Chapter 27.65

COMMUNITY UNIT PLAN

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27.65.010 General Purpose.

The purpose of this chapter is to permit and to encourage the creative design of new living areas, as distinguished from subdivisions of standard lot sizes and standard street systems, and in order to permit such creative design in buildings, open space, and their interrelationship while protecting the health, safety, and general welfare of existing and future residents of surrounding neighborhoods. (Ord. 12571 §344; May 8, 1979).

27.65.020 Requirements.

(a) General Requirements. The owner or owners of any tract of land in the R-1, R-2, R-3, R-4, R-5, or R-6 zoning district which is one acre or more in area; in the BTA Overlay District with underlying AG zoning which is forty acres or more in area; or in the BTA Overlay District with underlying AGR zoning which is ten acres or more in area, including and up to the centerline of existing public rights-of-way abutting the tract of land may submit a plan for the use and development thereof for residential purposes or for the repair and alteration of any existing residential development. The plan may propose a modification of height and area regulations of the district in which the community unit plan is located.

(b) Specific Requirements.

(1) In the R-1, R-2, R-3, R-4, R-5, or R-6 zoning district:

(i) A community unit plan may be permitted on a tract of land which is less than ten acres but more than five acres in area. The maximum permitted density on such a tract shall be calculated as provided in Section 27.65.080, and this maximum will be reduced by ten percent to accommodate the small size of the tract.

(ii) A community unit plan may be permitted on a tract of land which is not more than five acres but more than one acre in area. The maximum permitted density shall be calculated as provided in Section 27.65.080, and this maximum will be reduced by twenty percent to accommodate the small size of the tract.

(iii) A community unit plan may be permitted on a tract of land which is less than ten acres but more than one acre in area where such tract is bounded on at least two sides by one or more existing community unit plans. The maximum density of such a tract shall be calculated as in Section 27.65.080.

(iv) A community unit plan may be permitted on a tract of land which is ten or more acres in area. The maximum permitted density of such a tract shall be calculated as in Section 27.65.080.

(v) A community unit plan which complies with the energy conservation standards adopted by the City Council and on file with the City Clerk may receive a dwelling unit bonus in accordance with the standards adopted by resolution of the City Council.

(vi) Additional dwelling units may be granted for each dwelling unit subsidized by the state or federal government for low-income families or as a dwelling unit bonus for the provision of barrier-free units; however, the number of additional dwelling units shall not exceed those provided in the standards adopted by resolution of the City Council.

(2) In the BTA Overlay District the land within the community unit plan shall be divided into two components: an Acreage Development Component and an Urban Reserve Component, except as provided in subsection (ii) below. The Acreage Development Component may be subdivided in conformance with requirements of the City Land Subdivision Ordinance into residential lots for single-family dwellings. The Urban Reserve Component may not be subdivided or built upon but rather shall be reserved for future residential development until such time as City sanitary sewer and water utilities are extended to the Urban Reserve Component and the land within the community unit plan is annexed by the City of Lincoln.

(i) In the BTA Overlay District with underlying AG zoning, the Acreage Development Component shall not exceed twenty-five percent (25%) of the total area of the community unit.

(ii) In the BTA Overlay District with underlying AGR zoning, the Urban Reserve Component is not required and the total area of the community unit plan may be used for the Acreage Development Component if the single-family dwellings will utilize on-site wastewater systems and in such case the minimum lot size shall be three acres. The Acreage Development Component shall not exceed forty percent (40%) of the total area of the community unit plan if the single-family dwellings will utilize a community wastewater system and in such case the maximum lot size shall be one acre.

(c) A community unit plan located in the BTA Overlay District which will substantially protect an open space area as designated on the future land use plans included in the Lincoln City-Lancaster County Comprehensive Plan may receive a dwelling unit bonus provided that:

(1) The request for a dwelling unit bonus shall be accompanied by a showing of the need for protection of the open space, a description of the proposed use of the open space and any limitations there on, and the proposed method of protecting the open space which may include, but is not necessarily limited to, protective covenants, conservation or preservation easements, or similar restrictions of record.

(2) The proposed method of protecting the open space shall expressly (i) prohibit the construction or installation of any structures or other improvements in the open space for a period of 99 years, except minimal above ground structures or improvements reasonably necessary and incidental to the proposed use of the open space; and (ii) prohibit such uses as shooting ranges, basketball courts, baseball fields, football and soccer fields, racetracks, or other stadium uses,

facilities for spectator sports, and any activities that would unreasonably disturb the residents of the community unit plan or the surrounding neighborhoods.

(3) The open space shall be accessible to, and available for use by, the residents of the community unit plan;

For the purposes of this subsection, "open space" shall mean land or water which is undeveloped or which is set aside for public or private outdoor recreational uses, such as parks, trail systems, golf courses, or bodies of water for swimming, fishing, or boating.

(d) A community unit plan located in the BTA Overlay District with underlying AG zoning in consideration of providing for future subdivision of the lots within the Acreage Development Component as well as the Urban Reserve Component shall receive a twenty percent (20%) density bonus.

(e) A community unit plan located in the BTA Overlay District with underlying AGR zoning in consideration of providing for future subdivision of the Urban Reserve Component shall receive a twenty percent (20%) density bonus.

(f) A community unit plan located in either the AG Agriculture District or AGR Agricultural Residential District which utilizes a community wastewater disposal system rather than individual wastewater systems shall receive a twenty percent (20%) density bonus.

(g) A community unit plan located in the R-1, R-2, R-3, R-4, R-5, R-6, or BTA Overlay zoning districts which will substantially protect floodplain or floodprone areas may receive a dwelling unit bonus if a permanent conservation easement or permanent deed restriction is dedicated to preserve the floodplain or floodprone area. The bonus allotment will be proportionally equal to the amount of floodplain preserved on the site and the size of the lot as in conformance with the design standards.

(h) The dwelling unit bonuses permitted under subsections (c), (d), (e) and (g) of this section shall not exceed a total of twenty percent (20%) in any community unit plan. (Ord. 18829 §1; October 16, 2006; prior Ord. 18481 §1; December 20, 2004: Ord. 18454 §2; October 11, 2004: Ord. 18361 §1; May 10, 2004: Ord. 17285 § 1; January 20, 1998: Ord. 16428 §1; July 19, 1993: Ord. 15781 §1; November 26, 1990: Ord. 12571 §345; May 8, 1979).

27.65.025 Permitted Density; Not Transferrable to AG or AGR Zoning Districts.

The permitted dwelling unit densities of land zoned R-1, R-2, R-3, R-4, R-5, R-6, R-7, R-8, O-1, O-2, O-3, B-1, B-2, B-3, B-4, and B-5 shall not be transferred for the purpose of construction and occupancy of dwelling units to land located in the AG or AGR zoning districts. (Ord. 12768 §1; November 19, 1979).

27.65.030 Procedures.

An application and plot plan and plans for development of a community unit plan under this chapter shall be filed in writing with the planning department. Upon the filing of an application, together with all information required by this chapter, the City Council will refer the application to the Planning Commission. The Planning Commission shall hold a public hearing upon such application and shall consider the effect of the proposed use upon the surrounding neighborhood, the Comprehensive Plan of the City of Lincoln, the community as a whole, and other matters relating to the public health, safety, and general welfare.

The Planning Commission shall approve the application upon receipt of specific evidence and facts showing that the proposed community unit plan meets the following conditions:

(a) That the land surrounding the tracts for the proposed community unit plan will not be adversely affected;

(b) That the proposed community unit plan is consistent with the intent and purpose of this title to promote the public health, safety, and general welfare;

(c) That the buildings and land in the proposed community unit plan shall be used only for single-family dwellings, two-family dwellings, townhouses, multiple dwellings, or dwellings for non-related persons and accessory uses and any other uses permitted in the zoning district in which the land is located;

(d) That the average lot area per family within the proposed community unit plan will not be less than the lot area per family required in the zoning district or districts in which the tracts of the proposed community unit plan is located, except as otherwise provided in this chapter. The lot area per dwelling for non-related persons shall not be less than the lot area required under Section 27.70.020 for the zoning district in which the use is proposed to be located.

(e) For a community unit plan located in the BTA Overlay District, the Council shall require the execution of a written agreement with the City relating to conversion of the Acreage Development Component to higher urban density and future annexation of the Urban Reserve Component and implementation of the Master Plan for the future development of the Urban Reserve Component of the community unit plan. The written agreement shall include, but not be limited to, the following provisions:

(1) The timing of annexation and the final platting of the Urban Reserve Component following the extension of sanitary sewer and water utilities to the Urban Reserve Component;

(2) A plan for funding infrastructure cost for conversion of the Acreage Development Component and implementation of the master plan for the Urban Reserve Component, including an agreement to agree to petition for the creation of special assessment districts for the installation of such improvements if not installed by the permittee at permittee's own cost and expense.

If after public hearing the Planning Commission finds that the proposed community unit plan does not meet the above requirements for approval, the Planning Commission may deny the application or approve the application upon condition that the applicant make specific changes in the proposed community unit plan which will remove the objection. Approval of a community unit plan shall be by special permit in conformance with Chapter 27.63. In the event the Planning Commission fails to act upon the application within sixty days from the date the application is referred to the Planning Commission, the applicant may appeal to the City Council requesting final action. If the City Council determines that the delay of the Planning Commission is unjustified, it shall direct the Commission to act no later than the Commission's next regularly scheduled meeting.

All existing applications for a community unit plan which have been placed on pending by an applicant shall automatically expire and become null and void one year after the date this ordinance (Change of Zone No. 06062). All such applications which have been placed on pending by an applicant after the date of this ordinance (Change of Zone No. 06062) shall automatically expire and become null and void one year thereafter. At least thirty days before the date of expiration, the Planning Director shall cause notice of expiration to be sent to the applicant by regular United States mail, postage prepaid. Said notice shall advise the applicant that the application shall automatically expire unless prior to the expiration date, the Planning Director receives a request from the applicant to remove the application from pending and reschedule the matter on the Planning Commission or City Council agenda as appropriate. (Ord. 18898 §8; March 12, 2007: prior Ord.18454 §3; October 11, 2004: Ord. 17949 §1; December 17, 2001: Ord. 13079 §1; January 12, 1981: Ord. 12571 §346; May 8, 1979).

27.65.040 Council Consideration of Final Action.

(Repealed by Ord. 18481 §3; December 20, 2004: prior Ord. 12571 §347; May 8, 1979).

27.65.050 Requirements After Approval.

Upon approval of the community unit plan by the Planning Commission, the developer shall cause to be prepared and submitted to the Planning Department a revised and reproducible final plot plan with all required amendments and revisions. Thereafter, building permits and certificates of occupancy shall be issued only upon substantial compliance with the community unit plan as approved, or as amended, regardless of any regulations to the contrary with regard to the height and location of buildings, yard requirements, open space requirements, type of dwelling unit, accessory uses and the fronting of lots upon public streets set forth elsewhere in this title and applying to the zoning district or districts in which the community unit plan is located. (Ord. 18481 § 4; December 20, 2004: prior Ord. 12571 §348; May 8, 1979).

27.65.060 Community Unit Plan Amendments.

After the Planning Commission has approved a community unit plan, including the specific plot plan, the Planning Director is authorized to approve amendments in the community unit plan provided that:

(a) A request for amendment is filed with the Planning Director, and, if appropriate, accompanied by a plot plan drawn to an accurate scale and showing all pertinent information;

(b) There is no increase in the number of dwelling units, except that in community unit plans containing more than five acres, minor increases in the number of dwelling units originally authorized may be approved if such increases do not exceed the maximum density allowed and such increases will not cause a significant adverse impact on existing development within the community unit plan and adjoining properties. Minor increases shall not exceed more than fifteen percent (15%) cumulative additional dwelling units;

(c) No public land will be accepted as a result of the amendment;

(d) The amendment shall not be contrary to the general purposes of this chapter as set forth in Section 27.65.010;

(e) Such amendment shall not violate any regulations set forth in this title;

(f) No reduction is made to the applicable setback, yard, or height requirements, except that in community unit plans containing more than five acres, minor internal changes to the applicable setback, yard, or height requirements may be made within the community unit plan if they conform to the intent of the approved plan and do not adversely impact existing development within the community unit plan;

(g) Any amendment not in conformance with this paragraph shall be submitted to the Planning Commission in the same manner as an original community unit plan. (Ord. 18481 §5; December 20, 2004; prior Ord. 13528 §6; January 3, 1983: Ord. 12571 §349; May 8, 1979).

27.65.070 Form of Community Unit Plan in the R-1 through R-6 Zoning Districts and AG and AGR Zoning Districts Not Within BTA Overlay District.

A final plot plan shall be accurately, clearly, and legibly drawn on tracing cloth or mylar in a sufficient size and scale to show the details of the plan clearly and shall contain the following information:

(a) A surveyor's certificate certifying to the accuracy of the boundary survey shown thereon, and a certificate for showing the Planning Commission's approval or disapproval, including the date and resolution number;

(b) Date prepared, north point, scale of plot plan, and location of section lines and section corners;

(c) Contour lines at intervals not to exceed five feet based on NAVD 1988. Spot elevations on a 100-foot grid shall be required to fully indicate the topography on flat land;

(d) Locations, name, tangent lengths, centerline radius of each curve and its interior angle and width of all proposed and existing streets, highways, private roadways, and other public ways within and adjacent to the development;

(e) Locations and widths of all existing and proposed easements for drainage, sewers, and other public utilities and, if appropriate, access easements;

(f) Location, width, and direction of flow of all watercourses in and adjacent to the community unit plan, including the limits of the floodplain and floodway as defined in Chapters 27.52 and 27.53;

(g) The location and size of all existing and proposed sanitary and storm sewers, culverts, water mains, fire hydrants, and existing power lines and other underground structures or cables within the tract of land and adjacent streets;

(h) All lot lines, building setback lines for all lots, dimensions of all lot lines and building envelope lines. Chord distances shall be shown for lot lines abutting curvilinear streets;

(i) Lot numbers shall begin with the number (1) and shall continue consecutively through a block with no omission or duplication. Blocks shall be numbered in the same manner. Letters shall be used to designate outlots in alphabetical order;

(j) Proposed areas for parks and playgrounds. Any parcels other than streets which are to be dedicated or reserved for public use shall be clearly shown and said parcels shall be designated as outlots and assigned an alphabetical designation;

(k) The location of all proposed and existing sidewalks, walkways, and other pedestrian ways;

(l) Location, height, and use of proposed and existing buildings with an indication as to whether an existing building is to be removed or to remain, and signs, if any, in accordance with the provisions of Chapter 27.69;

(m) A certified accurate boundary survey showing sufficient linear, angular, and curve data to determine the bearing and length of all boundary lines of the community unit plan. Where the tract of land abuts on an existing plat, the distances, angles, and bearing of any common lines shall be shown and any differences in measurement noted. The total calculated acres within the boundaries of the community unit plan shall be shown;

(n) The following data shall be shown on each sheet of the community unit plan:

(1) The name of the community unit plan;

(2) The name, address, and telephone number of the person or company responsible for preparation of the community unit plan;

(3) North arrow, scale, date;

(4) Sheet number and the total number of sheets comprising the community unit plan.

(o) Accompanying the community unit plan, the following information shall be submitted to the Planning Department with the number of copies requested by the Planning Director:

(1) Name, address, and telephone number of developer;

(2) Certified record owner or owners and their address;

(3) Legal description of the proposed community unit plan, including the number of acres;

(4) Statement of present zoning and proposed use or uses of the property;

(5) Profiles along the centerline of the proposed streets and private roadways which show the existing ground surface elevations and the proposed street grades including the length of vertical curves between changes in grade with the profiles for stub streets ending at the boundary of the community unit plan to be extended 300 feet beyond the limits of the community unit plan into subdivided and unsubdivided land;

(6) The proposed method of providing sanitary sewer service to the area;

(i) If a public wastewater works or community wastewater works is established, the size and location of all proposed sanitary sewers, the proposed manhole locations, any necessary extension to the existing public system or to the proposed community wastewater works, and the location of the proposed community wastewater works;

(ii) If the use of an on-site wastewater treatment system is permitted, pursuant to Section 26.27.040 of the Lincoln Municipal Code, plans for the proposed disposal system and its location on each lot must be shown. If a septic tank system is proposed, soil and percolation data and plans which show the location of one main subsurface disposal field for each lot which is proposed to be served by a septic tank system shall be shown.

(7) The proposed method of providing an adequate potable water supply;

(i) If a public, or community water system, or rural water district is used, the location and size of all proposed water mains, the proposed hydrant locations, and any necessary extension of the proposed system to existing water mains or to a proposed community well, the location of the proposed community well, and the type of water treatment to be used;

(ii) If a community water system other than a rural water district is proposed, data on the quantity and quality of the water shall be obtained from a test well within the immediate vicinity of the proposed water supply well. If an individual water well system for each lot is proposed, data on the quantity and quality of the water shall be obtained from test wells which shall be drilled on the ratio of one to each ten acres on a grid system. The results of these preliminary tests shall in no way be construed to guarantee the quantity or quality of water to individual lots in the proposed community unit plan and the data obtained from these tests shall not be used to imply that an adequate quantity or acceptable quality of water is available in the proposed community unit plan.

(8) A drainage study prepared in accordance with the current storm sewer design standards of the city on file with the City Clerk. The following items must be included in the drainage study:

(i) A map showing the drainage area and resulting runoff from any land lying outside the limits of the community unit plan which discharges storm water runoff into or through the community unit plan;

(ii) A map showing all internal drainage areas and resulting runoff;

(iii) Proposals as to how the computed quantities of runoff will be handled;

(iv) A copy of the drainage computations.

(9) A map or an aerial photograph showing the proposed streets, private roadways, driveways, parking areas, buildings and lots which includes the location, and identifies, by common name, all existing trees within the area of the community unit plan. Single trees which are three inches in caliper or larger measured five feet above the ground must be shown. However, if five or more trees are located so that each is within approximately ten feet of the edge of another tree, they will be considered a tree mass and the outline of the tree mass may be shown with a list of the

common names of the trees which are within the tree mass. If the above-stated procedure is followed, the individual location of each tree within the tree mass is not necessary. An indication shall be made on the map showing which trees or tree masses are to remain and which trees or tree masses are to be removed;

(10) A vicinity sketch showing the general location of the community unit plan in relation to existing streets, section lines, and city limits;

(11) Site grading plan showing existing and proposed contour lines with intervals at no greater distance than five feet, and if necessary, spot elevations showing complete proposed grading of the community unit plan. Also, cross-sections may be required showing existing and proposed ground lines and buildings. Information as to where fill will be obtained and the amount of the fill shall be included if all or part of the property is located within the floodplain as defined in Chapters 27.52 and 27.53. If the proposed location from which said fill is obtained is later to be changed, the developer shall inform the Public Works and Utilities Department of the location of the proposed new borrow area and obtain approval thereof from the Director of Public Works and Utilities;

(12) All deviations from the provisions of this chapter shall be fully set forth and reasons given for said deviations;

(13) In the event that said real property is located within a floodplain, the developer shall comply with all requirements pertaining to floodplains contained in the Lincoln Municipal Code and applicable state statutes. (Ord. 18481 §6; December 20, 2004: prior Ord. 18454 §4; October 11, 2004: Ord. 18361 §2; May 10, 2004: Ord. 17961 §1; February 11, 2002: Ord. 17857 §8; June 4, 2001: Ord. 16949 §3; March 11, 1996: Ord. 12571 §350; May 8, 1979).

27.65.075 Form of Community Unit Plan in the BTA Overlay District.

(a) A final plot plan for the Acreage Development Component shall be accurately, clearly, and legibly drawn on tracing cloth or mylar in a sufficient size and scale to show the details of the plan clearly and shall contain the information required for final plot plans in Section 27.65.070 and the following requirements:

(1) Building envelopes shown on lots in the final plot plan shall meet required setbacks for the lots shown under the future final plot plan providing for conversion of the Acreage Development Component to higher urban residential density; and

(2) The drainage and site grading plans shall include both the Acreage Development Component and the Urban Reserve Component and shall be designed to drain and grade both components in accordance with the future final plot plan for the Acreage Development Component and the Master Plan for the Urban Reserve Component. Final and rough grading of the Acreage Development Component shall be accomplished as set forth in Lincoln Municipal Code Section 26.11.038.

(b) A future final plot plan for conversion of the Acreage Development Component shall be provided unless the final plot plan for the Acreage Development Component has an average lot size of less than one third acre. If the average lot area in final plot plan for the Acreage Development Component is between one-third acre to one acre, the future final plot plan shall provide at least two times the number of lots included in said final plot plan. If the Acreage Development Component coverage area of the community unit plan is reduced by 20%, a future final plot plan for conversion of the Acreage Development Component shall be provided unless the final plot plan for the Acreage Development Component has an average lot size of less than one-half acre and no lot in the Acreage Development Component coverage area exceeds one acre. If the

average lot area in the final plot plan for the Acreage Development Component is more than one acre but less than three acres, the future final plot plan shall provide at least 2.5 times the number of lots included in said final plot plan. If the average lot area in the final plot plan for the Acreage Development Component is three acres or more, the future plot plan shall provide at least 3.0 times the number of lots included in said final plot plan. Any calculation of the number of lots to be included in the future plot plan resulting in a partial lot shall be rounded up to the next whole number. The future final plot plan providing for conversion of the Acreage Development Component to higher urban residential density shall be accurately, clearly, and legibly drawn on tracing cloth or mylar in a sufficient size and scale to show the details of the plan clearly and shall contain the information required for final plot plans in Section 27.65.070 and the following information:

(1) Final lot lines and building lines that will be implemented with the extension of urban infrastructure and annexation by the City.

(2) The location and layout of any future streets not dedicated and improved as part of the final plot plan for the Acreage Development Component, but needed in the future to convert the Acreage Development Component and Urban Reserve Component to Urban Density.

(3) Easement locations for future utilities and stormwater drainage.

(4) Building envelopes which meet required setbacks under the conversion.

(c) A Master Plan providing an urban framework for future development of the Urban Reserve Component of the community unit plan which establishes the major systems that serve the overall development, documenting the future relationships between the Acreage Development Component and the Urban Reserve Component. The Urban Framework Master Plan shall be accurately, clearly and legibly drawn on tracing cloth or mylar in a sufficient size and scale to show the details of the plan clearly and shall contain the following information:

(1) The layout of arterial and collector streets on the site. These will typically include streets approximately on half section lines, along with connections to adjacent parcels.

(2) Major infrastructure lines, including water distribution, sanitary sewers, and storm sewers, if part of the stormwater management plan.

(3) A master stormwater management plan, indicating general grading concepts and directions, stormwater retention and detention structures, and storm sewers.

(4) Easements and dedications for all major utility services.

(5) Proposed parks, open spaces, trails, and greenways.

(6) Resource conservation or preservation areas, including wetlands, wooded areas, streams and waterways, and other features that will be maintained and incorporated into future development concepts.

(7) The Master Plan shall provide a minimum gross residential density of no less than four units per acre on the portion of the site that is to be developed for urban residential purposes.

(8) The Master Plan may propose a land use master plan, displaying the location and relationship of various uses, but such a plan is not a requirement for approval. (Ord. 18867 §1; January 22, 2007: prior Ord. 18829 §2; October 16, 2006: Ord. 18454 §5; October 11, 2004).

27.65.080 Design Standards; Density.

The density of a community unit plan, the shape, size, and location of buildings, required open space buffers, recreational facilities, and utilities shall be constructed in conformance with the design standards adopted by resolution of the City Council.

Pre-existing buildable lots located adjacent to a community unit plan may be included within the limits of the community unit plan and the previous permitted density from said pre-existing buildable lots may be transferred to another area in the community unit plan without affecting the overall density of the community unit plan as determined by the adopted design standards. (Ord. 18649 §1; November 28, 2005: prior Ord. 12571 §351; May 8, 1979).

27.65.090 Parking.

All parking within the community unit plan shall be regulated in conformance with the provisions of Chapter 27.67; however, the Planning Commission may modify the parking regulations for multi-family dwellings to allow a percentage of parking spaces located on a driveway behind a garage attached to a dwelling unit to be considered as required parking stalls for creative designs otherwise meeting the purpose and intent of this chapter, provided the minimum depth of the parking spaces is 22 feet. (Ord. 18481 §7; December 20, 2004: Ord. 17844 §1; May 7, 2001: Ord. 12571 §352; May 8, 1979).