

## FACTSHEET

**TITLE: TEXT AMENDMENT NO. 14007**  
(Title 27 of the Lincoln Municipal Code, Zoning Ordinance)

**BOARD/COMMITTEE:** Planning Commission

**APPLICANT:** Director of Planning

**RECOMMENDATION:** Approval (8-0: Corr, Sunderman, Beecham, Harris, Hove, Scheer, Weber and Lust voting 'yes'; Cornelius absent).

**STAFF RECOMMENDATION:** Approval

**OTHER DEPARTMENTS AFFECTED:** N/A

**SPONSOR:** Planning Department

**OPPONENTS:** None.

### **REASON FOR LEGISLATION:**

To amend Title 27 of the Lincoln Municipal Code to (1) correct errors made in previous text amendments and to clarify existing language without changing the intent of the language by:

- clarifying the definition of "story" to provide for a more clear understanding of where the first story of a structure begins;
  - providing guidance as to when a venue should be classified as "major event entertainment," e.g. 500 seats or more;
  - amending the Use Group Table to designate Cabinet Shops and Stores as a conditional use in the H-2 zoning district;
  - adding "or this Chapter" as a reference to clarify what methods can be used to structurally alter, reconstruct, or restore a nonconforming structure;
  - updating parking for H-3 uses to reflect specific uses that were allocated a parking reduction prior to Use Groups approval;
  - clarifying that roof signs are permitted but are regulated under Section 27.69.310, to require a certain spacing between the location of any sign and an abutting residential premises located in a residential district;
  - clarifying that in all zoning districts, except for the O-1, O-2, and R-T districts, more than one sign per architectural elevation per building is allowed, provided that the total sign area of such wall signs shall not exceed 30% per architectural elevation and no wall sign shall exceed 500 square feet in sign area;
  - clarifying that menu boards, although a type of freestanding sign, have their own regulations;
  - clarifying that window signs are not counted toward the allocated percentage of wall signage;
  - inserting language needed for consistency between Section 27.69.310 and Section 27.69.030;
  - providing that a commercial use abutting a residential district does not need to comply with the residential district provisions if the adjacent land in the residential district may be used for a commercial use under a PUD; and
- (2) modify appeal procedures to more completely and consistently include any council member or mayor among the listed persons who have the right to appeal decisions of the planning director or planning commission.

### **DISCUSSION / FINDINGS OF FACT:**

1. The purpose of this text amendment is to correct errors made in previous text amendments and to clarify existing language without changing the intent of the language.
2. The staff recommendation of approval is based upon the "Analysis" as set forth on p.3, concluding that the proposed changes are intended to provide clarification on existing rules. It is not intended to create new regulations. These changes will facilitate more efficient and consistent implementation of the City Zoning Ordinance. The staff presentation is found on p.5.
3. This application was originally heard and acted upon by the Planning Commission on August 6, 2014; however, it was revised and returned to the Planning Commission on October 15, 2014, to add language clarifying sign area and to include the mayor among the listed persons who have the right to appeal decisions (See p.3).
4. There was no testimony in opposition.
5. On October 15, 2014, the Planning Commission agreed with the staff recommendation and voted 8-0 to recommend approval as set forth in the staff report dated October 2, 2014.

**FACTSHEET PREPARED BY:** Jean Preister, Administrative Officer  
**REVIEWED BY:** Marvin Krout, Director of Planning



**DATE:** October 20, 2014

**DATE:** October 20, 2014

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LINCOLN/LANCASTER COUNTY PLANNING STAFF REPORT  
\*REVISED\*

FOR OCTOBER 15, 2014 PLANNING COMMISSION MEETING

- PROJECT #:** Text No.14007
- PROPOSAL:** To provide clarifications and make corrections to Title 27, the City Zoning Ordinance
- CONCLUSION:** The proposed changes to Title 27 are intended to provide clarification on existing rules. It is not intended to create new regulation. These changes will facilitate more efficient and consistent implementation of the City Zoning Ordinance.

<b>RECOMMENDATION:</b>	<b>Approval</b>
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**GENERAL INFORMATION:**

The purpose of this text amendment is to correct errors made in previous text amendments and to clarify existing language without changing the intent of the language. The new language is attached and a description of each of the changes is listed by section.

Sections being revised:

27.02.200 - This is a clarification requested by the Building and Safety Department it substitutes “the ground elevation” for the word “grade” to better clarify the definition of “story”. This change provides for a more clear understanding of where the first story of a structure begins.

27.06.160 - This change relates to the Major Event Entertainment Use Group to provide guidance as to when a venue should be classified as “major event entertainment,” i.e. 500 seats or more.

27.06.170 - This is a correction to the Use Group Table to show Cabinet Shops and Stores as a conditional use in the H-2 zoning district rather than a prohibited use. Cabinet shops are already listed as a conditional use in the Conditional Use Chapter 27.62.

27.61.040 and 27.61.050 - Add “or this Chapter” as a reference to clarify for the reader that there are multiple methods that can be used to structurally alter, reconstruct, or restore a nonconforming structure. There are several sections in this chapter that provide ways to rebuild or add onto a nonconforming or nonstandard structure such as: *27.61.040 Extension and Enlargement; 27.61.050 Restoration after Damage; 27.61.090 Continuation of Nonstandard Uses; and 27.61.100 Enlargement, Extension, or Reconstruction of Nonstandard Single and Two-Family Dwellings Into Required Yards.*

27.67.066 - Update parking for H-3 uses. There are a few uses in the H-3 zoning district that are allowed a parking reduction. Prior to the reorganization of the zoning ordinance (Use Groups), all of these specific uses were “conditional”. Some of those conditional uses such as plumbers and other contractor services changed to permitted when Use Groups was approved. Although some uses changed from “conditional” to “permitted”, this section of the Parking Chapter still calls those uses “conditional”. This change will list the uses that are allowed parking reductions rather than identify them specifically all as conditional uses.

27.69.030 -This is a note in the General Provisions that clarifies roof signs are permitted but are regulated under Section 27.69.310 *Roof Signs.*

27.69.030 - It is possible to have commercial uses by special permit or Planned Unit Development in a residential zoning district. The code states freestanding signs must be 50 feet away from a residential district and 100 feet away if they are illuminated. This causes ambiguity on spacing requirements for commercial signs in residential zoning districts. The amendment clarifies the spacing requirement, for freestanding signs, applies to residential premises and not just residential districts. The new language says that they must meet these same spacing requirements if they are adjacent to a residential premises rather than a residential district.

27.69.030 - Clarifies that the maximum sign area for any one sign is 500 square feet, and that the total allowed signage for a single architectural elevation is 30% of that architectural elevation.

27.69.240 - Clarifies that menu boards, although a type of freestanding sign, have their own separate regulations.

27.69.290 - Clarifies that window signs are not counted toward the allocated percentage of wall signage.

27.72.180 Provides that a commercial use, abutting a Planned Unit Development overlay district with residential zoning, does not need to comply with the residential district setback provisions, if the adjacent land in the Planned Unit Development is permitted for commercial use.

27.56.140, 27.57.180, 27.62.150, 27.63.025, 27.64.010, 27.69.030, 27.72.190, and 27.81.021 modifies appeal procedures to consistently include any council member or mayor among the listed persons who have the right to appeal the applicable order, approval, disapproval, or other decision.

#### **ANALYSIS:**

1. The proposed changes to Title 27 are intended to provide corrections and clarifications on existing rules. It is not intended to create new regulations.
2. Many of the proposed changes were identified during the reForm legislative drafting process. ReForm is a proposal for relaxing some zoning regulations and adding new design standards for development in certain business and commercial zones that is still in the public input phase of development. It became clear after reviewing the first legislative reForm draft, changes that were simply corrections and clarifications should move forward to the approval process regardless of reForm review schedule.
3. There were no objections to these text changes from any City Department. This text amendment had a hearing at Planning Commission on August 6, 2014. After the Planning Commission hearing it came to staff's attention that "Mayor" should have been added to the sections where "City Council" was added providing consistency. Also during this time Building and Safety had asked for clarification on language in the 27.69.030 regarding wall signs. It seemed appropriate, since the clarifications text amendment was in process to include that clarification in this text amendment. The new text is underlined in the Analysis section above.

Prepared by:  
Christy Eichorn, Planner

**DATE:** October 2, 2014

**APPLICANT:** Marvin Krout, Planning Director

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# TEXT AMENDMENT NO. 14007

## REHEARING BEFORE PLANNING COMMISSION:

October 15, 2014

Members present: Beecham, Weber, Sunderman, Harris, Corr, Scheer, Hove and Lust; Cornelius absent.

Staff recommendation: Approval

There were no ex parte communications disclosed.

Staff presentation: **Christy Eichorn of Planning staff** explained that this is a re-hearing on a text amendment that was previously on the consent agenda and approved by the Planning Commission. After being approved by the Planning Commission, but before being scheduled on the City Council agenda, it came to the staff's attention that one of the clarifications needed to be expanded to include the Mayor as one of those entities that have the ability to appeal any decision. There are several areas in the code where this occurs.

This re-hearing also adds a correction or clarification to Section 27.69.030 to clarify the intent for maximum sign area is 500 sq. ft., and that the total allowable sign area for architectural elevation is 30% of that architectural elevation. These rules have been in place for a very long time. This amendment just clarifies how that regulation has been enforced and will continue to be enforced.

Harris noted that on page 35, one of the references to the "mayor" is not capitalized while all of the other ones are. She also raised a question about the major entertainment and event use group and how the number 500 was reached. Eichorn explained that a few months ago there had been some questions at Building & Safety with regard to use groups. The number 500 was added to give some perspective to what is considered to be a big or large crowd, such as Pinnacle Bank Arena or Pershing. The 500 number is not specific. It was added just to give some general guidance, depending on the character of the use. Harris inquired whether that is generally how it has been interpreted previously. Eichorn's response was that the staff had not had to interpret it until just recently. This is a new category that distinguished large event activities such as Pinnacle Bank Arena, motor racing, etc., thus we needed to provide some clarification because we did not have that term before 2009. For example, Speedway Sporting Village had talked about having uses in their activity areas, such as weddings, dog agility shows, etc. The question then came up – if they do dog agility shows, does that then kick them into a different kind of use group? Staff discussed it and 500 was determined to give guidance on that trigger.

Scheer referred to Section 27.02.200 where "story" is defined. Line 5 talks about "6' above grade as defined herein for more than fifty percent of the total perimeter", and then line 6 strikes grade and replaces it with "ground elevation". Is line 5 to be changed to "ground elevation" as well? Eichorn stated that the way it is written is correct. Building & Safety requested this change because they felt that the way ground elevation was being utilized in line 5 was different than the way it was being utilized in line 6. With how they were interpreting that in terms of the building code, it made more sense to distinguish those two. This will make it more consistent with the building code.

There was no testimony in opposition.

**ACTION BY PLANNING COMMISSION:**

October 15, 2014

Beecham moved approval, seconded by Scheer.

Lust commented that she is always glad to see that we are cleaning up things that make it easier and more useful to the people that have to use the zoning code.

Motion for approval carried 8-0: Beecham, Weber, Harris, Corr, Scheer, Hove, Sunderman and Lust voting 'yes'; Cornelius absent. This is a recommendation to the City Council.