

BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF LANCASTER COUNTY, NEBRASKA

COUNTY TEXT AMENDMENT NO. 18008:)
TEXT AMENDMENT TO THE LANCASTER)
COUNTY ZONING RESOLUTION, TO ADD)
A NEW SPECIAL PERMIT FOR ACCESSORY)
DWELLING UNITS AS PROVIDED IN)
ATTACHMENT A)

RESOLUTION NO. P-18-0094

WHEREAS, pursuant to Neb. Rev. Stat. § 23-114, the Lancaster County Board of Commissioners (“Board”) is authorized to make amendments to the 1979 Zoning Resolution of Lancaster County, which are consistent with the County’s Comprehensive Plan and after receipt of specific recommendations from the Lincoln/Lancaster County Planning Commission (“Planning Commission”);

WHEREAS, the Lincoln-Lancaster County Planning Department (“Department”) has requested a text amendment to the Lancaster County Zoning Resolution to add a new special permit for accessory dwelling units, as provided in Attachment “A,” attached hereto and incorporated by this reference;

WHEREAS, the Department has recommended approval of this amendment concluding that allowing accessory dwelling units by special permit with conditions would increase housing choices, allow a care giver to live nearby, and protect the rural character of the County. The Comprehensive Plan states the County should consider revising the zoning code to allow accessory dwelling units where appropriate and adopt accompanying design standard. The Department has also concluded that accessory dwelling units are compatible with multiple strategies found in the Comprehensive Plan;

WHEREAS, on September 12, 2018, after public hearing, the Planning Commission voted 7-0 to recommend approval of said text amendment;

WHEREAS, on December 18, 2018, the Board conducted a public hearing regarding said text amendment;

WHEREAS, on December 18, 2018, the Board during a public meeting voted to APPROVE the proposed text amendment;

NOW, THEREFORE, BE IT RESOLVED, by the Board, that the amendments to the Lancaster County Zoning Resolution, as provided in Attachment "A," are hereby adopted and APPROVED; and

BE IT FURTHER RESOLVED, that any other references in said Resolution which may be affected by the above specified amendments be, and they hereby are, amended to conform to such specific amendments.

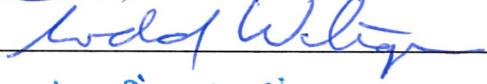
DATED this 18th day of December, 2018, in the County-City Building, Lincoln, Lancaster County, Nebraska.

BY THE BOARD OF COUNTY
COMMISSIONERS OF
LANCASTER COUNTY, NEBRASKA

APPROVED AS TO FORM
this 18th day of
December, 2018.


Deputy County Attorney
for PAT CONDON
County Attorney







SUBSTITUTE RESOLUTION

13.049 50 Accessory Dwelling Unit (ADU)

An **One** accessory dwelling unit **per lot** may be allowed by special permit in the AG zoning district under the following conditions:

1. The lot area shall be 20 acres or larger. For purposes of determining minimum lot area, abutting County section line and one-half section line road right-of-way is included in the total area.
2. The total square footage of the ADU shall not exceed the lesser of ~~800~~ **1,000** square feet or 40% of the square footage of the principal dwelling, excluding garages, ~~and~~ carports, **and space used for mechanical equipment, such as heating, utilities and water heater or pumps. Any other unfinished space in a basement is included in the square footage to allow it to be finished in the future.** The calculation for the principal dwelling shall be based on the floor area ~~prior to the construction of the ADU.~~ **as of the date the special permit is filed.**
3. No more than two (2) bedrooms are allowed in the ADU. **Bedroom shall mean any room or space used or intended to be used for sleeping purposes.**
4. The owner **of the lot** is required to live on the property in either the principal dwelling or the ADU. The owner **of the lot** shall file **with the Register of Deeds**, a deed **restriction agreement against on** the property stating that the accessory dwelling cannot be sold separately from the **main house principal dwelling**. The deed **restriction agreement** must be to the satisfaction of the County Attorney. This deed **restriction agreement** shall be filed prior to any building permit for the ADU.
5. The ADU must share the same access point to the public or private street as the principal dwelling.
6. The ADU must meet the same setback **requirements** as the principal dwelling **of the district**. The height of the ADU must meet the height limit of the district for a dwelling, but be no higher than the principal dwelling.
7. A detached ADU shall be located a distance no greater than 200 feet from the principal dwelling and must not be closer to the street right-of-way than the principal dwelling.
8. **The ADU must** share utilities with **the** principal dwelling unless owner can demonstrate a practical problem with sharing due to topography or other unique site considerations.

~~The County Board Planning Commission and if appealed, the County Board, may amend any of the above conditions, with the exception of Conditions 4 and 5, or impose additional conditions, upon a showing that such conditions are reasonably related to the interest of public health, safety, and the general welfare may adjust the conditions, with the exception of Conditions 4 and 5. **Conditions 4 and 5 may not be adjusted by the County Board.**~~

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;
- i. Garden centers;
- j. 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. Expansion of non-conforming use;
- m. Historic Preservation;
- n. Pet cemeteries; minimum area shall be five (5) acres;
- o. Clubs; (Resolution No. R-17-0040, May 30, 2017; Resolution No. 3569, March 10, 1981);
- p. Health Care Facilities, Residential; (Resolution No. R-17-0040, May 30, 2017; Resolution No. 3569, March 10, 1981);
- q. 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. Mobile homes; (Resolution No. R-17-0040, May 30, 2017);
- s. Heritage center; (Resolution No. 4277, April 28, 1987);
- t. Airfields, Commercial Agriculture Airfields and Heliports; (Resolution No. R-17-0040, May 30, 2017; Resolution No. 5367, August 26, 1996);
- u. Storage of agricultural conservation construction equipment; (Resolution No. 5367, August 26, 1996);
- v. u) Race track, drag strip or motor sport facility; (Resolution No. R-07-0061, July 24, 2007);
- w. Expanded home occupations; (Resolution No. R-09-0076, September 29, 2009);
- x. Commercial Wind Energy Conversion Systems/Turbines; (Resolution No. R-11-0022, March 29, 2011);

- y. Market Garden; (Resolution No. R-12-0023, March 20, 2012);
- z. Commercial Composting Operation (Resolution No. R-14-0007, Jan. 28, 2014);
 - aa. Commercial feedlot; (Resolution No. R-17-0040, May 30, 2017);
 - bb. Community Unit Plan; (Resolution No. R-17-0040, May 30, 2017);
 - cc. Health Care Facilities Non-Residential; (Resolution No. R-17-0040, May 30, 2017);
 - dd. Private Recreational Activities; (Resolution No. R-17-0040, May 30, 2017);
 - ee. Flood Plain Construction; (Resolution No. R-17-0040, May 30, 2017);
 - ff. Personal Wireless Services Facility; (Resolution No. R-17-0040, May 30, 2017); and
 - gg. Early Childhood Care Facilities; (Resolution No. R-18-0078, November 20, 2018).

hh. Accessory Dwelling Unit

2.001. Definitions - General Provisions.

For the purpose of this title, certain terms and words are hereby defined. Certain chapters contain definitions which are additional to those listed here. Words used in the present tense shall include the future; the singular number shall include the plural and the plural the singular; the word "structure" shall include the word "building" and the word "shall" is mandatory.

Effective on: 1/1/1901

2.002. A.

Academies shall mean education and instruction facilities including but not limited to dance or music academies, gymnastic or martial arts school. Academies shall not include early childhood care facilities, public schools, or private schools that meet the State of Nebraska requirements for elementary or secondary education, or industrial trade schools. (Approved Resolution No. R-17-0040, May 30, 2017)

An **accessory building** is a subordinate building or a portion of the main building, the use of which is incidental to that of the main building or to the main use of the premises. An **accessory use** is one which is incidental to the main use of the premises.

Accessory Dwelling Unit. An accessory dwelling is a subordinate building or portion of the main building for use as a secondary single-family dwelling which is incidental to use of the main building for a primary single-family dwelling.

Agriculture shall mean the use of land for the purpose of raising and harvesting crops; or for the raising, breeding, or management of livestock, poultry, fish or honeybees; or for dairying, truck gardening, forestry, nurseries or orchards; for the non-commercial on-farm storage or processing of agricultural products produced on the premises; or for any other similar agricultural, horticultural, or silvicultural or aquacultural use. (Resolution No. 4921, June 30, 1987)

Airfield. An area of land and/or water, publicly or privately owned, that is used or intended to be used for the landing and takeoff of aircraft, including general aviation aircraft, helicopters, seaplanes and ultra light aircraft or vehicles, but excluding air carrier aircraft, that may be open to the public for commercial or business purposes and shall meet State standards on the basis of Mean Sea Level (MSL) elevations. It may include appurtenant areas, facilities or buildings suitable to house, handle or service aircraft. Any such aircraft or vehicle operating from a private airfield shall attain safe and reasonable clearances over utility lines, poles, towers and appurtenances which may be located in the path of any runway. (Resolution No. 5367, August 26, 1996)

Airfield, Commercial Agricultural An airfield that is the permanent base of operation for an aerial applicator, under land ownership or lease, within the County, the operator of which is a certified applicator under the Rules and Regulations of the State of Nebraska, Department of Aeronautics. The Commercial Agricultural airfield shall be for the exclusive use and operation of the Commercial Agricultural airfield owner or lessee for their aircraft and shall not be open to the public. Any such aircraft or vehicle shall attain safe and reasonable clearances over utility lines, poles, towers and appurtenances which may be located in the path of any runway. (Resolution No. 5367, August 26, 1996)