

## **FACTSHEET**

**TITLE:** **CHANGE OF ZONE NO. 12008**, requested by the Director of Planning, to amend Title 27 of the Lincoln Municipal Code, to reformat and streamline the Zoning Ordinance to reduce the list of over 270 different land uses down to 14 Use Groups.

**STAFF RECOMMENDATION:** Approval

**ASSOCIATED REQUEST:** Miscellaneous No. 12002 (12R-119)

**SPONSOR:** Planning Department

**BOARD/COMMITTEE:** Planning Commission  
Public Hearing: 05/30/12  
Administrative Action: 05/30/12

**RECOMMENDATION:** Approval (8-0: Butcher, Gaylor Baird, Sunderman, Hove, Francis, Lust, Esseks and Cornelius voting 'yes'; Weber absent).

### **FINDINGS OF FACT:**

1. This proposed text amendment to the City zoning ordinance was heard by the Planning Commission in conjunction with Miscellaneous No. 12002, an associated text amendment to the City of Lincoln Design Standards (12R-119).
2. This is a proposal to amend Title 27 of the Lincoln Municipal Code to reformat and streamline the Zoning Ordinance to reduce the list of over 270 different land uses down to 14 "Use Groups". "Use Groups" is a mechanism for categorizing land uses and activities based on common, functional and physical characteristics. The categorization of types of uses into use groups provides a systematic basis for assignment of present and future use types to zoning districts. The categorization of uses is derived from the goals and policies of the 2040 Comprehensive Plan. Use Groups is a way to organize and format a zoning ordinance. It is not a new type or method of zoning.
3. The staff recommendation of approval is based upon the "Analysis" as set forth on p.4-11, concluding that the proposed changes to the format and content of the Zoning Ordinance will allow for inclusiveness of uses. It will make the document more user friendly, benefitting both the public and City staff. All of the proposed changes will promote consistency and efficiency and will reduce duplication, producing a overall more productive and clear regulatory document. These changes are in conformance with the 2040 Comprehensive Plan. The staff presentation is found on p.12. Exhibits A, B, C and D are found on p.14-28. Exhibit D represents the minor corrections and changes that have occurred since the original amendments were distributed on April 9, 2012. A complete copy of the Title 27 text, as proposed, may be found at <http://lincoln.ne.gov/city/plan/usegroups/index.htm>
4. There was no testimony in opposition.
5. On May 30, 2012, the Planning Commission agreed with the staff recommendation and voted 8-0 to recommend approval of the proposed text amendments to Title 27, as revised (Weber absent).
6. On May 30, 2012, the Planning Commission also voted 8-0 to recommend approval of Miscellaneous No. 12002, as revised (Bill #12R-119), the associated amendment to the City of Lincoln Designs Standards (Weber absent).

**FACTSHEET PREPARED BY:** Jean L. Preister

**DATE:** June 4, 2012

**REVIEWED BY:** Marvin Krout, Director of Planning

**DATE:** June 4, 2012

**REFERENCE NUMBER:** FS\CC\2012\CZ12008 Text+

# LINCOLN/LANCASTER COUNTY PLANNING STAFF REPORT

for May 30, 2012 PLANNING COMMISSION MEETING

**PROJECT #:** *Change of Zone No. 12008*  
Miscellaneous No. 12002

Note: This is a combined staff report for related items. This report contains a single background and analysis section for all items. However, there is a separate ordinance and resolution provided for each application.

**PROPOSAL:**

*To amend Title 27 of the Lincoln Municipal Code to reformat and streamline the Zoning Code to reduce the list of over 270 different land uses down to 14 Use Groups, eliminating the possibility that a use type is not listed by making the use groups all-encompassing, thereby increasing the emphasis on treating like uses in a similar manner, and other multiple amendments to various chapters and sections of the Zoning Code related thereto*

To amend Sections 7.7 and 7.11 of Chapter 3.50, Design Standards for Screening and Landscaping, to modify the requirements in Section 7.7 regarding the screening of outdoor storage areas of salvage yards and to delete reference to the screening of scrap processing operations and vehicle body repair shops; and to expand the list of areas in Section 7.11 outside a building which must be screened.

**CONCLUSION:** The current zoning ordinance is a document that is confusing, inconsistent and at times difficult to interpret in regards to land uses. This confusion and inconsistency requires significant staff time to constantly interpret and review the ordinance. In the past uses have been added without the consistent evaluation and comparison to other similar uses. Due to these changes there are parts of the ordinance that are both duplicative and contradictory.

The current ordinance lists individual uses allowed in each zoning district. In most cases when a use is not listed in a district, it is interpreted to mean that that particular use is not allowed. In some districts, all uses are allowed unless specifically excluded. This system leads to numerous text amendments every year where businesses are delayed months on their projects because their use was not specifically listed in the ordinance even though the impact is similar or less than other permitted uses in that particular district.

The proposed changes to the format and content of the Zoning Ordinance will allow for inclusiveness of uses. They will make the document more user friendly, benefitting both the public and City staff. All of the proposed changes listed in the analysis section will promote consistency, efficiency and reduce duplication producing an overall more productive and clear regulatory document. These changes are in conformance with the Comprehensive Plan.

**RECOMMENDATION:**

Approval

## **GENERAL INFORMATION:**

**HISTORY:** It has been over 30 years since the last major update of the City of Lincoln Zoning Ordinance. Today's zoning ordinance still reflects many of the attributes from when the ordinance was first adopted in the 1950's and the last major update in 1979. Since 1979 the zoning ordinance has been amended approximately 530 times. After 30+ years it was time to inventory existing uses and find a more effective way to communicate zoning regulations. The first step in an effort to reform the format of the zoning ordinance was to research other community's ordinances. Other cities such as New York, Portland, Tulsa and even Omaha have used a form of use groups effectively in their code, and it seemed that a use group system of organization would work well for Lincoln. After many months of research followed by and drafting our existing code in to a use groups format, staff met with other City departments and community stakeholders to get feedback.

- 2009 - City Staff worked with other City departments to vet issues with the proposed Use Groups format.
- 2010 - Working Use Group committee made up of outside community representatives was formed to discuss potential issues.
- Planning Commission briefings were held on October 5, 2011; October 19, 2011; November 2, 2011 and April 18, 2012.
- Briefings were held for the Mayor's Neighborhood Roundtable on November 14, 2011; December 12, 2011 and April 18, 2012
- A briefing was held for the development community on January 23, 2011 and a draft copy of use groups was sent to the Planning Department's Developer list and Neighborhood Organization lists on April 9, 2012. *(See Exhibit D for a list of changes made to the draft since April 9<sup>th</sup>, 2012)*
- Planning Staff met with representatives from the Chamber, Realtor's Association and Home Builders Association on May 3, 2012.

## **COMPREHENSIVE PLAN SPECIFICATIONS:**

A key to securing community interest in the planning process is early involvement. An emphasis should be placed on providing ample, "up front" participation. This includes having the community identify planning issues of concern to them and having them aid in setting up the process for so doing. It is important to have dialogues with many people and organizations of differing opinions with the aim of reaching community consensus.(page 12.9)

Examine ways of simplifying the development regulations to encourage a broader understanding of planning concepts and their relevance to neighborhoods' and businesses' continuity and viability. (Page 12.10)

Zoning is a legal means cities and counties use for deciding how land can be used, the intensity of those land uses, and the relationships between various land uses. Nebraska State law, as with most states, requires zoning to be developed in accordance with the community's adopted Comprehensive Plan.

This is one of the primary reasons cities and counties have Comprehensive Plans. As a legal document, zoning is reflected both as a map showing the geographic boundaries of each district and a written ordinance detailing the uses and conditions of each district. For the City of Lincoln, the zoning ordinance is presented in Title 27 of the Lincoln Municipal Code (Page 12.10)

## ANALYSIS:

1. Use Groups is a mechanism for categorizing land uses and activities based on common, functional, and physical characteristics. The categorization of types of uses into use groups provides a systematic basis for assignment of present and future use types to zoning districts. The categorization of uses is derived from the goals and policies of the Lincoln/Lancaster County Comprehensive Plan. Use Groups is a way to organize and format a zoning ordinance. It is not a new type or method of zoning.
2. The Use Group system was chosen because it could be integrated with the existing code without making significant, substantive changes to uses that are already allowed in the individual zoning districts. All existing 26 zoning districts remain and the height, area and other regulations remain the same. How these districts are organized and how the chapters are formatted changes to make the information easier to relay. The purpose of these changes is to promote efficiency, usability and inclusiveness and to reduce inconsistencies, redundancies, and code amendments.
3. All uses ever imagined will be categorized somewhere in our zoning code. Use Groups allows for “unlisted” uses to be classified as permitted uses in certain zoning districts.
4. The current zoning ordinance is both inclusive and exclusive in regards to how uses are treated. All but three zoning districts (B4, I-1 and I-2) require specific uses to be listed as a permitted, conditional or special permitted use in a district other wise the use is considered prohibited. This proposal is an exclusive type of zoning format. The three inclusively formatted zoning districts say every use is permitted except those listed in the zoning district chapter.
5. **New Chapters.** The new format includes three new chapters: Use Groups, Conditional Uses and Use Permits.
  - The Use Groups Chapter defines 14 different Use Groups. *(See Exhibit A for a list of the 14 different Use Groups)*. It describes the characteristics of each Use Group and provides examples of the types of uses found in the group. Each Use Group has a table that lists permitted, conditional and special permitted uses by zoning district. All boxes that are empty in the table represent a use that is prohibited in the district. The last line of the table represents how all uses within the Use Group shall be regulated if they are not separately listed in the table as a permitted, conditional or special permitted use *(This is the green line in the table)*.  
*\*Note: Although an administrative permit is not the same as a special permit, Administrative Permits for Broadcast Towers and Temporary Concrete Paving Plants are represented by an “S” in the Use Groups Table for ease of presentation.*

- The Conditional Use Chapter takes the conditions associated with particular uses in particular districts and compiles them into one chapter. This chapter is organized by Use Group. By placing this information in one chapter, redundant language is reduced, and conditions for like uses are made to be consistent. Although there were no new conditions created for this chapter, some uses that did not have conditions in a district may now have conditions similar to those applied to similar uses in the same zoning district. For example, in the existing ordinance, tailor shops and shoe repair shops are shown as conditional use in the B-3 zoning district while other service uses such as key shops, shoe shine shops and barber shops are allowed without any conditions. In the B-3 tailor shops are also listed as both a permitted use and a permitted conditional use.
- The Use Permit Chapter removes language relating to procedures and requirements for Use Permits from the 5 Use Permit districts (R-T, O-3, B-2, B-5 and I-3) and puts them all in one chapter. The repetitiveness of this language makes the Zoning Ordinance onerously long and provides opportunities for inconsistencies when these sections are amended. *All Use Permit districts will remain and will be unaffected by this change of zone.* The new chapter also changes the elements of the site plan from mandatory to discretionary. This means that the Planning Director can ask for additional information for review, but it is not necessarily required up front. It also makes the administrative approval procedures the same as those in Planned Unit Developments (PUD) and Community Unit Plans (CUP).

6. **The Height and Area Regulations.** Chapter (27.71) was renamed Height and Lot Regulations and was given a new chapter number (27.72). Format changes to this chapter include:

- Moving the height and area regulations from the various different zoning districts to this chapter.
- Putting all of the general height and area requirements into tables to make them easier to read and compare.
- The language regarding Additional Height and Area requirements in 27.71 has been moved to this chapter.
- Conditions already existing in today's code, associated with increasing the height of Wind Energy Conversion Systems (WECS), have been moved to this chapter from individual zoning districts.
- As part of the accessory use section of this chapter, clarification was provided that recreational uses, specifically outdoor play areas for early childhood care facilities and wandering paths for residential healthcare facilities, are permitted accessory uses in the required front yard setback.

- A note was added to the end of this chapter to provide direction to the Special Permit Chapter to those uses that may have their height adjusted by special permit.
- It is not the intent of this text amendment to make any substantive changes to the existing height and area requirements of the zoning districts.

7. **Uses.** Although the intent of this text change was to provide a better format for our existing code and to generally treat uses the same as they are treated today some changes had to be made to better facilitate the change in format. The following are changes to specific uses categorized by Use Group:

### **Agricultural Use Group**

- a. Sale Barns, Stables and Riding Academies were removed from the B-4 district because they are not customary to the downtown area.
- b. Breeding and Sale of Fur Bearing Animals was added to the AGR district because Dog Kennels are already allowed.
- c. Greenhouses were added as a permitted use in the I-3 zoning district.
- d. Urban Gardens were added in all zoning districts with following conditions:
  - There is no commodity sold upon the premises;
  - Approval has been granted by the Lincoln Lancaster County Health Department;
  - Urban Gardens greater than 2 acres shall provide 3 off street parking stalls per every acre over two acres (*this condition is located in the parking chapter*).

### **Household Living Use Group**

- a. First floor dwellings would be permitted above or below the first story of a building in a commercial district where dwellings are allowed. In most commercial zoning districts dwellings are only allowed above the first floor. This change provides the flexibility to accommodate basement apartments, but does not eliminate the requirement that the first floor of a commercial building should be a commercial use.
- b. The first story in a commercial district could be converted back to dwellings in buildings that were originally constructed for a residential use prior to November 1, 1997. (*This is an existing condition in B3 and was added as a condition to the other districts that allow dwellings as a conditional use*)

### **Group Living Use Group**

- a. Residential Health Care Facility was added to the O and B zoning districts. Healthcare facilities today include some residential type uses. Residential Healthcare Facilities have been separated from Non-Residential Health Care Facilities and will no longer be allowed in H or I zoning districts. Nonresidential Health Care Facilities are classified under the Civic Services Use Group. (See *Exhibit B for definition of Residential Health Care Facility and Nonresidential Healthcare facility.*)
- b. There were no other changes made to this Use Group. Groups homes, alternative to imprisonment facilities and domestic shelters will be regulated as they are regulated today.

### **Utilities Use Group**

There were no changes made to uses in this Use Group.

### **Civic Services Use Group**

- a. The term Nonprofit Religious, Educational, and Philanthropic Institutions is eliminate and is superseded by Neighborhood Support Services and no longer includes residential uses.
- b. Neighborhood Support Services, which now are only allowed in the R-1, R-2, R-3, R-4 and R-5 districts would also be allowed in the R6, R7 and R8 districts by special permit and in all commercial zoning districts by right.
- c. Clubs and Lodges would be allowed in the O-2 and B-5 zoning districts to be consistent with other similar zoning districts.
- d. Nonresidential Health Care Facilities were added as a use to the H-2 and H-4 zoning districts by special permit. They were already allowed in the H-3 zoning district by special permit. They were also added to the O-2, R-T and B-5 as a special permitted use to be consistent with other similar zoning districts.(See *Exhibit B for definition of Nonresidential Health Care Facilities*)

### **Education and Instruction**

- a. The following redundant conditions were removed from Early Childhood Care facilities:
  - The parking and loading/unloading area for such facilities shall comply with the provisions of Chapter 27.67 of the Lincoln Municipal Code and the design standards for early childhood care facilities;

- Such facilities shall comply with all applicable state and local early childhood care requirements;
  - Such facilities shall comply with all applicable building and life safety code requirements;
  - Such facilities shall be fenced and have play areas that comply with the design standards for early childhood care facilities;
  - Such facilities must receive a conditional use permit from the Department of Building and Safety
- b. Academies were separated and defined differently from Private Schools. (See *new definition of Academy in Exhibit B*)

### **Office Use Group**

There were no changes made to uses in this Use Group.

### **Retail Sales and Services Use Group**

- a. Similar Use types are grouped together and regulated as a single use. (See Exhibit C “Grouping of Use types)
- b. Added Ambulance Services to the B-5 zoning district because it is already allowed in all the other B zoning districts. Undertaking Services was added to both the B-5 and H-4 zoning district because these uses were already allowed in all the other B and H districts.
- c. Outdoor Retail Sales were added to the H-4, and Mobile Home Sales were added to the B-5 to be consistent with the way other Outdoor Retail sales are already treated (See Exhibit C for “Grouping of Use Types” for a list of examples of Outdoor Retail Sales.) Outdoor Retail Sales are generally on large pieces of land and the majority of the merchandise is displayed outdoors, year round with little or no indoor retail sales.
- d. Removed the following redundant conditions for Outdoor Retail Sales :
- Parking shall be provided in accordance with Section 27.67.066.
  - Truck and heavy equipment sales shall not be converted to a permitted use unless all the parking requirements of Section 27.67.020 for such use are met.
- e. Removed the following conditions for Hotels and Motels which were deemed unnecessary:
- A distance of at least twenty feet shall be maintained between buildings on the lot;

- Each hotel or motel unit shall have a minimum enclosed floor area of 200 square feet;
- f. Vehicle Body Repair Shop is now considered a Motorized Vehicle Service Facility was added as a conditional use to the B-1. (*See Exhibit B for definition of Motorized Vehicle Facility*)
  - g. Conditions that mirror the B3 district were added to the B1 for Motorized Vehicle Service Facilities. The condition required Motorized Vehicle Service Facilities to be located more than 100 feet from a residential zoning district or use and for existing facilities that are less than 100 feet to screen between the residential use, using an opaque fence six feet height.
  - h. Removed the existing separate conditions for vehicle body repair because they are already covered in other parts of the code and in Design Standards.

#### **Food and Drink Establishment Use Group**

There were no changes made to uses in this Use Group.

#### **Commercial Recreation and Entertainment Facilities Use Group**

There were no changes made to uses in this Use Group.

#### **Major Entertainment and Event Use Group**

There were no changes made to uses in this Use Group.

#### **Heavy Commercial Services Use Group**

- a. Contractor Services will be one term which encompasses the many types of contractor services that exist.
- b. Many of the different types of Contractor Services listed in the existing code had redundant conditions that were removed such as:
  - Parking shall be provided in accordance with Section 27.67.066.
  - Said places of business shall not be converted to a permitted unless all the parking requirements of Section 27.67.020 for such use are met.

#### **Manufacturing, Processing, Storage and Distribution Use Group**

- a. The conditions for screening outdoor storage will be moved to the Design Standards Chapter to be consistent with other screening requirements.
- b. Enclosed Disassembly, Salvage, Recycling Processing Operations are currently only allowed in the I-1 and I-2 zoning districts by special permit. They were added to H-2, H-3 and H-4 and the special permit for the

I-1 and I-2 for this use was eliminated since all of the operation will be inside a building with no outside storage. If there is outside storage, then the use becomes a scrap yard and is required to obtain a special permit.

### **Waste Management and Extractive Services Use Group**

- a. Removed Commercial composting from the B-4 because this use is not in character with the existing B-4 district.
  - b. Dumping or reduction of garbage, offal or dead animals was removed from I-2.
8. **Definitions.** The format of the Definitions chapter was changed significantly, requiring a new chapter be created. 27.03 Definitions would become 27.02. Definitions would be alphabetical and would not have their own section number. Each letter of the alphabet will be its own section. This will enable a definition to be added or removed, in the future, without having to renumber the entire chapter. In addition to the format change, several definitions that were revised, added and some were removed entirely. For a comprehensive list of those changes see attached Exhibit B.
9. **Design Standards.** To facilitate consolidation of redundant language and to be consistent on screening outdoor storage related to commercial development, some minor changes were made to Chapter 3.5 of the Design Standards, which are adopted by City Council resolution to supplement the regulations in the Zoning and Subdivision Ordinances.(Covered by MISC#12002) Those changes include:
- a. Several uses in today's Zoning Ordinance had conditions that required landscaping and screening. Those conditions were moved out of the Conditional Use chapter and into Design Standards. Most of those uses have to do with outdoor storage or display.
  - b. Section 7.7 "Salvage and Scrap Processing Operations Approved by Special Permit or Permitted as Conditional Use" was renamed Salvage Yard.
  - c. Screening for vehicle body repair shops was removed from Section 7.7 because screening of outdoor storage is already covered in Section 7.11.
  - d. Added Storage and/or Display of Merchandise for Service/Repair Facilities and/or Contractor Services to 7.11 Refuse Areas, Recycling Bins, Open Storage, Loading Areas, and Ground Level Mechanical Equipment.
  - e. Clarified that screening per Section 7.11 applies to the above uses as a single use as well as associated with other uses. The following are some examples of when 7.11 would apply:
    - an area used for open storage for vehicles waiting repair at a motorized vehicle repair facility would be required to be screened

- refuse areas associated with a restaurant would require screening
- recycling bins either as a stand alone use or associated with another use such as an apartment building would be required to meet the screening requirement of this section.

10. **Other Chapters.** Minor changes were made to other chapters of the code, such as but not limited to Parking, Signs, Special Permits and Additional Use Regulations, but those changes consisted of renumbering and renaming terms to match changes that were made in the chapters discussed above.
11. **Technology.** To facilitate the ability to find specific uses with the new format, the Planning Department will have a tool on the Planning Department Website that will allow users to search for specific uses or to search for uses by Use Group. The adopted Zoning Ordinance, when viewed online, will also have links throughout the chapters and within the tables enabling the user to quickly jump between chapters when looking for information.
12. A draft copy of Use Groups was originally distributed to the Planning Commission and the Public on April 9, 2012. Since the time of that distribution additional minor corrections and changes have been made to the text. For a list of the changes from the April 9<sup>th</sup> Use Group draft to the drafting of this staff report see attached Exhibit D.

Prepared by:  
Christy Eichorn, Planner

**DATE:** May 17, 2012

**APPLICANT:** Marvin Krout, Planning Director

**CONTACT:** Christy Eichorn, Planner  
555 S. 10<sup>th</sup> Street, Suite 213  
Lincoln, NE 68503  
Phone # 402-441-7603  
[ceichorn@lincoln.ne.gov](mailto:ceichorn@lincoln.ne.gov)

**CHANGE OF ZONE NO. 12008  
and  
MISCELLANEOUS NO. 12002**

**PUBLIC HEARING BEFORE PLANNING COMMISSION:**

May 30, 2012

Members present: Butcher, Gaylor Baird, Sunderman, Hove, Francis, Lust, Esseks and Cornelius; Weber absent.

Staff recommendation: Approval.

There were no ex parte communications disclosed.

Staff presentation: **Christy Eichorn of Planning staff** explained that this is a proposed format change to the existing zoning ordinance with the ultimate goal to provide consistency and clarity throughout all of the chapters of Title 27. Tables were added to provide consistency and clarity; redundancies are reduced by taking out language in multiple chapters and consolidating it into single chapters; and then reformatted that reorganization so that it is easier to read by those that read it every day and by the average citizen who may be read it less frequently.

Eichorn advised that the Planning Department has done public outreach on this legislation. This effort has been ongoing for at least two years – the staff met with the Planning Commission four times; met with the Mayor’s Neighborhood Roundtable three times; met with representatives of the Realtors Association, Chamber of Commerce and Home Builders Association; and had a working use group to go through some of the ideas on how best to reformat to make it more user friendly.

Eichorn pointed out that Appendix D of the staff report addresses changes that have been made since this proposal was released on April 9, 2012, when copies were provided to the public and the Planning Commission. There have been some changes since that time to continue to clarify and be consistent.

In addition, Eichorn announced that a new tool has been developed on the City’s Web page where you can type in a use and find out what zoning districts and conditions would be allowed. It should make searching the ordinance much easier than today.

Eichorn clarified that this does not make any changes to the zoning districts or zoning height and area regulations, although that information has been taken out of individual chapters and moved it into one chapter and put into a table. Although no specific changes were made to height and area requirements, there were a few uses to which changes were made which are addressed in the staff report.

Gaylor Baird asked Eichorn to clarify whether or not any changes are being made in the public's ability to offer input or ask questions about any applications. Eichorn stated that nothing has changed in that regard. No changes were made to the special permit chapter. There was no testimony in opposition.

**CHANGE OF ZONE NO. 12008**

**ACTION BY PLANNING COMMISSION:**

May 30, 2012

Lust moved approval, seconded by Francis.

Lust congratulated staff on all of the comprehensive work that went into this change. It is going to be a great development for the ease of use of our zoning ordinance. This took a lot of work and a lot of time and is going to be a great improvement.

Francis added that the staff has always gone above and beyond to make things a little more clear for people using the information and the consistency is a great thing for our city and the staff. She expressed appreciation to staff for the hard work.

Gaylor Baird also expressed appreciation to Christy Eichorn for her leadership. This has been a long process.

Motion for approval carried 8-0: Butcher, Gaylor Baird, Sunderman, Hove, Francis, Lust, Esseks and Cornelius voting 'yes'; Weber absent. This is a recommendation to the City Council.

**MISCELLANEOUS NO. 12002**

**ACTION BY PLANNING COMMISSION:**

May 30, 2012

Lust moved approval, seconded by Lust and carried 8-0: Butcher, Gaylor Baird, Sunderman, Hove, Francis, Lust, Esseks and Cornelius voting 'yes'; Weber absent. This is a recommendation to the City Council..

# 14 Use Groups

1. **Agriculture Use Group**
2. **Household Living Use Group**
3. **Group Living Use Group**
4. **Utilities Use Group**
5. **Civic Services Use Group**
6. **Education and Instruction Use Group**
7. **Office Use Group**
8. **Retail Sales and Services Use Group**
9. **Food and Drink Establishments Use Group**
10. **Commercial Recreation and Entertainment Facilities Use Group**
11. **Major Entertainment and Event Use Group**
12. **Heavy Commercial Services Use Group**
13. **Manufacturing, Processing, Storage and Distribution Use Group**
14. **Waste Management and Extractive Services Use Group**

## Changes to the Definition Chapter

The purpose of the changes to the Definitions chapter are to reformat the chapter so that it is easier to use; provide clarity for obscure definitions; add definitions that were created by the new Use Group format and to eliminate definitions that have become obsolete. Below is a comprehensive list of changes that were made to the Definitions Chapter of the Zoning Ordinance.

A. The following are **new terms** that have developed because of Use Groups:

*Contractor services shall mean a business which provides a service which is primarily performed off-site. Few customers visit the site. Common examples of contractor services include plumbing, heating, electrical, and air conditioning service, exterminator service, lawn and garden service, and construction services. Contractor services shall not include garbage or recycling hauling services or tree service. Outdoor storage, machinery, trucks, and service vehicle fleets are common accessory uses.*

*Food or drink establishment shall mean an operation that stores, prepares, packages, serves, vends or otherwise provides food or drinks for immediate human consumption.*

*Personal services shall mean establishments primarily engaged in providing services involving the care of a person or his or her personal goods or apparel. Such services may include but are not limited to: beauty shops, barbershops, shoe repair, funeral services, nail salons, health clubs, domestic services, dry cleaning drop off stations including cleaning and pressing and diaper services.*

*Retail sales shall mean selling of merchandise directly to the consumer usually from a fixed location or by mail.*

*Outdoor retail sales shall mean generally the sale of large goods or large number of goods that requires the outdoor display and marketing of such goods.*

*Service and/or Repair Facility shall mean a facility that performs routine maintenance or repair work. Such facilities would include but not be limited to repair and maintenance of home and office equipment, electrical appliances, radios, televisions, lawn and garden equipment repair, appliance, bicycle, electrical, furnace shops, and rental equipment. Service and repair facility does not include the service or repair of motorized vehicles.*

B. The terms Health Care Facility and Domiciliary Care Facility have been **removed** and **replaced** with Residential and Non Residential Health Care Facilities:

*Health care facilities shall mean a building or structure, licensed or approved by the state or an appropriate agency, if required, used as any of the following:*

- (a) Hospitals: A hospital may include offices of medical societies, offices of charitable public health associations and private office space for the practice of medicine and dentistry under a license from the Department of Health of the State of Nebraska; provided, that any such private offices for the practice of medicine and dentistry shall be located on the hospital lot and the doctors and dentists involved therein must be on the staff of the hospital;*
- (b) Convalescent or nursing home;*
- (c) A facility in which sixteen or more disabled people reside while receiving therapy, counseling, or rehabilitation;*

- (d) A facility for out-patient physical, occupational, or vocational therapy or rehabilitation;
- (e) Public health clinics and facilities;
- (f) Ambulatory surgical care center which does not allow for overnight stay by patients. Ambulatory surgical center does not include an office or clinic used solely by a practitioner or group of practitioners in the practice of medicine, dentistry, or podiatry. Except as provided in (a) above, health care facilities facility does not include doctors' or dentists' professional offices and private clinics.

Domiciliary care facility shall mean an institution, facility, place, building, or structure in which there is provided for a period exceeding twenty-four consecutive hours:

- (1) Accommodations and supervision to four or more persons sixty years of age or older who are unrelated by blood, marriage, or adoption and who are essentially capable of managing their own affairs, but who are in need of supervision, including supervision of nutrition, on a regular and continuing basis but not necessarily on a consecutive twenty-four hour basis; or
- (2) Accommodations, board, and care, such as personal assistance in feeding, dressing, and other essential daily living activities, to four or more persons sixty years of age or older who are unrelated by blood, marriage, or adoption who by reason of illness, disease, injury, deformity, disability, or physical or mental infirmity are unable to sufficiently or properly care for themselves or manage their own affairs, but who do not require the daily services of a licensed, practical, or registered nurse.

Domiciliary care facilities may include accessory uses such as beauty parlors, pharmacies, gift shops, ice cream parlors, banks, or similar uses provided for the convenience of the residents. However, such accessory uses shall be located entirely within the facility and shall not have any separate entrance, but shall be accessible through an interior lobby, corridor, or passageway of the facility. No accessory use shall have any sign which is visible from the exterior of the facility. The total floor area occupied by all such accessory uses shall not exceed five percent of the floor area of the facility or 2,000 square feet, whichever is less, and each use shall not exceed 300 square feet.

In addition to the above changes to how Health Care is defined, additional definitions of types of Residential and Non Residential Health Care have been added to provide consistency with Nebraska State Health Care definitions. Those new and revised definitions include:

~~Adult Day Service Facility Adult Care Center in which a program of structured and supervised of social, manual, physical, and intellectual services or activities are provided to adults who are either ambulatory or wheelchair mobile. Such services or activities shall be provided for a minimum of three hours per day, but shall not provide for overnight stays by participating adults.~~ shall mean a facility where care and an array of social, medical, or other support services are provided for a period of less than twenty-four consecutive hours to four or more persons who require or request such services due to age or functional impairment outside of the person's home or facility the person resides in. Adult care center does not include a group home.

Assisted-living facility shall mean a facility where shelter, food, and care are provided for remuneration for a period of more than twenty-four consecutive hours to four or more persons residing at such facility who require or request such services due to age, illness, or physical disability.

Care shall mean the exercise of concern or responsibility for the comfort, welfare, and habilitation of persons, including a minimum amount of supervision and assistance with or the provision of personal care, activities of daily living, health maintenance activities, or other supportive services.

For purposes of this definition:

**Activities of daily living** shall mean transfer, ambulation, exercise, toileting, eating, self administered medication, and similar activities;

**Health maintenance activities** shall mean noncomplex interventions which can safely be performed according to exact directions, which do not require alteration of the standard procedure, and for which the results and resident responses are predictable;

**Personal care** shall mean bathing, hair care, nail care, shaving, dressing, oral care, and similar activities.

Center for the developmentally disabled shall mean a facility where shelter, food, and care, advice, counseling, diagnosis, treatment, or related services are provided for a period of more than twenty four consecutive hours to sixteen or more persons residing at such facility who have developmental disabilities.

Hospital shall mean a facility where diagnosis, treatment, medical care, obstetrical care, nursing care, or related services are provided on an outpatient basis or on an inpatient basis for a period of more than twenty four consecutive hours to persons who have an illness, injury, or deformity or to aged or infirm persons requiring or receiving convalescent care. A hospital may include accessory offices of medical societies, offices of charitable public health associations and private office space for the practice of medicine and dentistry under a license from the Department of Health of the State of Nebraska; provided, that any such private offices for the practice of medicine and dentistry shall be located on the hospital premises and the doctors and dentists involved therein must be on the staff of the hospital.

Intermediate care facility shall mean a facility where shelter, food, and nursing care or related services are provided for a period of more than twenty four consecutive hours to persons residing at such facility who are ill, injured, or disabled and do not require hospital or skilled nursing facility care.

Intermediate care facility for the developmentally disabled shall mean a facility where shelter, food, and training or habilitation services, advice, counseling, diagnosis, treatment, care, nursing care, or related services are provided for a period of more than twenty four consecutive hours to four or more persons residing at such facility who have developmental disabilities or related conditions, including epilepsy and cerebral palsy.

Mental health center shall mean a facility where shelter, food, and counseling, diagnosis, treatment, care, or related services are provided for a period of more than twenty four consecutive hours to persons residing at such facility who have a mental disease, disorder, or disability.

Nursing care facility shall mean a facility where medical care, nursing care, rehabilitation, or related services and associated treatment are provided for a period of more than twenty four consecutive hours to persons residing at such facility who are ill, injured, or disabled.

- C. The term Animal Hospital was removed and replaced with Veterinary Facility.

*Animal Hospital shall mean any establishment or business maintained and operated by a veterinarian or veterinarians for examination, prophylaxis, surgery, diagnosis and treatment of diseases or injuries of animals including indoor or outdoor boarding of animals under treatment or benefit of the client; provided, said veterinarian or veterinarians are duly licensed under the laws of the State of Nebraska.*

*Veterinary Facility shall mean any establishment or business maintained and operated by a veterinarian or veterinarians for examination, prophylaxis, surgery, diagnosis and treatment of diseases or injuries of animals including indoor or outdoor boarding of animals under treatment or benefit of the client; provided, said veterinarian or veterinarians are duly licensed under the laws of the State of Nebraska.*

The terms Indoor Animal Hospital and Indoor Kennel were removed because the only thing that differentiated them from the Definition of Animal Hospital or the definition of Kennel was a line that stated “and provided that the indoor kennel shall be limited to no more than three animals outside at any one time.” This is a condition more than a definition so it was moved to the conditional Use Chapter under Kennel and Veterinary Facility. Despite the removal of the terms Indoor Animal Hospital and Indoor Kennel, Kennels and Veterinary Facilities will be regulated exactly the same as they are today.

- D. Service Station was removed and replaced with 2 definitions that separately define the functions of a service station Motorized Vehicle Service and Repair Facility and Motorized Vehicle Fuel Service Facility.

*Service station shall mean any building or premise which provides for any of the following or a combination thereof: (a) the retail sale of gasoline, oil, tires, batteries, and accessories for motor vehicles; (b) the retail sale and installation of mufflers, shocks and transmissions; and (c) certain motor vehicle services, including washings, tire changing, repair service, battery service, radiator service, lubrication, brake service, wheel service, and testing or adjusting of automotive parts. A service station may include the retail sale of non-automobile goods; provided, however, no more than 3,000 square feet of floor area shall be devoted to the sale of such goods. Automobile repair work may be done at a service station provided that no rebuilding of engines, spray paint operations, or body or fender repair is permitted. Gasoline pumps and gasoline pump islands shall be located more than twelve feet from the nearest property line.*

*Motor Fuel Sales Facility shall mean any building or premises used for the retail dispensing or sale of motor fuels as defined in Neb. Rev. Stat. § 66-712 R.R.S. 1943 as amended. Motor Fuel Sales Facilities are often commonly referred to as filling stations, gas stations, convenience stores or service stations.*

*Motorized Vehicle shall mean automobiles including pick-up trucks, motorcycles, all terrain vehicles, recreational vehicles, snow mobiles, watercraft, farm machinery or other motorized vehicles not elsewhere defined. Motorized wheel chairs for human mobility and toys, shall not be considered a motorized vehicle. Trucks as defined in Section 27.02.210 are also not considered a motorized vehicle.*

- E. In the current Ordinance terms used to describe educational and athletic institutions is confusing. For example the terms academy and private school are often used interchangeably. This has caused confusion because a dance or karate academy functions very differently than a private school that functions as an elementary or secondary school or even as a vocational or business school. Below are new definitions that clearly and separately define educational use types by the nature of their main use:

*School shall mean an institution where instruction is given and shall include the following institutions: Academies, Private Colleges, Private Schools, Satellite Colleges, Vocational Schools*

*Academies shall mean education and instruction facilities including but not limited to dance or music academies gymnastic or martial arts schools. Academies shall not include early childhood care facilities, public schools, or private schools that meet the State of Nebraska requirements for elementary or secondary education, or industrial trade schools.*

*Private college shall mean privately-owned education and instruction facilities for post-secondary education.*

*Private school shall mean private-owned education and instruction facilities that meet the State of Nebraska requirements for elementary or secondary education. Private school shall not mean academies, early childhood care facilities, private colleges, or vocational school*

*Satellite college shall mean a post-secondary educational institution whose main campus is located on another premises or in another city. Uses consist primarily of classrooms and offices. Student housing is not considered customary or accessory.*

*Vocational schools shall mean facilities for training and instruction in business and vocational skills.*

- F. The following are terms that were already defined elsewhere in the code either within the Special Permit Chapter or as part of a conditional use. These definitions have not been changed but have been moved from the various other chapters to the Definitions Chapter.

*Confined feeding facility shall mean a facility where the principal business is the feeding of livestock or poultry, also called a commercial feedlot.*

*Domestic employee shall mean an employee such as a household servant, gardener, caretaker, or chauffeur whose work is usually necessary or desirable for the maintenance and enjoyment of his or her employer's dwelling.*

*Dwellings for members of a religious order shall mean a type of congregate living facility containing sleeping rooms, bathrooms, common rooms, dining areas, and a central kitchen maintained exclusively for four or more resident members and their guests or visitors. The order is affiliated with a religious assembly or religious institution.*

*Dwelling, Non-related person shall mean dwellings for four to six persons not immediately related by blood, marriage, or adoption and living as a single housekeeping unit.*

Excavation shall mean the removal of clay, soil, limestone, sandstone, sand, or gravel from the earth on a project site in excess of one acre by excavating, stripping, leveling, or any other process together with all other types of mining and quarrying operations for material that is removed from the earth. Excavation shall not include grading of land in accordance with an approved preliminary plat, building permit, or normal farming practices.

Small batch concrete dispensing unit shall mean a machine or device with a mixing chamber with a capacity no greater than one-fourth of a cubic yard and mixing materials are totally enclosed.

- G. *In order to reduce redundancy and the potential for having different definitions for the same term already defined by other departments these terms are simply referenced instead of repeating the entire definition. All of the following definitions are defined by the Health Department in Chapter 5.41 of the Municipal Code.*

*Recyclables, Recycling Center, Recycling Processing Center, Salvage Material, Salvage Operation and Salvage Material.*

*Since the above terms are defined in 5.41 the term Recycling Center was removed and since sign is already defined in Chapter 27.69 it also was removed.*

*Recycling center shall mean a salvage operation that accepts salvage material limited to paper; aluminum foil; containers made of glass, plastic, metal, aluminum, and paper; and similar household wastes; no hazardous material as defined by state and federal law is accepted; there is no wrecking or dismantling of salvage material and no salvage material is held outside a building.*

*Sign shall mean any structure, fixture, graphics, illustration, statue, or other device visible from off the premises designed or intended to advertise, to identify, to attract attention to, or to convey information regarding any goods, product, service, business, location, institution, activity, person, solicitation, issue, or campaign, with the exception of merchandise window displays, flags of any nation, state, or political subdivision, and sculpture. For purposes of removal, sign shall also include any sign structure.*

- H. *The following definitions were added to provide additional clarification for other parts of the code. These terms have been discussed as needing to be defined by City staff.*

*Building shall mean any structure designed or intended for the enclosure, shelter, or protection of persons, animals, chattels, or property.*

*Change of use shall mean the replacement of an existing use by a new use, or a change in the nature of an existing use, but not including a change of ownership, tenancy, or management where the previous nature of the use, line of business, or other function is substantially unchanged.*

*Dormitory shall mean a type of congregate living facility, affiliated with a college or university, containing a number of private or semi-private rooms for students, usually with common facilities such as bathrooms, dining halls, and recreational areas. Individuals residing in a dormitory do not typically meet the definition of family and do not live as a single housekeeping unit. Individual dormitory rooms do not typically have full kitchens.*

Effective date of this title shall mean May 23, 1979.

Fraternity or sorority shall mean a type of congregate living facility containing sleeping rooms, bathrooms, common rooms, dining areas, and a central kitchen maintained exclusively for members and their guests or visitors. The facility is affiliated with a college or university.

Hazardous materials shall mean substances defined by the Secretary of Transportation in (49 U.S.C. 5103) and those materials listed in the Hazardous Materials Table 49 CFR 172.101.

Hotel or motel shall mean a facility offering transient lodging accommodations to the general public and which also may provide additional services, such as food establishments, meeting rooms, entertainment, or recreational opportunities.

Neighborhood support services shall mean those human, social, educational, counseling, health, and other support services provided primarily for the support of persons residing in adjacent residential areas, which occur frequently and so require facilities in relative proximity to places of residence and do not include residential or overnight accommodations.

Truck shall mean large commercial vehicles which require a Class A or B drivers license such as concrete trucks, freight trucks and trucks with semitrailers.

Urban garden shall mean a plot of ground where plants are cultivated; including accessory items for cultivation, including but not limited to sheds, trellises, fences and utilities.

- I. The following definitions were removed because they are no longer relevant anywhere in the Ordinance:

Administrative offices shall mean offices that house the administrative support functions of an association, corporation or other similar organization including, but not limited to, finance, accounting, personnel, policy development, administration, and similar administrative activities that do not generally involve frequent or regular face-to-face interaction with the public. This definition of "administrative offices" is intended to prohibit all manufacturing, retail, wholesale, service, and other activities that involve the on-site production, distribution, delivery, or marketing of goods and services to the public.

Cellar shall mean that portion of a building between floor and ceiling which is wholly or partly below grade and so located that the vertical distance from grade to the floor below is equal to or greater than the vertical distance from grade to ceiling.

- J. Below is a list of existing definitions that had minor changes for clarification purposes. The changes have been underlined.

**Basement** shall mean that portion of a building between the lowest floor and the ceiling above which is fully partly below and partly above-grade or partly below grade and partly above grade but so located that the vertical distance from grade to the floor below is more less than the vertical distance from grade to ceiling.

**Elderly or retirement housing** shall mean a residential development which incorporates specific features designed to alleviate access problems commonly experienced by the elderly, and in

which each occupied dwelling unit is occupied by at least one person of sixty years of age or more. Dwellings may be detached, attached, or multiple-family.

**Enclosed disassembly salvage/ recycling operation** shall mean a salvage operation or recycling operation where all wrecking, ~~and dismantling,~~ and storage of salvage material is inside a building or buildings.

**Private garage** shall mean an accessory building designed or used for storage by the occupants of the building to which it is accessory and consisting of no more than four bays.

**Lot** shall mean a parcel of land occupied or intended for occupancy by a use permitted in this title, and generally fronting upon a street. A lot may front upon a private roadway, or have other frontage requirements if specifically provided in this title.

**Outdoor dining** shall mean an open area for dining when associated with a restaurant food or drink establishment in which tables and seats are covered or uncovered by individual umbrellas or canopies (no tents or other types of temporary structures).

**Recreational facilities, outdoor** shall mean facilities primarily for participation in recreational activities by the public in athletic activities such as but not limited to tennis, handball, racquetball, basketball, and other court games; jogging, track and field, baseball, football, soccer, and other field games; skating, skateboarding, swimming, or golf and outdoor shooting or archery ranges. Recreational facilities shall include country clubs and athletic clubs; it shall not include facilities accessory to a private residence used only by the owner and guests, nor shall it include arenas or stadia used primarily for spectators to watch athletic events.

**Recreational facilities, enclosed commercial** shall mean facilities which are enclosed in a building and used for physical fitness recreation and athletic activities including but not limited to: golf, racquetball, tennis, and other court games, fitness centers, bowling, skating, skateboarding, rock climbing, video gaming, indoor shooting or archery ranges, paintball, laser tag or swimming.

**Office building** shall mean a room or group of rooms within a building designed for or used for as the office conducting the affairs of professional, commercial, industrial, religious, institutional, public, or semipublic persons or organizations, provided no goods, wares, or merchandise shall be prepared or sold on any premises except that a portion of an office building ~~may be occupied and used for offices may be occupied and used~~ as a drugstore, barbershop, beauty parlor, shoeshine shop, cosmetologists shop, cigar stand, or newsstand when such uses are located entirely within the building with no entrance from the street nor visible from any sidewalk and having no sign or display visible from the outside of the building indicating the existence of such use. Offices and studios within a broadcast stations shall be considered to be an office use; ~~offices, and studios shall be considered to be office buildings;~~ broadcast towers as defined in this title shall not be so considered.

Office buildings use shall also include the use of an office or clinic by a health care practitioner, or group of practitioners, including other accessory or ancillary uses such as ~~in the field of medicine, including other medical uses such as~~ medical testing laboratories that perform routine clinical diagnostic tests on human or animal specimens, dentistry, or podiatry; provided, however, that patients upon whom surgical procedures have been performed or who have otherwise received care or treatment at such office or clinic shall not be permitted to stay on the premises for recovery or observation for more than 24 hours. Medical testing laboratories shall exclude any laboratory which is required by federal law to hold a certificate of registration for their activity in compliance with CFR 42 Part 73, Selected Agents and Toxins.

**Salvage yard** shall mean any salvage operation, recycling center or recycling processing center where any wrecking, dismantling, or holding of salvage material or recycling of recyclables as defined in Chapter 5.41 is wholly or partially outside a building.

**Structure** shall mean anything constructed or erected, the use of which requires permanent location on the ground or attachment to something having a permanent location on the ground. Poles used for the support of wires and appurtenant equipment for supplying public utility services shall not be considered as buildings or structures under this title.

~~ANNOT.: Backstop for tennis court is not a "fence" but a structure subject to the code height for a building. Shamborg v. City of Lincoln, 174 Neb. 146, 116 N.W.2d 18 (1962). This ordinance is penal in nature and will be strictly construed. Id.~~

**Townhouse** shall mean one of a group or row of not less than three nor more than twelve attached, single-family dwellings designed and built as a single structure facing upon a street in which the individual townhouse may or may not be owned separately and each unit is located on its own lot. The townhouse need not face upon a street if otherwise specifically provided in this title. For the purpose of the side yard regulations, the structure containing the row or group of townhouses shall be considered as one building occupying a single lot.

## Grouping of Use Types

In the Use Group format, similar use types are grouped together and regulated as a single use. Below is a list of similar uses that have been grouped and will be regulated under one common term.

### **Retail Sales and Services Use Group**

#### Service and repair facilities

- Air conditioning, heating, electrical, and plumbing retail sales and showrooms, including service facilities and rental of equipment
- Appliance sales repair shops
- Bicycle sales & repair shops
- Electrical, radio, and television equipment repair shops
- Furnace shops
- Heating shops
- Home and office equipment repair
- Lawn and garden equipment repair
- Service centers for the repair of machinery and equipment
- Service facilities, including repair and maintenance of home and office equipment, electrical appliances, radios, televisions, and rental equipment
- Television and radio repair shops

#### Personal services

- Barber shops and beauty parlors
- Dry cleaning
- Key shops
- Laundromats
- Messenger and telegraph stations
- Pharmacies
- Photocopying
- Photography
- Printing shops
- Shoe repair / Shoe shine
- Tailor shops
- Upholstery shop

Outdoor retail sales

- Farm machinery sales and farm implement sales
- Mobile home sales
- Truck and heavy equipment sales

Retail sales

- Book, newspaper, and magazine stores
- Stores or shops for the sale of goods at retail
- Home and office equipment sales
- Medical supply shops

**Heavy Commercial Services Use Group**

Contractor Services

- Contractor's offices and storage yards
- Cabinet shops or stores
- Furnace shops
- Heating shops
- Heating and air conditioning contracting services
- Plumbing contracting businesses

**Changes to the April 9<sup>th</sup> 2012 Draft of Use Groups**

A draft copy of Use Groups was originally distributed to the Planning Commission and the Public on April 9, 2012. Since the time of that distribution additional minor corrections and changes have been made to the text. The following is a summary of those changes as of May 18, 2012.

**Chapter 27.02 Definitions:**

- A. Revised the definition of Basement as suggested by the Law Department.  
***Basement** shall mean that portion of a building between the lowest floor and the ceiling above which is fully partly below and partly above-grade or partly below grade and partly above grade but so located that the vertical distance from grade to the floor below is more less than the vertical distance from grade to ceiling.*
- B. Added the Definition of Change of Use as suggested by the Law Department.  
*Change of use shall mean the replacement of an existing use by a new use, or a change in the nature of an existing use, but not including a change of ownership, tenancy, or management where the previous nature of the use, line of business, or other function is substantially unchanged.*
- C. Added the Definition of Office and Enclosed Disassembly Operation which had been mistakenly left off the previous draft.

*Office shall mean a room or group of rooms within a building used for conducting the affairs of professional, commercial, industrial, religious, institutional, public, or semipublic persons or organizations, provided no goods, wares, or merchandise shall be prepared or sold on the premises except that a portion of a building used for offices may be occupied and used as a drugstore, barbershop, beauty parlor, shoeshine shop, cosmetologists shop, cigar stand, or newsstand when such uses are located entirely within the building with no entrance from the street nor visible from any sidewalk and having no sign or display visible from the outside of the building indicating the existence of such use. Offices and studios within a broadcast station shall be considered to be an office use; broadcast towers as defined in this title shall not be so considered.*

*Office use shall also include an office or clinic used by a health care practitioner, or group of practitioners, including other accessory or ancillary uses such as medical testing laboratories that perform routine clinical diagnostic tests on human or animal specimens, dentistry, or podiatry; provided, however, that patients upon whom procedures have been performed or who have otherwise received care or treatment at such office or clinic shall not be permitted to stay on the premises for recovery or observation for more than 24 hours. Medical testing laboratories shall exclude any laboratory which is required by federal law to hold a certificate of registration for their activity in compliance with CFR 42 Part 73, Selected Agents and Toxins.*

*Enclosed disassembly salvage/ recycling operation shall mean a salvage or recycling operation where all wrecking, dismantling, and storage of material is inside a building or buildings.*

**27.06 Use Groups;**

A. The Use Groups Chapter now includes the information about accessory structures which was not in the previous draft, but is not new information just information being moved from Height and Lot Regulations.

B. The following corrections were made to the tables:

- Market Gardens was added as a special permitted use in the AG and AGR zoning district under the Agricultural Use Group per a new ordinance approved April 16, 2012.
- In the Manufacturing, Processing, Storage and Distribution Use Group Production, manufacture, distribution, or commercial storage of toxic, flammable, or explosive materials, including chemicals and gases, fireworks and explosives, arsenals and magazines was incorrectly shown as a "P" permitted use. That has been changed to an empty box representing it as a prohibited use in the I-2 and I-3.
- In the Civic Services Use Group churches were incorrectly shown as a permitted use in the I-3 zoning district. The "P" in the table was changed to a "C" for conditional use.
- Utilities is shown as a conditional use to reflect existing conditions stated in the Existing Additional Height and Area Chapter (27.71)

**27.67 Parking**

Revisions to 27.67.040 per Ord. 19702 passed April 16, 2012 to provide parking for Market Gardens.

**27.72 Height and Lot Regulations**

A. The April 9<sup>th</sup> Draft of this chapter only included the additional information that was being added/ consolidated from the various zoning districts. This chapter includes that information but it also includes all the existing information found in the current 27.71 Additional Height and Area chapter.

B. The format was changed slightly in each of the zoning district sections to separate out exemptions from general information. The exemptions did not change. Only the format in the chapter changed.

- C. Language regarding Wind Energy Conversion Systems (WECS) was taken out of the individual zoning district chapters and consolidated into the Height and Lot Regulations Chapter.
- D. Added to the end of the Height and Lot Regulations Chapter are notes that direct the user on how to find special permit information regarding adjustments to height that require a public hearing process.
- E. Information addressing “necessary mechanical appurtenances” and “Chimneys” was moved to the Special Height and Lot Requirements section to facilitate a better layout of the chapter.
- F. Conditions associated with Utilities were moved from the existing Additional Height and Area Chapter to the Conditional Use Chapter.

**Chapter 3.5 Design Standards;**

Removed Motorized Vehicle Service and Repair facility from 7.7 because screening for the “outdoor storage area” for this use is covered by “Open Storage” in 7.11.

**Zoning Districts**

All of the zoning districts were updated to reference the new Height and Lot Regulations chapter 27.72 instead of 27.71.