staff Recommendation: Approval

There were no ex-parte communications disclosed.

There were no ex-parte communications disclosed relating to site visits.

Staff Presentation

Tom Cajka, Planning Department, 555 S. 10th Street, Suite 213, Lincoln, NE stated that this text amendment was requested by the Lancaster County Board of Commissioners. The board requesting Planning Department review Article 13 to add conditions to uses that had none listed. After review, some of the special permit articles are proposed to be changed, removed, or placed on hold. For those being removed, SP healthcare non-residential are being removed and they haven't been used since adoption in 1979. The next is cemeteries are currently special permit in R and I district and never used, and require more land and should be AG or AG-R. The next item is private recreational facilities and/or activities be removed from a special permit to special ag, items allowed to do on property without dwelling except for ag related on 20 acres or more, allows obstacle course, boat docks, etc. and accessory buildings. Riding stables/private stables are being removed, already in AG, by removing SP there were no longer allowing dwellings. Pet cemeteries being changed from permit to special use permit. Sale barn is being removed. No use for permit since 1979. Places of religious assembly, steeples or spires is being removed. You can already exceed the height in two other sections of the zoning code. Some of the other special permits where staff has added conditions are academies, private schools, clubs, healthcare facilities, dwellings for members of religious order, recreational facilities, and veterinary facilities. General conditions would address parking, site layout, number of clients, staff, floor area, setbacks, those types of issues. There are seven special permits in the code currently that are proposed to be placed on hold until conditions can be developed. Some of those are mobile home courts, campgrounds, industrial, facilities for storage of fertilizer, toxic flammable chemicals, garden centers and non-commercial storage of products. This doesn't prohibit someone from

applying for a special permit, but they would have to propose a text amendment to add conditions. Staff also added a new conditional use in the AG district for a meteorological tower. Typically, these are towers that are only up for three or four years at most and record climate data. One change in the R District was to move a mobile home from special permit to conditional permit. It is already a conditional permit in the AG and AGR District.

Special permits, 13.008, 13.002, 13.021, 13.023, 13.026, 13.027 all have added condition such as parking, number of student and staff, setback issues. Special Permits that are proposed to be placed on hold until condition can be established. In addition to Special Permit chapter being changed, added condition use on ag district towers.

Corr wanted an example of a club. Cajka believes it would be perhaps a VFW. Corr noticed for those items which added conditions, all had some type of parking addressed except for veterinary facilities. Cajka believes since it must be on ten acres, he doesn't think that would be an issue. Corr wanted to know about sales barns and auctions. Is there a limit to how many auctions can be held in a year? Cajka is not aware of a limit. He doesn't know where the line is drawn between occasional auctions and a business. Corr noted for private recreational activities, she is curious that it talks about accessory buildings with heating but doesn't qualify as a dwelling unit. Cajka believes you must have a full kitchen to be a dwelling unit. Corr noticed two typographical errors. In Section 13.201, healthcare facilities, letter B, the last sentence before option 1. She asked if it should be four individuals, family, and family member? Cajka believes so. Staff will look into that. Corr also noted Section 13.027, veterinary facilities, letter B, maximum building size allowed up to 20,000 square feet. Cajka will check on that as well.

Campbell asked about the health care residence. He wondered if it could be so a family could live there and take care of residents. That is the way he interprets it. Cajka believes it is the option of a family as caretaker who didn't necessarily have to be 60 or older.

Cary stated that this discussion wasn't part of formal action. Staff will take it under advisement will review and hold off on discussion. Staff will present another application for amendment if needed.

Joy asked about those items that wouldn't be allowed anymore such as riding stables and a minimum of 20 acres. Cajka noted that you wouldn't be allowed to do it as a commercial business. You could do it for personal use. Joy wondered if current businesses would be grandfathered in. Cajka responded yes. They would be grandfathered in as a non-conforming use. Joy wondered about the concept of modifying it for a veterinary facility such as the one by Fallbrook. Would these also be non-conforming? Cajka replied yes. They would still be allowed to operate as non-conforming. This is about new applicants going forward.

Corr asked about a business giving private lessons. What about a volunteer or support group? Cajka noted there was one he worked on that received a special permit for equine therapy. They needed 20 acres.

Proponents:

No one came forward in support.

Opponents:

No one came forward in opposition.

Campbell moved to close the public hearing, seconded by Ball and carried 9-0: Ball, Campbell, Corr, Cruz, Eddins, Edgerton, Joy, Rodenburg and Ryman Yost voting 'yes'.

TEXT AMENDMENT 21011

ACTION BY PLANNING COMMISSION:

Campbell moved approval, seconded by Rodenburg

Campbell believes these are good changes to clean up the text.

Corr agreed. This does a good job to provide some consistency and expectations.

Edgerton agreed. She appreciates the county board bringing this forward.

Motion carried 9-0: Ball, Campbell, Corr, Cruz, Eddins, Edgerton, Joy, Rodenburg and Ryman Yost voting 'yes'.