

ORDINANCE NO. 8232

AN ORDINANCE OF THE CITY OF KEARNEY, NEBRASKA TO AMEND SECTION 21-103 “ADDITIONAL REQUIREMENTS” OF CHAPTER 21 “DISTRICT R-3, URBAN RESIDENTIAL MULTI-FAMILY DISTRICT (MEDIUM-DENSITY)” OF THE CODE OF THE CITY OF KEARNEY, NEBRASKA; TO REMOVE THE CURRENT LANGUAGE OF ADDITIONAL REQUIREMENTS AND ADD LANGUAGE OF NOTIFICATION OF ADDITIONAL ACCESSORY BUILDING AND GROUP RESIDENTIAL; TO AMEND SECTION 22-103 “ADDITIONAL REQUIREMENTS” OF CHAPTER 22 “DISTRICT R-4, URBAN RESIDENTIAL MULTI-FAMILY DISTRICT (HIGH-DENSITY)” OF THE CODE OF THE CITY OF KEARNEY, NEBRASKA; TO ADD LANGUAGE OF NOTIFICATION OF ADDITIONAL ACCESSORY BUILDING REQUIREMENTS; TO AMEND SECTION 47-104 “SETBACK ADJUSTMENTS” OF CHAPTER 47 “SUPPLEMENTAL DEVELOPMENT REGULATIONS” OF THE CODE OF THE CITY OF KEARNEY, NEBRASKA; TO ADD LANGUAGE TO SUB-ITEM 6 PERTAINING TO THE PLACEMENT OF SWIMMING POOL SETBACK REQUIREMENTS WITHIN COMPLEXES OF MORE THAN SIX RESIDENTIAL UNITS; TO AMEND SECTION 47-105 “ACCESSORY BUILDINGS” OF CHAPTER 47 “SUPPLEMENTAL DEVELOPMENT REGULATIONS” OF THE CODE OF THE CITY OF KEARNEY, NEBRASKA; TO ADD LANGUAGE PERTAINING TO ADDITIONAL REQUIREMENTS APPLIED TO RESIDENTIAL COMPLEXES OF MORE THAN SIX UNITS INVOLVING THE ACCESSORY BUILDINGS AND GARAGES; TO AMEND 49-109 “STACKING REQUIREMENTS FOR DRIVE-THROUGH SERVICES” OF CHAPTER 49 “OFF-STREET PARKING” OF THE CODE OF THE CITY OF KEARNEY, NEBRASKA; TO ADD LANGUAGE CREATING A NEW SUB-ITEM B PERTAINING TO ALTERNATIVE RUNAROUND ACCESS FOR DRIVE-THROUGH LANES AND EXCEPTIONS; TO PROVIDE THAT THIS ORDINANCE SHALL BE MADE A PART OF THE CODE OF THE CITY OF KEARNEY; TO REPEAL ALL ORDINANCES AND RESOLUTIONS OR PARTS THEREOF IN CONFLICT HERewith AND TO PROVIDE FOR SEVERABILITY; AND TO PROVIDE FOR PUBLICATION IN PAMPHLET FORM BY AUTHORITY OF THE CITY COUNCIL AND EFFECTIVE DATE OF THIS ORDINANCE.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF KEARNEY, NEBRASKA:

Section 1. That Section 21-103 “Additional Requirements” of Chapter 21 “District R-3, Urban Residential Multi-Family District (Medium-Density)” of the Code of the City of Kearney, Nebraska, is hereby amended to read as follows:

21-103 ADDITIONAL REQUIREMENTS

A. See Section 47-105 “Accessory Buildings” of Chapter 47 “Supplemental Development Regulations” for additional accessory building requirements.

B. Group residential uses, including fraternity and sorority houses, must provide at least four hundred (400) square feet of site area per resident.

Section 2. That Section 22-103 “Additional Requirements” of Chapter 22 “District R-4, Urban Residential Multi-Family District (High-Density)” of the Code of the City of Kearney, Nebraska, is hereby amended to read as follows:

22-103 ADDITIONAL REQUIREMENTS

- A. Group residential uses, including fraternity and sorority houses, must provide at least four hundred (400) square feet of site area per resident.
- B. See 47-105 B for additional accessory building requirements.

Section 3. That Section 47-104 “Setback Adjustments” of Chapter 47 “Supplemental Development Regulations” of the Code of the City of Kearney, Nebraska, is hereby amended to read as follows:

47-104 SETBACK ADJUSTMENTS

A. Lots Adjoining Alleys

In calculating the depth of a required side or rear yard setback for a lot adjoining a dedicated public alley, one-half of the alley may be credited as a portion of the yard. However, no residential structure may be nearer than three (3) feet to the near side of the alley.

B. Encroachments on Required Yards or Platted Building Setbacks

Every part of a required yard or a platted building setback shall be open and unobstructed from finished grade upward, except as specified herein.

1. Architectural projections, including roofs which cover porches, enclosed porches, window sills, belt courses, cornices, eaves, flues and chimneys, and ornamental features may project three (3) feet into a required yard or a platted building setback.

Terraces, patios, uncovered decks, and ornamental features which have no structural element (excluding handrails and guardrails) more than thirty (30) inches above or below the adjacent ground level may project six (6) feet into a required front yard, side yard or platted building setback or ten (10) feet into a required rear yard. However, all such projections must be set back at least three (3) feet from an adjacent side lot line; or twenty (20) feet from any street property line.

3. Fire escapes, fireproof outside stairways, and balconies opening to fire towers may project a maximum of three (3) feet into required yards, provided that they do not obstruct the light and ventilation of adjacent buildings.

4. For buildings constructed upon a front property line, a cornice may project into public right-of-way, unless such property is constructed on a State or Federal Highway. Maximum projection is the smaller of four (4) feet or five percent (5%) of the right-of-way width.

5. In commercial districts, a canopy may extend into a required front yard or platted building setback, provided that the canopy is set back at least five (5) feet from the front property line, covers less than fifteen percent (15%) of the area of the required front yard or platted building setback, and has a vertical clearance of at least eight (8) feet six (6) inches.

6. Swimming pools shall be subject to the same location and setback requirements as accessory buildings.

(a) Swimming pools within complexes of more than six (6) residential units must be at least fifty (50) feet from a side or rear lot line.

7. Lamp posts with a maximum height of ten (10) feet, and flag poles up to maximum height of base district may be located within required yards or platted building setback, provided they are set back at least five (5) feet from property lines. The spread of a flag when fully extended shall not extend onto public right-of-way.

8. Detached garage Setbacks: Any garage that fronts on a public street must be set back at least twenty-five (25) feet from such street, regardless of the setback requirement within the zoning district. This shall not be interpreted to waive a larger required minimum setback required by the zoning district.

9. Fences: As provided for in Section 47-109, Fence Regulations.

C. Setbacks on Arterial Streets

Notwithstanding any other provision of this ordinance, all buildings built or altered, or off-street parking areas developed along a state or federally designated highway shall maintain a setback indicated by the Arterial Setback map in this section.

Properties located where a properly dedicated and accepted frontage road right-of-way exists are exempt from these provisions and are instead subject to the setback requirements of their respective zoning district.

D. Setback Adjustments

1. **Setbacks on Built-Up Blockfaces:** These provisions apply if thirty percent (30%) or more of the buildings on that blockface have front yard setbacks different from those required for the specific district.

(a) If a building is to be built on a parcel of land within one hundred (100) feet of existing buildings on both sides, the minimum front yard shall be the mean front yard setbacks of the adjacent buildings.

(b) If a building is to be built on a parcel of land within one hundred (100) feet of an existing building on one (1) side only, the minimum front yard shall be the front yard setback of the adjacent building.

(c) If a building is to be built on a parcel of land not within one hundred (100) feet of an existing building on either side, then the minimum front yard shall be the mean front yard setback of all existing buildings on the blockface.

(d) No setback adjustment pursuant to this section shall create a required front yard setback more than five (5) feet greater than that otherwise required by the applicable zoning district.

2. Corner Lots

(a) Required setbacks shall not reduce the buildable width of any corner lot to less than twenty-four (24) feet. Appropriate setback adjustments shall be allowed to maintain this minimum width.

(b) No setback adjustment shall permit encroachment into the vision clearance triangle.

E. Double Frontage Lots

Residentially zoned double frontage lots on a major street, and with no access to that street may have a twenty-five (25) foot minimum front yard setback along said street. All other double frontage lots must provide full front yard setbacks from each adjacent street.

F. Satellite Antennas

1. Each lot shall have no more than one (1) satellite antenna.

Antennas with a surface area over 6.3 square feet which are accessory to a primary use and are designed to receive and transmit electromagnetic signals, or to receive signals from satellites, shall not be located within any front yard of the primary use.

3. Antennas with a surface area of over 6.3 square feet are subject to the following additional regulations:

(a) Such antennas shall be located no less than ten (10) feet from the property line of an adjacent property line.

(b) The maximum height shall be fifteen (15) feet and the maximum diameter shall be eleven (11) feet.

(c) Each antenna shall be screened by a six (6) foot high wood or masonry fence, or by natural plants or trees of equal minimum height.

G. Vision Clearance Zones

Except in the CBD District, no structure, including a fence, shall be built to a height of more than two (2) feet above the established curb grade on the part of the lot within a vision clearance zone. The vision clearance zone shall be a triangle measured from the point of intersection of the curb lines or edge of pavement of the streets to a point forty (40) feet in each direction from the intersection along such curb lines or edges of pavement. At the intersection of major streets as defined in the Comprehensive Development Plan, the forty (40) foot distance shall be increased to sixty (60) feet. No landscaping shall be planted in such area which will materially obstruct the view of drivers approaching the street intersection.

Section 4. That Section 47-105 “Accessory Buildings” of Chapter 47 “Supplemental Development Regulations” of the Code of the City of Kearney, Nebraska, is hereby amended to read as follows:

47-105 ACCESSORY BUILDINGS

A. Accessory Buildings for R-1 and R-2 Districts.

For the purpose of this section accessory buildings shall include detached garages and carports. Accessory buildings are subject to all development regulations listed below and may not exceed the maximum building coverage and impervious coverage of the zoning district where the building is located. Additional requirements and exceptions are listed below the following matrix.

In Square Feet	Permit	Front Yard	Interior Side Yard	Street Side Yard	Rear Yard	Separation Between Buildings	Height of Building
Less than 120	No	Not Permitted (NP)	3 feet	25 feet	3 feet	10 feet *	15 feet to peak
120 to 720	Yes	25 feet	3 feet	25 feet	3 feet	10 feet*	15 feet to peak
720 to 1200	Yes	25 feet	Greater of 7 feet or 10% of lot width up to 15 feet	25 feet	5 feet with no alley; 10 feet with an alley	10 feet	20 feet to peak

* Buildings may be four (4) feet apart when offset corner-to-corner.

General Requirements: No accessory building shall be built upon any lot until construction of the principal building has begun.

Permits: A permit is required for an accessory use building that is greater than one hundred twenty (120) square feet.

Total Number of Accessory Buildings: A property, with an accessory building equal to or less than seven hundred twenty (720) square feet in area, may have one (1) additional accessory building, which does not exceed two hundred (200) square feet in area. A property with an accessory building greater than seven hundred twenty (720) square feet is not permitted additional accessory buildings.

Total Lot Coverage: All buildings on a site, taken together, must comply with the building coverage requirements for the zoning district and accessory buildings shall not occupy more than thirty percent (30%) of any rear yard.

Multiple Frontage Lots: Multiple-frontage lots require a minimum twenty-five (25) foot setback along on all street frontages.

Easements: No accessory building shall be located within any easement or right-of-way along the rear or side property line. Easements may be incorporated into required setbacks.

Materials: Any accessory building shall have a minimum vertical rise of two and one-half (2½) inches in each twelve (12) inches of horizontal run and a building design that is harmonious with the character of the neighborhood. No portion of any accessory building shall be covered with unpainted galvanized metal or corrugated sheets or panels.

Attached Accessory Structures: Any accessory building physically attached to the principal building shall be considered part of the principal building and subject to the development regulations of its zoning district.

Allowable Uses: Accessory buildings shall be used only for use types that are permitted within the zoning district.

B. Accessory Buildings for R-3, R-4 and R-M Districts.

For the purpose of this section accessory buildings shall include detached garages and carports. Accessory buildings for apartment complexes are not limited in size provided all buildings on a site, taken together, comply with the building coverage and impervious coverage requirements of the zoning district where the building is located and the site plan has been reviewed and approved by City Staff in accordance Chapter 59.

In Square Feet	Permit	Front Yard	Interior Side Yard	Street Side Yard	Rear Yard	Separation Between Buildings	Height of Building
120 to 720	Yes	25 feet	3 feet	25 feet	3 feet	10 feet	15 feet to peak
Greater than 720	Yes	25 feet	Greater of 7 feet or 10% of lot width up to 15 feet	25 feet	5 feet with no alley; 10 feet with an alley	10 feet	Height of district

Additional Requirements: The additional requirements apply to residential complexes of more than six (6) units:

1. Accessory buildings, and garages must be at least ten (10) feet from a side or rear lot line. A greater separation from residential zoning districts may be required by Site Development Regulations.

C. Accessory Buildings for RR-1 and RR-2 Districts.

For the purpose of this section accessory buildings shall include detached garages, carports and all buildings proposed for agriculture use. Accessory buildings or detached garages are subject to all development regulations listed below and may not exceed the maximum building coverage and impervious coverage requirements of the zoning district where the building is located. Additional requirements and exceptions are listed below the following matrix.

Permit	Front Yard	Interior Side Yard	Street Side Yard	Rear Yard	Separation Between Buildings
Yes	50 feet	15 feet	50 feet	25 feet	10 feet

General Requirements: A building complying with the general regulations of the district may be constructed.

Permits: A permit is required for an accessory use building that is greater than one hundred twenty (120) square feet.

Height: The maximum height of accessory buildings shall not exceed the height limits of the district.

Total Number of Accessory Buildings: The number of accessory buildings is not limited but cannot exceed the impervious coverage percentages.

Allowable Uses: Accessory buildings shall be used only for use types that are permitted within the zoning district.

1. See Section 46-102 "Supplemental Use Regulations: Agricultural Uses" of Chapter 46 "Supplemental Use Regulations" of the Code of the City of Kearney, Nebraska.

D. Accessory Buildings for Agricultural Districts.

Accessory buildings, detached garages and carports are subject to all development regulations listed below. Additional requirements and exceptions are listed below the following matrix. A permit is required for an accessory use building that is greater than one hundred twenty (120) square feet.

Permit	Front Yard	Interior Side Yard	Street Side Yard	Rear Yard	Separation Between Buildings
Yes	50 feet	50 feet	50 feet	50 feet	10 feet

No permit is required for agricultural buildings when such building is used in conjunction with an agricultural use as defined in Chapter 13, Section 12-103. No agricultural building shall be constructed without first receiving approval from the Building and Zoning Department for the proposed use and location on property.

The following minimum requirements apply to agricultural use buildings.

Permit	Front Yard	Interior Side Yard	Street Side Yard	Rear Yard	Separation Between Buildings
No	50 feet	No Restrictions	50 feet	No Restrictions	No Restrictions

Section 5. That Section 49-109 “Stacking Requirements for Drive-Through Services” of Chapter 49 “Off-Street Parking” of the Code of the City of Kearney, Nebraska, is hereby amended to read as follows:

49-109 STACKING REQUIREMENTS FOR DRIVE-THROUGH SERVICES

A. Commercial establishments providing drive-in or drive-through services shall provide minimum on-site stacking distance as provided by Table 49-5.

Table 49-5:
Off-Street Stacking Requirements

Type of Operation	Minimum Stacking Space
Financial Services with Drive-Up Tellers	4 vehicles per window or kiosk
Financial Services with Drive-Up ATM	4 vehicles per ATM station
Self-service or automatic car wash	Entrance: 4 vehicles per bay Exit: 1 vehicle per bay
Fast food restaurant*	Without menu boards: a minimum stacking space of 4 vehicles behind the first service window With separate menu boards and service windows: A minimum stacking space of 8 vehicles behind the first service windows
Coffee Shop	Minimum stacking space of three (3) vehicles behind the first service window
Photo processing, dry cleaning, or other drive-up personal services	2 vehicles per service window
Gas stations	2 vehicles per gas dispenser pump
Gated parking lot, community entrance, or overhead door	1 vehicle per gate or door on local streets 2 vehicles per gate or door on collector streets

Note: Minimum vehicle lane shall be twelve (12) feet. Vehicle length = twenty (20) feet.

* May be increased based on Site Plan review.

B. Alternative Runaround Access for Drive-Through Lanes Exceptions

1. Facilities with two (2) ingress/egress access points not connected to the drive-through lane(s).
Facilities that have no public indoor seating.

Section 6. It is the intention of the City Council, and it is hereby ordained, that the provisions of this Ordinance shall become and be made part of the Code of the City of Kearney, Nebraska, and the sections of this Ordinance may be renumbered to accomplish such intention.

Section 7. That all ordinances and resolutions or parts of ordinances and resolutions in conflict herewith are hereby repealed.

Section 8. If any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional or invalid, such unconstitutionality or invalidity shall not affect the validity of the remaining portions of this ordinance. The Mayor and City Council of the City of Kearney hereby declare that it would have passed this ordinance and each section, subsection, sentence, clause or phrase hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional or invalid.

Section 9. This Ordinance shall be in full force and effect from and after its passage, approval and publication according to law and shall be published in pamphlet form by authority of the City Council.

INTRODUCED BY COUNCIL MEMBER _____
PASSED AND APPROVED THIS 24TH DAY OF APRIL, 2018.

ATTEST:

STANLEY A. CLOUSE
PRESIDENT OF THE COUNCIL
AND EX-OFFICIO MAYOR

LAUREN BRANDT
CITY CLERK