

ORDINANCE NO. 2023-02

AN ORDINANCE OF THE VILLAGE OF MALCOLM, LANCASTER COUNTY, NEBRASKA, TO CREATE AN AGRICULTURAL ZONING DISTRICT AND TO PROVIDE REGULATIONS THEREFOR; TO REPEAL ANY CONFLICTING ORDINANCES; TO PROVIDE FOR PUBLICATION; AND TO PROVIDE FOR AN EFFECTIVE DATE

**BE IT ORDAINED BY THE CHAIRMAN AND BOARD OF TRUSTEES OF THE VILLAGE OF MALCOLM, NEBRASKA:**

**Section 1.** Sections 12-605 through 12-616 are hereby added to the Malcolm Village Code as follows:

**AGRICULTURAL RESIDENTIAL (AGR) DISTRICT**

**12-605 Agricultural Residential District; Purpose.** The Agricultural Residential District is intended as a transitional area for general residential purposes adjacent to the community within existing agricultural areas, generally within one mile of Malcolm and residential uses within the corporate limits of Malcolm, within reasonable reach of fire protection, close to paved roads, and the ability to connect to public water and sewer.

**12-606 Agricultural Residential District; Use Regulations.** The following shall be permitted as uses by right:

- (a) Single-family dwelling;
- (b) Multi-family dwelling;
- (c) Public uses, including but not limited to public parks, playgrounds, golf courses, recreational uses, fire stations, and public elementary and high schools;
- (d) Churches, places of worship, not including cemeteries.

**12-607 Agricultural Residential District; Permitted Conditional Uses:** All other users and uses of the Agricultural Residential District must be approved by the Village. A building or premise in the Agricultural Residential District may be used for the following purposes if a conditional use permit is granted by the Village:

- (a) Private uses, including parks, recreational facilities, playgrounds, golf courses, country clubs, golf driving ranges, campgrounds, recreation uses, and riding stables;
- (b) Bed and breakfast establishments;
- (c) Public utilities and distribution systems, including utility substations and public sewer lift or pumping stations;
- (d) Customary home occupations, such as day care (whether or not licensed), and any other business conducted in any part or all of such dwelling or which is subject to sales/use taxes or otherwise regulated by Lancaster County, the State of Nebraska, or any agency of the U.S. Federal Government. Any residential business that uses, purchases or sells any product that is regulated by Lancaster County, the State of Nebraska, or any agency of the U.S. Federal Government; any residential business that has the potential to cause an increase in vehicular traffic at the residence of more than

one (1) vehicle per hour during operational hours; and any residential business that has the potential to cause an increase in vehicular traffic at the residence of more than five (5) vehicles in any one occurrence, occurring two (2) or more times per month, shall be required to have a use permit;

**12-608 Agricultural Residential District; Permitted Accessory Uses and Structures:**

The following accessory uses and structures shall be permitted:

- (a) Accessory uses and structures normally appurtenant to the permitted uses and structures and to uses and structures permitted as conditional uses.
- (b) Temporary buildings incidental to construction work where such buildings or structures are removed upon completion of work.
- (c) Seasonal roadside stands for the sale of agricultural produce grown on the premises
- (d) Solar panels affixed to the dwelling only;
- (e) Detached barn, garage, or other accessory buildings, provided such buildings shall not be placed closer to a front building line than 60 feet, or, on a corner lot, closer to a side street line than a distance equal to one-half of the width of the lot up to a distance which shall not exceed 75 feet. In relation to an attached garage or carport built as a structural part of a dwelling, with or without breezeway connection, the same side and front yards shall be required as for a dwelling, and such side yards shall be measured from the outer walls or roof lines of such garage or carport. An attached garage or carport may extend into the rear yard.

**12-609 Agricultural Residential District; Prohibited Uses and Structures:** All other uses and structures which are not specially permitted or not permissible as conditional uses shall be prohibited within the Agricultural Residential District.

**12-610 Agricultural Residential District; Height and Area Regulations:** The maximum height and minimum area regulations shall be as follows, unless provided for herein:

	Min. Lot Area	Min. Lot Width	Required Front Yard	Required Side Yard	Required Rear Yard	Max. Structure Height	Lot Coverage
<b>Single-Family Dwelling</b>	1 acre	150'	35'	20'		35'	20%
<b>Multi-Family Dwelling</b>	2 acres	105'	35'	20'		55'	40%
<b>Other Permitted Uses</b>	2 acres	105'	35'	20'		35'	40%
<b>Accessory Buildings</b>	---	---	60'	10'		35'	20%

All measurements to a structure are taken from the property line, unless such property is adjacent to a road or street, in which case the measurement shall be from the designated right-of-way line. All requirements of sight triangle shall be met.

**12-611 Agricultural Residential District; Road, Driveway, Ditch, and Sidewalk, Regulations.** All roadways open to the public shall have a hard surface, such as asphalt or concrete, and driveway approaches shall have the same surface for a minimum distance of ten feet (10') past the centerline of the ditch culvert or, if there is no culvert, for a minimum distance of twenty-five feet (25') from the edge of the roadway. Driveways may otherwise have a rock or gravel surface. Curb and gutter are not required, in which case open ditches and driveway culverts shall be permitted, the design of which shall be subject to approval by the Village. It shall be the property owner's responsibility to maintain the ditches and driveway culverts, to remove obstructions, and to ensure proper drainage flow. The Village reserves the right to require sidewalks, but may authorize sidewalks to be incorporated into the road design, properly divided from the lanes of travel.

**12-612 Agricultural Residential District; 100-Year Flood Plain.** No structure shall be placed within any area with a one percent (1.00%) or greater annual chance of experiencing a base flood, as calculated by the Federal Emergency Management Agency (FEMA).

**12-613 Agricultural Residential District; Animal Regulations.** The animal regulations in Chapter 6 of the Village Code shall apply to the Agricultural Residential District.

**12-614 Agricultural Residential District; Utility Regulations.** All primary structures in the Agricultural Residential District shall be connected to municipal water and sanitary sewer. Private wells and septic systems are not allowed. The Village reserves the right to authorize private lift stations, the design of which shall be subject to approval by the Village. Any private lift stations shall be maintained by the property owner and shall be equipped with a backflow prevention system.

**12-615 Agricultural Residential District. Nuisance.** In addition to the nuisance provisions detailed in Chapter 4 of the Malcolm Municipal Code, the following shall also constitute a nuisance and shall be subject to an order to abate:

- (a) Building without a building permit;
- (b) Special use of the District without a special use permit;
- (c) Violations of the noise ordinance;
- (d) Violation of special use permit;
- (e) Water and/or sewer usage in excess of allowable limits.

**12-616 Agricultural Residential District. Enforcement.** Violations of any of the regulations applicable to the Agricultural Residential District shall be a misdemeanor and may be enforced against the user or property owner. Each day that the violation occurs shall be a separate violation. The fine amount shall be set by the Village Board by separate ordinance.

**Section 2.** Any conflicting provisions in the Malcolm Village Code or other ordinances are hereby repealed. All other provisions in Malcolm Village Code Chapter 12 shall remain in full force and effect except as revised herein.

**Section 3.** This ordinance shall be published in book or pamphlet form and posted in three (3) public locations in the Village of Malcolm. This Ordinance shall take effect and be in full force from and after its passage, approval, and publication as provided by law.

SUSPEND  
READINGS 7/12/2023  
(3/4 VOTE)

FIRST READING	<u>July 12, 2023</u>
SECOND READING	<u>waved</u>
THIRD READING	<u>waved</u>

PASSED AND APPROVED THIS 12<sup>th</sup> DAY OF JULY 2023

Jack Little Acting Chair  
Jerad Little, Chairperson, Board of Trustees

ATTESTED AND PUBLISHED IN BOOK OR PAMPHLET FORM AND BY POSTING IN THE VILLAGE HALL, POST OFFICE, AND FIRE STATION PER § 1-405 AND § 1-410 OF THE MALCOLM MUNICIPAL CODE WITHIN FIFTEEN (15) DAYS OF PASSAGE ON THE 12<sup>th</sup> DAY OF JULY 2023.

Nadine Link  
Nadine Link, Village Clerk

