

Lincoln City - Lancaster County

PLANNING COMMISSION AGENDA

PLANNING COMMISSION

Cindy Ryman Yost: Chair

Cristy Joy: Vice Chair

Lorenzo Ball

Dick Campbell

Maribel Cruz

Brett Ebert

Gloria Eddins

Bailey Feit

Richard Rodenburg

PLANNING STAFF

David R. Cary: Director

Shelli Reid: Administrative Officer

Jennifer McDonald: Administrative Aide

July 24, 2024

NOTICE: The Lincoln/Lancaster County Planning Commission will hold a public hearing on Wednesday, July 24, 2024, at 1:00 p.m. in the City Council Chambers on the first floor of the County-City Building, 555 S. 10th St., Lincoln, Nebraska. For more information, call the Planning Department, (402) 441-7491.

****PLEASE NOTE: The Planning Commission action is final action on any item with a notation of *FINAL ACTION*. Any aggrieved person may appeal Final Action of the Planning Commission to the City Council or County Board by filing a Notice of Appeal with the City Clerk or County Clerk within 14 days following the action of the Planning Commission. The Planning Commission action on all other items is a recommendation to the City Council or County Board.**

AGENDA

WEDNESDAY, July 24, 2024

Approval of minutes of the regular meeting held [July 10, 2024](#).

1. CONSENT AGENDA (Public Hearing and Administrative Action)

STREET AND ALLEY VACATION:

- Page 8 1.1 STREET & ALLEY VACATION 24008, to vacate an unused portion of the alley on the north side of Dakota Circle, adjacent to Lots 9-10, Block 2, Clear View Addition and Outot A, Chapin Terrace Replat, on property generally located east of S. 16th St. and north of Dakota Circle.
Staff recommendation: Conforms to the Comprehensive Plan
Staff Planner: Ben Callahan, 402-441-6360, bcallahan@lincoln.ne.gov

TEXT AMENDMENTS:

- Page 17 1.2 TEXT AMENDMENT 24009, to amend Lincoln Municipal Code Chapter 27.72.120 and clarify the wording of allowable floor area for accessory buildings.
Staff recommendation: Approval
Staff Planner: Steve Dush, 402-441-5662, sdush@lincoln.ne.gov
- Page 25 1.3 TEXT AMENDMENT 24010, to amend the Lincoln Municipal Code, Section 27.06.020 Use Groups, (b) More Than One Main Use (2), to allow more than two-single family dwellings on the same lot in commercial and industrial zoning districts.
Staff recommendation: Approval
Staff Planner: Emma Martin, 402-441-6369, emartin@lincoln.ne.gov

2. REQUESTS FOR DEFERRAL

3. ITEMS REMOVED FROM CONSENT AGENDA

(Public Hearing and Administrative Action)

4. PUBLIC HEARING AND ADMINISTRATIVE ACTION

TEXT AMENDMENT:

Page 34 4.1 TEXT AMENDMENT 24007, an ordinance amending sections 27.62 and 27.63 of the Lincoln Municipal Code to allow the sale of alcoholic beverages for consumption on and off the premises as a conditional, rather than special permitted, use. The ordinance would further amend Sections 27.62 and 27.63 to clarify the conditions where sale of alcoholic beverages, on or off the premises, are permitted for residential health care and outdoor recreational facilities.
Staff recommendation: Approval
Staff Planner: Brian Will, 402-441-6362, bwill@lincoln.ne.gov

5. CONTINUED PUBLIC HEARING AND ADMINISTRATIVE ACTION

**AT THIS TIME, ANYONE WISHING TO SPEAK ON AN ITEM
NOT ON THE AGENDA, MAY DO SO.**

Adjournment

PENDING LIST: No items

Planning Department Staff Contacts:

David Cary, Director dcary@lincoln.ne.gov	402-441-6364
Stephen Henrichsen, Development Review Manager shenrichsen@lincoln.ne.gov	402-441-6374
Paul Barnes, Long Range Planning Manager pbarnes@lincoln.ne.gov	402-441-6372
Benjamin Callahan, Planner bcallahan@lincoln.ne.gov	402-441-6360
Collin Christopher, Planner cchristopher@lincoln.ne.gov	402-441-6370
Rachel Christopher, Transportation Planner rchristopher@lincoln.ne.gov	402-441-7603
Steve Dush, Planner sdush@lincoln.ne.gov	402-441-5662

Arvind Gopalakrishnan, Planner agopalakrishnan@lincoln.ne.gov	402-441-6361
Emma Martin, Planner emartin@lincoln.ne.gov	402-441-6369
Andrew Thierolf, Planner athierolf@lincoln.ne.gov	402-441-6371
George Wesselhoft, County Planner gwesselhoft@lincoln.ne.gov	402-441-6366
Brian Will, Planner bwill@lincoln.ne.gov	402-441-6362

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The Planning Commission meeting which is broadcast live at 1:00 p.m. every other Wednesday will be available for viewing on LNK City TV at <https://lnktv.lincoln.ne.gov/CablecastPublicSite/watch/3?channel=1>

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The Planning Commission agenda may be accessed on the Internet at <https://app.lincoln.ne.gov/city/plan/boards/pc/pc.htm>

MEETING RECORD

Advanced public notice of the Planning Commission meeting was posted on the County-City bulletin board and the Planning Department’s website. In addition, a public notice was emailed to the Lincoln Journal Star for publication on Tuesday, July 2, 2024.

NAME OF GROUP: PLANNING COMMISSION

DATE, TIME AND PLACE OF MEETING: Wednesday, July 10, 2024, 1:00 p.m., Hearing Room 112, on the first floor of the County-City Building, 555 S. 10th Street, Lincoln, Nebraska.

MEMBERS AND OTHERS IN ATTENDANCE: Dick Campbell, Maribel Cruz, Brett Ebert, Gloria Eddins, Bailey Feit, Rich Rodenburg, and Cristy Joy. Lorenzo Ball, and Cindy Ryman Yost absent. David Cary, Steve Henrichsen, Shelli Reid, Jennifer McDonald, George Wesselhoft, and Brian Will with the Planning Department; media and other interested citizens were present.

STATED PURPOSE OF MEETING: Regular Planning Commission Hearing

Vice-Chair Joy called the meeting to order and acknowledged the posting of the Open Meetings Act in the room.

Joy requested a motion approving the minutes for the regular meeting held June 26, 2024.

Motion for approval of the minutes made by Campbell; seconded Eddins.

Minutes approved 6-0: Campbell, Cruz, Ebert, Eddins, Feit, and Joy, voting “yes”; Rodenburg abstained; Ball and Ryman Yost absent.

Joy asked the Clerk to call for the Consent Agenda Items.

**CONSENT AGENDA
PUBLIC HEARING & ADMINISTRATIVE ACTION
BEFORE PLANNING COMMISSION:**

July 10, 2024

Members present: Campbell, Cruz, Ebert, Eddins, Feit, Rodenburg, and Joy; Ball and Ryman Yost absent.

The Consent Agenda consisted of the following items: Change of Zone 24016, Preliminary Plat 24004, Special Permit 24023, Text Amendment 24008, and Miscellaneous 24004.

There were no ex-parte communications disclosed.
There were no ex-parte communications disclosed relating to site visit.

Campbell made a motion for approval of the Consent Agenda; seconded by Eddins.

Motion carried 7-0; Campbell, Cruz, Ebert, Eddins, Feit, Rodenburg, and Joy, voting “yes”; Ball and Ryman Yost absent.

Note: This is **Final Action** on the following item **Preliminary Plat 24004** and **Special Permit 24023** unless appealed by filing a Notice of Appeal with the **City Council** or the **County Clerk** **within 14 days.**

ANNEXATION 24001

TO ANNEX APPROXIMATELY 37.43 ACRES OF PROPERTY GENERALLY LOCATED ON THE NORTHEAST CORNER OF SOUTH 84TH AND VAN DORN STREETS.

AND

COMPREHENSIVE PLAN AMENDMENT 24001

TO AMEND THE FUTURE LAND USE PLAN OF THE LINCOLN LANCASTER COUNTY 2050 COMPREHENSIVE PLAN, TO CHANGE THE FUTURE LAND USE DESIGNATION FROM URBAN-DENSITY RESIDENTIAL TO COMMERCIAL ON PROPERTY GENERALLY LOCATED ON THE NORTHEAST CORNER OF SOUTH 84TH AND VAN DORN STREETS.

AND

CHANGE OF ZONE 24001

FROM AG (AGRICULTURAL DISTRICT) TO B-2 (PLANNED NEIGHBORHOOD BUSINESS) OVER APPROXIMATELY 37.43 ACRES ON GENERALLY LOCATED ON THE NORTHEAST CORNER OF SOUTH 84TH AND VAN DORN STREETS.

AND

USE PERMIT 24001

TO ALLOW UP TO 175,000 SQUARE FEET OF COMMERCIAL FLOOR AREA AND UP TO A 100 ROOM HOTEL WITH WAIVERS TO SETBACKS, HEIGHT, BLOCK LENGTH, AND LIGHTING DESIGN STANDARDS ON GENERALLY LOCATED ON THE NORTHEAST CORNER OF SOUTH 84TH AND VAN DORN STREETS.

CONTINUED PUBLIC HEARING:

June 26, 2024

Members present: Campbell, Cruz, Ebert, Eddins, Feit, Rodenburg, and Joy; Ball and Ryman Yost absent.

Staff Recommendation:

Annexation 24001	Conditional Approval
Comprehensive Plan Amendment 24001	Approval
Change of Zone 24001	Approval
Use Permit 24001	Conditional Approval

There were no ex-parte communications disclosed.

There were no ex-parte communications disclosed relating to site visits.

Brian Will, Planning Department, 555 S. 10th Street, Lincoln, NE came forward and stated that there are four associated applications that are being discussed today. Will stated that this is approximately 38 acres. The property is surrounded on three sides by the City limit. The request today is about the 17 acres designated for residential land use on the south end of the property to be redesignated be for commercial. Will stated that before any of the changes happen, this property will need to be annexed into the City of Lincoln. The property meets the criteria in the 2050 Comprehensive Plan. With the new land use designation, annexation and the re-zoning to B-2, this will set the stage for the associated Use Permit. There are conditions associated with the Use Permit, that is to delete one of the right-in and right-out on South 84th Street. There will also be three waivers that will include setbacks, lighting design standards and a block length. The planning department is recommending approval of all three waivers and all four applications.

Campbell stated that there was a discussion about the fees that are collected from the developers applying to some of the improvements. Wills stated that the improvements on Carl Ridge are impact fee eligible and will be reimbursable, and the developers will cover the remaining costs. Campbell asked if the right-in and right-out will be going away, Will stated that will be eliminated. Campbell asked if the roundabouts are already installed, Will replied yes, they are already put in.

Applicant

Ann Post, Rembolt Ludtke Law Firm, 1128 Lincoln Mall, Suite 300, Lincoln, NE came forward and stated she is here on behalf of the developer. Post stated that there has been a sign on the property corner for over 10 years. The property is surrounded on three sides by the City Limits. It has great frontage on the high traffic streets which makes it prime for commercial development. There is proposed development for apartments that will be in between the commercial. This will provide the transition from commercial to apartments to residential. Post stated that this is a prime frontage corner for commercial space.

Campbell asked if the projected apartment project is between the commercial and the residential area. Post stated yes and it is approved for approximately 500 apartment units.

Post stated with the wide variety of uses in the B-2 district. The original site plan had a request for a development including a hotel. The new site plan eliminates the connection point of 84th and Bobtail Court. The reason for this is removal is due to the traffic patterns in the area and to minimize the impact of the traffic patterns and conditions in the area. This will still allow a successful commercial building. Post stated that on Karl Ridge Road intersection, there will be a signalized intersection that will be paid for by developer and development. Post stated that there are two large storm water retention areas because this is a low-density development ratio. Post stated that there is a "Motion to Amend" that was introduced prior to the hearing today. (Exhibit #1). This "Motion to Amend" has support from the City Departments.

Campbell asked for clarification of the location of the hotel and asked what the large box store would be. Post stated that currently, she does not know what the large box store is being considered.

Tim Gergen, Clark & Enersen, 1010 Lincoln Mall, Suite 200, Lincoln, NE came forward and stated that there are provisions to turn the large box retail into residential if necessary.

Proponents:

No one approached in support.

Neutral:

No one approached in neutral.

Opposition:

No one approached in opposition.

Campbell asked if Lincoln Transportation and Utilities agrees with the two motions that are being presented. Will stated that they agree and will be part of the approval of the Use Permit.

Feit asked if there was any discussion about adding a second roundabout. Wills stated no, there was not. Campbell stated that is a federal highway connector and there can not be unless going through the Federal Government.

Campbell moved to close the public hearing; seconded by Eddins.

Motion carried 7-0; Campbell, Cruz, Ebert, Eddins, Feit, Rodenburg, and Joy, voting “yes”; Ball and Ryman Yost absent.

ANNEXATION 24001

ACTION BY PLANNING COMMISSION:

July 10, 2024

Campbell moved to approve Annexation 24001; seconded by Eddins.

Motion carried 7-0; Campbell, Cruz, Ebert, Eddins, Feit, Rodenburg, and Joy, voting “yes”; Ball and Ryman Yost absent.

Comprehensive Plan Amendment 24001

ACTION BY PLANNING COMMISSION:

July 10, 2024

Campbell moved to approve Comprehensive Plan Amendment 24001; seconded by Eddins.

Motion carried 7-0; Campbell, Cruz, Ebert, Eddins, Feit, Rodenburg, and Joy, voting “yes”; Ball and Ryman Yost absent.

Change of Zone 24001

ACTION BY PLANNING COMMISSION:

July 10, 2024

Campbell moved to approve Change of Zone 24001; seconded by Eddins.

Motion carried 7-0; Campbell, Cruz, Eddins, Ebert, Feit, Rodenburg, and Joy, voting “yes”; Ball and Ryman Yost absent.

Use Permit 24001

ACTION BY PLANNING COMMISSION:

July 10, 2024

Campbell moved to approve Use Permit 24001 with the Motion to Amend; seconded by Eddins.

Motion carried 7-0; Campbell, Cruz, Ebert, Eddins, Feit, Rodenburg, and Joy, voting “yes”; Ball and Ryman Yost absent.

Joy asked if anyone wishing to speak on an item not on the agenda, may do so.

Campbell moved to adjourn the Planning Commission meeting of July 10, 2024; seconded by Eddins.

Motion to adjourn 7-0; Campbell, Cruz, Ebert, Eddins, Feit, Rodenburg, and Joy, voting “yes”; Ball and Ryman Yost absent.

There being no further business the meeting was adjourned at 1:40 p.m.



LINCOLN/LANCASTER COUNTY PLANNING COMMISSION STAFF REPORT

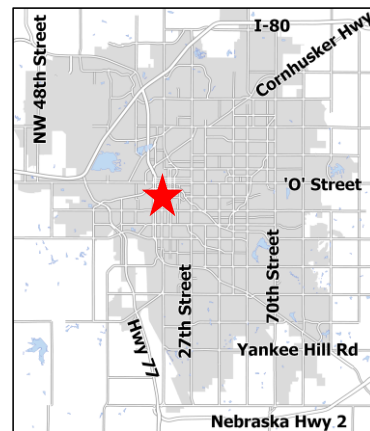
FROM THE LINCOLN/LANCASTER COUNTY PLANNING DEPARTMENT, 555 S. 10TH STREET, SUITE 213, LINCOLN, NE 68508

APPLICATION NUMBER Street and Alley Vacation #24008	FINAL ACTION? No	DEVELOPER/OWNER Dakota Circle Condo Regime / Karl Smith & Katharine Terwilliger
PLANNING COMMISSION HEARING DATE July 24, 2024	RELATED APPLICATIONS None	PROPERTY ADDRESS/LOCATION North of Dakota Circle, East of 16 th Street

RECOMMENDATION: CONFORMS TO THE COMPREHENSIVE PLAN

BRIEF SUMMARY OF REQUEST

This is a request to vacate a portion of an existing alley located east of 16th Street, north of Dakota Circle in a residential neighborhood. The alley has functioned as a dead-end alley for many years due to an existing retaining wall and elevation change midway through the block. The portion of the alley being vacated is unimproved and physically appears as part of the surrounding yards.



JUSTIFICATION FOR RECOMMENDATION

The portion of the alley requested to be vacated was never paved and has continued as a landscaped area due to the retaining wall being installed in the past. The vacation will help clean up the lot configuration created by the L-shaped portion of the alley in what has become part of the front yard of the owners of Lot 10.

APPLICATION CONTACT

Gail McNair, (402) 429-5849 or gailmcnair7@gmail.com

STAFF CONTACT

Ben Callahan, (402) 441-6360 or bcallahan@lincoln.ne.gov

COMPATIBILITY WITH THE COMPREHENSIVE PLAN

Vacation of this portion of public right-of-way will not negatively impact the transportation system and subject to the conditions of approval, this request is in conformance with the Comprehensive Plan.

KEY QUOTES FROM THE 2050 COMPREHENSIVE PLAN

Policies Section

P71: Public ROW and Access - Manage public ROW and access to balance multimodal mobility needs and protect the value of adjacent property.

ANALYSIS

1. This is a request to vacate a portion of an existing L-shape 10-foot-wide alley created in 1909 with the platting of the Clear View Subdivision. This also created a unique L-shaped cut out of Lot 10 which still exists today and visually appears to be part of the front yard for the property. At some point the alley was cut off midway through

with a retaining wall, causing a large drop off today. The alleyway east of the retaining wall connecting to S. 17th Street is paved and will remain as it serves as access to existing residential.

2. When the Replat of Chapin Terrace was approved in 1961 it maintained the 10-foot alley in its original configuration. The replat which created the circular island at the end of Dakota Circle also dedicated a sliver of land (Outlot A) on the south side of the alley that is owned by the Dakota Circle Condominium Regime.
3. To clean up the irregular lot configurations created by the alley which no longer serves that purpose, two of the three adjacent property owners are petitioning for its vacation. The owner of Lot 8 does not wish to petition for the vacation at this time; therefore, the alley will remain abutting Lot 8. The remaining two owners propose to re-organize ownership of the space in a way that would be fairly equitable and help square up the front yard for the owner of Lots 9 and 10 and clarify maintenance responsibilities.
4. The only utility located within the existing alley is a 3/4 -inch water line. An easement does not need to be retained for the water line because the line only serves the property owner who will own that portion of the alley should the vacation be approved. An easement is being required to be retained by LES over the area being vacated to maintain the existing electrical utilities in place. Due to Lot 8 not participating in the vacation, a public access easement is needed on Outlot A of Chapin Terrace abutting the portion of the alley to remain, allowing the owner of Lot 8 to have access to the remaining portion of the alley abutting their lot.
5. The request to vacate a portion of this alley is justified due to the alley being blocked midway by an existing retaining wall and considerable change in elevation which prohibits any traffic movement. The western portion of the alley has not been used for vehicular traffic and appears to be part of the surrounding yards. This request is not expected to have an adverse effect on the abutting properties due to the limited use of the alleyway today.
6. Lincoln Municipal Code Chapter 14.20 requires the City to establish the proper price to be paid for the right-of-way, as well as any amounts necessary to guarantee required reconstruction within the right-of-way. These values must be established and deposited with the City Clerk prior to scheduling the vacation request with the City Council.

CONDITIONS OF APPROVAL: See attached.

SURROUNDING LAND USE & ZONING: R-4 Residential Zoning with single family attached and detached.

APPROXIMATE LAND AREA: .02 acres, more or less

LEGAL DESCRIPTION: A portion of the alley on the north side of Dakota Circle, adjacent to Lots 9-10, Block 2, Clear View Addition and Outot A, Chapin Terrace Replat, Lincoln, Nebraska.

Prepared by Ben Callahan, Planner
(402) 441-6360 or bcallahan@lincoln.ne.gov

Date: July 11, 2024

Applicant/Contact: Gail McNair
1655 Dakota Circle
Lincoln, NE 68502
(402) 429-5849

Owner: Karl Smith & Katharine Terwilliger
1630 Dakota Cir.
Lincoln NE, 68502

Owner: Dakota Circle Condominium Regime
1633-1655 Dakota Circle
Lincoln, NE 68502

<https://linclanc.sharepoint.com/sites/PlanningDept-DevReview/Shared Documents/DevReview/SAV/24000/SAV24008 Daktoa Street Alleyway.bmc.docx>

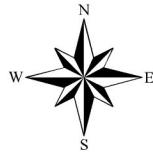
CONDITIONS OF APPROVAL - STREET AND ALLEY VACATION #24008

BEFORE THE VACATION REQUEST IS SCHEDULED ON THE CITY COUNCIL AGENDA THE FOLLOWING MUST BE COMPLETED:

- 1.1 The provisions of Chapter 14.20 of the Lincoln Municipal Code are met.
- 1.2 Provide the Planning Department a Public Access Easement over the eastern portion of Outlot A, Chapin Terrace abutting Lot 8, Clear View in order to provide access to the existing alleyway abutting Lot 8, Clear View . Provide the Planning Department the filing fee for filing the easement with the Register of Deeds. Easement is to be filed by the Planning Department after approval of the alley vacation.
- 1.3 Include retention of LES utility easement with deed transfer.



Street and Alley Vacation #: SAV24008
S 16th St & Dakota Cir

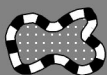




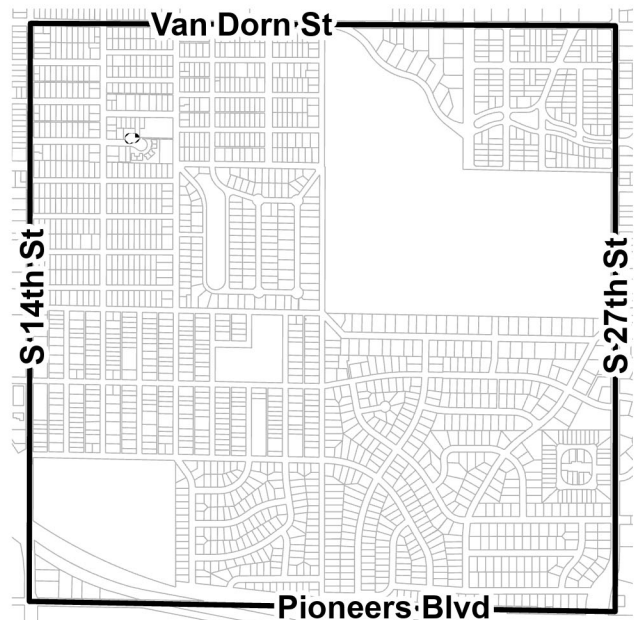
2020 aerial

Zoning:

- R-1 to R-8 Residential District
- AG Agricultural District
- AGR Agricultural Residential District
- O-1 Office District
- O-2 Suburban Office District
- O-3 Office Park District
- R-T Residential Transition District
- B-1 Local Business District
- B-2 Planned Neighborhood Business District
- B-3 Commercial District
- B-4 Lincoln Center Business District
- B-5 Planned Regional Business District
- H-1 Interstate Commercial District
- H-2 Highway Business District
- H-3 Highway Commercial District
- H-4 General Commercial District
- I-1 Industrial District
- I-2 Industrial Park District
- I-3 Employment Center District
- P Public Use District

Four Square Miles:
 Sec.01 T09N R06E

	Area of Application
	Zoning Jurisdiction Lines
	Lancaster County Jurisdiction
11	



PETITION TO VACATE PUBLIC WAY
with
RELEASE AND WAIVER OF RIGHTS AND TITLE,
AND QUITCLAIM DEED TO CITY OF LINCOLN

TO THE HONORABLE CITY COUNCIL OF THE CITY OF LINCOLN, NEBRASKA:

The undersigned property owner(s) hereby petition you to vacate the following street, alley, or other public way, commonly known as: *(i.e.: Elm Street from 1st to 2nd St. or East-west alley, from the north line of 1st St. to the south line of 2nd St.)*

Alley between Dakota Cr. base acct, Chapin Terrace Replat Lots 5, 6, 7,
outlet A and Clearview, block 2, lot 9, -10

in the CITY OF LINCOLN, NEBRASKA, with the City reserving in said street, alley, or other public way such title, rights, easements, and privileges as it may deem necessary. In consideration of the vacation of the above-described street, alley, or other public way, we, and each of us, for ourselves, our heirs, personal representatives, successors, and assigns, hereby waive and release any and all claims, causes of action, rights of access, and demands of every nature, known or unknown, which may accrue to us, or which we now have, or which we may hereafter have as a result of such vacation; and hereby quitclaim unto the City of Lincoln, Nebraska, and to its successors and assigns forever, all right, title, interest, estate, and demand, both at law and in equity, in and to all of said street, alley, or other public way.

TO HAVE AND TO HOLD the above-described street, alley, or other public way together with all tenements, hereditaments, and appurtenances thereto belonging unto the City of Lincoln, Nebraska, and to its successors and assigns forever.

The undersigned hereby represent(s) that he, she, they, or it is(are) the owner(s) of the following described property in Lincoln, Lancaster County, Nebraska, abutting on said street, alley, or other public way: *(Legal description from deed or abstract NOT street address, i.e. Lot 10, Block 500 Boardwalk Addition NOT 4500 Park Place Blvd.)*

Dail McVair, President, Dakota Cr. Condo Regime
1655 Dakota Cr., Lincoln, 68502
Dakota Circle Condominium Base Act: Chapin
Terrace Replat lots 5, 6, 7, # outlet A (formerly
Lee Chapin Condominium)

**PETITION TO VACATE PUBLIC WAY
with
RELEASE AND WAIVER OF RIGHTS AND TITLE,
AND QUITCLAIM DEED TO CITY OF LINCOLN**

TO THE HONORABLE CITY COUNCIL OF THE CITY OF LINCOLN, NEBRASKA:

The undersigned property owner(s) hereby petition you to vacate the following street, alley, or other public way, commonly known as: (i.e.: *Elm Street from 1st to 2nd St. or East-west alley, from the north line of 1st St. to the south line of 2nd St.*)

Alley between Dakota Circle Acat, Chapin Terrace Replat Lots
5, 6, 7, and ^{lot} outlet A and Clearview block 2 lots 9-10.

in the CITY OF LINCOLN, NEBRASKA, with the City reserving in said street, alley, or other public way such title, rights, easements, and privileges as it may deem necessary. In consideration of the vacation of the above-described street, alley, or other public way, we, and each of us, for ourselves, our heirs, personal representatives, successors, and assigns, hereby waive and release any and all claims, causes of action, rights of access, and demands of every nature, known or unknown, which may accrue to us, or which we now have, or which we may hereafter have as a result of such vacation; and hereby quitclaim unto the City of Lincoln, Nebraska, and to its successors and assigns forever, all right, title, interest, estate, and demand, both at law and in equity, in and to all of said street, alley, or other public way.

TO HAVE AND TO HOLD the above-described street, alley, or other public way together with all tenements, hereditaments, and appurtenances thereto belonging unto the City of Lincoln, Nebraska, and to its successors and assigns forever.

The undersigned hereby represent(s) that he, she, they, or it is(are) the owner(s) of the following described property in Lincoln, Lancaster County, Nebraska, abutting on said street, alley, or other public way: (Legal description from deed or abstract NOT street address, i.e. Lot 10, Block 500 Boardwalk Addition NOT 4500 Park Place Blvd.)

William K Smith (William K Smith) Katharine Fenwiller (Katharine Fenwiller)

1630 Dakota Circle, Lincoln, Nebraska 68502

Lots 9 and 10, except to North 100' + 21' of to South 99.17'
of lot 11, Block 2, Clearview, located in the North west
quarter of section 1, T9N, R6E, of the 6th p.m.
Lincoln, Lancaster County, Nebraska

An Information Sheet must be filled out completely by the owners of each parcel abutting the requested vacation. The attached **Petition to Vacate Public Way** must also be filled out completely according to the instructions contained in the Instruction Sheet.

1. Name of Petitioner (Current Titleholder/s): William K Smith - Katherine M
 If more than one individual, indicate if you are: terwilleger
 _____ joint tenants with right of survivorship, OR X tenants in common
2. Petitioner's Address: 1630 Dakota Circle
Lincoln, Nebraska 68502
3. Petitioner's Telephone Number: (309) 317-5745
4. Name of street, alley, or other public way sought to be vacated: Alley continuation between
to Dakota Circle Condominiums and my property listed below
the Alley portion in question is approximately 10' wide & 42' feet long
5. Legal description of Petitioner's property which abuts the public way sought to be vacated: Lots 9 and 10
Except the North 100' and East 20' of the South 99.17' of Lot 14, Block
2, Clear view, located in the Northeast quarter of Section 1, T9N
R6E, of the 6th P.M. Lincoln, Lancaster County, Nebraska
6. Why are you seeking to have this street, alley, or other public way vacated?
this Alley joining my property is unusable with a 4 foot
Drop and is presently unpaved and unfinished - it is simply
a Repository for trash and tree and garden waste.
7. What use or uses do you propose to make of the public way should it be vacated?
I would use the Alley (unfinished and unpaved) as part of my
Personal Property -
8. Do you intend to purchase that portion of the vacated public way which abuts your property as described in the **Petition to Vacate Public Way** and/or other portions of the vacated public way?
X YES _____ NO
9. Name and address of person to whom tax statement should be sent:
William K. Smith
1630 Dakota Circle
Lincoln, Nebraska 68502

The property will be appraised and the purchase price of the portion abutting your property must be paid by you to the City Clerk unless you have indicated that the portion abutting your property will be sold to any other abutting owner willing to pay the purchase price. The Vacation Ordinance will not be introduced before the City Council until the full price of the entire public way proposed to be vacated has been paid.

DATED this 21 day of June, 2021

[Signature]

William Karl Smith

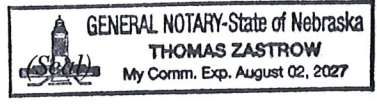
[Signature]

Katharine Terwilliger

(ALL TITLEHOLDERS OF THE REAL ESTATE DESCRIBED ON THE PRECEDING PAGE MUST SIGN THIS PETITION BEFORE A NOTARY PUBLIC)

STATE OF Nebraska)
) ss.
Lancaster COUNTY)

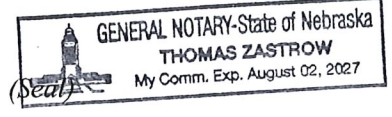
The foregoing instrument was acknowledged before me on this 21 day of June, 2021, by William K Smith.
(Please indicate name(s) and marital status of person(s) signing)



[Signature]
Notary Public

STATE OF Nebraska)
) ss.
Lancaster COUNTY)

The foregoing instrument was acknowledged before me on this 21 day of June, 2021, by Katharine Terwilliger.
(Please indicate name(s) and marital status of person(s) signing)



[Signature]
Notary Public

SIGNATURE PAGE FOR INDIVIDUAL(S)

DATED this 6 day of June, 2024

Dakota Circle Condominium Regime
[Name of Titleholder]

By: Dan L. Michew
President

**(ALL TITLEHOLDERS OF THE REAL ESTATE DESCRIBED ON THE PRECEDING PAGE
MUST SIGN THIS PETITION BEFORE A NOTARY PUBLIC)**

STATE OF Nebraska)
) ss.
Lancaster COUNTY)

The foregoing instrument was acknowledged before me on this 24th day of June,
2024, by _____, president of _____,
on behalf of the corporation.



Jill E. Traynowicz
Notary Public

SIGNATURE PAGE FOR CORPORATION



LINCOLN/LANCASTER COUNTY PLANNING COMMISSION STAFF REPORT

FROM THE LINCOLN/LANCASTER COUNTY PLANNING DEPARTMENT, 555 S. 10TH STREET, SUITE 213, LINCOLN, NE 68508

APPLICATION NUMBER Text Amendment #24009	FINAL ACTION? No
PLANNING COMMISSION HEARING DATE July 24, 2024	RELATED APPLICATIONS None

RECOMMENDATION: APPROVAL

BRIEF SUMMARY OF REQUEST

The proposed application is to clarify the calculation of floor area for accessory buildings. The amendment clarifies that the “Area” of an accessory building means the “Floor Area.” Currently the word “area” has led to inconsistent city department calculations of allowable accessory building size. The proposed amendment also clarifies that the area under a breezeway is not used in the allowable square foot allowance. Instead, it will be regulated like covered porches, covered decks, and covered patios as accessory and part of the primary residence.

The proposed amendment will use the term “Floor Area” where only the term “Area” is used and exclude up to 625 square feet (SF) of “floor area” under a breezeway when calculating the amount of allowable accessory building SF.

The text to be amended was adopted in 2017, by Text Amendment #16008(TX16008), when a Working Group created the new table for the maximum allowed floor area for accessory buildings. The text amendment at that time referred to the floor area for accessory buildings as the “area” of the building. All of the materials, testimony and discussion were on the floor area of accessory buildings.

JUSTIFICATION FOR RECOMMENDATION

This text amendment ensures that the application of the code regulating accessory buildings is applied consistently for the benefit of the community.

APPLICANT/STAFF CONTACT

Steve Dush, (402) 441-5662 or sdush@lincoln.ne.gov

COMPATIBILITY WITH THE COMPREHENSIVE PLAN

As noted with TX16008, the Comprehensive Plan strives to provide predictability for neighborhoods and developers for residential development and redevelopment.

KEY QUOTES FROM THE 2050 COMPREHENSIVE PLAN

Policies Section

P12: Economic Growth - Promote and foster appropriate, balanced, and focused future economic growth that maintains the quality of life of the community.

Action Steps

- 6. Explore additional opportunities for streamlining the zoning and building permitting processes.

ANALYSIS

1. The text amendment, by clarifying terms and exceptions to allowable accessory building square footage, advances the comprehensive plan by streamlining the zoning and building permitting processes through the clarification of terms and building elements exempted from the calculation of allowable floor area for accessory buildings on single family or two-family residential lots or tracts.
2. Additionally, breezeways, by virtue of not being enclosed, do not have a floor area, yet the area under the breezeway has been used by some staff in the calculation of floor area, which effectively penalized homes with breezeways by reducing the amount of allowable floor area for accessory structures. This amendment provides an exception of up to 625 SF of area under a breezeway that will allow residents with homes having a breezeway the same amount of allowable floor area for accessory buildings up to the excepted amount. Lastly, the amendment clarifies that covered or uncovered patios, decks, and porches which are attached to the home are not calculated as allowable floor area.
3. The proposed update is as follows:

d. Maximum and expanded maximum cumulative allowable floor area for all accessory buildings on single family or two family residential lots or tracts in AG, AGR, and R-1 to R-8 zoning districts:

1. The maximum and the expanded maximum cumulative allowable floor area for all accessory buildings are as set out in Table 27.72.120(d) below. The applicable maximum cumulative allowable floor area may be increased up to the expanded maximum allowable floor area as provided in Table 27.72.120(d) Notes *1-4 below:

Table 27.72.120(d) Maximum and Expanded Maximum* Cumulative Allowable <u>Floor</u> Area for Accessory Buildings on Single Family or <u>Two Family</u> Residential Lots or Tracts						
*#Expanded Maximum only applies in accordance with the applicable Note *# below (e.g. *1)						
		Lot or Tract Size				
		less than 7,500 sq. ft.	7,500 sq. ft. to less than 20,000 sq. ft.	20,000 sq. ft. to less than 1 acre	1 acre or more	
R1- R-8 Accessory Building sq. ft.	Maximum	1,000	1,500	2,000	2,000	
	Expanded Maximum	1,500 ^{*1}	3,000 ^{*2}	3,000 ^{*2}	5,000 ^{*3}	
		less than 1 acre	1 acre to less than 2 acres	2 acres to less than 4 acres	4 acres to less than 10 acres	10 acres or more
Maximum		2,000	2,000	2,000	2,000	2,000

**Table 27.72.120(d)
Maximum and Expanded Maximum* Cumulative Allowable Floor Area for Accessory Buildings
on Single Family or Two Family Residential Lots or Tracts**

*#Expanded Maximum only applies in accordance with the applicable Note *# below (e.g. *1)

		Lot or Tract Size				1 acre or more
		less than 7,500 sq. ft.	7,500 sq. ft. to less than 20,000 sq. ft.	20,000 sq. ft. to less than 1 acre		
AGR Accessory Building sq. ft.	Expanded Maximum	3,000*2	6,000*4	8,000*4	20,000*4	No maximum*4
AG Accessory Building sq. ft.	Maximum	2,000	2,000	2,000	2,000	No maximum
	Expanded Maximum	3,000*2	6,000*4	8,000*4	20,000*4	

Notes:

*1. In the R-1 to R-8 zoning districts, for lots or tracts less than 7,500 square feet in size, the maximum cumulative floor area square footage of all accessory buildings may be increased up to the above expanded maximum square feet provided:

- i. Total floor area square footage for all accessory buildings does not exceed the total square footage, excluding basement, of the main building.
- ii. The total floor area square footage for all accessory buildings does not exceed a cumulative total of 500 square feet in the side, rear, and front yard setbacks.

*2. In the R-1 to R-8 zoning districts for lots or tracts 7,500 square feet to less than 1 acre in size, and in AG and AGR zoning districts for lots or tracts less than 1 acre in size, the maximum cumulative square footage for all accessory buildings may be increased up to the above expanded maximum square feet provided:

- i. The total floor area square footage for all accessory buildings shall not exceed the total floor area square footage, excluding basement, of the main building.
- ii. The total floor area square footage for all accessory buildings does not exceed a cumulative 250 square feet in the side, rear, and front yard setbacks.
- iii. Any individual accessory building with a floor area of over 250 square feet in area must be located outside of the side, rear, and front yard setbacks.

*3. In the R-1 to R-8 zoning districts, for lots or tracts of 1 acre or larger in size, the maximum cumulative floor area square footage for all accessory buildings may be increased up to the above expanded maximum square feet provided:

- i. The total floor area square footage for all accessory buildings does not exceed a cumulative total of 250 square feet in the side, rear, and front yard setbacks.
- ii. Any individual accessory building with over 250 square feet in-of floor area area must be located outside of the side, rear, and front yard setbacks.

*4. In the AG zoning district for lots and tracts 1 acre to less than 10 acres, and in the AGR zoning district for lots or tracts 1 acre or greater, the maximum cumulative floor area square footage for all accessory buildings may be increased to the above expanded maximum square feet provided that the total floor area square footage of all accessory buildings does not exceed a cumulative total of 2,000 square feet in the rear setbacks.

5. Breezeways: The space between the garage wall and the dwelling that is covered shall be calculated and counted as floor area for the purpose of this section. Provided that the first 625 square feet of floor area under said breezeway shall not be counted toward the maximum or expanded maximum cumulative allowable floor area as set out in Table 27.72.120(d).

6. Covered patios, decks, and porches (Covered or uncovered) that are unenclosed and attached to the dwelling shall not be counted as floor area and shall not be counted toward the maximum or expanded maximum cumulative allowable floor area as set out in Table 27.72.120(d).

e. Attached and detached accessory buildings having a conditioned area shall comply with the applicable height restrictions and setback requirements of the main building.

Prepared by Steve Dush, AICP
(402) 441-6371 or sdush@lincoln.ne.gov

Date: July 24, 2024

Applicant: Lincoln-Lancaster County Planning Department
555 S 10th Street, Suite 213
Lincoln, NE 68508

ORDINANCE NO. _____

1 AN ORDINANCE amending Lincoln Municipal Code Section 27.72.120 Accessory
2 Buildings to clarify “floor” area in paragraph d. and to describe exceptions not included in the
3 maximum or expanded maximum accessory building square foot allowance; and repealing Section
4 27.72.120 as hitherto existing.

5 BE IT ORDAINED by the City Council of the City of Lincoln, Nebraska:

6 Section 1. That Section 27.72.120 of the Lincoln Municipal Code be amended to read
7 as follows:

8 **27.72.120 Accessory Buildings.**

9 (*Only applies to accessory structures associated with a main dwelling)

10 a. Accessory buildings which are attached to or not located more than (1) six feet from the main
11 building in the R-1 through R-8, O-1*, B-1*, and B-3* zoning districts and (2) 10 feet from the main
12 building in the AG, AGR, O-2, O-3, B-4, B-5, all H, and I-2 zoning districts shall be considered a part
13 of the main building and shall comply with the height, front, side, and rear yard requirements of the main
14 building, except that an accessory building attached to the main building by an unenclosed deck, patio,
15 ramp, open stair, or sidewalk and located in the rear yard shall not be considered part of the main
16 building, nor subject to the height and yard requirements of the main building. Any accessory building
17 separated from the main building by a breezeway shall meet the height and yard requirements for the
18 main building.

19 b. In all commercial and industrial zoning districts, accessory buildings shall not extend into any
20 required yard, except as otherwise stated in this chapter.

21 c. Accessory buildings which are not a part of the main building:

1 1. May, if located not less than sixty feet from the front lot line, extend into the required side yard
2 though not closer than two feet to the side lot line in the R-1 through R-8, O-1*, O-2, O-3, B-1*, B-
3 3*, B-4, all H, and the I-2 zoning districts, provided that such accessory buildings shall not be more
4 than fifteen feet in height.

5 2. May be located in the required rear yard, provided that such accessory buildings:

6 i. Shall not be nearer than two feet to the side or rear lot line in the AG, AGR, R-1 through
7 R-8, O-1*, O-2, O-3, B-1*, B-3*, B-4, B-5, all H, and the I-2 zoning districts.

8 ii. Shall not occupy more than the following percent of the required rear yard:

9 - Forty percent in the R-1 through R-6, O-1*, B-1*, and B-3* zoning districts.

10 - Thirty percent in the AG, AGR, R-7, R-8, O2, O3, B-4, B-5, all H, and the I-2 zoning districts.

11 iii. Shall not be more than fifteen feet in height in the R-1 through R-8, O-1*, O-2, O-3, B-1*,
12 B-3*, B-4, B-5, all H, and the I-2 zoning districts;

13 iv. Notwithstanding the above, an accessory building used as a garage and taking access from
14 an alley shall not be located closer than ten feet to the alley line in the R-1 through R-8, O-1*, O-
15 2, O3, B-1*, B-3*, B-4, B-5, all H, and the I-2 zoning districts.

16 v. Shall not abut a residential district in the O-2, O-3, B-5, H-4, and I-2 zoning districts.

17 vi. In the AG zoning district on lots 20 acres or more, accessory buildings shall not be nearer
18 than the lesser of a distance equal to ten percent of the average lot width from the side lot line or
19 60 feet.

20 3. May be located in the required front yard on double-frontage lots where at least one frontage is
21 along a major street in R-1, R-2, and R-3, provided such accessory buildings:

22 i. Shall not occupy any portion of any required front yard along the local street.

23 ii. Shall not be closer than two feet to the side lot line, closer than two feet to the front lot line
24 along the major street, or closer than two feet to an area specified as a building line district.

iii. Shall not occupy any portion of the required front yard along any major street except when a landscape screen is located along all front lot lines of such lot adjacent to any major street in conformance with the "Design Standards for Screening and Landscaping" adopted by the City of Lincoln.

iv. Shall not have direct vehicular access from any major street along any major street frontage in the block.

v. Shall not occupy more than 100 square feet for buildings and 600 square feet for structures of the required front yard along the major street.

vi. Shall not exceed fifteen feet in height and any accessory building or portion thereof within twenty feet of the front lot line along the major street shall not exceed eight feet in height.

4. Accessory buildings in the AG and AGR districts are not permitted in the side yard unless also located in the rear yard.

d. Maximum and expanded maximum cumulative allowable floor area for all accessory buildings on single family or two family residential lots or tracts in AG, AGR, and R-1 to R-8 zoning districts:

1. The maximum and the expanded maximum cumulative allowable floor area for all accessory buildings are as set out in Table 27.72.120(d) below. The applicable maximum cumulative allowable floor area may be increased up to the expanded maximum allowable floor area as provided in Table 27.72.120(d) Notes *1-4 below:

Table 27.72.120(d) Maximum and Expanded Maximum* Cumulative Allowable Floor Area for Accessory Buildings on Single Family or Two Family Residential Lots or Tracts						
*#Expanded Maximum only applies in accordance with the applicable Note *# below (e.g. *1)						
		Lot or Tract Size				
		less than 7,500 sq. ft.	7,500 sq. ft. to less than 20,000 sq. ft.	20,000 sq. ft. to less than 1 acre	1 acre or more	
R1- R-8 Accessory Building sq. ft.	Maximum	1,000	1,500	2,000	2,000	
	Expanded Maximum	1,500*1	3,000*2	3,000*2	5,000*3	
		less than 1 acre	1 acre to less than 2 acres	2 acres to less than 4 acres	4 acres to less than 10 acres	10 acres or more
	Maximum	2,000	2,000	2,000	2,000	2,000

**Table 27.72.120(d)
Maximum and Expanded Maximum* Cumulative Allowable Floor Area for Accessory Buildings
on Single Family or Two Family Residential Lots or Tracts**

*#Expanded Maximum only applies in accordance with the applicable Note *# below (e.g. *1)

		Lot or Tract Size				
		less than 7,500 sq. ft.	7,500 sq. ft. to less than 20,000 sq. ft.	20,000 sq. ft. to less than 1 acre	1 acre or more	
AGR Accessory Building sq. ft.	Expanded Maximum	3,000*2	6,000*4	8,000*4	20,000*4	No maximum*4
AG Accessory Building sq. ft.	Maximum	2,000	2,000	2,000	2,000	No maximum
	Expanded Maximum	3,000*2	6,000*4	8,000*4	20,000*4	

Notes:

*1. In the R-1 to R-8 zoning districts, for lots or tracts less than 7,500 square feet in size, the maximum cumulative floor area square footage of all accessory buildings may be increased up to the above expanded maximum square feet provided:

- i. Total floor area square footage for all accessory buildings does not exceed the total square footage, excluding basement, of the main building.
- ii. The total floor area square footage for all accessory buildings does not exceed a cumulative total of 500 square feet in the side, rear, and front yard setbacks.

*2. In the R-1 to R-8 zoning districts for lots or tracts 7,500 square feet to less than 1 acre in size, and in AG and AGR zoning districts for lots or tracts less than 1 acre in size, the maximum cumulative square footage for all accessory buildings may be increased up to the above expanded maximum square feet provided:

- i. The total floor area square footage for all accessory buildings shall not exceed the total floor area square footage, excluding basement, of the main building.
- ii. The total floor area square footage for all accessory buildings does not exceed a cumulative 250 square feet in the side, rear, and front yard setbacks.
- iii. Any individual accessory building with a floor area of over 250 square feet in area must be located outside of the side, rear, and front yard setbacks.

*3. In the R-1 to R-8 zoning districts, for lots or tracts of 1 acre or larger in size, the maximum cumulative floor area square footage for all accessory buildings may be increased up to the above expanded maximum square feet provided:

- i. The total floor area square footage for all accessory buildings does not exceed a cumulative total of 250 square feet in the side, rear, and front yard setbacks.
- ii. Any individual accessory building with over 250 square feet in floor area must be located outside of the side, rear, and front yard setbacks.

*4. In the AG zoning district for lots and tracts 1 acre to less than 10 acres, and in the AGR zoning district for lots or tracts 1 acre or greater, the maximum cumulative floor area square footage for all accessory buildings may be increased to the above expanded maximum square feet provided that the total floor area square footage of all accessory buildings does not exceed a cumulative total of 2,000 square feet in the rear setbacks.

5. Breezeways: The space between the garage wall and the dwelling that is covered shall be calculated and counted as floor area for the purpose of this section. Provided that the first 625 square feet of floor area under said breezeway shall not be counted toward the maximum or expanded maximum cumulative allowable floor area as set out in Table 27.72.120(d).

6. Covered patios, decks, and porches (Covered or uncovered) that are unenclosed and attached to the dwelling shall not be counted as floor area and shall not be counted toward the maximum or expanded maximum cumulative allowable floor area as set out in Table 27.72.120(d).

1 e. Attached and detached accessory buildings having a conditioned area shall comply with the applicable
2 height restrictions and setback requirements of the main building.

3 f. Accessory buildings on outlots, where allowed, shall maintain a minimum six foot (6') setback from all
4 property lines.

5 Section 2. That Section 27.72.120 of the Lincoln Municipal Code as hitherto existing
6 be and the same is hereby repealed.

1 Section 3. This ordinance shall be published, within fifteen days after the passage
2 hereof, in one issue of a daily or weekly newspaper of general circulation in the City, or posted on
3 the official bulletin board of the City, located on the wall across from the City Clerk’s office at
4 555 S. 10th Street, in lieu and in place of the foregoing newspaper publication with notice of
5 passage and such posting to be given by publication one time in the official newspaper by the City
6 Clerk. This ordinance shall take effect and be in force from and after its passage and publication
7 or after its posting and notice of such posting given by publication as herein and in the City Charter
8 provided.

Introduced by:

Approved as to Form & Legality:

City Attorney

Approved this ___ day of _____, 2024:

Mayor



LINCOLN/LANCASTER COUNTY PLANNING COMMISSION STAFF REPORT

FROM THE LINCOLN/LANCASTER COUNTY PLANNING DEPARTMENT, 555 S. 10TH STREET, SUITE 213, LINCOLN, NE 68508

APPLICATION NUMBER Text Amendment #24010	FINAL ACTION? No
PLANNING COMMISSION HEARING DATE July 24, 2024	RELATED APPLICATIONS None

RECOMMENDATION: APPROVAL

BRIEF SUMMARY OF REQUEST

The proposed application is to amend Title 27.06.020(b)(1) of the Lincoln Municipal Code (LMC) to allow more than two single-family dwellings on a lot or tract in the O-1, O-2, O-3, R-T, B-1, B-2, B-3, B-4, B-5, H-1, H-2, H-3, H-4, I-1, I-2, or I-3 districts.

JUSTIFICATION FOR RECOMMENDATION

Removing the restriction on the number of single-family dwelling units on a single lot or tract in the commercial and industrial zoning district will not have a negative impact on current utility and building regulations or adjacent properties. This amendment will also provide more flexibility in how housing may be provided in the City of Lincoln and Lancaster County.

APPLICATION CONTACT

David Cary, Director, Lincoln-Lancaster County Planning Department, (402) 441-7491

STAFF CONTACT

Emma Martin, (402) 441-6369 or emartin@lincoln.ne.gov.

COMPATIBILITY WITH THE COMPREHENSIVE PLAN

This amendment is compatible with the 2050 Comprehensive Plan, as it is in line with Policy #3, Developing Neighborhoods. Specifically, this amendment speaks to Action Steps 4 and 15 of Policy #3, which supports new design standards or zoning tools that help lower the cost of property development and encourage density and encourage the examination and modification of the requirements of current residential zoning districts to encourage ‘missing middle’ housing options. This amendment will also support Goal #1 of the Comprehensive Plan by encouraging affordable and accessible housing that will meet the diverse needs of the Lincoln community.

KEY QUOTES FROM THE 2050 COMPREHENSIVE PLAN

Goals Section

G1: Safe, Affordable, and Accessible Housing. Lincoln and Lancaster County will support the development of safe, affordable, and accessible quality housing that meets the diverse needs of the community. PlanForward understands the ongoing need for affordable housing and supports development of 5,000 affordable units by the year 2030.

Policies Section

P3: Developing Neighborhoods - Accommodate and encourage growth that aligns with PlanForward’s growth scenario

and provides a mix of housing options with convenient access to parks, schools, shopping, jobs, and other community resources.

Action Steps

4. Develop new design standards or zoning tools that encourage density, optimize infrastructure costs, and help lower the overall cost of property development.
15. Examine current residential zoning districts and propose modifications to encourage ‘missing middle’ units (single-family attached, cottage courts, townhomes, live-work, and a variety of three- and four-plex configurations), including affordable units, to people with a range of incomes. Neighborhood edges in particular present an opportunity for missing middle housing.

P12: Economic Growth - Promote and foster appropriate, balanced, and focused future economic growth that maintains the quality of life of the community.

Action Steps

6. Explore additional opportunities for streamlining the zoning and building permitting processes.

ANALYSIS

1. This text amendment to Title 27 of the Lincoln Municipal Code (LMC) is being requested by the Lincoln-Lancaster County Planning Department and would allow more than two single-family dwellings on a lot or tract in the O-1, O-2, O-3, R-T, B-1, B-2, B-3, B-4, B-5, H-1, H-2, H-3, H-4, I-1, I-2, or I-3 districts. Currently, Section 27.06.020(b)(1) does not permit more than two single-family dwellings on one lot or tract in the aforementioned zoning district and the R-5, R-6, R-7, or R-8 districts.
2. The text would be modified as follows:

27.06.020 Classification of Use Types.

b. More Than One Main Use.

2. More Than One Main Building or Use on a Lot or Tract in R-5, R-6, R-7, R-8, O-1, O-2, O-3, R-T, B-1, B-2, B-3, B-4, B-5, H-1, H-2, H-3, H-4, I-1, I-2, or I-3 District. A lot or tract located in the R-5, R-6, R-7, R-8, O-1, O-2, O-3, R-T, B-1, B-2, B-3, B-4, B-5, H-1, H-2, H-3, H-4, I-1, I-2, or I-3 district may have more than one main building or use, but only when such buildings or uses conform to all open space requirements for the district in which the lot or tract is located. The exception is that no more than two single-family dwellings may be on a lot or tract **in the R-5, R-6, R-7, and R-8 districts**. A lot or tract in the AG or AGR District may have one additional main building or use but shall still be limited to one single-family dwelling per lot or tract.
3. This request was initiated when the Planning Department was approached by Bridges to Hope, the organization developing Use Permit #22005 located at the SE corner of N 27 Street and Leighton Avenue. Bridges to Hope is interested in building the residential units approved by the use permit on one large lot, instead of the more standard one or two dwellings per lot.
4. UP22005 is an R-T, Residential Transition district use permit that currently permits 20 residential units and one community center. The units in this use permit are “tiny homes”, homes smaller than the average single-family dwelling, which is reflected in the minimum lot sizes approved by a waiver (300 SF for single-family, 600 SF for two-family). UP22005 was approved by the Lincoln City Council on July 25, 2022.
5. Discussions between Lincoln Transportation and Utilities staff concluded that providing necessary utilities would not be hindered by the individual homes existing on a single lot, and the Building & Safety Department noted that as long as there was appropriate separation between structures as required, they were not concerned.
6. It was initially believed that multiple individual dwellings on a single lot would be permitted and Bridges to Hope could amend the use permit, but the provision in Section 27.06.020(b)(1) restricted this, stating that no more than two single-family dwellings may be on a lot or tract in the R-T district.
7. A review into the origin of the restriction in the Lincoln Municipal Code (LMC) determined that the 2010 update of

the LMC added the restriction, where it was stated in Section 27.71.130. The 2013 LMC update moved the restriction from Section 27.71.130 to Section 27.06.020, where it is today.

8. After a review of the ordinances and changes it was determined that there isn't a specific reason for the addition of the restriction, as it is appropriate to allow more than two single-family dwellings on a lot or tract in the commercial and industrial zoning districts.
9. The text amendment will not create issues with existing Height and Lot regulations, nor conflict with building code standards, and would not change water, wastewater, or electrical service requirements. Any lot or tract with more than two single-family dwellings would still be required to meet all the existing regulations, from distance to building height. The only change would be that more than two single-family dwellings would be allowed to exist on a single lot or tract.
10. This amendment will not allow additional residential units in industrial districts. It only addresses pre-existing circumstances where there are multiple houses existing in industrial zoning, and there are few places in Lincoln where residential uses are located in industrial districts.
11. This change would also comply with Policy #3 in the 2050 Comprehensive Plan, which discusses developing neighborhoods. Policy #3 supports the accommodation and growth of housing through examining current zoning and proposing modifications to encourage 'missing middle' units, such as single-family attached, townhomes, three- and four-plex configurations, and more, all of which would accommodate a housing for residents with a range of incomes. This text amendment would allow developments like those proposed in UP22005 to have more flexibility in their developments, specifically developments that provide housing for lower income and underserved populations.
12. Finally, this text amendment would not change the existing requirements for R-1 through R-8 districts. The only residential district impacted is the R-T district, which is a zoning district that requires a Use Permit as part of its development and must be approved by the Planning Commission. This amendment is a step forward in addressing 'missing middle' housing without a significant impact on existing residential districts. In the future, it would be appropriate to allow multiple single- or two-family dwellings on one lot in residential zoning districts as well. In many communities, multiple small houses on a single lot has led to the creation of more affordable housing options. However, additional conditions may be appropriate in residential zoning districts and those were beyond the scope of this amendment. The main purpose of this amendment was to address this type of housing in commercial districts.

Prepared by Emma Martin, Planner
(402) 441-6369 or emartin@lincoln.ne.gov

Date: July 11, 2024

Applicant: Lincoln-Lancaster County Planning Department
555 S 10th Street, Suite 213
Lincoln, NE 68508

Contact: Emma Martin
555 S 10th Street, Suite 213
Lincoln, NE 68508
emartin@lincoln.ne.gov

[https://linclanc.sharepoint.com/sites/PlanningDept-DevReview/Shared Documents/DevReview/TX/24000/TX24010 27.06.020\(b\) Use Groups.edm.docx](https://linclanc.sharepoint.com/sites/PlanningDept-DevReview/Shared Documents/DevReview/TX/24000/TX24010 27.06.020(b) Use Groups.edm.docx)

ORDINANCE NO. _____

1 AN ORDINANCE amending Lincoln Municipal Code Section 27.06.020 Classification
2 of Use Types by amending paragraph b. More Than One Main Use, subparagraph 2., to allow more
3 than two single-family dwellings on lots or tracts located in the O-1, O-2, O-3, R-T, B-1, B-2, B-
4 3, B-4, B-5, H-1, H-2, H-3, H-4, I-1, I-2, or I-3 districts; and repealing Section 27.06.020 as
5 hitherto existing.

6 BE IT ORDAINED by the City Council of the City of Lincoln, Nebraska:

7 Section 1. That Section 27.06.020 of the Lincoln Municipal Code be amended to read
8 as follows:

9 **27.06.020 Classification of Use Types.**

10 a. Considerations.

11 1. Main uses of a building or premises (sometimes referred to in this Title as “use types”) are
12 assigned to the Use Group whose description most closely describes the nature of the main use. The
13 main use may have one or more accessory uses. The use of a building or premises for more than
14 one main use is addressed in subsection (b) below. Accessory uses are addressed in subsection (c)
15 below.

16 2. The Building Official shall prepare and maintain an up-to-date list of common uses included within
17 each use group (“List of Use Group Types”). When any proposed use is not listed on the List of Use
18 Group Types, the Building Official shall make a determination as to what Use Group the proposed
19 use will be assigned to. If a building or premises is used for two or more main uses, each use shall
20 be classified in the Use Group whose description most closely portrays the nature of such uses. The

1 Building Official's classification of a use is subject to the right of appeal to the Board of Zoning
2 Appeals pursuant to Section 27.75.030. The following items shall be considered when determining
3 what Use Group a main use is classified in, and whether the activities associated with the main use
4 constitute an accessory use:

5 i. The description of the activity in relationship to the characteristics of each use group;

6 ii. The relative amount of site or floor space and equipment devoted to the activity;

7 iii. Relative amounts of sales from each activity;

8 iv. The customer type for each activity;

9 v. The relative number of employees in each activity;

10 vi. Hours of operation;

11 vii. Building and site arrangement;

12 viii. Vehicles and/or machinery used with the activity;

13 ix. The relative number of vehicle trips generated by the activity;

14 x. Whether the activity would be likely to be found independent of the other activities on
15 the site.

16 xi. Off-site impacts

17 b. More Than One Main Use.

18 1. When a building or premises has more than one main use, each main use shall comply with the
19 regulations of the zoning district in which the use is located.

20 2. More Than One Main Building or Use on a Lot or Tract in R-5, R-6, R-7, R-8, O-1, O-2, O-3, R-T, B-
21 1, B-2, B-3, B-4, B-5, H-1, H-2, H-3, H-4, I-1, I-2, or I-3 District. A lot or tract located in the R-5, R-6,
22 R-7, R-8, O-1, O-2, O-3, R-T, B-1, B-2, B-3, B-4, B-5, H-1, H-2, H-3, H-4, I-1, I-2, or I-3 district may have
23 more than one main building or use, but only when such buildings or uses conform to all open space

1 requirements for the district in which the lot or tract is located. The exception is that no more than
2 two single-family dwellings may be on a lot or tract in the R-5, R-6, R-7, and R-8 districts. A lot or
3 tract in the AG or AGR District may have one additional main building or use but shall still be limited
4 to one single-family dwelling per lot or tract.

5 3. Place of Religious Assembly, More than One Building or Main Use on a Lot or Tract in the R-1, R-
6 2, R-3, or R-4 District. A lot or tract located in the R-1, R-2, R-3, or R-4 district occupied by a place of
7 religious assembly may have more than one main building or use, provided the additional use or
8 uses are a dwelling for members of religious orders, early childhood care facility, private school,
9 urban garden, or a use allowed by special permit.

10 4. Two or More Buildings for Two-family Dwellings, Multiple-family, or Institutional Purposes. In the
11 event that a lot or tract located in the R-1 through R-4 zoning district is to be occupied under a
12 special permit or planned unit development by a group of two or more buildings to be used as a unit
13 for any combination of two-family dwellings, multiple-family dwelling, or institutional purposes,
14 there may be more than one main building on the lot; provided, however, that the open space
15 between buildings shall have a minimum dimension of twenty feet, unless modified by the approval
16 of a special permit or planned unit development. In addition, the lot or tract must meet the height
17 and area regulations in said district for each main building or use except yards, average lot width,
18 and height may be modified by approval for such use under the special permit or planned unit
19 development.

20 5. Multiple Dwelling Considered as One Building. For the purpose of the side yard regulations, a two-
21 family dwelling or a multiple dwelling shall be considered as one building occupying one lot.

22 c. Accessory Uses.

23 1. Accessory uses permitted in each district are accessory buildings and uses customarily incident to

1 any of the permitted uses, permitted conditional uses, or permitted special uses in the district unless
2 stated otherwise in the regulations.

3 2. Construction and Use of Accessory Buildings. No accessory buildings shall be constructed upon a
4 lot until the construction of the main building has been commenced, and no accessory buildings
5 shall be used for dwelling purposes, except as otherwise provided herein.

6 3. In R-1 through R-4 zoning districts, an accessory building may be used as an accessory dwelling in
7 conformance with the requirements of Section [27.62.040](#), and in AG and AGR zoning districts, an
8 accessory building may be used for dwelling purposes by not more than two domestic employees
9 employed entirely on the premises if a special permit for such use has been obtained in
10 conformance with the requirements of [Chapter 27.63](#).

11 4. Unless otherwise stated, accessory uses are subject to all applicable regulations of the main use.

12 5. Production, manufacture, distribution, and storage of toxic, radioactive, flammable, or explosive
13 materials, including chemicals and gases, fireworks, and explosives, except fireworks, shall be
14 allowed in connection with a permitted commercial, business, or industrial purpose as incidental to
15 the referenced permitted use without the requirement of obtaining a special permit.

16 6. Early childhood care facilities and schools are not a permitted accessory use to a place of religious
17 assembly in the I-1 Industrial District.

18 7. Solar Energy Conversion Systems (SECS) and Wind Energy Conversion Systems (WECS) are
19 permitted accessory uses associated with a primary use on the lot or premises in all zoning districts
20 provided they are in conformance with the provisions of [Chapter 27.72](#) and any other applicable
21 regulations of this title and are generally consistent with the energy demand of the premises.

1 i. SECS and WECS that are considered part of the main building shall comply with the height,
2 front, side, and rear yard requirements of the main building except as otherwise allowed under
3 Sections 27.63.420, 27.72.060(n), and 27.72.110(a) and (b).

4 ii. SECS and WECS not part of the main building shall comply with the height and setback
5 requirements applicable to accessory buildings as described in Section 27.72.120(c).

6 8. The sale of alcohol for consumption on the premises, off the premises, or both on and off the
7 premises shall be allowed as an accessory use as part of a residential health care facility or an elderly
8 and retirement housing facility where said facilities are allowed as a permitted use, a conditional
9 use, or a special permitted use.

10 d. Occupancy of Basements and Cellars. No basement or cellar shall be occupied for residential
11 purposes until the remainder of the building has been substantially completed.

12 e. Access for Uses. The means of access to any use may pass through land which is in a different
13 zoning district as long as that land has been approved for access via a public access easement to and
14 from a public street or private roadway. If the access is for a commercial or industrial use, it may pass
15 through a different commercial or industrial zoning district via a driveway, with or without a public
16 access easement, or via a public street or private roadway. If the access is for a commercial use
17 approved by special permit in a residential zoning district which is adjacent to commercial use, it may
18 take access through that residential zoning district.

19 Section 2. That Section 27.06.020 of the Lincoln Municipal Code as hitherto existing
20 be and the same is hereby repealed.

21 Section 3. This ordinance shall be published, within fifteen days after the passage
22 hereof, in one issue of a daily or weekly newspaper of general circulation in the City, or posted on
23 the official bulletin board of the City, located on the wall across from the City Clerk's office at

1 555 S. 10th Street, in lieu and in place of the foregoing newspaper publication with notice of
2 passage and such posting to be given by publication one time in the official newspaper by the City
3 Clerk. This ordinance shall take effect and be in force from and after its passage and publication
4 or after its posting and notice of such posting given by publication as herein and in the City Charter
5 provided.

Introduced by:

Approved as to Form & Legality:

City Attorney

Approved this ___ day of _____, 2024:

Mayor



LINCOLN/LANCASTER COUNTY PLANNING COMMISSION STAFF REPORT
 FROM THE LINCOLN/LANCASTER COUNTY PLANNING DEPARTMENT, 555 S. 10TH STREET, SUITE 213, LINCOLN, NE 68508

APPLICATION NUMBER
 Text Amendment #24007
 Convert Special Permits for the sale of alcohol to Conditional Uses

FINAL ACTION?
 No

PLANNING COMMISSION HEARING DATE
 July 24, 2024

RELATED APPLICATIONS
 None

RECOMMENDATION: APPROVAL

BRIEF SUMMARY OF REQUEST

This is a request to amend Sections 27.62 and 27.63 of the Lincoln Municipal Code to allow the sale of alcoholic beverages for consumption on and off the premises as conditional uses, rather than as special permitted uses. It further amends Sections 27.62 and 27.63 to clarify the conditions where sale of alcoholic beverages, on or off the premises, are permitted for residential health care and outdoor recreational facilities.

JUSTIFICATION FOR RECOMMENDATION

Conditional approval provides the same protections afforded by the special permit because all the requirements will remain intact. A conditional use relieves the City of the burden of processing applications for a hearing at Planning Commission. This also saves applicants' time, money and the resources necessary to make an application. The timing of the related licensing process with the State would also be better aligned with the City's zoning review.

APPLICATION CONTACT

Brian Will, bwill@lincoln.ne.gov
 402-441-6362

COMPATIBILITY WITH THE COMPREHENSIVE PLAN

Streamlining and eliminating unnecessary process is a continuous and ongoing effort. Simplification where appropriate better serves the public and the City by freeing up resources for other uses. Regular review and updating of the provisions of the Zoning Ordinance to better serve residents is consistent with the Goals of the Comprehensive Plan.

KEY QUOTES FROM THE 2050 COMPREHENSIVE PLAN

P10 - Supporting Small Business - Action Steps

- 6. Regularly review and update City ordinances, policies and processes to make them friendlier for small businesses and entrepreneurs.

P12 - Economic Growth - Action Steps

- 1. Explore additional opportunities for streamlining the zoning and building permitting processes.

P17 - Predictability - Action Steps

- 1. Continue to make updates as needed to zoning and subdivision ordinances, along with design standards, to support economic development, complete neighborhoods, and other PlanForward initiatives.

ANALYSIS

1. This is a request to amend Sections 27.62 and 27.63 of the Lincoln Municipal Code to allow the sale of alcoholic beverages for consumption on and off the premises as a conditional use, rather than a special permitted use. It further amends Sections 27.62 and 27.63 to clarify the conditions where sale of alcoholic beverages, on or off the premises, are permitted for residential health care and outdoor recreational facilities.
2. The special permits in the Zoning Ordinance regulating the sale of alcohol for consumption both on and off the premises were adopted in 1994. Since then, the regulations have been amended several times, but most significantly in 2004. Prior to 2004 both on and off the premises special permits required City Council approval and included a provision that allowed the siting criteria to be adjusted and approved by the City Council. It read as follows:

Pre-2004 Amendment Text - *“The licensed premises of any building approved for such activity must be located no closer than 100 feet from a day care facility, a residential district or residential use, or, if a lesser distance, must mitigate any adverse effects of the reduction in distance through landscaping, screening, or other methods approved by the Planning Director.”*

3. The 2004 change required that the licensed premises be 100’, without any option for reduction, from a first-floor residential use, park, church, state mental health institution, or residential zoning district. This amendment also granted the Planning Commission the authority to approve the permits and City Council consideration was no longer required. It reads as follows:

Post-2004 and Current Text - *“The designated area specified in a license issued under the Nebraska Liquor Control Act of any building approved for such activity must be located no closer than (i) 100 feet from the property line of a premises used in whole or in part for a first-floor residential use, day care facility which is not the residence of the childcare provider, park, place of religious assembly, or state mental health institution, or (ii) 100 feet from a residential district (except where such use is accessory to a golf course, country club, farm winery, or market garden).”*

4. With the ability to vary the 100’ separation gone, there is no variability to the special permits. That is, if a proposed premise meets all the requirements the owner can apply for a special permit. Those that do not meet all the criteria cannot apply. Given the number and specificity of the criteria, the City Attorney’s Office at the time of this amendment noted that an application that complied with all the criteria would be difficult to deny.

The result of the 2004 amendment is that the alcohol special permits function like conditional uses. Conditional uses exist in all zoning districts and require no formal approval by the City, only compliance with the stated conditions. Conversely, any use that doesn’t comply with all of the conditions is not allowed. Like conditional uses, there is little room for any subjectivity to be applied to the review process of the alcohol special permits. A premise must meet all the criteria to even apply, and for those that do, there is a presumption of approval given the number of conditions being met.

5. The sale of alcohol has always been a permitted use in the B-4 Lincoln Center Business zoning district, and a conditional use in the B-2 Planned Neighborhood Business and B-5 Planned Regional Business districts since 2004. As a conditional use in those two districts no special permit is required. Those premises which meet the conditions are allowed without further review on the part of the City or delay or cost caused to the applicant. Therefore, the City is already approving alcohol sales as a conditional use in these zoning districts.
6. Since the 2004 amendment not a single special permit for on- or off-sale has been denied by the City. There have been a total of 120 special permit applications since then, and 118 have been approved. The remaining two were withdrawn by the applicant. No applications have ever been denied.

Over the 30 years that have passed since their inclusion in the code in 1994, the vast majority of the alcohol special permit applications submitted have little real impact relative to the siting of the sale of alcohol in areas of concern. Most are in intensive zoning districts where such uses are anticipated and encouraged to locate.

7. The confusion caused for applicants by the special permit is worth noting. Most are aware that a liquor license is required by the State and proceed directly to the State Liquor Commission to make an application. However, most are not aware that a special permit is required by Lincoln's Zoning Ordinance. The State does not inform prospective licensees in Lincoln of the zoning requirement despite having been asked several times by City staff to do so.
8. In practice, the first notice of a new alcohol sales location the City receives is typically when the license application is forwarded from the State to the City Clerk to schedule for the City Council's review and recommendation. City staff is notified and reviews each application and among other things notes whether it is compliant with the Zoning Ordinance. For many that means a special permit is required and the applicant is made aware of this fact.
9. Timing becomes an issue as the State has an internal processing window of 45 days from the date of application to decision. Given the time involved to process the application at the State, have that application forwarded to the City Clerk, perform an internal review and then notify the applicant of the disposition of the application, there is not enough time for the applicant to submit an application for a special permit and gain Planning Commission approval in a parallel timeframe.

To make application to the City for a special permit, the following items must be submitted:

- A completed zoning application form;
- A brief narrative explaining the application;
- A site plan;
- And the application fee of up to \$1,109.

Applications must be submitted approximately 30 days in advance of a Planning Commission meeting to be considered.

Due to these time constraints the City is often placed in the position to either recommend denial of the liquor license (due to the lack of a special permit) or approval subject to the applicant following up with the City to acquire a special permit. The added time to apply for the special permit and take it to a public hearing at the Planning Commission also causes delays in the issuance of building permit for those that need one.

10. Of those conditional approvals of the liquor license that are required to apply for the special permit, many do apply for the special permit, but not all. These cases then create an enforcement issue for the City by having to track those needing a special permit to ensure they follow up and apply.
11. Since no special permit for the sale of alcohol has been denied since the 2004 amendment was adopted, and with the significant list of requirements needed for approval, there is a presumption of approval with alcohol sales special permits. This approval process therefore already acts like a conditional use.
12. Conditional approval provides the same protections afforded by the special permit because all the requirements will remain intact. A conditional use relieves the City of the burden of processing applications to go to a hearing at the Planning Commission. This would also save applicants time, money and the resources necessary to make an application. The State's review process would be better aligned with the City's zoning review as well.
13. In contrast to special permits, there is no separate application for a conditional use. Conditional uses are simply reviewed at the time of building permits, or during the review of liquor licenses. No application or fee is required to be submitted by the applicant.

ORDINANCE NO. _____

1 AN ORDINANCE amending Lincoln Municipal Code Section 27.62.100 Retail Sales and
2 Services Use Group and Section 27.62.110 Food and Drink Establishments Use Group to convert
3 special permits for on and off-sale alcohol to conditional uses thereby repealing Section 27.63.680
4 Sale of Alcoholic Beverages for Consumption On the Premises and Section 27.63.685 Sale of
5 Alcoholic Beverages for Consumption Off the Premises; and repealing Sections 27.62.100 and
6 27.62.110 as hitherto existing.

7 BE IT ORDAINED by the City Council of the City of Lincoln, Nebraska:

8 Section 1. That Section 27.62.100 of the Lincoln Municipal Code be amended to read
9 as follows:

10 **27.62.100 Retail Sales and Services Use Group.**

11 A building or premises may be used for the following use types as a permitted conditional use in the
12 designated zoning districts and in compliance with the conditions of approval applicable for that use type.

13 a. Hotels and motels are allowed in the I-3 zoning district under the following conditions:

14 1. The total square footage of such use shall not exceed ten percent (10%) of the buildable square
15 footage of the tract of land included within the boundaries of the use permit assuming a floor-to-
16 area ratio of one to four.

17 2. Accessory uses operated by a concessionaire or lessee of an employer may occupy no more than
18 five percent (5%) of the total floor area of the hotel or motel.

19 b. Kennels and/or Veterinary Facilities may be allowed in those zoning districts where such use is
20 designated as a permitted conditional use under a Use Group Table in [Chapter 27.06](#), under the
21 following conditions:

- 1 1. Any associated outdoor area must be located no closer than 200 feet from any R-1 through R-8
2 residential district.
- 3 2. No more than 3 animals are permitted in the outdoor area at any one time, except for the AG and
4 AGR Districts.
- 5 3. In the AG and AGR districts the lot shall be a least 10 acres in size.

6 (NOTE: If the above conditions cannot be met, the use may be allowed upon approval of a special
7 permit pursuant to [Chapter 27.63](#)).

8 c. Motorized vehicle sales and/or repair/services facilities are permitted in the B-3, B-4, H-2, and H-
9 3 zoning districts and motorized vehicle services is permitted in the B-1 under the following conditions:

10 1. In the B-1 and B-3 zoning districts:

- 11 i. No facility shall be permitted to locate within 100 feet of any residential use or district;
- 12 ii. Any facility located within 100 feet of any residential use or district which was lawfully
13 established in the B-1 or B-3 zoning district on the effective date of this ordinance, shall screen
14 the facility from such residential use or district by the use of an opaque fence six feet in height,
15 constructed of wood or of a substitute material acceptable to the Director of Building and Safety;
- 16 iii. The locational or screening requirements of (i) and (ii) above shall not apply when said
17 residential use or district is across a public street from the motorized vehicle sales and/or repair
18 facility, but shall apply if said residential use or district is across an alley or private drive from said
19 facility;

20 2. In the H-2 and H-3 zoning districts, the storage of vehicles for sale and resale is permitted in the
21 front yard except for the front twelve feet under the following conditions:

- 22 i. Parking barriers in accordance with parking lot design standards must be provided around
23 the storage/display area to prevent the vehicles stored/displayed for sale or resale from
24 overhanging the front twelve feet of the front yard.

1 ii. No vehicle shall be stored/displayed for sale or resale in the front yard upon a raised
2 concrete island or on a raised display structure.

3 iii. The hood or trunk or both of vehicles stored/displayed for sale or resale in the front yard
4 shall not be open except when being inspected by a customer or for servicing.

5 iv. The front twelve feet of the front yard shall be devoted to shrubs and grasses.

6 v. The front twelve feet of the front yard not permitted to be used for the storage of vehicles
7 for sale and resale shall be screened at least sixty percent from zero feet to two feet above the
8 surface of the lot. The design and construction of the landscaping shall be in conformance with
9 the Design Standards for Screening and Landscaping except that fences may not be used to meet
10 the above screening requirements. If plant material is used, the density percentage is calculated
11 using the design size found in the City of Lincoln’s plant material list approved by the Planning
12 Director. The landscape screen shall be located throughout the area but far enough from the
13 barrier so as to be protected from the bumpers of overhanging vehicles. Entrance driveways shall
14 be excluded from the required screen.

15 vi. No fence shall be erected in the front yard.

16 vii. Lighting in the front yard shall be in conformance with the Design Standards for Outdoor
17 Lighting.

18 viii. Any existing motorized vehicle sales facility lawfully established on the effective date of
19 this ordinance which does not comply with conditions (i) through (vii) above may be continued
20 in accordance with the provisions of [Chapter 27.61](#) for nonconforming uses.

21 3. In the H-3 district, any associated outdoor area for the storage of motorized vehicles (“Outdoor
22 Storage Area”) for sale or resale is permitted in any required side yard abutting a nonresidential
23 district, provided that no motorized vehicle shall be displayed or stored in the first five feet (5') of
24 the required side yard adjacent to the abutting nonresidential district.

1 4. In the area of the B-4 zoning district from 150 feet east of 17th Street to the eastern edge of the
2 B-4 zoning district, motorized vehicle sales and/or repair/service facilities are prohibited;

3 d. Motor fuel sales facilities are allowed in the B-4 zoning district under the following condition: In
4 the area of the B-4 zoning district from 150 feet east of 17th Street to the eastern edge of the B-4
5 zoning district, fuel sales facilities are prohibited;

6 e. Motorized vehicle wash facilities are allowed in the B-1, B-2, B-3, B-4, H-2, and H-3 zoning districts
7 under the following conditions:

8 1. In the B-1, B-2, and B-3 zoning districts, a self-service, coin-operated wash facility shall not exceed
9 four wash bays.

10 2. In the H-2 and H-3 zoning districts, a self-service, coin-operated wash facility shall not exceed six
11 wash bays.

12 3. In the B-2 and B-3 zoning districts, the stacking space shall not be located within the required
13 front yard.

14 4. In the area of the B-4 zoning district from 150 feet east of 17th Street to the eastern edge of the
15 B-4 zoning district and in the area bounded by 10th Street, 150 feet north of "P" Street, 14th Street,
16 and "N" Street, motorized vehicle wash facilities are prohibited;

17 f. Outdoor seasonal sales, tents, and other temporary structures are allowed in the AG and AGR
18 zoning districts under the following conditions:

19 1. In the AG and AGR zoning districts, roadside stands for the temporary or seasonal sale of produce
20 shall:

21 i. Be located outside the city limits;

22 ii. Be allowed in addition to any other main use, regardless of lot size;

23 iii. Be allowed in a required yard, provided that such roadside stand shall be located no closer
24 than thirty feet to the edge of a traveled roadway;

1 iv. Not be operated for more than 180 days in any one calendar year.

2 g. Parking as a primary use is allowed in the O-2 and B-4 zoning districts under the following
3 conditions:

4 1. In the O-2 zoning district provided that no part of the street frontage within the block face on
5 which a parking lot is proposed to be located may be zoned residential.

6 2. In the area of the B-4 zoning district bounded by 10th Street, 150 feet north of “P” Street, 14th
7 Street, and “N” Street, parking as a primary use is prohibited;

8 (NOTE: If the above conditions cannot be met, the use may be allowed upon approval of a special
9 permit pursuant to [Chapter 27.63](#)).

10 h. Personal Services are allowed uses in the O-1, O-2, O-3, and R-T zoning district under the following
11 conditions:

12 1. In the O-1 and O-3 zoning districts:

13 i. The services shall be located entirely within a building containing office or residential
14 uses.

15 ii. The services shall not exceed twenty percent of the total square feet of floor area in such
16 building.

17 2. In the O-2 and R-T zoning districts, the floor area of said use shall not exceed 5,000 square feet.

18 i. Retail sales including mail order catalog sales are allowed in the O-1, O-3, H-3, H-4, I-1, and I-3
19 zoning districts under the following conditions:

20 1. In the O-1 and O-3 zoning districts:

21 i. The retail sales shall be located entirely within a building containing office or residential
22 uses.

23 ii. Retail sales shall not exceed twenty percent of the total square feet of floor area in such
24 building.

1 iii. Retail sales shall occupy no more than 10,000 square feet of floor area per business.

2 2. In the H-3 zoning district, retail sales shall occupy no more than 20,000 square feet of floor area
3 per business.

4 3. In the H-4 zoning district, retail sales shall occupy no more than 30,000 square feet of floor area
5 per business.

6 4. In the I-1 zoning district, retail sales and service shall occupy no more than 20,000 square feet of
7 floor area per business.

8 (NOTE: If conditions (2), (3), and (4) above cannot be met, the use may be allowed if a special permit is
9 approved pursuant to [Chapter 27.63](#)).

10 5. In the I-2 zoning district, retail uses in the aggregate shall not exceed twenty percent (20%) of the
11 buildable square footage of the land included within the boundaries of the district.

12 6. In the I-3 Employment Center District:

13 i. Retail uses in the aggregate shall not exceed twenty percent (20%) of the buildable square
14 footage of the land included within the boundaries of the use assuming a floor-to-area ratio of
15 one to four; and

16 ii. The total of all retail, office, post-secondary education facilities, nonprofit religious, educational,
17 and philanthropic institutions permitted in the I-3 District and early childhood care facilities
18 specially permitted shall not in the aggregate exceed fifty percent (50%) of the buildable square
19 footage of the land included within the boundaries of the use permit assuming a floor-to-area
20 ratio of one to four. A user of 75,000 square feet or more of floor area shall not be subject to the
21 fifty percent (50%) limitation.

22 j. Sale of alcoholic beverages for consumption off the premises is allowed in the B-2 and B-5 zoning
23 districts under the following conditions:

1 1. Parking shall be in conformance with the provisions of [Chapter 27.67](#); provided that in the B-5
2 zoning district no parking spaces shall be located in that portion of any required side yard or rear
3 yard of the building containing the licensed premises that abuts a residential district.

4 2. Any exterior door opening must meet the following conditions:

5 i. Be located at least 100 feet (as measured by the shortest, most direct distance) from a
6 day care facility, place of religious assembly, state mental health institution, park (excluding golf
7 courses and hiker/biker trails), or a residential district; provided that, if there is an intervening
8 exterior wall of the building containing the licensed premises between the exterior door opening
9 and such day care facility, place of religious assembly, state mental health institution, park
10 (excluding golf courses and hiker/biker trails), or residential district, then the 100 feet shall be
11 measured from the exterior door opening, along the exterior base of the building wall(s) to the
12 point where there is no intervening exterior building wall, and from that point the shortest, most
13 direct distance to the day care facility, place of religious assembly, state mental health institution,
14 park (excluding golf courses and hiker/biker trails), or residential district.

15 ii. If the exterior door opening faces a residential district, then such opening shall be at least
16 150 feet from a residential district as measured by the shortest, most direct perpendicular
17 distance. The exterior door shall not be kept or propped open during the hours of operation. For
18 purposes of this section, "exterior door opening" shall mean (A) that portion of the exterior wall
19 face of the building containing the licensed premises that contains a break to accommodate the
20 exterior building door, door frame, door vestibule, or door entryway area; and (B) provides public
21 or membership access to the licenses premises. "Exterior door opening" shall not apply to
22 openings for emergency exit doors required by building or safety codes or loading or unloading
23 doors that are not available for public or membership access in the ordinary course of business.

1 3. Vehicle stacking for a drive-through window used as any part of the permitted business operation
2 shall not be located in any required building setback from a residential district.

3 4. The use shall not have any amplified outside sound or noise source, including bells, buzzers,
4 pagers, microphones, or speakers within 150 feet of any residential district. This shall not apply to
5 sound sources audible only to the individual to whom they are directed, such as personal pagers,
6 beepers, or telephones.

7 5. Notwithstanding any contrary provision contained in Section [27.64.010\(h\)](#), the yard
8 requirements, the parking location requirements, and the exterior door opening location
9 requirements in this section shall not be adjusted by the City Council.

10 6. In addition, in the B-2 zoning district, all exterior door openings of the licensed premises shall be
11 located more than 100 feet away from any parking spaces located in a side or rear yard adjacent to
12 a residential district. For the purpose of this measurement, the side yard shall be 50 feet. In addition,
13 if there is an intervening exterior wall of the building containing the licensed premises between the
14 exterior door opening and such residential district, then the 100 feet shall be measured from the
15 exterior door opening, along the exterior base of the building wall(s) to the point where there is no
16 intervening exterior building wall, and from that point the shortest, most direct distance to any
17 parking spaces located in a side or rear yard adjacent to the residential district.

18 7. In addition, in the B-5 zoning district when the building containing the licensed premises abuts a
19 residential district, the required yards shall be met.

20 k. Service and repair facilities are allowed in the R-T, B-1, B-3, and H-2 zoning districts under the
21 following conditions:

22 1. The floor area of said premises not devoted to sales or office space shall not exceed 5,000 square
23 feet; and

24 2. All displays and merchandise shall be within the enclosure walls of the buildings.

1 3. In addition, in the B-3 zoning district, appliance service and repair shall comply with the following
2 additional conditions:

3 i. No appliance sales and repair facility shall be permitted to locate within 100 feet of any
4 residential use or district;

5 ii. Any appliance service and repair facility located within 100 feet of any residential use or
6 district which was lawfully established in this district on the effective date of this ordinance, shall
7 screen the facility from such residential use or district by the use of an opaque fence six feet in
8 height, constructed of wood or of a substitute material acceptable to the Director of Building and
9 Safety;

10 iii. The locational or screening requirements of (i) and (ii) above shall not apply when said
11 residential use or district is across a public street from the appliance sales and repair facility, but
12 shall apply if said residential use or district is across an alley or private drive from the appliance
13 sales and repair facility.

14 1. Alcoholic beverages may be sold for consumption off the premises in the B-1, B-3, H-1, H-2, H-3,
15 H-4, I-1, and I-3 zoning districts subject to the requirements of the respective districts, all applicable
16 ordinances, and the following conditions:

17 1. Parking shall be in conformance with Chapter 27.67 of the Lincoln Municipal Code.

18 2. The sale of alcoholic beverages for consumption on the premises shall not be permitted
19 without compliance with the conditions under 27.62.110(d.).

20 3. The licensed premises of any building approved for such activity must be located no closer
21 than (i) 100 feet from the property line of a premises used in whole or in part for a first-
22 floor residential use, day care facility, park, place of religious assembly, or state mental
23 health institution, or (ii) 100 feet from a residential district.

1 4. Vehicle stacking for a drive-through window used as any part of the permitted business
2 operation shall not be located in any required building setback from a residential district.

3 5. The use shall not have any amplified outside sound or noise source, including bells,
4 buzzers, pagers, microphones, or speakers within 150 feet of any residential district. This
5 shall not apply to sound sources audible only to the individual to whom they are directed,
6 such as personal pagers, beepers, or telephones.

7 6. No access door to the business, except loading or unloading doors and emergency access
8 doors, shall face any residential district if such doors are within 150 feet of the residential
9 district. No door facing a residential district shall be kept open during the operation of the
10 establishment.

11 7. Vehicular ingress and egress to and from the property shall be designed to avoid, to the
12 fullest extent possible, disruption of any residential district. Particular attention shall be
13 given to avoiding designs that encourage use of residential streets for access to the site
14 instead of major streets.

15 8. All other regulatory requirements for liquor sale shall apply, including state licensure.

16 9. Residential Healthcare; Elderly and Retirement Housing Facilities.

17 i. Where a Residential Healthcare or an Elderly and Retirement Housing Facility is
18 allowed by special permit under Section 27.63.210 or 27.63.530 that special permit
19 may also explicitly allow alcoholic beverages to be sold for consumption off the
20 premises as an accessory use to the Residential Healthcare Facility or Elderly and
21 Retirement Housing Facility.

22 ii. Where a Residential Healthcare Facility and Elderly and Retirement Housing Facility
23 is allowed with conditions, or by right, alcoholic beverages may be sold for
24 consumption off the premises as an accessory use to the Residential Healthcare

1 Facility or Elderly and Retirement Housing Facility without additional conditions or
2 special permit.

3 Notwithstanding the above, interior expansions of existing licensed liquor premises and farm wineries are
4 permitted.

5 Any and all property benefiting from a Special Permit for sale of alcoholic beverages for consumption on
6 and off the premises issued under Chapter 27.63 approved prior to (insert approval date of text
7 amendment) shall be deemed to satisfy the conditions set forth in 27.62.100(l.) and 27.62.110(d.). Any
8 and all Special Permits for sale of alcoholic beverages for consumption on and off the premises issued
9 under Chapter 27.63 approved prior to (insert approval date of text amendment) are deemed void as no
10 longer required under the Lincoln Municipal Code.

11 Section 2. That Section 27.62.110 of the Lincoln Municipal Code be amended to read
12 as follows:

13 **27.62.110 Food and Drink Establishments Use Group.**

14 A building or premises may be used for the following use types as a permitted conditional use in the
15 designated zoning districts and in compliance with the conditions of approval applicable for that use type.

16 a. Restaurants are allowed in the O-1 zoning district under the following conditions:

- 17 1. Such use shall be located within a building containing office or residential uses.
- 18 2. Such use shall not exceed fifty percent of the total square feet of floor area in such building.

19 b. Sale of alcoholic beverages for consumption on the premises is allowed in the B-2 and B-5 zoning
20 districts under the following conditions:

- 21 1. Parking shall be in conformance with the provisions of Chapter 27.67, provided that in the B-5
22 zoning district no parking spaces shall be located in that portion of any required side yard or rear
23 yard of the building containing the licensed premises that abuts a residential district.
- 24 2. Any exterior door opening must meet the following conditions:

1 i. Be located at least 100 feet (as measured by the shortest, most direct distance) from a
2 day care facility, place of religious assembly, state mental health institution, park (excluding golf
3 courses and hiker/biker trails), or a residential district; provided that, if there is an intervening
4 exterior wall of the building containing the licensed premises between the exterior door opening
5 and such day care facility, place of religious assembly, state mental health institution, park
6 (excluding golf courses and hiker/biker trails), then the 100 feet shall be measured from the
7 exterior door opening, along the exterior base of the building wall(s) to the point where there is
8 no intervening exterior building wall, and from that point the shortest, most direct distance to
9 the day care facility, place of religious assembly, state mental health institution, park (excluding
10 golf courses and hiker/biker trails), or residential district.

11 ii. If the exterior door opening faces a residential district, then such opening shall be at least
12 150 feet from a residential district as measured by the shortest, most direct perpendicular
13 distance. The exterior door shall not be kept or propped open during the hours of operation. For
14 purposes of this section, "exterior door opening" shall mean (A) that portion of the exterior wall
15 face of the building containing the licensed premises that contains a break to accommodate the
16 exterior building door, door frame, door vestibule, or door entryway area; and (B) provides public
17 or membership access to the licenses premises. "Exterior door opening" shall not apply to
18 openings for emergency exit doors required by building or safety codes, loading doors or
19 unloading doors that are not available for public or membership access in the ordinary course of
20 business.

21 3. Vehicle stacking for a drive-through window used as any part of the permitted business operation
22 shall not be located in any required building setback from a residential district.

23 4. The use shall not have any amplified outside sound or noise source, including bells, buzzers,
24 pagers, microphones, or speakers within 150 feet of any residential district. This shall not apply to

1 sound sources audible only to the individual to whom they are directed, such as personal pagers,
2 beepers, or telephones.

3 5. Notwithstanding any contrary provision contained in Section 27.64.010(h), the yard
4 requirements, the parking location requirements, and the exterior door opening location
5 requirements in this section shall not be adjusted by the City Council.

6 6. In addition, in the B-2 zoning district, all exterior door openings of the licensed premises shall be
7 located more than 100 feet away from any parking spaces located in a side or rear yard adjacent to
8 a residential district. For the purpose of this measurement, the side yard shall be 50 feet. In addition,
9 if there is an intervening exterior wall of the building containing the licensed premises between the
10 exterior door opening and such residential district, then the 100 feet shall be measured from the
11 exterior door opening, along the exterior base of the building wall(s) to the point where there is no
12 intervening exterior building wall, and from that point the shortest, most direct distance to any
13 parking spaces located in a side or rear yard adjacent to the residential district.

14 7. In addition, in the B-5 zoning district when the building containing the licensed premises abuts a
15 residential district, the required yards shall be met.

16 c. Alcoholic beverages may be sold for consumption on the premises of a restaurant in the O-1
17 district subject to the following conditions:

18 1. The restaurant shall be located at least 25 feet away from a residential zoning district.

19 2. Gross sales from the sale of alcoholic beverages shall not exceed forty percent (40%) of the gross
20 sales of food and beverages. Upon request of the City, the license holder/operator shall provide
21 sales receipts for the past six (6) months for the purpose of demonstrating that no more than 40%
22 of the restaurant's gross sales are derived from the sale of alcohol.

23 3. The restaurant shall serve full-course meals as defined by Neb. Rev. Stat. § 53-123.04(3)(c) during
24 the hours of operation.

1 4. Hours of operation must not commence prior to 8:00 a.m. and shall end no later than 11:00 p.m.

2 5. Hours of outdoor operation must not commence prior to 8:00 a.m. and shall end no later than
3 10:00 p.m.

4 6. No drive-through windows shall be allowed.

5 7. The sale of alcoholic beverages for consumption off the premises shall not be permitted.

6 d. The sale of alcoholic beverages for consumption on the premises may be allowed in the B-1, B-3,
7 H-1, H-2, H-3, H-4, I-1, I-2, and I-3 zoning districts and on the premises of a restaurant in the O-3
8 district subject to the requirements of the respective districts, all applicable ordinances, and the
9 following conditions:

10 1. Parking shall be in conformance with Chapter 27.67.

11 2. The sale of alcoholic beverages for consumption off the premises shall be conditioned
12 upon compliance with the conditions under Section 27.62.100(I.).

13 3. The designated area specified in a license issued under the Nebraska Liquor Control Act
14 of any building approved for such activity must be located no closer than (i) 100 feet from
15 the property line of a premises used in whole or in part for a first-floor residential use,
16 day care facility which is not the residence of the childcare provider, park, place of
17 religious assembly, or state mental health institution, or (ii) 100 feet from a residential
18 district (except where such use is accessory to a golf course, country club, farm winery,
19 or market garden).

20 4. Vehicle stacking for a drive-through window used as any part of the conditional business
21 operation shall not be located in any required building setback from a residential district.

22 5. The use shall not have any amplified outside sound or noise source, including bells,
23 buzzers, pagers, microphones, or speakers within 150 feet of any residential district. This

1 shall not apply to sound sources audible only to the individual to whom they are directed,
2 such as telephones.

3 6. No access door to the business, not including loading or unloading doors, shall face any
4 residential district if such doors are within 150 feet of the residential district. This shall
5 not apply to emergency exit doors required by building or safety codes. No door facing a
6 residential district shall be kept open during the operation of the establishment.

7 7. Vehicular ingress and egress to and from the property shall be designed to avoid, to the
8 fullest extent possible, disruption of any residential district. Particular attention shall be
9 given to avoiding designs that encourage use of residential streets for access to the site
10 instead of major streets.

11 8. All other regulatory requirements for liquor sale shall apply, including state licensure.

12 e. Alcoholic beverages may be sold for consumption on the premises of a restaurant in the B-1, B-3,
13 H-1, H-2, H-3, H-4, I-1, I-2, I-3, and O-3 districts subject to the requirements of the respective districts,
14 all applicable ordinances, and the following conditions:

15 1. The restaurant shall be located at least 25 feet away from a residential zoning district.

16 2. Gross sales from the sale of alcoholic beverages shall not exceed forty percent (40%) of
17 the gross sales of food and beverages. Upon request of the City, the license holder/
18 operator shall provide sales receipts for the past six (6) months for the purpose of
19 demonstrating that no more than 40% of the restaurant's gross sales are derived from
20 the sale of alcohol

21 3. The restaurant shall serve full-course meals as defined by *Neb. Rev. Stat. § 53-123.04(c)(3)*
22 during the hours of operation.

23 4. Hours of operation must not commence prior to 8:00 a.m. and shall end no later than
24 11:00 p.m.

1 5. Hours of outdoor operation must not commence prior to 8:00 a.m. and shall end no later
2 than 10:00 p.m.

3 6. The restaurant shall not have any gaming devices or self-serve vending. Gaming devices
4 include pool tables, dart boards, keno. Self-serve vending includes candy machines and
5 drink machines that use electricity.

6 7. No drive-through windows shall be allowed.

7 f. For the purposes of this section, restaurant shall mean any place (i) which is kept, used,
8 maintained, advertised, and held out to the public as a place where meals are served and where meals
9 are actually and regularly served; (ii) which has no sleeping area; and (iii) which has adequate and
10 sanitary kitchen and dining room equipment and capacity and a sufficient number and kind of
11 employees to prepare, cook, and serve suitable food for its guests.

12 g. Outdoor Recreational Facilities:

13 1. Where an Outdoor Recreational Facility is allowed by special permit under Section 27.63.130,
14 that special permit may also explicitly allow alcoholic beverages to be sold for consumption on
15 the premises as an accessory use to the Outdoor Recreational Facility.

16 2. Where an Outdoor Recreational Facility is permitted by right, alcoholic beverages may be sold
17 for consumption on the premises as an accessory use to the Outdoor Recreational Facility
18 without additional conditions or special permit.

19 h. Residential Healthcare; and Elderly and Retirement Housing Facilities:

20 1. Where a Residential Healthcare or an Elderly and Retirement Housing Facility is allowed by
21 special permit under Section 27.63.210 or 27.63.530, that special permit may also explicitly
22 allow alcoholic beverages to be sold for consumption on the premises as an accessory use to
23 the Residential Healthcare Facility or Elderly and Retirement Housing Facility.

1 2. Where a Residential Healthcare Facility and Elderly and Retirement Housing Facility is allowed
2 with conditions, or by right, alcoholic beverages may be sold for consumption on the premises
3 as an accessory use to the Residential Healthcare Facility or Elderly and Retirement Housing
4 Facility without additional conditions or special permit.

5 i. Alcoholic beverages may be sold for consumption on the premises as an accessory use to a social
6 hall as part of a special permit under Section 27.63.690 or in any district where such a facility is allowed
7 as a permitted use, permitted conditional use, or permitted special use.

8 Any and all property benefiting from a Special Permit for sale of alcoholic beverages for consumption on
9 and off the premises issued under Chapter 27.63 approved prior to (insert approval date of text
10 amendment) shall be deemed to satisfy the conditions set forth in 27.62.100(l.) and 27.62.110(d.). Any
11 and all Special Permits for sale of alcoholic beverages for consumption on and off the premises issued
12 under Chapter 27.63 approved prior to (insert approval date of text amendment) are deemed void as no
13 longer required under the Lincoln Municipal Code.

14 Section 3. That Section 27.63.680 of the Lincoln Municipal Code be and the same is
15 hereby repealed.

16 ~~**27.63.680 Sale of Alcoholic Beverages for Consumption On the Premises.**~~

17 ~~a. The sale of alcoholic beverages for consumption on the premises may be allowed in the B-1, B-3,~~
18 ~~H 1, H 2, H 3, H 4, I 1, I 2, and I 3 zoning districts and on the premises of a restaurant in the O 3~~
19 ~~district upon the approval of a special permit subject to the requirements of the respective~~
20 ~~districts, all applicable ordinances, and the following conditions:~~

21 ~~1. Parking shall be in conformance with Chapter 27.67.~~

22 ~~2. The sale of alcoholic beverages for consumption off the premises shall not be permitted without~~
23 ~~issuance of a separate special permit under Section 27.63.685 of this code.~~

1 ~~3. The designated area specified in a license issued under the Nebraska Liquor Control Act of any~~
2 ~~building approved for such activity must be located no closer than (i) 100 feet from the property~~
3 ~~line of a premises used in whole or in part for a first-floor residential use, day care facility which is~~
4 ~~not the residence of the childcare provider, park, place of religious assembly, or state mental health~~
5 ~~institution, or (ii) 100 feet from a residential district (except where such use is accessory to a golf~~
6 ~~course, country club, farm winery, or market garden).~~

7 ~~4. Any lighting on the property shall be designed and erected in accordance with all applicable~~
8 ~~lighting regulations and requirements.~~

9 ~~5. Vehicle stacking for a drive-through window used as any part of the permitted business operation~~
10 ~~shall not be located in any required building setback from a residential district.~~

11 ~~6. The use shall not have any amplified outside sound or noise source, including bells, buzzers,~~
12 ~~paggers, microphones, or speakers within 150 feet of any residential district. This shall not apply to~~
13 ~~sound sources audible only to the individual to whom they are directed, such as personal paggers,~~
14 ~~beepers, or telephones.~~

15 ~~7. No access door to the business, including loading or unloading doors, shall face any residential~~
16 ~~district if such doors are within 150 feet of the residential district. This shall not apply to emergency~~
17 ~~exit doors required by building or safety codes. No door facing a residential district shall be kept~~
18 ~~open during the operation of the establishment.~~

19 ~~8. Vehicular ingress and egress to and from the property shall be designed to avoid, to the fullest~~
20 ~~extent possible, disruption of any residential district. Particular attention shall be given to avoiding~~
21 ~~designs that encourage use of residential streets for access to the site instead of major streets.~~

22 ~~9. All other regulatory requirements for liquor sale shall apply, including licensing by the state.~~

1 ~~b. In addition, a special permit may be granted to allow alcoholic beverages to be sold for~~
2 ~~consumption on the premises of a restaurant in the B 1, B 3, H 1, H 2, H 3, H 4, I 1, I 2, I 3, and O 3~~
3 ~~districts subject to the requirements of the respective districts, all applicable ordinances, and the~~
4 ~~following conditions:~~

5 ~~1. The Permittee as the holder of any liquor license issued on the premises pursuant to a special~~
6 ~~permit for the sale of alcoholic beverages for consumption on the premises of a restaurant shall~~
7 ~~agree in writing to voluntarily surrender and consent to the cancelling of the liquor license in the~~
8 ~~event the special permit is revoked by the City. If the Permittee is not the holder of the liquor license,~~
9 ~~the Permittee shall require such holder to agree in writing to voluntarily surrender and consent to~~
10 ~~the cancelling of the liquor license in the event the special permit is revoked by the City. In addition,~~
11 ~~the City shall request that the Nebraska Liquor Control Commission issue the liquor license~~
12 ~~contingent upon the premises having such special permit.~~

13 ~~2. The restaurant shall be located at least 25 feet away from a residential zoning district.~~

14 ~~3. Gross sales from the sale of alcoholic beverages shall not exceed forty percent (40%) of the gross~~
15 ~~sales of food and beverages. Upon request of the City, the license holder/ operator shall provide~~
16 ~~sales receipts for the past six (6) months for the purpose of demonstrating that no more than 40%~~
17 ~~of the restaurant's gross sales are derived from the sale of alcohol~~

18 ~~4. The restaurant shall serve full-course meals as defined by *Neb. Rev. Stat. § 53-123.04(c)(3)* during~~
19 ~~the hours of operation.~~

20 ~~5. Hours of operation must not commence prior to 8:00 a.m. and shall end no later than 11:00 p.m.~~

21 ~~6. Hours of outdoor operation must not commence prior to 8:00 a.m. and shall end no later than~~
22 ~~10:00 p.m.~~

1 ~~7. The restaurant shall not have any gaming devices or self-serve vending. Gaming devices include~~
2 ~~pool tables, dart boards, keno. Self-serve vending includes candy machines and drink machines that~~
3 ~~use electricity.~~

4 ~~8. No drive-through windows shall be allowed.~~

5 ~~9. The sale of alcoholic beverages for consumption off the premises shall not be permitted without~~
6 ~~issuance of a separate special permit under Section 27.63.685 of this code.~~

7 ~~e. For the purposes of this section, restaurant shall mean any place (i) which is kept, used,~~
8 ~~maintained, advertised, and held out to the public as a place where meals are served and where meals~~
9 ~~are actually and regularly served; (ii) which has no sleeping area; and (iii) which has adequate and~~
10 ~~sanitary kitchen and dining room equipment and capacity and a sufficient number and kind of~~
11 ~~employees to prepare, cook, and serve suitable food for its guests.~~

12 ~~d. Alcoholic beverages may also be sold for consumption on the premises as an accessory use to an~~
13 ~~outdoor recreational facility as part of a separate special permit under Section 27.63.130 approving~~
14 ~~the outdoor recreational facility in any district where outdoor recreational facilities are allowed as a~~
15 ~~permitted use, permitted conditional use, or permitted special use.~~

16 ~~e. Alcoholic beverages may be sold for consumption on the premises as an accessory use to a~~
17 ~~residential healthcare facility or an elderly and retirement housing facility as part of a special permit~~
18 ~~under either Section 27.63.210 or 27.63.530 or in any district where such facilities are allowed as a~~
19 ~~permitted or a conditional use.~~

20 ~~f. Alcoholic beverages may be sold for consumption on the premises as an accessory use to a social~~
21 ~~hall as part of a special permit under Section 27.63.690 or in any district where such a facility is allowed~~
22 ~~as a permitted, special, or a conditional use.~~

1 ~~g. The City Council may consider any of the following as cause to revoke the special permit approved~~
2 ~~under these regulations:~~

- 3 ~~1. Revocation or cancellation of the liquor license for the specially permitted premises;~~
- 4 ~~2. Repeated violations related to the operation of the permittee's business; or~~
- 5 ~~3. Repeated or continuing failure to take reasonable steps to prevent unreasonable disturbances~~
6 ~~and anti-social behavior on the premises related to the operation of the permittee's business~~
7 ~~including, but not limited to, violence on site, drunkenness, vandalism, solicitation, or litter.~~

8 ~~Notwithstanding the above, no special permit or amendment thereto shall be required for interior~~
9 ~~expansions of existing licensed liquor premises.~~

10 Section 4. That Section 27.63.685 of the Lincoln Municipal Code be and the same is
11 hereby repealed.

12 ~~**27.63.685 Sale of Alcoholic Beverages for Consumption Off the Premises.**~~

13 ~~Alcoholic beverages may be sold for consumption off the premises in the B-1, B-3, H-1, H-2, H-3, H-4, I-1,~~
14 ~~and I-3 zoning districts upon the approval of a special permit. A special permit for such use may be granted~~
15 ~~subject to the requirements of the respective districts, all applicable ordinances, and the following~~
16 ~~conditions:~~

- 17 ~~a. Parking shall be in conformance with Chapter 27.67 of the Lincoln Municipal Code.~~
- 18 ~~a. The sale of alcoholic beverages for consumption on the premises shall not be permitted without~~
19 ~~issuance of a permit under Section 27.63.680 of this code.~~
- 20 ~~b. The licensed premises of any building approved for such activity must be located no closer than~~
21 ~~(i) 100 feet from the property line of a premises used in whole or in part for a first-floor residential use,~~
22 ~~day care facility, park, place of religious assembly, or state mental health institution, or (ii) 100 feet~~
23 ~~from a residential district.~~

1 ~~e. Any lighting on the property shall be designed and erected in accordance with all applicable~~
2 ~~lighting regulations and requirements.~~

3 ~~d. Vehicle stacking for a drive-through window used as any part of the permitted business operation~~
4 ~~shall not be located in any required building setback from a residential district.~~

5 ~~e. The use shall not have any amplified outside sound or noise source, including bells, buzzers,~~
6 ~~paggers, microphones, or speakers within 150 feet of any residential district. This shall not apply to~~
7 ~~sound sources audible only to the individual to whom they are directed, such as personal paggers,~~
8 ~~beepers, or telephones.~~

9 ~~f. No access door to the business, including loading or unloading doors, shall face any residential~~
10 ~~district if such doors are within 150 feet of the residential district. This shall not apply to emergency~~
11 ~~exit doors required by building or safety codes. No door facing a residential district shall be kept open~~
12 ~~during the operation of the establishment.~~

13 ~~g. Vehicular ingress and egress to and from the property shall be designed to avoid, to the fullest~~
14 ~~extent possible, disruption of any residential district. Particular attention shall be given to avoiding~~
15 ~~designs that encourage use of residential streets for access to the site instead of major streets.~~

16 ~~h. All other regulatory requirements for liquor sale shall apply, including licensing by the state.~~

17 ~~i. Alcoholic beverages may be sold for consumption off the premises as an accessory use to a~~
18 ~~residential health care facility or an elderly and retirement housing facility as part of a special permit~~
19 ~~under either Section 27.63.210 or 27.63.530 or in any district where such facilities are allowed as a~~
20 ~~permitted or a conditional use.~~

21 ~~j. The City Council may consider any of the following as cause to revoke the special permit approved~~
22 ~~under these regulations:~~

23 ~~1. Revocation or cancellation of the liquor license for the specially permitted premises; or~~

24 ~~2. Repeated violations related to the operation of the permittee's business.~~

1 ~~Notwithstanding the above, no special permit or amendment thereto shall be required for interior~~
2 ~~expansions of existing licensed liquor premises or for a farm winery.~~

3 Section 5. That Sections 27.62.100 and 27.62.110 of the Lincoln Municipal Code as
4 hitherto existing be and the same are hereby repealed.

5 Section 6. This ordinance shall be published, within fifteen days after the passage
6 hereof, in one issue of a daily or weekly newspaper of general circulation in the City, or posted on
7 the official bulletin board of the City, located on the wall across from the City Clerk's office at
8 555 S. 10th Street, in lieu and in place of the foregoing newspaper publication with notice of
9 passage and such posting to be given by publication one time in the official newspaper by the City
10 Clerk. This ordinance shall take effect and be in force from and after its passage and publication
11 or after its posting and notice of such posting given by publication as herein and in the City Charter
12 provided.

Introduced by:

Approved as to Form & Legality:

City Attorney

Approved this ___ day of _____, 2024:

Mayor