

Memorandum

City of Lawrence-Douglas County Planning & Development Services

TO: Lawrence-Douglas County Planning Commission

FROM: Michelle Leininger, AICP, Planner II

CC: Scott McCullough, Planning and Development Services Director
Sheila Stogsdill, Planner Administrator

Date: July 22, 2013

RE: TA-13-00106: Accessory Dwelling Units in the RS5 District

At the June 26, 2013 Planning Commission meeting, the Commission directed staff to bring back language to better define that an owner is required to live in one of the units on the premise. The discussion was that a natural person who owns and has stake the property, and not someone working for a corporation, should live on the premise in order to prevent a loophole which would allow both units to be rentals. Staff proposes that if a corporation does own the property, that a principal of the corporation resides on the premises. While this may not completely satisfy the concern raised by the PC, it does raise the bar for meeting the purpose of the intent of the code and is based on the perception that a principal of a corporation cares for property in a way similar to a natural person owning a property.

The intent to the proposed changes is to better implement the purpose of the use which is to preserve single-family neighborhoods, allow more efficient use of the existing housing stock and infrastructure, provide a mix of housing types, provide a means for residents to remain in their homes and neighborhoods and obtain extra income, security, companionship and services, and provide for a broader range of affordable housing.

Staff has proposed some additional language in Article 5. The attached draft Article 4 and 5 show additions underlined in red and deletions ~~struck through~~ in red.

Staff Recommendation

Staff recommends that the Planning Commission forward a recommendation for approval of the July versions of the proposed amendment to the *Land Development Code*, TA-13-00106, regarding permitting the Accessory Dwelling Unit use as an accessory use in the RS5 District, to the City Commission.

20-402 RESIDENTIAL DISTRICT USE TABLE

Key: A = Accessory P = Permitted S = Special Use * = Standard Applies - = Use not allowed		Base Zoning Districts														Use-Specific Standards (Sec. 20-)
		RS40	RS20	RS10	RS7	RS5	RS3	RSO	RM12	RM12D	RM15	RM24	RM32	RMG	RMO	
RESIDENTIAL USE GROUP																
Household Living	Accessory Dwelling Unit	A*	A*	A*	A*	- A	-	-	-	-	-	-	-	-	-	534
	Attached Dwelling	-	-	S*	S*	S*	S*	S*	P*	P*	P*	P*	P*	-	P*	503
	Cluster Dwelling	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	-	P*	702
	Detached Dwelling	P*	P*	P*	P*	P*	P*	P*	S*	S*	S*	S*	S*	-	S*	508
	Duplex	-	-	-	-	-	-	P*	P*	P*	P*	P*	P*	-	P*	503
	Manufactured Home	-	-	-	-	-	-	-	S	S	S	S	S	-	-	
	Manufactured Home, Residential-Design	P*	P*	P*	P*	P*	P*	P*	S*	S*	S*	S*	S*	-	S*	513
	Mobile Home	-	-	-	-	-	-	-	-	-	S	S	S	-	-	
	Mobile Home Park	-	-	-	-	-	-	-	-	-	S*	S*	S*	-	-	514
	Multi-Dwelling Structure	-	-	-	-	-	-	-	P*	-	P*	P*	P*	-	P*	517
	Non-Ground Floor Dwelling	--	--	--	--	--	--	P*	--	--	--	--	--	--	P*	517/542
	Work/Live Unit	--	--	--	--	--	--	P*	--	--	--	--	--	--	P*	517/542
	Zero Lot Line Dwelling	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	-	P*	531
Home Occupation, Type A or B	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	-	A*	537	
Group Living	Assisted Living	S	S	S	S	S	S	P	P	P	P	P	P	P	P	
	Congregate Living	-	-	-	-	-	-	-	P*	-	P*	P*	P*	-	P*	546
	Dormitory	-	-	-	-	-	-	-	-	-	-	-	-	P	-	
	Fraternity or Sorority House	-	-	-	-	-	-	-	-	-	-	-	-	P	-	
	Group Home, General [11 or more]	S	S	S	S	S	S	S	S	S	S	S	S	P	S	
	Group Home, Limited [10 or fewer]	P	P	P	P	P	P	P	P	P	P	P	P	-	P	
PUBLIC AND CIVIC USE GROUP																
Community Facilities	Adult Day Care Home	S	S	S	S	S	S	P	P	P	P	P	P	P	P	
	Cemeteries	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	-	P*	505
	College/University	S	S	S	S	S	S	S	S	S	S	S	S	P	S	
	School	S	S	S	S	S	S	S	S	S	S	S	S	P	S	
	Cultural Center/ Library	S	S	S	S	S	S	S	S	S	S	S	S	P	S	
	Day Care Center	S*/A*	S*	S*	S*	S*	S*	S*	S*	S*	S*	S*	S*	P*/A*	S*	507

	Base Zoning Districts														Use-Specific Standards (Sec. 20-)	
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Key: A = Accessory P = Permitted S = Special Use * = Standard Applies - = Use not allowed																
Day Care Home, Class A	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	-	A*	507	
Day Care Home, Class B	S*	S*	S*	S*	S*	S*	S*	S*	S*	S*	S*	S*	-	S*	507	
Detention Facilities	-	-	-	-	-	-	-	-	-	-	-	-	-	-		
Lodge, Fraternal & Civic Assembly	S*	S*	S*	S*	S*	S*	S*	S*	S*	S*	S*	S*	S*	S*	512	
Postal Service	-	-	-	-	-	-	-	-	-	-	-	-	-	-		
Public Safety	S	S	S	S	S	S	S	S	S	S	S	S	P	S		
Funeral and Interment	-	-	-	-	-	-	P*	-	-	-	-	-	-	P*	505	
Temporary Shelter	A*	A*	A*	A*	A*	A*	S*/A*	A*	A*	A*	A*	A*	A*	S*/A*	544/522	
Social Service Agency	--	--	--	--	--	--	P	--	--	--	--	--	--	P		
Community Meal Program	A*	A*	A*	A*	A*	A*	S/A*	A*	A*	A*	A*	A*	A*	S/A*	522	
Utilities, Minor	P*/S*	P*/S*	P*/S*	P*/S*	P*/S*	P*/S*	P*/S*	P*/S*	P*/S*	P*/S*	P*/S*	P*/S*	P*/S*	P*/S*	530	
Utilities and Service, Major	S	S	S	S	S	S	S	S	S	S	S	S	-	S		
Medical Facilities	Community Mental Health Facility	--	--	--	--	--	--	--	--	--	--	--	--	--		
	Extended Care Facility, General	-	-	-	-	-	S	P	P	P	P	P	P	P		
	Extended Care Facility, Limited	P	P	P	P	P	P	P	P	P	P	P	P	P		
	Health Care Office, Health Care Clinic	-	-	-	-	-	-	P	-	-	-	-	-	-	P	
	Hospital	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
	Outpatient Care Facility	-	-	-	-	-	-	P*	-	-	-	-	-	P*	P*	519
Recreational Facilities	Active Recreation	S	S	S	S	S	S	S	S	S	S	S	-	S		
	Entertainment & Spectator Sports, Gen.	-	-	-	-	-	-	-	-	-	-	-	-	-		
	Entertainment & Spectator Sports, Ltd.	-	-	-	-	-	-	-	-	-	-	-	-	-		
	Passive Recreation	P	P	P	P	P	P	P	P	P	P	P	P	P		
	Nature Preserve/Undeveloped	P	P	P	P	P	P	P	P	P	P	P	P	-	P	
	Private Recreation	P	P	P	P	P	P	P	P	P	P	P	P	-	P	
	Participant Sports & Recreation, Indoor	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
	Participant Sports & Recreation, Outdoor	-	-	-	-	-	-	-	-	-	-	-	-	-	-	

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Religious Assembly	Campus or Community Institution	-	-	-	-	-	-	-	P*	P*	P*	P*	P*	P*	P*	522
	Neighborhood Institution	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	522
COMMERCIAL USE GROUP																
Animal Services	Kennel	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
	Livestock Sale	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
	Sales and Grooming	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
	Veterinary	-	-	-	-	-	-	P	-	-	-	-	-	-	P	
Eating & Drinking Establishments	Accessory Bar	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
	Bar or Lounge	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
	Brewpub	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
	Fast Order Food	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
	Fast Order Food, Drive-in	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
	Nightclub	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
	Private Dining Establishments	S*	S*	S*	S*	S*	-	S*	-	-	-	-	-	-	S*	539
Restaurant, High-turnover	-	-	-	-	-	-	-	-	-	-	-	-	-	-		
Restaurant, Quality	-	-	-	-	-	-	-	-	-	-	-	-	-	-		
Office	Administrative and Professional	-	-	-	-	-	-	P*	-	-	-	-	-	P*	P*	518
	Financial, Insurance & Real Estate	-	-	-	-	-	-	P*	-	-	-	-	-	P*	P*	510
	Other	-	-	-	-	-	-	P*	-	-	-	-	-	P*	P*	510
Parking Facilities	Accessory	-	-	-	-	-	A*	A*	A*	A*	A*	A*	A*	A*	A*	535
	Commercial	-	-	-	-	-	-	S	-	-	-	-	-	-	-	
Retail Sales & Service	Building Maintenance	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
	Business Equipment	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
	Business Support	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
	Construction Sales and Service	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
	Food and Beverage	-	-	-	-	-	-	-	-	-	-	-	-	-	-	

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	Mixed Media Store	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
	Personal Convenience	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
	Personal Improvement	-	-	-	-	-	-	P*	-	-	-	-	-	P*	P*	521
	Repair Service, Consumer	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
	Retail Sales, General	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
	Retail Establishment, Large	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
	Retail Establishment, Medium	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
	Retail Establishment, Specialty	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Sexually Oriented Businesses	Sexually Oriented Media Store	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
	Physical Sexually Oriented Business	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
	Sex Shop	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
	Sexually Oriented Theater	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Transient Accommodation	Bed and Breakfast	S*	S*	S*	S*	S*	S*	S*	S*	S*	S*	P*	P*	-	P*	504
	Campground	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
	Elderhostel	-	-	-	-	-	-	-	-	-	-	-	-	S	-	-
	Hotel, Motel, Extended Stay	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Vehicle Sales & Service	Cleaning (e.g., car wash)	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
	Fleet Storage	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
	Gas and Fuel Sales	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
	Heavy Equipment Repair	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
	Heavy Equipment Sales	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
	Inoperable Vehicles Storage	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
	Light Equipment Repair	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
	Light Equipment Sales/Rental	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
	RV and Boats Storage	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-

INDUSTRIAL USE GROUP

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		RS40	RS20	RS10	RS7	RS5	RS3	RSO	RM12	RM12D	RM15	RM24	RM32	RMG	RMO	
Industrial Facilities	Explosive Storage	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
	Industrial, General	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
	Industrial, Intensive	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
	Laundry Service	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
	Manufacturing & Production, Limited	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
	Manufacturing & Production, Technological	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
	Research Service	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
	Salvage Operation	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Wholesale, Storage & Distribution	Heavy	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
	Light	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
	Mini-Warehouse	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
OTHER USES GROUP																
Adaptive Reuse	Designated Historic Property	S*	S*	S*	S*	S*	S*	S*	S*	S*	S*	S*	S*	S*	S*	501
	Greek Housing Unit	-	-	-	-	-	-	-	-	-	-	-	-	S*	-	501
Agriculture	Agricultural Sales	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
	Agriculture, Animal	P*	-	-	-	-	-	-	-	-	-	-	-	-	-	502
	Agriculture, Crop	P	P	P	P	P	P	P	P	P	P	P	P	-	P	-
Communications Facilities	Amateur and Receive-Only Antennas	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	-	A*	536
	Broadcasting Tower	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
	Communications Service Establishment	-	-	-	-	-	-	P	-	-	-	-	-	-	P	-
	Telecommunications Antenna	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	529
	Telecommunications Tower	S*	S*	S*	S*	S*	S*	S*	S*	S*	S*	S*	S*	S*	S*	529
	Satellite Dish	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	536

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Mining	Mining	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
Recycling Facilities	Large Collection	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
	Small Collection	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
	Processing Center	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	

20-534 **ACCESSORY DWELLING UNITS** (Permitted only in RS40, RS20, RS10, RS7, RS5, MU and CN1)

(1) **Purpose**

Accessory Dwelling Units are allowed in certain situations to:

- (i) create new housing units while preserving the look and **Scale** of single-Family **Detached Dwelling** neighborhoods; subject to the procedures established in Section 20-534(2)(xi);
- (ii) allow more efficient use of the City's existing housing stock and **Infrastructure**;
- (iii) provide a mix of housing types that responds to changing **Family** needs and smaller households;
- (iv) provide a means for residents, particularly seniors, single parents, and couples, to remain in their homes and neighborhoods, and obtain extra income, security, companionship and services; and
- (v) provide a broader range of accessible and more affordable housing.

(2) **Design Standards**

(i) **Purpose**

These design standards are intended to ensure that **Accessory Dwelling Units**:

- a. are compatible with the desired character and livability of the **Zoning Districts**;
- b. respect the general **Building Scale** and placement of **Structures** to allow sharing of common space on the **Lot**, such as **Driveways** and **Yards**; and
- c. are 960 square feet or smaller in size.

(ii) **Generally**

The design standards for **Accessory Dwelling Units** are stated in this section. If not addressed in this section, the **Base District** standards apply.

(iii) **Methods of Creation**

An **Accessory Dwelling Unit** may only be created through one of the following methods:

- a. converting existing living area within a **Detached Dwelling**, **Attached Dwelling** (e.g., attic, **Basement** or attached garage); or
- b. adding **Floor Area** to an existing **Detached Dwelling**, **Attached Dwelling** or detached garage; or
- c. constructing a new **Detached Dwelling**, **Attached Dwelling** or detached garage with an internal **Accessory Dwelling Unit**.

(iv) **Owner Occupancy Required in RS Districts**

Either the principal **Dwelling Unit** or the **Accessory Dwelling Unit** must be occupied by one or more of the persons who is/are the record **Owner** of the **Premises**. If the Owner is not a natural person, then either the principal Dwelling Unit or the Accessory Dwelling Unit must be occupied by one or more principals of the Owner.

If at any time, neither of the **Dwelling Units** in a **Building** that contains an **Accessory Dwelling Unit** is the principal residence of one of the **Owner** of the property or one of the principals of the Owner of the property, then the property shall be considered a Duplex. If a Duplex is not permitted in the Zoning District in which the property is located, then it shall be a violation of this Code and the **Owner** shall be subject to penalties for a zoning violation and to an abatement order requiring restoration of the **Premises** to lawful status, conforming with the uses permitted in the **Zoning District**.

(v) Number of Residents

The total number of individuals that reside in both units (principal + accessory) may not exceed Occupancy Limit established for the Principal Building in Section 20-601(d), plus one additional person.

(vi) Other Uses

An **Accessory Dwelling Unit** is prohibited in a house with a Type B **Home Occupation**.

(vii) Location of Entrances

- a. Only one entrance to the **Principal Building** may be located on the front **Facade** that faces the **Street**, unless the **Principal Building** contained an additional **Street-facing** entrance before the **Accessory Dwelling Unit** was created.
- b. When the **Accessory Dwelling Unit** is located behind the rear wall of the **Principal Building**, the accessory **Dwelling** entrance shall face the **Front Lot Line**.
- c. An exception to subsection (b), above, is **Dwelling Units** that do not have **Access** from the ground such as **Dwelling Units** with entrances from balconies or elevated decks.

(viii) Parking

The following Parking requirements apply to **Accessory Dwelling Units**.

- a. Lots containing **Accessory Dwelling Units** shall contain a minimum of two off-**Street Parking Spaces**.
- b. If the **Lot** containing the **Accessory Dwelling Unit** abuts only a **Local Street** and the pavement of the **Local Street** is at least 27 feet wide, no additional **Parking Space** is required for the **Accessory Dwelling Unit**.
- c. If the **Lot** containing the **Accessory Dwelling Unit** abuts only a **Local Street** and the pavement of the **Local Street** is less than 27 feet wide, or if the **Accessory Dwelling Unit** is created at the same time as the principal **Dwelling Unit**, one additional **Parking Space** is required for the **Accessory Dwelling Unit**.
- d. One additional **Parking Space** is required for the **Accessory Dwelling Unit** if the **Lot** containing the **Accessory Dwelling Unit** abuts only a **Collector** or **Arterial Street**.

(ix) Size

The maximum size of an **Accessory Dwelling Unit** may be no more than (33%) of the living area of the **Detached Dwelling** or **Attached Dwelling**, or 960 square feet, whichever is less.

(x) Floor Area Additions

Accessory Dwelling Units created through the addition of habitable **Floor Area** to an existing **Structure** shall comply with the following standards:

- a. the exterior finish material shall be the same or visually match in type, size and placement, the exterior finish material of the house or existing **Structure**;
- b. the roof pitch shall be the same as the predominant roof pitch of the house or existing **Structure**;
- c. trim on edges of elements on the addition shall be the same in type, size and location as the trim used on the rest of the house or existing **Structure**;
- d. windows shall match those in the house in proportion (relationship of width to **Height**) and orientation (horizontal or vertical);and
- e. eaves shall project from the **Building** walls the same distance as the eaves on the rest of the house or existing **Structure**.

(xi) Registration; Affidavit

- a. **Accessory Dwelling Units** shall be registered with the **Planning Director** prior to their establishment. The requirement for registration is intended to ensure that the applicant is aware of the provisions of this Development Code governing **Accessory Dwelling Units**; that the City has all information necessary to evaluate whether the **Accessory Dwelling Unit** initially meets and continues to meet Development Code requirements; and that the distribution and location of **Accessory Dwelling Units** is known.
- b. At the time of registration, the applicant shall submit an affidavit pledging agreement to the **Accessory Dwelling Unit** standards of this section. The affidavit shall specify which of the **Dwelling Units** will be occupied by an **Owner** of the property; if at any time such **Owner** moves to the other **Dwelling Unit**, the **Owner** shall be responsible for filing an updated affidavit, recording such change.
- c. Permits for **Accessory Dwelling Units** may be issued after the **Planning Director** determines that the proposal complies with all applicable Development Code requirements.