The Lancaster County Board of Commissioners directed the Lincoln-Lancaster County Planning Department to study the feasibility of allowing accessory dwelling units (ADU) in the county. A working group of realtors, architects, acreage owners, and homebuilders was formed to discuss ADU’s and draft conditions. The working group along with Planning staff held five meetings. The Purpose and Intent statement and draft conditions are a result of those meetings.

**NOTICE:**

A **PUBLIC MEETING** to discuss ADUs has been scheduled for **Wednesday, July 25th from 5:00 to 6:30 at Gere Library, 2400 S. 56th Street.** There will be a brief presentation at the start of the meeting.
The general purpose and intent of allowing Accessory Dwelling Units (ADU) is to:

A. Allow persons with special needs to live semi-independently, but within close proximity to family or care giver.

B. Provide a variety of housing types and choices for different age groups and economic conditions.

C. Ensure that an ADU remains clearly subordinate and permanently associated to the existing principal dwelling.

D. Protect the rural character of Lancaster County.

E. Minimize impacts on adjacent properties, infrastructure and the general public.
ACCESSORY DWELLING UNITS  Discussion Draft June 20, 2018

A special permit requires a public hearing and approval by the Planning Commission. The special permit can either have final action at Planning Commission or require it to have final approval by the County Board of Commissioners.

Special Permit:
A special permit for an Accessory Dwelling Unit (ADU) may be approved in the AG Agricultural zoning district after review and consideration of the following conditions:

1. Lot Area:
   A minimum 20 acres.

2. ADU Size:
   a. The total square footage of the ADU shall not exceed the lesser of 800 square feet or 40% of the square footage of the principal dwelling, excluding garages and carports. The calculation for the principal dwelling shall be based on the floor area prior to the construction of the ADU.
   b. No more than two (2) bedrooms are allowed in the ADU.

3. Owner Occupancy:
   The owner is required to live on the property in either the principal dwelling or the ADU.
   The owner shall file a deed against the property stating that the accessory dwelling cannot be sold separately from the main house. The deed must be to the satisfaction of the County Attorney. This deed shall be filed prior to any building permit for the ADU.

4. Height and Setbacks
   The ADU must meet the same setbacks as the principal dwelling. The height of the ADU must meet the height limit of the district for a dwelling, but be no higher than the principal dwelling.
   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.

5. Access to street.
   The ADU must share the same access point to the public or private street as the principal dwelling.

6. Utilities
   Must share utilities with principal dwelling unless owner can demonstrate a practical problem with sharing due to topography or other unique site considerations.
   The County Board may adjust the conditions, with the exception of Conditions 3 and 5.
ACCESSORY DWELLING UNITS

May 15, 2018
AGENDA
MAY 15, 2018

ACCESSORY DWELLING UNITS
WORKING GROUP Meeting #2

• Presentation -- setbacks
• Review other counties ADU requirements
• County Engineer and Health Department
• Questions
ADUs in Lincoln Today

- Village Gardens PUD, Fallbrook PUD, Black Forest Estates CUP
- Historic properties
- Multi-family zoning
Piedmont
17th & G
20th & F
19th and D
27th and Sheridan
Hypothetical Example and Setbacks

Lot: 40 acres
Zoning District: AG
House: 1,500 sq. ft.
Hypothetical Example and Setbacks

Lot: 5 acres
Zoning: AG
House: 2,600 sq. ft.
Hypothetical Example and Setbacks

Lot: 3 acres
Zoning: AG/CUP
House: 3,262 sq. ft.
Hypothetical Example and Setbacks

Lot: 22.8 acres
Zoning: R-6
House: 4,971 sf.
## ACCESSORY DWELLING UNITS BY COUNTY

<table>
<thead>
<tr>
<th>County</th>
<th>ADU Allowed?</th>
<th>Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dodge County</td>
<td>NO</td>
<td></td>
</tr>
<tr>
<td>Lincoln County</td>
<td>Yes</td>
<td>ADU allowed—Yes, Lot size: Same as for single family dwelling, Max sq. ft: None, but should be smaller than main house, Parking: None, Owner Occupied: Yes</td>
</tr>
<tr>
<td>Hall County</td>
<td>NO</td>
<td></td>
</tr>
<tr>
<td>Sarpy County</td>
<td>No</td>
<td>ADU Allowed? No, but are considering looking at it in the future</td>
</tr>
<tr>
<td>Woodbury County, Iowa</td>
<td>NO</td>
<td>ADU Allowed? No</td>
</tr>
</tbody>
</table>
ACCESSORY DWELLING UNITS
BY COUNTY

Pottawattamie County, Iowa

ADU allowed—Yes
Lot size: twice the minimum lot size
Max sq. ft: the lesser of 600 sq. ft.
or 50% of the primary house
minimum of 260 sq. ft.
Parking: one off street space
required for the ADU
Driveway: the ADU must share the
driveway with the primary house
Setbacks: same as main house
Owner Occupied: owner must live in
either the ADU or main house

Johnson County, KS

ADU allowed: Yes
Lot size: 2 acres minimum, but
must meet the minimum lot size of
the district.
Max sq ft.: Attached ADU 50% of
livable area of the principal dwelling
Detached ADU 900 sq. ft.
Parking: one off street space for
the ADU
Driveway: The ADU must share the
existing driveway.
Owner Occupied: Owner must
live in ADU or main house
Other: ADU must be located
within 200 feet of the main house.
j. Exceptions from Section C (2)(a-i) above may be granted by the Board upon approval of plans indicating appropriate screening to be installed and appropriate setbacks to be used. Such plans shall meet established standards for protecting surrounding property prior to approval and shall clearly describe the proposal and provide information which the Board shall need in order to review, evaluate and make a decision about the application.

D. Accessory Dwelling Uses:

1. Purpose and Intent:

   a. The general purpose and intent of allowing Accessory Dwelling Units (ADU) in the unincorporated portion of the County is to:

      1) Allow life-style choices in single-family neighborhoods that respond to changing demographics and economic conditions;

      2) Respond to the needs of family members with health concerns or disabilities in a manner that is appropriate for people at a variety of stages in their life cycle by providing homeowners with a means of obtaining companionship, security, and services (e.g., on-site healthcare worker, housekeeper, childcare worker);

      3) Provide homeowners the opportunity to use their property to enhance or fulfill personal objectives by allowing more options for the use of accessory buildings (e.g., family game or media rooms with kitchens);

      4) Protect neighborhood stability, property values, and the single-family residential appearance of the neighborhood by ensuring that ADUs are well-designed and compatible with the neighborhood and constructed under the requirements of these Regulations; and

      5) Recognize that homeowners are likely to maintain an owner-occupied residence in a manner that upholds the single-family character of the property. Requiring owner occupancy is intended, therefore, to support and foster housing maintenance and neighborhood stability.

   b. ADUs not intended to replace Duplex and other Multi-family districts and dwellings:

      Allowing ADUs is not intended to replace duplex and other multi-family zoning districts and dwellings. An ADU is different than a duplex in that typically the two units that make up a duplex are attached to each other, are relatively equal in size and height, and one unit usually does not dominate the other. In contrast, an ADU may or may not be attached and, unless otherwise allowed by this section, is subordinate in size, location, and appearance to the Principal Dwelling Unit that it accompanies. Additionally, both duplex units may be rented while an ADU or its accompanying Principal Dwelling Unit shall be owner-occupied, unless otherwise allowed by this section.

   c. Standards to regulate ADU appearance:

      It is the intent of these regulations to establish performance and appearance standards that will allow ADUs to be placed in neighborhoods with a minimum impact on adjacent or nearby properties. Such performance and appearance standards are intended to ensure that, among other things, ADUs are unobtrusive and subordinate in size, location, and appearance to the Principal Dwelling Unit (unless otherwise allowed by this section) and are compatible with adjacent properties and the neighborhood.
The appearance standards are intended to support and promote the design of ADUs by replicating or complimenting identifiable and desirable neighborhood development patterns so that ADUs will blend rather than contrast with the existing neighborhood character. For example, oftentimes neighborhoods exhibit identifiable patterns such as uniform setbacks from the street or similar architectural detailing (i.e., roof pitch, building materials, or colors).

ADUs should be designed and located to compliment these patterns. Neighborhoods can exhibit patterns or lack of patterns with respect to numbers, sizes, placement, and design detailing of accessory buildings. For example, large parcels in rural areas tend to have more and larger accessory buildings (i.e. barns, stables, and metal utility buildings) that do not tend to mirror the design of the associated residence but have a more utilitarian form (i.e., metal siding and lower roof pitches) and do not tend to have uniform setbacks from the street (but, rather, often tend to cluster next to the residence); whereas, smaller parcels in suburban areas tend to have fewer and smaller accessory buildings (i.e. detached garages and tool sheds) that tend to mirror the design of the associated residence (i.e., similar colors, exterior materials, and roof pitch) and are more apt to be in line with a uniform setback from the street. In turn, ADUs that are designed and located to replicate these patterns will be more likely to blend and be compatible with the surrounding neighborhood.

2. Review Process and Performance Standards:

Administratively Reviewed Certificate:

ADUs may be allowed in all Rural, Planned Rural, Residential, and Planned Residential zoning districts on any lot, tract, or parcel where a single-family dwelling is allowed; subject, however, to the below referenced performance standards that shall be administratively reviewed and approved by the Zoning Administrator in accordance with Article 5, Section 6 of these regulations for the purposes of obtaining required Zoning Permit and Accessory Dwelling Unit Certificate (ADU Certificate) approval.

Publicly Reviewed Permit:

ADUs not administratively approved by the Zoning Administrator may be allowed in all Rural, Planned Rural, Residential, and Planned Residential zoning districts on any lot, tract, or parcel where a single-family dwelling is allowed if an Accessory Dwelling Unit Permit (ADU Permit) is approved by the Board of County Commissioners in accordance with Section 7(D)(3) of this Article.

Performance Standards:

a. Owner Occupancy Required:

1) The Property Owner shall occupy either the Principal Dwelling Unit or the ADU as their domicile, unless otherwise allowed by this section. The Property Owner shall submit proof of such domicile to the Zoning Administrator as evidenced by voter registration or other such means accepted by the Zoning Administrator.

2) Notice: The Property Owner shall record against the subject property a written notice with the Johnson County Department of Records and Tax Administration. The notice shall alert future owners or lessors of the subject lot, tract, or parcel of the limitations of Section 7(D) of this Article and that the lawful existence of the ADU is predicated upon the occupancy of either the ADU or the Principal Dwelling Unit by the current Property Owner as their domicile.
3) Waiver: The Zoning Administrator may waive the owner-occupancy requirement of Section 7(D)(2)(a)(1) of this Article for Property Owner absences of less than one (1) year that meet one of the following qualifying conditions:
   a) the Property Owner requires off-premises care or treatment;
   b) the subject property enters probate or has a decedent’s estate matter requiring additional time to resolve; or
   c) the Property Owner experiences an unforeseen life change such as a change of employment or transfer.

The waiver is subject to renewal by the Zoning Administrator on an annual basis if the above qualifying conditions continue to be met. However, more than one annual renewal will be reviewed with greater scrutiny in order to uphold the intent of these regulations that ADUs shall be owner occupied.

4) Definitions: For purposes of this section: a) “Property Owner” means the deed holder and/or contract purchaser of the lot, tract, or parcel; b) “domicile” means the place where a person resides and has their true fixed permanent home, and to which place they have, whenever they are absent, the intention of returning, and from which they have no present intent of moving; and c) “owner occupancy” means that a Property Owner, as reflected in the deed records, makes his/her legal domicile at the site.

b. Size of Lot, Tract or Parcel: An ADU shall be located on a lot, tract, or parcel no smaller than two (2) acres in size.

c. Maximum Number: There shall be no more than one ADU per lot, tract, or parcel.

d. Method of Establishment: An ADU may be established through one of the following methods, among others:
   1) converting floor area within the existing Main Building to an ADU;
   2) adding floor area to the existing Main Building that is dedicated to an ADU;
   3) constructing a new Main Building in which a portion of the floor area is dedicated to an ADU;
   4) converting all or a portion of the floor area within an existing accessory structure to an ADU;
   5) adding floor area to an existing accessory structure that is dedicated to an ADU; or
   6) constructing a new accessory structure in which all or a portion of the floor area is dedicated to an ADU.

Nothing herein shall be construed, however, to alleviate the necessity of first obtaining county approval of the ADU.

e. Detached ADUs: The structure occupied by a Detached ADU shall be considered a type of accessory structure and shall be constructed in accordance with all County building codes and in accordance with all applicable requirements of these regulations, unless otherwise allowed or restricted by this section. An ADU, however, may occupy an existing accessory structure, in whole or in part, that has been determined by the Zoning Administrator to be a legal nonconforming structure with respect to building height, setbacks, or the like, as long as construction of the ADU does not extend or increase such nonconformity and as long as the ADU meets all other requirements of this section and these regulations.
f. Attached ADUs: The structure occupied by an Attached ADU shall be considered to be part of the Main Building and shall be constructed in accordance with all County building codes and in accordance with all applicable requirements of these regulations, unless otherwise allowed or restricted by this section. An ADU, however, may occupy a Main Building that has been determined by the Zoning Administrator to be a legal nonconforming structure with respect to building height, setbacks, or the like, as long as construction of the ADU does not extend or increase such nonconformity and as long as the ADU meets all other requirements of this section and these regulations.

g. Maximum Size:

1) Attached ADUs: The Livable Area of an Attached ADU shall not exceed 50 percent of the Livable Area of the Principal Dwelling Unit prior to the establishment of the ADU.

2) Detached ADUs:
   a) The Livable Area of a Detached ADU shall not exceed 900 square feet.
   b) Detached ADUs shall meet and count towards the size and number limitations regarding accessory buildings and structures as set forth in Article 18, Section 6 (B) and (C) of these regulations.

h. Height and Yard Requirements:

1) Detached ADUs: Detached ADUs are considered by these regulations to be a type of accessory building and, therefore, shall be constructed in accordance with the applicable accessory building height and yard requirements.
   a) Detached ADUs shall not be located in the Front Yard.
   b) Detached ADUs shall be located a distance no greater than 200 feet from the Main Building.

2) Attached ADUs: Attached ADUs are considered by these regulations to be part of the Main Building, and, therefore, shall be constructed in accordance with the applicable main building height and yard requirements of the underlying zoning district.

i. Supplementary and Accessory Uses and Accessory Structures:

1) Supplementary and accessory uses and accessory structures are allowed on a lot, tract, or parcel containing an ADU if they are in accordance with the requirements of these regulations.

2) It is the intent of these regulations that the addition of an ADU shall not significantly increase the levels and intensities of accessory and supplementary uses on the property and that the Property Owner shall control the distribution of these accessory and supplemental uses and structures to ensure that they are in compliance with the requirements of these regulations.

3) The below referenced uses shall be allowed on a lot, tract, or parcel that also contains an ADU only in the following manner:
   a) Home Occupations: Home occupations shall be allowed in the ADU or the Principal Dwelling Unit, or both, in accordance with Article 18, Section 5 of these regulations, provided that all home occupations located on the property shall jointly meet, and shall not jointly exceed, all restrictions and limitations as set forth in Section 5 of this Article.
b) Transient Uses: ADUs are intended for long-term use only. ADUs shall not be used as a Tourist Home including bed and breakfast purposes unless the ADU is authorized by the approval of an Accessory Dwelling Unit Permit (ADU Permit) in accordance with Section 7(D)(3) of this Article. Rental of an ADU for a period of less than 90 consecutive days is prohibited.

j. Parking and Driveway Requirements:
   1) Parking Spaces: A minimum of one parking space shall be provided on the lot, tract, or parcel for an ADU. Principal Dwelling Unit parking shall be provided as required by the underlying zoning district.
   2) Driveway Entrances: The ADU shall utilize existing driveway entrances unless a driveway entrance is approved by the County Engineer. To the greatest extent feasible, existing driveways and parking areas shall be utilized.
   3) Fire Safety: All portions of a detached ADU shall be located a distance of no greater than 200 feet from a driveway that provides continuous access from the ADU to a driveway entrance approved by the County Engineer.

k. Appearance Standards:
   1) The design of all ADUs shall uphold the single-family character of the property and the ADU shall be subordinate in size, location, and appearance to the Principal Dwelling Unit, unless otherwise allowed in this Section. The ADU shall be compatible in appearance with adjacent properties and the neighborhood.
   2) When evaluating a proposed ADU, the appearance elements set forth in “a” thru “h”, below, should be considered by the Zoning Administrator, during review of an ADU Certificate application, to ensure that the ADU will be compatible with and have minimal, if any, impact on adjoining properties and the neighborhood’s character and to ensure that the other appearance standards set forth in Section 7(D)(2)(k)(1) of this Article have been met. The Appearance Elements shall be used as a non-exclusive indicator of whether the requirements of the Appearance Standards of this section have been satisfied. It is not intended that the Appearance Elements shall be utilized on a purely mathematical basis, by adding up the eight elements’ pros and cons. Rather, the significance of individual elements may vary when applied to different applications, and the Zoning Administrator shall conduct a weighing and balancing of the elements, and may assign more significant weight to some elements rather than to others, as deemed appropriate under the facts of each particular situation. Further, the Zoning Administrator may also utilize other factors deemed relevant, in addition to the Appearance Elements, to assist in such person’s review and determination.

   a) Height and Bulk: What is the predominate height of homes and accessory buildings in the neighborhood (e.g., one or two stories)? How does the height of the ADU compare with the height of the Principal Dwelling Unit? Does the ADU have a larger bulk or greater height than the Principal Dwelling Unit?

   b) Setbacks and Separation: Are homes set back the same distance from the street or are they staggered? Is there a typical or established house and lot pattern? Is there a typically wide or narrow space between homes?

   c) Exterior Color and Materials: Is there one material or color that is predominantly used for homes in the neighborhood? How does the materials and colors of the ADU compare with the Principal Dwelling Unit. Do they match or harmonize? Are they contrasting?
d) Roofs: What do most of the roofs in the neighborhood look like (e.g., materials, color, or pitch)? How does the roof of the ADU compare with the roof of the Principal Dwelling Unit? What architectural details are found on the Principal Dwelling Unit (e.g., dormers, overhangs, and eaves)? Does the ADU have the same detailing?

e) Entryways: Is the entryway to the ADU oriented away from the main street? Is the ADU entryway on a different façade or building plane than the Principal Dwelling Unit entryway? Is the ADU entryway smaller with less architectural detailing (e.g., porches, arches, columns, or overhangs) than the Principal Dwelling Unit entryway?

f) Accessory Buildings: Where do most of the homes have their garages (e.g., attached, detached, or in the front, back, or side of the house)? Do lots typically have only one structure or several (e.g., sheds, garages, pools, or barns)? Are the accessory structures decorative or utilitarian (e.g., gazebo versus barn)? Does the design (e.g., color, exterior materials, and roof pitch) of the accessory structures typically match the design of the homes?

g) Location and Orientation of Improvements: Where is the best ADU location to minimize impacts, including privacy on adjoining properties (e.g., views from windows)? Are exterior doorways and outdoor living areas such as porches or balconies oriented toward the interior of the property? Are exterior improvements (e.g., patios, pools, and gazebos) associated with the ADU located to minimize impacts and maintain the privacy of neighboring residences?

h) Landscaping and Screening: Is landscaping, fencing, or a combination of both typically used to define lot lines and separate homes? Are front yards well-landscaped or is the most prominent feature a paved parking area? Is there heavy or light vegetation in the back yard areas (e.g., trees or hedges)? Is the ADU screened with fencing, landscaping, open space separation, or other buildings or structures in a manner that maintains the privacy of adjacent parcels and reduces visual impacts on neighboring parcels?

I. Variances and Existing Conditional Use Permits:

1) If the construction of the Main Building or ADU requires or required approval of a variance from the height, yard, or the like, requirements of these regulations, then an ADU shall only be allowed if authorized by the approval of an Accessory Dwelling Unit Permit (ADU Permit) as provided in Section 7(D)(3) of this Article.

2) If there is a conditional use permit (CUP) in effect that includes the subject property, then an ADU shall only be allowed if authorized by the approval of an Accessory Dwelling Unit Permit (ADU Permit) as provided in Section 7(D)(3) of this Article.

m. Other Regulations and Codes: The ADU and all modifications to the Main Building shall be constructed in accordance with any and all applicable governmental codes and regulations, including but not limited to the County environmental, building, and fire codes.

n. Enforcement and Revocation: Failure to comply with the requirements of Section 7(D)(2) of this Article shall be a violation of these regulations and shall be subject to enforcement per Article 6 of these regulations.
In addition to other remedies provided by these regulations, including those of Article 6 of these regulations, any ADU Certificate allowing an ADU may be revoked at any time by the Board if the applicant is notified in writing and granted a hearing as provided in this Section, when there has been a determination by the Zoning Administrator that:

1) The applicant has made material misrepresentations or false statements of fact in the application, or

2) The provisions or conditions of this Article or these regulations have been violated, or

3) The standards of performance, conditions placed on the use as part of the permit approval process are not being met, or the use is not complying with any other County regulations applicable to the operation of such uses.

Prior to revocation of an ADU Certificate, a written notice that a violation has occurred shall be mailed to the permit holder. That notice shall afford the permit holder a specified time period to abate the violation and shall further grant the permit holder a hearing before the Board.

3. Accessory Dwelling Unit Permit:

In the event an applicant desires to deviate from the performance standards of Section 7(D)(2) of this Article, or if an ADU Certificate application was submitted and denied pursuant to the procedure set forth in Article 5, Section 6 of these regulations, then an applicant may submit an application for an Accessory Dwelling Unit Permit (hereinafter "ADU Permit").

a. Purpose of ADU Permit:

Section 7 of this Article provides criteria and procedures for ADUs which may be properly allowed upon consideration in each case of, among other things, the impact of the ADU upon neighboring land and the community.

ADUs may produce unique and special impacts because of their location, design, life span, size, traffic circulation, and similar such characteristics which impact on available or provided public facilities so that each such ADU not meeting the performance standards of Section 7(D)(2) of this Article must be considered and evaluated individually.

The Board shall decide whether each ADU proposed shall be granted an ADU Permit subject to the general and specific standards contained in this Section including the purposes and intents as set forth in Section 7(D)(1) of this Article and subject to such conditions and/or restrictions as are reasonable and appropriate to protect the character of the area and ensure the compatibility of the neighborhood in which it is located. The Board may deny requests which fail to satisfy standards and requirements and purposes and intents contained herein or which are not in harmony with the purposes and interest of these regulations or the health, safety, and general welfare of the County.

b. General Provisions:

ADU Permits may be approved only if found to be in the interest of the public health, safety, and general welfare of the community.
As a condition of approval of an ADU Permit, the Board may place such reasonable conditions and restrictions relative to the proposed ADU which address, among other things, the establishment, construction, and maintenance of the ADU as is deemed necessary for the protection of the public interest and to secure compliance with the standards and conditions and purposes and intents contained within this Article, other County regulations, and state and federal requirements.

Unless allowed by an approved ADU Certificate per Article 5, Section 6 of these regulations, no ADU shall be constructed or put to use until and unless an ADU Permit application has been submitted and an ADU Permit has been formally approved by the Board as required by Article 4 of these regulations.

ADUs allowed by an ADU Permit must abide by all of the conditions of the approval of such ADU Permit. Failure to comply with the requirements of the ADU Permit shall cause the ADU Permit to come under the revocation provisions of Section 7(D)(3)(f) of this Article.

c. Application Requirements:

1) Development Plan: A site plan that includes all of the items listed in Sections 3 and 6 of Article 15 and which complies with the development plan requirements of Articles 11 and 15 must be submitted as part of an ADU Permit application. This includes Section 3(J) of Article 15 which requires that “preliminary sketches of building elevations depicting the general style, size and exterior construction materials of the buildings proposed in sufficient detail to exhibit the relative compatibility of the proposed development with the character of the neighborhood.”

The development plan must indicate how the proposed use would satisfy the screening, setback, and other such ADU performance and development standards and zoning regulations as specified for the particular ADU.

2) Written Narrative Description: A written narrative description of the proposed ADU must be submitted by the applicant. If the nature of compliance is not explicitly clear from the information indicated on the development plan, the narrative description shall address how the proposed ADU would satisfy the performance and development standards, purposes and intents, and zoning regulations as applies to the particular ADU. The narrative description shall also address how the proposed ADU shall meet and comply with the Issuance of ADU Permits in Section 7(D)(3)(e) of this Article. The narrative description shall also describe the reasons which appear to make the site in question appropriate for the proposed ADU, the steps to be taken to cause the use to be compatible with other parcels of real property near the site in question, and other such reasonable information about the proposed use that would be necessary or helpful for the impacts of the proposed use to be fully evaluated and considered.

3) Application Requirements and Processing Procedures: ADU Permit applications shall comply with the application requirements and procedures as provided in Article 4 of these regulations. All applicants are encouraged to schedule and hold a pre-application conference with the Zoning Administrator or his or her designee as a first step toward filing and application for an ADU Permit. Arrangements for this conference shall be made by contacting the Planning Office.

d. General Development and Performance Standards:

1) An ADU Permit may be approved for an unlimited term of years, but shall be subject to termination and revocation for failure to comply with the terms and provisions of the ADU Permit, and the requirements of these regulations, as more fully set forth herein.
2) The owner-occupancy requirements of Section 7(D)(2)(a) of this Article shall be met, and any or all of the other performance standards within Section 7(D)(2) of this Article may be required as conditions of approval of the ADU Permit.

3) In General: The ADU Permit shall operate in accordance with a) the appropriate performance standards contained in this Article and in Article 11 of these regulations, b) the development plan review considerations in Article 15 of these regulations, and c) the Final Development Plan, the Statement of Intent and the description(s) of the use in the record(s) of the ADU Permit application review and consideration proceedings. These performance standards are minimum requirements. However, the Board may add, should the occasion require, more restrictive but reasonable requirements as conditions on the ADU Permit to govern the ADU.

4) Lot Area, Lot Dimension and Yard Requirements: The ADU shall abide by the lot area, lot dimension, yard requirements, and the like of the particular zoning district in which the ADU is located, unless a variance or rule exception is approved as provided in these regulations. However, the Board may add more restrictive requirements by imposing reasonable conditions on the ADU as needed to assure compatibility with the surrounding properties.

Rule Exception: The applicant may request a Rule Exception from the lot area, lot dimension, yard requirements, and the like of a particular zoning district in which the ADU is located. A Rule Exception may be requested in writing on forms provided by the Planning Office or by letter if all information required on such forms is provided within the letter. Requests for Rule Exceptions may be submitted with the ADU Permit application, or may be submitted during the course of consideration of the application. Requests for Rule Exceptions shall be considered by the Zoning Board and a report on the Zoning Board’s recommendations or failure to recommend thereon, shall be provided to the Board of County Commissioners, who shall make the final decision thereon.

Rule Exceptions shall not be recommended for approval by the Zoning Board nor approved by the Board of County Commissioners unless they find that such approval shall be compatible with the surrounding neighborhood and shall not be contrary to the public interest or unnecessarily burden the County, and shall not annul the intent and purpose of these regulations.

e. Issuance of ADU Permits

1) The proposed ADU Permit shall be reviewed using established land use criteria such as, but not limited to, that suggested by the Kansas Supreme Court in the case of Golden v. Overland Park, Kansas.

2) The Zoning Board shall not recommend that an ADU Permit be granted unless, based upon the evidence presented to it in each specific case, it has considered the following:

a) That the granting of any ADU Permit is in harmony with the general purpose and intent of these regulations, and will not be injurious or detrimental to the public health, safety, and general welfare.
b) That the granting of the PERMIT will not:
   i) Impair an adequate supply of light and air to adjacent property;
   ii) Unduly increase hazards from fire or other dangers;
   iii) Unduly increase traffic on streets or highways beyond their capacity;
   iv) Unduly increase the potential for flood damages to adjacent property or lead to additional public expense for flood protection, rescue or relief;
   v) Otherwise unduly impair the public health, safety, comfort, morals or general welfare of the inhabitants of the County, or otherwise create a nuisance or nuisance-like situation; or
   vi) Pollute the air, land or water.

3) That the ADU:
   a) Will be designed, constructed, operated, buffered, screened, and maintained to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that such use will not be incompatible with the character of the area.
   b) Will be compatible with and not be hazardous or unduly disturbing to existing or planned future neighboring uses and zoning.
   c) Will be served adequately by essential public facilities and services such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and wastewater disposal; or that the persons or agencies responsible for the establishment of the proposed use shall agree to adequately provide any such essential facilities and services. With respect to this standard, the minimum infrastructure requirements in Article 31 of these regulations shall be guidelines for interpretation of the minimum infrastructure needed for each ADU. Each ADU shall be considered with respect to the infrastructure available and whether additional or improved infrastructure would be needed for the proposed ADU. If additional or improved infrastructure would be needed, an ADU Permit may be approved if the applicant shall comply with Article 31, Section 2, (C) (1) and (2).
   d) Will not create excessive additional requirements at public cost for public facilities and services.
   e) Will have vehicular approaches to the property which are so designed and would be provided to prevent an interference with traffic on surrounding public arterial streets.
   f) Will not result in the destruction, loss, or damage of a natural, scenic, aesthetic or historic feature of major importance.
   g) Will comply with the lot, yard, and open space; sign; and off-street parking and loading space requirements of these regulations unless otherwise specifically granted.
f. Revocation of ADU Permits:

In addition to other remedies provided by these regulations, including those of Article 6 of these regulations, any ADU Permit allowing an ADU may be revoked at any time by the Board if the applicant is notified in writing and granted a hearing as provided in this Section, when there has been a determination by the Zoning Administrator that:

1) The applicant has made material misrepresentations or false statements of fact in the application, or

2) The provisions or conditions of this Article or these regulations have been violated, or

3) The standards of performance, conditions placed on the use as part of the permit approval process are not being met, or the use is not complying with any other County regulations applicable to the operation of such uses.

Prior to revocation of an ADU Permit, a written notice that a violation has occurred shall be mailed to the permit holder. That notice shall afford the permit holder a specified time period to abate the violation and shall further grant the permit holder a hearing before the Board.

E. Cargo Containers as Permanent Storage Units:

1. Cargo Containers for Storage Uses in Designated Zoning Districts.

a. In any district on property 10 acres or greater the number of cargo containers, hauling trailers or similar enclosed boxes (hereinafter “Containers”) used for personal or agricultural uses shall not be regulated, except for compliance with the Appearance and Setback/Separation requirements set forth below in subsection (b)(i) and (b)(vi). Containers shall not be rented or used for business use. Containers that are empty are not allowed.

b. In the Rural, Residential, Planned Rural or Planned Residential districts, on tracts or lots greater than 3 acres but less than 10 acres, cargo containers, hauling trailers or similar enclosed boxes (hereinafter “Containers”) are allowed as an accessory use on a permanent basis for personal storage subject to the accessory building size, use, number, height, and location requirements set forth in Article 18, Section 6, (B) & (C) except as modified herein. Containers shall not be rented or used for business use. Containers that are empty are not allowed. In addition, all permanent Containers shall be subject to the following provisions:

i. Appearance: All Containers shall have the wheels and chassis removed. All signage on the Container shall be removed and the Container shall be painted an earth tone color. Containers shall not be stacked on top of each other and shall be safe, structurally sound, stable, in good repair, and in compliance with any other applicable County requirements, including building codes e.g., tie downs, foundations, etc. Containers shall be continually maintained in accordance with these regulations. Any Container that is not maintained in accordance with these regulations, as determined by the Zoning Administrator, shall immediately be brought into compliance or removed by the property owner to a location that can legally accept it. Any Container that becomes unsound, unstable or otherwise dangerous, as determined by the Building Official, shall be immediately repaired or removed by the property owner to a location that can legally accept it. Adequate means for fire and emergency vehicles access to Containers shall be provided.

ii. Access: Containers shall not be stored in a manner that impedes access to public right-of-ways, public utility or drainage easements, adjacent structures, and buildings.
.16 Roadside stands for the sale of agricultural produce grown on the site, but only when adequate off-street parking is provided, except in the “R” District. (Ordinance #2015-05/12-18-2015)

.17 Yard Sales. (Ordinance #2015-05/12-18-2015)

8.004.090 ACCESSORY BUILDINGS AND STRUCTURES: The following regulations shall govern the placement and use of accessory buildings and structures:

.01 Accessory buildings may be erected as an integral part of the principal building or may be connected thereto by a breezeway or similar structure; or may be erected detached from the principal building. Any accessory building attached to the principal building shall be considered as part of the principal building and shall meet the requirements as specified for the principal building in said district. (Ordinance #2004-14/07-01-04)

.02 Detached accessory buildings may be erected as provided below:
A. Detached accessory buildings may be located in the side yards but shall not be located in the required side yards. (Ordinance #86-7/09-26-86)

B. Detached accessory building may be located in the rear yard and shall not occupy more than thirty (30) percent of the required rear yard; provided however, that this regulation shall not be interpreted as to prohibit the construction of a four hundred forty (440) square foot private garage on a minimum rear yard. Such buildings erected in a rear yard shall not be located closer than four (4) feet to any property line and on corner lots shall also comply with the setback requirements for side street yards as specified in Section 8.004.050. (Ordinance #86-7/09-12-86)

C. Unless otherwise specifically permitted, any detached accessory building requiring direct access from an alley shall be located a minimum of fifteen (15) feet from the said alley line. (Ordinance #86-7/09-12-86)

D. Regardless of its location, a detached accessory building shall maintain a distance of eight (8) feet (wall to wall) from any principal building or structure, or other detached accessory building situated on the same lot. (Ordinance #86-7/09-12-86)

.03 No accessory building shall be used for dwelling purposes unless specifically permitted. (Ordinance #81-6/10-01-81)

.04 Mobile homes and manufactured homes, whether converted to real estate or not, shall not be utilized as an accessory building. (Ordinance #2004-14/07-01-04)

8.004.095 ACCESSORY DWELLING UNITS (ADU): Accessory dwelling units (ADUs), as defined in Section 8.002.020.020, shall be subject to the following conditions: (Ordinance #2015-05/12-18-2015)
.01 The size of the parcel or lot upon which an ADU will be situated shall be two times larger than the minimum lot size for the zoning district in which the parcel or lot is located. (Ordinance #2015-05/12-18-2015)

.02 The ADU must meet all requirements of the Pottawattamie County, Iowa, Onsite Wastewater Treatment and Disposal Code and the Private Water Well Code with respect to the provisions of individual potable water and sewage disposal system or shall be authorized to connect to a municipal or public water and sewer system. (Ordinance #2015-05/12-18-2015)

The issuance of a permit for the ADU shall not adversely impact adjoining properties from obtaining a permit septic, sewer or well if the adjoining parcel has not constructed their first residence on their adjoining lot. (Ordinance #2015-05/12-18-2015)

.03 The total maximum square footage of the ADU shall not exceed the lesser of six hundred (600) square feet or fifty (50) percent of the square footage of the primary structure, excluding garage and carports. The minimum total square footage of the ADU shall be not less than two hundred sixty (260) square feet. (Ordinance #2015-05/12-18-2015)

.04 Location of entrances. Only one main entrance may be located on the street-facing facade of the house, unless the house contained additional entrances before the ADU was created. An exception to this regulation is an entrance that does not have access from the ground, such as an entrance from a balcony or deck. (Ordinance #2015-05/12-18-2015)

.05 All ADUs shall comply with the limitations of Section 8.004.040, Lot Frontage Requirement. (Ordinance #2015-05/12-18-2015)

.06 Exterior finish materials, roof pitch, trim, eaves, window orientation and dimension must be the same or visually match those of the house. (Ordinance #2015-05/12-18-2015)

.07 The ADU must be provided with at least one (1) off-street parking space, which shall be in addition to those required for any other structure(s) on the property. (Ordinance #2015-05/12-18-2015)

.08 The ingress/egress driveway to the ADU shall be shared with that of the primary dwelling. No separate entrance shall be permitted. (Ordinance #2015-05/12-18-2015)

.09 The ADU shall not be considered an accessory structure for the purpose of determining setbacks. (Ordinance #2015-05/12-18-2015)

.10 Only one ADU shall be allowed per parcel or lot. (Ordinance #2015-05/12-18-2015)

.11 The ADU shall not be used as a bed and breakfast. (Ordinance #2015-05/12-18-2015)
.12 ADUs are permitted only when one of the dwelling units, either the primary residence or the ADU, on the property is owner-occupied. Ownership cannot be fractional. Owner-occupied residence shall not be rented out at any time. *(Ordinance #2015-05/12-18-2015)*

.13 Weekly and Daily rentals of ADUs allowed by special permit. *(Ordinance #2015-05/12-18-2015)*

.14 The ADU may be permitted to be divided off and to become a separate lot or parcel from that of the primary structure, provide however, that all zoning and subdivision regulations shall be adhered to. *(Ordinance #2015-05/12-18-2015)*

8.004.100 GENERAL EXCEPTIONS AND PERMITTED INTRUSIONS INTO REQUIRED YARDS: Every part of a required yard shall be open to the sky, unobstructed except for accessory buildings as specified in Section 8.004.090 and except for the following intrusions which may project into any required yard to the extent indicated, provided that such projections are not closer than three (3) feet to any lot line. *(Ordinance #81-6/10-01-81)*

.01 Cornices, canopies, eaves, wing walls and other architectural features, may project a distance not exceeding three (3) feet. *(Ordinance #2015-05/12-18-2015)*

.02 Bay windows, balconies, unenclosed porches and chimneys may project a distance not exceeding three (3) feet, provided that such features do not occupy, in the aggregate, more than one-third (1/3) of the length of the building wall on which they are located. *(Ordinance #81-6/10-01-81)*

.03 An uncovered stair and necessary landings may project a distance not to exceed three (3) feet into a required interior side yard and not to exceed six (6) feet into any other required yard, provided such stair and land shall not extend above the entrance floor of the building except railing not exceeding three (3) feet in height. *(Ordinance #81-6/10-01-81)*

.04 Air conditioning units may project a distance not exceeding five (5) feet, provided such units are screened from the street or adjoining lot by a sight obscuring fence or planting. *(Ordinance #81-6/10-01-81)*

.05 Ramps constructed to make a residential structure accessible to persons with physical disabilities may project into the required yard(s) to the extent necessary for access, if, upon review by the Development Director, it is determined that the ramp has been designed to minimize the intrusion into the required yard(s) and creates no hazard to the public. *(Ordinance #2015-05/12-18-2015)*

8.004.110 STRUCTURES PERMITTED ABOVE HEIGHT LIMITS: The building height limitations of the Ordinance shall be modified as follows:

.01 Antennas; barns, silos and other accessory agricultural structures; belfries, chimneys, church steeples; conveyors; cooling towers and ventilators; cupolas; derricks; domes; elevator bulkheads; fire and hose towers; flagpoles; grain elevators; monuments, ornamental towers and spires; observation towers; radio and television towers, mast and aerials; smokestacks; stage towers or scenery lofts;