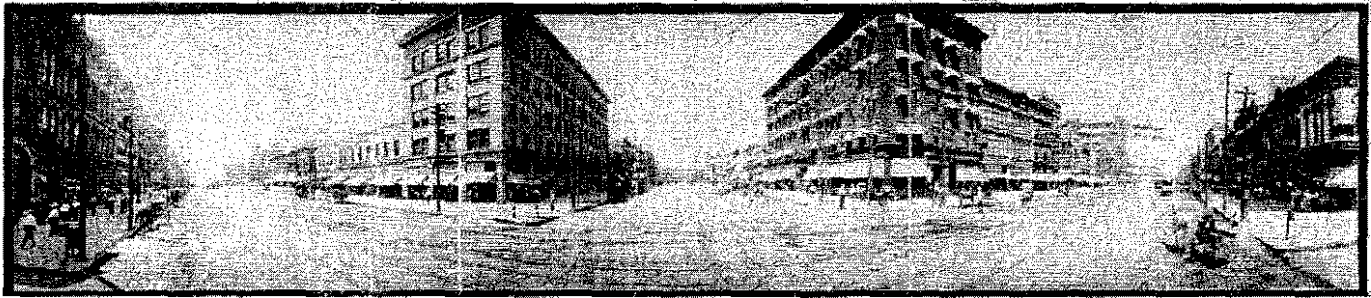


City of Lincoln, Nebraska

ZONING



11th & "O", 1908

Title 27 Lincoln Municipal Code

Amended to December, 2010

Title 27

ZONING

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- 27.03 General Definitions
- 27.05 Districts and Boundaries
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Chapter 27.01**PURPOSE AND TITLE****Sections:****27.01.010 Purpose.****27.01.020 Name and Citation of Title.****27.01.010 Purpose.**

This title has been made in accordance with a comprehensive plan and to promote health and the general welfare of the community. It is designed to lessen congestion in the streets; to secure safety from fire, flood, and other dangers; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; and to facilitate the adequate provision of transportation, water, sewage, schools, parks, and other public requirements. These regulations have been made with reasonable consideration, among other things, to the character of the district and its suitability for particular uses, and with a view to conserving the value of property and encouraging the most appropriate use of land throughout the City of Lincoln and the area within three miles thereof. (Ord. 12571 § 1, May 8, 1979).

27.01.020 Name and Citation of Title.

This title shall be known, referred to, and cited as the zoning ordinance of the City of Lincoln. (Ord. 12571 § 2, May 8, 1979).



Chapter 27.03

GENERAL DEFINITIONS

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27.03.010 Definitions; General Provisions.

For the purpose of this title, certain terms and words are hereby defined. Certain chapters contain definitions which are additional to those listed here. Words used in the present tense shall include the future; the singular number shall include the plural and the plural the singular; the word "structure" shall include the word "building," and the word "shall" is mandatory. (Ord. 12571 §3; May 8, 1979).

27.03.020 Abutting.

Abutting shall mean adjacent or contiguous and shall include property separated by an alley. (Ord. 12571 §4; May 8, 1979).

27.03.030 Accessory Buildings and Uses.

An accessory building is a subordinate building or a portion of the main building, the use of which is incidental to that of the main building or to the main use of the premises. An accessory use is one which is incidental to the main use of the premises. (Ord. 12571 §5; May 8, 1979).

27.03.035 Administrative Offices.

Administrative offices shall mean offices that house the administrative support functions of an association, corporation or other similar organization including, but not limited to, finance, accounting, personnel, policy development, administration, and similar administrative activities that do not generally involve frequent or regular face-to-face interaction with the public. This definition of "administrative offices" is intended to prohibit all manufacturing, retail, wholesale, service, and other activities that involve the on-site production, distribution, delivery, or marketing of goods and services to the public. (Ord. 15164 §1; May 8, 1989).

27.03.037 Adult Care Center.

Adult care center shall mean a facility in which a program of structured and supervised social, manual, physical, and intellectual services or activities are provided to adults who are either ambulatory or wheelchair mobile. Such services or activities shall be provided for a minimum of three hours per day, but shall not provide for overnight stays by participating adults. (Ord. 16253 §1; October 26, 1992).

27.03.040 Agriculture.

Agriculture shall mean the use of land for the purpose of raising and harvesting crops; or for the raising, breeding, or management of livestock, poultry, fish, or honeybees; or for dairying, truck gardening, forestry, nurseries, or orchards; for the non-commercial on-farm storage or processing of agricultural products; or for any other similar agricultural, horticultural, silvacultural, or aquacultural use. (Ord. 14698 §1; July 6, 1987; prior Ord. 12571 §6; May 8, 1979).

27.03.050 Alley.

Alley shall mean a public or private thoroughfare which affords only a secondary means of access to property abutting thereon. (Ord. 12571 §7; May 8, 1979).

27.03.053 Alternative to Imprisonment Facility.

Alternative to imprisonment facility shall mean a facility in which more than three but less than sixteen persons who are unrelated by blood, marriage, or adoption reside under a supervised program of alternatives to imprisonment including, but not limited to, pre-release, work-release, and probationary programs. Such facilities shall be licensed or approved by the State of Nebraska or other appropriate agency if so required. (Ord. 18535 §1; May 9, 2005).

27.03.055 Amateur Radio Antenna Installation.

Amateur radio antenna installation shall mean the installation of the tower, antenna, mast, rotor, and other necessary apparatus by an amateur radio operator at a particular location licensed by the Federal Communications Commission as an amateur radio station for amateur radio communications.

For the purposes of this section, the following definitions shall apply:

Amateur radio operator shall mean an individual who has passed a Federal Communications Commission authorized examination and holds a current F.C.C. amateur radio license.

Antenna shall mean the device which receives and/or transmits radio waves and is connected to a radio by means of some type of conducting media.

Antenna installation shall mean the complete system including tower, antenna(s), mast, and rotor.

Mast shall mean a pole or pipe-like device which separates an antenna from a tower.

Rotor shall mean a machine which turns the antenna about its axis.

Tower shall mean the supporting structure which holds the antenna above the ground. (Ord. 16673 §1; September 26, 1994).

27.03.056 Animal Hospital.

Animal hospital shall mean any establishment or business maintained and operated by a veterinarian or veterinarians for examination, prophylaxis, surgery, diagnosis and treatment of diseases or injuries of animals including indoor or outdoor boarding of animals under treatment or benefit of the client; provided, said veterinarian or veterinarians are duly licensed under the laws of the State of Nebraska. (Ord. 18928 §1; June 4, 2007).

27.03.057 Animal Hospital, Indoor.

Indoor animal hospital shall mean any establishment or business maintained and operated by a veterinarian or veterinarians for examination, prophylaxis, surgery, diagnosis and treatment of diseases or injuries of animals including indoor but not outdoor boarding of animals under treatment or benefit of the client; provided, said veterinarian or veterinarians are duly licensed under the laws of the State of Nebraska, and provided that the indoor animal hospital shall be limited to no more than three animals

outside at any one time. (Ord. 18928 §2; June 4, 2007).

27.03.060 Apartment.

See multiple dwelling unit. (Ord. 12571 §8; May 8, 1979).

27.03.070 Apartment Hotel.

Apartment hotel shall mean a multiple dwelling under resident supervision which maintains an inner lobby through which all tenants must pass to gain access to the apartments and which may furnish services ordinarily furnished by hotels, such as drug store, barber shop, beauty parlor, shoeshine shop, cosmetologists shop, cigar stand or newsstand, when such uses are located entirely within the building with no entrance from the street nor visible from any public sidewalk, and having no sign or display visible from the outside of the building indicating the existence of such use. (Ord. 12571 §9; May 8, 1979).

27.03.080 Apartment House.

See Dwelling, multiple. (Ord. 12571 §10; May 8, 1979).

27.03.085 Average Lot Width.

Average lot width shall mean the width determined by dividing the total lot area by the depth of the lot from the right-of-way line to the furthest rear lot line. If the rear lot line and right-of-way line are not parallel, an average depth dimension shall be used. (Ord. 12571 §10; May 8, 1979).

27.03.090 Basement.

Basement shall mean that portion of a building between floor and ceiling which is partly below and partly above grade but so located that the vertical distance from grade to the floor below is less than the vertical distance from grade to ceiling. (Ord. 12571 § 11; May 8, 1979).

27.03.098 Boarding.

Boarding shall mean caring for, feeding, watering, or sheltering a pet animal belonging to another by any person or business for pay, trade, barter, commission, or remuneration of any sort. (Ord. 18928 §3; June 4, 2007).

27.03.100 Boarding House.

Boarding house shall mean a building other than a hotel or motel or group home where, for compensation and by prearrangement for definite periods, meals, or lodging and meals, are provided for three or more persons. (Ord. 12571 §12; May 8, 1979).

27.03.110 Broadcast Tower.

Broadcast tower shall mean a structure for the transmission or broadcast of radio, television, radar, or microwaves; provided, however, that personal wireless service facilities and noncommercial radio towers not exceeding fifty feet in height and amateur radio antenna installations shall not be considered broadcast towers. (Ord. 17589 §1; January 18, 2000: prior Ord. 16673 §2; September 26, 1994: Ord. 13004 §1; September 29, 1980: Ord. 12571 §13; May 8, 1979).

27.03.120 Building.

Building shall mean any structure designed or intended for the enclosure, shelter, or protection of persons, animals, chattels, or property. (Ord. 12571 § 14; May 8, 1979).

Annot.: Backstop for tennis court is not a "fence" but a structure subject to the code height for a building. Shamberg v. City of Lincoln, 174 Neb. 146, 116 N.W.2d 18 (1962).

This ordinance is penal in nature and will be strictly construed. Id.

27.03.130 Buildings, Height of.

Height of a building shall mean the vertical distance above grade to the highest point of the coping of a flat roof or to the deck line of a mansard roof, or to the average height of the highest gable of a pitched, hipped, or shed roof. The measurement may be taken from the highest adjoining sidewalk or ground surface within a five foot horizontal distance at the exterior wall of the building, when such sidewalk or ground surface is not more than ten feet above grade. (Ord. 12571 §15; May 8, 1979).

27.03.140 Campsite.

Campsite shall mean a parcel of land intended for temporary occupancy by any of the following: tent, tent trailer, or recreational vehicle. (Ord. 12571 §16; May 8, 1979).

27.03.150 Cellar.

Cellar shall mean that portion of a building between floor and ceiling which is wholly or partly below grade and so located that the vertical distance from grade to the floor below is equal to or greater than the vertical distance from grade to ceiling. (Ord. 12571 §17; May 8, 1979).

27.03.153 Children's Home.

Children's home shall mean a facility engaged in the service of exercising 24-hour daily care, supervision, custody, or control over sixteen or more children for compensation or hire in lieu of the care or supervision normally exercised by parents in their own home. (Ord. 18535 §2; May 9, 2005).

27.03.155 Early Childhood Care Facility.

Early childhood care facility shall mean a building for the provision of services in lieu of parental supervision for four or more children under thirteen years of age for compensation either directly or indirectly, on the average of less than twelve hours per day, but more than two hours per week, and shall include any employer-sponsored child care, child care home, child care center, before- and after-school child care program, or preschool or nursery school, but shall not include casual care at irregular intervals, a recreation camp, classes or services provided by a religious organization other than child care or preschool or nursery school, or a preschool program conducted in a school approved pursuant to Nebraska State Statutes. (Ord. 16854 §1; August 14; 1995).

27.03.160 Club.

Club shall mean a building or facility owned or operated by persons associated for a social, educational, or recreational purpose, not operated primarily for profit nor to render a service which is customarily carried on as a business, and which is generally restricted to members and their guests using the facility for the purpose for which they have associated; this shall not include a church building, or the occasional accessory use of a private residence as a meeting place. (Ord. 12571 §18; May 8, 1979).

27.03.162 Data Center.

Data center shall mean an office building used to house computer or telecommunication systems and associated components, such as computer servers, telecommunications and related storage systems. (Ord. 19406 §1; June 28, 2010).

27.03.165 Disability or Handicap.

Disability or handicap shall mean, with respect to a person:

(1) A physical or mental impairment which substantially limits one or more of such person's major life activities;

(2) A record of having such an impairment; or

(3) Being regarded as having such an impairment.

Disability shall not include current, illegal use of or addiction to a controlled substance as defined by state law. (Ord. 18535 §3; May 9, 2005).

27.03.170 District.

District shall mean a section or sections of either the City of Lincoln or the area within three miles thereof for which regulations governing the use of buildings and premises, the height of buildings, the size of yards, and the intensity of use are uniform. (Ord. 12571 §19; May 8, 1979).

27.03.175 Domiciliary Care Facility.

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

(a) Accommodations and supervision to four or more persons sixty years of age or older who are unrelated by blood, marriage, or adoption and who are essentially capable of managing their own affairs, but who are in need of supervision, including supervision of nutrition, on a regular and continuing basis but not necessarily on a consecutive twenty-four hour basis; or

(b) Accommodations, board, and care, such as personal assistance in feeding, dressing, and other essential daily living activities, to four or more persons sixty years of age or older who are unrelated by blood, marriage, or adoption who by reason of illness, disease, injury, deformity, disability, or physical or mental infirmity are unable to sufficiently or properly care for themselves or manage their own affairs, but who do not require the daily services of a licensed, practical, or registered nurse.

Domiciliary care facilities may include accessory uses such as beauty parlors, pharmacies, gift shops, ice cream parlors, banks, or similar uses provided for the convenience of the residents. However, such accessory uses shall be located entirely within the facility and shall not have any separate entrance, but shall be

accessible through an interior lobby, corridor, or passageway of the facility. No accessory use shall have any sign which is visible from the exterior of the facility. The total floor area occupied by all such accessory uses shall not exceed five percent of the floor area of the facility or 2,000 square feet, whichever is less, and each use shall not exceed 300 square feet. (Ord. 16934 §1; February 12, 1996; prior Ord. 16687 §1; October 17, 1994; Ord. 14562 §1; December 8, 1986).

27.03.180 Dwelling.

Dwelling shall mean any building or portion thereof which is designed and used for residential purposes. (Ord. 12571 §20; May 8, 1979).

27.03.190 Dwelling, Single-family.

Single-family dwelling shall mean a dwelling having accommodations for and occupied by one family. (Ord. 12571 §21; May 8, 1979).

27.03.200 Dwelling, Two-family.

Two-family dwelling shall mean a dwelling having accommodations for and occupied by two families. (Ord. 12571 §22; May 8, 1979).

27.03.210 Dwelling, Multiple.

Multiple dwelling shall mean a dwelling having accommodations for and occupied by more than two families. (Ord. 12571 §23; May 8, 1979).

27.03.213 Domestic Shelter.

Domestic shelter shall mean a temporary shelter for individuals affected by domestic violence. Such use may provide temporary boarding, lodging, counseling, and support services and shall comply with all applicable state licensure requirements. (Ord. 19190 §1; December 15, 2008; prior Ord. 14060 §1; February 25, 1985).

27.03.214 Elderly or Retirement Housing.

Elderly or retirement housing shall mean a housing project which incorporates specific features designed to alleviate access problems commonly experienced by the elderly, and in which each occupied dwelling unit is occupied by at least one person of sixty years of age or more, except as provided in Section 27.63.210. (Ord. 14644 §1; April 13, 1987).

27.03.215 Enclosed Commercial Recreational Facilities.

Enclosed commercial recreational facilities shall mean facilities which are enclosed in a building and used for physical fitness and athletic activities including but not limited to: Golf, racquetball, tennis, and other court games, fitness centers, bowling, skating, or swimming. (Ord. 13736 §1; December 12, 1983).

27.03.217 Enclosed Disassembly Operation.

Enclosed disassembly operation shall mean a salvage operation where all wrecking and dismantling of salvage material is inside a building or buildings. (Ord. 14185 §1; September 3, 1985).

27.03.218 Existing Urban Area.

Existing Urban Area shall mean those areas inside the corporate limits of the City of Lincoln, as well as those areas outside the corporate limits having a zoning designation other than AG Agriculture or AGR Agricultural Residential, on the effective date of this ordinance. (Ord. 18358 §1; May 10, 2004).

27.03.220 Family.

One or more persons immediately related by blood, marriage, or adoption and living as a single housekeeping unit in a dwelling shall constitute a family. A family may include, in addition, not more than two persons who are unrelated for the purpose of this title. The following persons shall be considered related for the purpose of this title:

- (1) A person residing with a family for the purpose of adoption;
- (2) Not more than six persons under nineteen years of age, residing in a foster home licensed or approved by the State of Nebraska;
- (3) Not more than four persons nineteen years of age or older residing with a family for the purpose of receiving foster care licensed or approved by the state or its delegate;
- (4) Any person who is living with a family at the direction of a court. (Ord. 12571 §24; May 8, 1979).

27.03.230 Feedlot, Commercial.

Commercial feedlot shall mean an area of more than 15,000 square feet where the principal business is the feeding of livestock or poultry. (Ord. 12571 §25; May 8, 1979).

27.03.235 Flood Design Criteria

Flood Design Criteria shall mean Chapter 10 of the City of Lincoln Drainage Criteria Manual, as adopted on February 22, 2000 by Resolution No. A-80038, as amended. (Ord. 18358 §2; May 10, 2004).

27.03.240 Floodplain.

Floodplain shall mean those lands which are subject to a one percent or greater chance of flooding in any given year, as shown on the Flood Insurance Rate Map issued by FEMA for Lancaster County, Nebraska and incorporated areas, as amended. Copies of said map shall be kept on file in the Department of Building and Safety. (See Chapters 27.52 and 27.53 for additional definitions.) (Ord. 18358 §3; May 10, 2004; prior Ord. 12571 §26; May 8, 1979).

27.03.250 Floor Area.

Floor area shall mean the total number of square feet of floor space within the outside of the exterior walls of a building, not including storage space in cellars or basements and not including space used for the parking of automobiles, not including elevator shaft or stair and escalator enclosures, and not including space used for mechanical equipment used in connection with utilities, such as heating, air conditioning and ventilation equipment, electric switching gear, water pumps, utility meters, and auxiliary electric generators. (Ord. 13364 §1; May 3, 1982; prior Ord. 12571 §27; May 8, 1979).

27.03.260 Frontage.

Frontage shall mean the length of the property on one side of a street between two street intersections (crossing or terminating) measured along the property line at the street, or if the street is dead-ended, the length of the property abutting on one side between an intersecting street and the dead end of the street. (Ord. 12571 §28; May 8, 1979).

27.03.270 Garage, Private.

Private garage shall mean an accessory building designed or used for the storage of not more than four motor vehicles owned and used by the occupants of the building to which it is accessory. (Ord. 12571 §729; May 8, 1979).

27.03.280 Garden Center.

Garden center shall mean a building or premises used primarily for the retail sale of items useful in the culture, display, or decoration of lawns, gardens, or indoor plants; including books, appliances, and tools, but not including power tools or tractors. (Ord. 12571 §30; May 8, 1979).

27.03.290 Grade.

Grade shall mean:

(a) For buildings having walls adjoining one street only, the elevation of the sidewalk at the center of the wall adjoining the street;

(b) For buildings having walls adjoining more than one street, the average of the elevation of the sidewalk at the center of all walls adjoining the streets;

(c) For buildings having no wall adjoining the street, the average level of the finished surface of the ground adjacent to the exterior walls of the building.

Any wall approximately parallel to and not more than five feet from a street line is to be considered as adjoining the street and where no sidewalk exists, the sidewalk grade shall be established by the Department of Public Works and Utilities. (Ord. 12571 §31; May 8, 1979).

27.03.295 Greenhouse.

Greenhouse shall mean a building or premises used for growing plants, preparation of floral arrangements for off-site delivery to customers, cold storage of flowers or dry storage of materials used for agricultural or horticultural purposes, provided no retail sales shall be conducted on such premises. (Ord. 13724 §1; October 31, 1983).

27.03.300 Group Home.

Group home shall mean a building or structure licensed or approved by the State or an appropriate agency, if required, used as any one of the following:

(a) A facility in which more than three but less than sixteen disabled persons who are unrelated by blood, marriage, or adoption reside while receiving therapy or counseling, but not nursing care;

(b) A facility engaged in the service of exercising 24-hour daily care, supervision, custody, or control over more than three but less than sixteen children, for compensation or hire in lieu of the care or supervision normally exercised by parents in their own home. (Ord. 18535 §4; May 9, 2005; prior Ord. 12571 §32; May 8, 1979).

27.03.310 Health Care Facilities.

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

(a) Hospitals: A hospital may include offices of medical societies, offices of charitable public health associations and private office space for the practice of medicine and dentistry under a license from the Department of Health of the State of Nebraska; provided, that any such private offices for the practice of medicine and dentistry shall be located on the hospital lot and the doctors and dentists involved therein must be on the staff of the hospital;

(b) Convalescent or nursing home;

(c) A facility in which sixteen or more disabled people reside while receiving therapy, counseling, or rehabilitation;

(d) A facility for out-patient physical, occupational, or vocational therapy or rehabilitation;

(e) Public health clinics and facilities;

(f) Ambulatory surgical care center which does not allow for overnight stay by patients. Ambulatory surgical center does not include an office or clinic used solely by a practitioner or group of practitioners in the practice of medicine, dentistry, or podiatry.

Except as provided in (a) above, health care facilities does not include doctors' or dentists' professional offices and private clinics. (Ord. 18535 §5; May 9, 2005; prior Ord. 17326 § 1; April 20, 1998; Ord. 13768 §1; Feb. 21, 1984; Ord. 12679 §1; Sept. 4, 1979; Ord. 12571 §33; May 8, 1979).

27.03.315 Heritage Center.

Heritage center shall mean one or more buildings and open space within which an historically significant era or activity is displayed. The retail sale of crafts and other works and the provision of entertainment, but not a full-scale amusement park, may be included as part of a heritage center if they are complementary to the displayed era or activity. (Ord. 16413 §1; July 12, 1993).

27.03.320 Home Occupation.

Home occupation shall mean any occupation or activity carried on within a dwelling unit or accessory building by a member of the family residing on the premises, which occupation or activity is incidental and secondary to the residential occupancy and does not change the residential character thereof. The

regulations pertaining to home occupations can be found in Section 27.70.010. (Ord. 12571 §34; May 8, 1979).

27.03.335 Housing for the Physically Handicapped.

Housing for the physically handicapped shall mean any dwelling in which each occupied dwelling unit is occupied by at least one person who has a physical handicap. A physical handicap is a mobility impairment which requires certain construction design features for ingress, egress, and freedom of movement within the premises. Such impairment shall be expected to be permanent or of long or indefinite duration. Such design features include but are not limited to ground level construction, level entrances, wider doorways, adjustable counters, roll-in showers, lower electrical switches, higher outlets, and lever-type hardware. (Ord. 13546 §1; February 28, 1983).

27.03.336 Indoors.

Indoors shall mean an area enclosed by a floor, ceiling, and floor-to-ceiling walls on all sides that are continuous and solid except for closeable entry/exit doors and windows. (Ord. 18928 §4; June 4, 2007).

27.03.337 Kennel.

Kennel shall mean any building, yard, enclosure or place where pet animals as defined by Lincoln Municipal Code Section 6.02.420 owned by another person are temporarily boarded, indoors or outdoors, for pay, trade, barter, commission, or remuneration of any sort; provided, however, this definition shall not apply to zoos or to animal hospitals and indoor animal hospitals operated by veterinarians duly licensed under the laws of the State of Nebraska. (Ord. 18928 §5; June 4, 2007).

27.03.338 Kennel, Indoor.

Indoor kennel shall mean any building, enclosure, or place where pet animals as defined by Lincoln Municipal Code Section 6.02.420 owned by another person are temporarily boarded, indoors but not outdoors, for pay, trade, barter, commission, or remuneration of any sort; provided, however, this definition shall not apply to zoos or to animal hospitals and indoor animal hospitals operated by veterinarians duly licensed under the laws of the State of Nebraska, and provided that the indoor kennel shall

be limited to no more than three animals outside at any one time. (Ord. 18928 §6; June 4, 2007).

27.03.340 Landscaping.

Landscaping shall mean that an area is devoted to and maintained for the growing of trees, shrubbery, lawns, and other plant materials; landscaping shall conform to all applicable standards adopted by the City of Lincoln. (Ord. 12571 §36; May 8, 1979).

27.03.350 Lodging House.

Lodging house shall mean a building where lodging is provided by prearrangement for definite periods for compensation for three or more persons in contradistinction to hotels open to transients and group homes. (Ord. 12571 §37; May 8, 1979).

27.03.360 Lot.

Lot shall mean a parcel of land occupied or intended for occupancy by a use permitted in this title, and fronting upon a street. A lot may front upon a private roadway, or have other frontage requirements if specifically provided in this title. (Ord. 12571 §38; May 8, 1979).

27.03.370 Lot, Corner.

Corner lot shall mean a lot abutting two or more streets at their intersection. (Ord. 12571 §39; May 8, 1979).

27.03.380 Lot, Depth of.

Depth of lot shall mean the average horizontal distance between the front and rear lot lines. (Ord. 12571 §40; May 8, 1979).

27.03.390 Lot, Double Frontage.

Double frontage lot shall mean a lot having a frontage on two nonintersecting streets as distinguished from a corner lot. (Ord. 12571 §41; May 8, 1979).

27.03.400 Lot of Record.

Lot of record shall mean a lot which is part of a subdivision, the plat of which has been recorded in the office of the Register of Deeds for Lancaster County on or before November 2, 1953, unless another date is specifically established in this title, provided that said lot has a frontage of not less than forty feet; or, an irregular tract lot as described by a deed recorded with

the Register of Deeds for Lancaster County on or before November 2, 1953, unless another date is specifically established in this title, provided that such lot is numbered and described by the county surveyor and is not greater in area than one acre. (Ord. 12571 §42; May 8, 1979).

27.03.410 Lot, Platted.

Platted lot shall mean a lot which is part of a subdivision the plat of which, or the appropriate permit for which, has been legally approved and recorded in the office of the Register of Deeds for Lancaster County. (Ord. 12571 §43; May 8, 1979).

27.03.415 Mail Order Catalog Sales.

Mail order catalog sales shall mean an establishment primarily engaged in the retail sale of products by television, telemarketing, catalog, and mail order. Such a use may include warehousing, shipping, and receiving of merchandise intended for retail sale. (Ord. 16144 §1; July 6, 1992).

27.03.418 Minimum Flood Corridor.

Minimum flood corridor shall mean the existing channel bottom width plus 60 feet plus six times the channel depth and the corridor will be centered on the channel, as shown in Figure 1 below, or aligned such that the corridor follows the natural flow of flood waters.

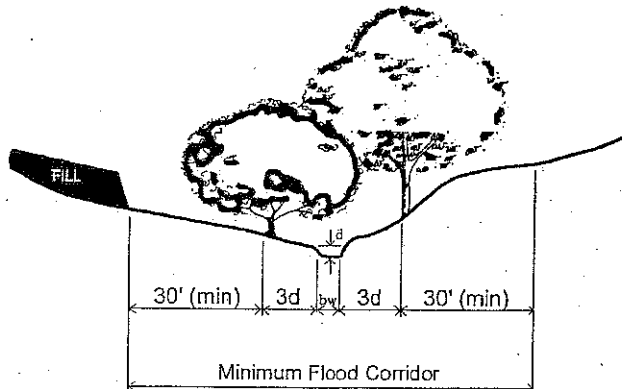


Figure 1 - Minimum Flood Corridor

(Ord. 18358 §4; May 10, 2004).

27.03.420 Mini-warehouse.

Mini-warehouse shall mean a storage facility designed to serve families and small businesses only and complying with the following requirements:

(a) All storage facilities shall be located within a building;

(b) The dimensions of any storage bay shall not exceed twenty-two feet in the narrowest dimension or thirty-six feet in the widest dimension;

(c) Storage bays shall not be interconnected by interior doors or other interior means providing access from one storage bay to another;

(d) Loading docks shall be prohibited and loading areas to storage bays shall be at the same elevation as the means of vehicular access thereto. (Ord. 12571 §44; May 8, 1979).

27.03.430 Mobile Home.

Mobile home shall mean any single family or two-family permanent living quarters, designed and built to be towed on its own chassis. Each dwelling unit shall be at least eight feet in width and thirty-two feet in length, but two-family mobile homes may have less length than the required minimum if the required width is exceeded by an amount sufficient to provide an area of at least 512 square feet. (Ord. 13437 §1; August 30, 1982; prior Ord. 12571 §45; May 8, 1979).

27.03.440 Multiple Dwelling Unit.

Multiple dwelling unit shall mean a room or rooms in a multiple dwelling intended or designed for use as a residence by a single family, including kitchen facilities. (Ord. 12571 §46; May 8, 1979).

27.03.445 New Growth Areas.

New growth areas shall mean those areas outside the corporate limits of the City of Lincoln and zoned AG Agriculture and AGR Agricultural Residential on the effective date of this ordinance. (Ord. 18358 §5; May 10, 2004).

27.03.450 Nonconforming Use.

Nonconforming use shall mean the use of any dwelling, building, structure, lot, land, or premises, or part thereof, which was existing and lawful immediately prior to the effective date of this title and which does not conform with the provisions of this title and any amendments thereto. (Ord. 12571 §47; May 8, 1979).

27.03.460 Nonstandard Use.

Nonstandard use shall mean the category of non-conformance consisting of lots occupied by buildings or structures or uses which existed immediately prior

to the effective date of this title or which become nonstandard through a change in the zoning ordinance or district boundaries that fail to comply with any of the following: minimum lot requirements for the area, density, width, front yard, side yard, rear yard, height, unobstructed open space, or parking for the district in which they are located, even though the use of the premises conforms to the permitted uses within the district as set out in the provisions of this title. (Ord. 12571 §48; May 8, 1979).

27.03.470 Office Building.

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

Office buildings shall also include the use of an office or clinic by a practitioner, or group of practitioners, in the field of medicine, including other medical uses such as medical testing laboratories that perform routine clinical diagnostic tests on human or animal specimens, dentistry, or podiatry; provided, however, that patients upon whom surgical procedures have been performed or who have otherwise received care or treatment at such office or clinic shall not be permitted to stay on the premises for recovery or observation for more than 24 hours. Medical testing laboratories shall exclude any laboratory which is required by federal law to hold a certificate of registration for their activity in compliance with CFR 42 Part 73, Selected Agents and Toxins. (Ord. 18301 §1; February 9, 2004; prior Ord. 17326 §2; April 20, 1998; Ord. 12571 §49; May 8, 1979).

27.03.471 Outdoor Dining.

Outdoor dining shall mean an open area for dining when associated with a restaurant in which tables and seats are covered or uncovered by

individual umbrellas or canopies (no tents or other types of temporary structures). (Ord. 18770 §1; July 24, 2006).

27.03.473 Owner.

For purposes of making application for a special permit or a use permit under this title, the term "owner" shall include an owner of record, a trustee under a deed of trust or similar trust document, or a long-term lessee. A person, other than an owner, may be authorized to apply on behalf of an owner. (Ord. 16766 §1; April 1, 1995).

27.03.480 Parking Lot.

Parking lot shall mean an area consisting of six or more parking spaces for the storage of automobiles, together with a driveway connecting the parking area with a street or alley and permitting ingress and egress for an automobile, provided that there shall be no storage of automobiles for the purpose of sale or resale. (Ord. 12571 §50; May 8, 1979).

27.03.490 Parking Space.

Parking space shall mean an area, enclosed or unenclosed, sufficient in size to store one automobile, together with a driveway connecting the parking space with a street or alley and permitting ingress and egress of an automobile. (Ord. 12571 §51; May 8, 1979).

27.03.493 Permanent Residence.

Permanent residence shall mean the place where a person actually lives and which such person regularly intends to occupy over a substantial period of time. If a person has more than one such place where he or she lives, the permanent residence shall be the place occupied the majority of the time by such person. (Ord. 16399 §1; June 28, 1993).

27.03.495 Premises.

Premises shall mean a tract of land, consisting of one platted lot or irregular tract, or more than one platted lot or irregular tract, provided such lots or tracts are under common ownership and contiguous. (Ord. 12571 §51; May 8, 1979).

27.03.500 Recreational Facilities.

Recreational facilities shall mean facilities primarily for participation by the public in athletic activities such as tennis, handball, racquetball, basketball, and other court games; jogging, track and

field, baseball, football, soccer, and other field games; skating, swimming, or golf. Recreational facilities shall include country clubs and athletic clubs; it shall not include facilities accessory to a private residence used only by the owner and guests, nor shall it include arenas or stadia used primarily for spectators to watch athletic events. (Ord. 12571 §52; May 8, 1979).

27.03.510 Recreational Vehicle.

Recreational vehicle shall mean a vehicular unit not exceeding forty feet in overall length, eight feet in width, or twelve feet in overall height, primarily designed as temporary living quarters for recreational camping or travel use having either its own motive power or designed to be mounted on or drawn by an automotive vehicle. Recreational vehicle includes motor home, truck camper, travel trailer, camping trailer, and fifth wheel. This definition shall include a boat mounted on a trailer, together not exceeding forty feet in body length, eight feet in width, or twelve feet in overall height. (Ord. 12571 §53; May 8, 1979).

27.03.520 Recycling Center.

Recycling center shall mean a salvage operation that accepts salvage material limited to paper; aluminum foil; containers made of glass, plastic, metal, aluminum, and paper; and similar household wastes; no hazardous material as defined by state and federal law is accepted; there is no wrecking or dismantling of salvage material and no salvage material is held outside a building. (Ord. 14185 §2; Sept. 3, 1985).

27.03.530 Salvage Operation, Scrap Processing Operation, and Salvage Material.

Salvage operation, scrap processing operation, salvage material shall mean salvage operation, scrap processing operation, and salvage material, respectively, as defined in Chapter 5.41 of this code. (Ord. 16822 §1; July 10, 1995; prior Ord. 14185 §3; September 3, 1985).

27.03.535 Salvage Yard.

Salvage yard shall mean any salvage operation where any wrecking, dismantling, or holding of salvage material is wholly or partially outside a building. (Ord. 14185 §4; September 3, 1985).

27.03.540 Service Station.

Service station shall mean any building or premise which provides for any of the following or a

combination thereof: (a) the retail sale of gasoline, oil, tires, batteries, and accessories for motor vehicles; (b) the retail sale and installation of mufflers, shocks and transmissions; and (c) certain motor vehicle services, including washings, tire changing, repair service, battery service, radiator service, lubrication, brake service, wheel service, and testing or adjusting of automotive parts. A service station may include the retail sale of non-automobile goods; provided, however, no more than 3,000 square feet of floor area shall be devoted to the sale of such goods. Automobile repair work may be done at a service station provided that no rebuilding of engines, spray paint operations, or body or fender repair is permitted. Gasoline pumps and gasoline pump islands shall be located more than twelve feet from the nearest property line. (Ord. 14774 §1; October 19, 1987; prior Ord. 14411 §1; June 23, 1986; Ord. 12571 §56; May 8, 1979).

27.03.545 Sexually Oriented Live Entertainment Establishment.

Sexually oriented live entertainment establishment shall mean any commercial establishment that as a substantial or significant portion of its business features or provides any of the following:

(1) Persons who appear showing specified anatomical areas.

(2) Live performances that are distinguished or characterized by an emphasis on the exposure, depiction, or description of specific anatomical areas or the conduct or simulation of specified sexual activities.

Sexually oriented live entertainment establishment shall not include any theater, concert hall, art center, museum, or similar establishment which is primarily devoted to the arts or theatrical performances and in which any of the circumstances contained in this section were permitted or allowed as part of such art exhibits or performances. (Ord. 17731 §2; September 25, 2000).

27.03.550 Sign.

Sign shall mean any structure, fixture, graphics, illustration, statue, or other device visible from off the premises designed or intended to advertise, to identify, to attract attention to, or to convey information regarding any goods, product, service, business, location, institution, activity, person, solicitation, issue, or campaign, with the exception of merchandise

Definitions

27.03.555 - 27.03.610

window displays, flags of any nation, state, or political subdivision, and sculpture. For purposes of removal, sign shall also include any sign structure.

For additional specific definitions pertaining to signs, see Chapter 27.69. (Ord. 14805 §1; December 14, 1987; prior Ord. 12571 §57; May 8, 1979).

27.03.555 Social Hall.

Social hall shall mean a building or premises used for social, educational, or civic gatherings, including, but not limited to, charitable fund raising events, wedding receptions, family reunions, educational seminars, neighborhood meetings, or similar events. (Ord. 18977 §1; August 20, 2007).

27.03.560 Solar Screen.

Solar screen shall mean a device attached to a building to provide shading for glazed areas thereof. (Ord. 12571 §58; May 8, 1979).

27.03.564 Specified Anatomical Areas.

Specified Anatomical Areas shall mean:

(a) Less than completely and opaquely covered human genitals; pubic region; anus; or female breast below a point immediately above the top of the areolae, but not including any portion of the cleavage of the female breast exhibited by a dress, blouse, shirt, leotard, bathing suit, or other wearing apparel, provided the areolae is not exposed.

(b) Human male genitals in a discernibly turgid state, even if completely and opaquely covered, or any device covering that, when worn, simulates male genitals in a discernibly turgid state. (Ord. 17731 §3; September 25, 2000).

27.03.566 Specified Sexual Activities.

Specified Sexual Activities shall mean any of the following:

(a) Fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts.

(b) Sex acts normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy.

(c) Masturbation, actual or simulated.

(d) Human genitals in a state of sexual stimulations, arousal, or tumescence.

(e) Excretory functions as part of or in connection with any of the activities set forth in (a), (b), (c) or (d) above. (Ord. 17731 §4; September 25, 2000).

27.03.570 Story.

Story shall mean that portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the top-most story shall be that portion of the building included between the upper surface of the topmost floor and the ceiling or roof above. If the finished floor level directly above a basement, cellar, or unused under-floor space is more than six feet above grade as defined herein for more than fifty percent of the total perimeter, or is more than twelve feet above grade at any point, such basement, cellar, or unused underfloor space shall be considered as a story. (Ord. 12571 §59; May 8, 1979).

27.03.580 Street.

Street shall mean all property acquired or dedicated to the public and accepted by the appropriate governmental agencies for street purposes, and property that has been commonly used or dedicated to be used for street purposes prior to November 2, 1953. (Ord. 12571 §60; May 8, 1979).

27.03.590 Street Centerline.

Street centerline shall mean a line midway between street lines except under conditions specified in Section 27.71.190. (Ord. 12947 §1; June 30, 1980; prior Ord. 12571 §61; May 8, 1979).

27.03.600 Street Line.

Street line shall mean a dividing line between a lot, tract, or parcel of land and a contiguous street. (Ord. 12571 §62; May 8, 1979).

27.03.610 Structure.

Structure shall mean anything constructed or erected, the use of which requires permanent location on the ground or attachment to something having a permanent location on the ground. Poles used for the support of wires and appurtenant equipment for supplying public utility services shall not be considered as buildings or structures under this title. (Ord. 12571 §63; May 8, 1979).

ANNOT.: Backstop for tennis court is not a "fence" but a structure subject to the code height for a building. Shamberg v. City of Lincoln, 174 Neb. 146, 116 N.W.2d 18 (1962).

This ordinance is penal in nature and will be strictly construed. Id.

27.03.620 Structural Alteration.

Structural alteration shall mean any change in the supporting members of a building, such as bearing walls, columns, beams, or girders, or any complete rebuilding of the roof or the exterior walls. (Ord. 12571 §64; May 8, 1979).

27.03.625 Temporary Shelter for the Homeless.

Temporary shelter for the homeless shall mean a structure used as a day facility or temporary dwelling for transient or homeless individuals, but not including orphanages or foster homes, operated by a nonprofit religious, educational, or philanthropic institution. (Ord. 16070 §1; March 9, 1992; prior Ord. 13853 §1; May 21, 1984).

27.03.630 Townhouse.

Townhouse shall mean one of a group or row of not less than three nor more than twelve attached, single-family dwellings designed and built as a single structure facing upon a street in which the individual townhouse may or may not be owned separately. The townhouse need not face upon a street if otherwise specifically provided in this title. For the purpose of the side yard regulations, the structure containing the row or group of townhouses shall be considered as one building occupying a single lot. (Ord. 12571 §65; May 8, 1979).

27.03.633 Tree Service.

Tree service shall mean a building or premises used primarily in support of a business engaged in tree and stump removal, tree and shrub trimming, stump grinding, pin oak injection, insect and disease control, tree nutrients, processing wood chips and firewood, and land clearing. The premises may be used for the processing and storage of tree related products and byproducts produced only by the business located on the premises and the parking of trucks, grinders and related equipment, but no retail sales of products shall be allowed on the premises. (Ord. 18729 §1; May 8, 2006).

27.03.634 Truck Stop.

Truck stop shall mean a business, service, or industry involving the maintenance, servicing, storage, or repair of commercial vehicles, including fuel sales and the sale of accessories or equipment for trucks and similar commercial vehicles. A truck stop may also include overnight accommodations and restaurant facilities. (Ord. 19197 §1; January 26, 2009).

27.03.635 Technology Transfer Industries or Applications.

Technology transfer industries or applications shall mean those industries or applications which involve research and development activities including laboratories, offices, and other support facilities which are required for basic and applied research and technology and for the distribution of products developed or manufactured on or off-site. They may also include prototype manufacturing of products developed on the site and off-site and some research and development-related light manufacturing or application processes consisting of the production, fabrication, processing, or assembly of goods or products not necessarily by the developing entity and not necessarily at the developing laboratory. (Ord. 16902 §1; December 4, 1995; prior Ord. 16326 §1; March 15, 1993).

27.03.636 Warehouse.

Warehouse shall mean any commercial use of a building, or a portion of a building, that devotes at least 50% of the floor area for storing goods or materials or for distributing goods or materials to local or long distance carriers for transportation or delivery purposes. Floor area devoted to storing goods or materials or distributing goods or materials may be combined to calculate the required floor area. Such use of buildings, portions of buildings, or accessory uses to such buildings shall not be deemed a warehouse when direct retail sales to the public is the primary use. (Ord. 17418 §1; October 5, 1998).

27.03.638 Wind Energy Conversion System (WECS).

Wind energy conversion system is any device, such as a wind charger, windmill, or wind turbine, which converts wind energy to a form of usable energy. (Ord. 19158 §1; October 20, 2008).

27.03.640 Yard Line.

The yard line is a line on the lot running parallel to and the required horizontal distance from the nearest lot line. (Ord. 12571 §66; May 8, 1979).

27.03.650 Yard, Required.

Required yard shall mean the required minimum open space between the property line and the yard line. The required yard shall contain no building or structure other than the projection of the usual steps, unenclosed balconies, or open porches, or as otherwise provided in this title. (Ord. 12571 §67; May 8, 1979).

Definitions

27.03.660 - 27.03.680

27.03.660 Yard, Required Front.

The required front yard shall extend across the front of a lot between the side lot lines. There shall be a required front yard on each street side of a corner lot. (Ord. 12571 §68; May 8, 1979).

27.03.670 Yard, Required Rear.

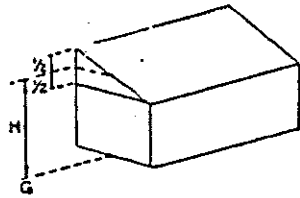
The required rear yard shall extend across the rear of a lot between the side lot lines. On corner lots, the required rear yard may be to the rear of either street, provided that the minimum required rear yard shall be calculated on the longest average lot dimension. On interior lots, the required rear yard shall in all cases be at the opposite end of the lot from the front yard. (Ord. 12571 §69; May 8, 1979).

27.03.680 Yard, Required Side.

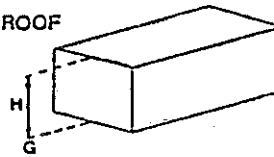
The required side yard shall extend between the front yard line and the rear yard line. There shall be only one required side yard on a corner lot. (Ord. 12571 §70; May 8, 1979).

BUILDING HEIGHT

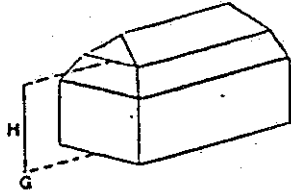
SHED ROOF



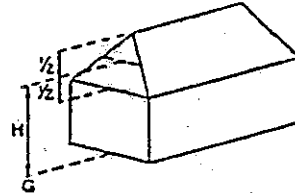
FLAT ROOF



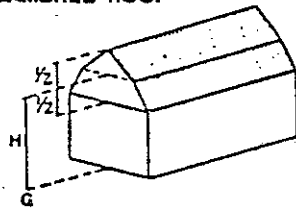
MANSARD ROOF



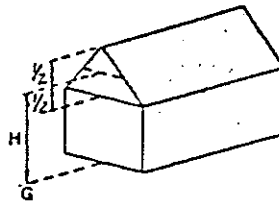
HIP ROOF



GAMBREL ROOF

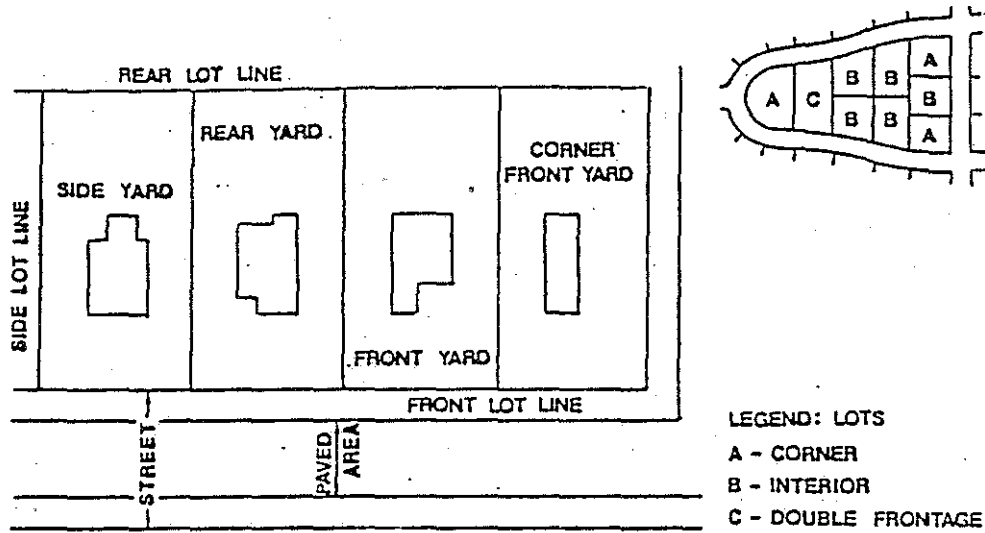


GABLE ROOF

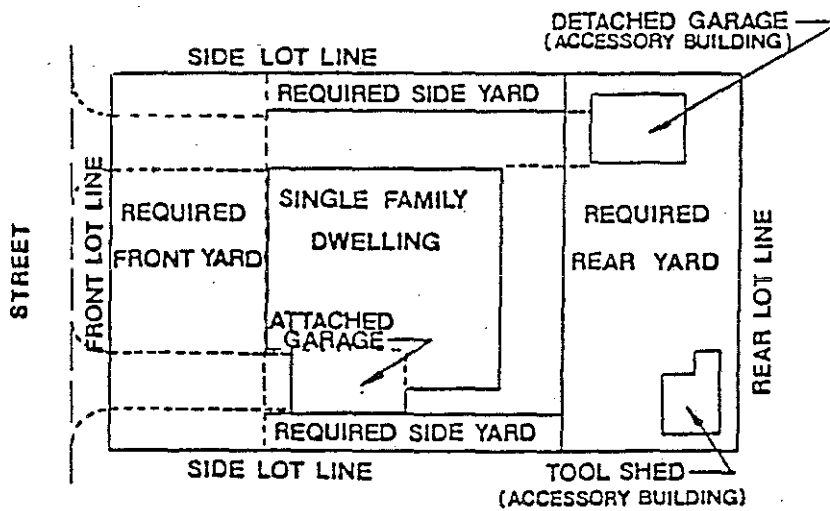


H=HEIGHT OF BUILDING
G=GRADE

REQUIRED YARDS



BUILDING—PRINCIPAL AND ACCESSORY



Chapter 27.05

DISTRICTS AND BOUNDARIES

Sections:

- 27.05.010 Districts Designated.
- 27.05.020 Boundaries of Districts; Maps.
- 27.05.030 Rules Where Uncertainty as to Boundaries Arises.
- 27.05.040 Vacation of Streets and Alleys.
- 27.05.050 Classification of Land Coming Within the Zoning Jurisdiction of the City.
- 27.05.060 Classification of Districts.

27.05.010 Districts Designated.

In order to regulate and restrict the height, number of stories, and size of buildings and other structures; the percentage of lot that may be occupied; the size of the yards, courts, and other open spaces; the density of population; and the location and use of buildings, structures, and land for trade, industry, residence, or other purposes, the city and the area within three miles of the corporate limits thereof is hereby divided into districts. (Ord. 12571 §71; May 8, 1979).

27.05.020 Boundaries of Districts; Maps.

The boundaries of the districts are shown upon maps which are made a part hereof by reference, which maps are designated as the "Lincoln Zoning District Maps." Other maps referenced in this title, including but not limited to, the "Lincoln Capitol Environs District Map," "Flood Hazard Boundary Map," "Lincoln Airport Zoning Map," "Lincoln Building Line District Map," and "Airport Environs Noise District Map" are also made a part hereof by reference for the purpose of designating the boundaries of districts. That part of the maps designating the different districts and their boundaries and that part of the legend designating the symbol title shall have the same force and effect as if they were all fully set forth herein. Other notations and references thereon are for information only. (Ord. 19172 §1; November 3, 2008; prior Ord. 17967 §1; February 25, 2002; Ord. 15104 §1; February 13, 1989; Ord. 13414 §1; June 14, 1982; Ord. 12571 §72; May 8, 1979).

27.05.030 Rules Where Uncertainty as to Boundaries Arises.

Where uncertainty exists with respect to the boundaries of the various districts shown on the district map accompanying and made a part of this title by reference, the following rules apply:

(a) The district boundaries are either streets or alleys unless otherwise shown, and where the districts designated on the map made a part of this title by reference are bounded approximately by street or alley lines, the street or alley shall be construed to be the boundary of the district;

(b) Where the property has been or may hereafter be divided into blocks and platted lots, the district boundaries shall be construed to coincide with the nearest platted lot lines; and where the districts designated in the district map made a part of this title by reference are bounded approximately by platted lot lines, the platted lot line shall be construed to be the boundary of the district;

(c) In unsubdivided property, the district boundary lines on the map made a part of this title by reference shall be determined by use of the scale appearing on the map. (Ord. 12571 §73; May 8, 1979).

27.05.040 Vacation of Streets and Alleys.

Whenever any street, alley, or other public way is vacated, the zoning district adjoining each side of such street, alley, or public way is extended to the center of such vacation; and all area included in the vacation shall then and henceforth be subject to the appropriate regulations of the extended districts. (Ord. 12571 §74; May 8, 1979).

27.05.050 Classification of Land Coming Within the Zoning Jurisdiction of the City.

All unincorporated territory which may hereafter come within three miles of the city limits by virtue of annexation to the city shall be placed and continued in the AG Agriculture District unless previously designated AGR Agricultural Residential District, in which event it shall be continued in such district. Any other county zoning shall cause the Planning Director to initiate a change of zone to the appropriate city zoning classification closest in use and area regulations to the previous county zoning. (Ord. 12571 §75; May 8, 1979).

27.05.060 Classification of Districts.

Certain district designations in this title are to apply to specific types of development. The following districts are generally to apply to developing or newly developed areas: R-3, B-2, B-5, H-4, and I-4. The following districts are specifically to apply to already developed areas and are districts not planned for major expansion or creation of new areas with such designations: R-1, R-2, B-1, and B-3. Those districts not specifically listed in this section are not limited to either already developed or newly developing areas. (Ord. 12571 §76; May 8, 1979).

Chapter 27.07

AG AGRICULTURE DISTRICT

Sections:

27.07.010 Scope of Regulations.

27.07.020 Permitted Uses.

27.07.030 Permitted Conditional Uses.

27.07.040 Permitted Special Uses.

27.07.050 Accessory Uses.

27.07.060 Parking Regulations.

27.07.070 Sign Regulations.

27.07.075 Grading and Land Disturbance
Regulations.

27.07.080 Height and Area Regulations.

(This district is designated for agricultural use and is intended to encourage a vigorous agricultural industry throughout the county and to preserve and protect agricultural production by limiting urban sprawl as typified by urban or acreage development.)

27.07.010 Scope of Regulations.

The regulations set forth in this chapter, or elsewhere in this title when referred to in this chapter, are the district regulations in the AG agriculture district. (Ord. 12571 §7; May 8, 1979).

27.07.020 Permitted Uses.

A building or premises shall be permitted to be used for the following purposes in the AG agriculture district:

(a) Agriculture, except confined feeding facilities for livestock or poultry;

(b) Confined feeding facilities for livestock or poultry, of a maximum area of 15,000 square feet;

(c) Breeding, raising, management, and sale of fur-bearing animals and the produce thereof;

(d) Dog-breeding establishments and kennels;

(e) Stables and riding academies;

(f) Public uses: including but not limited to public parks, playgrounds, golf courses, and recreational uses; fire stations; public elementary and high schools, or private schools having a curriculum equivalent to a public elementary or public high

school; and public utilities and utility distribution systems;

(g) Single-family dwellings;

(h) Churches;

(i) Wind energy conversion systems. (Ord. 19158; §2; October 20, 2008; prior Ord. 17649 §1; April 17, 2000: Ord. 12571 §78; May 8, 1979).

27.07.030 Permitted Conditional Uses.

A building or premises may be used for the following purpose in the AG agriculture district in conformance with the conditions prescribed herein:

(a) Cemeteries, including mausoleums:

(1) Mausoleums shall be located at least 200 feet from every street and adjoining property line;

(2) Any cemetery established after the effective date of this title shall contain an area of twenty acres or more.

(b) Pet cemeteries: Minimum area shall be five acres;

(c) Roadside stands for the temporary or seasonal sale of produce shall be permitted on any premises in addition to any other main use, regardless of lot size for specified use:

(1) Such roadside stands shall be permitted in a required yard; however, no roadside stand shall be permitted in a right of way, nor closer than thirty feet to the edge of a traveled roadway;

(2) Such roadside stand shall not be operated for more than 180 days in any one year.

(d) Group homes:

(1) Group homes shall comply with all sign, height, and area regulations of the district, and all provisions of the minimum standard housing ordinance. Parking shall be regulated in conformance with the provisions of Chapter 27.67;

(2) The distance between the proposed use and any existing group home measured from lot line to lot line is not less than one-half mile;

(3) Such use shall be permitted only so long as the facility continues to be validly licensed by the State of Nebraska.

(e) Wind energy conversion systems over the district height, provided they meet the following conditions:

(1) The distance from all lot lines to any tower support base of the WECS shall be equal to the height of the tower plus the radius of the rotor. The

City Council may grant a reduction in the specific setback distance when it finds that such reduction shall not adversely affect surrounding property and is consistent with the intent of this title to promote the public health, safety, and general welfare.

(2) The distance from any tower support base of a WECS to any tower support base of another WECS under other ownership shall be a minimum of five rotor distances figured by the size of the largest rotor. The City Council may grant a reduction in this requirement if it finds that such reduction does not adversely affect the operation of either WECS.

(3) The WECS operation shall not cause interference to the radio and television reception on adjoining property.

(4) The WECS, if interconnected to a utility system, shall meet the requirements for interconnection and operation as set forth in the electric utility's then current service regulations applicable to WECS.

(f) Greenhouses:

(1) The minimum lot area shall be twenty acres; provided, however, that if a lot has less area, width, or frontage or any combination thereof than herein required, and its entire boundary was under different ownership on the effective date of this title and has not been since changed, such lot may be used for a greenhouse, provided that no such lot be less than two acres;

(2) Parking shall be in conformance with Chapter 27.67.

(g) Early childhood care facilities in churches:

(1) The parking and loading/unloading area for such facilities shall comply with the provisions of Chapter 27.67 of the Lincoln Municipal Code and the design standards for early childhood care facilities;

(2) Such facilities shall comply with all applicable state and local early childhood care requirements;

(3) Such facilities shall comply with all applicable building and life safety code requirements;

(4) Such facilities shall be fenced and have play areas that comply with the design standards for early childhood care facilities;

(5) Such facilities must receive a conditional use permit from the Department of Building and Safety.

(h) Early childhood care facilities with a maximum of fifteen children present at any time:

(1) The parking and loading/unloading area for such facilities shall comply with the provisions of Chapter 27.67 of the Lincoln Municipal Code and the design standards for early childhood care facilities;

(2) Such facilities shall comply with all applicable state and local early childhood care requirements;

(3) Such facilities shall comply with all applicable building and life safety code requirements;

(4) Such facilities shall be fenced and have play areas that comply with the design standards for early childhood care facilities;

(5) Such facilities shall be used as the permanent residence of the licensed child care provider;

(6) Such facilities with thirteen or more children must receive a conditional use permit from the Department of Building and Safety;

(7) Early childhood care facilities located in mobile homes shall have a severe weather emergency action plan approved by the Health Department.

(i) Domestic Shelter:

(1) Parking shall be in conformance with Chapter 27.67;

(2) The maximum number of residents occupying such a facility shall not exceed one person per 3,000 square feet of lot area;

(3) The distance between the proposed use of any existing domestic shelter measured from lot line to lot line shall not be less than one mile. (Ord. 19158 §3; October 20, 2008; prior Ord. 18903 §1; March 26, 2007; Ord. 17508 §1; May 17, 1999; Ord. 17104 §1; December 2, [continued on next page])

1996: Ord. 16854 §2; August 14, 1995: Ord. 15751 §1; October 15, 1990: Ord. 13982A §1; November 5, 1984: Ord. 13487 §1; November 1, 1982: Ord. 12571 §79; May 8, 1979).

27.07.040 Permitted Special Uses.

A building or premises may be used for the following purposes in the AG Agriculture District if a special permit for such use has been obtained in conformance with the requirements of Chapter 27.63:

- (a) Private schools;
- (b) Recreational facilities;
- (c) Dwellings for members of religious orders;
- (d) Broadcast towers and stations;
- (e) Campgrounds;
- (f) Veterinary facilities;
- (g) Confined feeding facilities for livestock or poultry in excess of 15,000 square feet in area; in those parts of the AG Agriculture District designated "agricultural" on the future county land use map (Fig. 17) of the Lincoln-Lancaster County Comprehensive Plan (which for this purpose only is hereby incorporated herein by reference);
- (h) Excavation and stone milling;
- (i) Sale barns;
- (j) Garden centers;
- (k) Facilities for the commercial storage or sale of fertilizer or toxic or flammable agricultural chemicals;
- (l) Church steeples, amateur radio antenna installations, towers, and ornamental spires which exceed the maximum district height;
- (m) Expansion of nonconforming use;
- (n) Historic preservation;
- (o) Community unit plans shall be permitted in conformance with provisions of Chapter 27.65;
- (p) Public utility purposes;
- (q) Private landing strips and appurtenances;
- (r) Limited landfills;
- (s) Race tracks for motorized vehicles;
- (t) Temporary storage of construction equipment and materials;
- (u) Early childhood care facilities with sixteen or more children, or with fifteen or fewer children not meeting the specified conditions for a permitted conditional use under Section 27.07.030.;
- (v) Clubs;

(w) Dwelling units for domestic employees in accessory buildings;

(x) Heritage centers;

(y) Community halls. (Ord. 19224 §1; March 16, 2009: prior Ord. 18454 §1; October 11, 2004: Ord. 17119 §1; December 16, 1996: Ord. 16854 §3; August 14, 1995: Ord. 16673 §3; September 26, 1994: Ord. 16413 §2; July 12, 1993: Ord. 16088 §1; March 23, 1992: Ord. 15763 §1; October 29, 1990: Ord. 15368 §1; December 18, 1989: Ord. 15133 §1; March 27, 1989: Ord. 15092 §1; January 16, 1989: Ord. 14953 §1; August 22, 1988: Ord. 14905 §1; June 13, 1988: Ord. 14780 §1; November 2, 1987: Ord. 14773 §1; October 19, 1987: Ord. 14431 §1; July 14, 1986: Ord. 13487, amended by Ord. 13588 §1; May 9, 1983: Ord. 12978 §1; August 25, 1980: Ord. 12894 §1; April 7, 1980: Ord. 12571 §80; May 8, 1979).

27.07.050 Accessory Uses.

Accessory uses permitted in the AG Agriculture District are accessory buildings and uses customarily incident to any of the permitted uses in the district. (Ord. 12571 §81; May 8, 1979).

27.07.060 Parking Regulations.

All parking within the AG Agriculture District shall be regulated in conformance with the provisions of Chapter 27.67. (Ord. 12571 §82; May 8, 1979).

27.07.070 Sign Regulations.

Signs within the AG Agriculture District shall be regulated in conformance with the provisions of Chapter 27.69. (Ord. 12571 §83; May 8, 1979).

27.07.075 Grading and Land Disturbance Regulations.

Grading and land disturbance within the AG Agricultural District shall be regulated in conformance with the provisions of Chapter 27.81. (Ord. 17618 §1; February 22, 2000.)

27.07.080 Height and Area Regulations.

The maximum height and minimum lot requirements within the AG Agriculture District shall be as follows:

- (a) General requirements:

[See Table 27.07.080(a) on the following page]

Table 27.07.080(a)

	Lot Area	Avg. Lot Width	Frontage	Req'd Front Yard	Req'd Side Yard	Req'd Rear Yard	Height
All Permitted Uses	20 acres	550'	550'	50*	60'	100'	35'

* However, in no event need the sum of the distance from the centerline of the abutting street to the street line and the required front yard exceed a total of 80'. The required front yards of any such property exceeding the 80' sum may be reduced accordingly.

Minimum Lot Area. In all interior sections of a township, the minimum area for a buildable lot shall be one-half of the total acreage contained in that quadrant of the quarter section in which said lot is located.

In all closing sections (any section of land bordering on the north or west line of a township) except those which lie along the west line of Range 8 East, the minimum area for a buildable lot shall be as follows:

(1) For those lots located within a Government Lot (a lot created by the original government survey and recorded in the surveyor's records of Lancaster County), the minimum required area shall be one-half of the total acreage contained in said Government Lot;

(2) For those lots which are not located within a Government Lot, the minimum required area shall be one-half of the total acreage contained in that quadrant of the quarter section in which said lot is located.

In those closing sections which lie along the west line of Range 8 East, the minimum area for a buildable lot shall be twenty acres, provided, however that the Board of Zoning Appeals, in conformance with the terms of Chapter 27.75, may hear and decide upon petitions to vary strict application of this requirement. For purposes of this section, minimum lot area, county section, and one-half section line road right-of-way are included for the purpose of determining area.

(b) There shall be a required front yard on each street side of a double-frontage lot;

(c) There shall be a required front yard on each street side of a corner lot; provided, however, that the buildable width of a lot of record on the effective date of this title need not be reduced below thirty-five feet

except where necessary to provide a required side yard of not less than five feet in place of one of the required front yards.

(d) Where a lot or tract of land on the effective date of this title has less width than required under subsection (a) of this section, the required side yard may be reduced to a width of not less than ten percent of the width of the lot, but in no instance shall it be less than fifteen feet.

(e) Where a lot or tract of land with an area of less than two acres on the effective date of this title has an average depth of not more than 300 feet, there shall be a required rear yard having a depth of not less than fifty feet or twenty percent of the depth of the lot, whichever is smaller.

(f) (1) If a lot has less area, width, or frontage or any combination thereof, than herein required, and its entire boundary was under different ownership on the effective date of this title and has not since been changed, such lot may be used in the following manner:

(i) If the area of the lot is ten acres or more, such lot may be used for:

- a. Agriculture, except commercial feedlots;
- b. Breeding, raising, management, and sale of fur-bearing animals and the produce thereof;
- c. Dog-breeding establishment and kennel;
- d. Stables and riding academies;
- e. Public use including, but not limited to, public parks, playgrounds, golf courses and recreational uses, fire stations, public elementary and high schools or private schools having a curriculum equivalent to a public elementary or public high school, and public utilities and utility distribution systems;
- f. A single-family dwelling;

g. Churches.

(ii) If the area of the lot is less than ten acres, such lot may be used for:

a. Agriculture, except commercial feed-lots;

b. Public use including, but not limited to, public parks, playgrounds, golf courses and recreational uses, fire stations, public elementary and high school or private schools having a curriculum equivalent to a public elementary or public high school, and public utilities and utility distribution systems;

c. A single-family dwelling;

d. Churches.

(iii) A lot which otherwise qualified under (i) above, but which has since been reduced in area by public acquisition for right-of-way purposes, may be devoted to any of the uses permitted in (i) above if the remaining area of such lot is nine or more acres.

(2) If two or more abutting lots in common ownership exist on the effective date of this title, each of such lots may be used for a single-family dwelling; provided, that each such lot shall contain a minimum area of two acres and shall have an average lot width of 150 feet. Abutting lots in common ownership may be combined to meet these requirements.

If a lot has less width or depth than herein required, the required side and rear yard may be adjusted as provided in (d) and (e) above.

(g) Accessory buildings which are attached to or not located more than ten feet from the main structure shall be considered a part of the main structure and shall comply with the front, side and rear yard requirements of the main building. Accessory buildings not a part of the main structure may be located: (1) in the required rear yard, but such accessory buildings shall not be nearer than two feet to the side or rear lot line;

and (2) not nearer than a distance equal to ten percent of the average lot width from the side lot line. Such accessory buildings located in the required rear yard or required side yard shall not occupy more than thirty percent of the required rear yard.

(h) A lot or parcel of land of one acre or more may be used for a single-family dwelling, provided that a residential structure:

(1) has existed on such land for more than five years;

(2) such structure is, or has been, used as the primary residence associated with a farm; and

(3) such lot or parcel of land and structure shall be in conformance with the following maximum height and minimum lot requirements:

(i) General requirements:

[See Table 27.07.080(i) below]

(ii) There shall be a required front yard on each street side of a double-frontage lot;

(iii) There shall be a required front yard on each street side of a corner lot; provided, however, that the buildable width of a lot of record on November 2, 1953, need not be reduced below thirty-five feet except where necessary to provide a required side yard of not less than five feet in place of one of the required front yards.

(iv) Accessory buildings which are attached to or not located more than ten feet from the main structure shall be considered a part of the main structure and shall comply with the front, side, and rear yard requirements of the main building. Accessory buildings not a part of the main structure may be located in the required rear yard, but such accessory building may not occupy more than thirty percent of the required rear yard and shall not be nearer than two feet to the side or rear lot line.

Table 27.07.080(i)

	Lot Area	Avg. Lot Width	Req'd Frontage	Req'd Front Yard	Req'd Side Yard	Req'd Rear Yard	Height
All Permitted Uses	1 acre	150'	120'	50'*	15'	Lesser of 50' or 20% of depth	30'

* The sum of (1) the distance from the centerline of abutting road to the property line, plus (2) the required front yard need not exceed 80'. The required front yard may be reduced, where necessary, to reach this total.

However, if the lot or parcel of land and structure does not meet the requirements of item (i) above, it shall be considered a non-standard use.

(4) Such structure is in conformance with the other provisions of this title, the minimum housing code, and the minimum standards for water and sewage facilities.

(i) A lot or parcel of land of one acre or more may be used for public utility and distribution system purposes; provided, that such lot or parcel of land and any structures located thereon meet the maximum height and minimum lot requirements set forth in (h)(3) above; and provided, further, that such lot or parcel shall not be used, by itself, for any other purpose except agriculture. (Ord. 17649 §2; April 17, 2000: prior Ord. 17603 §1; February 7, 2000: Ord. 15752 §1; October 15, 1990: Ord. 14279 §1; December 2, 1985: Ord. 14077 §1; April 8, 1985: Ord. 13441 §1; September 7, 1982: Ord. 13358 §1; April 26, 1982: Ord. 13242 §1; November 2, 1981: Ord. 12967 §1; August 11, 1980: Ord. 12571 §83; May 8, 1979).

Chapter 27.09

AGR AGRICULTURAL RESIDENTIAL
DISTRICT

Sections:

- 27.09.010 Scope of Regulations.
- 27.09.020 Permitted Uses.
- 27.09.030 Permitted Conditional Uses.
- 27.09.040 Permitted Special Uses.
- 27.09.050 Accessory Uses.
- 27.09.060 Parking Regulations.
- 27.09.070 Sign Regulations.
- 27.09.075 Grading and Land Disturbance Regulations.
- 27.09.080 Height and Area Regulations.

This district is intended to provide for a vigorous agricultural industry combined with low-density, acreage residential development in selected portions of the county. Generally, these districts are located near urban areas, villages, or existing rural non-farm activities within reasonable reach of fire protection, relatively close to paved roads, and in areas of the county where ownership of land is already in small parcels.

27.09.010 Scope of Regulations.

The regulations set forth in this chapter, or elsewhere in this title when referred to in this chapter, are the district regulations in the AGR Agricultural Residential District. (Ord. 12571 §85; May 8, 1979).

27.09.020 Permitted Uses.

A building or premises shall be permitted to be used for the following purposes in the AGR Agricultural Residential District:

- (a) Agriculture, except confined feeding facilities for livestock or poultry;
- (b) Dog-breeding establishments and kennels;
- (c) Stables and riding academies;
- (d) Public uses; and publicly owned and operated uses including but not limited to public parks, playgrounds, golf courses, and recreational uses; fire stations; public elementary and high schools;

and public utilities and utility distribution systems; and airports;

(e) Churches;

(f) Single-family dwellings;

(g) Wind energy conversion systems. (Ord. 19158 §4; October 20, 2008; prior Ord. 12571 §86; May 8, 1979).

27.09.030 Permitted Conditional Uses.

A building or premises may be used for the following purpose in the AGR Agricultural Residential District in conformance with the conditions prescribed herein:

(a) Cemeteries, including mausoleums:

(1) Mausoleums shall be located at least 200 feet from every street line and adjoining property line;

(2) Any cemetery established after the effective date of this title shall contain an area of twenty acres or more;

(b) Pet cemeteries: Minimum area shall be five acres;

(c) Roadside stands for the temporary or seasonal sale of produce;

(1) Such roadside stands shall be permitted in a required yard; however, no roadside stand shall be permitted in a right of way, nor closer than thirty feet to the edge of a traveled roadway;

(2) Such roadside stand shall not be operated for more than 180 days in any one year.

(d) Group homes:

(1) Group homes shall comply with all sign, height, and area regulations of the district, and all provisions of the minimum standard housing ordinance. Parking shall be regulated in conformance with the provisions of Chapter 27.67;

(2) The distance between the proposed use and any existing group home measured from lot line to lot line is not less than one-half mile;

(3) Such use shall be permitted only so long as the facility continues to be validly licensed by the State of Nebraska.

(e) Wind energy conversion systems over the district height, provided they meet the following conditions:

(1) The distance from all lot lines to any tower support base of the WECS shall be equal to the

height of the tower plus the radius of the rotor. The City Council may grant a reduction in the specific setback table distance when it finds that such reduction shall not adversely affect surrounding property and is consistent with the intent of this title to promote the public health, safety, and general welfare.

(2) The distance from any tower support base of a WECS to any tower support base of another WECS under other ownership shall be a minimum of five rotor distances figured by the size of the largest rotor. The City Council may grant a reduction in this requirement if it finds that such reduction does not adversely affect the operation of either WECS.

(3) The WECS operation shall not cause interference to the radio and television reception on adjoining property.

(4) To limit climbing access to the WECS tower, a fence six feet high with a locking portal shall be placed around the WECS tower base or the tower climbing apparatus shall be limited to no lower than twelve feet from the ground, or the WECS tower may be mounted on a roof top.

(5) The WECS, if interconnected to a utility system, shall meet the requirements for interconnection and operation as set forth in the electric utility's then current service regulations applicable to WECS.

(f) Greenhouses:

(1) The minimum lot area shall be two acres;

(2) All materials shall be stored inside buildings;

(3) Not more than twenty-five percent of the land may be devoted to such use;

(4) Greenhouses shall comply with the same setback requirements as are applicable to main buildings;

(5) Parking shall be in conformance with Chapter 27.67.

(g) Early childhood care facilities in churches:

(1) The parking and loading/unloading area for such facilities shall comply with the provisions of Chapter 27.67 of the Lincoln Municipal Code and the design standards for early childhood care facilities;

(2) Such facilities shall comply with all applicable state and local early childhood care requirements;

(3) Such facilities shall comply with all applicable building and life safety code requirements;

(4) Such facilities shall be fenced and have play areas that comply with the design standards for early childhood care facilities;

(5) Such facilities must receive a conditional use permit from the Department of Building and Safety.

(h) Early childhood care facilities with a maximum of fifteen children present at any time:

(1) The parking and loading/unloading area for such facilities shall comply with the provisions of Chapter 27.67 of the Lincoln Municipal Code and the design standards for early childhood care facilities;

(2) Such facilities shall comply with all applicable state and local early childhood care requirements;

(3) Such facilities shall comply with all applicable building and life safety code requirements;

(4) Such facilities shall be fenced and have play areas that comply with the design standards for early childhood care facilities;

(5) Such facilities shall be used as the permanent residence of the licensed child care provider;

(6) Such facilities with thirteen or more children must receive a conditional use permit from the Department of Building and Safety;

(7) Early childhood care facilities located in mobile homes shall have a severe weather emergency action plan approved by the Health Department.

(i) Domestic Shelter:

(1) Parking shall be in conformance with Chapter 27.67;

(2) The maximum number of residents occupying such a facility shall not exceed one person per 3,000 square feet of lot area;

(3) The distance between the proposed use of any existing domestic shelter measured from lot line to lot line shall not be less than one mile. (Ord. 19158 §5, October 20, 2008; prior Ord. 18903 §2; March 26, 2007: Ord. 17104 §2; [Continued on next page])

December 2, 1996: Ord. 16854 §4; August 14, 1995: Ord. 15751 §1; October 15, 1990: Ord. 13982A §2; November 12, 1984: Ord. 13487 §3; November 1, 1982: Ord. 12571 §87; May 8, 1979).

27.09.040 Permitted Special Uses.

A building or premises may be used for the following purposes in the AGR Agricultural Residential District if a special permit for such use has been obtained in conformance with the requirements of Chapter 27.63:

- (a) Private schools;
- (b) Recreational facilities;
- (c) Dwellings for members of religious orders;
- (d) Broadcast towers;
- (e) Campgrounds;
- (f) Veterinary facilities;
- (g) Excavation and stone milling;
- (h) Garden centers;
- (i) Facilities for the commercial storage or sale of fertilizer or toxic or flammable agricultural chemicals;
- (j) Church steeples, amateur radio antenna installations, towers, and ornamental spires which exceed the maximum district height;
- (k) Community unit plans shall be permitted in conformance with the provisions of Chapter 27.65;
 - (l) Expansion of nonconforming uses;
 - (m) Historic preservation;
 - (n) Public utility purposes;
 - (o) Private landing strips and appurtenances;
 - (p) Early childhood care facilities with sixteen or more children, or with fifteen or fewer children not meeting the specified conditions for a permitted conditional use under Section 27.09.030;
- (q) Clubs;
- (r) Dwelling units for domestic employees in accessory buildings;
- (s) Alternative to imprisonment facilities;
- (t) Children's homes. (Ord. 19224 §2; March 16, 2009: prior Ord. 18535 §6; May 9, 2005: Ord. 16854 §5; August 14, 1995: Ord. 16673 §4; September 26, 1994: Ord. 16088 §2; March 23, 1992: Ord. 15763 §2; October 29, 1990: Ord. 15368 §2; December 18, 1989: Ord. 14780 §2; November 2, 1987: Ord. 14773 §2; October 19, 1987: Ord. 13588 §2; May 9, 1983: Ord. 13487 §4; November 1, 1982:

Ord. 12978 §2; August 25, 1980: Ord. 12894 §2; April 7, 1980: Ord. 12571 §88; May 8, 1979).

27.09.050 Accessory Uses.

Accessory uses permitted in the AGR Agricultural Residential District are accessory buildings and uses customarily incident to any of the permitted uses in the district. (Ord. 12571 §89; May 8, 1979).

27.09.060 Parking Regulations.

All parking within the AGR Agricultural Residential District shall be regulated in conformance with the provisions of Chapter 27.67. (Ord. 12571 §90; May 8, 1979).

27.09.070 Sign Regulations.

Signs within the AGR Agricultural Residential District shall be regulated in conformance with the provisions of Chapter 27.69. (Ord. 12571 §91; May 8, 1979).

27.09.075 Grading and Land Disturbance Regulations.

Grading and land disturbance within the AGR Agricultural Residential District shall be regulated in conformance with the provisions of Chapter 27.81. (Ord. 17618 §2; February 22, 2000).

27.09.080 Height and Area Regulations.

The maximum height and minimum lot requirements within the AGR Agricultural Residential District shall be as follows:

- (a) General requirements:

[See Table 27.09.080(a) at the end of this chapter]

- (b) There shall be a required front yard on each street side of a double frontage lot;

- (c) There shall be a required front yard on each street side of a corner lot; provided, however, that the buildable width of a lot of record on November 2, 1953, need not be reduced below thirty-five feet except where necessary to provide a required side yard of not less than five feet in place of one of the required front yards.

- (d) Where a lot of record on November 2, 1953, has a width of 100 feet or less, the required side yard may be reduced to a width of not less than ten percent of the width of the lot, but in no instance shall it be less than five feet.

(e) If a lot or tract has less area or width, or both less area and width, than herein required, and its boundary lines along their entire length abutted lands under other ownership on November 2, 1953, and have not since been changed, such parcel may be used in the following manner:

- (1) Agriculture, except confined feeding facilities for livestock or poultry;
- (2) Public use including but not limited to public parks, playgrounds, golf courses and recreational uses, fire stations, public elementary and high schools, and public utilities and utility distribution systems;
- (3) Churches;
- (4) A single-family dwelling.

(f) Accessory buildings which are attached to or not located more than ten feet from the main structure shall be considered a part of the main structure and shall comply with the front, side, and rear yard requirements of the main building. Accessory buildings not a part of the main structure may be located in the required rear yard, but such accessory buildings may not occupy more than thirty percent of the required rear yard and shall not be nearer than two feet to the side or rear lot line.

(g) If a lot has less area, width or frontage or any combination thereof than required under subsection (a) of this section, and on January 16, 1989, if the area of the lot was one acre or more, and the average lot width of the lot was 150 feet or more and the frontage of the lot was 120 feet or more, such lot may be used for:

- (1) Agriculture, except confined feeding facilities for livestock or poultry;
- (2) Dog-breeding establishments and kennels;
- (3) Stables and riding academies;
- (4) Public uses; and publicly owned and operated uses including but not limited to public parks, playgrounds, golf courses, and recreational uses; fire stations; public elementary and high schools; and public utilities and utility distribution systems; and airports;
- (5) Churches;
- (6) A single-family dwelling. (Ord. 16388 §1; June 14, 1993; prior Ord. 15208 §1; June 26, 1989; Ord. 15092 §2; January 16, 1989; Ord. 13242 §2; November 2, 1981; Ord. 13222 §1; October 12, 1981; Ord. 12571 §92; May 8, 1979).

Table 27.09.080(a)

	Lot Area	Avg. Lot Width	Frontage	Req'd Front Yard	Req'd Side Yard	Req'd Rear Yard	Height
All Permitted Uses	3 acres	220'	175'***	50'*	15'	Lesser of 50' or 20% of depth	35'

* The sum of (1) the distance from the centerline of the abutting road to the property line, plus (2) the required front yard need not exceed 80'. The required front yard may be reduced where necessary to reach this total.

** For lots abutting cul-de-sacs, this requirement may be met by providing a frontage of 175 feet measured at the required front yard line.

Chapter 27.11

R-1 RESIDENTIAL DISTRICT

Sections:

- 27.11.010 Scope of Regulations.
- 27.11.020 Use Regulations.
- 27.11.030 Permitted Conditional Uses.
- 27.11.040 Permitted Special Uses.
- 27.11.050 Accessory Uses.
- 27.11.060 Parking Regulations.
- 27.11.070 Sign Regulations.
- 27.11.075 Grading and Land Disturbance Regulations.
- 27.11.080 Height and Area Regulations.
- 27.11.090 Neighborhood Design Standards.

This district is intended to provide a generally stable residential use in areas of the city that are largely developed. With a gross density of generally three to five dwelling units per acre, the district permits single- and two-family dwellings and such supportive community facilities as parks, playgrounds, schools, libraries, and churches. It is intended that this district be limited to previously platted portions of the city already undergoing substantial development, thereby preserving existing low-density residential development.

27.11.010 Scope of Regulations.

The regulations set forth in this chapter, or set forth elsewhere in this title when referred to in this chapter, are the district regulations in the R-1 Residential District. (Ord. 12571 §93; May 8, 1979).

27.11.020 Use Regulations.

A building or premises shall be permitted to be used for the following purposes in the R-1 Residential District:

- (a) Single-family dwellings;
- (b) Two-family dwellings;
- (c) Parks, playgrounds, and community buildings owned or operated by a public agency;
- (d) Public libraries;
- (e) Public elementary and high schools, or private schools having a curriculum equivalent to a public elementary or public high school and having no facilities regularly used for housing or sleeping purposes;

(f) Wind energy conversion systems. (Ord. 19158 §6; October 20, 2008; prior Ord. 12571 §4; May 8, 1979).

27.11.030 Permitted Conditional Uses.

A building or premises may be used for the following purposes in the R-1 Residential District in conformance with the conditions prescribed herein:

- (a) Churches:
 - (1) Parking shall be in conformance with Chapter 27.67;
 - (2) The required front and side yards shall be landscaped in conformance with the standards adopted by resolution of the City Council;
 - (3) Required side and rear yards shall be fifteen feet or the same as the district, whichever is greater;
 - (4) Buildings shall not cover more than fifteen percent of the lot area.
- (b) Group homes:
 - (1) Group homes shall comply with all sign, height, and area regulations of the district, and all provisions of the minimum standard housing ordinance. Parking shall be regulated in conformance with the provisions of Chapter 27.67;
 - (2) The distance between the proposed use and any existing group home measured from lot line to lot line is not less than one-half mile;
 - (3) Such use shall be permitted only so long as the facility continues to be validly licensed by the State of Nebraska.
- (c) Early childhood care facilities in churches:
 - (1) The parking and loading/unloading area for such facilities shall comply with the provisions of Chapter 27.67 of the Lincoln Municipal Code and the design standards for early childhood care facilities;
 - (2) Such facilities shall comply with all applicable state and local early childhood care requirements;
 - (3) Such facilities shall comply with all applicable building and life safety code requirements;
 - (4) Such facilities shall be fenced and have play areas that comply with the design standards for early childhood care facilities;
 - (5) Such facilities must receive a conditional use permit from the Department of Building and Safety.
- (d) Domestic shelter:
 - (1) Parking shall be in conformance with Chapter 27.67;

(2) The maximum number of residents occupying such a facility shall not exceed one person per 3,000 square feet of lot area;

(3) The distance between the proposed use of any existing domestic shelter measured from lot line to lot line shall not be less than one mile.

(e) Early childhood care facilities with a maximum of fifteen children present at any time:

(1) The parking and loading/unloading area for such facilities shall comply with the provisions of Chapter 27.67 of the Lincoln Municipal Code and the design standards for early childhood care facilities;

(2) Such facilities shall comply with all applicable state and local early childhood care requirements;

(3) Such facilities shall comply with all applicable building and life safety code requirements;

(4) Such facilities shall be fenced and have play areas that comply with the design standards for early childhood care facilities;

(5) Such facilities shall be used as the permanent residence of the licensed child care provider;

(6) Such facilities with thirteen or more children must receive a conditional use permit from the Department of Building and Safety;

(7) Early childhood care facilities located in mobile homes shall have a severe weather emergency action plan approved by the Health Department. (Ord. 16854 §6; August 14, 1995; prior Ord. 15751 §3; October 15, 1990; Ord. 14071 §1; March 25, 1985; Ord. 13302 §1; February 1, 1982; Ord. 12571 §95; May 8, 1979).

27.11.040 Permitted Special Uses.

A building or premises may be used for the following purposes in the R-1 Residential District if a special permit for such use has been obtained in conformance with the requirements of Chapter 27.63:

(a) Community unit plans in conformance with Chapter 27.65;

(b) Private schools, other than those permitted under Section 27.11.020(e) above;

(c) Health care facilities;

(d) Dwellings for members of religious orders;

(e) Mobile home courts;

(f) Recreational facilities;

(g) Church steeples, amateur radio antenna installations, towers, and ornamental spires which exceed the maximum district height;

(h) Broadcast towers;

(i) Certain parking lots as defined in Chapter 27.63;

(j) Elderly or retirement housing;

(k) Expansion of nonconforming uses;

(l) Historic preservation;

(m) Public utility purposes;

(n) Wind energy conversion systems over the district height;

(o) Mobile home subdivisions;

(p) Housing and related facilities for the physically handicapped;

(q) Outdoor seasonal sales;

(r) Cemeteries;

(s) Domiciliary care facility;

(t) Early childhood care facilities with sixteen or more children, or with fifteen or fewer children not meeting the specified conditions for a permitted conditional use under Section 27.11.030;

(u) Neighborhood support services;

(v) Clubs;

(w) Dwelling units for domestic employees in accessory buildings;

(x) Connection of single-family dwelling to accessory building for the physically handicapped;

(y) Alternative to imprisonment facilities;

(z) Children's homes. (Ord. 19172 §2; November 3, 2008; prior Ord. 19158 §7; October 20, 2008; Ord. 18535 §7; May 9, 2005; Ord. 18476 §2; December 13, 2004; Ord. 16854 §7; August 14, 1995; Ord. 16820 §1; July 10, 1995; Ord. 16673 §5; September 26, 1994; Ord. 16088 §3; March 23, 1992; Ord. 15763 §3; October 29, 1990; Ord. 15371 §1; December 18, 1989; Ord. 15368 §3; December 18, 1989; Ord. 14815 §1; January 4, 1988; Ord. 14780 §3; November 2, 1987; Ord. 14767 §1; October 12, 1987; Ords. 14475, 14510, 14562, amended by Ord. 14644 §3, April 13, 1987; Ord. 14378 §1; May 5, 1986; Ord. 13980 §1; October 29, 1984; Ord. 13535, amended by Ord. 13546 §2; February 28, 1982; Ord. 13588 §3; May 9, 1983; Ord. 12978 §3; August 25, 1980; Ord. 12894 §3; April 7, 1980; Ord. 12571 §96; May 8, 1979).

27.11.050 Accessory Uses.

Accessory uses permitted in the R-1 Residential District are accessory buildings and uses customarily incident to any of the permitted uses in the district. (Ord. 12571 §97; May 8, 1979).

27.11.060 Parking Regulations.

Parking within the R-1 Residential District shall be regulated in conformance with the provisions of Chapter 27.67. (Ord. 12571 §98; May 8, 1979).

27.11.070 Sign Regulations.

Signs within the R-1 Residential District shall be regulated in conformance with the provisions of Chapter 27.69. (Ord. 12571 §99; May 8, 1979).

27.11.075 Grading and Land Disturbance Regulations.

Grading and land disturbance within the R-1 Residential District shall be regulated in conformance with the provisions of Chapter 27.81. (Ord. 17618 §3; February 22, 2000.)

27.11.080 Height and Area Regulations.

The maximum height and minimum lot requirements within the R-1 Residential District shall be as follows:

(a) General requirements:

[See Table 27.11.080(a) at the end of this chapter]

(b) There shall be a required front yard on each street side of a double-frontage lot.

(c) There shall be a required front yard on each street side of a corner lot; provided, however, that the buildable width of a lot of record on November 2, 1953, need not be reduced to less than thirty-five feet except where necessary to provide a required side yard of not less than five feet in place of one of the required front yards.

(d) Wherever a lot of record on November 2, 1953, had a width of 100 feet or less, the required side yard for a single-family dwelling may be reduced to a width of not less than ten percent of the width of the lot, but in no instance shall it be less than five feet.

(e) Accessory buildings which are attached to or not located more than six feet from the main structure shall be considered a part of the main structure and shall comply with the height, front, side, and rear yard requirements of the main building.

(i) Accessory buildings not a part of the main structure may be located in the required rear yard, but such accessory buildings may not occupy more than forty percent of the required rear yard and shall not be closer than two feet to any side or rear lot line nor more than fifteen feet in height. Accessory buildings not a part of the main structure, if located not less than sixty feet from the front lot line, may extend into the required side yard though not closer than two feet to the side lot line. A garage which is entered from an alley shall not be located closer than ten feet to the alley line.

(ii) Accessory buildings or structures not a part of the main structure may be located in the

required front yard on double-frontage lots where at least one frontage is along a major street, provided:

(1) Accessory buildings or structures shall not occupy any portions of any required front yard along the local street.

(2) Accessory buildings or structures shall not be closer than two feet to the side lot line, closer than two feet to the front lot line along the major street, or closer than two feet to an area specified as a building line district.

(3) Accessory buildings or structures, if located not less than sixty feet from the front lot line, may extend into the required side yard though not closer than two feet to the side lot line.

(4) Accessory buildings or structures 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.

(5) Direct vehicular access shall not be available from any major street along any major street frontage in the block.

(6) Accessory buildings and structures shall not occupy more than 100 square feet and 600 square feet, respectively, of the required front yard along the major street.

(7) Accessory buildings or structures shall not exceed fifteen feet in height and any accessory building or structure or portion thereof within twenty feet of the front lot line along the major street shall not exceed eight feet in height.

(f) If a vacant lot or tract has less area or width or both less area and width than herein required and its boundary lines along their entire length abutted lands under other ownership on November 2, 1953, and have not since been changed, such parcel of land may be used for a single-family dwelling, as long as a side yard of at least five feet is provided.

If such vacant lot or tract comes under common ownership with an abutting lot or tract, such vacant lot or tract may continue to be used for a single-family dwelling provided said abutting lot or tract was occupied by a dwelling unit on the date such vacant lot or tract and the abutting lot or tract came under common ownership.

If such vacant lot or tract comes under common ownership with an abutting vacant lot or tract which has less area or width or both less area and width than herein required, such lots and tracts shall be merged together and constitute a single premise.

If an existing lot or tract lawfully occupied by a single-family or two-family dwelling on the effective date of this title or on the effective date of a change in district boundaries from another zoning district to this district has less area or width or both less area and width than herein required, such lot or tract shall not be considered nonstandard due to this condition.

(g) In those locations in the R-1 Residential District where, on November 2, 1953, and continuing thereafter, forty percent or more of the frontage on the same side of a street between two street intersections is lawfully occupied by two or more buildings consisting of two-family dwellings or two-family and multiple family dwellings, two-family dwellings may be erected in conformance with the height, minimum lot requirements, and parking regulations of the R-4 Residential District.

(h) Multiple dwellings lawfully existing in this district on the effective date of this title or on the effective date of a change of district boundaries from another zoning district to this district shall be considered nonstandard uses in conformance with the provisions of Chapter 27.61. Notwithstanding any provision to the contrary, any enlargement, extension

or reconstruction of such multiple dwellings shall be limited to no more than the number of dwelling units licensed with Building and Safety on the effective date of this title or on the effective date of the change in district boundaries.

(i) If an existing lot or tract is lawfully occupied by a two-family dwelling which has a side yard setback of less than twenty feet and said use becomes nonstandard through a change in district boundaries from another zoning district to this district, the two-family dwelling may be enlarged, extended or reconstructed as long as the existing side yard or a ten-foot side yard, whichever is greater, is provided. (Ord. 19200 §1; February 9, 2009; prior Ord. 18827 §1; October 9, 2006; Ord. 15347 §1; November 13, 1989; Ord. 14447 §1; July 28, 1986; Ord. 13929 §1; August 27, 1984; Ord. 13359 §1; April 26, 1982; Ord. 12751 §1; November 5, 1979; Ord. 12657 §1; August 6, 1979; Ord. 12571 §100; May 8, 1979).

27.11.090 Neighborhood Design Standards.

Each application for a building permit for new construction of a principal building on property located within the Lincoln city limits as of December 31, 1949 shall comply with the neighborhood design standards. (Ord. 18305 §1; February 23, 2004).

Table 27.11.080(a)

	Lot Area (Sq. ft.)	Avg. Lot Width	Req'd Front Yard	Req'd Side Yard	Req'd Rear Yard	Height
Dwelling, single- family	9,000**	60**	30**	10***	Smaller of 30'	35'
Dwelling, two-family	7,200 per family**	48' per family**	30**	20', 0' if party wall***	or 20%	35'
Other permitted uses	9,000	60'	30**	10***	of depth	35'

* See subparagraphs (b) and (c)
 ** See subparagraphs (e) and (h)
 *** See subparagraph (h)

Chapter 27.13

R-2 RESIDENTIAL DISTRICT

Sections:

- 27.13.010 Scope of Regulations.
- 27.13.020 Use Regulations.
- 27.13.030 Permitted Conditional Uses.
- 27.13.040 Permitted Special Uses.
- 27.13.050 Accessory Uses.
- 27.13.060 Parking Regulations.
- 27.13.070 Sign Regulations.
- 27.13.075 Grading and Land Disturbance Regulations.
- 27.13.080 Height and Area Regulations.
- 27.13.090 Neighborhood Design Standards.

This district is intended to provide a generally stable residential use in areas of the city that are largely developed. With a gross density of generally three to five dwelling units per acre, this district permits single- and two-family dwellings and supportive community services, such as parks, playgrounds, schools, libraries, and churches. It is intended that this district be limited to previously platted portions of the city already undergoing substantial development, thereby preserving existing low-density residential development.

27.13.010 Scope of Regulations.

The regulations set forth in this chapter, or set forth elsewhere in this title when referred to in this chapter, are the district regulations in the R-2 Residential District. (Ord. 12571 §101; May 8, 1979).

27.13.020 Use Regulations.

A building or premises shall be permitted to be used for the following purposes in the R-2 Residential District:

- (a) Single-family dwellings;
- (b) Two-family dwellings;
- (c) Parks, playgrounds, and community buildings owned or operated by a public agency;
- (d) Public libraries;
- (e) Public elementary and high schools, or private schools having a curriculum equivalent to a public elementary or public high school and having no facilities regularly used for housing or sleeping purposes;

(f) Wind energy conversion systems. (Ord. 19158 §8; October 20, 2008; prior Ord. 12571 §102; May 8, 1979).

27.13.030 Permitted Conditional Uses.

A building or premises may be used for the following purposes in the R-2 Residential District in conformance with the conditions prescribed herein:

(a) Churches:

(1) Parking shall be in conformance with Chapter 27.67;

(2) The required front and side yards shall be landscaped in conformance with the standards adopted by resolution of the City Council;

(3) Required side and rear yards shall be fifteen feet or the same as the district, whichever is greater;

(4) Buildings shall not cover more than fifteen percent of the lot area.

(b) Group homes:

(1) Group homes shall comply with all sign, height and area regulations of the district, and all provisions of the minimum standard housing ordinance. Parking shall be regulated in conformance with the provisions of Chapter 27.67.

(2) The distance between the proposed use and any existing group home measured from lot line to lot line is not less than one-half mile;

(3) Such use shall be permitted only so long as the facility continues to be validly licensed by the State of Nebraska.

(c) Early childhood care facilities in churches:

(1) The parking and loading/unloading area for such facilities shall comply with the provisions of Chapter 27.67 of the Lincoln Municipal Code and the design standards for early childhood care facilities;

(2) Such facilities shall comply with all applicable state and local early childhood care requirements;

(3) Such facilities shall comply with all applicable building and life safety code requirements;

(4) Such facilities shall be fenced and have play areas that comply with the design standards for early childhood care facilities;

(5) Such facilities must receive a conditional use permit from the Department of Building and Safety.

(d) Domestic shelter:

(1) Parking shall be in conformance with Chapter 27.67;

(2) The maximum number of residents occupying such a facility shall not exceed one person per 2,000 square feet of lot area;

(3) The distance between the proposed use of any existing domestic shelter measured from lot line to lot line shall not be less than one mile.

(e) Early childhood care facilities with a maximum of fifteen children present at any time:

(1) The parking and loading/unloading area for such facilities shall comply with the provisions of Chapter 27.67 of the Lincoln Municipal Code and the design standards for early childhood care facilities;

(2) Such facilities shall comply with all applicable state and local early childhood care requirements;

(3) Such facilities shall comply with all applicable building and life safety code requirements;

(4) Such facilities shall be fenced and have play areas that comply with the design standards for early childhood care facilities;

(5) Such facilities shall be used as the permanent residence of the licensed child care provider;

(6) Such facilities with thirteen or more children must receive a conditional use permit from the Department of Building and Safety;

(7) Early childhood care facilities located in mobile homes shall have a severe weather emergency action plan approved by the Health Department. (Ord. 16854 §8; August 14, 1995; prior Ord. 15751 §4; October 15, 1990; Ord. 14071 §2; March 25, 1985; Ord. 13302 §2; February 1, 1982; Ord. 12571 §103; May 8, 1979).

27.13.040 Permitted Special Uses.

A building or premises may be used for the following purposes in the R-2 Residential District if a special permit for such use has been obtained in conformance with the requirements of Chapter 27.63:

(a) Community unit plans in conformance with Chapter 27.65;

(b) Private schools, other than those permitted under Section 27.13.020(e) above;

(c) Health care facilities;

(d) Dwellings for members of religious orders;

(e) Mobile home courts;

(f) Recreational facilities;

(g) Church steeples, amateur radio antenna installations, towers, and ornamental spires which exceed the maximum district height;

(h) Broadcast towers;

(i) Certain parking lots as defined in Chapter 27.63;

(j) Elderly or retirement housing;

(k) Expansion of nonconforming uses;

(l) Historic preservation;

(m) Public utility purposes;

(n) Wind energy conversion systems over the district height;

(o) Mobile home subdivisions;

(p) Housing and related facilities for the physically handicapped;

(q) Outdoor seasonal sales;

(r) Cemeteries;

(s) Domiciliary care facility;

(t) Early childhood care facilities with sixteen or more children, or with fifteen or fewer children not meeting the specified conditions for a permitted conditional use under Section 27.13.030;

(u) Neighborhood support services;

(v) Clubs;

(w) Connection of single-family dwelling to accessory building for the physically handicapped;

(x) Garden centers;

(y) Adult care centers;

(z) Alternative to imprisonment facilities;

(aa) Children's homes. (Ord. 19172 §3; November 3, 2008; prior Ord. 19158 §9; October 20, 2008; Ord. 18535 §8; May 9, 2005; Ord. 18476 §4; December 13, 2004; Ord. 17780 §1; December 18, 2000; Ord. 17482 §1; March 29, 1999; Ord. 16854 §9; August 14, 1995; Ord. 16820 §2; July 10, 1995; Ord. 16673 §6; September 26, 1994; Ord. 15763 §4; October 29, 1990; Ord. 15371 §2; December 18, 1989; Ord. 15368 §4; December 18, 1989; Ord. 14815 §2; January 4, 1988; Ord. 14780 §4; November 2, 1987; Ord. 14767 §2; October 12, 1987; Ords. 14475, 14510, 14562, amended by Ord. 14644 §3; April 13, 1987; Ord. 14378 §2; May 5, 1986; Ord. 14071 §2; March 25, 1985; Ord. 13980 §3; October 29, 1984; Ord. 13588 §4; May 9, 1983; Ord. 13546 §3; February 28, 1983; Ord. 13535 §2; January 24, 1983; Ord. 12978 §4; August 25, 1980; Ord. 12894 §4; April 7, 1980; Ord. 12571 §104; May 8, 1979).

27.13.050 Accessory Uses.

Accessory uses permitted in the R-2 Residential District are accessory buildings and uses customarily incident to any of the permitted uses in the district. (Ord. 12571 §105; May 8, 1979).

27.13.060 Parking Regulations.

Parking within the R-2 Residential District shall be regulated in conformance with the provisions of Chapter 27.67. (Ord. 12571 §106; May 8, 1979).

27.13.070 Sign Regulations.

Signs within the R-2 Residential District shall be regulated in conformance with the provisions of Chapter 27.69. (Ord. 12571 §107; May 8, 1979).

27.13.075 Grading and Land Disturbance Regulations.

Grading and land disturbance within the R-2 Residential District shall be regulated in conformance with the provisions of Chapter 27.81. (Ord. 17618 §4; February 22, 2000.)

27.13.080 Height and Area Regulations.

The maximum height and minimum lot requirements within the R-2 Residential District shall be as follows:

(a) General requirements:

[See Table 27.13.080(a) at the end of this chapter]

(b) There shall be a required front yard on each street side of a double-frontage lot.

(c) There shall be a required front yard on each street side of a corner lot; provided, however, that the buildable width of a lot of record on November 2, 1953, need not be reduced to less than thirty-five feet except where necessary to provide a required side yard of not less than five feet in place of one of the required front yards.

(d) Accessory buildings which are attached to or not located more than six feet from the main structure shall be considered a part of the main structure and shall comply with the height, front, side, and rear yard requirements of the main building.

(i) Accessory buildings not a part of the main structure may be located in the required rear yard but such accessory buildings may not occupy more than forty percent of the required rear yard and shall not be closer than two feet to any side or rear lot line nor more than fifteen feet in height. Accessory buildings not a part of the main structure, if located not less than sixty feet from the front lot line, may extend into the required side yard though not closer than two feet to the side lot line. A garage which is entered from an alley shall not be located closer than ten feet to the alley line.

(ii) Accessory buildings or structures not a part of the main structure may be located in the required front yard on double-frontage lots where at least one frontage is along a major street, provided:

(1) Accessory buildings or structures shall not occupy any portion of any required front yard along the local street.

(2) Accessory buildings or structures shall not be closer than two feet to the side lot line, closer than two feet to the front lot line along the major street frontage, or be closer than two feet to an area specified as a building line district.

(3) Accessory buildings or structures, if located not less than sixty feet from the front lot line, may extend into the required side yard though not closer than two feet to the side lot line.

(4) Accessory buildings or structures shall not occupy any portion of the required front yard along any major street except when a landscape screen is located along any and all front lot lines of such lot adjacent any major street in conformance with the "Design Standards for Screening and Landscaping" adopted by the City of Lincoln.

(5) Direct vehicular access shall not be available from any major street along any major street frontage in the block.

(6) Accessory buildings and structures shall not occupy more than 100 square feet and 600 square feet, respectively, of the required front yard along the major street.

(7) Accessory buildings or structures shall not exceed fifteen feet in height and any accessory building or structure or portion thereof within twenty feet of the front lot line along the major street shall not exceed eight feet in height.

(e) If a vacant lot or tract has less area or width or both less area and width than herein required and its boundary lines along their entire length abutted lands under other ownership on November 2, 1953, and have not since been changed, such parcel of land may be used for a single-family dwelling.

If such vacant lot or tract comes under common ownership with an abutting lot or tract, such vacant lot or tract may continue to be used for a single-family dwelling provided said abutting lot or tract was occupied by a dwelling unit on the date such vacant lot or tract and the abutting lot or tract came under common ownership.

If such vacant lot or tract comes under common ownership with an abutting vacant lot or tract which has less area or width or both less area and width than herein required, such lots and tracts shall be merged together and constitute a single premise.

If an existing lot or tract lawfully occupied by a single-family or two-family dwelling on the effective date of this title or on the effective date of a change in district boundaries from another zoning district to this district has less area or width or both less area and width than herein required, such lot or tract shall not be considered nonstandard due to such condition.

(f) In those locations in the R-2 Residential District where, on November 2, 1953, and continuing thereafter, forty percent or more of the frontage on the same side of a street between two street intersections is lawfully occupied by two or more buildings, consisting of two-family dwellings or two-family and multiple-family dwellings, two-family dwellings may be erected in conformance with the height, minimum lot requirements, and parking regulations of the R-4 Residential District.

(g) Multiple dwellings lawfully existing in this district on the effective date of this title or on the effective date of a change of district boundaries from another zoning district to this district shall be considered nonstandard uses in conformance with the provisions of Chapter 27.61. Notwithstanding any provision to the contrary, any enlargement, extension or reconstruction of such multiple dwellings shall be limited to no more dwelling units than the number of dwelling units licensed with Building and Safety on the effective date of this title or on the effective date of the change in district boundaries from another zoning district to this district.

(h) If two or more abutting lots existing on or before November 2, 1953, have an aggregate width of at least seventy-five feet, such lots may be used for a two-family dwelling, notwithstanding the average lot width requirements of subparagraph (a) of this section.

(i) If an existing lot or tract is lawfully occupied by a two-family dwelling which has a side yard setback of less than ten feet and said use becomes nonstandard through a change in district boundaries from another zoning district to this district, the two-family dwelling may be enlarged, extended or reconstructed as long as the existing side yard or a five-foot side yard, whichever is greater, is provided. (Ord. 18827 §2; October 9, 2006: prior Ord. 15347 §2; November 13, 1989: Ord. 14447 §2; July 28, 1986: Ord. 13929 §2; August 27, 1984: Ord. 13509 §1; December 13, 1982: Ord. 13359 §2; April 26, 1982: Ord. 13350 §11; March 29, 1982: Ord. 12751 §2; November 5, 1979: Ord. 12657 §2; August 6, 1979: Ord. 12571 §108; May 8, 1979).

27.13.090 Neighborhood Design Standards.

Each application for a building permit for new construction of a principal building on property located within the Lincoln city limits as of December 31, 1949 shall comply with the neighborhood design standards. (Ord. 18305 §2; February 23, 2004).

Table 27.13.080(a)

	Lot Area (Sq. ft.)	Avg. Lot Width	Req'd Front Yard	Req'd Side Yard	Req'd Rear Yard	Height
Dwelling, single- family	6,000**	50***	25*	5'	Smaller of 30'	35'
Dwelling, two-family	5,000 per family**	40' per family**	25*	10', 0' if party wall***	or 20%	35'
Other permitted uses	6,000	50'	25'	5'	of depth	35'

* See subparagraph (b) and (c)
** See subparagraph (e)
*** See subparagraph (i)

Chapter 27.15

R-3 RESIDENTIAL DISTRICT

Sections:

- 27.15.010 Scope of Regulations.
- 27.15.020 Use Regulations.
- 27.15.030 Permitted Conditional Uses.
- 27.15.040 Permitted Special Uses.
- 27.15.050 Accessory Uses.
- 27.15.060 Parking Regulations.
- 27.15.070 Sign Regulations.
- 27.15.075 Grading and Land Disturbance Regulations.
- 27.15.080 Height and Area Regulations.
- 27.15.090 Neighborhood Design Standards.

This district is intended to provide for developing areas of residential use with a gross density of three to five dwelling units per acre, with strong encouragement for the general use of community unit plans to foster improved and innovative design, a mix of housing types and socio-economic groups, and improved energy and resource conservation.

27.15.010 Scope of Regulations.

The regulations set forth in this chapter, or set forth elsewhere in this title when referred to in this chapter, are the district regulations in the R-3 Residential District. (Ord. 12571 §109; May 8, 1979).

27.15.020 Use Regulations.

A building or premises shall be permitted to be used for the following purposes in the R-3 Residential District:

- (a) Single-family dwellings;
- (b) Two-family dwellings;
- (c) Parks, playgrounds, and community buildings owned or operated by a public agency;
- (d) Public libraries;
- (e) Public elementary and high schools, or private schools having a curriculum equivalent to a public elementary or public high school and having no facilities regularly used for housing or sleeping purposes;

(f) Wind energy conversion systems. (Ord. 19158 §10; October 20, 2008; prior Ord. 12571 §10; May 8, 1979).

27.15.030 Permitted Conditional Uses.

A building or premises may be used for the following purposes in the R-3 Residential District in conformance with the conditions prescribed herein:

- (a) Churches:
 - (1) Parking shall be in conformance with Chapter 27.67;
 - (2) The required front and side yards shall be landscaped in conformance with the standards adopted by resolution of the City Council;
 - (3) Required side and rear yards shall be fifteen feet or the same as the district, whichever is greater.
- (b) Group homes:
 - (1) Group homes shall comply with all sign, height and area regulations of the district, and all provisions of the minimum standard housing ordinance. Parking shall be regulated in conformance with the provisions of Chapter 27.67;
 - (2) The distance between the proposed use and any existing group home measured from lot line to lot line is not less than one-half mile;
 - (3) Such use shall be permitted only so long as the facility continues to be validly licensed by the State of Nebraska.
- (c) Early childhood care facilities in churches:
 - (1) The parking and loading/unloading area for such facilities shall comply with the provisions of Chapter 27.67 of the Lincoln Municipal Code and the design standards for early childhood care facilities;
 - (2) Such facilities shall comply with all applicable state and local early childhood care requirements;
 - (3) Such facilities shall comply with all applicable building and life safety code requirements;
 - (4) Such facilities shall be fenced and have play areas that comply with the design standards for early childhood care facilities;
 - (5) Such facilities must receive a conditional use permit from the Department of Building and Safety.
- (d) Domestic shelter:
 - (1) Parking shall be in conformance with Chapter 27.67;

(2) The maximum number of residents occupying such a facility shall not exceed one person per 2,000 square feet of lot area;

(3) The distance between the proposed use of any existing domestic shelter measured from lot line to lot line shall not be less than one mile.

(e) Early childhood care facilities with a maximum of fifteen children present at any time:

(1) The parking and loading/unloading area for such facilities shall comply with the provisions of Chapter 27.67 of the Lincoln Municipal Code and the design standards for early childhood care facilities;

(2) Such facilities shall comply with all applicable state and local early childhood care requirements;

(3) Such facilities shall comply with all applicable building and life safety code requirements;

(4) Such facilities shall be fenced and have play areas that comply with the design standards for early childhood care facilities;

(5) Such facilities shall be used as the permanent residence of the licensed child care provider;

(6) Such facilities with thirteen or more children must receive a conditional use permit from the Department of Building and Safety;

(7) Early childhood care facilities located in mobile homes shall have a severe weather emergency action plan approved by the Health Department.

(f) Single-family dwellings which do not meet the required minimum lot area, average lot width, or yard requirements in Table 27.15.080(a).

(1) Such use shall be located outside the City of Lincoln's January 1, 2010 corporate limits.

(2) Minimum lot requirements:

Average Lot Width	33 feet
Lot Area	3,300 square feet
Front Yard	15 feet to the main building; 20 feet from the garage door to the lot line
Side Yard	5 feet or 0 feet if party wall
Rear Yard	20 feet or 20% the depth of the lot which ever is less

(3) There must be at least 22 contiguous feet of uninterrupted curb space abutting the lot measured along the face of the curb from the edge of the curb return to the lot line.

(4) Any garage door or doors facing the street shall not occupy more than 40% of the width of the building facade, except that the garage door or doors may occupy up to 60% of the width of the building facade if there is living area or a covered balcony above the majority of the garage. Notwithstanding the above, detached garages which are not considered a part of and are primarily located to the side of or behind the main structure are exempt from this requirement.

(5) Garages facing and taking access from a street must have a minimum setback of 20 feet from the lot line.

(6) The principal street facade of each dwelling shall have at least one door. The principal street facade of each dwelling shall also have a minimum of one window per story oriented to the street. If the dwelling is two stories in height, both required windows may be located on the second floor. The minimum glazed area of a window shall be five square feet. (Ord. 19392 1; June 7, 2010: prior Ord. 18476 §5; December 13, 2004: Ord. 16854 §10; August 14, 1995: Ord. 15751 §5; October 15, 1990: Ord. 14071 §3; March 25, 1985: Ord. 13302 §3; February 1, 1982: Ord. 12571 §111; May 8, 1979).

27.15.040 Permitted Special Uses.

A building or premises may be used for the following purposes in the R-3 Residential District if a special permit for such use has been obtained in conformance with the requirements of Chapter 27.63:

(a) Community unit plans in conformance with the following requirements:

(1) The average lot area shall be at least 5,000 square feet;

(2) All the requirements of Chapter 27.65.

(b) Private schools, other than those permitted under Section 27.15.020(e) above;

(c) Health care facilities;

(d) Dwellings for members of religious orders;

(e) Mobile home courts;

(f) Recreational facilities;

(g) Church steeples, amateur radio antenna installations, towers, and ornamental spires which exceed the maximum district height;

(h) Broadcast towers;

(i) Excavation and stone milling;

- (j) Certain parking lots as defined in Chapter 27.63;
- (k) Elderly or retirement housing;
- (l) Expansion of nonconforming uses;
- (m) Historic preservation;
- (n) Garden centers;
- (o) Public utility purposes;
- (p) Wind energy conversion systems over the district height;
- (q) Mobile home subdivisions;
- (r) Housing and related facilities for the physically handicapped;
- (s) Greenhouses;
- (t) Outdoor seasonal sales;
- (u) Cemeteries;
- (v) Domiciliary care facility;
- (w) Early childhood care facilities with sixteen or more children, or with fifteen or fewer children not meeting the specified conditions for a permitted conditional use under Section 27.15.030;
- (x) Neighborhood support services;
- (y) Clubs;
- (z) Connection of single-family dwelling to accessory building for the physically handicapped;
- (aa) Adult care centers;
- (bb) Alternative to imprisonment facilities;
- (cc) Children's homes.
- (dd) Single-family dwellings which do not meet the required minimum lot area, average lot width, or yard requirements in Table 27.15.080(a). (Ord. 19392 §2; June 7, 2010; prior Ord. 19224 §3; March 16, 2009; Ord. 19172 §4; November 3, 2008; Ord. 19158 §11; October 20, 2008; Ord. 18535 §10; May 9, 2005; Ord. 18476 §6; December 13, 2004; Ord. 17780 §2; December 18, 2000; Ord. 17482 §2; March 29, 1999; Ord. 16854 §11; August 14, 1995; Ord. 16820 §3; July 10, 1995; Ord. 16673 §7; September 26, 1994; Ord. 15763 §5; October 29, 1990; Ord. 15371 §3; Dec. 18, 1989; Ord. 15368 §5; December 18, 1989; Ord. 14767 §3; October 12, 1987; Ords. 14475, 14510, 14562, amended by Ord. 14644 §5; April 13, 1987; Ord. 14378 §3; May 5, 1986; Ord. 14074 §3; April 8, 1985; Ord. 14071 §3; March 25, 1985; Ord. 13980 §3; October 29, 1984; Ord. 13724 §2; October 31, 1983; Ord. 13546 §4; February 28, 1983; Ord. 13535 §3; January 24, 1983; Ord. 12978 §5; August 25, 1980; Ord. 12894 §5; April 7, 1980; Ord. 12571 §112; May 8, 1979).

27.15.050 Accessory Uses.

Accessory uses permitted in the R-3 Residential District are accessory buildings and uses customarily incident to any of the permitted uses in the district. (Ord. 12571 §114; May 8, 1979).

27.15.060 Parking Regulations.

Parking within the R-3 Residential District shall be regulated in conformance with the provisions of Chapter 27.67. (Ord. 12571 §114; May 8, 1979).

27.15.070 Sign Regulations.

Signs within the R-3 Residential District shall be regulated in conformance with the provisions of Chapter 27.69. (Ord. 12571 §115; May 8, 1979).

27.15.075 Grading and Land Disturbance Regulations.

Grading and land disturbance within the R-3 Residential District shall be regulated in conformance with the provisions of Chapter 27.81. (Ord. 17618 §5; February 22, 2000.)

27.15.080 Height and Area Regulations.

The maximum height and minimum lot requirements within the R-3 Residential District shall be as follows:

- (a) General requirements:

[See Table 27.15.080(a) at the end of this chapter]

- (b) There shall be a required front yard on each street side of a double-frontage lot.

- (c) There shall be a required front yard on each street side of a corner lot; provided, however, that the buildable width of a lot of record on November 2, 1953, need not be reduced to less than thirty-five feet except where necessary to provide a required side yard of not less than five feet in place of one of the required front yards. Where corner lots are separated by a common rear lot line, the minimum required yard shall be ten feet on the side along the street adjacent to both corner lots.

- (d) Accessory buildings which are attached to or not located more than six feet from the main structure shall be considered a part of the main structure and shall comply with the height, front, side, and rear yard requirements of the main building.

- (i) Accessory buildings not a part of the main structure may be located in the required rear yard but such accessory buildings may not occupy more than forty percent of the required rear yard and shall

not be closer than two feet to any side or rear lot line, nor more than fifteen feet in height. Accessory buildings not a part of the main structure, if located not less than sixty feet from the front lot line, may extend into the required side yard though not closer than two feet to the side lot line. A garage which is entered from an alley shall not be located closer than ten feet to the alley line.

(ii) Accessory buildings or structures not a part of the main structure may be located in the required front yard on double-frontage lots where at least one frontage is along a major street, provided:

(1) Accessory buildings or structures shall not occupy any portion of any required front yard along the local street.

(2) Accessory buildings or structures shall not be closer than two feet to the side lot line, be closer than two feet to the front lot line along the major street frontage, or be closer than two feet to an area specified as a building line district.

(3) Accessory buildings or structures, if located not less than sixty feet from the front lot line, may extend into the required side yard though not closer than two feet to the side lot line.

(4) Accessory buildings or structures shall not occupy any portion of the required front yard along any major street except when a landscape screen is located along any and all front lot lines along any major street in conformance with the "Design Standards for Screening and Landscaping" adopted by the City of Lincoln.

(5) Direct vehicular access shall not be available from any major street along any major street frontage in the block.

(6) Accessory buildings and structures shall not occupy more than 100 square feet and 600 square feet, respectively, of the required front yard along the major street.

(7) Accessory buildings or structures shall not exceed fifteen feet in height and any accessory building or structure or portion thereof within twenty feet of the front lot line along the major street shall not exceed eight feet in height.

(e) If a vacant lot or tract has less area or width, or both less area and width, than herein required and its boundary lines along their entire length abutted lands under other ownership on November 2, 1953, and have not since been changed, such parcel of land may be used for a single-family dwelling.

If such vacant lot or tract comes under common ownership with an abutting lot or tract, such vacant lot or tract may continue to be used for a single-family dwelling provided the abutting or tract was occupied by a dwelling unit on the date the vacant lot or tract and the abutting lot or tract came under common ownership.

If such vacant lot or tract comes under common ownership with an abutting vacant lot or tract which has less area or width or both less area and width than herein required, such lots and tracts shall be merged together and constitute a single premise.

If an existing lot or tract lawfully occupied by a single-family or two-family dwelling on the effective date of this title or on the effective date of a change in district boundaries from another zoning district to this district has less area or width or both less area and width than herein required, such lot or tract shall not be considered nonstandard due to this condition.

(f) Multiple dwellings lawfully existing in this district on the effective date of this title or on the effective date of a change of district boundaries from another zoning district to this district shall be considered nonstandard uses in conformance with the provisions of Chapter 27.61. Notwithstanding any provision to the contrary, any enlargement, extension or reconstruction of such multiple dwellings shall be limited to no more than the number of dwelling units licensed with Building and Safety on the effective date of this title or on the effective date of the change in district boundaries. (Ord. 18827 §3; October 9, 2006; prior Ord. 15347 §3; November 13, 1989; Ord. 14447 §3; July 28, 1986; Ord. 14251 §1; October 14, 1985; Ord. 13929 §3; August 27, 1984; Ord. 13359 §3; April 26, 1982; Ord. 12751 §3; November 5, 1979; Ord. 12657 §3; August 6, 1979; Ord. 12571 §116; May 8, 1979).

27.15.090 Neighborhood Design Standards.

Each application for a building permit for new construction of a principal building on property located within the Lincoln city limits as of December 31, 1949 shall comply with the neighborhood design standards. (Ord. 18305 §3; February 23, 2004).

Table 27.15.080(a)						
	Lot Area (Sq. ft.)	Avg. Lot Width	Req'd Front Yard	Req'd Side Yard	Req'd Rear Yard	Height
Dwelling, single- family	6,000**	50'***	20'*	5'		35'
Dwelling, two-family	5,000 per family**	40' per family**	20'*	5', 0' if party wall	Smaller of 30' or 20% of depth	35'
Other permitted uses	6,000	50'	20'*	5'		35'
* See subparagraphs (b) and (c)						
** See subparagraph (e)						

Chapter 27.17

R-4 RESIDENTIAL DISTRICT

Sections:

- 27.17.010 Scope of Regulations.
- 27.17.020 Use Regulations.
- 27.17.030 Permitted Conditional Uses.
- 27.17.040 Permitted Special Uses.
- 27.17.050 Accessory Uses.
- 27.17.060 Parking Regulations.
- 27.17.070 Sign Regulations.
- 27.17.075 Grading and Land Disturbance Regulations.
- 27.17.080 Height and Area Regulations.
- 27.17.090 Neighborhood Design Standards.

This district is intended to provide a stable area of residential use at a gross density in the range of three to five dwelling units per acre. It is anticipated that some redevelopment will occur in this district. The use of the district includes single- and two-family dwellings, plus support facilities, such as schools, parks, community buildings, and churches.

27.17.010 Scope of Regulations.

The regulations set forth in this chapter, or set forth elsewhere in this title when referred to in this chapter, are the district regulations in the R-4 Residential District. (Ord. 12571 §117; May 8, 1979).

27.17.020 Use Regulations.

A building or premises shall be permitted to be used for the following purposes in the R-4 Residential District:

- (a) Single-family dwellings;
- (b) Two-family dwellings;
- (c) Parks, playgrounds, and community buildings owned or operated by a public agency;
- (d) Public libraries;
- (e) Public elementary and high schools, or private schools having a curriculum equivalent to a public elementary or public high school and having no facilities regularly used for housing or sleeping purposes;
- (f) Wind energy conversion systems. (Ord. 19158 § 12; October 20, 2008; prior Ord. 12571 §118; May 8, 1979).

27.17.030 Permitted Conditional Uses.

A building or premises may be used for the following purposes in the R-4 Residential District in conformance with the conditions prescribed herein:

- (a) Churches:
 - (1) Parking shall be in conformance with Chapter 27.67;
 - (2) The required front and side yards shall be landscaped in conformance with the standards adopted by resolution of the City Council;
 - (3) Required side and rear yards shall be fifteen feet or the same as the district, whichever is greater;
 - (4) Buildings shall not cover more than fifteen percent of the lot area.
- (b) Group homes:
 - (1) Group homes shall comply with all sign, height and area regulations of the district, and all provisions of the minimum standard housing ordinance. Parking shall be regulated in conformance with the requirements of Chapter 27.67;
 - (2) The distance between the proposed use and any existing group home measured from lot line to lot line is not less than 1,200 feet;
 - (3) Such use shall be permitted only so long as the facility continues to be validly licensed by the State of Nebraska.
- (c) Early childhood care facilities in churches:
 - (1) The parking and loading/unloading area for such facilities shall comply with the provisions of Chapter 27.67 of the Lincoln Municipal Code and the design standards for early childhood care facilities;
 - (2) Such facilities shall comply with all applicable state and local early childhood care requirements;
 - (3) Such facilities shall comply with all applicable building and life safety code requirements;
 - (4) Such facilities shall be fenced and have play areas that comply with the design standards for early childhood care facilities;
 - (5) Such facilities must receive a conditional use permit from the Department of Building and Safety.
- (d) Domestic shelter:
 - (1) Parking shall be in conformance with Chapter 27.67;
 - (2) The maximum number of residents occupying such a facility shall not exceed one person per 1,000 square feet of lot area;

(3) The distance between the proposed use and any existing domestic shelter measured from lot line to lot line shall not be less than one mile.

(e) Early childhood care facilities with a maximum of fifteen children present at any time:

(1) The parking and loading/unloading area for such facilities shall comply with the provisions of Chapter 27.67 of the Lincoln Municipal Code and the design standards for early childhood care facilities;

(2) Such facilities shall comply with all applicable state and local early childhood care requirements;

(3) Such facilities shall comply with all applicable building and life safety code requirements;

(4) Such facilities shall be fenced and have play areas that comply with the design standards for early childhood care facilities;

(5) Such facilities shall be used as the permanent residence of the licensed child care provider;

(6) Such facilities with thirteen or more children must receive a conditional use permit from the Department of Building and Safety;

(7) Early childhood care facilities located in mobile homes shall have a severe weather emergency action plan approved by the Health Department. (Ord. 16854 §12; August 14, 1995: prior Ord. 15751 §6; October 15, 1990: Ord. 14060 §2; February 25, 1985: Ord. 13302 §4; February 1, 1982: Ord. 12571 §119; May 8, 1979).

27.17.040 Permitted Special Uses.

A building or premises may be used for the following purposes in the R-4 Residential District if a special permit for such use has been obtained in conformance with the requirements of Chapter 27.63:

(a) Community unit plans in conformance with Chapter 27.65;

(b) Private schools, other than those permitted under Section 27.17.020(e) above;

(c) Health care facilities;

(d) Dwellings for members of religious orders;

(e) Mobile home courts;

(f) Recreational facilities;

(g) Church steeples, amateur radio antenna installations, towers, and ornamental spires which exceed the maximum district height;

(h) Broadcast towers;

(i) Certain parking lots as defined in Chapter 27.63;

(j) Clubs;

(k) Elderly or retirement housing;

(l) Expansion of nonconforming uses;

(m) Historic preservation;

(n) Public utility purposes;

(o) Wind energy conversion systems over the district height;

(p) Mobile home subdivisions;

(q) Housing and related facilities for the physically handicapped;

(r) Outdoor seasonal sales;

(s) Cemeteries;

(t) Domiciliary care facility;

(u) Early childhood care facilities with sixteen or more children, or with fifteen or fewer children not meeting the specified conditions for a permitted conditional use under Section 27.17.030;

(v) Neighborhood support services;

(w) Connection of single-family dwelling to accessory building for the physically handicapped;

(x) Adult care centers;

(y) Alternative to imprisonment facilities;

(z) Children's homes. (Ord. 19172 §5; November 3, 2008: prior Ord. 19158 §13; October 20, 2008: Ord. 18535 §10; May 9, 2005: Ord. 18476 §8; December 13, 2004: Ord. 17780 §3; December 18, 2000: Ord. 16854 §13; August 14, 1995: Ord. 16820 §4; July 10, 1995: Ord. 16673 §8; September 26, 1994: Ord. 15371 §4; December 18, 1989: Ord. 15368 §6; December 18, 1989: Ord. 14815 §3; January 4, 1988: Ord. 14780 §5; November 2, 1987: Ord. 14767 §4; October 12, 1987: Ords. 14475, 14510, 14562 amended by Ord. 14644 §6; April 13, 1987: Ord. 14378 §4; May 5, 1986: Ord. 13980 §10; October 29, 1984: Ord. 13588 §5; May 9, 1983: Ord. 13546 §5; February 28, 1983: Ord. 13535 §4; January 24, 1983: Ord. 12978 §6; August 25, 1980: Ord. 12894 §6; April 7, 1980: Ord. 12571 §120; May 8, 1979).

27.17.050 Accessory Uses.

Accessory uses permitted in the R-4 Residential District are accessory buildings and uses customarily incident to any of the permitted uses in the district. (Ord. 12571 §121; May 8, 1979).

27.17.060 Parking Regulations.

Parking within the R-4 Residential District shall be regulated in conformance with the provisions of Chapter 27.67. (Ord. 12571 §122; May 8, 1979).

27.17.070 Sign Regulations.

Signs within the R-4 Residential District shall be regulated in conformance with the provisions of Chapter 27.69. (Ord. 12571 §123; May 8, 1979).

27.17.075 Grading and Land Disturbance Regulations.

Grading and land disturbance within the R-4 Residential District shall be regulated in conformance with the provisions of Chapter 27.81. (Ord. 17618 §6; February 22, 2000.)

27.17.080 Height and Area Regulations.

The maximum height and minimum lot requirements within the R-4 Residential District shall be as follows:

(a) General requirements:

[See Table 27.17.080(a) below]

(b) There shall be a required front yard on each street side of a double frontage lot.

(c) There shall be a required front yard on each street side of a corner lot; provided, however, that the buildable width of a lot of record on November 2, 1953, need not be reduced to less than twenty-eight feet except where necessary to provide a required side yard of not less than five feet in place of one of the required front yards.

(d) Accessory buildings which are attached to or not located more than six feet from the main structure shall be considered a part of the main structure and shall comply with the height, front, side, and rear yard requirements of the main building. Accessory buildings not a part of the main structure may be located in the required rear yard but such accessory buildings may not occupy more than forty percent of the required rear yard and shall not be nearer than two feet to any side or rear lot line, nor more than fifteen feet in height. Accessory buildings not a part of the main structure, if located not less than sixty feet from the front lot line, may extend into the required side yard though not nearer than two feet to the side lot line. A garage which is entered from an alley shall not be located closer than ten feet to the alley line.

Table 27.17.080(a)

	Lot Area (Sq. ft.)	Avg. Lot Width	Req'd Front Yard	Req'd Side Yard	Req'd Rear Yard	Height
Dwelling, single- family	5,000	50'	25'	5'	Smaller of 30'	35'
Dwelling, two-family	2,500 per family	25' per family	25'	5', 0' if party wall	or 20%	35'
Other permitted uses	5,000	50'	25'	5'	of depth	35'

(e) Where a vacant lot or tract has less area or width, or both less area and width, than herein required, and its boundary lines along their entire length abutted lands of other ownership on November 2, 1953, and have not since been changed, such lot may be used for a single-family dwelling. Where a vacant lot of record as of November 2, 1953, has less width than herein required, and its boundary lines along their entire length abutted lands of other ownership on November 2, 1953, and have not since been changed, such parcel of land may be used for a two-family dwelling.

If such vacant lot or tract comes under common ownership with an abutting lot or tract, such vacant lot or tract may continue to be used for a single-family dwelling provided the abutting lot or tract was occupied by a dwelling unit on the date the contiguous properties came under common ownership.

If such vacant lot or tract comes under common ownership with an abutting vacant lot or tract which has less area or width or both less area and width than herein required, such lots and tracts shall be merged together and constitute a single premise.

If an existing lot or tract lawfully occupied by a single-family or two-family dwelling on the effective date of this title or on the effective date of a change in district boundaries from another zoning district to this district has less area or width or both less area and width than herein required, such lot or tract shall not be considered nonstandard due to this condition.

(f) In those locations in the R-4 Residential District where, on November 2, 1953, and continuing

thereafter, forty percent or more of the frontage on the same side of a street between two street intersections is lawfully occupied by two or more buildings, consisting of multiple dwellings, three- and four-family dwellings may be erected in conformance with the height, minimum lot requirements, and parking regulations of the R-5 Residential District.

(g) Multiple dwellings lawfully existing in this district on the effective date of this title or on the effective date of a change of district boundaries from another zoning district to this district shall be considered nonstandard uses in conformance with the provisions of Chapter 27.61. Notwithstanding any provision to the contrary, any enlargement, extension or reconstruction of such multiple dwellings shall be limited to no more than the number of dwelling units licensed with Building and Safety on the effective date of this title or on the effective date of the change in district boundaries. (Ord. 18827 §4; October 9, 2006: prior Ord. 16971 §1; April 22, 1996: Ord. 14447 §4; July 28, 1986: Ord. 13929 §4; August 27, 1984: Ord. 12751 §4; November 5, 1979: Ord. 12657 §4; August 6, 1979: Ord. 12571 §124; May 8, 1979).

27.17.090 Neighborhood Design Standards.

Each application for a building permit for new construction of a principal building on property located within the Lincoln city limits as of December 31, 1949 shall comply with the neighborhood design standards. (Ord. 18305 §4; February 23, 2004: prior Ord. 17664 §1; May 1, 2000).

Chapter 27.18

RESERVED*

Editor's Note: Ordinance No. 17664 §2, adopted May 1, 2000, repealed Chapter 27.18 in its entirety. Formerly, such chapter pertained to R-C Residential District and derived from Ord. 15095 §§ 1-9, adopted January 23, 1989; Ord. 17618 §7; adopted February 22, 2000.

Chapter 27.19

R-5 RESIDENTIAL DISTRICT

Sections:

- 27.19.010 Scope of Regulations.
- 27.19.020 Use Regulations.
- 27.19.030 Permitted Conditional Uses.
- 27.19.040 Permitted Special Uses.
- 27.19.050 Accessory Uses.
- 27.19.060 Parking Regulations.
- 27.19.070 Sign Regulations.
- 27.19.075 Grading and Land Disturbance Regulations.
- 27.19.080 Height and Area Regulations.
- 27.19.090 Neighborhood Design Standards.

This district is intended to provide a redeveloping area of moderate residential density of between six and ten dwelling units per acre. This district provides for single-family, two-family, and multiple and town-house residential uses, plus support facilities, such as schools, parks, community buildings, and churches.

27.19.010 Scope of Regulations.

The regulations set forth in this chapter, or set forth elsewhere in this title when referred to in this chapter, are the district regulations in the R-5 Residential District. (Ord. 12571 §125; May 8, 1979).

27.19.020 Use Regulations.

A building or premises shall be permitted to be used for the following purposes in the R-5 Residential District:

- (a) Single-family dwellings;
- (b) Two-family dwellings;
- (c) Multiple dwellings;
- (d) Townhouses;
- (e) Parks, playgrounds, and community buildings owned or operated by a public agency;
- (f) Public libraries;
- (g) Public elementary and high schools, or private schools having a curriculum equivalent to a public elementary or public high school and having no rooms regularly used for housing or sleeping purposes;
- (h) Wind energy conversion systems. (Ord. 19158 §14; October 20, 2008; prior Ord. 12571 §126; May 8, 1979).

27.19.030 Permitted Conditional Uses.

A building or premises may be used for the following purposes in the R-5 Residential District in conformance with the conditions prescribed herein:

(a) Churches:

(1) Parking shall be in conformance with Chapter 27.67;

(2) Required side and rear yards shall be fifteen feet or the same as the district, whichever is greater.

(b) Group homes:

(1) Group homes shall comply with all sign, height and area regulations of the district, and all provisions of the minimum standard housing ordinance. Parking shall be regulated in conformance with the requirements of Chapter 27.67;

(2) The distance between the proposed use and any existing group home measured from lot line to lot line is not less than 1,200 feet;

(3) Such use shall be permitted only so long as the facility continues to be validly licensed by the State of Nebraska.

(c) Early childhood care facilities in churches:

(1) The parking and loading/unloading area for such facilities shall comply with the provisions of Chapter 27.67 of the Lincoln Municipal Code and the design standards for early childhood care facilities;

(2) Such facilities shall comply with all applicable state and local early childhood care requirements;

(3) Such facilities shall comply with all applicable building and life safety code requirements;

(4) Such facilities shall be fenced and have play areas that comply with the design standards for early childhood care facilities;

(5) Such facilities must receive a conditional use permit from the Department of Building and Safety.

(d) Domestic shelter:

(1) Parking shall be in conformance with Chapter 27.67;

(2) The maximum number of residents occupying such a facility shall not exceed one person per 750 square feet of lot area;

(3) The distance between the proposed use and any existing domestic shelter measured from lot line to lot line shall not be less than one mile.

(e) Early childhood care facilities with a maximum of fifteen children present at any time:

(1) The parking and loading/unloading area for such facilities shall comply with the provisions of Chapter 27.67 of the Lincoln Municipal Code and the design standards for early childhood care facilities;

(2) Such facilities shall comply with all applicable state and local early childhood care requirements;

(3) Such facilities shall comply with all applicable building and life safety code requirements;

(4) Such facilities shall be fenced and have play areas that comply with the design standards for early childhood care facilities;

(5) Such facilities shall be used as the permanent residence of the licensed child care provider;

(6) Such facilities with thirteen or more children must receive a conditional use permit from the Department of Building and Safety;

(7) Early childhood care facilities located in mobile homes shall have a severe weather emergency action plan approved by the Health Department. (Ord. 18476 §9; December 13, 2004; prior Ord. 16854 §14; August 14, 1995: Ord. 15751 §7; October 15, 1990: Ord. 14060 §3; February 25, 1985: Ord. 13302 §5, February 1, 1982: Ord. 12571 §127; May 8, 1979).

27.19.040 Permitted Special Uses.

A building or premises may be used for the following purposes in the R-5 Residential District if a special permit for such use has been obtained in conformance with the requirements of Chapter 27.63:

(a) Private schools, other than those permitted under Section 27.19.020(g) above;

(b) Health care facilities;

(c) Dwellings for members of religious orders;

(d) Recreational facilities;

(e) Church steeples, amateur radio antenna installations, towers, and ornamental spires which exceed the maximum district height;

(f) Broadcast towers;

(g) Certain parking lots as defined in Chapter 27.63;

(h) Clubs;

(i) Elderly or retirement housing;

(j) Community unit plans in conformance with Chapter 27.65;

(k) Expansion of nonconforming uses;

(l) Historic preservation;

(m) Public utility purposes;

(n) Wind energy conversion systems over the district height;

(o) Housing and related facilities for the physically handicapped;

(p) Outdoor seasonal sales;

(q) Cemeteries;

(r) Domiciliary care facility;

(s) Early childhood care facilities with sixteen or more children, or with fifteen or fewer children not meeting the specified conditions for a permitted conditional use under Section 27.19.030;

(t) Neighborhood support services;

(u) Connection of single-family dwelling to accessory building for the physically handicapped;

(v) Alternative to imprisonment facilities;

(w) Children's homes. (Ord. 19172 §6; November 3, 2008; prior Ord. 19158 §15; October 20, 2008: Ord. 18535 §11; May 9, 2005: Ord. 18476 §10; December 13, 2004: Ord. 16854 §15; August 14, 1995: Ord. 16820 §5; July 10, 1995: Ord. 16673 §9; September 26, 1994: Ord. 15371 §5; December 18, 1989: Ord. 15368 §7; December 18, 1989: Ord. 14815 §4; January 4, 1988: Ord. 14780 §6; November 2, 1987: Ord. 14767 §5; October 12, 1987: Ords. 14475, 14510, 14562, as amended by Ord. 14644 §7; April 13, 1987: Ord. 14074 §3; April 8, 1985: Ord. 13980 §1; October 29, 1984: Ord. 13588 §6; May 9, 1983: Ord. 13546 §6; February 28, 1983: Ord. 12978 §7; August 25, 1980: Ord. 12894 §7; April 7, 1980: Ord. 12571 §128; May 8, 1979).

27.19.050 Accessory Uses.

Accessory uses permitted in the R-5 Residential District are accessory buildings and uses customarily incident to the above uses, including storage garages where the lot is occupied by a multiple dwelling. (Ord. 12571 §129; May 8, 1979).

27.19.060 Parking Regulations.

All parking within the R-5 Residential District shall be in conformance with the provisions of Chapter 27.67. (Ord. 12571 §130; May 8, 1979).

27.19.070 Sign Regulations.

Signs within the R-5 Residential District shall be regulated in conformance with the provisions of Chapter 27.69. (Ord. 12571 §131; May 8, 1979).

27.19.075 Grading and Land Disturbance Regulations.

Grading and land disturbance within the R-5 Residential District shall be regulated in conformance with the provisions of Chapter 27.81. (Ord. 17618 §8; February 22, 2000.)

27.19.080 Height and Area Regulations.

The maximum height and minimum lot requirements within the R-5 Residential District shall be as follows:

(a) General requirements:

[See Table 27.19.080(a) at the end of this chapter]

(b) There shall be a required front yard on each street side of a double-frontage lot.

(c) There shall be a required front yard on each street side of a corner lot; provided, however, that the buildable width of a lot of record on November 2, 1953, need not be reduced to less than twenty-eight feet except where necessary to provide a required side yard of not less than five feet in place of one of the required front yards. Where corner lots are separated by a common rear lot line, the minimum required yard shall be ten feet on the side along the street adjacent to both corner lots.

(d) Open space requirements for residential use: A minimum amount of usable and accessible open space must be provided for each residential use. This requirement shall be as follows:

125 square feet for the first dwelling unit;

80 square feet per unit for each additional dwelling unit beyond one.

This open space requirement may be met in the following manner:

(1) The required rear yard may be counted; however, the required front and side yards may not be counted toward the fulfillment of said open space requirement; except for ground level or first floor level porches, patios, and terraces as permitted in Sections 27.71.100 and 27.71.110;

(2) Parking spaces, and land occupied by any building or structure may not be counted toward fulfillment of this open space requirement;

(3) The depth-to-width ratio of any area used to fulfill the open space requirement may not exceed three to one, if the smallest dimension of the open space is twelve feet or less.

(e) Accessory buildings which are attached to or not located more than six feet from the main structure shall be considered a part of the main structure and shall comply with the height, front, side, and rear yard requirements of the main building. Accessory buildings not a part of the main structure may be located in the required rear yard, but such accessory buildings may not occupy more than forty percent of the required rear yard and shall not be nearer than two feet to any side or rear lot line, nor more than fifteen feet in height. Accessory buildings not a part of the main structure, if located not less than sixty feet from the front lot line, may extend into the required side yard though not nearer than two feet to the side lot line. A garage which is entered from an alley shall not be located closer than ten feet to the alley line.

(f) Where a vacant lot or tract has less area or width or both less area and width than herein required and its boundary lines along their entire length abutted lands under other ownership on November 2, 1953, and have not since been changed, the lot may be used for a single-family dwelling, two-family dwelling, or for any nondwelling use permitted in this chapter.

If such vacant lot or tract comes under common ownership with an abutting lot or tract, such vacant lot or tract may continue to be used for a single-family dwelling provided the said abutting lot or tract was occupied by a dwelling unit on the date the contiguous properties came under common ownership.

If such vacant lot or tract comes under common ownership with an abutting vacant lot or tract which has less area or width or both less area and width than herein required, such lots and tracts shall be merged together and constitute a single premise.

If an existing lot or tract lawfully occupied by a single-family or two-family dwelling on the effective date of this title or on the effective date of a change in district boundaries from another zoning district to this district has less area or width or both less area and width than herein required, such lot or tract shall not be considered nonstandard due to this condition. (Ord. 18827 §5; October 9, 2006; prior Ord. 17664 §3; May 1, 2000; Ord. 16971 §2; April 22, 1996; Ord. 14447 §5; July 28, 1986; Ord. 13929 §5; August 27, 1985; Ord. 12751 §5; September 5, 1979; Ord. 12701 §1; October 2, 1979; Ord. 12571 §132; May 8, 1979).

27.19.090 Neighborhood Design Standards.

Each application for a building permit for new construction of a principal building on property located within the Lincoln city limits as of December 31, 1949 shall comply with the neighborhood design standards. (Ord. 18305 §5; February 23, 2004; prior Ord. 17664 §4; May 1, 2000).

Table 27.19.080(a)						
	Lot Area (Sq. ft.)	Avg. Lot Width	Req'd Front Yard	Req'd Side Yard	Req'd Rear Yard	Height
Dwelling, single- family	5,000	50'	20'	5'	*	35'
Dwelling, two-family	2,500 per family	25' per family	20'	5' or 0' on party wall	*	35'
Townhouses	2,500 per family	20' per family	20'	10' or 0' on party wall	*	35'
Dwelling, Multiple	1,500 per unit	50'	20'	7' or 10' if over 20' in height	*	35'
Other permitted uses	5,000	50'	20'	5'	*	35'

* Smaller of 30' or 20% of depth.

Chapter 27.21

R-6 RESIDENTIAL DISTRICT

Sections:

- 27.21.010 Scope of Regulations.
- 27.21.020 Use Regulations.
- 27.21.030 Permitted Conditional Uses.
- 27.21.040 Permitted Special Uses.
- 27.21.050 Accessory Uses.
- 27.21.060 Parking Regulations.
- 27.21.070 Sign Regulations.
- 27.21.075 Grading and Land Disturbance Regulations.
- 27.21.080 Height and Area Regulations.
- 27.21.090 Neighborhood Design Standards.

This district is intended to provide a generally redeveloping area of moderately high residential density between eleven and fourteen dwelling units per acre. This district provides for single-family, two-family, multiple and townhouse residential uses, private clubs, fraternities and sororities, and support facilities, such as schools, parks, community buildings, and churches. (Amended by Ord. 18827 §6; October 9, 2006).

27.21.010 Scope of Regulations.

The regulations set forth in this chapter, or set forth elsewhere in this title when referred to in this chapter, are the district regulations in the R-6 Residential District. (Ord. 12571 §133; May 8, 1979).

27.21.020 Use Regulations.

A building or premises shall be used only for the following purposes in the R-6 Residential District:

- (a) Single-family dwellings;
- (b) Two-family dwellings;
- (c) Multiple dwellings;
- (d) Townhouses;
- (e) Parks, playgrounds, and community buildings owned or operated by a public agency;
- (f) Public libraries;
- (g) Public elementary and high schools, or private schools having a curriculum equivalent to a public elementary or public high school and having no rooms regularly used for housing or sleeping purposes;

(h) Private clubs, fraternities, sororities, and lodges, except those the primary activity of which is a service customarily carried on as a business;

(i) Wind energy conversion systems. (Ord. 19158 §16; October 20, 2008; prior Ord. 17531 § 1; July 26, 1999; Ord. 15159 §1; April 24, 1989; Ord. 12571 §134; May 8, 1979).

27.21.030 Permitted Conditional Uses.

A building or premises may be used for the following purposes in the R-6 Residential District in conformance with the conditions prescribed herein:

- (a) Churches:
 - (1) Parking shall be in conformance with Chapter 27.67;
 - (2) Required side and rear yards shall be fifteen feet or the same as the district, whichever is greater.

- (b) Group homes:
 - (1) Group homes shall comply with all sign, height and area regulations of the district, and all provisions of the minimum standard housing ordinance. Parking shall be regulated in conformance with the requirements of Chapter 27.67;
 - (2) The distance between the proposed use and any existing group home measured from lot line to lot line is not less than 1,200 feet;
 - (3) Such use shall be permitted only so long as the facility continues to be validly licensed by the State of Nebraska.

- (c) Early childhood care facilities in churches:
 - (1) The parking and loading/unloading area for such facilities shall comply with the provisions of Chapter 27.67 of the Lincoln Municipal Code and the design standards for early childhood care facilities;
 - (2) Such facilities shall comply with all applicable state and local early childhood care requirements;
 - (3) Such facilities shall comply with all applicable building and life safety code requirements;
 - (4) Such facilities shall be fenced and have play areas that comply with the design standards for early childhood care facilities;
 - (5) Such facilities must receive a conditional use permit from the Department of Building and Safety.

- (d) Domestic shelter:
 - (1) Parking shall be in conformance with Chapter 27.67;
 - (2) The maximum number of residents occupying such a facility shall not exceed one person per 750 square feet of lot area;

- (e) Early childhood care facilities in churches:
 - (1) The parking and loading/unloading area for such facilities shall comply with the provisions of Chapter 27.67 of the Lincoln Municipal Code and the design standards for early childhood care facilities;
 - (2) Such facilities shall comply with all applicable state and local early childhood care requirements;
 - (3) Such facilities shall comply with all applicable building and life safety code requirements;
 - (4) Such facilities shall be fenced and have play areas that comply with the design standards for early childhood care facilities;
 - (5) Such facilities must receive a conditional use permit from the Department of Building and Safety.

- (f) Domestic shelter:
 - (1) Parking shall be in conformance with Chapter 27.67;
 - (2) The maximum number of residents occupying such a facility shall not exceed one person per 750 square feet of lot area;

- (g) Domestic shelter:
 - (1) Parking shall be in conformance with Chapter 27.67;
 - (2) The maximum number of residents occupying such a facility shall not exceed one person per 750 square feet of lot area;

- (h) Domestic shelter:
 - (1) Parking shall be in conformance with Chapter 27.67;
 - (2) The maximum number of residents occupying such a facility shall not exceed one person per 750 square feet of lot area;

- (i) Domestic shelter:
 - (1) Parking shall be in conformance with Chapter 27.67;
 - (2) The maximum number of residents occupying such a facility shall not exceed one person per 750 square feet of lot area;

(3) The distance between the proposed use and any existing domestic shelter measured from lot line to lot line shall not be less than one mile.

(e) Early childhood care facilities with a maximum of fifteen children present at any time:

(1) The parking and loading/unloading area for such facilities shall comply with the provisions of Chapter 27.67 of the Lincoln Municipal Code and the design standards for early childhood care facilities;

(2) Such facilities shall comply with all applicable state and local early childhood care requirements;

(3) Such facilities shall comply with all applicable building and life safety code requirements;

(4) Such facilities shall be fenced and have play areas that comply with the design standards for early childhood care facilities;

(5) Such facilities shall be used as the permanent residence of the licensed child care provider;

(6) Such facilities with thirteen or more children must receive a conditional use permit from the Department of Building and Safety;

(7) Early childhood care facilities located in mobile homes shall have a severe weather emergency action plan approved by the Health Department. (Ord. 18476 §11; December 13, 2004: prior Ord. 16854 §16; August 14, 1995: Ord. 15751 §8; October 15, 1990: Ord. 14060 §4; February 25, 1985: Ord. 13302 §6; February 1, 1982: Ord. 12571 §135; May 8, 1979).

27.21.040 Permitted Special Uses.

A building or premises may be used for the following purposes in the R-6 Residential District if a special permit for such use has been obtained in conformance with the requirements of Chapter 27.63:

(a) Private schools, other than those permitted under Section 27.21.020(g) above;

(b) Health care facilities;

(c) Dwellings for members of religious orders;

(d) Recreational facilities;

(e) Church steeples, amateur radio antenna installations, towers, and ornamental spires which exceed the maximum district height;

(f) Broadcast towers;

(g) Certain parking lots as defined in Chapter 27.63;

(h) Elderly or retirement housing;

(i) Community unit plans in conformance with Chapter 27.65;

(j) Expansion of nonconforming uses;

(k) Historic preservation;

(l) Public utility purposes;

(m) Wind energy conversion systems over the district height;

(n) Housing and related facilities for the physically handicapped;

(o) Outdoor seasonal sales;

(p) Cemeteries;

(q) Domiciliary care facility;

(r) Nonprofit religious, educational or philanthropic institutions;

(s) Early childhood care facilities with sixteen or more children, or with fifteen or fewer children not meeting the specified conditions for a permitted conditional use under Section 27.21.030;

(t) Connection of single-family dwelling to accessory building for the physically handicapped;

(u) Alternative to imprisonment facilities;

(v) Children's homes. (Ord. 19172 §7; November 3, 2008: prior Ord. 19158 §17; October 20, 2008: prior Ord. 18535 §12; May 9, 2005: Ord. 18476 §12; December 13, 2004: Ord. 16854 §17; August 14, 1995: Ord. 16820 §6; July 10, 1995: Ord. 16673 §10; September 26, 1994: Ord. 15368 §8; December 18, 1989: Ord. 15159 §2; April 24, 1989: Ord. 14815 §5; January 4, 1988: Ord. 14780 §7; November 2, 1987: Ord. 14767 §6; October 12, 1987: Ords. 14510, 14475, 14562, amended by Ord. 14644 §8; April 13, 1987: Ord. 14378 §6; May 5, 1986: Ord. 14074 §6; April 8, 1985: Ord. 13980 §6; October 29, 1984: Ord. 13588 §7; May 9, 1983: Ord. 13546 §7; February 28, 1983: Ord. 12978 §8; August 25, 1980: Ord. 12894 §8; April 7, 1980: Ord. 12571 §136; May 8, 1979).

27.21.050 Accessory Uses.

Accessory uses permitted in the R-6 Residential District are the accessory buildings and uses customarily incident to the above uses, including storage garages where the lot is occupied by a multiple dwelling, hospital, or institution building. (Ord. 12571 §137; May 8, 1979).

27.21.060 Parking Regulations.

All parking within the R-6 Residential District shall be regulated in conformance with the provisions of Chapter 27.67. (Ord. 12571 §138; May 8, 1979).

27.21.070 Sign Regulations.

Signs within the R-6 Residential District shall be regulated in conformance with the provisions of Chapter 27.69. (Ord. 12571 §139; May 8, 1979).

27.21.075 Grading and Land Disturbance Regulations.

Grading and land disturbance within the R-6 Residential District shall be regulated in conformance with the provisions of Chapter 27.81. (Ord. 17618 §9; February 22, 2000.)

27.21.080 Height and Area Regulations.

The maximum height and minimum lot requirements within the R-6 Residential District shall be as follows:

(a) General requirements:

[See Table 27.21.080(a) at the end of this chapter]

(b) There shall be a required front yard on each street side of a double-frontage lot.

(c) There shall be a required front yard on each street side of a corner lot; provided, however, that the buildable width of a lot of record on November 2, 1953, need not be reduced to less than twenty-eight feet except where necessary to provide a required side yard of not less than five feet in place of one of the required front yards. Where corner lots are separated by a common rear lot line, the minimum required yard shall be ten feet on the side along the street adjacent to both corner lots.

(d) Balconies may be provided in the required side yard but not closer than seven feet from the side lot line.

(e) Open space requirements for residential use: A minimum amount of usable and accessible open space must be provided for each residential use. This requirement shall be as follows:

125 square feet for the first dwelling unit;

80 square feet per unit for each additional dwelling unit beyond one.

This open space requirement may be met in the following manner:

(1) The required rear yard may be counted; however, the required front and side yards may not be counted toward fulfillment of said open space requirement except as follows:

(i) Ground level or first floor porches, patios, and terraces as permitted in this chapter and in Sections 27.71.100 and 27.71.110;

(ii) The required front yard and side yard may be counted where the distance between the main building and said lot line exceeds the required yard by more than seven feet.

(2) Parking spaces, and land occupied by any building or structure may not be counted toward fulfillment of this open space requirement.

(3) The depth-to-width ratio of any area used to fulfill the open space requirement may not exceed three to one, if the smallest dimension of the open space is twelve feet or less.

(f) Accessory buildings which are attached to or not located more than six feet from the main structure shall be considered a part of the main structure and shall comply with the height, front, side, and rear yard requirements of the main building. Accessory buildings not a part of the main structure may be located in the required rear yard but such accessory buildings may not occupy more than forty percent of the required rear yard and shall not be nearer than two feet to any side or rear lot line, nor more than fifteen feet in height. Accessory buildings not a part of the main structure, if located not less than sixty feet from the front lot line, may extend into the required side yard though not nearer than two feet to the side lot line. A garage which is entered from an alley shall not be located closer than ten feet to the alley line.

(g) Where a vacant lot or tract has less area or width or both less area and width than herein required and its boundary lines along their entire length abutted lands under other ownership on November 2, 1953, and have not since been changed, the lot may be used for a single-family dwelling, two-family dwelling, or for any nondwelling use permitted in this chapter.

If such vacant lot or tract comes under common ownership with an abutting lot or tract, such vacant lot or tract may continue to be used for a single-family dwelling provided the said abutting lot or tract was occupied by a dwelling unit on the date the contiguous properties came under common ownership.

If such vacant lot or tract comes under common ownership with an abutting vacant lot or tract which has less area or width or both less area and width than herein required, such lots and tracts shall be merged together and constitute a single premise.

If an existing lot or tract lawfully occupied by a single-family or two-family dwelling on the effective date of this title or on the effective date of a change in

district boundaries from another zoning district to this district has less area or width or both less area and width than herein required, such lot or tract shall not be considered nonstandard due to this condition. (Ord. 18827 §7; October 9, 2006; prior Ord. 17664 §5; May 1, 2000; Ord. 16971 §3; April 22, 1996; Ord. 14447 §6; July 28, 1986; Ord. 13929 §6; August 27, 1984; Ord. 13067 §2; January 5, 1981; Ord. 12751 §6; November 5, 1979; Ord. 12701 §2; October 2, 1979; Ord. 12571 §140; May 8, 1979).

27.21.090 Neighborhood Design Standards.

Each application for a building permit for new construction of a principal building on property located within the Lincoln city limits as of December 31, 1949 shall comply with the neighborhood design standards. (Ord. 18305 §6; February 23, 2004; prior Ord. 17664 §6; May 1, 2000).

Table 27.21.080(a)

	Lot Area (Sq. ft.)	Avg. Lot Width	Req'd Front Yard	Req'd Side Yard	Req'd Rear Yard	Height
Dwelling, single- family	4,000	50'	20'	5'	*	35'
Dwelling, two-family	2,500 per family	25' per family	20'	5' or 0' on party wall	*	35'
Townhouses	2,500 per family	20' per family	20'	5' or 0' on party wall	*	35'
Dwelling, Multiple	1,100 per unit	50'	20'	7' or 10' if over 20' in height	*	35'
Other permitted uses	4,000	50'	20'	5'	*	35'

* Smaller of 30' or 20% of depth.

** Over 35' in height, add one foot to the required side and rear yards for each additional two feet of height.

Chapter 27.23

R-7 RESIDENTIAL DISTRICT

Sections:

- 27.23.010 Scope of Regulations.
- 27.23.020 Use Regulations.
- 27.23.030 Permitted Conditional Uses.
- 27.23.040 Permitted Special Uses.
- 27.23.050 Accessory Uses.
- 27.23.060 Parking Regulations.
- 27.23.070 Sign Regulations.
- 27.23.075 Grading and Land Disturbance Regulations.
- 27.23.080 Height and Area Regulations.
- 27.23.090 Neighborhood Design Standards.

This district is intended to provide a redeveloping area of comparatively high density residential use in the range of fifteen dwelling units, gross, per acre. This district provides for single-family, two-family, multiple, and townhouse residential uses, apartment hotels, private clubs, fraternities and sororities, and such facilities as schools, parks, community buildings, and churches. (Amended by Ord. 18827 §8; October 9, 2006).

27.23.010 Scope of Regulations.

The regulations set forth in this chapter, or set forth elsewhere in this title when referred to in this chapter, are the district regulations in the R-7 Residential District. (Ord. 12571 §141; May 8, 1979).

27.23.020 Use Regulations.

A building or premises shall be permitted to be used for the following purposes in the R-7 Residential District:

- (a) Single-family dwellings;
- (b) Two-family dwellings;
- (c) Multiple dwellings;
- (d) Townhouses;
- (e) Apartment hotels;
- (f) Parks, playgrounds, and community buildings owned or operated by a public agency;
- (g) Public libraries;
- (h) Public elementary and high schools, or private schools having a curriculum equivalent to a public elementary or public high school and having no

rooms regularly used for housing or sleeping purposes;

(i) Private clubs, fraternities, sororities, and lodges, except those the primary activity of which is a service customarily carried on as a business;

(j) Wind energy conversion systems. (Ord. 19158 §18; October 20, 2008; prior Ord. 17531 § 2; July 26, 1999; Ord. 15159 §3; April 24, 1989; Ord. 12571 §142; May 8, 1979).

27.23.030 Permitted Conditional Uses.

A building or premises may be used for the following purposes in the R-7 Residential District in conformance with the conditions prescribed herein:

(a) Churches:

(1) Parking shall be in conformance with Chapter 27.67;

(2) Required side and rear yards shall be fifteen feet or the same as the district, whichever is greater.

(b) Group homes:

(1) Group homes shall comply with all sign, height and area regulations of the district, and all provisions of the minimum standard housing ordinance. Parking shall be regulated in conformance with the requirements of Chapter 27.67;

(2) The distance between the proposed use and any existing group home measured from lot line to lot line is not less than 1,200 feet;

(3) Such use shall be permitted only so long as the facility continues to be validly licensed by the State of Nebraska.

(c) Early childhood care facilities in churches:

(1) The parking and loading/unloading area for such facilities shall comply with the provisions of Chapter 27.67 of the Lincoln Municipal Code and the design standards for early childhood care facilities;

(2) Such facilities shall comply with all applicable state and local early childhood care requirements;

(3) Such facilities shall comply with all applicable building and life safety code requirements;

(4) Such facilities shall be fenced and have play areas that comply with the design standards for early childhood care facilities;

(5) Such facilities must receive a conditional use permit from the Department of Building and Safety.

(d) Domestic shelter:

(1) Parking shall be in conformance with Chapter 27.67;

(2) The maximum number of residents occupying such a facility shall not exceed one person per 750 square feet of lot area.

(3) The distance between the proposed use and any existing domestic shelter measured from lot line to lot line shall not be less than one mile.

(e) Early childhood care facilities with a maximum of fifteen children present at any time:

(1) The parking and loading/unloading area for such facilities shall comply with the provisions of Chapter 27.67 of the Lincoln Municipal Code and the design standards for early childhood care facilities;

(2) Such facilities shall comply with all applicable state and local early childhood care requirements;

(3) Such facilities shall comply with all applicable building and life safety code requirements;

(4) Such facilities shall be fenced and have play areas that comply with the design standards for early childhood care facilities;

(5) Such facilities shall be used as the permanent residence of the licensed child care provider;

(6) Such facilities with thirteen or more children must receive a conditional use permit from the Department of Building and Safety;

(7) Early childhood care facilities located in mobile homes shall have a severe weather emergency action plan approved by the Health Department. (Ord. 18476 §13; December 13, 2004; prior Ord. 16854 §18; August 14, 1995; Ord. 15751 §9; October 15, 1990; Ord. 14060 §5; February 25, 1985; Ord. 12571 §143; May 8, 1979).

27.23.040 Permitted Special Uses.

A building or premises may be used for the following purposes in the R-7 Residential District if a special permit for such use has been obtained in conformance with the requirements of Chapter 27.63:

(a) Private schools, other than those permitted under Section 27.23.020(h) above;

(b) Health care facilities;

(c) Dwellings for members of religious orders;

(d) Recreational facilities;

(e) Church steeples, amateur radio antenna installations, towers, and ornamental spires which exceed the maximum district height;

(f) Broadcast towers;

(g) Certain parking lots as defined in Chapter 27.63;

(h) Elderly or retirement housing;

(i) Expansion of nonconforming uses;

(j) Historic preservation;

(k) Public utility purposes;

(l) Wind energy conversion systems over the district height;

(m) Housing and related facilities for the handicapped;

(n) Outdoor seasonal sales;

(o) Cemeteries;

(p) Domiciliary care facility;

(q) Nonprofit religious, educational or philanthropic institutions;

(r) Early childhood care facilities with sixteen or more children, or with fifteen or fewer children not meeting the specified conditions for a permitted conditional use under Section 27.23.030;

(s) Connection of single-family dwelling to accessory building for the physically handicapped;

(t) Alternative to imprisonment facilities;

(u) Children's homes. (Ord. 19172 §8; November 3, 2008; prior Ord. 19158 §19; October 20, 2008; prior Ord. 18535 §13; May 9, 2005; Ord. 18476 §14; December 13, 2004; Ord. 16854 §19; August 14, 1995; Ord. 16820 §7; July 10, 1995; Ord. 16673 §11; September 26, 1994; Ord. 15368 §9; December 18, 1989; Ord. 15159 §4; April 24, 1989; Ord. 14815 §6; January 4, 1988; Ord. 14780 §8; November 2, 1987; Ord. 14767 §7; October 12, 1987; Ords. 14475, 14510, 14562 amended by Ord. 14644 §9; April 13, 1987; Ord. 14378 §7; May 5, 1986; Ord. 13588 §8; May 9, 1983; Ord. 13546 §8; February 28, 1983; Ord. 12978 §12; August 25, 1980; Ord. 12894 §9; April 7, 1980; Ord. 12571 §144; May 8, 1979).

27.23.050 Accessory Uses.

Accessory uses permitted in the R-7 Residential District are accessory buildings and uses customarily incident to the above uses, including storage garages where the lot is occupied by a multiple dwelling, hospital, or institution building. (Ord. 12571 §145; May 8, 1979).

27.23.060 Parking Regulations.

All parking within the R-7 Residential District shall be regulated in conformance with the provisions of Chapter 27.67. (Ord. 12571 §146; May 8, 1979).

27.23.070 Sign Regulations.

Signs within the R-7 Residential District shall be regulated in conformance with the provisions of Chapter 27.69. (Ord. 12571 §147; May 8, 1979).

27.23.075 Grading and Land Disturbance Regulations.

Grading and land disturbance within the R-7 Residential District shall be regulated in conformance with the provisions of Chapter 27.81. (Ord. 17618 §10; February 22, 2000.)

27.23.080 Height and Area Regulations.

The maximum height and minimum lot requirements within the R-7 Residential District shall be as follows:

(a) General requirements:

[See Table 27.23.080(a) at the end of this chapter]

(b) There shall be a required front yard on each street side of a double frontage lot.

(c) There shall be a required front yard on each street side of a corner lot; provided, however, that the buildable width of a lot of record on November 2, 1953, need not be reduced to less than twenty-eight feet except where necessary to provide a required side yard of not less than five feet in place of one of the required front yards. Where corner lots are separated by a common rear lot line, the minimum required yard shall be ten feet on the side along the street adjacent to both corner lots.

(d) Balconies may be provided in the required side yard but not closer than seven feet from the side lot line.

(e) Open space requirements for residential use: A minimum amount of usable and accessible open space must be provided for each residential use. This requirement shall be as follows:

125 square feet for the first dwelling unit;

80 square feet per unit for each additional dwelling unit beyond one.

This open space requirement may be met in the following manner:

(1) The required rear yard may be counted; however, the required front and side yards may not be counted toward fulfillment of said open space requirement except as follows:

(i) Ground level or first floor porches, patios, and terraces as permitted in this chapter and in Sections 27.71.100 and 27.71.110;

(ii) The required front yard and side yard may be counted where the distance between the main building and said lot line exceeds the required side yard.

(2) Parking spaces and land occupied by any building or structure may not be counted toward fulfillment of this open space requirement.

(3) The depth-to-width ratio of any area used to fulfill the open space requirement may not exceed three to one, if the smallest dimension of the open space is twelve feet or less.

(f) Accessory buildings which are attached to or not located more than six feet from the main structure shall be considered a part of the main structure and shall comply with the height, front, side, and rear yard requirements of the main building. Accessory buildings not a part of the main structure may be located in the required rear yard but such accessory buildings may not occupy more than thirty percent of the required rear yard and shall not be nearer than two feet to any side or rear lot line, nor more than fifteen feet in height. Accessory buildings not a part of the main structure, if located not less than sixty feet from the front lot line, may extend into the required side yard though not nearer than two feet to the side lot line. A garage which is entered from an alley shall not be located closer than ten feet to the alley line.

(g) Where a vacant lot or tract has less area or width or both less area and width than herein required and its boundary lines along their entire length abutted lands under other ownership on November 2, 1953, and have not since been changed, the lot may be used for a single-family dwelling, two-family dwelling, or for any nondwelling use permitted in this chapter.

If such vacant lot or tract comes under common ownership with an abutting lot or tract, such vacant lot or tract may continue to be used for a single-family dwelling provided the said abutting lot or tract was occupied by a dwelling unit on the date the contiguous properties came under common ownership.

If such vacant lot or tract comes under common ownership with an abutting vacant lot or tract which has less area or width or both less area and width than herein required, such lots and tracts shall be merged together and constitute a single premise.

If an existing lot or tract lawfully occupied by a single-family or two-family dwelling on the effective date of this title or on the effective date of a change in district boundaries from another zoning district to this district has less area or width or both less area and width than herein required, such lot or tract shall not be considered nonstandard due to this condition. (Ord. 18827 §9; October 9, 2006; prior Ord. 17664 §7; May 1, 2000; Ord. 16971 §4; April 22, 1996; Ord. 13929 §8; August 27, 1984; Ord. 13067 §4; January 5, 1981; Ord. 12751 §7; November 5, 1979; Ord. 12701 §3; October 2, 1979; Ord. 12571 §148; May 8, 1979).

27.23.090 Neighborhood Design Standards.

Each application for a building permit for new construction of a principal building on property located within the Lincoln city limits as of December 31, 1949 shall comply with the neighborhood design standards. (Ord. 18305 §7; February 23, 2004; prior Ord.17664 §8; May 1, 2000).

Table 27.23.080(a)

	Lot Area (Sq. ft.)	Avg. Lot Width	Req'd Front Yard	Req'd Side Yard	Req'd Rear Yard	Height
Dwelling, single- family	4,000	50'	20'	5'	*	35'
Dwelling, two-family	2,000 per family	25' per family	20'	5' or 0' on party wall	*	35'
Townhouses	2,000 per family	20' per family	20'	5' or 0' on party wall	*	35'
Dwelling, Multiple	700 per unit	50'	20'	Total 15', (min. 7' per side)	*	45'***
Other permitted uses	4,000	50'	20'	5'	*	35'

* Smaller of 30' or 20% of depth.

** Over 35' in height, add one foot to the required side and rear yards for each additional two feet of height.

Chapter 27.24

R-8 RESIDENTIAL DISTRICT

Sections:

- 27.24.010 Scope of Regulations.
- 27.24.020 Use Regulations.
- 27.24.030 Permitted Conditional Uses.
- 27.24.040 Permitted Special Uses.
- 27.24.045 Office Space Limitation.
- 27.24.050 Accessory Uses.
- 27.24.060 Parking Regulations.
- 27.24.070 Sign Regulations.
- 27.24.075 Grading and Land Disturbance Regulations.
- 27.24.080 Height and Area Regulations.
- 27.24.090 Neighborhood Design Standards.

This district is intended to permit high density residential uses; apartment hotels; private clubs; civic, cultural, educational, labor, professional, trade and fraternal membership organizations; and such facilities as schools, parks, community buildings, and churches exclusively in that area designated as the E-1 multiple dwelling district which existed immediately prior to the effective date of this title. (Amended by Ord. 18827 §10; October 9, 2006).

27.24.010 Scope of Regulations.

The regulations set forth in this chapter, or set forth elsewhere in this title when referred to in this chapter, are the district regulations in the R-8 Residential District. (Ord. 12571 §148a; May 8, 1979).

27.24.020 Use Regulations.

A building or premises shall be permitted to be used for the following purposes in the R-8 Residential District:

- (a) Single-family dwellings;
- (b) Two-family dwellings;
- (c) Multiple dwellings;
- (d) Townhouses;
- (e) Apartment hotels;
- (f) Parks, playgrounds, and community buildings owned or operated by a public agency;
- (g) Public libraries;
- (h) Public elementary and high schools, or private schools having a curriculum equivalent to a public elementary or public high school and having no rooms regularly used for housing or sleeping purposes;

(i) Private clubs; civic, cultural, educational, labor, professional, and trade membership organizations; fraternities; sororities; and lodges, except those the primary activity of which is a service customarily carried on as a business;

(j) Churches;

(k) Wind energy conversion systems. (Ord. 19158 §20; October 20, 2008; prior Ord. 17531 § 3; July 26, 1999; Ord. 15159 §5; April 24, 1989; Ord. 12571 §148a; May 8, 1979).

ANNOT.: The term "customarily" as used in this statute should not be a mathematical determination to be resolved only by computing percentages, neither should it be resolved by what might be termed the habitual or usual mode of operation.

State v. Smiley, 182 Neb. 211, 153 N.W.2d 906 (1967).

The practice should be appreciable or perhaps substantial. It should be sufficient to constitute a recognized mode of activity in the field, but it need not be the more prevalent one. Id.

The time at which "customary usage" is to be determined is at the time the litigation arose. Id.

Incidental or accessory use is any use which is dependent upon or pertains to the principle or main use. Id.

27.24.030 Permitted Conditional Uses.

A building or premises may be used for the following purposes in the R-8 Residential District in conformance with the conditions prescribed herein:

(a) Group homes:

(1) Group homes shall comply with all sign, height, and area regulations of the district, and all provisions of the minimum standard housing ordinance. Parking shall be regulated in conformance with the requirements of Chapter 27.67;

(2) The distance between the proposed use and any existing group home measured from lot line to lot line shall not be less than 1,200 feet;

(3) Such use shall be permitted only so long as the facility continues to be validly licensed by the State of Nebraska.

(b) Early childhood care facilities in churches:

(1) The parking and loading/unloading area for such facilities shall comply with the provisions of Chapter 27.67 of the Lincoln Municipal Code and the design standards for early childhood care facilities;

(2) Such facilities shall comply with all applicable state and local early childhood care requirements;

(3) Such facilities shall comply with all applicable building and life safety code requirements;

(4) Such facilities shall be fenced and have play areas that comply with the design standards for early childhood care facilities;

(5) Such facilities must receive a conditional use permit from the Department of Building and Safety.

(c) Domestic shelter:

(1) Parking shall be in conformance with Chapter 27.67;

(2) The maximum number of residents occupying such a facility shall not exceed one person per 750 square feet of lot area;

(3) The distance between the proposed use and any existing domestic shelter measured from lot line to lot line shall not be less than one mile.

(d) Early childhood care facilities with a maximum of fifteen children present at any time:

(1) The parking and loading/unloading area for such facilities shall comply with the provisions of Chapter 27.67 of the Lincoln Municipal Code and the design standards for early childhood care facilities;

(2) Such facilities shall comply with all applicable state and local early childhood care requirements;

(3) Such facilities shall comply with all applicable building and life safety code requirements;

(4) Such facilities shall be fenced and have play areas that comply with the design standards for early childhood care facilities;

(5) Such facilities shall be used as the permanent residence of the licensed child care provider;

(6) Such facilities with thirteen or more children must receive a conditional use permit from the Department of Building and Safety;

(7) Early childhood care facilities located in mobile homes shall have a severe weather emergency action plan approved by the Health Department. (Ord. 16854 §20; August 14, 1995: prior Ord. 15751 §10; October 15, 1990: Ord. 14060 §6; February 25, 1985: Ord. 13302 §8; February 1, 1982: Ord. 12571 §148a; May 8, 1979).

27.24.040 Permitted Special Uses.

A building or premises may be used for the following purposes in the R-8 Residential District if a special permit for such use has been obtained in conformance with the requirements of Chapter 27.63:

(a) Private schools, other than those permitted under Section 27.24.020(h) above;

(b) Health care facilities;

(c) Dwellings for members of religious orders;

(d) Recreational facilities;

(e) Broadcast towers;

(f) Certain parking lots as defined in Chapter 27.63;

(g) Elderly or retirement housing;

(h) Expansion of nonconforming uses;

(i) Historic preservation;

(j) Offices;

(k) Church steeples, amateur radio antenna installations, towers, and ornamental spires which exceed the maximum height permitted in the district;

(l) Public utility purposes;

(m) Wind energy conversion systems over the district height

(n) Housing and related facilities for the physically handicapped;

(o) Outdoor seasonal sales;

(p) Cemeteries;

(q) Domiciliary care facility;

(r) Nonprofit religious, educational or philanthropic institutions;

(w) Early childhood care facilities with sixteen or more children, or with fifteen or fewer children not meeting the specified conditions for a permitted conditional use under Section 27.24.030;

(t) Connection of single-family dwelling to accessory building for the physically handicapped;

(u) Alternative to imprisonment facilities;

(v) Children's homes. (Ord. 19172 §9; November 3, 2008: prior Ord. 19158 §21; October 20, 2008: Ord. 18535 §14; May 9, 2005: Ord. 17746 §1; October 16, 2000: Ord. 16854 §21; August 14, 1995: Ord. 16820 §8; July 10, 1995: Ord. 16673 §12; September 26, 1994: Ord. 15368 §10; December 18, 1989: Ord. 15159 §6; April 24, 1989: Ord. 14815 §7; January 4, 1988: Ord. 14780 §9; November 2, 1987: Ord. 14767 §8; October 12, 1987: Ords. 14475, 14562, amended by Ord. 14644 §10, April 13, 1987: Ord. 14475 §8; August 18, 1986: Ord. 14378 §8; May 5, 1986: Ord. 14074 §4; August 18, 1985: Ord. 13980 §8; October 29, 1984: Ord. 13588 §9; May 9, 1983: Ord. 13546 §9; February 28, 1983: Ord. 12978 §10; August 25, 1980: Ord. 12894 §10; April 7, 1980: Ord. 12571 §148a; May 8, 1979).

27.24.045 Office Space Limitation.

Where any type of office use is permitted under this chapter, at least seventy-five percent of the total floor area must be used for residential purposes; provided however, this restriction shall not apply to office uses authorized by special permit for property located within the Capitol Environs District. (Ord.

14785 §1; November 9, 1987; prior Ord. 13102 §1; March 9, 1981).

27.24.050 Accessory Uses.

Accessory uses permitted in the R-8 Residential District are necessary buildings and uses customarily incident to the above uses, including storage garages where the lot is occupied by a multiple dwelling, hospital, or institution building. (Ord. 12571 §148a; May 8, 1979).

27.24.060 Parking Regulations.

All parking within the R-8 Residential District shall be regulated in conformance with the provisions of Chapter 27.67. (Ord. 12571 §148a; May 8, 1979).

27.24.070 Sign Regulations.

Signs within the R-8 Residential District shall be regulated in conformance with the provisions of Chapter 27.69. (Ord. 12571 §148a; May 8, 1979).

27.24.075 Grading and Land Disturbance Regulations.

Grading and land disturbance within the R-8 Residential District shall be regulated in conformance with the provisions of Chapter 27.81. (Ord. 17618 §11; February 22, 2000.)

27.24.080 Height and Area Regulations.

The maximum height and minimum lot requirements within the R-8 Residential District shall be as follows:

(a) General requirements:

	Lot Area (Sq. ft.)	Avg. Lot Width	Req'd Front Yard	Req'd Side Yard	Req'd Rear Yard	Height
Dwelling, single- family	4,000	50'	10'	10'	20'	35'
Dwelling, two-family	2,000 per family	25' per family	10'	10' or 0' on party wall	20'	35'
Townhouses	2,000 per family	20' per family	10'	10' or 0' on party wall	20'	35'
Dwelling, Multiple or apartment hotel	550 per unit	50'	10'	10'*	20'	75'
Other permitted uses	4,000	50'	10'	10'	20'	35'

* For a building exceeding 45' in height, the sum total of the two required side yards shall not be less than 30', and neither side yard shall be less than 10'.

(b) There shall be a required front yard on each street side of a double frontage lot.

(c) There shall be a required front yard on each street side of a corner lot; provided, however, that the buildable width of a lot of record on November 2, 1953, need not be reduced to less than twenty-eight feet except where necessary to provide a required side yard of not less than five feet in place of one of the required front yards.

(d) Balconies may be provided in the required side yard but not closer than seven feet to the side lot line.

(e) Open space requirements for residential use: A minimum amount of usable and accessible open space must be provided for each residential use. This requirement shall be as follows:

80 square feet per unit for each additional dwelling unit beyond one.

This open space requirement may be met in the following manner:

(1) The required rear yard may be counted; however, the required front and side yards may not be counted toward the fulfillment of said open space requirement, except as follows:

(i) Ground level or first floor porches, patios, and terraces as permitted in this chapter and in Sections 27.71.100 and 27.71.110;

(ii) The required front yard and side yard may be counted where the distance between the main building and said lot line exceeds the required side yard by more than seven feet.

(2) Parking spaces and land occupied by any building or structure may not be counted toward fulfillment of this open space requirement;

(3) The depth-to-width ratio of any area used to fulfill the open space requirement may not exceed three to one, if the smallest dimension of the open space is twelve feet or less.

(f) Accessory buildings which are attached to or located not more than six feet from the main structure shall be considered a part of the main structure and shall comply with the height and front, side, and rear yard requirements of the main structure. Accessory buildings not a part of the main structure may be located in any required rear yard, but such accessory buildings may not occupy more than thirty percent of the required rear yard, and shall not be

nearer than two feet to any side or rear lot line, nor more than fifteen feet in height. Accessory buildings not a part of the main structure, if located not less than sixty feet from the front lot line, may extend into the required side yard though not nearer than two feet to the side lot line. A garage which is entered from an alley shall not be located closer than ten feet to the alley line.

(g) Where a vacant lot or tract has less area or width or both less area and width than herein required and its boundary lines along their entire length abutted lands under other ownership on November 2, 1953, and have not since been changed, the lot may be used for a single-family dwelling, two-family dwelling, or for any nondwelling use permitted in this chapter.

If such vacant lot or tract comes under common ownership with an abutting lot or tract, such vacant lot or tract may continue to be used for a single-family dwelling provided the said abutting lot or tract was occupied by a dwelling unit on the date the contiguous properties came under common ownership.

If such vacant lot or tract comes under common ownership with an abutting vacant lot or tract which has less area or width or both less area and width than herein required, such lots and tracts shall be merged together and constitute a single premise.

If an existing lot or tract lawfully occupied by a single-family or two-family dwelling on the effective date of this title or on the effective date of a change in district boundaries from another zoning district to this district has less area or width or both less area and width than herein required, such lot or tract shall not be considered nonstandard due to this condition. (Ord. 18827 §11; October 9, 2006; prior Ord. 17664 §9; May 1, 2000; Ord. 16971 §5; April 22, 1996; Ord. 13929 §8; August 27, 1984; Ord. 13067 §4; January 5, 1981; Ord. 12751 §8; November 5, 1979; Ord. 12679 §2; September 4, 1979; Ord. 12571 §148a; May 8, 1979).

27.24.090 Neighborhood Design Standards.

Each application for a building permit for new construction of a principal building on property located within the Lincoln city limits as of December 31, 1949 shall comply with the neighborhood design standards. (Ord. 18305 §8; February 23, 2004; prior Ord. 17664 §10; May 1, 2000).

Chapter 27.25

O-1 OFFICE DISTRICT

Sections:

- 27.25.010 Scope of Regulations.
- 27.25.020 Permitted Uses.
- 27.25.025 Permitted Conditional Uses.
- 27.25.030 Permitted Special Uses.
- 27.25.040 Accessory Uses.
- 27.25.050 Parking Regulations.
- 27.25.060 Sign Regulations.
- 27.25.065 Grading and Land Disturbance Regulations.
- 27.25.070 Height and Area Regulations.
- 27.25.080 Lincoln Downtown Design Standards.

This district is intended to provide a redeveloping area of office uses in the general area of the County-City Building and the State Capitol Building. This district provides for office buildings, dwellings, public uses, and certain religious, educational, and philanthropic institutions.

27.25.010 Scope of Regulations.

The regulations set forth in this chapter, or set forth elsewhere in this title when referred to in this chapter, are the regulations in the O-1 Office District. (Ord. 12571 §149; May 8, 1979).

27.25.020 Permitted Uses.

A building or premises shall be permitted to be used for the following purposes in the O-1 Office District:

- (a) Office buildings;
- (b) Dwellings;
- (c) Parks, playgrounds, and community buildings, owned or operated by a public agency;
- (d) Public libraries;
- (e) Public elementary and high schools, or private schools having a curriculum equivalent to a public elementary or public high school, and having no rooms regularly used for housing or sleeping purposes;
- (f) Churches;

(g) Nonprofit religious, educational, and philanthropic institutions;

(h) Private schools;

(i) Wind energy conversion systems. (Ord. 19158 §22; October 20, 2008; prior Ord. 19109 §1; July 28, 2008; Ord. 12571 §150; May 8, 1979).

27.25.025 Permitted Conditional Uses.

The following uses are permitted in the O-1 Office District if they are located entirely within a building containing office or residential uses, and provided that such additional uses shall not exceed twenty percent of the total square feet of floor area in such building.

(a) Barber shops, beauty parlors, and shoe-shine shops;

(b) Messenger and telegraph stations;

(c) Restaurants;

(d) Stores or shops for sale of goods at retail, but not including motor vehicles, of no more than 10,000 square feet of floor area for each such store or shop;

(e) Photography studios;

(f) Tailor shops, shoe-repairing, upholstery shops, printing, photocopying, or similar business establishments. The floor area of said premises not devoted to sales or office space shall not exceed 5,000 square feet;

(g) Receiving stores for dry cleaning or laundry;

(h) Early childhood care facilities with a maximum of fifteen children present at any time:

(1) Such facilities shall comply with all applicable state and local early childhood care requirements;

(2) Such facilities shall comply with all applicable building and life safety code requirements;

(3) Such facilities shall be fenced and have play areas that comply with the design standards for early childhood care facilities;

(4) Such facilities must receive a conditional use permit from the Department of Building and Safety. (Ord. 16854 §22; August 14, 1995; prior Ord. 13232 §1; October 19, 1981).

27.25.030 Permitted Special Uses.

A building or premises may be used for the following purposes in the O-1 Office District if a

special permit for such use has been obtained in conformance with the requirements of Chapter 27.63:

- (a) Health care facilities;
- (b) Recreational facilities;
- (c) Clubs;
- (d) Church steeples, towers, and ornamental spires which exceed the maximum height of forty-five feet;
- (e) Banks, savings and loan associations, credit unions, and finance companies;
- (f) Expansion of nonconforming uses;
- (g) Historic preservation;
- (h) Any permitted use which exceeds the maximum height permitted in the district up to seventy-five feet;
- (i) Public utility purposes;
- (j) Wind energy conversion systems over the district height;
- (k) Outdoor seasonal sales;
- (l) Early childhood care facilities with sixteen or more children, or with fifteen or fewer children not meeting the specified conditions for a permitted conditional use under Section 27.25.025;
- (m) Parking garages, including parking garages accessory to a main use. (Ord. 19158 §23; October 20, 2008; prior Ord. 19109 §2; July 28, 2008; Ord. 16854 §22b; August 14, 1995; Ord. 15835 §1; March 4, 1991; Ord. 15368 §11; December 18, 1989; Ord. 13980 §9; October 29, 1984; Ord. 13235 §1; October 19, 1981; Ord. 12978 §11; August 25, 1980; Ord. 12894 §11; April 7, 1980; Ord. 12571 §152; May 8, 1979).

27.25.040 Accessory Uses.

Accessory uses permitted in the O-1 Office District are accessory buildings and uses customarily incident to the permitted uses. Accessory parking garages shall not abut Lincoln Mall, Centennial Mall, and Capitol Square as defined in Section 27.56.017. (Ord. 15835 §2; March 4, 1991; prior Ord. 12571 §153; May 8, 1979).

27.25.050 Parking Regulations.

All parking within the O-1 Office District shall be regulated in conformance with the provisions of Chapter 27.67. (Ord. 12571 §154; May 8, 1979).

27.25.060 Sign Regulations.

Signs within the O-1 Office District shall be regulated in conformance with the provisions of Chapter 27.69. (Ord. 12571 §155; May 8, 1979).

27.25.065 Grading and Land Disturbance Regulations.

Grading and land disturbance within the O-1 Office District shall be regulated in conformance with the provisions of Chapter 27.81. (Ord. 17618 §12; February 22, 2000.)

27.25.070 Height and Area Regulations.

The maximum height and minimum lot requirements within the O-1 Office District shall be as follows:

- (a) General requirements:

[See Table 27.25.070(a) at the end of this chapter]

- (b) Open space requirements for residential use: A minimum amount of usable and accessible open space must be provided for each residential use. This requirement shall be as follows:

- 125 square feet for the first dwelling unit;
- 80 square feet per unit for the next four dwelling units;
- 25 square feet per unit for the next four dwelling units;
- 20 square feet per unit for each additional dwelling unit beyond nine.

This open space requirement may be met in the following manner:

- (1) Parking spaces and land occupied by any building or structure may not be counted toward fulfillment of this open space requirement.

- (2) This required open space may be provided either on a balcony four or more feet in depth or on a rooftop, provided that the roof is designed and surfaced in such a manner that it may be developed with areas of planting, open space, recreation and other uses that are consistent with similar uses in ground-level side and rear yards for dwellings. Such rooftop areas may not be occupied by structures such as vents, exhaust intakes, or other mechanical devices, except where they do not interfere with the usable nature of the open space.

- (3) The depth-to-width ratio of any area used to fulfill the open space requirement may not exceed three to one, if the smallest dimension of the open space is twelve feet or less.

(c) Dwellings existing in this district on the effective date of this title which do not meet the requirements of this chapter shall be considered nonstandard uses in conformance with the provisions of Chapter 27.61.

Accessory buildings for such non-standard dwellings shall not extend into any required yard except as follows:

Accessory buildings which are attached to or not located more than six feet from the main structure shall be considered a part of the main structure and shall comply with the height, front, side and rear yard requirements of the main building. Accessory buildings not a part of the main structure may be located in the required rear yard but such accessory buildings may not occupy more than forty percent of the required rear yard and shall not be nearer than two feet to any side or rear lot line, nor

more than fifteen feet in height. Accessory buildings not a part of the main structure, if located not less than sixty feet from the front lot line, may extend into the required side yard though not nearer than two feet to the side lot line. A garage which is entered from an alley shall not be located closer than ten feet to the alley line. (Ord. 15724 §1; September 17, 1990; prior Ord. 13232 §2; October 19, 1981; Ord. 12751 §9; November 5, 1979; Ord. 12571 §156; May 8, 1979).

27.25.080 Lincoln Downtown Design Standards.

Each application for a building permit shall be reviewed for compliance with the Lincoln Downtown Design Standards. (Ord. 19132 §1; September 8, 2008).

Table 27.25.070(a)

	Lot Area (Sq. ft.)	Frontage	Req'd Front Yard	Req'd Side Yard	Req'd Rear Yard	Height
Dwelling	220 per unit	50'	0'	0'	0'	75'*
Other Permitted Uses	0	0'	0'	0'	0'	75'*

* The maximum height of O-1 districts shall be the least of seventy-five feet or height limitation imposed by Chapter 27.56, the Capitol Environs District.

Chapter 27.26

O-2 SUBURBAN OFFICE DISTRICT

Sections:

- 27.26.010 Scope of Regulations.
- 27.26.020 Permitted Uses.
- 27.26.030 Permitted Conditional Uses.
- 27.26.040 Permitted Special Uses.
- 27.26.050 Accessory Uses.
- 27.26.060 Parking Regulations.
- 27.26.065 Pedestrian Circulation Regulations.
- 27.26.070 Sign Regulations.
- 27.26.075 Grading and Land Disturbance Regulations.
- 27.26.080 Height and Area Regulations.
- 27.26.090 Extension Beyond Abutting Business or Industrial District; Open Space Requirement.

This district is intended to provide a redeveloping area, primarily of office uses in those suburban areas previously zoned O-1 Office District and those fronting on the same street, with the same side lot lines and within 150 feet of the following districts: B-1, B-3, B-4, H-2, H-3, and I-1. This district is intended as a transition zone where it abuts the previously mentioned districts. (Ord. 12701 §5; October 2, 1979).

27.26.010 Scope of Regulations.

The regulations set forth in this chapter, or set forth elsewhere in this title when referred to in this chapter, are the regulations in the O-2 Suburban Office District. (Ord. 12571 §228; May 8, 1979).

27.26.020 Permitted Uses.

A building or premises shall be permitted to be used for the following purposes in the O-2 Suburban Office District:

- (a) Office buildings;
- (b) Parks, playgrounds, and community buildings, owned or operated by a public agency;
- (c) Public libraries;
- (d) Public elementary and high schools, or private schools having a curriculum equivalent to a public elementary or public high school, and having

no rooms regularly used for housing or sleeping purposes;

- (e) Churches;
- (f) Nonprofit religious, educational, and philanthropic institutions;
- (g) Banks, savings and loans, credit unions, and finance companies;
- (h) Barber shops, beauty parlors, and shoeshine shops;
- (i) Tailor shops, shoe repair shops, upholstery shops, printing and photocopying shops, or other, similar business establishments; however, that portion of the premises of such business establishments not devoted to sales or office space shall not exceed 5,000 square feet of floor area;
- (j) Adult care centers;
- (k) Wind energy conversion systems. (Ord. 19158 §24; October 20, 2008; prior Ord. 18346 §2; April 26, 2004; Ord. 16767 §1; April 10, 1995; Ord. 13466 §1; September 20, 1982; Ord. 12679 §3; September 4, 1979; Ord. 12571 §229; May 8, 1979).

27.26.030 Permitted Conditional Uses.

Any building or premises may be used for the following purposes in the O-2 Suburban Office District in conformance with the conditions prescribed herein:

- (a) Dwellings, provided that:
 - (1) Dwellings shall only be permitted above the first story of a building;
 - (2) The first story shall be used for a nondwelling use permitted in the district;
 - (3) Said nondwelling use shall not:
 - (i) be accessory to the residential use;
 - (ii) be a parking lot or garage;
 - (4) Said first story shall not have more than twenty percent of its height below grade.
- (b) Photography studios, provided that said studios be used only for the taking of photographs and the development of photographs taken by the owner or employees of the studio.
- (c) Parking lots, provided that no part of the frontage within the block face on which a parking lot is proposed is zoned residential.
- (d) Early childhood care facilities with a maximum of fifteen children present at any time:
 - (1) Such facilities shall comply with all applicable state and local early childhood care requirements;

(2) Such facilities shall comply with all applicable building and life safety code requirements;

(3) Such facilities shall be fenced and have play areas that comply with the design standards for early childhood care facilities;

(4) Such facilities must receive a conditional use permit from the Department of Building and Safety. (Ord. 16854 §23; August 14, 1995; prior Ord. 15522 §1; April 16, 1990; Ord. 13579 §1; May 2, 1983; Ord. 12571; §230; May 8, 1979).

27.26.040 Permitted Special Uses.

A building or premises may be used for the following purposes in the O-2 Suburban Office District if a special permit for such use has been obtained in conformance with the requirements of Chapter 27.63:

- (a) Broadcast towers;
- (b) Expansion of nonconforming uses;
- (c) Historic preservation;
- (d) Public utility purposes;
- (e) Wind energy conversion systems over the district height;
- (f) Outdoor seasonal sales;
- (g) Certain parking lots as defined in Chapter 27.63;
- (h) Mail order catalog sales;
- (i) Early childhood care facilities with sixteen or more children, or with fifteen or fewer children not meeting the specified conditions for a permitted conditional use under Section 27.26.030;
- (j) Private schools. (Ord. 19158 §25; October 20, 2008; prior Ord. 17254 § 1; October 6, 1997; Ord. 16854 §24; August 14, 1995; Ord. 16606 §1; May 9, 1994; Ord. 16144 §2; July 6, 1992; Ord. 15522 §2; April 16, 1990; Ord. 14780 §10; November 2, 1987; Ord. 13980 as amended by Ord. 14123 §2; June 3, 1985; Ord. 13588 §10; May 9, 1983; Ord. 12978 §12; August 25, 1980; Ord. 12894 §12; April 7, 1980; Ord. 12571 §231; May 8, 1979).

27.26.050 Accessory Uses.

Accessory uses permitted in the O-2 Suburban Office District are accessory buildings and uses customarily incident to the permitted uses. (Ord. 12571 §232; May 8, 1979).

27.26.060 Parking Regulations.

All parking within the O-2 Suburban Office District shall be regulated in conformance with the

provisions of Chapter 27.67. (Ord. 12571 §233; May 8, 1979).

27.26.065 Pedestrian Circulation Regulations.

Construction of on-site pedestrian circulation sidewalk systems shall be regulated in conformance with the provisions of Section 27.81.010. (Ord. 18687 §1; March 20, 2006).

27.26.070 Sign Regulations.

Signs within the O-2 Suburban Office District shall be regulated in conformance with the provisions of Chapter 27.69. (Ord. 12571 §234; May 8, 1979).

27.26.075 Grading and Land Disturbance Regulations.

Grading and land disturbance within the O-2 Suburban Office District shall be regulated in conformance with the provisions of Chapter 27.81. (Ord. 17618 §13; February 22, 2000.)

27.26.080 Height and Area Regulations.

The maximum height and minimum lot requirements within the O-2 Suburban Office District shall be as follows:

- (a) General requirements:

(See Table 27.26.080(a) at the end of this chapter)

(b) There shall be a required front yard on each street side of a double-frontage lot.

(c) There shall be a required front yard on each street side of a corner lot; provided, however, that the buildable width of a lot of record on November 2, 1953, need not be reduced to less than thirty-five feet except where necessary to provide a required side yard of not less than five feet in place of one of the required front yards;

(d) The entire front yard shall be entirely landscaped, except for necessary paving of walkways and driveways to reach parking and loading areas, provided that any driveway in the front yard shall be substantially perpendicular to the street and shall not be wider than thirty feet.

(e) Open space requirements for residential use: A minimum amount of usable and accessible open space must be provided for each residential use. This requirement shall be as follows:

- 125 square feet for the first dwelling unit;
- 80 square feet per unit for the next four dwelling units;

25 square feet per unit for the next four dwelling units;

20 square feet per unit for each additional dwelling unit beyond nine.

This open space requirement may be met in the following manner:

(1) The required rear yard may be counted; however, the required front and side yards may not be counted toward fulfillment of said open space requirement; except for porches, terraces, and balconies as permitted in Sections 27.71.100 and 27.71.110;

(2) Parking spaces and land occupied by any building or structure may not be counted toward fulfillment of this open space requirement;

(3) This required open space may be provided either on a balcony four or more feet in depth or on a rooftop, provided that the roof is designed and surfaced in such a manner that it may be developed with areas of planting, open space, recreation and other uses that are consistent with similar uses in ground-level side and rear yards for dwellings. Such rooftop areas may not be occupied by structures such as vents, exhaust intakes, or other mechanical devices, except where they do not interfere with the usable nature of the open space;

(4) The depth-to-width ratio of any area used to fulfill the open space requirement may not exceed three to one, if the smallest dimension of the open space is twelve feet or less;

(f) Accessory buildings which are attached to or are located not more than ten feet from the main structure shall be considered a part of the main structure and shall comply with the height, and front, side, and rear yard requirements of the main structure. Accessory buildings not a part of the main structure may be located in the required rear yard if such yard does not abut a residential district, but such accessory buildings may not occupy more than thirty percent of the required rear yard and shall not be nearer than two feet to any side or rear lot line. Such detached

accessory buildings shall not exceed fifteen feet in height. Accessory buildings not a part of the main structure, if located not less than sixty feet from the front lot line, may extend into the required side yard though not nearer than two feet to the side lot line. A garage which is entered from an alley shall not be located closer than ten feet to the alley line;

(g) Dwellings existing in this district on the effective date of this title which do not meet the requirements of this chapter shall be considered non-standard uses in conformance with the provisions of Chapter 27.61. (Ord. 19342 §1; February 8, 2010; prior Ord. 18687 §2; March 20, 2006; Ord. 12894 §13; April 7, 1980; Ord. 12751 §10; November 5, 1979; Ord. 12657 §5; August 6, 1979; Ord. 12571 §235; May 8, 1979).

27.26.090 Extension Beyond Abutting Business or Industrial District; Open Space Requirement.

Whenever an O-2 zoning district extends further from the street than an abutting B-1, B-3, B-4, H-2, H-3, or I-1 district, then no building, structure, parking, nor access drive shall be permitted further from the street than the adjacent boundary line that is parallel to the street of the abutting B-1, B-3, B-4, H-2, H-3, or I-1 district. That portion of the O-2 district further from the street than the B-1, B-3, B-4, H-2, H-3, or I-1 districts shall be maintained as open space and have landscaping improvements, such as trees, shrubs, grasses, paths, fountains, or benches. If the B-1, B-3, B-4, H-2, H-3, or I-1 district is located on a corner and the O-2 district completely bounds the B-1, B-3, B-4, H-2, H-3, or I-1 district, the open space may be included as part of the required rear yard even though each owner of the open space may not have the required depth for the required rear yard; provided, there is joint agreement between the property owners, satisfactory to the Director of Building and Safety, for the development and maintenance of the open space. (Ord. 12818 §1; January 21, 1980).

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Table 27.26.080(a)

	Lot Area (Sq. ft.)	Frontage	Req'd Front Yard	Req'd Side Yard	Req'd Rear Yard	Height ***
Dwelling	4,000	50'	20'	10'	40'	25' or 28'
Dwelling, two-family	4,000	50'	20'	10'	40'	25' or 28'
Other Permitted Uses	Less than 15,000	50'	20'	10**, **	40**	25' or 28'
	15,000 and over	100'	20'	20**, **	40**	25' or 28'

* When a side or rear yard abuts a residential district, it shall be screened in conformance with the landscape design standards adopted by the City of Lincoln.

** 0' when abutting a commercial or industrial district.

*** 15' if the roof pitch is less than 2.5:12; 28' for all other roofs.

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Chapter 27.27

O-3 OFFICE PARK DISTRICT

Sections:

- 27.27.010 Scope of Regulations.
- 27.27.020 Use Regulations.
- 27.27.025 Permitted Conditional Uses.
- 27.27.030 Permitted Special Uses.
- 27.27.040 Accessory Uses.
- 27.27.050 Parking Regulations.
- 27.27.055 Pedestrian Circulation Regulations.
- 27.27.060 Sign Regulations.
- 27.27.065 Grading and Land Disturbance Regulations.
- 27.27.070 Height and Area Regulations.
- 27.27.080 Use Permit; Procedures and Requirements.

This district is intended to provide a developing or redeveloping area primarily consisting of a mixture of office and other types of compatible and complementary commercial uses, and residential uses in suburban areas. This district is intended to be located on arterial streets in close proximity to commercial uses. This district is intended to provide an appealing atmosphere, stressing the quality of the environment.

27.27.010 Scope of Regulations.

The regulations set forth in this chapter, or set forth elsewhere in this title when referred to in this chapter, are the regulations in the O-3 Office Park District. (Ord. 12571 §156a; May 8, 1979).

27.27.020 Use Regulations.

Any development, including building and open land uses, except farming and the sale of farm produce, shall be prohibited in the O-3 Office Park District prior to the approval of a use permit in conformance with the requirements of this chapter. O-3 Office Park District zoning shall not be permitted or granted upon any property having a total area of less than two acres. A building or premises shall be permitted to be used for the following purposes in the O-3 Office Park District:

- (a) Office buildings;
- (b) Single-family dwellings;
- (c) Two-family dwellings;

- (d) Multiple dwellings;
- (e) Townhouses;
- (f) Pharmacies;
- (g) Medical supply shops;
- (h) Barber shops, beauty parlors, and shoeshine shops;
- (i) Book, newspaper, and magazine stores;
- (j) Parks, playgrounds, and community buildings owned or operated by a public agency;
- (k) Public libraries;
- (l) Banks, savings and loan associations, credit unions, and finance companies, and insurance companies;
- (m) Churches;
- (n) Nonprofit religious, educational, and philanthropic institutions;
- (o) Technology transfer industries or applications;

(p) Tailor shops, shoe repair shops, upholstery shops, printing and photocopying shops, or other, similar business establishments; however, that portion of the premises of such business establishments not devoted to sales or office space shall not exceed 5,000 square feet of floor area;

(q) Public elementary and high schools, or private schools having a curriculum equivalent to a public elementary or public high school, and having no rooms regularly used for housing or sleeping purposes;

- (r) Wind energy conversion systems;
- (s) Domiciliary care facilities;
- (t) Group homes;
- (u) Elderly or retirement housing.

The total area occupied by permitted uses identified as (f), (g), (h), (i) and (p) shall be located within an office building and shall be accessible only through an interior lobby, corridor, or passageway of the office building; provided, however, a pharmacy may also have a separate exterior entrance if the total area occupied by such pharmacy does not exceed five percent of the total square footage of the office building or 1,000 square feet, whichever is less. (Ord. 19191 §1; December 15, 2008: prior Ord. 19172 §10; November 3, 2008: Ord. 19151 §26; October 20, 2008: Ord. 18650 §1; November 28, 2005: Ord. 16931 §1; February 12, 1996: Ord. 16767 §2; April 10, 1995: Ord. 16326 §2; March 15, 1993: Ord. 12571 §156a; May 8, 1979).

27.27.025 Permitted Conditional Uses.

Any building or premises may be used for the following purpose in the O-3 Office Park District in conformance with the conditions prescribed herein:

(a) Early childhood care facilities with a maximum of fifteen children present at any time:

(1) Such facilities shall comply with all applicable state and local early childhood care requirements;

(2) Such facilities shall comply with all applicable building and life safety code requirements;

(3) Such facilities shall be fenced and have play areas that comply with the design standards for early childhood care facilities.

(b) Joint parking lots and parking garages.

(1) Such joint parking lots and garages shall be authorized by cross access easements or by written agreement between the parties to such use.

(2) The aggregate number of parking stalls provided shall be sufficient to satisfy the required parking for each use. (Ord. 18962 §1; July 23, 2007; prior Ord. 16854 §25; Aug. 14, 1995).

27.27.030 Permitted Special Uses.

A building or premises may be used for the following purposes in the O-3 Office Park District if a special permit for such use has been obtained in conformance with the requirements of this chapter and Chapter 27.63:

(a) Expansion of nonconforming uses;

(b) Historic preservation;

(c) Restaurants;

(d) Recreational facilities;

(e) Clubs;

(f) Church steeples, towers, and ornamental spires which exceed the maximum height;

(g) Broadcast towers;

(h) Public utility purposes;

(i) Wind energy conversion systems over the district height;

(j) Health care facilities;

(k) Motels and hotels;

(l) Private schools;

(m) Outdoor seasonal sales;

(n) Early childhood care facilities with sixteen or more children, or with fifteen or fewer children not meeting the specified conditions for a permitted conditional use under Section 27.27.025;

(o) Mail order catalog sales

(p) Sale of alcoholic beverages for consumption on the premises in restaurants, provided the locational requirements of Section 27.63.680 have been met or waived by the City Council. (Ord. 19158 §27; October 20, 2008; prior Ord 18301 §2; Feb. 9, 2004; Ord. 18229 §1; Aug. 18, 2003; Ord. 17320 §1; April 20, 1998; Ord. 16870 §1; Oct. 2, 1995; Ord. 16854 §26; Aug. 14, 1995; Ord. 16616 §1; June 6, 1994; Ord. 16144 §3; July 6, 1992; Ord. 15368 §12; Dec. 18, 1989; Ord. 14123 as amended by Ord. 14138 §1; July 1, 1985; Ord. 13980 §10; Oct. 29, 1984; Ord. 13941 §12; Sept. 4, 1984; Ord. 13901 §1; July 30, 1984; Ord. 13768 §2; Feb. 21, 1984; Ord. 12978 §13; Aug. 25, 1980; Ord. 12878 §1; March 31, 1980; Ord. 12894 §14; April 15, 1980; Ord. 12571 §156a; May 8, 1979).

27.27.040 Accessory Uses.

Accessory uses permitted in the O-3 Office Park District are accessory buildings and uses customarily incident to the permitted uses. (Ord. 12571 §156a; May 8, 1979).

27.27.050 Parking Regulations.

All parking within the O-3 Office Park District shall be regulated in conformance with the provisions of Chapter 27.67. (Ord. 12571 §156a; May 8, 1979).

27.27.055 Pedestrian Circulation Regulations.

Construction of on-site pedestrian circulation sidewalk systems shall be regulated in conformance with the provisions of Section 27.81.010. (Ord. 18687 §3; March 20, 2006).

27.27.060 Sign Regulations.

Signs within the O-3 Office Park District shall be regulated in conformance with the provisions of Chapter 27.69. (Ord. 12571 §156a; May 8, 1979).

27.27.065 Grading and Land Disturbance Regulations.

Grading and land disturbance within the O-3 Office Park District shall be regulated in conformance with the provisions of Chapter 27.81. (Ord. 17618 §14; February 22, 2000).

27.27.070 Height and Area Regulations.

Minimum area for the establishment of this district is two acres. The maximum height and minimum lot requirements within the O-3 Office Park District shall be as follows:

(a) General requirements:

[See Table 27.27.070(a) at the end of this chapter]

(b) There shall be a required front yard on each street side of a double-frontage lot;

(c) There shall be a required front yard on each street side of a corner lot; provided, however, that the buildable width of a lot of record on November 2, 1953, need not be reduced to less than thirty-five feet except where necessary to provide a required side yard of not less than five feet in place of one of the required front yards;

(d) The entire front yard shall be entirely landscaped, except for necessary paving of walkways and driveways to reach parking and loading areas, provided that any driveway in the front yard shall be substantially perpendicular to the street and shall not be wider than thirty feet.

(e) Open space requirements for residential use: A minimum amount of usable and accessible open space must be provided for each residential use. This requirement shall be as follows:

125 square feet for the first dwelling unit;

80 square feet per unit for the next four dwelling units;

25 square feet per unit for the next four dwelling units;

20 square feet per unit for each additional dwelling unit beyond nine.

This open space requirement may be met in the following manner:

(1) The required rear yard may be counted; however, the required front and side yards may not be

counted toward fulfillment of said open space requirement; except for porches, terraces, and balconies as permitted in Sections 27.71.100 and 27.71.110;

(2) Parking spaces and land occupied by any building or structure may not be counted toward fulfillment of this open space requirement;

(3) This required open space may be provided either on a balcony four or more feet in depth or on a rooftop, provided that the roof is designed and surfaced in such a manner that it may be developed with areas of planting, open space, recreation, and other uses that are consistent with similar uses in ground-level side and rear yards for dwellings. Such rooftop areas may not be occupied by structures such as vents, exhaust intakes, or other mechanical devices, except where they do not interfere with the usable nature of the open space;

(4) The depth-to-width ratio of any area used to fulfill the open space requirement may not exceed three to one if the smallest dimension of the open space is twelve feet or less.

(f) Accessory buildings which are attached to or located not more than ten feet from the main structure shall be considered a part of the main structure and shall comply with the height, and front, side, and rear yard requirements of the main structure. Accessory buildings not a part of the main structure may be located in the required rear yard if such yard does not abut a residential district, but such accessory buildings may not occupy more than thirty percent of the required rear yard and shall not be nearer than two feet to any side or rear lot line. Such detached accessory buildings shall not exceed fifteen feet in height. Accessory buildings not a part of the main structure, if located not less than sixty feet from the front lot line, may extend into the required side yard though not nearer than two feet to the side lot line. A garage which is entered from an alley shall not be located closer than ten feet to the alley line. (Ord. 18770 §2; July 24, 2006; prior Ord. 12751 §11; November 5, 1979; Ord. 12571 §156a; May 8, 1979).

27.27.080 Use Permit; Procedures and Requirements.

(a) Minimum requirements: No use permit shall be granted upon any property having a total area of less than two acres, except as otherwise provided herein, nor for any plan unless it is in conformance with all applicable city standards and with all regulations of the applicable sections of this chapter. The Planning Commission shall impose such conditions as are appropriate and necessary to ensure compliance

with the Comprehensive Plan and protect the health, safety, and general welfare in the issuance of any such use permits. Such conditions may include an increase in the minimum yard requirements and decrease in the maximum height restrictions set forth in this chapter. Lots fronting on private roadways may be permitted. Unless expressly modified by the terms of the use permit, all regulations of the O-3 Office Park District shall apply.

(b) Application requirements: Applications for a use permit under this section shall be filed in writing by the owner on a form provided by the city with the Planning Department. Where any portion of the land area of a use permit for technology transfer industries or applications is proposed to be adjacent to the perimeter of the O-3 zoning district and such use is not permitted in the adjacent zoning district, then the applicant must provide information demonstrating how the proposal will mitigate any negative impacts on the adjacent zoning district. The Planning Commission may impose such other standards and requirements for perimeter treatment as are appropriate and necessary to protect adjoining properties from adverse effects and to achieve an appropriate transition of land uses and densities. A preliminary plan shall accompany each application and shall include the following information:

- (1) Boundary survey and gross acreage;
- (2) Contour lines at intervals not to exceed five feet based on NAVD 1988. Spot elevations on 100-foot grid shall be required to fully indicate the topography on flat land;
- (3) Street right-of-way;
- (4) Utility easements;
- (5) Adjacent land use and zoning classifications;
- (6) Location of structures on property;
- (7) Vicinity map;
- (8) Date prepared, scale, and north point;
- (9) Schematic and location of buildings;
- (10) Parking areas and capacity;
- (11) Open space for residential uses;
- (12) Use of buildings, such as retail, service, restaurant, office, residential, and other uses;
- (13) Height of buildings;
- (14) Location of existing trees and proposed landscape plan;
- (15) Proposed vehicular and pedestrian circulation system including egress and ingress;
- (16) Building and parking setback lines;
- (17) Grading plan;
- (18) On-site and off-site water and sanitary sewer improvements;

(19) On-site and off-site drainage and storm sewer improvements;

(20) Location of proposed free-standing signs;

(21) Cross-section for paving of parking lots and sidewalks;

(22) Proposed name of the shopping center;

(23) Name, address, and telephone number of developer; certified record owner or owners and addresses; and legal description of the proposed use permit area, including the number of acres.

(c) Environmental performance standards: Any applicant for a use permit under the provisions of this section shall comply with environmental performance standards relating to noise, emission, dust, odor, glare, and heat as shall be from time to time established by various municipal departments and approved by resolution of the City Council.

(d) Landscape plan: Each application for a use permit under this section shall include a landscape plan which shall show proposed plantings in conformance with city standards in all required yard areas, open space areas, malls, parking areas, and around proposed buildings. The Planning Director shall develop appropriate written standards for such landscape plans, which standards shall be approved by resolution of the City Council.

(e) Planning Commission review: Upon the filing of an application together with all maps, data, and information required by this section, the City Council shall refer the application to the Planning Commission. The Planning Commission shall hold a public hearing upon such application and shall consider the effect of the proposed use upon the surrounding neighborhood, the community as a whole, and other matters relating to public health, safety, and general welfare.

(f) Planning Commission action: After holding at least one public hearing, the Planning Commission shall proceed to give final consideration to the application and may require that certain conditions be fulfilled by the applicant in conjunction with approval of the use permit applied for, and may include the requirement that applicant grant additional right-of-way in accordance with the Comprehensive Plan. The Planning Commission may require the execution of a written agreement with the city relating to the installation of public improvements by the applicant, together with the execution of performance bonds or provision of other appropriate surety relating thereto. The

installation of all public improvements shall be accomplished in compliance with existing city standards as provided by ordinance or by departmental publications approved by resolution of the City Council. In the event the Planning Commission fails to act upon the application within sixty days from the date of referral, the applicant may appeal to the City Council requesting final action. If the City Council determines that the delay of the Planning Commission is unjustified, it shall direct the commission to act upon the application no later than the commission's next regularly scheduled meeting.

(g) Appeal of Planning Commission action:

(1) Any aggrieved person or any person or group officially designated to participate in the administration of this title may appeal any action of the Planning Commission to the City Council by filing notice of appeal with the City Clerk within fourteen days following the action of the Planning Commission.

(2) Upon receipt of the appeal by the City Council, the council shall hold a public hearing thereon within thirty days from the date of appeal. Notice of the public hearing shall be given as provided in Chapter 27.81.

(3) In exercising its appellate jurisdiction, the action appealed from shall be deemed advisory and the City Council may, after public hearing, in conformity with the provisions of this title make such decision as ought to be made.

(h) Adjustment: Upon request of the applicant, the City Council may, after report and recommendation of the Planning Commission, decrease the minimum yard requirements and increase the maximum height restrictions set forth in this chapter at the periphery of the use permit area consistent with adequate protection of the environment of the use permit area and adjacent areas. Upon the request of the applicant, the City Council may, after report and recommendation of the Planning Commission, decrease the minimum yard requirements and increase the maximum height restrictions and may adjust the requirements relative to the location of buildings, required parking spaces, and lot frontage set forth in this chapter in the interior of the use permit area consistent with the adequate protection of the environment of the use permit area. The Planning Commission shall hold a public hearing upon the requested adjustment at the same time that it hears the application for the use permit and shall make a report to the City Council

regarding the effect the proposed use and adjustment has upon the surrounding neighborhood, the community as a whole, and other matters relating to public health, safety, and general welfare. Upon receiving a report from the Planning Commission, the City Council shall take final action upon the application for the use permit and the requested adjustment.

(i) Amendment: The Planning Director is authorized to approve amendments to any use permit granted under this section, provided that:

(1) A request for amendment is filed with the Planning Director, together with any of the information specified in paragraph (b) above which is pertinent to the proposed amendment;

(2) Such amendment shall not violate any provisions of this title;

(3) Such amendment may provide for minor increases in total floor area and storage space originally permitted;

(4) There is no increase in the number of dwelling units;

(5) No reduction is made to the applicable setback or yard requirements;

(6) No public land is accepted;

(7) Such amendment shall not be contrary to the general purpose of this chapter;

(8) Any amendment not in conformance with this paragraph shall be submitted to the Planning Commission in the same manner as an original application for a use permit.

(j) Building permits, certificates of occupancy, and certificates of compliance: Upon the approval of a use permit as provided for under this section, building permits and certificates of occupancy may be issued. Certificates of compliance shall not be issued until there has been compliance with all conditions of a use permit and subsequent amendments within each phase of development of a use permit.

(k) Preexisting uses: An existing use of a type permitted in this chapter which was lawfully established in this district on the effective date of this title shall be deemed to have received a use permit as herein required and shall be provided with such permit by the Director of Building and Safety upon request, and it shall not be a nonconforming use; provided, however, for any enlargement, extension, or relocation of such existing use, an application in conformance with this section shall be required.

(l) If an application for a use permit located within a flood plain is granted approval by the city, it shall not be necessary for the applicant to make an application for a special permit to be approved by the City Council as required by Resolution Nos. A-55150, A-56382, and A-57540. It shall be presumed that the applicant has received all such approvals as may be required by the foregoing resolutions by virtue of the city granting approval to the use permit.

(m) A use permit may be granted for a lot of less than two acres, provided:

(1) The lot was legally created prior to the effective date of this ordinance; and

(2) The lot has remained under separate ownership from adjoining properties in the O-3 district.

The Planning Commission may, under the above conditions, adjust the requirements under paragraph (a) to permit the applicant a reasonable use of his property.

(n) Expiration of Application. All existing applications for a use permit which have been placed on pending by an applicant shall automatically expire and become null and void one year after the date this ordinance (Change of Zone No. 06062). All such applications which have been placed on pending by an applicant after the effective date of this ordinance (Change of Zone No. 06062) shall automatically expire and become null and void one year thereafter. At least thirty days before the date of expiration, the Planning Director shall cause notice of expiration to be sent to the applicant by regular United States mail, postage prepaid. Said notice shall advise the applicant that the application shall automatically expire unless prior to the expiration date, the Planning Director receives a request from the applicant to remove the application from pending and reschedule the matter on the Planning Commission or City Council agenda as appropriate. (Ord. 18898 §1; March 12, 2007: prior 18633 §1; October 24, 2005: Ord. 17857 §1; June 4, 2001: Ord. 17287 §1; February 2, 1998: Ord. 16766 §2; April 10, 1995: Ord. 16326 §3; March 15, 1993: Ord. 16288 §1; December 21, 1992: Ord. 15239 §1; August 7, 1989: Ord. 13528 §1; January 3, 1983: Ord. 13077 §1; January 12, 1981: Ord. 12878 §1; March 31, 1980: Ord. 12751 §12; November 5, 1979: Ord. 12571 §156a; May 8, 1979).

Table 27.27.070(a)

Table 27.27.070(a)						
	Lot Area (Sq. ft.)	Frontage	Req'd Front Yard	Req'd Side Yard	Req'd Rear Yard	Height
Dwelling, single family	4,000	50'	30'	15' or the same	40'	35'
Dwelling, two-family	4,000	50'	30'	as the	40'	35'
Dwelling, multiple	1,500 per unit	50'	30'	abutting district	40'	35'
Other Permitted Uses	4,000	50'	20'	whichever is greater	40'	45'
Townhouses	2,500 per unit	20'	30'	0' or 10' on non- party wall side	40'	35'

Chapter 27.28

R-T RESIDENTIAL TRANSITION DISTRICT

Sections:

- 27.28.010 Scope of Regulations.
- 27.28.020 Use Regulations.
- 27.28.030 Permitted Conditional Uses.
- 27.28.040 Permitted Special Uses.
- 27.28.050 Accessory Uses.
- 27.28.060 Parking Regulations.
- 27.28.065 Pedestrian Circulation Regulations.
- 27.28.070 Sign Regulations.
- 27.28.075 Grading and Land Disturbance Regulations.
- 27.28.080 Height and Area Regulations.
- 27.28.090 Use Permit; Procedures and Requirements.

27.28.010 Scope of Regulations.

The regulations set forth in the chapter, or set forth elsewhere in this title when referred to in this chapter, are the regulations in the R-T Residential Transition District. (Ord. 15317 §1; October 16, 1989).

27.28.020 Use Regulations.

(a) General Regulations. Any development, except single-family dwellings, two-family dwellings, group homes, and domestic shelters shall be prohibited in the R-T Residential Transition District prior to the approval of a use permit in conformance with the requirements of this chapter. An R-T Residential Transition designation may be granted to any property abutting upon, or directly across a street from and fronting the same street as property zoned B-1, B-2, B-3, H-2, H-3, H-4, I-1, and I-2. Each building to be located within a Residential Transition District shall have:

- (1) A two and one-half inch in twelve inch pitched roof or steeper;
- (2) A nonreflective exterior siding material which is or simulates wood, stucco, brick, or stone;
- (3) A nonreflective roof material which is or simulates asphalt or wood shingles, tile, or rock;
- (4) No air conditioners on the roof.

(b) Permitted Uses. A building or premises shall be permitted to be used for the following purposes in the R-T Residential Transition District:

- (1) Single-family dwellings;
- (2) Two-family dwellings;
- (3) Office buildings;
- (4) Barber shops, beauty parlors, shoe shine and repair shops, tailor shops, upholstery shops, and printing and photocopying shops not exceeding 5,000 square feet.
- (5) Parks, playgrounds, and community buildings owned or operated by a public agency;
- (6) Public libraries;
- (7) Banks, savings and loan associations, credit unions and finance companies, and insurance companies, and photography shops provided there are no drive-up or drive-thru facilities or automatic teller machines;
- (8) Churches;
- (9) Non-profit religious, educational, and philanthropic institutions;
- (10) Receiving stores for cleaning and laundry;
- (11) Pharmacies;
- (12) Medical supply shops;
- (13) Clubs;
- (14) Repair shops for electrical, radio, television equipment, and household appliances not exceeding 5,000 square feet;
- (15) Photography studios. (Ord. 17078 §1; October 21, 1996: prior Ord. 16767 §3; April 10, 1995: Ord. 16110 §1; May 11, 1992: Ord. 15317 §2; October 16, 1989).

27.28.030 Permitted Conditional Uses.

A building or premises may be used for the following purposes in the R-T Residential Transition District in conformance with the conditions prescribed herein.

- (a) Group homes:
 - (1) Group homes shall comply with all sign, height and area regulations of the district, and all provisions of the minimum standard housing ordinance. Parking shall be regulated in conformance with the provisions of Chapter 27.67;
 - (2) The distance between the proposed use and any existing group home measured from lot line to lot line is not less than one-half mile;
 - (3) Such use shall be permitted only so long as the facility continues to be validly licensed by the State of Nebraska.
- (b) Domestic shelter:
 - (1) Parking shall be in conformance with Chapter 27.67;

(2) The maximum number of residents occupying such a facility shall not exceed one person per 2,000 square feet of lot area;

(3) The distance between the proposed use of any existing domestic shelter measured from lot line to lot line shall not be less than one mile.

(c) Early childhood care facilities with a maximum of fifteen children present at any time:

(1) Such facilities shall comply with all applicable state and local early childhood care requirements;

(2) Such facilities shall comply with all applicable building and life safety code requirements;

(3) Such facilities shall be fenced and have play areas that comply with the design standards for early childhood care facilities.

(d) Joint parking lots and parking garages.

(1) Such joint parking lots and garages shall be authorized by cross access easements or by written agreement between the parties to such use.

(2) The aggregate number of parking stalls provided shall be sufficient to satisfy the required parking for each use. (Ord. 18962 §2; July 23, 2007; prior Ord. 16854 §27; August 14, 1995; Ord. 15317 §3; October 16, 1989).

27.28.040 Permitted Special Uses.

A building or premises may be used for the following purposes in the R-T Residential Transition District if a special permit for such use has been obtained in conformance with the requirements of this chapter and Chapter 27.63:

(a) Expansion of nonconforming uses;

(b) Historic preservation;

(c) Public utility purposes;

(d) Private schools

(e) Early childhood care facilities with sixteen or more children, or with fifteen or fewer children not meeting the specified conditions for a permitted conditional use under Section 27.28.030;

(f) Broadcast towers. (Ord. 18301 §3; February 9, 2004; prior Ord. 18229 §2; August 18, 2003; Ord. 17070 §1; October 7, 1996; Ord. 16854 §28; August 14, 1995; Ord. 16606 §2; May 9, 1994; Ord. 15317 §4; October 16, 1989).

27.28.050 Accessory Uses.

Accessory uses permitted in the R-T Residential Transition District are accessory buildings and uses customarily incident to the permitted uses. (Ord. 15317 §5; October 16, 1989).

27.28.060 Parking Regulations.

All parking within the R-T Residential Transition District shall be regulated in conformance with the provisions of Chapter 27.67. (Ord. 15317 §6; October 16, 1989).

27.28.065 Pedestrian Circulation Regulations.

Construction of on-site pedestrian circulation sidewalk systems shall be regulated in conformance with the provisions of Section 27.81.010. (Ord. 18687 §4; March 20, 2006).

27.28.070 Sign Regulations.

Signs within the R-T Residential Transition District shall be regulated in conformance with the provisions of Chapter 27.69. (Ord. 15317 §7; October 16, 1989).

27.28.075 Grading and Land Disturbance Regulations.

Grading and land disturbance within the R-T Residential Transition District shall be regulated in conformance with the provisions of Chapter 27.81. (Ord. 17618 §15; February 22, 2000.)

27.28.080 Height and Area Regulations.

The maximum height and minimum lot requirements within the R-T Residential Transition District shall be as follows:

(a) General requirements:

(See Table 27.28.080(a) at the end of this chapter).

(b) When abutting a residential district, the side and rear yard shall be devoted entirely to trees, shrubs, and grasses, and secondary sidewalks in conjunction with landscaping; unless the abutting property is occupied by a parking lot.

(c) There shall be a required front yard on each street side of a lot and the required front yard shall be devoted entirely to trees, shrubs, and grasses except for driveways which are substantially perpendicular to the street.

(d) Parking lots, including driveways except for single-family and two-family dwellings, shall not be located closer than twenty feet to any residential zoning district; unless the abutting property is occupied by a parking lot.

(e) No building footprint (ground cover) shall exceed 5,000 square feet.

(f) Accessory buildings shall comply with the height, front, side, and rear yard requirements. (Ord. 18342 §1; April 12, 2004; prior Ord. 15317 §8; October 16, 1989).

27.28.090 Use Permit; Procedures and Requirements.

(a) Minimum requirements: The Planning Commission shall impose such conditions as are appropriate and necessary to ensure compliance with the Comprehensive Plan and protect the health, safety, and general welfare in the issuance of any such use permit. Such conditions may include an increase in the minimum yard requirements and decrease in the maximum height restrictions set forth in this chapter. Lots fronting on private roadways may be permitted. Unless expressly modified by the terms of the use permit, all regulations of the R-T Residential Transition District shall apply.

(b) Application requirements: Applications for a use permit under this section shall be filed by the owner in writing on a form provided by the city with the Planning Department. Plans shall accompany each application and shall include the following information:

- (1) Boundary survey and gross acreage;
- (2) Contour lines at intervals not to exceed five feet based on NAVD 1988. Spot elevations on 100-foot grid shall be required to fully indicate the topography on flat land;
- (3) Street right-of-way;
- (4) Utility easements;
- (5) Adjacent land use and zoning classifications;
- (6) Location of structures on property;
- (7) Vicinity map;
- (8) Date prepared, scale, and north point;
- (9) Schematic and location of buildings;
- (10) Parking areas and capacity;
- (11) Use of buildings, such as retail, service, restaurant, office, residential, and other uses;
- (12) Height of buildings;
- (13) Location of existing trees and proposed landscape plan;
- (14) Proposed vehicular and pedestrian circulation system including egress and ingress;
- (15) Building and parking setback lines;
- (16) Grading plan;
- (17) On-site and off-site water and sanitary sewer improvements;
- (18) On-site and off-site drainage and storm sewer improvements;
- (19) Location of proposed free-standing signs;

(20) Cross-section for paving of parking lots and sidewalks;

(21) Name, address, and telephone number of developer; certified record owner or owners and addresses; and legal description of the proposed use permit area, including the number of acres.

(c) Environmental performance standards: Any applicant for a use permit under the provisions of this section shall comply with environmental performance standards relating to noise, emission, dust, odor, glare, and heat as shall be from time to time established by various municipal departments and approved by resolution of the City Council.

(d) Landscape plan: Each application for a use permit under this section shall include a landscape plan which shall show proposed plantings in conformance with city standards in all required yard areas, open space areas, malls, parking areas, and around proposed buildings. The Planning Director shall develop appropriate written standards for such landscape plans, which standards shall be approved by resolution of the City Council.

(e) Planning Commission review: Upon the filing of an application together with all maps, data, and information required by this section, the City Council shall refer the application to the Planning Commission. The Planning Commission shall hold a public hearing upon such application and shall consider the effect of the proposed use upon the surrounding neighborhood, the community as a whole, and other matters relating to public health, safety, and general welfare.

(f) Planning Commission action: After holding at least one public hearing, the Planning Commission shall proceed to give final consideration to the application and may require that certain conditions be fulfilled by the applicant in conjunction with approval of the use permit applied for, and may include the requirement that applicant grant additional right-of-way in accordance with the comprehensive plan. The Planning Commission may require the execution of a written agreement with the city relating to the installation of public improvements by the applicant, together with the execution of performance bonds or provision of other appropriate surety relating thereto. The installation of all public improvements shall be accomplished in compliance with existing city standards as provided by ordinance or by departmental publications approved by resolution of the City Council. In the event the Planning Commission fails

to act upon the application within sixty days from the date of referral, the applicant may appeal to the City Council requesting final action. If the City Council determines that the delay of the Planning Commission is unjustified, it shall direct the commission to act upon the application no later than the Commission's next regularly scheduled meeting.

(g) Appeal of Planning Commission action:

(1) Any aggrieved person or any person or group officially designated to participate in the administration of this title may appeal any action of the Planning Commission to the City Council by filing notice of appeal with the City Clerk within fourteen days following the action of the Planning Commission.

(2) Upon receipt of the appeal by the City Council, the council shall hold a public hearing thereon within thirty days from the date of appeal. Notice of the public hearing shall be given as provided in Chapter 27.81.

(3) In exercising its appellate jurisdiction, the action appealed from shall be deemed advisory and the City Council may, after public hearing, in conformity with the provisions of this title make such decision as ought to be made.

(h) Adjustment: Upon request of the applicant, the City Council may, after report and recommendation of the Planning Commission, decrease the minimum yard requirements and increase the maximum height restrictions and may adjust the requirements relative to the location of buildings and required parking spaces and lot frontage set forth in this chapter consistent with adequate protection of the environment of the use permit area and adjacent areas provided the building shall not exceed the height of the tallest residence on the same and facing block fronts. The Planning Commission shall hold a public hearing upon the requested adjustment at the same time that it hears the application for the use permit and shall make a report to the City Council regarding the effect the proposed use and adjustment has upon the surrounding neighborhood, the community as a whole, and other matters relating to public health, safety, and general welfare. Upon receiving a report from the Planning Commission, the City Council shall take final action upon the application for the use permit and the requested adjustment.

(i) Amendment: The Planning Director is authorized to approve amendments to any use permit granted under this section, provided that:

(1) A request for amendment is filed with the Planning Director, together with any of the information specified in paragraph (b) above which is pertinent to the proposed amendment;

(2) Such amendment shall not violate any provisions of this title;

(3) Such amendment may provide for minor increases in total floor area and storage space originally permitted;

(4) There is no increase in the number of dwelling units;

(5) No reduction is made to the applicable setback or yard requirements;

(6) No public land is accepted;

(7) Such amendment shall not be contrary to the general purpose of this chapter;

(8) Any amendment not in conformance with this paragraph shall be submitted to the Planning Commission in the same manner as an original application for a use permit.

(j) Building permits, certificates of occupancy, and certificates of compliance: Upon the approval of a use permit as provided for under this section, building permits and certificates of occupancy may be issued. Certificates of compliance shall not be issued until there has been compliance with all conditions of a use permit and subsequent amendments within each phase of development of a use permit.

(k) Preexisting uses: An existing use of a type permitted in this chapter which was lawfully established in this district on the effective date of this title shall be deemed to have received a use permit as herein required and shall be provided with such permit by the Director of Building and Safety upon request, and it shall not be a nonconforming use; provided, however, for any enlargement, extension, or relocation of such existing use, an application in conformance with this section shall be required.

(l) If an application for a use permit located within a flood plain is granted approval by the city, it shall not be necessary for the applicant to make an application for a special permit to be approved by the City Council as required by Resolution Nos. A-55150, A-56382, and A-57540. It shall be presumed that the applicant has received all such approvals as may be required by the foregoing resolutions by virtue of the city granting approval to the use permit.

(m) Expiration of Application. All existing applications for a use permit which have been placed on pending by an applicant shall automatically expire

and become null and void one year after the date this ordinance (Change of Zone No. 06062). All such applications which have been placed on pending by an applicant after the date of this ordinance (Change of Zone No. 06062) shall automatically expire and become null and void one year thereafter. At least thirty days before the date of expiration, the Planning Director shall cause notice of expiration to be sent to the applicant by regular United States mail, postage prepaid. Said notice shall advise the applicant that the application shall automatically expire unless prior to the expiration date, the Planning Director receives a request from the applicant to remove the application from pending and reschedule the matter on the Planning Commission or City Council agenda as appropriate. (Ord. 18898 §2; March 12, 2007; prior Ord. 18633 §2; October 24, 2005; Ord. 17857 §2; June 4, 2001; Ord. 16766 §3; April 10, 1995; Ord. 16284 §1; December 14, 1992; Ord. 15317 §9; October 16, 1989).

Table 27.28.080(a)						
	Lot Area (Sq. ft.)	Frontage	Req'd Front Yard	Req'd Side Yard	Req'd Rear Yard	Height
All Permitted Uses	4,000	50'	10' or same as abutting residential district, whichever is greater	*10' **0'	*10' **0'	*28'
* When a side or rear yard abuts a residential district, it shall be screened in conformance with the landscape design standards adopted by the City of Lincoln.						
** When abutting a commercial or industrial district.						

Chapter 27.29

B-1 LOCAL BUSINESS DISTRICT

Sections:

- 27.29.010 Scope of Regulations.
- 27.29.020 Permitted Uses.
- 27.29.030 Permitted Conditional Uses.
- 27.29.040 Permitted Special Uses.
- 27.29.050 Accessory Uses.
- 27.29.060 Parking Regulations.
- 27.29.065 Pedestrian Circulation Regulations.
- 27.29.070 Sign Regulations.
- 27.29.075 Grading and Land Disturbance Regulations.
- 27.29.080 Height and Area Regulations.

This district is intended to provide a stable area of local retail relating to existing communities and existing neighborhoods. It provides for functional business uses to serve those communities and neighborhoods. Dwellings are permitted only above the first floor.

27.29.010 Scope of Regulations.

The regulations set forth in this chapter, or set forth elsewhere in this title when referred to in this chapter, are the regulations in the B-1 Local Business District. (Ord. 12571 §157; May 8, 1979).

27.29.020 Permitted Uses.

A building or premises shall be permitted to be used for the following purposes in the B-1 Local Business District:

- (a) Parks, playgrounds, and community buildings, owned or operated by a public agency;
- (b) Public libraries;
- (c) Public elementary and high schools, or private schools having a curriculum equivalent to a public elementary or public high school, and having no rooms regularly used for housing or sleeping purposes;
- (d) Churches;
- (e) Nonprofit religious, educational, and philanthropic institutions;
- (f) Banks, savings and loan associations, credit unions, and finance companies;

(g) Barber shops, beauty parlors, and shoeshine shops;

(h) Private schools, including but not limited to business or commercial schools, dance or music academies, and nursery schools;

(i) Adult care centers;

(j) Service stations;

(k) Hospitals and clinics for animals, but not open kennels;

(l) Self-service laundromats;

(m) Messenger and telegraph stations;

(n) Office buildings;

(o) Parking lots and storage garages;

(p) Restaurants;

(q) Stores or shops for the sale of goods at retail, but not including motor vehicles;

(r) Undertaking establishments;

(s) Photography studios;

(t) Bicycle sales and repair shops;

(u) Key shops;

(v) Ambulance services;

(w) Garden centers;

(x) Clubs;

(y) Marinas, for sale, service, and storage of motor boats and other related water craft;

(z) Receiving store for dry or steam cleaning which shall be done elsewhere;

(aa) Dry cleaning or laundry establishments, provided that the floor area does not exceed 2,000 square feet exclusive of office and pickup space;

(bb) Enclosed commercial recreational facilities;

(cc) Mail order catalog sales;

(dd) Tailor shops, shoe repair shops, upholstery shops, printing and photocopying shops, or other, similar business establishments;

(ee) Wind energy conversion systems. (Ord. 19158 §28; October 20, 2008; prior Ord. 16962 §1; March 25, 1996; Ord. 16767 §4; April 10, 1995; Ord. 16488 §1; September 27, 1993; Ord. 16144 §4; July 6, 1992; Ord. 14626 §1; March 16, 1987; Ord. 13736, as amended by Ord. 13745 §1; January 3, 1984; Ord. No. 12751 §13; November 5, 1979; Ord. 12571 §158; May 8, 1979).

27.29.030 Permitted Conditional Uses.

A building or premises may be used for the following purposes in the B-1 Local Business District in conformance with the conditions prescribed herein:

(a) Automobile wash facility:

(1) Automatic, conveyor-operated: The length and location of vehicle stacking lane or lanes for the approach side or sides and the exit side or sides

of the wash operation shall be in conformance with the "guidelines and regulations for driveway design and location" as adopted by the City of Lincoln.

(2) Self-service, coin-operated car wash: The car wash facility shall not exceed four wash bays. The length and location of vehicle stacking lane or lanes for the approach side or sides and the exit side or sides of the wash operation shall be in conformance with the "guidelines and regulations for driveway design and location" as adopted by the City of Lincoln.

(b) Motels and hotels:

(1) A distance of at least twenty feet shall be maintained between buildings on the lot;

(2) Each hotel or motel unit shall have a minimum enclosed floor area of 200 square feet.

(c) Tailor shops, shoe repairing, printing, photocopying, repair shops for electrical, radio, television equipment, and household appliances, or other similar businesses:

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

(d) Dwellings, provided that:

(1) Dwellings shall only be permitted above the first story of a building;

(2) The first story shall be used for a nondwelling use permitted in the district;

(3) Said nondwelling use shall not:

(i) be accessory to the residential use,

(ii) be a parking lot or garage;

(4) Said first story shall not have more than twenty percent of its height below grade.

(e) Sales and showrooms for the sale at retail of plumbing, electrical, and heating and air conditioning equipment and supplies, including service facilities and rental of equipment, provided:

(1) All activities and storage shall be within an enclosed building;

(2) A portion of the premises shall be devoted to retailing.

(f) Early childhood care facilities:

(1) Such facilities shall comply with all applicable state and local early childhood care requirements;

(2) Such facilities shall comply with all applicable building and life safety code requirements.

(3) Such facilities shall be fenced and have play areas that comply with the design standards for early childhood care facilities;

(4) Such facilities must receive a conditional use permit from the Department of Building and Safety.

(g) Indoor animal hospitals. Any building approved for such use must be located no closer than 200 feet from any residential district.

(h) Indoor kennel. Any building approved for such use must be located no closer than 200 feet from any residential district.

(i) Social halls:

(1) There shall be no amplified sound or noise source of any kind outside of the social hall;

(2) Except as provided in (ii) and (iii) below, any exterior door opening must meet the following conditions:

(i) Either be located at least 100 feet (as measured by the shortest, most direct distance) from a day care facility, church, state mental health institution, park (excluding golf courses and hiker/biker trails), or a residential district; provided that, if there is an intervening exterior wall of the building containing the social hall between the exterior door opening and such day care facility, church, state mental health institution, park (excluding golf courses and hiker/biker trails), then the 100 feet shall be measured from the exterior door opening, along the exterior base of the building wall(s) to the point where there is no intervening exterior building wall, and from that point the shortest, most direct distance to the day care facility, church, state mental health institution, park (excluding golf courses and hiker/biker trails), or residential district.

(ii) If the exterior door opening is less than 100 feet from a residential district, it must face the opposite direction from that district.

(iii) If the exterior door opening faces a residential district, then such opening shall be at least 150 feet from a residential district as measured by the shortest, most direct perpendicular distance. The exterior door shall not be kept or propped open during the hours of operation.

For purposes of this section, "exterior door opening" shall mean (a) that portion of the exterior wall face of the building containing the social hall that contains a break to accommodate the exterior building door, door frame, door vestibule, or door entryway area; and (b) provides access to the social hall. "Exterior door opening" shall not apply to openings for emergency exit doors required by building or safety codes, loading doors or unloading doors that are not available for access in the ordinary course of business. (Ord. 18977 §2; August 20, 2007; prior Ord.

18928 §8; June 4, 2007: Ord. 16926 §1; February 5, 1996: Ord. 16854 §29; August 14, 1995: Ord. 14372 §1; April 21, 1986: Ord. 13344 §1; March 29, 1982: Ord. 12571 §159; May 8, 1979).

27.29.040 Permitted Special Uses.

A building or premises may be used for the following purposes in the B-1 Local Business District if a special permit for such use has been obtained in conformance with the requirements of Chapter 27.63:

- (a) Health care facilities;
- (b) Recreational facilities;
- (c) Broadcast towers;
- (d) Church steeples, towers, and ornamental spires which exceed the maximum of forty feet;
- (e) Expansion of nonconforming uses;
- (f) Historic preservation;
- (g) Public utility purposes;
- (h) Wind energy conversion systems over the district height;
- (i) Cemeteries;
- (j) Dwellings above the first story of a building which cannot meet the yard requirements of Section 27.29.080(g);
- (k) Sale of alcoholic beverages for consumption on the premises;
- (l) Sale of alcoholic beverages for consumption off the premises;
- (m) Indoor animal hospitals;
- (n) Indoor kennels. (Ord. 19158 §29; October 20, 2008: prior Ord. 18928 §9; June 4, 2007: Ord. 16593 §1; April 11, 1994: Ord. 15782 §1; November 26, 1990: Ord. 14780 §11; November 2, 1987: Ord. 14378 §9; May 5, 1986: Ord. 13588 §11; May 9, 1983: Ord. 12978 §14; August 25, 1980: Ord. 12894 §15; April 7, 1980: Ord. 12571 §160; May 8, 1979).

27.29.050 Accessory Uses.

Accessory uses permitted in the B-1 Local Business District are accessory buildings and uses customarily incident to the permitted uses. (Ord. 12571 §161; May 8, 1979).

27.29.060 Parking Regulations.

All parking within the B-1 Local Business District shall be regulated in conformance with the provisions of Chapter 27.67. (Ord. 12571 §162; May 8, 1979).

27.29.065 Pedestrian Circulation Regulations.

Construction of on-site pedestrian circulation sidewalk systems shall be regulated in conformance with the provisions of Section 27.81.010. (Ord. 18687 §5; March 20, 2006).

27.29.070 Sign Regulations.

Signs within the B-1 Local Business District shall be regulated in conformance with the provisions of Chapter 27.69. (Ord. 12571 §163; May 8, 1979).

27.29.075 Grading and Land Disturbance Regulations.

Grading and land disturbance within the B-1 Local Business District shall be regulated in conformance with the provisions of Chapter 27.81. (Ord. 17618 §16; February 22, 2000.)

27.29.080 Height and Area Regulations.

The maximum height and minimum lot requirements within the B-1 Local Business District shall be as follows:

- (a) General requirements:
 - (b) There shall be a required front yard on each street side of a double frontage lot.
 - (c) There shall be a required front yard on each street side of a corner lot; provided, however, that the buildable width of a lot of record on November 2, 1953, need not be reduced to less than twenty-eight feet except where necessary to provide a required side yard of not less than five feet in place of one of the required front yards.
 - (d) Open space requirements for residential use: A minimum amount of usable and accessible open space must be provided for each residential use. This requirement shall be as follows:
 - 125 square feet for the first dwelling unit;
 - 80 square feet per unit for the next four dwelling units;
 - 25 square feet per unit for the next four dwelling units;
 - 20 square feet per unit for each additional dwelling unit beyond nine.

This open space requirement may be met in the following manner:

- (1) The required rear yard may be counted; however, the required front and side yards may not be

counted toward fulfillment of said open space requirement, except for porches, balconies, and terraces as permitted in Sections 27.71.100 and 27.71.110;

(2) Parking spaces, and land occupied by any building or structure, may not be counted toward fulfillment of this open space requirement;

(3) This required open space may be provided either on a balcony four or more feet in depth or on a rooftop, provided that the roof is designed and surfaced in such a manner that it may be developed with areas of planting, open space, recreational and other uses that are consistent with similar uses in ground-level side and rear yards for dwellings. Such rooftop areas may not be occupied by structures such as vents, exhaust intakes, or other mechanical devices, except where they do not interfere with the usable nature of the open space;

(4) The depth-to-width ratio of any area used to fulfill the open space requirement may not exceed three to one, if the smallest dimension of the open space is twelve feet or less.

(e) Accessory buildings shall not extend into any required yard except accessory buildings to nonstandard residential uses may be allowed in the required rear yard when no more than thirty percent of such yard is occupied and such building is not nearer than two feet to any side or rear lot line.

(f) Dwellings existing in this district on the effective date of this title which do not meet the

requirements of this chapter shall be considered nonstandard uses in conformance with the provisions of Chapter 27.61.

Accessory buildings for such non-standard dwellings shall not extend into any required yard except as follows:

Accessory buildings which are attached to or not located more than six feet from the main structure shall be considered a part of the main structure and shall comply with the height, front, side and rear yard requirements of the main building. Accessory buildings not a part of the main structure may be located in the required rear yard but such accessory buildings may not occupy more than forty percent of the required rear yard and shall not be nearer than two feet to any side or rear lot line, nor more than fifteen feet in height. Accessory buildings not a part of the main structure, if located not less than sixty feet from the front lot line, may extend into the required side yard though not nearer than two feet to the side lot line. A garage which is entered from an alley shall not be located closer than ten feet to the alley line.

(g) Where a yard is not otherwise required, a five foot yard shall be required adjacent to the wall of a building which contains windows for dwelling units. The yard shall be on the premises on which the building is situated. (Ord. 15782 §2; November 26, 1990: prior Ord. 15724 §2; September 17, 1990: Ord. 13134 §1; May 4, 1981: Ord. 12571 §164; May 8, 1979).

Table 27.29.080(a)

	Lot Area (Sq.ft.)	Frontage	Req'd Front Yard	Req'd Side Yard	Req'd Rear Yard	Height
Dwelling, above first story	2,000 per unit	50'	20'	0', 10' if abutting residential district	Smaller of 30' or 20% of depth	40'
Other Permitted Uses	0	0'	20'			40'

* When a side or rear yard abuts a residential district, it shall be screened in conformance with the landscape design standards adopted by the City of Lincoln.

Chapter 27.31

B-2 PLANNED NEIGHBORHOOD BUSINESS DISTRICT

Sections:

- 27.31.010 Scope of Regulations.
- 27.31.020 General Purpose.
- 27.31.030 Permitted Uses.
- 27.31.040 Permitted Conditional Uses.
- 27.31.050 Permitted Special Uses.
- 27.31.060 Accessory Uses.
- 27.31.070 Parking Regulations.
- 27.31.075 Pedestrian Circulation Regulations.
- 27.31.080 Sign Regulations.
- 27.31.085 Grading and Land Disturbance Regulations.
- 27.31.090 Height and Area Regulations.
- 27.31.100 Use Permits; Procedures and Requirements.

This district is intended to provide a developing area for planned retail uses to serve neighborhoods. This district includes a use permit provision to provide for the integration of the business area with adjacent residential areas and thus reduce the adverse impact on residential areas through enhanced design.

27.31.010 Scope of Regulations.

The regulations set forth in this chapter, or set forth elsewhere in this title when referred to in this chapter, are the regulations in the B-2 Planned Neighborhood Business District. (Ord. 12571 §165; May 8, 1979).

27.31.020 General Purpose.

The regulations for the B-2 Planned Neighborhood Business District set forth in this chapter are established to permit the development of local retail shopping facilities and related activities which will provide for planned and controlled consumer services on a neighborhood level, promote healthful economic growth, create a desirable environment, best complement the general land use pattern of the community, and assist in implementing the established goals and policies of the community. (Ord. 12571 §166; May 8, 1979).

27.31.030 Permitted Uses.

Any development, including building and open land uses, except farming and the sale of farm produce, shall be prohibited in the B-2 Planned Neighborhood Business District prior to the approval of a use permit in conformance with the requirements of this chapter. B-2 Planned Neighborhood Business District zoning shall not be permitted or granted upon any property having a total area of less than five acres. A building or premises shall be used only for the following purposes in the B-2 Planned Neighborhood Business District:

- (a) Parks, playgrounds, and community buildings, owned or operated by a public agency;
- (b) Public libraries;
- (c) Public elementary and high schools, or private schools having a curriculum equivalent to a public elementary or public high school, and having no rooms regularly used for housing or sleeping purposes;
- (d) Churches;
- (e) Nonprofit religious, educational, and philanthropic institutions;
- (f) Banks, savings and loan associations, credit unions, and finance companies;
- (g) Garden centers;
- (h) Barber shops, beauty parlors, and shoeshine shops;
- (i) Private schools, including but not limited to business or commercial schools, dance or music academies, and nursery schools;
- (j) Service stations;
- (k) Hospitals and clinics for animals, but not open kennels;
- (l) Self-service laundromats;
- (m) Receiving stores for dry cleaning or laundry;
- (n) Dry cleaning or laundry establishments, provided that the floor area does not exceed 2,000 square feet exclusive of office and pickup space.
- (o) Messenger and telegraph stations;
- (p) Office buildings;
- (q) Restaurants;
- (r) Stores or shops for the sale of goods at retail, but not including motor vehicles;
- (s) Undertaking establishments;
- (t) Photography studios;
- (u) Bicycle sales and repair shops;
- (v) Key shops;
- (w) Ambulance services;
- (x) Clubs;

(y) Enclosed commercial recreational facilities;
(z) Tailor shops, shoe repair shops, upholstery shops, printing and photocopying shops, or other, similar business establishments

(aa) Wind energy conversion systems. (Ord. 19158 §30; October 20, 2008; prior Ord. 18345 §1; April 26, 2004; Ord. 17320 §2; April 20, 1998; Ord. 16962 §2; March 25, 1996; Ord. 16767 §5; April 10, 1995; Ord. 16593 §2; April 11, 1994; Ord. 14626 §2; March 16, 1987; Ord. 13736, as amended by Ord. 13745 §2; January 3, 1984; Ord. 12571 §167; May 8, 1979).

27.31.040 Permitted Conditional Uses.

A building or premises may be used for the following purposes in the B-2 Planned Neighborhood Business District in conformance with the conditions prescribed herein:

(a) Automobile wash facility:

(1) Automatic, conveyor-operated: The length and location of vehicle stacking lane or lanes for the approach side or sides and the exit side or sides of the wash operation shall be in conformance with the "Guidelines and Regulations for Driveway Design and Location" as adopted by the City of Lincoln. The stacking space shall not be located within the required front yard.

(2) Self-service, coin-operated car wash: The car wash facility shall not exceed four wash bays. The length and location of vehicle stacking lane or lanes for the approach side or sides and the exit side or sides of the wash operation shall be in conformance with the "Guidelines and Regulations for Driveway Design and Location" as adopted by the City of Lincoln. The stacking space shall not be located within the required front yard.

(b) Motels and hotels:

(1) A distance of at least twenty feet shall be maintained between buildings on the lot;

(2) Each hotel or motel unit shall have a minimum enclosed floor area of 200 square feet.

(c) Dwellings, provided that:

(1) Dwellings shall only be permitted above the first story of a building;

(2) The first story shall be used for a nondwelling use permitted in the district;

(3) Said nondwelling use shall not:

- (i) be accessory to the residential use;
- (ii) be a parking lot or garage.

(4) Said first story shall not have more than twenty percent of its height below grade.

(d) Early childhood care facilities:

(1) Such facilities shall comply with all applicable state and local early childhood care requirements;

(2) Such facilities shall comply with all building and life safety code requirements.

(3) Such facilities shall be fenced and have play areas that comply with the design standards for early childhood care facilities.

(e) Tents and other temporary structures: Tents or other temporary structures shall be permitted for the temporary or seasonal sales of goods at retail under the following conditions:

(1) A tent or other temporary structure shall not reduce the amount of on-site parking to less than the minimum required;

(2) A tent or other temporary structure shall not remain on the premises for more than 180 consecutive days;

(3) A tent or other temporary structure shall comply with all applicable building and life safety codes;

A tent or other temporary structure need not be shown on the approved use permit site plan.

(f) Sale of alcoholic beverages for consumption on the premises:

(1) When the building containing the licensed premises abuts a residential district, the required yards shall be met; provided that the side yard adjacent to such building shall be 50 feet.

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

(3) Any exterior door opening must meet the following conditions:

(i) Be located at least 100 feet (as measured by the shortest, most direct distance) from a day care facility, church, state mental health institution, park (excluding golf courses and hiker/biker trails), or a residential district; provided that, if there is an intervening exterior wall of the building containing the licensed premises between the exterior door opening and such day care facility, church, state mental health institution, park (excluding golf courses and hiker/biker trails), or residential district, then the

100 feet shall be measured from the exterior door opening, along the exterior base of the building wall(s) to the point where there is no intervening exterior building wall, and from that point the shortest, most direct distance to the day care facility, church, state mental health institution, park (excluding golf courses and hiker/biker trails), or residential district.

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

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

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

(6) Notwithstanding any contrary provision contained in Section 27.31.100, the yard requirements, the parking location requirements, and the exterior door opening location requirements in this section shall not be adjusted by the City Council.

(g) Sale of alcoholic beverages for consumption off the premises:

(1) When the building containing the licensed premises abuts a residential district, the required yards shall be met; provided that the side yard adjacent to such building shall be 50 feet.

(2) Parking shall be in conformance with the provisions of Chapter 27.67; provided that no parking spaces shall be located in that portion of any required side yard or rear yard of the building

containing the licensed premises that abuts a residential district.

(3) Any exterior door opening must meet the following conditions:

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

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

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

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

(6) Notwithstanding any contrary provision contained in Section 27.31.100, the yard requirements, the parking location requirements, and the exterior door opening location requirements in this section shall not be adjusted by the City Council.

(h) Indoor animal hospitals. Any building approved for such use must be located no closer than 200 feet from any residential district.

(i) Indoor kennel. Any building approved for such use must be located no closer than 200 feet from any residential district.

(j) Joint parking lots and parking garages.

(1) Such joint parking lots and garages shall be authorized by cross access easements or by written agreement between the parties to such use.

(2) The aggregate number of parking stalls provided shall be sufficient to satisfy the required parking for each use.

(k) Social halls:

(1) There shall be no amplified sound or noise source of any kind outside of the social hall;

(2) Except as provided in (ii) and (iii) below, any exterior door opening must meet the following conditions:

(i) Either be located at least 100 feet (as measured by the shortest, most direct distance) from a day care facility, church, state mental health institution, park (excluding golf courses and hiker/biker trails), or a residential district; provided that, if there is an intervening exterior wall of the building containing the social hall between the exterior door opening and such day care facility, church, state mental health institution, park (excluding golf courses and hiker/biker trails), then the 100 feet shall be measured from the exterior door opening, along the exterior base of the building wall(s) to the point where there is no intervening exterior building wall, and from that point the shortest, most direct distance to the day care facility, church, state mental health institution, park (excluding golf courses and hiker/biker trails), or residential district.

(ii) If the exterior door opening is less than 100 feet from a residential district, it must face the opposite direction from that district.

(iii) If the exterior door opening faces a residential district, then such opening shall be at least 150 feet from a residential district as measured by the shortest, most direct perpendicular distance. The exterior door shall not be kept or propped open during the hours of operation.

For purposes of this section, "exterior door opening" shall mean (a) that portion of the exterior

wall face of the building containing the social hall that contains a break to accommodate the exterior building door, door frame, door vestibule, or door entryway area; and (b) provides access to the social hall. "Exterior door opening" shall not apply to openings for emergency exit doors required by building or safety codes, loading doors or unloading doors that are not available for access in the ordinary course of business. (Ord. 18977 §3; August 20, 2007; prior Ord. 18962 §3; July 23, 2007; Ord. 18928 §10; June 4, 2007; Ord. 18345 §2; April 26, 2004; Ord. 17364 §1; June 29, 1998; Ord. 17051 §1; August 26, 1996; Ord. 16926 §2; February 5, 1996; Ord. 16854 §30; August 14, 1995; Ord. 13344 §2; March 29, 1982; Ord. 12571 §168; May 8, 1979).

27.31.050 Permitted Special Uses.

A building or premises may be used for the following purposes in the B-2 Planned Neighborhood Business District if a special permit for such use has been obtained in conformance with the requirements of this chapter and Chapter 27.63:

- (a) Health care facilities;
- (b) Recreational facilities;
- (c) Broadcast towers;
- (d) Excavation and stone milling;
- (e) Church steeples, towers, and ornamental spires which exceed the maximum height permitted in the B-2 Planned Neighborhood Business District;
- (f) Expansion of nonconforming uses;
- (g) Historic preservation;
- (h) Public utility purposes;
- (i) Wind energy conversion systems over the district height;
- (j) Cemeteries;
- (k) Mail order catalog sales;
- (l) Indoor animal hospitals;
- (m) Indoor kennels. (Ord. 19224 §4; March 16, 2009; prior Ord. 19158 §31; October 20, 2008; Ord. 18928 §11; June 4, 2007; Ord. 18229 §3; August 18, 2003; Ord. 16144 §5; July 6, 1992; prior Ord. 14378 §10; May 5, 1986; Ord. 14138 §10; June 1, 1985; Ord. 12978 §15; August 25, 1980; Ord. 12894 §18; April 7, 1980; Ord. 12571 §169; May 8, 1979).

27.31.060 Accessory Uses.

Accessory uses permitted in the B-2 Planned Neighborhood Business District are accessory buildings and uses customarily incident to the permitted uses. (Ord. 12571 §170; May 8, 1979).

27.31.070 Parking Regulations.

All parking within the B-2 Planned Neighborhood Business District shall be regulated in conformance with the provisions of Chapter 27.67. (Ord. 12571 §171; May 8, 1979).

27.31.075 Pedestrian Circulation Regulations.

Construction of on-site pedestrian circulation sidewalk systems shall be regulated in conformance with the provisions of Section 27.81.010. (Ord. 18687 §6; March 20, 2006).

27.31.080 Sign Regulations.

Signs within the B-2 Planned Neighborhood Business District shall be regulated in conformance with the provisions of Chapter 27.69. (Ord. 12571 §172; May 8, 1979).

27.31.085 Grading and Land Disturbance Regulations.

Grading and land disturbance within the B-2 Planned Neighborhood Business District shall be regulated in conformance with the provisions of Chapter 27.81. (Ord. 17618 §17; February 22, 2000.)

27.31.090 Height and Area Regulations.

The maximum height and minimum lot requirements within the B-2 Planned Neighborhood Business District shall be as follows:

(a) General requirements:

(See Table 27.31.090(a) at the end of this chapter)

(b) There shall be a required front yard on each street side of a double frontage lot;

(c) There shall be a required front yard on each street side of a corner lot; provided, however, that the buildable width of a lot of record on April 29, 1963, need not be reduced to less than twenty-eight feet except where necessary to provide a required side yard of not less than five feet in place of one of the required front yards;

(d) The entire front yard shall be entirely landscaped, except for necessary paving of walkways and driveways to reach parking and loading areas, provided that any driveway in the front yard shall be substantially perpendicular to the street and shall not be wider than thirty feet.

(e) Accessory buildings shall not extend into any required yard;

(f) Open space requirements for residential use:

A minimum amount of usable and accessible open space must be provided for each residential use. This requirement shall be as follows:

125 square feet for the first dwelling unit;

80 square feet per unit for the next four dwelling units;

25 square feet per unit for the next four dwelling units;

20 square feet per unit for each additional dwelling unit beyond nine.

This open space requirement may be met in the following manner:

(1) The required rear yard may be counted; however, the required front and side yards may not be counted toward fulfillment of said open space requirement, except for porches, balconies, and terraces as permitted in Sections 27.71.100 and 27.71.110;

(2) Parking spaces, and land occupied by any building or structure may not be counted toward fulfillment of this open space requirement;

(3) Required open space may be provided either on a balcony four or more feet in depth or on a rooftop; provided, the roof is designed and surfaced in such a manner that it may be developed with areas of planting, open space, recreation, and other uses that are consistent with similar uses in ground-level side and rear yards for dwellings. Such rooftop areas may not be occupied by structures such as vents, exhaust intakes, or other mechanical devices, except where they do not interfere with the usable nature of the open space.

(4) The depth-to-width ratio of any area used to fulfill the open space requirement may not exceed three to one if the smallest dimension of the open space is twelve feet or less. (Ord. 18687 §7; March 20, 2006; prior Ord. 12571 §173; May 8, 1979).

27.31.100 Use Permit; Procedures and Requirements.

(a) Minimum requirements: No use permit shall be granted upon any property having a total area of less than five acres, except as provided under Section 27.31.100(k), nor for any plan unless it is in conformance with all applicable city standards and with all regulations of the applicable sections of this chapter. The Planning Commission shall impose such conditions as are appropriate and necessary to ensure

compliance with the Comprehensive Plan and protect the health, safety, and general welfare in the issuance of any such use permits. Such conditions may include an increase in the minimum yard requirements and decrease in the maximum height restrictions set forth in this chapter. Lots fronting on private roadways may be permitted. Unless expressly modified by the terms of the use permit, all regulations of the B-2 Planned Neighborhood Business District shall apply.

(b) Application requirements: Applications for a use permit under this section shall be filed by the owner in writing on a form provided by the city with the Planning Department. A preliminary plan shall accompany each application and shall include the following information:

- (1) Boundary survey and gross acreage;
- (2) Contour lines at intervals not to exceed five feet based on NAVD 1988. Spot elevations on 100-foot grid shall be required to fully indicate the topography on flat land;
- (3) Street right of way;
- (4) Utility easements;
- (5) Adjacent land use and zoning classifications;
- (6) Location of structures on property;
- (7) Vicinity map;
- (8) Date prepared, scale and north point;
- (9) Schematic and location of buildings;
- (10) Parking areas and capacity;
- (11) Open space for residential uses;
- (12) Use of buildings, such as retail, service, restaurant, office, residential and other uses;
- (13) Height of buildings;
- (14) Location of existing trees and proposed landscape plan;
- (15) Proposed vehicular and pedestrian circulation system including egress and ingress;
- (16) Building and parking setback lines;
- (17) Grading plan;
- (18) On-site and off-site water and sanitary sewer improvements;
- (19) On-site and off-site drainage and storm sewer improvements;
- (20) Location of proposed free-standing signs;
- (21) Cross-section for paving of parking lots and sidewalks;
- (22) Proposed name of the shopping center;
- (23) Name, address, and telephone number of developer; certified record owner or owners and

addresses; and legal description of the proposed use permit area, including the number of acres.

(c) Environmental performance standards: Any applicant for a use permit under the provisions of this section shall comply with environmental performance standards relating to noise, emission, dust, odor, glare, and heat as shall be from time to time established by various municipal departments and approved by resolution of the City Council.

(d) Landscape plan: Each application for a use permit under this section shall include a landscape plan which shall show proposed plantings in conformance with city standards in all required yard areas, open space areas, malls, parking areas and around proposed buildings. The Planning Director shall develop appropriate written standards for such landscape plans, which standards shall be approved by resolution of the City Council.

(e) Planning Commission review: Upon the filing of an application together with all maps, data, and information required by this section, the City Council shall refer the application to the Planning Commission. The Planning Commission shall hold a public hearing upon such application and shall consider the effect of the proposed use upon the surrounding neighborhood, the community as a whole, and other matters relating to public health, safety, and general welfare.

(f) Planning Commission action: After holding at least one public hearing, the Planning Commission shall proceed to give final consideration to the application and may require that certain conditions be fulfilled by the applicant in conjunction with approval of the use permit applied for, and may include the requirement that applicant grant additional right of way in accordance with the Comprehensive Plan. The Planning Commission may require the execution of a written agreement with the city relating to the installation of public improvements by the applicant, together with the execution of performance bonds or provision of other appropriate surety relating thereto. The installation of all public improvements shall be accomplished in compliance with existing city standards as provided by ordinance or by departmental publications approved by resolution of the City Council. In the event the Planning Commission fails to act upon the application within sixty days from the date of referral, the applicant may appeal to the City Council requesting final action. If the City Council determines that the delay of the Planning Commission

is unjustified, it shall direct the commission to act upon the application no later than the commission's next regularly scheduled meeting.

(g) Appeal of Planning Commission action:

(1) Any aggrieved person or any person or group officially designated to participate in the administration of this title may appeal any action of the Planning Commission to the City Council by filing notice of appeal with the City Clerk within fourteen days following the action of the Planning Commission.

(2) Upon receipt of the appeal by the City Council, the council shall hold a public hearing thereon within thirty days from the date of appeal. Notice of the public hearing shall be given as provided in Chapter 27.81.

(3) In exercising its appellate jurisdiction, the action appealed from shall be deemed advisory and the City Council may, after public hearing, in conformity with the provisions of this title make such decision as ought to be made.

(h) Adjustment of yard requirements and height restrictions: Upon request of the applicant, the City Council may, after report and recommendation of the Planning Commission, decrease the minimum yard requirements and increase the maximum height restrictions and may adjust the requirements relative to the location of buildings and required parking spaces and lot frontage set forth in this chapter consistent with adequate protection of the environment of adjacent land uses. The Planning Commission shall hold a public hearing upon the requested adjustment at the same time that it hears the application for the use permit and shall make a report to the City Council regarding the effect the proposed use and adjustment has upon the surrounding neighborhood, the community as a whole, and other matters relating to public health, safety, and general welfare. Upon receiving a report from the Planning Commission, the City Council shall take final action upon the use permit and the adjustment.

(i) Amendment: The Planning Director is authorized to approve amendments to any use permit granted under this section, provided that:

(1) A request for amendment is filed with the Planning Director, together with any of the information specified in paragraph (b) above which is pertinent to the proposed amendment;

(2) Such amendment shall not violate any provisions of this title;

(3) Such amendment may provide for minor increases in total floor area and storage space originally permitted;

(4) There is no increase in the number of dwelling units;

(5) No reduction is made to the applicable setback or yard requirements;

(6) No public land is accepted;

(7) Such amendment shall not be contrary to the general purpose of this section as specified in Section 27.31.020;

(8) Any amendment not in conformance with this paragraph shall be submitted to the Planning Commission in the same manner as an original application for a use permit.

(j) Building permits, certificates of occupancy, and certificates of compliance: Upon the approval of a use permit as provided for under this section, building permits and certificates of occupancy may be issued. Certificates of compliance shall not be issued until there has been compliance with all conditions of a use permit and subsequent amendments within each phase of development of a use permit.

(k) Preexisting uses: An existing use of a type permitted in this chapter which was lawfully established in this district on the effective date of this title shall be deemed to have received a use permit as herein required and shall be provided with such permit by the Director of Building and Safety upon request, and it shall not be a nonconforming use; provided, however, for any enlargement, extension, or relocation of such existing use, an application in conformance with this section shall be required.

(l) A use permit may be granted for a lot of less than five acres, provided:

(1) The lot was legally created prior to the effective date of this ordinance;

(2) The lot has remained under separate ownership from adjoining properties in the B-2 district.

The Planning Commission may, under the above conditions, adjust the requirements under paragraph (b) to permit the applicant a reasonable use of his property.

(m) If an application for a use permit located within a flood plain is granted approval by the city, it shall not be necessary for the applicant to make an application for a special permit to be approved by the City Council as required by Resolution Nos. A-55150, A-56382, and A-57540. It shall be presumed that the applicant has received all such approvals as may be

required by the foregoing resolutions by virtue of the city granting approval to the use permit.

(n) Expiration of Application. All existing applications for a use permit which have been placed on pending by an applicant shall automatically expire and become null and void one year after the date this ordinance (Change of Zone No. 06062). All such applications which have been placed on pending by an applicant after the date of this ordinance (Change of Zone No. 06062) shall automatically expire and become null and void one year thereafter. At least thirty days before the date of expiration, the Planning Director shall cause notice of expiration to be sent to the applicant by regular United States mail, postage

prepaid. Said notice shall advise the applicant that the application shall automatically expire unless prior to the expiration date, the Planning Director receives a request from the applicant to remove the application from pending and reschedule the matter on the Planning Commission or City Council agenda as appropriate. (Ord. 18898 §3; March 12, 2007; prior Ord. 18633 §3; October 24, 2005; Ord. 17857 §3; June 4, 2001; Ord. 16766 §4; April 10, 1995; Ord. 16284 §2; December 14, 1992; Ord. 15239 §2; August 7, 1989; Ord. 13528 §2; January 3, 1983; Ord. 13078 §1; January 12, 1981; Ord. 12751 §14; November 5, 1979; Ord. 12571 §174; May 8, 1979).

Table 27.31.090(a)

	Lot Area (Sq. ft.)	Req'd Front Yard	Req'd Side Yard	Req'd Rear Yard	Height
Dwellings	2,000 per unit	20'	20'	50'	40'
Other Permitted Uses	0	20'	0', 20'* when abutting residential district	0', 50'* when abutting residential district	40'

* When a side or rear yard abuts a residential district, it shall be screened in conformance with the landscape design standards adopted by the City of Lincoln.

Chapter 27.33

B-3 COMMERCIAL DISTRICT

Sections:

- 27.33.010 Scope of Regulations.
- 27.33.020 Permitted Uses.
- 27.33.030 Permitted Conditional Uses.
- 27.33.040 Permitted Special Uses.
- 27.33.050 Accessory Uses.
- 27.33.060 Parking Regulations.
- 27.33.065 Pedestrian Circulation Regulations.
- 27.33.070 Sign Regulations.
- 27.33.075 Grading and Land Disturbance Regulations.
- 27.33.080 Height and Area Regulations.

This is a district providing for local commercial uses in a redeveloping neighborhood generally located in established retail centers of those neighborhoods. The uses permitted generally are those for neighborhood uses, plus additional limited manufacturing uses that reflect the character of that commercial area.

27.33.010 Scope of Regulations.

The regulations set forth in this chapter, or set forth elsewhere in this title when referred to in this chapter, are the regulations in the B-3 Commercial District. (Ord. 12571 §205; May 8, 1979).

27.33.020 Permitted Uses.

A building or premises shall be permitted to be used for the following purposes in the B-3 Commercial District:

- (a) Parks, playgrounds, and community buildings, owned or operated by a public agency;
- (b) Public libraries;
- (c) Public elementary and high schools, or private schools having a curriculum equivalent to a public elementary or public high school, and having no rooms regularly used for housing or sleeping purposes;
- (d) Churches;
- (e) Nonprofit religious, educational, and philanthropic institutions;
- (f) Banks, savings and loan associations, credit unions, and finance companies;

(g) Barber shops, beauty parlors, and shoeshine shops;

(h) Private schools, including but not limited to, business or commercial schools, dance or music academies, and nursery schools;

(i) Adult care centers;

(j) Hospitals and clinics for animals, but not open kennels;

(k) Self-service laundromats, and laundrettes;

(l) Receiving stores for dry cleaning or laundry;

(m) Messenger and telegraph stations;

(n) Office buildings;

(o) Restaurants;

(p) Stores or shops for the sale of goods at retail;

(q) Undertaking establishments;

(r) Photography studios;

(s) Key shops;

(t) Ambulance services;

(u) Retail bakery;

(v) Sales and showrooms, including service facilities and rental of equipment, provided all displays and merchandise are within the enclosure walls of the buildings;

(w) Milk distribution stations, but not involving any bottling on the premises;

(x) Food storage lockers;

(y) Optical lens grinding and finishing;

(z) Clubs;

(aa) Parking lots and storage garages;

(bb) Enclosed commercial recreational facilities;

(cc) Motorcycle, bicycle, and home and office equipment, but not including vehicle body repair shops

(dd) Mail order catalog sales;

(ee) Tailor shops, shoe repair shops, upholstery shops, printing and photocopying shops, or other, similar business establishments

(ff) Wind energy conversion systems. (Ord. 19158 §32; October 20, 2008; prior Ord. 17734 §1; October 2, 2000; Ord. 16962 §3; March 25, 1996; Ord. 16767 §6; April 10, 1995; Ord. 16253 §2; October 26, 1992; Ord. 16144 §6; July 6, 1992; Ord. 14185 §5; September 3, 1985; Ord. 13736 as amended by Ord. 13745 §3; January 3, 1984; Ord. 12571 §206; May 8, 1979).

27.33.030 Permitted Conditional Uses.

A building or premises may be used for the following purposes in the B-3 Commercial District in conformance with the conditions prescribed herein:

(a) Automobile wash facility:

(1) Automatic, conveyor-operated: The length and location of vehicle stacking lane or lanes for the approach side or sides and the exit side or sides of the wash operation shall be in conformance with the "guidelines and regulations for driveway design and location" as adopted by the City of Lincoln. The stacking space shall not be located within the required front yard.

(2) Self-service, coin-operated car wash: The car wash facility shall not exceed four wash bays. The length and location of vehicle stacking lane or lanes for the approach side or sides and the exit side or sides of the wash operation shall be in conformance with the "guidelines and regulations for driveway design and location" as adopted by the City of Lincoln. The stacking space shall not be located within the required front yard.

(b) Motels and hotels: A distance of at least twenty feet shall be maintained between buildings on the lot, and each hotel or motel unit shall have a minimum enclosed floor area of 200 square feet.

(c) Furnace, heating, sheet metal, electrical shops or electrical contractors, heating and air conditioning contractors, and cabinet shops or stores:

(1) The floor area of said premises not devoted to sales or office space shall not exceed 8,000 square feet;

(2) Not more than ten percent of the lot or tract occupied by the establishment shall be used for open and unenclosed storage of material and equipment;

(3) All outside storage of material and equipment shall be screened by an opaque six-foot tall fence constructed of wood, or a substitute material found acceptable by the Director of Building and Safety.

(d) Tire stores and sales, including vulcanizing:

(1) The floor area of said premises not devoted to sales or office space shall not exceed 4,000 square feet;

(2) There shall be no manufacturing on the premises.

(e) Tailor shops, shoe repairing, upholstery shops, printing, photocopying, household appliances repairs, or similar business establishments; dyeing and drycleaning works; laundry; plumbing and water softener service shops.

The floor area of said premises not devoted to sales or office space shall not exceed 4,000 square feet.

(f) Dwellings, provided that:

(1) Except as provided subparagraph 2 below, dwellings shall only be permitted above the first story of a building, with the first story used for a non-dwelling use as permitted in the district. Such non-dwelling use shall not be accessory to the residential use or be a parking lot or garage.

(2) Dwellings shall be permitted in buildings that were originally constructed for a residential use prior to November 1, 1997.

(g) Recycling center:

(1) The building area of such center shall not exceed 4,000 square feet;

(2) Adequate traffic stacking shall be provided on site as determined by the city;

(3) All required parking shall be provided on site;

(4) The facility shall not be designed to receive nor shall it accept shipments by semi-trailer trucks;

(5) The construction and operation of such center shall comply with all applicable health and fire codes;

(h) Vehicle body repair shop:

(1) All salvage material including vehicles being salvaged shall be kept inside a building;

(2) All vehicles stored outside a building shall be repaired to an operating state within thirty days;

(3) All vehicles stored outside a building waiting repair shall be screened in accordance with the screening requirements for salvage and scrap processing operations;

(4) The construction and operation of such shop shall comply with all applicable health and fire codes;

(5) Vehicle body repair shops lawfully existing on the effective date of this ordinance shall have until January 1, 1987 to be brought into compliance with conditions (1), (2), (3), and (4) above.

(i) Early childhood care facilities:

(1) Such facilities shall comply with all applicable state and local early childhood care requirements;

(2) Such facilities shall comply with all building and life safety code requirements;

(3) Such facilities shall be fenced and have play areas that comply with the design standards for early childhood care facilities;

(4) Such facilities must receive a conditional use permit from the Department of Building and Safety.

(j) Service stations and automobile or appliance sales and repair facilities, but not including vehicle body repair shops.

(1) No automobile or appliance sales and repair facility shall be permitted to locate within 100 feet of any residential use or district;

(2) Any service station or automobile or appliance sales and repair facility located within 100 feet of any residential use or district which was lawfully established in this district on the effective date of this ordinance, shall screen the facility from such residential use or district by the use of an opaque fence six feet in height, constructed of wood, or of a substitute material found acceptable to the Director of Building and Safety subject to the provision of condition (3) below;

(3) Any service station or automobile or appliance sales and repair facility located within 100 feet of any residential use or district which was lawfully established in this district on the effective date of this ordinance shall have until October 1, 2003 to be brought into compliance with condition (2) above;

(4) The locational or screening requirements of (1), (2), and (3) above shall not apply when said residential use or district is across a public street from the service station or automobile or appliance sales and repair facility, but shall apply if said residential use or district is across an alley or private drive from the service station or automobile or appliance sales and repair facility;

(5) Any service station lawfully established in this district, after the effective date of this ordinance, shall screen the facility from any residential use or district by the use of an opaque fence, six feet in height, constructed of wood or of a substitute material found acceptable to the Director of Building and Safety; provided that said screening requirement shall not apply when said residential use or district is across a public street from the service station, but shall apply if said residential use or district is across an alley or private drive from the service station.

(k) Indoor animal hospitals. Any building approved for such use must be located no closer than 200 feet from any residential district.

(l) Indoor kennel. Any building approved for such use must be located no closer than 200 feet from any residential district.

(m) Social halls:

(1) There shall be no amplified sound or noise source of any kind outside of the social hall;

(2) Except as provided in (ii) and (iii) below, any exterior door opening must meet the following conditions:

(i) Either be located at least 100 feet (as measured by the shortest, most direct distance) from a day care facility, church, state mental health institution, park (excluding golf courses and hiker/biker trails), or a residential district; provided that, if there is an intervening exterior wall of the building containing the social hall between the exterior door opening and such day care facility, church, state mental health institution, park (excluding golf courses and hiker/biker trails), then the 100 feet shall be measured from the exterior door opening, along the exterior base of the building wall(s) to the point where there is no intervening exterior building wall, and from that point the shortest, most direct distance to the day care facility, church, state mental health institution, park (excluding golf courses and hiker/biker trails), or residential district.

(ii) If the exterior door opening is less than 100 feet from a residential district, it must face the opposite direction from that district.

(iii) If the exterior door opening faces a residential district, then such opening shall be at least 150 feet from a residential district as measured by the shortest, most direct perpendicular distance. The exterior door shall not be kept or propped open during the hours of operation.

For purposes of this section, "exterior door opening" shall mean (a) that portion of the exterior wall face of the building containing the social hall that contains a break to accommodate the exterior building door, door frame, door vestibule, or door entryway area; and (b) provides access to the social hall. "Exterior door opening" shall not apply to openings for emergency exit doors required by building or safety codes, loading doors or unloading doors that are not available for access in the ordinary course of business. (Ord. 18977 §4; August 20, 2007; prior Ord. 18928 §12; June 4, 2007; Ord. 17734 §2; October 2, 2000; Ord. 17262 §1; October 20, 1997; Ord. 16926 §3; February 5, 1996; Ord. 16854 §31; August 14, 1995; Ord. 14185 §6; September 3, 1985; Ord. 13344 §3; March 29, 1982; Ord. 12571 §207; May 8, 1979).

27.33.040 Permitted Special Uses.

A building or premises may be used for the following purposes in the B-3 Commercial District if a special permit for such use has been obtained in conformance with the requirements of Chapter 27.63:

- (a) Health care facilities;
- (b) Recreational facilities;
- (c) Church steeples, towers, and ornamental spires which exceed the maximum district height;
- (d) Broadcast towers;
- (e) Expansion of nonconforming use;
- (f) Historic preservation;
- (g) Public utility purposes;
- (h) Wind energy conversion systems over the district height;
- (i) Cemeteries;
- (j) Dwellings above the first story of a building which cannot meet the yard requirements of Section 27.33.080(g);
- (k) Sale of alcoholic beverages for consumption on the premises.
- (l) Sale of alcoholic beverages for consumption off the premises;
- (m) Indoor animal hospitals;
- (n) Indoor kennels. (Ord. 19158 §33; October 20, 2008; prior Ord. 18928 §13; June 4, 2007; Ord. 17979 §1; April 1, 2002; Ord. 17265 §2; October 20, 1997; Ord. 16593 §3; April 11, 1994; Ord. 15782 §3; November 26, 1990; 14780 §12; November 2, 1987; Ord. 14378 §11; May 5, 1986; Ord. 13588 §12; May 9, 1983; Ord. 12978 §16; August 25, 1980; Ord. 12894 §17; April 7, 1980; Ord. 12571 §208; May 8, 1979).

27.33.050 Accessory Uses.

Accessory uses permitted in the B-3 Commercial District are accessory buildings and uses customarily incident to the permitted uses. (Ord. 12571 §209; May 8, 1979).

27.33.060 Parking Regulations.

All parking within the B-3 Commercial District shall be regulated in conformance with the provisions of Chapter 27.67. (Ord. 12571 §210; May 8, 1979).

27.33.065 Pedestrian Circulation Regulations.

Construction of on-site pedestrian circulation sidewalk systems shall be regulated in conformance with the provisions of Section 27.81.010. (Ord. 18687 §8; March 20, 2006).

27.33.070 Sign Regulations.

Signs within the B-3 Commercial District shall be regulated in conformance with the provisions of Chapter 27.69. (Ord. 12571 §211; May 8, 1979).

27.33.075 Grading and Land Disturbance Regulations.

Grading and land disturbance within the B-3 Commercial District shall be regulated in conformance with the provisions of Chapter 27.81. (Ord. 17618 §18; February 22, 2000.)

27.33.080 Height and Area Regulations.

The maximum height and minimum lot requirements within the B-3 Commercial District shall be as follows:

- (a) General requirements:

(See Table 27.33.080(a) at the end of this chapter)

- (b) There shall be a required front yard on each street side of a double frontage lot.

- (c) There shall be a required front yard on each street side of a corner lot; provided, however, that the buildable width of a lot of record on November 2, 1953, need not be reduced to less than twenty-eight feet except where necessary to provide a required side yard of not less than five feet in place of one of the required front yards.

- (d) Open space requirements for residential use: A minimum amount of usable and accessible open space must be provided for each residential use. This requirement shall be as follows:

- 125 square feet for the first dwelling unit;

- 80 square feet per unit for the next four dwelling units;

- 25 square feet per unit for the next four dwelling units;

- 20 square feet per unit for each additional dwelling unit beyond nine.

This open space requirement may be met in the following manner:

- (1) The required rear yard may be counted; however, the required front and side yards may not be counted toward fulfillment of said open space requirement, except for porches, terraces and balconies as permitted in Sections 27.71.100 and 27.71.110.

- (2) Parking spaces, and land occupied by any building or structure may not be counted toward fulfillment of this open space requirement.

(3) Required open space may be provided either on a balcony four or more feet in depth or on a rooftop, provided that the roof is designed and surfaced in such a manner that it may be developed with areas of planting, open space, recreation and other uses that are consistent with similar uses in ground-level side and rear yards for dwellings. Such rooftop areas may not be occupied by structures such as vents, exhaust intakes, or other mechanical devices, except where they do not interfere with the usable nature of the open space.

(4) The depth-to-width ratio of any area used to fulfill the open space requirement may not exceed three to one if the smallest dimension of the open space is twelve feet or less.

(e) Accessory buildings shall not extend into any required yard except accessory buildings to non-standard residential uses may be allowed in the required rear yard when no more than thirty percent of such yard is occupied and such building is not nearer than two feet to any side or rear lot line.

(f) Dwellings existing in this district on the effective date of this title which do not meet the requirements of this chapter shall be considered non-standard uses in conformance with the provisions of Chapter 27.61.

Accessory buildings for such non-standard dwellings shall not extend into any required yard except as follows:

Accessory buildings which are attached to or not located more than six feet from the main structure shall be considered a part of the main structure and shall comply with the height, front, side and rear yard requirements of the main building. Accessory buildings not a part of the main structure may be located in the required rear yard but such accessory buildings may not occupy more than forty percent of the required rear yard and shall not be nearer than two feet to any side or rear lot line, nor more than fifteen feet in height. Accessory buildings not a part of the main structure, if located not less than sixty feet from the front lot line, may extend into the required side yard though not nearer than two feet to the side lot line. A garage which is entered from an alley shall not be located closer than ten feet to the alley line.

(g) Where a yard is not otherwise required, a five foot yard shall be required adjacent to the wall of a building which contains windows for dwelling units. The yard shall be on the premises on which the building is situated. (Ord. 18687 §9; March 20, 2006; prior Ord. 15782 §4; November 26, 1990: Ord. 15724 §3; September 17, 1990: Ord. 14696 §1; July 6, 1987: Ord. 14137 §1; July 1, 1985: Ord. 13134 §2; May 4, 1981: Ord. 12638 §1; July 16, 1979: Ord. 12571 §212; May 8, 1979).

Table 27.33.080(a)

	Lot Area (Sq. ft.)	Frontage	Req'd Front Yard	Req'd Side Yard	Req'd Rear Yard	Height
Dwelling, Above First Story	1,000 per unit	0'	0'; if block face partially in residential district,	0', 5'* if abutting residential district	0', 30'*if abutting residential district	45'; 35' if abutting R-1, R-2 or R-3 zoning district
Other Permitted Uses	0	0'	same as abutting residential district	0', 5'* if abutting residential district	0', 30'* if abutting residential district	

* When a side or rear yard abuts a residential district, it shall be screened in conformance with the landscape design standards adopted by the City of Lincoln.

Chapter 27.35

B-4 LINCOLN CENTER BUSINESS DISTRICT

Sections:

- 27.35.010 Scope of Regulations.
- 27.35.020 Permitted Uses.
- 27.35.025 Permitted Conditional Uses.
- 27.35.030 Permitted Special Uses.
- 27.35.040 Accessory Uses.
- 27.35.050 Parking Regulations.
- 27.35.060 Sign Regulations.
- 27.35.065 Grading and Land Disturbance Regulations.
- 27.35.070 Height and Area Regulations.
- 27.35.080 Lincoln Downtown Design Standards.

This is a district for a redeveloping area applicable to the business and retail uses located in the area of the Lincoln Center Business District. It is designed so that Lincoln center remains as the dominant multi-use center and key focal point of business, social, and cultural activity in the Lincoln urban area. This district should include a large variety of activities, including retail and office functions, housing, commercial services, institutions, and transportation. It is intended that relationships between permitted functions will be carefully developed, and the need for access, circulation, and amenities will be given special attention.

27.35.010 Scope of Regulations.

The regulations set forth in this chapter, or set forth elsewhere in this title when referred to in this chapter, are the regulations in the B-4 Lincoln Center Business District. (Ord. 12571 §213; May 8, 1979).

27.35.020 Permitted Uses.

A building or premises may be used for any lawful purpose in the B-4 Lincoln Center Business District, except the following:

- (a) The refining, distillation, or manufacture of:
 - (1) Acids or alcohols, except that craft breweries as defined in the Nebraska Liquor Control Act are permitted;
 - (2) Ammonia, bleach, or chlorine;

- (3) Asphalt, tar, or products made therewith, including roofing or waterproofing;
- (4) Cement, lime, gypsum, or plaster of paris;
- (5) Disinfectants;
- (6) Dyestuffs;
- (7) Fertilizer;
- (8) Glue, sizing, or gelatin;
- (9) Oilcloth, linoleum, or oiled rubber goods;
- (10) Paint, shellac, turpentine, or oils;
- (11) Paper or pulp;
- (12) Rubber, gutta-percha, balata, creosote, or products treated therewith;
- (13) Shoe polish;
- (b) The operation of:
 - (1) Bag cleaning works;
 - (2) Blast furnaces, coke ovens, smelting or ore reduction works;
 - (3) Boiler works;
 - (4) Forge;
 - (5) Rock crusher;
 - (6) Rolling mill;
 - (7) Yeast plant;
- (c) Production, manufacture, distribution, or commercial storage of toxic, radioactive, flammable, or explosive materials, including chemicals and gases, fireworks and explosives, arsenals and magazines;
- (d) Tanning, curing, or storage of raw hides or skins; stockyards or slaughter of animals or fowl; rendering fat; distillation of bones, coal, or wood;
- (e) Dumping or reduction of garbage, offal, or dead animals; scrap processing operation or salvage yard;
- (f) Grain elevators and grain mills;
- (g) Refining of natural gas or petroleum or their products; or bulk storage thereof not located underground and in full compliance with all applicable city regulations;
- (h) Brick, tile, pottery, or terra cotta manufacture, other than the manufacture of handicrafts;
- (i) The manufacture of acetylene, the transfer of the gas from one container to another, or the storage of the gas in containers having a capacity greater than the equivalent of 1,000 cubic feet at standard temperature and pressure;
- (j) Excavation and stone milling;
- (k) And in general those uses, not limited to the above, which may be obnoxious or offensive or

hazardous to health by reason of odor, dust, smoke, gas, glare, radiation, or noise;

(l) In the area of the B-4 Lincoln Center Business District bounded by 10th Street, 150 feet north of "P" Street, 14th Street, and "N" Street:

(1) Parking lots, parking garages, and other off-street parking facilities;

(2) Uses in which the customer is served directly in the car, including but not limited to drive-in restaurants, drive-in teller windows, service stations, or car washes.

(m) Permitted conditional uses not meeting the requirements of Section 27.35.025;

(n) Permitted special uses not meeting the requirements of Section 27.35.030;

(o) In the area of the B-4 Lincoln Center Business District from 150 feet east of 17th Street to the eastern edge of the B-4 Lincoln Center Business District;

(1) Automobile and truck wash facilities;

(2) Automobile, motorcycle, truck and heavy equipment sales and repair;

(3) Mini-warehouses;

(4) Recycling center;

(5) Service stations;

(6) Sexually oriented live entertainment;

(7) Single-family dwelling on the first floor or basement;

(8) Two-family dwellings on the first floor or basement;

(9) Vehicle body repair shops;

(10) Warehouses (pre-existing warehouses may remain, regardless of time unoccupied, but must cease once the building is demolished). (Ord. 19224 §5; March 16, 2009; prior Ord. 19132 §2; September 8, 2008; Ord. 17120 §1; December 16, 1996; Ord. 14185 §7; September 3, 1985; Ord. 12571 §214; May 8, 1979).

27.35.025 Permitted Conditional Uses.

Notwithstanding any provision to the contrary in Section 27.35.020 above, a building or premises may be used for the following purposes in the B-4 Lincoln Center Business District in conformance with the conditions prescribed herein:

(a) Vehicle body repair shop in the area from 150 feet east of 17th Street to the western edge of the B-4 Lincoln Center Business District:

(1) All salvage material including vehicles being salvaged shall be kept inside a building;

(2) All vehicles stored outside a building shall be repaired to an operating state within thirty days;

(3) All vehicles stored outside a building waiting repair shall be screened in accordance with the screening requirements for salvage and scrap processing operations;

(4) The construction and operation of such shop shall comply with all applicable health and fire codes;

(5) Vehicle body repair shops lawfully existing on the effective date of this ordinance shall have until January 1, 1987 to be brought into compliance with conditions (1), (2), (3), and (4) above.

(b) Early childhood care facilities:

(1) Such facilities shall comply with all applicable state and local early childhood care requirements;

(2) Such facilities shall comply with all applicable building and life safety code requirements.

(3) Such facilities shall be fenced and have play areas that comply with the design standards for early childhood care facilities;

(4) Such facilities must receive a conditional use permit from the Department of Building and Safety. (Ord. 19132 §3; September 8, 2008; prior Ord. 16854 §32; August 14, 1995; Ord. 14185 §8; September 3, 1985).

27.35.030 Permitted Special Uses.

Notwithstanding any provision to the contrary in Section 27.35.020 above:

(a) A building or premises may be used for the following purposes in the B-4 Lincoln Center Business District if a special permit for such use has been obtained in conformance with the requirements of Chapter 27.63:

(1) Expansion of nonconforming use;

(2) Historic preservation;

(3) Any permitted use which exceeds the maximum height permitted in the district;

(4) Temporary shelter for the homeless.

(b) A building or premises may be used for the following purposes in that portion of the B-4 Lincoln Center Business District bounded by 10th Street, 150 feet north of "P" Street, 14th Street, and "N" Street if a special permit for such use has been obtained in conformance with the requirements of Section 27.63.180:

(1) Parking lots, parking garages, and other off-street parking facilities;

(2) Service stations and car washes located within a parking garage when such uses are accessory to the parking garage;

(3) Drive-in teller windows;

(4) Wind energy conversion systems over the district height.

(c) Dwellings above the first story of a building which cannot meet the yard requirements of Section 27.35.070(e).

(d) A building or premises may be used for the following purposes in the area of the B-4 Lincoln Center Business District from 150 feet east of 17th Street to the eastern edge of the B-4 Lincoln Center Business District if a special permit for such use has been obtained in conformance with the requirements of Section 27.63.180:

(1) Service stations. (Ord. 19158 § 34; October 20, 2008; prior Ord. 19132 §4; September 8, 2008; Ord. 16070 §2; March 9, 1992; Ord. 15782 §5; November 26, 1990; Ord. 14780 §13; November 2, 1987; Ord. 13588 §13; May 9, 1983; Ord. 12978 §17; August 25, 1980; Ord. 12698 §1; September 24, 1979; Ord. 12571 §215; May 8, 1979).

27.35.040 Accessory Uses.

Accessory uses permitted in the B-4 Lincoln Center Business District are accessory buildings and uses customarily incident to the permitted uses. (Ord. 12571 §216; May 8, 1979).

27.35.050 Parking Regulations.

All parking within the B-4 Lincoln Center Business District shall be regulated in conformance with the provisions of Chapter 27.67. (Ord. 12571 § 217; May 8, 1979).

27.35.060 Sign Regulations.

Signs within the B-4 Lincoln Center Business District shall be regulated in conformance with the provisions of Chapter 27.69. (Ord. 12571 §218; May 8, 1979).

27.35.065 Grading and Land Disturbance Regulations.

Grading and land disturbance within the B-4 Lincoln Center Business District shall be regulated in conformance with the provisions of Chapter 27.81. (Ord. 17618 §19; February 22, 2000.)

27.35.070 Height and Area Regulations.

The height and lot area requirements within the B-4 Lincoln Center Business District shall be as follows:

(a) For the area of the B-4 Lincoln Center Business District located from 150 feet east of 17th Street to the eastern boundary of the B-4 Lincoln Center Business District:

(1) The minimum building height shall be 20 feet adjacent to all street frontages. The minimum building height does not apply to building permits for existing buildings, and minor additions to existing buildings, less than 20 feet in height.

(2) The maximum height requirements are shown in Figure 27.35.070(a) at the end of this chapter.

(3) The front, side and rear yard setbacks are zero (0) feet. When any yard is abutting a residential district, the yard requirement shall be that of the abutting residential district.

(b) For the area of the B-4 Lincoln Center Business District not included in section (a) above, the following height and lot area requirements shall apply:

(1) The maximum height requirements are shown in Figure 27.35.070(a) at the end of this chapter.

(2) The front, side and rear yard setbacks are zero (0) feet. When any yard is abutting a residential district, the yard requirement shall be that of the abutting residential district.

(c) Where a yard is not otherwise required, a yard shall be required adjacent to any wall of a building which contains windows for dwelling units. The yard requirement shall be five feet for structures under thirty-five feet in height, ten feet for structures thirty-five to fifty feet in height, and sixteen feet for those structures over fifty feet in height. Depending upon the location of said windows, this yard may be a side yard, a rear yard, or located in or on an interior courtyard. If the required yard abuts an alley, the width of the alley may be counted as part or all of the required yard. This yard need not start at the ground level but may begin on the top surface of a building.

(d) Accessory buildings which are attached to or located not more than ten feet from the main structure shall be considered a part of the main structure and shall comply with the height and front, side, and rear yard requirements of the main structure. Accessory buildings not a part of the main structure may be

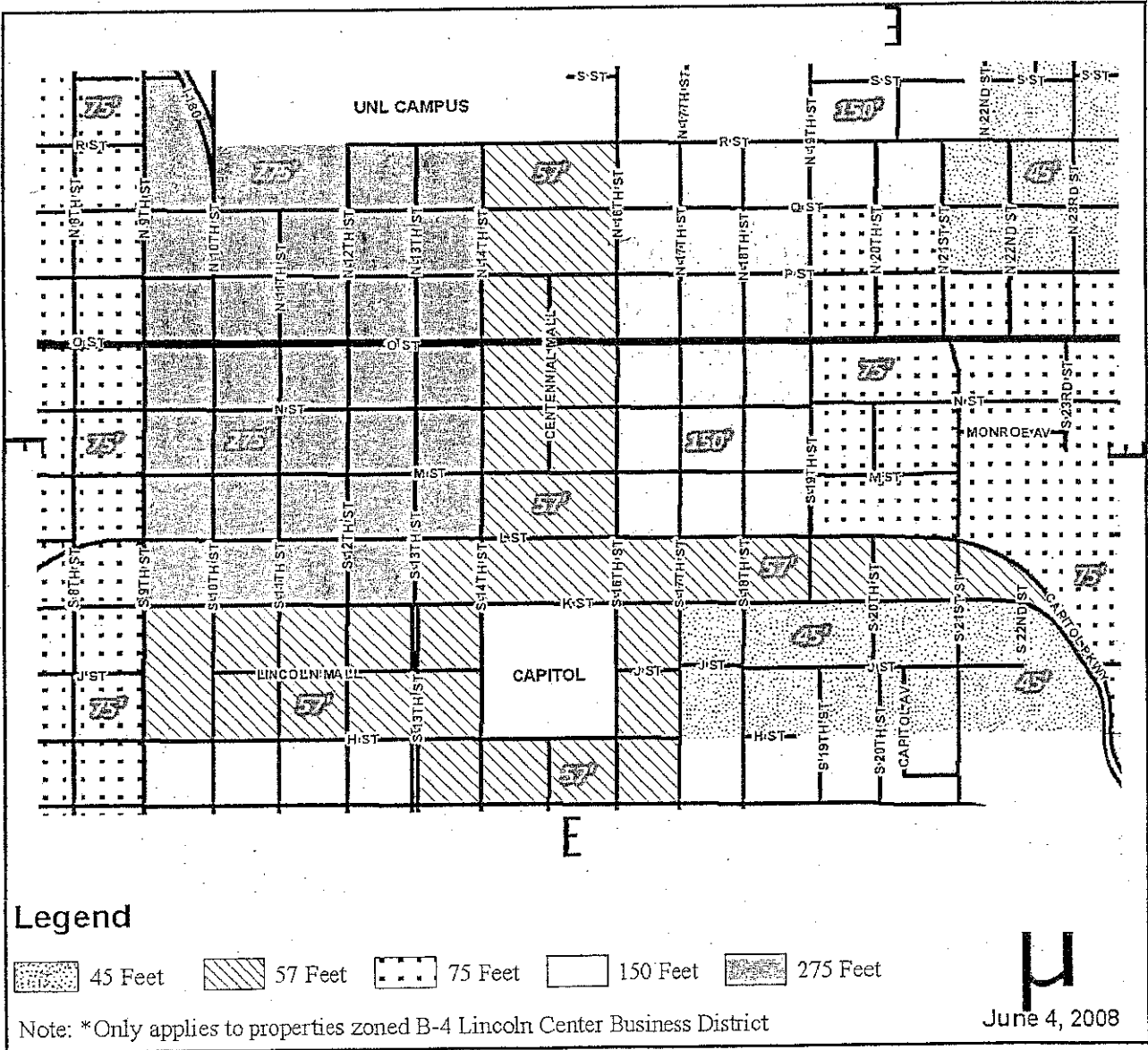
located in any required rear yard, but such accessory buildings may not occupy more than thirty percent of the required rear yard, and shall not be nearer than two feet to any side or rear lot line, nor more than fifteen feet in height. Accessory buildings not a part of the main structure, if located not less than sixty feet from the front lot line, may extend into the required side yard though not nearer than two feet to the side lot line. A garage which is entered from an alley shall not be located closer than ten feet to the alley line. (Ord. 19171 §1; November 3, 2008; prior Ord. 19132 §5; September 8, 2008; Ord. 18963 §1; July 23, 2007; Ord. 18560 §1; June 20, 2005; Ord. 16615 §1; June 6, 1994; Ord. 16224 §1; September 14, 1992; Ord. 16066 §1; March 2, 1992; Ord. 13163 §1; June 29, 1981; Ord. 12751 §15; November 5, 1979; Ord. 12571 §219; May 8, 1979).

27.35.080 Lincoln Downtown Design Standards.

Each application for a building permit shall be reviewed for compliance with the Lincoln Downtown Design Standards. (Ord. 19132 §6; September 8, 2008).

Figure 27.35.070 (a)

B-4 LINCOLN CENTER BUSINESS DISTRICT HEIGHT REGULATIONS



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Chapter 27.37

**B-5 PLANNED REGIONAL
BUSINESS DISTRICT**

Sections:

- 27.37.010 Scope of Regulations.
- 27.37.020 Use Regulations.
- 27.37.025 Permitted Conditional Uses.
- 27.37.030 Permitted Special Uses.
- 27.37.033 Accessory Uses.
- 27.37.040 Parking Regulations.
- 27.37.045 Pedestrian Circulation Regulations.
- 27.37.050 Sign Regulations.
- 27.37.055 Grading and Land Disturbance Regulations.
- 27.37.060 Height and Area Regulations.
- 27.37.070 Use Permits; Procedures and Requirements.

The regulations set forth in this chapter are established to permit the development of regional retail shopping facilities and related activities which will provide for planned and controlled consumer services for all segments of the population, promote healthful economic growth, create a desirable environment, best complement the general land use pattern of the community, and assist in implementing the established goals and policies of the community.

27.37.010 Scope of Regulations.

The regulations set forth in this chapter, or set forth elsewhere in this title and referred to in this chapter, are the regulations for the B-5 Planned Regional Business District. (Ord. 12571 §220; May 8, 1979).

27.37.020 Use Regulations.

(a) General regulations. Any development, including building and open land uses, except farming and the sale of farm produce, shall be prohibited in the B-5 Planned Regional Business District prior to the approval of a use permit in conformance with the requirements of this chapter. B-5 Planned Regional Business District zoning shall not be permitted or granted upon any property having a total area of less than thirty acres.

(b) Permitted uses. A building or premises may be used only for the following purposes in the B-5 Planned Regional Business District:

- (1) Stores or shops for the sale of goods at retail, and shops providing service for such goods;
- (2) Office buildings;
- (3) Personal and professional services;
- (4) Places of public assembly, entertainment, or recreation facilities, except theaters;
- (5) Hotels or motels;
- (6) Banks, savings and loan associations, credit unions, and finance companies;
- (7) Private schools, including but not limited to business or commercial schools, dance or music academies, and nursery schools;
- (8) Restaurants;
- (9) Service stations, and automobile wash facilities;
- (10) Automobile sales establishments;
- (11) Dwellings;
- (12) Public or nonprofit community services;
- (13) Dry cleaning or laundry establishment; provided, the floor area does not exceed 2,000 square feet, exclusive of office and "pickup space";
- (14) Enclosed commercial recreational facilities;
- (15) Tailor shops, shoe repair shops, upholstery shops, printing and photocopying shops, or other, similar business establishments;
- (16) Public elementary and high schools, or private schools having a curriculum equivalent to a public elementary or public high school, and having no rooms regularly used for housing or sleeping purposes;
- (17) Wind energy conversion systems. (Ord. 19158 §35; October 20, 2008; prior Ord. 18903 §3; March 26, 2007; Ord. 18650 §2; November 28, 2005; Ord. 18345 §3; April 26, 2004; Ord. 18301 §3; February 9, 2004; Ord. 17320 §3; April 20, 1998; Ord. 16962 §4; March 25, 1996; Ord. 16767 §7; April 10, 1995; Ord. 16593 §4; April 11, 1994; Ord. 16075 §1; March 16, 1992; Ord. 15368 §13; December 18, 1989; Ord. 15310 §1; October 2, 1989; Ord. 13736 §4; December 12, 1983; Ord. 12751 §16; November 5, 1979; Ord. 12571 §221; May 8, 1979).

27.37.025 Permitted Conditional Uses.

Any building or premises may be used for the following purposes in the B-5 Planned Regional Business District in conformance with the conditions prescribed herein:

(a) Early childhood care facilities:

- (1) Such facilities shall comply with all applicable state and local early childhood care requirements;

(2) Such facilities shall comply with all applicable building and life safety code requirements;

(3) Such facilities shall be fenced and have play areas that comply with the design standards for early childhood care facilities.

(b) Tents and other temporary structures: Tents or other temporary structures shall be permitted for the temporary or seasonal sales of goods at retail under the following conditions:

(1) A tent or other temporary structure shall not reduce the amount of on-site parking to less than the minimum required;

(2) A tent or other temporary structure shall not remain on the premises for more than 180 consecutive days;

(3) A tent or other temporary structure shall comply with all applicable building and life safety codes;

A tent or other temporary structure need not be shown on the approved use permit site plan.

(c) Sale of alcoholic beverages for consumption on the premises:

(1) When the building containing the licensed premises abuts a residential district, the required yards shall be met.

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

(3) Any exterior door opening must meet the following conditions:

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

(ii) If the exterior door opening faces a residential district, then such opening shall be at least 150 feet from a residential district as measured by the shortest, most direct perpendicular distance. The

exterior door shall not be kept or propped open during the hours of operation. For purposes of this section, "exterior door opening" shall mean (A) that portion of the exterior wall face of the building containing the licensed premises that contains a break to accommodate the exterior building door, door frame, door vestibule, or door entryway area; and (B) provides public or membership access to the licensed premises. "Exterior door opening" shall not apply to openings for emergency exit doors required by building or safety codes, loading doors or unloading doors that are not available for public or membership access in the ordinary course of business.

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

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

(6) Notwithstanding any contrary provision contained in Section 27.37.070, the yard requirements, the parking location requirements, and the exterior door opening location requirements in this section shall not be adjusted by the City Council.

(d) Sale of alcoholic beverages for consumption off the premises:

(1) When the building containing the licensed premises abuts a residential district, the required yards shall be met.

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

(3) Any exterior door opening must meet the following conditions:

(i) Be located at least 100 feet (as measured by the shortest, most direct distance) from a day care facility, church, state mental health institution, park (excluding golf courses and hiker/biker trails), or a residential district; provided that, if there is an intervening exterior wall of the building containing the licensed premises between the exterior door opening and such day care facility, church, state mental health institution, park (excluding golf courses and hiker/biker trails), or residential district, then the 100 feet shall be measured from the exterior door opening, along the exterior base of the building wall(s)

to the point where there is no intervening exterior building wall, and from that point the shortest, most direct distance to the day care facility, church, state mental health institution, park (excluding golf courses and hiker/biker trails), or residential district.

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

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

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

(6) Notwithstanding any contrary provision contained in Section 27.37.070, the yard requirements, the parking location requirements, and the exterior door opening location requirements in this section shall not be adjusted by the City Council.

(e) Joint parking lots and parking garages.

(1) Such joint parking lots and garages shall be authorized by cross access easements or by written agreement between the parties to such use.

(2) The aggregate number of parking stalls provided shall be sufficient to satisfy the required parking for each use.

(f) Social halls:

(1) There shall be no amplified sound or noise source of any kind outside of the social hall;

(2) Except as provided in (ii) and (iii) below, any exterior door opening must meet the following conditions:

(i) Either be located at least 100 feet (as measured by the shortest, most direct distance) from

a day care facility, church, state mental health institution, park (excluding golf courses and hiker/biker trails), or a residential district; provided that, if there is an intervening exterior wall of the building containing the social hall between the exterior door opening and such day care facility, church, state mental health institution, park (excluding golf courses and hiker/biker trails), then the 100 feet shall be measured from the exterior door opening, along the exterior base of the building wall(s) to the point where there is no intervening exterior building wall, and from that point the shortest, most direct distance to the day care facility, church, state mental health institution, park (excluding golf courses and hiker/biker trails), or residential district.

(ii) If the exterior door opening is less than 100 feet from a residential district, it must face the opposite direction from that district.

(iii) If the exterior door opening faces a residential district, then such opening shall be at least 150 feet from a residential district as measured by the shortest, most direct perpendicular distance. The exterior door shall not be kept or propped open during the hours of operation.

For purposes of this section, "exterior door opening" shall mean (a) that portion of the exterior wall face of the building containing the social hall that contains a break to accommodate the exterior building door, door frame, door vestibule, or door entryway area; and (b) provides access to the social hall. "Exterior door opening" shall not apply to openings for emergency exit doors required by building or safety codes, loading doors or unloading doors that are not available for access in the ordinary course of business. (Ord. 18977 §5; August 20, 2007; prior Ord. 18962 §4; July 23, 2007; Ord. 18345 §4; April 26, 2004; Ord. 17051 §2; August 26, 1996; Ord. 16854 §33; August 14, 1995).

27.37.030 Permitted Special Uses.

A building or premises may be used for the following purposes in the B-5 Planned Regional Business District if a special permit for such use has been obtained in conformance with the requirements of this chapter and Chapter 27.63:

(a) Historic preservation;

(b) Public utility purposes;

(c) Wind energy conversion systems over the district height;

(d) Theaters;

(e) Broadcast towers. (Ord. 19158 §36; October 20, 2008; prior Ord. 18229 §4; August 18, 2003; Ord. 17070 §2; October 7, 1996; Ord. 16075 §2; March 16,

1992: Ord. 14774 §2; October 19, 1987: Ord. 14138 §3; July 1, 1985: Ord. 14050 §1; February 11, 1985: Ord. 12978 §18; August 25, 1980: Ord. 12894 §18; April 15, 1980: Ord. 12571 §222; May 8, 1979).

27.37.033 Accessory Uses.

Accessory uses permitted in the B-5 Planned Regional Business District are accessory buildings and uses customarily incident to the permitted uses. (Ord. 12571 §223; May 8, 1979).

27.37.040 Parking Regulations.

All parking within the B-5 Planned Regional Business District shall be regulated in conformance with the provisions of Chapter 27.67. (Ord. 12571 §224; May 8, 1979).

27.37.045 Pedestrian Circulation Regulations.

Construction of on-site pedestrian circulation sidewalk systems shall be regulated in conformance with the provisions of Section 27.81.010. (Ord. 18687 §10; March 20, 2006).

27.37.050 Sign Regulations.

Signs within the B-5 Planned Regional Business District shall be regulated in conformance with the provisions of Chapter 27.69. (Ord. 12571 §225; May 8, 1979).

27.37.055 Grading and Land Disturbance Regulations.

Grading and land disturbance within the B-5 Planned Regional Business District shall be regulated in conformance with the provisions of Chapter 27.81. (Ord. 17618 §20; February 22, 2000.)

27.37.060 Height and Area Regulations.

The maximum height and minimum lot requirements within the B-5 Planned Regional Business District shall be as follows:

(a) The required front yard shall be twenty feet. The required front yard shall be entirely landscaped, except for the necessary paving of walkways and driveways to reach parking and loading areas, provided that any driveways in the front yard shall be substantially perpendicular to the street and shall not be wider than thirty feet.

(b) There shall be a required yard of 100 feet wherever a lot abuts a residential district, and the entire yard shall be devoted to landscaping and screened in conformance with the landscape design standards adopted by resolution of the City Council.

(c) There shall be a required front yard along each street side of a double-frontage lot.

(d) There shall be a required front yard along each street side of a corner lot.

(e) The maximum permitted height shall be forty feet.

(f) Open space requirements for residential use: A minimum amount of usable and accessible open space must be provided for each residential use. This requirement shall be as follows:

125 square feet for the first dwelling unit;

80 square feet per unit for the next four dwelling units;

25 square feet per unit for the next four dwelling units;

20 square feet per unit for each additional dwelling unit beyond nine.

This open space requirement may be met in the following manner:

(1) The required rear yard may be counted; however, the required front and side yards may not be counted toward fulfillment of said open space requirement, except for porches, terraces, and balconies as permitted in Sections 27.71.100 and 27.71.110;

(2) Parking spaces, and land occupied by any building or structure may not be counted toward fulfillment of this open space requirement;

(3) Required open space may be provided either on a balcony four or more feet in depth or on a rooftop, provided that the roof is designed and surfaced in such a manner that it may be developed with areas of plantings, open space, recreational, and other uses that are consistent with similar uses in ground-level side and rear yards for dwellings. Such rooftop areas may not be occupied by structures such as vents, exhaust intakes, or other mechanical devices, except where they do not interfere with the usable nature of the open space;

(4) The depth-to-width ratio of any area used to fulfill the open space requirement may not exceed three to one if the smallest dimension of the open space is twelve feet or less.

(g) Accessory buildings which are attached to or not located more than ten feet from the main structure shall be considered a part of the main structure and shall comply with the height and yard requirements of the main structure. Accessory buildings not a part of the main structure may be located in the required rear yard if such yard does not abut a residential district or use, but such accessory buildings may not occupy

more than thirty percent of the required rear yard and shall not be nearer than two feet to any side or rear lot line, nor more than fifteen feet in height. A garage which is entered from an alley shall not be located closer than ten feet to the alley line. (Ord. 18687 §11; March 20, 2006; prior Ord. 12571 §226; May 8, 1979).

27.37.070 Use Permits; Procedures and Requirements.

(a) Minimum requirements. No use permit shall be granted upon any property having a total area of less than thirty acres, nor for any plan unless it is in conformance with all applicable city standards and with all regulations of the applicable sections of this chapter. The Planning Commission shall impose such conditions as are appropriate and necessary to ensure compliance with the Comprehensive Plan and protect the health, safety, and general welfare in the issuance of any use permits. Such conditions may include an increase in the minimum yard requirements and a decrease in the maximum height restrictions set forth in this chapter. Lots fronting on private roadways may be permitted. Unless expressly modified by the terms of the use permit, all regulations of the B-5 Planned Regional Business District shall apply.

(b) Environmental performance standards. Any applicant for a use permit under the provisions of this section shall comply with such environmental performance standards relating to noise, emission, dust, odor, glare, and heat as shall be from time to time established by various municipal departments and approved by resolution of the City Council.

(c) Environmental impact statement and market analysis. If any application for a change of zone to the B-5 Planned Regional Business District or for a use permit under the provisions of this section substantially deviates from the Comprehensive Plan in terms of location or size, as determined by the Planning Director, the applicant shall submit an environmental impact statement and a market analysis which shall serve as a guide to the Planning Commission for evaluation of such application in terms of need, desirability, supportability, and its implications for the overall growth of the community. The Planning Director shall develop appropriate written standards and forms for such environmental impact statement and market analysis, which shall be approved by the City Council after report and recommendation of the Planning Commission.

(d) Landscape plan. Each application for a use permit under this section shall include a landscape plan which shall show proposed plantings in confor-

mance with city standards in all required yard areas, open space areas, malls, parking areas and around proposed buildings. The Planning Director shall develop appropriate written standards for such landscape plans, which standards shall be approved by resolution of the City Council.

(e) Application requirements. Applications for a use permit under this section shall be filed by the owner in writing with the Planning Department on a form provided by the city. A preliminary plan shall accompany each application and shall include the following information:

- (1) Boundary survey and gross acreage;
- (2) Contour lines at intervals not to exceed five feet based on NAVD 1988. Spot elevations on one hundred foot grids shall be required to fully indicate the topography on flat land;
- (3) Street right of way;
- (4) Utility easements;
- (5) Adjacent land use and zoning classifications;
- (6) Location of structures on property;
- (7) Vicinity map;
- (8) Date prepared, scale and north point;
- (9) Schematic building layout;
- (10) Parking areas and capacity;
- (11) Open space for residential uses;
- (12) Use of buildings, such as retail, service, restaurant, office, residential, and other uses. Buildings to be included in the first phase construction shall include tenant occupancies where known. A clear demonstration shall be made that the residential use will be protected from adverse effects, such as traffic, air pollution, noise, and glare; and the mixing of residential and commercial uses on the ground level shall be discouraged;
- (13) Acreage and percentage of total developed building area, parking lots, open space, malls, and other features;
- (14) Height of buildings;
- (15) Location of existing trees and proposed landscape plan;
- (16) Proposed vehicular and pedestrian circulation system, including ingress and egress;
- (17) Building and parking setback lines;
- (18) Grading plan;
- (19) Phase of development and proposed starting dates;
- (20) Discussion of adverse environmental effects of the project and proposed steps to minimize these effects;
- (21) On-site and off-site water and sanitary sewer improvements;

(22) On-site and off-site drainage and storm sewer improvements;

(23) Location of proposed free-standing signs;

(24) Cross-section for paving of parking lots and sidewalks;

(25) Proposed name, if any, of the shopping center;

(26) Name, address, and telephone number of developer, certified record owner, or owners, and addresses; legal description of the proposed use permit area, including the number of acres.

(f) Planning Commission review. Upon the filing of an application together with all maps, data, and information required by this section, the City Council shall refer the application to the Planning Commission. The Planning Commission shall hold a public hearing upon such application and shall consider the effect of the proposed use upon the surrounding neighborhood, the community as a whole, and other matters relating to public health, safety, and general welfare.

(g) Planning Commission action. After holding at least one public hearing, the Planning Commission shall proceed to give final consideration to the application and may require that certain conditions be fulfilled by the applicant in conjunction with approval of the use permit applied for, and may include the requirement that applicant grant additional right of way in accordance with the Comprehensive Plan. The Planning Commission may require the execution of a written agreement with the city relating to the installation of public improvements by the applicant, together with the execution of performance bonds or provision of other appropriate surety relating thereto. The installation of all public improvements shall be accomplished in compliance with existing city standards as provided by ordinance or by departmental publications approved by resolution of the City Council. In the event the Planning Commission fails to act upon the application within sixty days from the date of referral, the applicant may appeal to the City Council requesting final action. If the City Council determines that the delay of the Planning Commission is unjustified, it shall direct the commission to act upon the application no later than the commission's next regularly scheduled meeting.

(h) Appeal of Planning Commission action. (1) Any aggrieved person or any person or group officially designated to participate in the administration of this title may appeal any action of the Planning Commission to the City Council by filing notice of appeal with the City Clerk within fourteen days following the action of the Planning Commission.

(2) Upon receipt of the appeal by the City Council, the council shall hold a public hearing thereon within thirty days from the date of appeal. Notice of the public hearing shall be given as provided in Chapter 27.81.

(3) In exercising its appellate jurisdiction, the action appealed from shall be deemed advisory and the City Council may, after public hearing, in conformity with the provisions of this title make such decision as ought to be made.

(i) Adjustment of yard requirements, height restrictions, and parking.

(1) Upon request of the applicant, the City Council may, after report and recommendation of the Planning Commission, decrease the minimum yard requirements and increase the maximum height restrictions and may adjust the requirements relative to the location of buildings and required parking spaces and lot frontage set forth in this chapter consistent with adequate protection of the environment of adjacent land uses.

(2) Upon request of the applicant, the City Council may, after report and recommendation of the Planning Commission, decrease the required parking set forth in this chapter and Chapter 27.67 if it is determined that the mix of uses or ownership patterns create situations where the applicability of a particular standard is not feasible.

(3) The Planning Commission shall hold a public hearing upon the requested adjustment at the same time that it hears the application for the use permit and shall make a report to the City Council regarding the effect the proposed use and adjustment has upon the surrounding neighborhood, the community as a whole, and other matters relating to public health, safety, and general welfare. Upon receiving a report from the Planning Commission, the City Council shall take final action upon the application for the use permit and the requested adjustment.

(j) Amendment. The Planning Director is authorized to approve amendments to any use permit granted under this section, including square footage of floor area and storage space in phases of development; provided, that:

(1) A request for amendment is filed with the Planning Director, together with any of the information specified in paragraph (f) above which is pertinent to the proposed amendment;

(2) Such amendment shall not violate any provisions of this title;

(3) Such amendment may provide for minor increases in total floor area and storage space originally permitted;

(4) There is no increase in the number of dwelling units;

(5) No reduction is made to the applicable setback or yard requirements;

(6) No public land is accepted;

(7) Such amendment shall not be contrary to the general purpose section as specified in paragraph (a) above;

(8) Any amendment not in conformance with this paragraph shall be submitted to the Planning Commission in the same manner as an original use permit.

(k) Building permits, certificates of occupancy and certificates of compliance. Upon the approval of a use permit as provided for under this section, building permits and certificates of occupancy may be issued. Certificates of compliance shall not be issued until there has been compliance with all conditions and subsequent amendments within each phase of development of a use permit.

(l) Preexisting uses. An existing use of a type permitted in this chapter which was lawfully

established in this district on the effective date of this title, and any enlargement or extension as permitted in this section, shall be deemed to have received a use permit as herein required and shall be provided with such permit by the Director of Building and Safety upon request, and shall not be a nonconforming use.

(m) If an application for a use permit located within a flood plain is granted approval by the city, it shall not be necessary for the applicant to make an application for a special permit to be approved by the City Council as required by Resolution Nos. A-55150, A-56382, and A-57540. It shall be presumed that the applicant has received all such approvals as may be required by the foregoing resolutions by virtue of the city granting approval to the use permit. (Ord. 18633 §4; October 24, 2005: prior Ord. 17857 §4; June 4, 2001: Ord. 16766 §5; April 10, 1995: Ord. 16284 §3; December 14, 1992: Ord. 15239 §3; August 7, 1989: Ord. 13528 §3; January 3, 1983: Ord. 13080 §1; January 12, 1981: Ord. 12751 §17; November 5, 1979: Ord. 12571 §227; May 8, 1979).

Chapter 27.39

H-1 INTERSTATE COMMERCIAL DISTRICT

Sections:

- 27.39.010 Scope of Regulations.
- 27.39.020 Permitted Uses.
- 27.39.030 Permitted Special Uses.
- 27.39.040 Accessory Uses.
- 27.39.050 Parking Regulations.
- 27.39.055 Pedestrian Circulation Regulations.
- 27.39.060 Sign Regulations.
- 27.39.065 Grading and Land Disturbance Regulations.
- 27.39.070 Height and Area Regulations.

This is a district located principally near the interstate highway, intended to serve highway travelers where hotels, service stations, garages, and restaurants should be available.

27.39.010 Scope of Regulations.

The regulations set forth in this chapter, or set forth elsewhere in this title when referred to in this chapter, are the regulations in the H-1 Interstate Commercial District. (Ord. 12571 §175; May 8, 1979).

27.39.020 Permitted Uses.

A building or premises shall be used only for the following purposes in the H-1 Interstate Commercial District:

- (a) Public or storage garages;
- (b) Restaurants;
- (c) Service stations;
- (d) Hotels and motels;
- (e) Dwelling for a caretaker employed and residing on the premises;
- (f) Wind energy conversion systems;
- (g) Truck stops. (Ord. 19197 §2; January 26, 2009; prior Ord. 19158 §37; October 20, 2008; Ord. 12571 §176; May 8, 1979).

27.39.030 Permitted Special Uses.

A building or premises may be used for the following purposes in the H-1 Interstate Commercial

District if a special permit for such use has been obtained in conformance with the requirements of Chapter 27.63:

- (a) Expansion of nonconforming uses;
- (b) Historic preservation;
- (c) Public utility purposes;
- (d) Wind energy conversion systems over the district height;
- (e) Cemeteries;
- (f) Sale of alcoholic beverages for consumption on the premises;
- (g) Broadcast towers;
- (h) Sale of alcoholic beverages for consumption off the premises;
- (i) Sexually oriented live entertainment establishments. (Ord. 19158 §38; October 20, 2008; prior Ord. 17731 §5; September 25, 2000; Ord. 17229 §1; August 11, 1997; Ord. 17070 §3; October 7, 1996; Ord. 16593 §5; April 11, 1994; Ord. 14780 §14; November 2, 1987; Ord. 14378 §12; May 5, 1986; Ord. 13588 §14; May 9, 1983; Ord. 12978 §19; August 25, 1980; Ord. 12894 §19; April 7, 1980; Ord. 12571 §177; May 8, 1979).

27.39.040 Accessory Uses.

Accessory uses permitted in the H-1 Interstate Commercial District are accessory buildings and uses customarily incident to the permitted uses. Hotels and motels may include as accessory uses dwellings for persons employed on the premises, and a shop or store for the sale of goods at retail primarily for the use of residents or guests of such hotel or motel when such uses are located entirely within the building with no separate entrance from the outside. Service stations may include, as accessory uses, tire recapping provided that there is no manufacturing on the premises and the floor area of the premises devoted to tire recapping and tire repairs does not exceed 4,000 square feet, and the temporary storage of not more than twenty vehicles impounded by state, county, or local law enforcement officials. (Ord. 16102 §1; April 27, 1992; prior Ord. 15009 §1; October 10, 1988; Ord. 12571 §178; May 8, 1979).

27.39.050 Parking Regulations.

All parking within the H-1 Interstate Commercial District shall be regulated in conformance with the provisions of Chapter 27.67. (Ord. 12571 §179; May 8, 1979).

27.39.055 Pedestrian Circulation Regulations.

Construction of on-site pedestrian circulation sidewalk systems shall be regulated in conformance with the provisions of Section 27.81.010. (Ord. 18687 §12; March 20, 2006).

27.39.060 Sign Regulations.

Signs within the H-1 Interstate Commercial District shall be regulated in conformance with the provisions of Chapter 27.69. (Ord. 12571 §180; May 8, 1979).

27.39.065 Grading and Land Disturbance Regulations.

Grading and land disturbance within the H-1 Interstate Commercial District shall be regulated in conformance with the provisions of Chapter 27.81. (Ord. 17618 §21; February 22, 2000.)

27.39.070 Height and Area Regulations.

The maximum height and minimum lot requirements within the H-1 Interstate Commercial District shall be as follows:

(a) General requirements:

[See Table 27.39.070(a) below]

(b) There shall be a required front yard on each street side of a double frontage lot.

(c) There shall be a required front yard on each street side of a corner lot; provided, however, that the

buildable width of a lot of record on November 2, 1953, need not be reduced to less than twenty-eight feet except where necessary to provide a required side yard of not less than five feet in place of one of the required front yards.

(d) Accessory buildings which are attached to or not located more than ten feet from the main structure shall be considered a part of the main structure and shall comply with the height and front, side, and rear yard requirements of the main structure. Accessory buildings not a part of the main structure may be located in the required rear yard, but such accessory buildings may not occupy more than thirty percent of the required rear yard and shall not be nearer than two feet to any side or rear lot line. Such detached accessory buildings shall not exceed fifteen feet in height. Accessory buildings not a part of the main structure, if located not less than sixty feet from the front lot line, may extend into the required side yard though not nearer than two feet to the side lot line. A garage which is entered from an alley shall not be located closer than ten feet to the alley line.

(e) Dwellings existing in this district on the effective date of this title shall be considered nonstandard uses in conformance with the provisions of Chapter 27.61. (Ord. 19030 §1; December 17, 2007; prior Ord. 18687 §13; March 20, 2006; Ord. 12751 §18; November 5, 1979; Ord. 12571 §181; May 8, 1979).

Table 27.39.070(a)

	Lot Area (Sq. ft.)	Avg. Lot Width	Req'd Front Yard	Req'd Side Yard	Req'd Rear Yard	Height
All permitted uses	5,000	50'	20'	5'	Smaller of 30'* or 20% of depth	55'**
* When a side or rear yard abuts a residential district, it shall be screened in conformance with design standards adopted by the City of Lincoln.						
** If the height of the building is over 45', that portion of the building in excess of 45' shall be required to have one additional foot of setback to any required side and/or rear yard abutting an R-1 through R-4 residential district for each one foot of building height in excess of 45'.						

Chapter 27.41

H-2 HIGHWAY BUSINESS DISTRICT

Sections:

- 27.41.010 Scope of Regulations.
- 27.41.020 Permitted Uses.
- 27.41.030 Permitted Conditional Uses.
- 27.41.040 Permitted Special Uses.
- 27.41.050 Accessory Uses.
- 27.41.060 Parking Regulations.
- 27.41.065 Pedestrian Circulation Regulations.
- 27.41.070 Sign Regulations.
- 27.41.075 Grading and Land Disturbance Regulations.
- 27.41.080 Height and Area Regulations.

This is a district for a redeveloping area intended to provide business and services oriented to major arterial streets. It provides for those uses usually found in neighborhood business areas, plus a limited number of additional uses, such as auto repair garages, mini-warehouses, and auto sales.

27.41.010 Scope of Regulations.

The regulations set forth in this chapter, or set forth elsewhere in this title when referred to in this chapter, are the regulations in the H-2 Highway Business District. (Ord. 12571 §182; May 8, 1979).

27.41.020 Permitted Uses.

A building or premises shall be permitted to be used for the following purposes in the H-2 Highway Business District:

- (a) Parks, playgrounds, and community buildings, owned or operated by a public agency;
- (b) Public libraries;
- (c) Public elementary and high schools, or private schools having a curriculum equivalent to a public elementary or public high school, and having no rooms regularly used for housing or sleeping purposes;
- (d) Churches;
- (e) Banks, savings and loan associations, credit unions, and finance companies;
- (f) Barber shops, beauty parlors, and shoeshine shops;
- (g) Private schools;

(h) Dwelling for a caretaker employed and residing on the premises;

(i) Hospitals and clinics for animals, but not open kennels;

(j) Messenger and telegraph stations;

(k) Office buildings;

(l) Restaurants;

(m) Undertaking establishments;

(n) Photography studios;

(o) Key shops;

(p) Ambulance services;

(q) Recreational facilities;

(r) Food storage lockers;

(s) Bakeries;

(t) Bottling works;

(u) Laundry, and drycleaning establishments, including laundromats, and receiving stores for drycleaning or laundry;

(v) Printing shops;

(w) Mini-warehouses;

(x) Optical lens grinding and finishing;

(y) Parking lots;

(z) Clubs;

(aa) Stores or shops for the sale of goods at retail, not otherwise permitted in this chapter, of no more than 20,000 square feet of floor area;

(bb) Enclosed commercial recreational facilities;

(cc) Service stations and automobile, motorcycle, bicycle, and home and office equipment, and appliance sales and repair, but not including vehicle body repair shops;

(dd) Mail order catalog sales;

(ee) Warehouses, provided that no storage bay shall exceed 600 square feet;

(ff) Wind energy conversion systems;

(gg) Domestic shelters. (Ord. 19190 §2; December 15, 2008; prior Ord. 19158 §39; October 20, 2008; Ord. 17362 §1; June 29, 1998; Ord. 16854 §34; August 14, 1995; Ord. 16144 §7; July 6, 1992; Ord. 14185 §9; September 3, 1985; Ord. 13736 §5; December 12, 1983; Ord. 12571 §183; May 8, 1979).

27.41.030 Permitted Conditional Uses.

A building or premises may be used for the following purposes in the H-2 Highway Business District in conformance with the conditions prescribed herein:

(a) Automobile/truck wash facility:

(1) Automatic, conveyor-operated: The length and location of vehicle stacking lane or lanes for the approach side or sides and the exit side or sides of the wash operation shall be in conformance with the

"guidelines and regulations for driveway design and location" as adopted by the City of Lincoln.

(2) Self-service, coin-operated: The wash facility shall not exceed six wash bays. The length and location of vehicle stacking lane or lanes for the approach side or sides and the exit side or sides of the wash operation shall be in conformance with the "guidelines and regulations for driveway design and location" as adopted by the City of Lincoln.

(b) Motels and hotels: A distance of at least twenty feet shall be maintained between buildings on the lot, and each hotel or motel unit shall have a minimum enclosed floor area of 200 square feet.

(c) Service facilities, including but not limited to repair and maintenance of home and office equipment, electrical appliances, radio and television sets, and rental equipment; and the places of business of plumbing, electrical, and heating and air conditioning contractors.

All storage and display of merchandise shall be screened from public view by a fence, walls, shrubs, material obstruction, or all such storage and display shall be within the enclosure walls of a building.

(d) Early childhood care facilities:

(1) Such facilities shall comply with all applicable state and local early childhood care requirements;

(2) Such facilities shall comply with all applicable building and life safety code requirements;

(3) Such facilities shall be fenced and have play areas that comply with the design standards for early childhood care facilities;

(4) Such facilities must receive a conditional use permit from the Department of Building and Safety.

(e) Recycling center:

(1) Building area of such center shall not exceed 8,000 square feet;

(2) Adequate traffic stacking shall be provided on site as determined by the city;

(3) All required parking shall be provided on site;

(4) The facility shall not be designed to receive nor shall it accept shipments by semi-trailer trucks;

(5) Construction and operation of such center shall comply with all applicable health and fire codes.

(f) Vehicle body repair shop:

(1) All salvage material including vehicles being salvaged shall be inside a building;

(2) All vehicles stored outside shall be repaired to an operating state within thirty days;

(3) All vehicles stored outside waiting repair shall be screened in accordance with the screening requirements for salvage and scrap processing operations;

(4) Construction and operation of such shop shall comply with all applicable health and fire codes;

(5) Vehicle body repair shops lawfully existing on the effective date of this ordinance shall have until January 1, 1987 to be brought into compliance with conditions (1), (2), (3), and (4) above.

(g) The storage of vehicles for sale and resale in the front yard:

(1) The storage of vehicles for sale and resale is permitted in the front yard except for the front twelve feet.

(2) Parking barriers in accordance with parking lot design standards must be provided around the storage/display area to prevent the vehicles stored/displayed for sale or resale from overhanging the front twelve feet of the front yard where vehicles are not permitted to be stored/displayed for sale or resale.

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

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

(5) The front twelve feet of the front yard not permitted to be used for the storage of vehicles for sale and resale shall not be used for customer or employee parking but shall be devoted to shrubs and grasses.

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

(7) No fence shall be erected in the front yard. Lighting shall be in conformance with the Design Standards for Outdoor Lighting.

(8) Any existing automobile sales facility lawfully established on the effective date of this ordinance which does not comply with conditions (1) through (7) above may be continued in accordance with the provisions of Chapter 27.61 for non-conforming uses.

(h) Indoor animal hospitals. Any building approved for such use must be located no closer than 200 feet from any residential district.

(i) Indoor kennel. Any building approved for such use must be located no closer than 200 feet from any residential district.

(j) Social halls:

(1) There shall be no amplified sound or noise source of any kind outside of the social hall;

(2) Except as provided in (ii) and (iii) below, any exterior door opening must meet the following conditions:

(i) Either be located at least 100 feet (as measured by the shortest, most direct distance) from a day care facility, church, state mental health institution, park (excluding golf courses and hiker/biker trails), or a residential district; provided that, if there is an intervening exterior wall of the building containing the social hall between the exterior door opening and such day care facility, church, state mental health institution, park (excluding golf courses and hiker/biker trails), then the 100 feet shall be measured from the exterior door opening, along the exterior base of the building wall(s) to the point where there is no intervening exterior building wall, and from that point the shortest, most direct distance to the day care facility, church, state mental health institution, park (excluding golf courses and hiker/biker trails), or residential district.

(ii) If the exterior door opening is less than 100 feet from a residential district, it must face the opposite direction from that district.

(iii) If the exterior door opening faces a residential district, then such opening shall be at least 150 feet from a residential district as measured by the shortest, most direct perpendicular distance. The exterior door shall not be kept or propped open during the hours of operation.

For purposes of this section, "exterior door opening" shall mean (a) that portion of the exterior wall face of the building containing the social hall that contains a break to accommodate the exterior building door, door frame, door vestibule, or door entryway

area; and (b) provides access to the social hall. "Exterior door opening" shall not apply to openings for emergency exit doors required by building or safety codes, loading doors or unloading doors that are not available for access in the ordinary course of business. (Ord. 19139 §1; Sept. 15, 2008: prior Ord. 18977 §6; Aug. 20, 2007: 18928 §14; June 4, 2007: Ord. 17979 §2; April 1, 2002: Ord. 16926 §4; Feb. 5, 1996: Ord. 16854 §35; Aug. 14, 1995: Ord. 14185 §10; Sept. 3, 1985: Ord. 13700 §1; Sept. 26, 1983: Ord. 13344 §4; March 29, 1982: Ord. 12571 §184; May 8, 1979).

27.41.040 Permitted Special Uses.

A building or premises may be used for the following purposes in the H-2 Highway Business District if a special permit for such use has been obtained in conformance with the requirements of Chapter 27.63:

- (a) Outdoor theaters;
- (b) Broadcast towers;
- (c) Excavation and stone milling;
- (d) Church steeples, towers, and ornamental spires exceeding the maximum permitted height of the H-2 Highway Business District;
- (e) Outdoor lighting for recreational facilities;
- (f) Expansion of nonconforming uses;
- (g) Historic preservation;
- (h) Public utilities purposes;
- (i) Wind energy conversion systems over the district height;
- (j) Cemeteries;
- (k) Sale of alcoholic beverages for consumption on the premises;
- (l) Sale of alcoholic beverages for consumption off the premises;
- (m) Sexually oriented live entertainment establishments;
- (n) Indoor animal hospitals;
- (o) Indoor kennels;
- (p) Any permitted use which exceeds the maximum height permitted in the district. (Ord. 19436 §1; August 23, 2010: prior Ord. 19224 §6; March 16, 2009: Ord. 19158 §40; October 20, 2008: Ord. 18928 §15; June 4, 2007: Ord. 17979 §3; April 1, 2002: Ord. 17731 §6; September 25, 2000: Ord. 17265 §3; October 20, 1997: Ord. 16593 §6; April 11, 1994: Ord. 14780 §15; November 2, 1987: Ord. 14378 §13; May 5, 1986: Ord. 13745 §4; January 3, 1984: Ord. 13588 §15; May 9, 1983: Ord. 12978 §20; August 25, 1980: Ord. 12894 §20; April 7, 1980: Ord. 12571 §185; May 8, 1979).

27.41.050 Accessory Uses.

Accessory uses permitted in the H-2 Highway Business District are accessory buildings and uses customarily incident to the permitted uses, including parking lots. (Ord. 12571 §186; May 8, 1979).

27.41.060 Parking Regulations.

All parking within the H-2 Highway Business District shall be regulated in conformance with the provisions of Chapter 27.67. (Ord. 12571 §187; May 8, 1979).

27.41.065 Pedestrian Circulation Regulations.

Construction of on-site pedestrian circulation sidewalk systems shall be regulated in conformance with the provisions of Section 27.81.010. (Ord. 18687 §14; March 20, 2006).

27.41.070 Sign Regulations.

Signs within the H-2 Highway Business District shall be regulated in conformance with the provisions of Chapter 27.69. (Ord. 12571 §188; May 8, 1979).

27.41.075 Grading and Land Disturbance Regulations.

Grading and land disturbance within the H-2 Highway Business District shall be regulated in conformance with the provisions of Chapter 27.81. (Ord. 17618 §22; February 22, 2000.)

27.41.080 Height and Area Regulations.

The maximum height and minimum lot requirements within the H-2 Highway Business District shall be as follows:

(a) General requirements:

(See Table 27.41.080(a) on next page)

(b) There shall be a required front yard on each street side of a double frontage lot.

(c) There shall be a required front yard on each street side of a corner lot; provided, however, that the buildable width of a lot of record on November 2, 1953, need not be reduced to less than twenty-eight feet except where necessary to provide a required side yard of not less than five feet in place of one of the required front yards.

(d) Accessory buildings which are attached to or not located more than ten feet from the main structure shall be considered a part of the main structure and shall comply with the height and front, side, and rear yard requirements of the main structure. Accessory buildings not a part of the main structure may be located in the required rear yard, but such accessory buildings may not occupy more than thirty percent of the required rear yard and shall not be nearer than two feet to any side or rear lot line. Such detached accessory buildings shall not exceed fifteen feet in height. Accessory buildings not a part of the main structure, if located not less than sixty feet from the front lot line, may extend into the required side yard though not nearer than two feet to the side lot line. A garage which is entered from an alley shall not be located closer than ten feet to the alley line.

(e) Dwellings existing in this district on the effective date of this title shall be considered nonstandard uses in conformance with the provisions of Chapter 27.61. (Ord. 19030 §2; December 17, 2007; prior Ord. 18687 §15; March 20, 2006; Ord. 12751 §19; November 5, 1979; Ord. 12571 §189; May 8, 1979).

Table 27.41.080(a)

	Lot Area (Sq. ft.)	Avg. Lot Width	Req'd Front Yard	Req'd Side Yard	Req'd Rear Yard	Height
All permitted uses	0	0'	20'	5', 20'* when abutting residential district	Smaller of 30* or 20% of depth	55**

* When a side or rear yard abuts a residential district, it shall be screened in conformance with the landscape design standards adopted by the City of Lincoln.

** If the height of the building is over 45', that portion of the building in excess of 45' shall be required to have one additional foot of setback to any required side and/or rear yard abutting an R-1 through R-4 residential district for each one foot of building height in excess of 45'.

Chapter 27.43

**H-3 HIGHWAY
COMMERCIAL DISTRICT**

Sections:

- 27.43.010 Scope of Regulations.**
- 27.43.020 Permitted Uses.**
- 27.43.030 Permitted Conditional Uses.**
- 27.43.040 Permitted Special Uses.**
- 27.43.050 Accessory Uses.**
- 27.43.060 Parking Regulations.**
- 27.43.065 Pedestrian Circulation Regulations.**
- 27.43.070 Sign Regulations.**
- 27.43.075 Grading and Land Disturbance Regulations.**
- 27.43.080 Height and Area Regulations.**

This is a district for a redeveloping area intended to provide for low-density commercial uses requiring high visibility and/or access from major highways. The uses permitted generally include those of the neighborhood and highway business areas.

27.43.010 Scope of Regulations.

The regulations set forth in this chapter, or set forth elsewhere in this title when referred to in this chapter, are the regulations in the H-3 Highway Commercial District. (Ord. 12571 §190; May 8, 1979).

27.43.020 Permitted Uses.

A building or premises shall be permitted to be used for the following purposes in the H-3 Highway Commercial District:

- (a) Parks, playgrounds, and community buildings, owned or operated by a public agency;
- (b) Public libraries;
- (c) Public elementary and high schools, or private schools having a curriculum equivalent to a public elementary or public high school, and having no rooms regularly used for housing or sleeping purposes;
- (d) Churches;
- (e) Nonprofit religious, educational, and philanthropic institutions;

- (f) Banks, savings and loan associations, credit unions and finance companies;
- (g) Barber shops, beauty parlors, and shoeshine shops;
- (h) Private schools;
- (i) Dwelling for a caretaker employed and residing on the premises;
- (j) Hospitals and clinics for animals, but not open kennels;
- (k) Messenger and telegraph stations;
- (l) Office buildings;
- (m) Restaurants;
- (n) Undertaking establishments;
- (o) Photography studios;
- (p) Key shops;
- (q) Ambulance services;
- (r) Recreational uses;
- (s) Food storage lockers;
- (t) Bakeries;
- (u) Bottling works;
- (v) Printing shops and photocopy centers;
- (w) Mini-warehouses;
- (x) Optical lens grinding and finishing;
- (y) Laundries, dyeing, and drycleaning establishments, including laundrettes, laundromats, and receiving stores for drycleaning or laundry;
- (z) Creameries;
- (aa) Sale barns;
- (bb) Warehouses;
- (cc) Outdoor theaters;
- (dd) Parking lots;
- (ee) Clubs;
- (ff) Service facilities, including but not limited to repair and maintenance of home and office equipment and appliances;
- (gg) Contractors' offices and storage yards, and lumber and coal yards;
- (hh) Stores or shops for the sale of goods at retail, not otherwise permitted in this chapter, of no more than 20,000 square feet of floor area;
- (ii) Enclosed commercial recreational facilities;
- (jj) Service stations and motorcycle, bicycle, home and office equipment, and appliance sales and repair but not including vehicle body repair shops;
- (kk) Mail order catalog sales;
- (ll) Wind energy conversion systems;
- (mm) Domestic shelters;
- (nn) Truck stops. (Ord. 19197 §3; January 26, 2009; prior Ord. 19190 §3; December 15, 2008; Ord. 19158 §41; October 20, 2008; Ord. 17311 §1; March

23, 1998: Ord. 16854 §36; August 14, 1995; Ord. 16144 §8; July 6, 1992: Ord. 14185 as amended by Ord. 14310; §1; January 27, 1986: Ord. 13736 §6; December 12, 1983: Ord. 12571 §191; May 8, 1979).

27.43.030 Permitted Conditional Uses.

A building or premises may be used for the following purposes in the H-3 Highway Commercial District in conformance with the conditions prescribed herein:

(a) Automobile/truck wash facility:

(1) Automatic, conveyor-operated: The length and location of vehicle stacking lane or lanes for the approach side or sides and the exit side or sides of the wash operation shall be in conformance with the "guidelines and regulations for driveway design and location" as adopted by the City of Lincoln.

(2) Self-service, coin-operated: The length and location of vehicle stacking lane or lanes for the approach side or sides and the exit side or sides of the wash operation shall be in conformance with the "guidelines and regulations for driveway design and location" as adopted by the City of Lincoln.

(b) Motels and hotels: A distance of at least twenty feet shall be maintained between buildings on the lot and each hotel or motel unit shall have a minimum enclosed floor area of 200 square feet.

(c) Early childhood care facilities:

(1) Such facilities shall comply with all applicable state and local early childhood care and building requirements;

(2) Such facilities shall comply with all applicable building and life safety code requirements;

(3) Such facilities shall be fenced and have play areas that comply with the design standards for early childhood care facilities;

(4) Such facilities must receive a conditional use permit from the Department of Building and Safety.

(d) Recycling center:

(1) Building area of such center shall not exceed 8,000 square feet;

(2) Adequate traffic stacking shall be provided on site as determined by the city;

(3) All required parking shall be provided on site;

(4) The facility shall not be designed to receive nor shall it accept shipments by semi-trailer trucks;

(5) Construction and operation of such center shall comply with all applicable health and fire codes.

(e) Vehicle body repair shop:

(1) All salvage material including vehicles being salvaged shall be inside a building;

(2) All vehicles stored outside shall be repaired to an operating state within thirty days;

(3) All vehicles stored outside waiting repair shall be screened in accordance with the screening requirements for salvage and scrap processing operations;

(4) Construction and operation of such shop shall comply with all applicable health and fire codes;

(5) Vehicle body repair shops lawfully existing on the effective date of this ordinance shall have until January 1, 1987 to be brought into compliance with conditions (1), (2), (3), and (4) above.

(6) Parking shall be provided in accordance with Section 27.67.066.

(7) Vehicle body repair shops shall not be converted to a permitted use unless all the parking requirements of Section 27.67.020 for such use are met.

(f) Truck and heavy equipment sales:

(1) Parking shall be provided in accordance with Section 27.67.066.

(2) Truck and heavy equipment sales shall not be converted to a permitted use unless all the parking requirements of Section 27.67.020 for such use are met.

(g) Farm machinery sales establishments:

(1) Parking shall be provided in accordance with Section 27.67.066.

(2) Farm machinery sales establishments shall not be converted to a permitted unless all the parking requirements of Section 27.67.020 for such use are met.

(h) Motor truck terminals:

(1) Parking shall be provided in accordance with Section 27.67.066.

(2) Motor truck terminals shall not be converted to a permitted use unless all the parking requirements of Section 27.67.020 for such use are met.

(i) Mobile home sales:

(1) Parking shall be provided in accordance with Section 27.67.066.

(2) Mobile home sales shall not be converted to a permitted use unless all the parking requirements of Section 27.67.020 for such use are met.

(j) Places of business of plumbing contractors, heating and air conditioning contractors, and cabinet shops:

(1) Parking shall be provided in accordance with Section 27.67.066.

(2) Said places of business shall not be converted to a permitted use unless all the parking requirements of Section 27.67.020 for such use are met.

(k) Automobile sales and repair, but not including vehicle body repair shops:

(1) Parking shall be provided in accordance with Section 27.67.066.

(2) The storage of vehicles for sale and resale is permitted in the front yard under the following conditions:

(i) The storage of vehicles for sale and resale is permitted in the front yard except for the front twelve feet.

(ii) Parking barriers in accordance with parking lot design standards must be provided around the storage/display area to prevent the vehicles stored/displayed for sale or resale from overhanging the front twelve feet of the front yard where vehicles are not permitted to be stored/displayed for sale or resale.

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

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

(3) The front twelve feet of the front yard not permitted to be used for the storage of vehicles for sale and resale shall not be used for customer or employee parking but shall be devoted to shrubs and grasses.

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

Entrance driveways shall be excluded from the required screen.

(5) No fence shall be erected in the front yard. Lighting in the front yard shall be in conformance with the Design Standards for Outdoor Lighting

(6) Any existing automobile sales facility lawfully established on the effective date of this ordinance which does not comply with conditions (1) through (5) above may be continued in accordance with the provisions of Chapter 27.61 for non-conforming uses.

(7) Automobile sales and repair shops shall not be converted to a permitted use unless all the parking requirements of Section 27.67.020 for such use are met.

(l) Assembly facilities, including but not limited to the assembly of equipment, instruments and appliances such as computers and musical instruments.

(1) Assembly facilities may include limited fabrication of finished parts to be used in such assembly.

(2) The floor area of such facilities shall not exceed 50,000 square feet.

(3) Parking shall be provided in accordance with Section 27.67.066.

(4) Assembly facilities shall not be converted to a permitted use unless all the parking requirements of Section 27.67.020 for such use are met.

(m) Indoor animal hospitals. Any building approved for such use must be located no closer than 200 feet from any residential district.

(n) Indoor kennel. Any building approved for such use must be located no closer than 200 feet from any residential district.

(o) Social halls:

(1) There shall be no amplified sound or noise source of any kind outside of the social hall;

(2) Except as provided in (ii) and (iii) below, any exterior door opening must meet the following conditions:

(i) Either be located at least 100 feet (as measured by the shortest, most direct distance) from a day care facility, church, state mental health institution, park (excluding golf courses and hiker/biker trails), or a residential district; provided that, if there is an intervening exterior wall of the building containing the social hall between the exterior door opening and such day care facility, church, state mental health institution, park (excluding golf courses

and hiker/biker trails), then the 100 feet shall be measured from the exterior door opening, along the exterior base of the building wall(s) to the point where there is no intervening exterior building wall, and from that point the shortest, most direct distance to the day care facility, church, state mental health institution, park (excluding golf courses and hiker/biker trails), or residential district.

(ii) If the exterior door opening is less than 100 feet from a residential district, it must face the opposite direction from that district.

(iii) If the exterior door opening faces a residential district, then such opening shall be at least 150 feet from a residential district as measured by the shortest, most direct perpendicular distance. The exterior door shall not be kept or propped open during the hours of operation.

For purposes of this section, "exterior door opening" shall mean (a) that portion of the exterior wall face of the building containing the social hall that contains a break to accommodate the exterior building door, door frame, door vestibule, or door entryway area; and (b) provides access to the social hall. "Exterior door opening" shall not apply to openings for emergency exit doors required by building or safety codes, loading doors or unloading doors that are not available for access in the ordinary course of business.

(p) Outdoor vehicle storage:

(1) Screening shall be in conformance with the requirements for screening open storage in Chapter 3.50 of the City of Lincoln Design Standards.

(2) There shall be no dismantling, wrecking, or disassembling of any vehicles.

(3) Vehicles may not be stacked upon each other.

(4) Parking shall be provided in accordance with Section 26.67.066(a). (Ord. 19389 §1; June 7, 2010: prior Ord. 19139 §2; September 15, 2008: Ord. 18977 §7; August 20, 2007: Ord. 18928 §16; June 4, 2007: Ord. 17979 §4; April 1, 2002: Ord. 17311 §2; March 23, 1998: Ord. 16926 §5; February 5, 1996: Ord. 16854 §37; August 14, 1995: Ord. 14185, as amended by Ord. 14310 §2; January 27, 1986: Ord. 13700 §2; September 26, 1983: Ord. 13344 §5; March 29, 1982: Ord. 12571 §192; May 8, 1979).

27.43.040 Permitted Special Uses.

A building or premises may be used for the following purposes in the H-3 Highway Commercial District if a special permit for such use has been obtained in conformance with the requirements of Chapter 27.63:

- (a) Excavation and stone milling;
- (b) Bulk storage of petroleum products;
- (c) Broadcast towers;
- (d) Church steeples, towers, and ornamental spires exceeding the maximum permitted height in the H-3 Highway Commercial District;
- (e) Outdoor lighting for recreational facilities;
- (f) Expansion of nonconforming use;
- (g) Historic preservation;
- (h) Stores and shops for retail sales and service which exceed 20,000 square feet of floor area;
- (i) Public utility purposes;
- (j) Wind energy conversion systems over the district height;
- (k) Small batch concrete dispensing units;
- (l) Health care facilities;
- (m) Cemeteries;
- (n) Sale of alcoholic beverages for consumption on the premises;
- (o) Sale of alcoholic beverages for consumption off the premises;
- (p) Limited landfills;
- (q) Sexually oriented live entertainment establishments;
- (r) Indoor animal hospitals;
- (s) Indoor kennels;
- (t) Outdoor exercise area associated with an indoor animal hospital or indoor kennel;
- (u) Any permitted use which exceeds the maximum height permitted in the district. (Ord. 19436 §2; August 23, 2010: prior Ord. 19224 §7; March 16, 2009: Ord. 19158 §42; October 20, 2008: Ord. 18928 §17; June 4, 2007: Ord. 17979 §5; April 1, 2002: Ord. 17731 §7; September 25, 2000: Ord. 17265 §4; October 20, 1997: Ord. 16941 §1; February 26, 1996: Ord. 16593 §7; April 11, 1994: Ord. 14780 §16; November 2, 1987: Ord. 13865, 13866, amended by Ord. 14378 §14; May 5, 1986: Ord. 13588 §16; May 9, 1983: Ord. 12978 §21; August 25, 1980: Ord. 12984 §21; April 7, 1980: Ord. 12657 §6; August 6, 1979: Ord. 12571 §193; May 8, 1979).

27.43.050 Accessory Uses.

Accessory uses permitted in the H-3 Highway Commercial District are accessory buildings and uses customarily incident to the permitted uses, including parking lots. (Ord. 12571 §194; May 8, 1979).

27.43.060 Parking Regulations.

All parking within the H-3 Highway Commercial District shall be regulated in conformance with the provisions of Chapter 27.67. (Ord. 12571 §195; May 8, 1979).

27.43.065 Pedestrian Circulation Regulations.

Construction of on-site pedestrian circulation sidewalk systems shall be regulated in conformance with the provisions of Section 27.81.010. (Ord. 18687 §16; March 20, 2006).

27.43.070 Sign Regulations.

Signs within the H-3 Highway Commercial District shall be regulated in conformance with the provisions of Chapter 27.69. (Ord. 12571 §196; May 8, 1979).

27.43.075 Grading and Land Disturbance Regulations.

Grading and land disturbance within the H-3 Highway Commercial District shall be regulated in conformance with the provisions of Chapter 27.81. (Ord. 17618 §23; February 22, 2000).

27.43.080 Height and Area Regulations.

The maximum height and minimum lot requirements within the H-3 Highway Commercial District shall be as follows:

(a) General requirements:

[See Table 27.43.080(a) below]

(b) There shall be a required front yard on each street side of a double frontage lot.

(c) There shall be a required front yard on each street side of a corner lot; provided, however, that the

buildable width of a lot of record on November 2, 1953, need not be reduced to less than twenty-eight feet except where necessary to provide a required side yard of not less than five feet in place of one of the required front yards.

(d) Accessory buildings which are attached to or not located more than ten feet from the main structure shall be considered a part of the main structure and shall comply with the height and front, side, and rear yard requirements of the main structure. Accessory buildings not a part of the main structure may be located in the required rear yard, but such accessory buildings may not occupy more than thirty percent of the required rear yard and shall not be nearer than two feet to any side or rear lot line. Such detached accessory buildings shall not exceed fifteen feet in height. Accessory buildings not a part of the main structure, if located not less than sixty feet from the front lot line, may extend into the required side yard though not nearer than two feet to the side lot line. A garage which is entered from an alley shall not be located closer than ten feet to the alley line.

(e) Dwellings existing in this district on the effective date of this title shall be considered non-standard uses in conformance with the provisions of Chapter 27.61. (Ord. 19030 §3; December 17, 2007; prior Ord. 18687 §17; March 20, 2006; Ord. 12751 §20; November 5, 1979; Ord. 12657 §7; August 6, 1979; Ord. 12571 §197; May 8, 1979).

Table 27.43.080(a)

	Lot Area (Sq. ft.)	Avg. Lot Width	Req'd Front Yard	Req'd Side Yard	Req'd Rear Yard	Height
All permitted uses	0	0'	20'	Smaller of 15' or 10% of lot width, min. 5'; 20' when abutting residential district	Smaller of 30'* or 20% of depth	55'**
*	When a side or rear yard abuts a residential district, it shall be screened in conformance with the landscape design standards adopted by the City of Lincoln.					
**	If the height of the building is over 45', that portion of the building in excess of 45' shall be required to have one additional foot of setback to any required side and/or rear yard abutting an R-1 through R-4 residential district for each one foot of building height in excess of 45'.					

Chapter 27.45

H-4 GENERAL COMMERCIAL DISTRICT

Sections:

- 27.45.010 Scope of Regulations.
- 27.45.020 Permitted Uses.
- 27.45.025 Permitted Conditional Uses.
- 27.45.030 Permitted Special Uses.
- 27.45.040 Accessory Uses.
- 27.45.050 Parking Regulations.
- 27.45.055 Pedestrian Circulation Regulations.
- 27.45.060 Sign Regulations.
- 27.45.065 Grading and Land Disturbance Regulations.
- 27.45.070 Height and Area Regulations.

This district is intended to provide a developing area for low-density commercial uses, requiring high visibility and access from major highways. The permitted uses should be planned to reduce internal conflicts and conflicts with surrounding uses. This district is specifically tailored to provide for certain general commercial uses as stated in the comprehensive plan.

27.45.010 Scope of Regulations.

The regulations set forth in this chapter, or set forth elsewhere in this title when referred to in this chapter, are the regulations in the H-4 General Commercial District. (Ord. 12571 §198; May 8, 1979).

27.45.020 Permitted Uses.

H-4 General Commercial District zoning shall not be permitted or granted upon any property having a total area of less than five acres. A building or premises shall be permitted to be used for the following purposes in the H-4 General Commercial District:

- (a) Automobile, motorcycle, truck, and heavy equipment sales;
- (b) Commercial storage or sale of farm implements and products used for agriculture, but not including fertilizer, or toxic or flammable agricultural chemicals;
- (c) Lumber yards;
- (d) Warehouses;
- (e) Mini-warehouses;

(f) Service centers for the repair of machinery and equipment, but not including salvage or scrap processing operations;

- (g) Truck terminals;
- (h) Dwellings for caretakers employed and required to reside on the premises;
- (i) Ambulance service;
- (j) Outdoor theaters;
- (k) Hospitals and clinics for animals but not open kennels;
- (l) Sale barns;
- (m) Contractors' offices and storage, including electrical, plumbing, heating, and air conditioning contractors;
- (n) Restaurants;
- (o) Service stations;
- (p) Truck stops;
- (q) Mobile home sales;
- (r) Auctions;
- (s) Stores or shops for retail sales and service, not to exceed 30,000 square feet of floor area;
- (t) Food storage lockers;
- (u) Enclosed commercial recreational facilities;
- (v) Banks, savings and loan associations, credit unions, and finance companies;
- (w) Mail order catalog sales;
- (x) Churches;
- (y) Wind energy conversion systems;
- (z) Domestic shelters;
- (aa) Office buildings. (Ord. 19325 §1; November 2, 2009; prior Ord. 19190 §4; December 15, 2008; Ord. 19158 §43; October 20, 2008; Ord. 19064 §1; March 24, 2008; Ord. 17436 §1; November 16, 1998; Ord. 16144 §9; July 6, 1992; Ord. 16128 §1; June 8, 1992; Ord. 14185 §13; September 3, 1985; Ord. 13736 §7; December 12, 1983; Ord. 12657 §8; August 6, 1979; Ord. 12571 §199; May 8, 1979).

27.45.025 Permitted Conditional Uses.

A building or premises may be used for the following purposes in the H-4 General Commercial District in conformance with the conditions prescribed herein:

- (a) Indoor animal hospitals. Any building approved for such use must be located no closer than 200 feet from any residential district.
- (b) Indoor kennel. Any building approved for such use must be located no closer than 200 feet from any residential district.
- (c) Social halls:
 - (1) There shall be no amplified sound or noise source of any kind outside of the social hall;

(2) Except as provided in (ii) and (iii) below, any exterior door opening must meet the following conditions:

(i) Either be located at least 100 feet (as measured by the shortest, most direct distance) from a day care facility, church, state mental health institution, park (excluding golf courses and hiker/biker trails), or a residential district; provided that, if there is an intervening exterior wall of the building containing the social hall between the exterior door opening and such day care facility, church, state mental health institution, park (excluding golf courses and hiker/biker trails), then the 100 feet shall be measured from the exterior door opening, along the exterior base of the building wall(s) to the point where there is no intervening exterior building wall, and from that point the shortest, most direct distance to the day care facility, church, state mental health institution, park (excluding golf courses and hiker/biker trails), or residential district.

(ii) If the exterior door opening is less than 100 feet from a residential district, it must face the opposite direction from that district.

(iii) If the exterior door opening faces a residential district, then such opening shall be at least 150 feet from a residential district as measured by the shortest, most direct perpendicular distance. The exterior door shall not be kept or propped open during the hours of operation.

For purposes of this section, "exterior door opening" shall mean (a) that portion of the exterior wall face of the building containing the social hall that contains a break to accommodate the exterior building door, door frame, door vestibule, or door entryway area; and (b) provides access to the social hall. "Exterior door opening" shall not apply to openings for emergency exit doors required by building or safety codes, loading doors or unloading doors that are not available for access in the ordinary course of business.

(d) Outdoor vehicle storage:

(1) Screening shall be in conformance with the requirements for screening open storage in Chapter 3.50 of the City of Lincoln Design Standards.

(2) There shall be no dismantling, wrecking, or disassembling of any vehicles.

(3) Vehicles may not be stacked upon each other.

(4) Parking shall be provided in accordance with Section 26.67.066(a). (Ord. 19389 §2; June 7,

2010: prior Ord. 18977 §8; August 20, 2007: Ord. 18928 §18; June 4, 2007).

27.45.030 Permitted Special Uses.

A building or premises may be used for the following purposes in the H-4 General Commercial District if a special permit for such use has been obtained in conformance with the requirements of Chapter 27.63:

- (a) Excavation and stone milling;
- (b) Bulk storage of petroleum products;
- (c) Stores and shops for retail sales and service of more than 30,000 but less than 100,000 square feet in floor area;
- (d) Any permitted use which exceeds the maximum height permitted in the district;
- (e) Facilities for the commercial storage or sale of fertilizer, or toxic or flammable agricultural chemicals;
- (f) Broadcast towers;
- (g) Expansion of nonconforming use;
- (h) Historic preservation;
- (i) Public utility purposes;
- (j) Wind energy conversion systems over the district height;
- (k) Planned service commercial development;
- (l) Small batch concrete dispensing units;
- (m) Cemeteries;
- (n) Sale of alcoholic beverages for consumption on the premises;
- (o) Sale of alcoholic beverages for consumption off the premises;
- (p) Early childhood care facilities;
- (q) Sexually oriented live entertainment establishments;
- (r) Indoor animal hospitals;
- (s) Indoor kennels;
- (t) Outdoor exercise area associated with an indoor animal hospital or indoor kennel. (Ord. 19224 §8; March 16, 2009: prior Ord. 19158 §44; October 20, 2008: Ord. 18928 §19; June 4, 2007: Ord. 17731 §8; September 25, 2000: Ord. 16894 §1; November 6, 1995: Ord. 16854 §38; August 14, 1995: Ord. 16593 §8; April 11, 1994: Ord. 14780 §17; November 2, 1987: Ord. 14378 §15; May 5, 1986: Ord. 13865 §2; June 18, 1984: Ord. 13588 §17; May 9, 1983: Ord. 13510 §1; Dec. 13, 1982: Ord. 12978 §22; Aug. 25, 1980: Ord. 12894 §22; April 7, 1980: Ord. 12657 §9; Aug. 6, 1979: Ord. 12571 §200; May 8, 1979).

27.45.040 Accessory Uses.

Accessory uses permitted in the H-4 General Commercial District are accessory buildings and uses customarily incident to the permitted uses, including parking lots. (Ord. 12571 §201; May 8, 1979).

27.45.050 Parking Regulations.

All parking within the H-4 General Commercial District shall be regulated in conformance with the provisions of Chapter 27.67. (Ord. 12571 §202; May 8, 1979).

27.45.055 Pedestrian Circulation Regulations.

Construction of on-site pedestrian circulation sidewalk systems shall be regulated in conformance with the provisions of Section 27.81.010. (Ord. 18687 §18; March 20, 2006).

27.45.060 Sign Regulations.

Signs within the H-4 General Commercial District shall be regulated in conformance with the provisions of Chapter 27.69. (Ord. 12571 §203; May 8, 1979).

27.45.065 Grading and Land Disturbance Regulations.

Grading and land disturbance within the H-4 General Commercial District shall be regulated in conformance with the provisions of Chapter 27.81. (Ord. 17618 §24; February 22, 2000).

27.45.070 Height and Area Regulations.

The maximum height and minimum lot requirements within the H-4 General Commercial District shall be as follows:

(a) General requirements:

(See Table 27.45.070(a) at the end of this chapter)

(b) There shall be a required front yard on each street side of a double frontage lot.

(c) There shall be a required front yard on each street side of a corner lot; provided, however, that the buildable width of a lot of record on November 2, 1953, need not be reduced to less than twenty-eight feet except where necessary to provide a required side yard of not less than five feet in place of one of the required front yards.

(d) The required front yard shall be entirely landscaped except for necessary paving of walkways and driveways to reach parking and loading areas, provided that any driveways in the front yard shall be substantially perpendicular to the street and shall not be wider than thirty feet.

(e) Accessory buildings which are attached to or not located more than ten feet from the main structure shall be considered a part of the main structure and shall comply with the height and front, side, and rear yard requirements of the main structure. Accessory buildings not a part of the main structure may be located in the required rear yard if such yard does not abut a residential district, but such accessory buildings may not occupy more than thirty percent of the required rear yard and shall not be nearer than two feet to any side or rear lot line. Such detached accessory buildings shall not exceed fifteen feet in height. Accessory buildings not a part of the main structure, if located not less than sixty feet from the front lot line, may extend into the required side yard though not nearer than two feet to the side lot line. A garage which is entered from an alley shall not be located closer than ten feet to the alley line.

(f) Dwellings existing in this district on the effective date of this title shall be considered nonstandard uses in conformance with the provisions of Chapter 27.61. (Ord. 19030 §4; December 17, 2007; prior Ord. 18687 §19; March 20, 2006; Ord. 18583 §1; August 1, 2005; Ord. 12751 §21; November 5, 1979; Ord. 12571 §204; May 8, 1979).

Table 27.45.070(a)						
	Lot Area (Sq. ft.)	Frontage	Req'd Front Yard	Req'd Side Yard	Req'd Rear Yard	Height
All permitted uses	15,000	75'	20'	20'; 50'* if abutting residential district	20'; 50'* if abutting residential district	45'
<p>* When a side or rear yard abuts a residential district, it shall be screened in conformance with the landscape design standards adopted by the City of Lincoln.</p> <p>** If the height of the building is over 45', that portion of the building in excess of 45' shall be required to have one additional foot of setback to any required side and/or rear yard abutting an R-1 through R-4 residential district for each one foot of building height in excess of 45'.</p>						

Chapter 27.47

I-1 INDUSTRIAL DISTRICT

Sections:

- 27.47.010 Scope of Regulations.
- 27.47.020 Use Regulations.
- 27.47.030 Permitted Special Uses.
- 27.47.035 Permitted Conditional Uses.
- 27.47.040 Accessory Uses.
- 27.47.050 Parking Regulations.
- 27.47.055 Pedestrian Circulation Regulations.
- 27.47.060 Sign Regulations.
- 27.47.065 Grading and Land Disturbance Regulations.
- 27.47.070 Height and Area Regulations.

This district is for a developing stable or redeveloping area representing light and heavy industrial uses and having a relatively high intensity of use and land coverage. (Ord. 12701 §6; October 2, 1979; prior Ord. 12571 §235; May 8, 1979).

27.47.010 Scope of Regulations.

The regulations set forth in this chapter, or set forth elsewhere in this title when referred to in this chapter, are the I-1 Industrial District regulations. (Ord. 12571 §236; May 8, 1979).

27.47.020 Use Regulations.

(a) General regulations. No building shall be erected, converted, reconstructed, or structurally altered for use as a library, school (except a private school authorized pursuant to Section 27.63.075), hospital, indoor theater, or residence, except for resident watchmen and caretakers or supervisory personnel employed and residing on the premises or as permitted in accordance with Chapter 27.63 of this title. Those special permitted uses in Section 27.47.030 below shall be limited by the restrictions placed thereon.

(b) Permitted uses. Subject to the foregoing, a building or premises may be used for any commercial or industrial purpose not in conflict with any other ordinances or regulations of the City of Lincoln. (Ord. 18438 §1; September 20, 2004; prior Ord. 16909 §1; December 18, 1995; Ord. 15368 §14; December 18,

1989: Ord. 15165 §1; May 1, 1989: Ord. 14728 §1; August 10, 1987: Ord. 13745 §5; January 3, 1984: Ord. 12571 §237; May 8, 1979).

27.47.030 Permitted Special Uses.

A building or premises may be used for the following purposes in the I-1 Industrial District if a special permit for such use has been obtained in conformance with the requirements of Chapter 27.63:

- (a) The refining, distillation or manufacture of:
 - (1) Acids or alcohols;
 - (2) Ammonia, bleach, or chlorine;
 - (3) Asphalt, tar, or products made therewith, including roofing or waterproofing;
 - (4) Cement, lime, gypsum, or plaster of paris;
 - (5) Disinfectants;
 - (6) Dyestuffs;
 - (7) Fertilizer;
 - (8) Glue, sizing, or gelatin;
 - (9) Oilcloth, linoleum, or oiled rubber goods;
 - (10) Paint, shellac, turpentine, or oils;
 - (11) Rubber, gutta-percha, balata, creosote, or products treated therewith;
 - (12) Shoe polish;
- (b) The operation of:
 - (1) Bag cleaning works;
 - (2) Blast furnaces, coke ovens, smelting or ore reduction works;
 - (3) Boiler works;
 - (4) Forge;
 - (5) Rock crusher;
 - (6) Rolling mill;
 - (7) Yeast plant;
- (c) Production, manufacture, distribution, and storage of toxic, radioactive, flammable, or explosive materials, including chemicals and gases, fireworks, and explosives, except that any of the above referenced uses, except fireworks, may be stored or used in connection with a permitted commercial, business, or industrial purpose as allowed by Section 27.47.020(b) as incidental to the referenced permitted use without the requirement of obtaining a special permit;
- (d) Tanning, curing, or storage of raw hides or skins; stockyards or slaughter of animals or fowl; rendering fat; distillation of bones, coal or wood;
- (e) Dumping or reduction of garbage, offal, or dead animals;

(f) Scrap processing operation, salvage yard, or enclosed disassembly operation in conformance with Section 27.63.500;

(g) Refining or bulk storage of petroleum or natural gas, or their products;

(h) The manufacture of acetylene, the transfer of the gas from one container to another, or the storage of the gas in containers having a capacity greater than the equivalent of 1,000 cubic feet at standard temperature and pressure;

(i) Stores and shops for retail sales and service exceeding 20,000 square feet in floor area;

(j) Any permitted use which exceeds the maximum height permitted in the district;

(k) Broadcast towers;

(l) Outdoor theaters;

(m) Excavation and stone milling;

(n) Expansion of nonconforming uses;

(o) Historic preservation;

(p) Technical training centers;

(q) Wind energy conversion systems over the district height;

(r) Temporary shelter for the homeless;

(s) Health care facilities;

(t) Early childhood care facilities;

(u) Limited landfills;

(v) Race tracks for motorized vehicles;

(w) Sale of alcoholic beverages for consumption on the premises;

(x) Sale of alcoholic beverages for consumption off the premises;

(y) Private schools in conformance with Section 27.63.075;

(z) Sexually oriented live entertainment establishments. (Ord. 19224 §9; March 16, 2009; prior Ord. 19158 §45; October 20, 2008: Ord. 18903 §4; March 26, 2007: Ord. 17731 §9; September 25, 2000: Ord. 16909 §2; December 18, 1995: Ord. 16884 §1; October 23, 1995: Ord. 16854 §39; August 14, 1995: Ord. 16593 §9; April 11, 1994: Ord. 15368 §15; December 18, 1989: Ord. 15165 §2; May 1, 1989: Ord. 14953 §2; August 22, 1988: Ord. 14905 §2; June 13, 1988: Ord. 14780 §18; November 2, 1987: Ord. 14728 §2; August 10, 1987: Ord. 14185 §14; September 3, 1985: Ord. 14035 §2; January 21, 1985: Ord. 13853 §5; May 21, 1984: Ord. 13588 §18; May 9, 1983: Ord. 12978 §23; August 25, 1980: Ord. 12657 §10; August 6, 1979: Ord. 12571 §238; May 8, 1979).

27.47.035 Permitted Conditional Uses.

A building or premises may be used for the following purposes in the I-1 Industrial District in conformance with the conditions prescribed herein:

(a) Recycling center, authorized by Chapter 5.41 of the Lincoln Municipal Code:

(1) The building area of such center shall not exceed 8,000 square feet;

(2) Adequate traffic stacking shall be provided on site as determined by the city;

(3) All required parking shall be provided on site;

(4) The facility shall not be designed to receive nor shall it accept shipments by semi-trailer trucks;

(5) Construction and operation of such center shall comply with all applicable health and fire codes.

(b) Vehicle body repair shop:

(1) All salvage material including vehicles being salvaged shall be kept inside a building;

(2) All vehicles stored outside a building shall be repaired to an operating state within thirty days;

(3) All vehicles stored outside a building waiting repair shall be screened in accordance with the screening requirements for salvage and scrap processing operations;

(4) Construction and operation of such shop shall comply with all applicable health and fire codes;

(5) Vehicle body repair shops lawfully existing on the effective date of this ordinance shall have until January 1, 1987 to be brought into compliance with conditions (1), (2), (3), and (4) above.

(c) Church:

(1) The church shall develop an emergency response plan to the satisfaction of the Health Department, both written and drawn, including a house-in-place scenario and an off-site evacuation. The Health Department may provide technical assistance in this matter.

(2) The church shall, within 48 hours of becoming aware that quantities of hazardous materials requiring a permit under Section 19.03.100 of the Lincoln Municipal Code are being stored, transported, dispensed, used, or handled on property within 300 feet of the building area being used for the church,

notify the Health Department of such condition. Following such notification, the church shall, in cooperation and consultation with the Health Department, attempt to work with the owner of property upon which such hazardous materials are being stored, transported, dispensed, used or handled to arrive at a means to assure the health, safety, and welfare of persons using the church's property. The church shall further cooperate with the Health Department in determining measures which may be taken on the church's property to protect the health safety, and welfare of persons using the church's property, including, but not limited to, establishment of training programs for employees to assure detection of hazardous materials and evacuation of the premises, installation of filtration systems in the HVAC system of the building, or other precautionary measures.

(3) The electrical breaker switch of the heating, ventilation and air conditioning (HVAC) system shall be clearly marked and readily accessible at all times to the church's staff or the church shall equip the building with not more than two emergency shut-off switches so the HVAC system can be immediately shut down in the case of a hazardous chemical spill in the area to the satisfaction of the Health Department. The shut-off switch shall be located so that it is easily accessible at all times to the church's staff. The church's staff shall be trained on how to locate and operate the electrical breaker switch or the emergency shut-off switch. (Ord. 18438 §2; September 20, 2004; prior Ord. 16822 §2; July 10, 1995; Ord. 14185 §15; September 3, 1985; Ord. 13700 §3; September 26, 1983).

27.47.040 Accessory Uses.

Accessory uses permitted in the I-1 Industrial District are accessory buildings and uses customarily incident to the permitted uses, except that early childhood care facilities and schools are not a permitted accessory use to a church in the I-1 Industrial District. (Ord. 18438 §3; September 20, 2004; prior Ord. 12571 §239; May 8, 1979).

27.47.050 Parking Regulations.

All parking within the I-1 Industrial District shall be regulated in conformance with the provisions of Chapter 27.67. (Ord. 12571 §240; May 8, 1979).

27.47.055 Pedestrian Circulation Regulations.

Construction of on-site pedestrian circulation sidewalk systems shall be regulated in conformance with the provisions of Section 27.81.010. (Ord. 18687 §20; March 20, 2006).

27.47.060 Sign Regulations.

Signs within the I-1 Industrial District shall be regulated in conformance with the provisions of Chapter 27.69. (Ord. 12571 §241; May 8, 1979).

27.47.065 Grading and Land Disturbance Regulations.

Grading and land disturbance within the I-1 Industrial District shall be regulated in conformance with the provisions of Chapter 27.81. (Ord. 17618 §25; February 22, 2000.)

27.47.070 Height and Area Regulations.

The maximum height and minimum lot requirements within the I-1 Industrial District shall be as follows:

(a) The required front yard shall be fifteen feet except that on lots developed with buildings on the effective date of this title, the front yard shall be none except where the frontage on one side of a street between two intersecting streets is located partly in the I-1 Industrial District and partly in a district that requires a front yard, in which case the front yard requirements of the adjacent district shall apply to the I-1 Industrial District from the place where it abuts the other district to the next intersecting street, or for 300 feet, whichever is less.

(b) There shall be no required side and rear yards except when a side or rear yard abuts a residential district, in which case there shall be a required yard of twenty feet or ten percent of the lot width, whichever is less, provided the yard shall not be reduced to less than five feet, and it shall be screened in conformance with the landscape design standards of the City of Lincoln.

(c) The maximum height in the district shall be seventy-five feet.

(d) Accessory buildings shall not extend into any required yard.

(e) Dwellings existing in this district on the effective date of this title shall be considered non-standard uses in conformance with the provisions of Chapter 27.61.

(f) There shall be a required front yard on each street side of a double frontage lot.

(g) There shall be a required front yard on each street side of a corner lot; provided, however, that the buildable width of a lot of record on November 2, 1953, need not be reduced to less than twenty-eight feet except where necessary to provide a required side yard of not less than five feet in place of one of the required front yards.

(h) The required front yard shall be entirely devoted to landscaped area except for necessary paving of walkways and driveways to reach parking and loading areas, and provided, further, that any driveways in the front yard shall be substantially perpendicular to the street and shall not be wider than thirty feet. (Ord. 18687 §21; March 20, 2006; prior Ord. 12571 §242; May 8, 1979).

Chapter 27.49

I-2 INDUSTRIAL PARK DISTRICT

Sections:

- 27.49.010 Scope of Regulations.
- 27.49.020 Use Regulations.
- 27.49.030 Permitted Conditional Uses.
- 27.49.040 Permitted Special Uses.
- 27.49.050 Accessory Uses.
- 27.49.060 Parking Regulations.
- 27.49.070 Sign Regulations.
- 27.49.075 Grading and Land Disturbance Regulations.
- 27.49.080 Height and Area Regulations.

This district is for a developing area intended for manufacturing and industrial uses in an open and environmentally attractive atmosphere.

27.49.010 Scope of Regulations.

The regulations set forth in this chapter, or set forth elsewhere in this title when referred to in this chapter, are the regulations in the I-2 Industrial Park District. (Ord. 12571 §243; May 8, 1979).

27.49.020 Use Regulations.

(a) General regulations.

(1) No building shall be erected, converted, reconstructed, or structurally altered for library, school, except industrial trade school, hospital, theater, or residential purposes, except for motels, or for resident foremen, caretakers, or supervisory personnel employed and residing on the premises.

(2) No raw galvanized or other raw metal sheeting shall be used for the exterior construction of any building.

(3) Scrap processing operations and salvage yards shall not be permitted.

(4) Storage of explosives shall be prohibited.

(5) No floor area which is used for the retail sale of goods, excluding eating facilities, shall be permitted except at the rate of twelve and one-half square feet per acre of I-2 Industrial Park zoned land located within any single I-2 Industrial Park District at

the time the required acreage is at least fifty percent occupied for permitted industrial uses.

(6) Those special and conditional uses permitted in Sections 27.49.030 and 27.49.040 below shall be limited by the restrictions placed thereon.

(b) Permitted uses. Subject to the general regulations of Section 27.49.020(a) above, any commercial or industrial use is permitted in the I-2 Industrial Park District in compliance with all applicable ordinances and regulations including but not limited to the environmental performance standards relating to noise, emission, dust, odor, glare, and heat approved by resolution of City Council. (Ord. 18438 §4; September 20, 2004; prior Ord. 15368 §16; December 18, 1989; Ord. 14185, as amended by Ord. 14192 §1; September 3, 1985; Ord. 13745 §6; January 3, 1984; Ord. 12571 §244; May 8, 1979).

27.49.030 Permitted Conditional Uses.

A building or premises may be used for the following purposes in the I-2 Industrial Park District in conformance with the conditions prescribed herein:

(a) Fuel oil storage tanks and all bulk storage of oils, petroleum and similar flammable liquids and chemicals:

(1) Shall be adequately screened from public view;

(2) Shall be for storage of such materials for use on the premises and not for resale, except that resale of such stored material at retail only shall be permitted in conjunction with the operation of a service station or similar retail outlet;

(3) Shall be located, constructed, maintained, and operated in compliance with all codes and regulations of the City of Lincoln.

(b) Liquefied petroleum gas and similar gas used for fuel stored above ground:

(1) Tanks may not exceed 30,000 gallon capacity;

(2) Such gas shall be for use on the premises, and not for resale;

(3) Such tanks shall be adequately screened from public view by a fire-resistant ventilated barrier which shall be at least six feet in height;

(4) Must be in full compliance with all codes and regulations of the City of Lincoln;

(c) All other combustible material: To be stored in such a way as to permit free access of fire-fighting equipment.

(d) Open storage of any other material: Only in areas enclosed or otherwise adequately screened from public view with an enclosure or screen at least six feet in height.

(e) Neighborhood recycling center:

(1) Building area of such center shall not exceed 8,000 square feet;

(2) There shall be no outdoor storage of materials or equipment;

(3) The operation of such center shall not include dismantling or disassembling of vehicles or major appliances;

(4) No hazardous or explosive materials shall be accepted at such center;

(5) Adequate traffic stacking shall be provided on site as determined by the city;

(6) All required parking shall be provided on site;

(7) There shall be no processing of materials by heat, including, but not limited to, melting, smelting, or burning;

(8) The facility shall not be designed to receive nor shall it accept shipments by semi-trailer trucks;

(9) Construction and operation of such center shall comply with all applicable health and fire codes.

(f) Vehicle body repair shop:

(1) All salvage material, including vehicles being salvaged, shall be inside a building;

(2) All vehicles stored outside shall be repaired to an operating state within thirty days;

(3) All vehicles stored outside waiting repair shall be screened in accordance with the screening requirements for salvage and scrap processing operations;

(4) Construction and operation of such shop shall comply with all applicable health and fire codes;

(5) Vehicle body repair shops lawfully existing on the effective date of this ordinance shall have until January 1, 1987 to be brought into compliance with conditions (1), (2), (3), and (4) above.

(g) Church:

(1) The church shall develop an emergency response plan to the satisfaction of the Health Department, both written and drawn, including a house-in-place scenario and an off-site evacuation. The Health Department may provide technical assistance in this matter.

(2) The church shall, within 48 hours of becoming aware that quantities of hazardous

materials requiring a permit under Section 19.03.100 of the Lincoln Municipal Code are being stored, transported, dispensed, used, or handled on property within 300 feet of the building area being used for the church, notify the Health Department of such condition. Following such notification, the church shall, in cooperation and consultation with the Health Department, attempt to work with the owner of property upon which such hazardous materials are being stored, transported, dispensed, used or handled to arrive at a means to assure the health, safety, and welfare of persons using the church's property. The church shall further cooperate with the Health Department in determining measures which may be taken on the church's property to protect the health safety, and welfare of persons using the church's property, including, but not limited to, establishment of training programs for employees to assure detection of hazardous materials and evacuation of the premises, installation of filtration systems in the HVAC system of the building, or other precautionary measures.

(3) The electrical breaker switch of the heating, ventilation and air conditioning (HVAC) system shall be clearly marked and readily accessible at all times to the church's staff or the church shall equip the building with not more than two emergency shut-off switches so the HVAC system can be immediately shut down in the case of a hazardous chemical spill in the area to the satisfaction of the Health Department. The shut-off switch shall be located so that it is easily accessible at all times to the church's staff. The church's staff shall be trained on how to locate and operate the electrical breaker switch or the emergency shut-off switch.

(h) Outdoor vehicle storage:

(1) Screening shall be in conformance with the requirements for screening open storage in Chapter 3.50 of the City of Lincoln Design Standards.

(2) There shall be no dismantling, wrecking, or disassembling of any vehicles.

(3) Vehicles may not be stacked upon each other.

(4) Parking shall be provided in accordance with Section 26.67.066(a). (Ord. 19389 §3; June 7, 2010; prior Ord. 18438 §5; September 20, 2004; Ord. 16501 §1; October 25, 1993; Ord. 15614 §1; July 9, 1990; Ord. 14185 §17; September 3, 1985; Ord. 13700 §4; September 26, 1983; Ord. 12571 §245; May 8, 1979).

27.49.040 Permitted Special Uses.

A building or premises may be used for the following purposes in the I-2 Industrial Park District if a special permit for such use has been obtained in conformance with the requirements of Chapter 27.63:

- (a) Excavation and stone milling;
- (b) Broadcast towers;
- (c) Early childhood care facilities;
- (d) Expansion of nonconforming use;
- (e) Historic preservation;
- (f) Wind energy conversion systems over the district height;
- (g) Enclosed disassembly operation in conformance with Section 27.63.500;
- (h) Sale of alcoholic beverages for consumption on the premises;
- (i) Any permitted use which exceeds the maximum height permitted in the district;
- (j) Sexually oriented live entertainment establishments. (Ord. 19224 §10; March 16, 2009; prior Ord. 19158 §46; October 20, 2008: Ord. 17979 §6; April 1, 2002: Ord. 17731 §10; September 25, 2000: Ord. 17265 §5; October 20, 1997: Ord. 16854 §40; August 14, 1995: Ord. 16844 §1; August 7, 1995: Ord. 16593 §10; April 11, 1994: Ord. 15368 §17; December 18, 1989: Ord. 14780 §19; November 2, 1987: Ord. 14185, as amended by Ord. 14192 §2; September 3, 1985: Ord. 13588 §19; May 9, 1983: Ord. 12978 §24; August 25, 1980: Ord. 12571 §246; May 8, 1979).

27.49.050 Accessory Uses.

Accessory uses permitted in the I-2 Industrial Park District are accessory buildings and uses customarily incident to the permitted uses, except that early childhood care facilities and schools are not a permitted accessory use to a church in the I-2 Industrial Park District. (Ord. 18438 §6; September 20, 2004: prior Ord. 12571 §247; May 8, 1979).

27.49.060 Parking Regulations.

All parking within the I-2 Industrial Park District shall be regulated in conformance with the provisions of Chapter 27.67. (Ord. 12571 §248; May 8, 1979).

27.49.065 Pedestrian Circulation Regulations.

Construction of on-site pedestrian circulation sidewalk systems shall be regulated in conformance

with the provisions of Section 27.81.010. (Ord. 18687 §22; March 20, 2006).

27.49.070 Sign Regulations.

Signs within the I-2 Industrial Park District shall be regulated in conformance with the provisions of Chapter 27.69. (Ord. 12571 §249; May 8, 1979).

27.49.075 Grading and Land Disturbance Regulations.

Grading and land disturbance within the I-2 Industrial Park District shall be regulated in conformance with the provisions of Chapter 27.81. (Ord. 17618 §26; February 22, 2000.)

27.49.080 Height and Area Regulations.

The maximum height and minimum lot requirements within the I-2 Industrial Park District shall be as follows:

- (a) General requirements:

[See Table 27.49.080(a) at the end of this chapter]

(b) There shall be a required front yard on each street side of a double-frontage lot.

(c) There shall be a required front yard on each street side of a corner lot; provided, however, that the buildable width of a lot of record on November 6, 1961, need not be reduced to less than twenty-eight feet except where necessary to provide a required side yard of not less than five feet in place of one of the required front yards.

(d) Accessory buildings which are attached to or not located more than ten feet from the main structure shall be considered a part of the main structure and shall comply with the height and front, side, and rear yard requirements of the main structure. Accessory buildings not a part of the main structure may be located in the required rear yard if such yard does not abut a residential district, but such accessory buildings may not occupy more than thirty percent of the required rear yard and shall not be nearer than two feet to any side or rear lot line, nor more than fifteen feet in height. Accessory buildings not a part of the main structure, if located not less than sixty feet from the front lot line, may extend into the required side yard though not nearer than two feet to the side lot line. A garage which is entered from an alley shall not be located closer than ten feet to the alley line.

(e) The required front yard shall be entirely devoted to landscaped area, except for the necessary paving of walkways and driveways to reach parking and loading areas, and provided, further, that any driveways in the front yard shall be substantially perpendicular to the street and shall not be wider than thirty feet. The required side and rear yards shall be entirely devoted to landscaped area when they abut a residential district.

(f) No loading facilities shall be provided in the front yard nor in any side yard adjacent to any residential district. Loading facilities located within 150 feet of any street shall be visually screened. (Ord. 18687 §23; March 20, 2006; prior Ord. 16844 §2; August 7, 1995; Ord. 12751 §22; November 5, 1979; Ord. 12571 §250; May 8, 1979).

Table 27.49.080(a)

	Lot Area	Avg. Lot Width	Req'd Front Yard	Req'd Side Yard	Req'd Rear Yard	Height
All permitted uses	1 acre	150'	20'	20'; 50'* when abutting residential district	20'; 50'* when abutting residential district	55'
* When a side or rear yard abuts a residential district, it shall be screened in conformance with the landscape design standards adopted by the City of Lincoln.						

Chapter 27.51

I-3 Employment Center District

Sections:

27.51.010	Scope of Regulations.
27.51.020	General Purpose.
27.51.030	Use Regulations.
27.51.040	Permitted Conditional Uses.
27.51.050	Permitted Special Uses.
27.51.060	Accessory Uses.
27.51.070	Parking Regulations.
27.51.075	Pedestrian Circulation Regulations.
27.51.080	Sign Regulations.
27.51.085	Grading and Land Disturbance Regulations.
27.51.090	Height and Area Regulations.
27.51.100	Use Permit Section.

27.51.010 Scope of Regulations.

The regulations set forth in this chapter, or set forth elsewhere in this title when referred to in this chapter, are the district regulations in the I-3 Employment Center District. (Ord. 17232 § 1; August 18, 1997).

27.51.020 General Purpose.

The regulations for the I-3 Employment Center District set forth in this chapter are established to permit the development of attractive office and light industrial facilities as employment centers for location of plant facilities or headquarters of major employers. The I-3 Employment Center District is also intended to provide such employment centers with the surrounding support uses, including complementary office and retail use complementing the general land use pattern of the community and assisting the implementation of the adopted goals and policies of the community. (Ord. 17232 § 2; August 18, 1997).

27.51.030 Use Regulations.

(a) General Regulations. Any development, including building and open land uses, except farming and the sale of farm products, shall be prohibited in the I-3 Employment Center District prior to the approval of a use permit in conformance with the requirements of this chapter. I-3 Employment Center

District zoning shall not be permitted or granted upon any property having a total area of less than fifty (50) acres.

(b) Specific Regulations.

(1) The aggregate retail use permitted in subsection (c) below shall not exceed twenty percent (20%) of the buildable square footage of the land included within the boundaries of the use permit assuming a floor-to-area ratio of one to four. Similarly, the aggregate office use permitted in subsection (c) below shall not exceed thirty percent (30%) of the buildable square footage of the land included within the boundaries of the use permit assuming a floor-to-area ratio of one to four.

(2) The total of all retail, office, post-secondary education facilities, nonprofit religious, educational, and philanthropic institutions permitted in subsection (c) below and early childhood care facilities specially permitted in Section 27.51.050 below shall not in the aggregate exceed fifty percent (50%) of the buildable square footage of the land included within the boundaries of the use permit assuming a floor-to-area ratio of one to four.

(3) Notwithstanding (1) and (2) above, 75,000 square feet or more of floor area used by a single user shall not be subject to the thirty percent (30%) and fifty percent (50%) limitations.

(4) Those conditional and special uses permitted in Sections 27.51.040 and 27.51.050 below shall be limited by the restrictions placed thereon.

(5) All uses shall comply with all applicable ordinances and regulations including such environmental performance standards relating to noise, emission, dust, odor, glare, and heat as may be approved by resolution of the City Council.

(6) No galvanized or other raw metal sheeting shall be used for the exterior construction of any building. No painted galvanized or other painted metal sheeting shall be used for more than seventy percent (70%) of the exterior construction of a building on any side of such building which is visible from an abutting public street.

(7) No building shall be erected, converted, or structurally altered for use as a residence except as an accessory use for resident watchmen and caretakers or supervisory personnel employed and residing on the premises.

(c) Permitted Uses. Subject to the general and specific regulations above, a building or premises may be used for the following purposes in the I-3 Employment Center District:

- (1) Retail use;
- (2) Office buildings;
- (3) Production, manufacturing, assembly, processing, warehousing, storage, distribution, or transportation of goods and materials, except:
 - (i) The refining, distillation, or manufacture of:
 - A. Acids or alcohols;
 - B. Ammonia, bleach, or chlorine;
 - C. Asphalt, tar, or products made therewith, including roofing or waterproofing;
 - D. Cement, lime, gypsum, or plaster of paris;
 - E. Disinfectants;
 - F. Dyestuffs;
 - G. Fertilizer;
 - H. Glue, sizing, or gelatin;
 - I. Oilcloth, linoleum, oiled rubber goods;
 - J. Paint, shellac, turpentine, or oils;
 - K. Rubber, gutta-percha, balata, creosote, or products treated therewith;
 - L. Shoe polish;
 - (ii) The operation of:
 - A. Bag cleaning works;
 - B. Blast furnaces, coke ovens, smelting or ore reduction works;
 - C. Boiler works;
 - D. Forges;
 - E. Rolling mills;
 - F. Yeast plants;
 - (iii) Production, manufacture, processing, distribution, and storage, warehousing, or transportation of toxic, radioactive, flammable, or explosive materials, except that any of the above referenced materials may be stored or used in connection with a permitted use as allowed by any ordinances or regulations of the City of Lincoln as incidental to the permitted use;
 - (iv) Tanning, curing, or storage of raw hides or skins; stockyards or slaughter of animals or fowl; rendering fat; distillation of bones, coals or wood;
 - (v) Dumping or reduction of garbage, offal, or dead animals;
 - (vi) The manufacture of acetylene, or the transfer of the gas from one container to another, or the storage of the gas in containers having a

- capacity greater than the equivalent of 1,000 cubic feet at standard temperature and pressure;
- (vii) Rock crushing;
 - (viii) Excavation and stone milling;
 - (ix) The milling, processing, refining, or distillation of agricultural crops.
- (4) Community colleges, colleges, or other post-secondary education facilities;
 - (5) Private schools;
 - (6) Nonprofit religious, educational and philanthropic institutions;
 - (7) Farming and the sale of farm produce. (Ord. 19323 §1; November 2, 2009; prior Ord. 19224 §11; March 16, 2009; Ord. 19172 §11; November 3, 2008; Ord. 17907 §1; August 27, 2001; Ord. 17232 § 3; August 18, 1997).

27.51.040 Permitted Conditional Uses.

A building or premises may be used for the following purposes in the I-3 Employment Center District in conformance with the conditions prescribed herein:

- (a) Fuel oil storage tanks and all bulk storage of oils, petroleum and similar flammable liquids and chemicals. Such use shall:
 - (1) Be adequately screened from public view;
 - (2) Be for storage of such materials for use on the premises and not for resale, except that resale of such stored material at retail only shall be permitted in conjunction with the operation of a service station or similar retail outlet pursuant to Section 27.51.070;
 - (3) Be located, constructed, maintained, and operated in compliance with all codes and regulations of the City of Lincoln;
 - (b) Liquefied petroleum, gas and similar gas used for fuel stored in tanks above ground, provided:
 - (1) Such tanks may not exceed 30,000 gallon capacity;
 - (2) Such gas shall be used for use on the premises, and not for resale;
 - (3) Such tanks shall be adequately screened from public view by a fire-resistant ventilated barrier which shall be at least six feet in height;
 - (4) Such use must be in full compliance with all codes and regulations of the City of Lincoln;
 - (c) All other combustible materials:
 - (1) Combustible materials shall be stored in such a way as to permit free access of fire-fighting equipment;

(2) Such use must be in full compliance with all codes and regulations of the City of Lincoln;

(d) Motels and hotels, provided that the total square footage of such use shall not exceed ten percent (10%) of the buildable square footage of the tract of land included within the boundaries of the use permit assuming a floor-to-area ratio of one to four.

Accessory uses operated by a concessionaire or lessee of an employer may occupy no more than five percent (5%) of the floor area of the permitted use.

(e) Church:

(1) The church shall develop an emergency response plan to the satisfaction of the Health Department, both written and drawn, including a house-in-place scenario and an off-site evacuation. The Health Department may provide technical assistance in this matter.

(2) The church shall, within 48 hours of becoming aware that quantities of hazardous materials requiring a permit under Section 19.03.100 of the Lincoln Municipal Code are being stored, transported, dispensed, used, or handled on property within 300 feet of the building area being used for the church, notify the Health Department of such condition. Following such notification, the church shall, in cooperation and consultation with the Health Department, attempt to work with the owner of property upon which such hazardous materials are being stored, transported, dispensed, used or handled to arrive at a means to assure the health, safety, and welfare of persons using the church's property. The church shall further cooperate with the Health Department in determining measures which may be taken on the church's property to protect the health safety, and welfare of persons using the church's property, including, but not limited to, establishment of training programs for employees to assure detection of hazardous materials and evacuation of the premises, installation of filtration systems in the HVAC system of the building, or other precautionary measures.

(3) The electrical breaker switch of the heating, ventilation and air conditioning (HVAC) system shall be clearly marked and readily accessible at all times to the church's staff or the church shall equip the building with not more than two emergency shut-off switches so the HVAC system can be immediately shut down in the case of a hazardous chemical spill in the area to the satisfaction of the Health Department. The shut-off switch shall be located so that it is easily accessible at all times to the church's staff. The church's staff shall be trained on how to locate and operate the electrical breaker switch or the emergency shut-off switch.

(f) Joint parking lots and parking garages.

(1) Such joint parking lots and garages shall be authorized by cross access easements or by written agreement between the parties to such use.

(2) The aggregate number of parking stalls provided shall be sufficient to satisfy the required parking for each use. (Ord. 18962 §5; July 23, 2007; prior Ord. 18438 §7; September 20, 2004; Ord. 17232 § 4; August 18, 1997).

27.51.050 Permitted Special Uses.

A building or premises may be used for the following purposes in the I-3 Employment Center District if a special permit for such use has been obtained in conformance with the requirements of this chapter and Chapter 27.63:

(a) Broadcast tower;

(b) Sale of alcoholic beverages for consumption on the premises, provided the locational requirements of Section 27.63.680 have been met;

(c) Sale of alcoholic beverages for consumption off the premises, provided the locational requirements of Section 27.63.685 have been met;

(d) Early childhood care facilities;

(e) Public elementary and high schools or private schools having a curriculum equivalent to a public elementary or public high school;

(f) Sexually oriented live entertainment establishments;

(g) Wind energy conversion systems. (Ord. 19158 §47; October 20, 2008; prior Ord. 17731 §11; Sept. 25, 2000; Ord. 17232 § 5; Aug. 18, 1997).

27.51.060 Accessory Uses.

Accessory uses permitted in the I-3 Employment Center District are accessory buildings and uses customarily incident to the permitted uses, except that early childhood care facilities and schools are not a permitted accessory use to a church in the I-3 Employment Center District. Accessory uses involving the open storage of materials or other articles shall only be allowed in areas enclosed or otherwise adequately screened from public view with an enclosure or screen at least six feet in height. (Ord. 18438 §8; Sept. 20, 2004; prior Ord. 17232 § 6; Aug. 18, 1997).

27.51.070 Parking Regulations.

All parking within the I-3 Employment Center District shall be regulated in conformance with the provisions of Chapter 27.67. (Ord. 17232 § 7; Aug. 18, 1997).

27.51.075 Pedestrian Circulation Regulations.

Construction of on-site pedestrian circulation sidewalk systems shall be regulated in conformance with the provisions of Section 27.81.010. (Ord. 18687 §24; March 20, 2006).

27.51.080 Sign Regulations.

Signs within the I-3 Employment Center District shall be regulated in conformance with the provisions of Chapter 27.69. (Ord. 17232 § 8; August 18, 1997).

27.51.085 Grading and Land Disturbance Regulations.

Grading and land disturbance within the I-3 Employment Center District shall be regulated in conformance with the provisions of Chapter 27.81. (Ord. 17618 §27; February 22, 2000.)

27.51.090 Height and Area Regulations.

Minimum area for the establishment of the I-3 Employment Center District is fifty acres. The maximum height and minimum lot requirements within the I-3 Employment Center District shall be as follows:

(a) General Requirements.

[See Table 27.51.090(a) at the end of this chapter]

(b) There shall be a required front yard on each street side of a double-frontage lot.

(c) There shall be a required front yard on each street side of a corner lot.

(d) Accessory buildings shall comply with the height, and front, side, and rear yard requirements of the main structure.

(e) All front yards shall be entirely devoted to landscaping, except for necessary paving of walkways and driveways to reach parking and loading areas from a public or private street, and provided, further, that any driveways in the front yard shall be substantially perpendicular to the street and shall not be wider than thirty feet.

(f) No loading facilities shall be located in any required yard. Loading facilities located within 150 feet of any street shall be visually screened in conformance with City of Lincoln Design Standards. (Ord. 18687 §25; March 20, 2006; prior Ord. 17907 §2; August 27, 2001; Ord. 17232 § 9; August 18, 1997).

27.51.100 Use Permit Section.

(a) Minimum Requirements. No use permit shall be granted upon any property having a total area of

less than fifty acres, nor for any plan unless it is in conformance with all applicable city standards and with all regulations of the applicable sections of this chapter. The Planning Commission shall impose such conditions as are appropriate and necessary to ensure compliance with the comprehensive plan and protect the health, safety, and general welfare in the issuance of any use permits. Such conditions may include an increase in the minimum yard requirements and decrease in the maximum height restrictions set forth in this chapter. Lots fronting on private roadways may be permitted. Unless expressly modified by the terms of the use permit, all regulations of the I-3 Employment Center District shall apply.

(b) Environmental Performance Standards. Any applicant for a use permit under the provisions of this section shall comply with environmental performance standards relating to noise, emission, dust, odor, glare, and heat as shall be approved by resolution of the City Council.

(c) Landscape Plan. Before building permit approval, each application for a use permit under this section shall include a landscape plan which shall show proposed plantings in conformance with city standards in all required yard areas, open space areas, parking areas, and around proposed buildings. The Planning Director shall develop appropriate written standards for such landscape plans, which standards shall be approved by resolution of the City Council.

(d) Application Requirements. Applications for a use permit under this section shall be filed in writing on a form provided by the city with the Planning Department. A preliminary plan shall accompany each application and shall include the following information:

- (1) Boundary survey and gross acreage;
- (2) Contour lines at intervals not to exceed five feet based on NAVD 1988. Spot elevations on one hundred foot grid shall be required to fully indicate the topography of flat land.
- (3) Street right-of-way;
- (4) Utility easements;
- (5) Adjacent land use and zoning classifications;
- (6) The amount of traffic to be generated and the street facilities required to accommodate said traffic;
- (7) Location of building envelopes within which structures may be located;
- (8) Vicinity map;
- (9) Date prepared, scale and north point;

(10) Location of parking envelopes within which parking lots shall be located and stating the required number of parking stalls;

(11) Proposed use and total square feet of buildings to be located within the proposed I-3 employment center in accordance with Section 27.51.030(b);

(12) Acreage and percentage of total developed building area, parking lot, open space, and similar uses;

(13) Location of existing tree masses;

(14) Identify vehicular ingress and egress points;

(15) Building and parking set-back lines;

(16) Generalized grading plan;

(17) On-site and off-site water and sanitary sewer improvements;

(18) On-site and off-site drainage and storm sewer improvements;

(19) Proposed name of the project;

(20) Name, address, and telephone number of developer, certified record owner or owners, and their addresses; and legal description of the proposed use permit area including the number of acres.

(e) Planning Commission Review. Upon the filing of an application together with all maps, data, and information required by this section, the City Council shall refer the application to the Planning Commission. The Planning Commission shall hold a public hearing upon such application and shall consider the effect of the proposed use upon the surrounding neighborhood, the community as a whole, and other matters relating to public health, safety, and general welfare.

(f) Planning Commission Action. After holding at least one public hearing, the Planning Commission shall proceed to give final consideration to the application and may require that certain conditions be fulfilled by the applicant in conjunction with approval of the use permit applied for, and may include the requirement that applicant grant additional right of way in accordance with the Comprehensive Plan. The Planning Commission may require the execution of a written agreement with the city relating to the installation of public improvements by the applicant, together with the execution of performance bonds or provision of other appropriate surety relating thereto. The installation of all public improvements shall be accomplished in compliance with existing city standards as provided by ordinance or by departmental publications approved by resolution of the City

Council. In the event the Planning Commission fails to act upon the application within sixty days from the date of referral, the applicant may appeal to the City Council requesting final action. If the City Council determines that the delay of the Planning Commission is unjustified, it shall direct the commission to act upon the application no later than the commission's next regularly scheduled meeting.

(g) Appeal of Planning Commission Action.

(1) Any aggrieved person or any person or group officially designated to participate in the administration of this title may appeal any action of the Planning Commission to the City Council by filing notice of appeal with the City Clerk within fourteen days following the action of the Planning Commission.

(2) Upon receipt of the appeal by the City Council, the council shall hold a public hearing thereon within thirty days from the date of appeal. Notice of the public hearing shall be given as provided in Chapter 27.81.

(3) In exercising its appellate jurisdiction, the action appealed from shall be deemed advisory and the City Council may, after public hearing, in conformity with the provisions of this title make such decision as ought to be made.

(h) Adjustment of Yard Requirements and Height Restrictions. Upon request of the applicant, the City Council may, after report and recommendation of the Planning Commission, decrease the minimum yard requirements and increase the maximum height restrictions and may adjust the requirements relative to the location of buildings and required parking spaces and lot frontage set forth in this chapter consistent with adequate protection of the environment of adjacent land uses. The Planning Commission shall hold a public hearing upon the requested adjustment at the same time that it hears the application for the use permit and shall make a report to the City Council regarding the effect the proposed use and adjustment has upon the surrounding neighborhood, the community as a whole, and other matters relating to public health, safety, and general welfare. Upon receiving a report from the Planning Commission, the City Council shall take final action upon the application for the use permit and the requested adjustment.

(i) Amendment. The Planning Director is authorized to approve amendments to any use permit granted under this section, including square footage of

floor area and storage space in phases of development; provided that:

(1) A request for amendment is filed with the Planning Director, together with any of the information specified in paragraph (d) above which is pertinent to the proposed amendment;

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

(3) Such amendment may provide for up to ten percent (10%) increase in total floor area of the project over the total floor area originally permitted;

(4) No reduction is made to the applicable setback or yard requirements;

(5) No public land is accepted;

(6) Such amendment shall not be contrary to the general purposes of this chapter as set forth in paragraph (a) above;

(7) Any amendment not in conformance with this paragraph shall be submitted to the Planning Commission in the same manner as an original use permit.

(j) Building Permits, Certificates of Occupancy, and Certificates of Compliance. Upon the approval of a use permit as provided for under this section, building permits and certificates of occupancy may be issued. Certificates of compliance shall not be issued until there has been compliance with all conditions of a use permit and subsequent amendments within each phase of development of a use permit.

(k) Preexisting uses.

(1) An existing use of a type permitted in this chapter which was lawfully established in this district on the effective date of this chapter shall be deemed to have received a use permit as herein required and shall be provided with such permit by the Director of Building and Safety upon request, and it shall not be a nonconforming use; provided, however, for any enlargement, extension, or relocation of such existing use, an application in conformance with this section shall be required.

(2) If an application for a use permit located within a flood plain is granted approval by the city, it shall not be necessary for the applicant to make an application for a special permit to be approved by the City Council as required by Resolution Nos. A-55150, A-56382, and A-57540. It shall be presumed that the applicant has received all such approvals as may be required by the foregoing resolutions by virtue of the city granting approval to the use permit.

(l) Expiration of Application. All existing applications for a use permit which have been placed on pending by an applicant shall automatically expire and become null and void one year after the date this ordinance (Change of Zone No. 06062). All such applications which have been placed on pending by an applicant after the date of this ordinance (Change of Zone No. 06062) shall automatically expire and become null and void one year thereafter. At least thirty days before the date of expiration, the Planning Director shall cause notice of expiration to be sent to the applicant by regular United States mail, postage prepaid. Said notice shall advise the applicant that the application shall automatically expire unless prior to the expiration date, the Planning Director receives a request from the applicant to remove the application from pending and reschedule the matter on the Planning Commission or City Council agenda as appropriate. (Ord. 18898 §5; March 12, 2007; prior 17633 §5; October 24, 2005; Ord. 17907 §3; August 27, 2001; Ord. 17857 §5; June 4, 2001; Ord. 17232 § 10; August 18, 1997).

Table 27.51.090(a)

	Lot Area (Sq. ft.)	Frontage	Req'd Front Yard	Req'd Side Yard	Req'd Rear Yard	Height
27.51.030(c)(3) Uses	0	150'	20'	20'*	20'*	55'***
Retail	0	50'	20'	20'*	20'*	45'***
Office	0	50'	20'	20'*	20'*	45'***
Other	0	50'	20'	20'*	20'*	35'
* When a side or rear yard abuts a residential district, required yard shall be 50 feet and screened in conformance with the landscape design standards adopted by the City of Lincoln.						
** When a side or rear yard of an Employment Center or an office/retail use abuts a residential district, the maximum height of any improvement located within 150 feet of the residential district shall be 35 feet.						

CHAPTER 27.52

FLOOD REGULATIONS FOR
EXISTING URBAN AREA

Sections:

- 27.52.010 Scope of Regulations.
- 27.52.020 Definitions.
- 27.52.030 Standards.
- 27.52.035 Standards for Salt Creek Flood Storage Area.
- 27.52.040 Administration.
- 27.52.050 Permit Procedures.
- 27.52.055 Permit Expiration.
- 27.52.060 Special Permits.
- 27.52.070 Pre-existing Uses.
- 27.52.080 Penalties for Violation.
- 27.52.090 Amendments.

27.52.010 Scope of Regulations.

The regulations set forth in this chapter, or set forth elsewhere in this title when referred to in this chapter, are known as the Flood Regulations for Existing Urban Area. The regulations shall apply to all lands within the Existing Urban Area in the floodplain or floodprone area within the zoning jurisdiction of the City of Lincoln that are subject to a one percent or greater chance of flooding in any given year. The September 21, 2001 official Flood Insurance Rate Map (FIRM) and Flood Insurance Study (FIS) for Lancaster County, Nebraska and Incorporated Areas and any revisions thereto are hereby adopted by reference and declared to be a part of this Chapter. A copy of the FIRM and FIS are on file in the Department of Building and Safety.

The degree of flood protection required by this Chapter is considered reasonable for regulatory purposes and is based on engineering and scientific methods of study. Larger floods may occur on rare occasions or the flood height may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. Compliance with these regulations does not imply that lands outside a floodplain or floodprone areas or uses within such areas will be free from flooding or flood damage. This Chapter shall not create liability on the part of the City of Lincoln or any officer or employee thereof for any flood damages that may result from reliance on this Chapter or any administrative decision lawfully

made thereunder. (Ord. 18662 §1; January 9, 2006; prior Ord. 18359 §1; May 10, 2004).

27.52.020 Definitions.

For the purpose of this chapter, certain terms and words are hereby defined:

100-Year Flood shall mean the flood having a one percent chance of being equaled or exceeded in any given year.

100-Year Flood Elevation shall mean the height of the flood water that would occur during a 100-year flood.

Base Flood shall mean the flood having a one percent chance of being equaled or exceeded in any given year.

Basement shall mean any enclosed area having its floor below grade level on all sides.

Development shall mean any man-made change to improved or unimproved real estate, including but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.

Development area shall mean the entire site of a proposed development or improvement.

Existing manufactured home park or subdivision shall mean a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of this ordinance.

Existing Urban Area shall mean those areas inside the corporate limits of the City of Lincoln, as well as those areas outside the corporate limits having a zoning designation other than AG Agriculture and AGR Agricultural Residential, on the effective date of this ordinance.

Expansion to an existing manufactured home park or subdivision shall mean the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

FEMA shall mean the Federal Emergency Management Agency.

Fill shall mean soil, buildings, or other material that eliminates flood storage volume in the floodplain.

Flood Insurance Rate Map (FIRM) shall mean the September 21, 2001 Flood Insurance Rate Map and any revisions thereto, on which FEMA has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

Flood Insurance Study (FIS) shall mean the Flood Insurance Study for Lancaster County, Nebraska and Incorporated Areas published by FEMA in conjunction with the FIRM and containing background data such as base flood discharges and water surface elevations used to prepare the FIRM.

Flood storage area or Salt Creek flood storage area shall mean a portion of the Salt Creek floodprone area that stores floodwaters along the stream reach adjacent to the Salt Creek levee and is assigned a percentage of allowable fill, as shown on the Salt Creek Floodprone Area and Salt Creek Flood Storage Area Detail Maps adopted by resolution of the City Council, copies of which are on file with the Department of Building and Safety.

Floodplain shall mean those lands which are subject to a one percent or greater chance of flooding in any given year, as shown on the Flood Insurance Rate Map issued by FEMA for Lancaster County, Nebraska and incorporated areas, as amended. Copies of the said maps shall be on file in the Department of Building and Safety.

Floodprone area shall mean those lands subject to a one percent or greater chance of flooding in any given year, as determined by hydrologic and hydraulic studies completed by the City or other government agency, or other acceptable source as approved by the City where this is the best available information.

Floodproofing shall mean any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

Floodway shall mean the channel of a river or other watercourses and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

Historic structure shall mean any structure that is: (a) listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register; (b) certified or preliminarily determined by the City of

Lincoln, a Certified Local Government (CLG), in consultation with the Nebraska State Historic Preservation Officer (SHPO), as contributing to the historical significance of a locally or nationally designated historic district; (c) individually designated as a Landmark by the City of Lincoln, a CLG, under the provisions of Chapter 27.57 of the Lincoln Municipal Code.

Letter of Map Change (LOMC) shall mean a determination document issued by FEMA that officially revises the FIRM based on updated information, whether improved data or topography changes created by fill placement. Includes Letter of Map Amendment (LOMA), Letter of Map Revision (LOMR), and Letter of Map Revision based on Fill (LOMR-f).

Lowest floor shall mean the lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles or building access, in an area other than a basement area is not considered a building's lowest floor; provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.

Manufactured home shall mean, for purposes of this chapter, a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" shall not include a "recreational vehicle."

Manufactured home park or subdivision shall mean a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

NAVD shall mean the North American Vertical Datum of 1988.

New construction shall mean structures for which the start of construction commenced on or after the effective date of this ordinance and shall include any subsequent improvements to such structures.

New manufactured home park or subdivision shall mean a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of this ordinance.

Non-substantial improvement shall mean any improvement that does not meet the definition of substantial improvement, as defined in this section.

Percentage of allowable fill shall mean the percentage of the volume of flood storage in each flood storage area of Salt Creek that can be allowed to be eliminated without increasing the 100-year flood elevation of Salt Creek by more than one foot.

Qualified engineer shall mean a registered professional engineer who, by reason of training and experience, is considered knowledgeable in hydrology and hydraulics and their application to the flood insurance study and has demonstrated competence to the satisfaction of the Director of Building and Safety.

Recreational vehicle shall mean a vehicle which is:

- (1) built on a single chassis;
- (2) 400 square feet or less when measured at the largest horizontal projections;
- (3) designed to be self-propelled or permanently towable by a light duty truck; and
- (4) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Riverine shall mean relating to, formed by, or resembling a river (including tributaries, streams, brooks, etc.).

Special Flood Hazard Area shall mean the land in the floodplain subject to a one percent or greater chance of flooding in any given year.

Start of construction shall mean either the first placement of permanent construction of a structure on a site, such as the pouring of slabs or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation, or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not as part of the main structure. For a substantial improvement, the actual start of construction shall mean the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimension of the building.

Structure shall mean, for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

Substantial damage shall mean damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal to or exceed fifty percent of the market value of the structure before the damage occurred.

Substantial improvement shall mean any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds fifty percent of the market value of the structure before the start of construction of the improvement. Substantial improvement shall include structures which have incurred substantial damage, regardless of the actual repair work performed. The term shall not, however, include either (i) any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or (ii) any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation of a historic structure.

Variance shall mean a grant of relief from the terms of a floodplain management regulation, this shall be done by Special Permit in accordance with Section 27.52.060 of this chapter.

Violation shall mean the failure of a structure or other development to be fully compliant with the floodplain management regulations as set forth in this chapter. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance as required is presumed to be in violation until such time as that documentation is provided.

Watershed Master Plan shall mean a plan generated by the City or by the City in cooperation with other agencies, which includes hydrologic and hydraulic modeling for the 100-year event, including 100-year floodplain elevation and limits. (Ord. 18893 §1; March 5, 2007; prior Ord. 18662 §2; January 9, 2006; Ord. 18359 §2; May 10, 2004).

27.52.030 Standards.

The following shall be the standards to be followed in connection with the Flood Regulations for the Existing Urban Area:

(a) General Standards:

(1) No development or substantial improvement shall be permitted within the floodway as designated by the Federal Emergency Management Agency (FEMA) or as determined by hydrologic and hydraulic studies completed by the City or other government agency, or other acceptable source as approved by the City, unless the applicant has demonstrated that the proposed development or substantial improvement is in conformance with the provisions of Section 27.52.030(h) below.

(2) In those areas where a floodway has not been designated, no development or substantial improvement may be permitted within the floodplain or floodprone area unless the applicant has demonstrated that the proposed development or substantial improvement, when combined with all other existing and reasonably anticipated developments or substantial improvements, will not increase the water surface elevation of the 100-year flood more than one foot at any location.

An exception to the above shall be permitted provided the applicant has acquired by land rights purchase, flowage easement, or other legal arrangement the right to increase the flood levels on all affected lands greater than one foot (1.0'), and provided that before any permit is issued the applicant submits a FEMA approved Conditional Letter of Map Revision to the Director of Building and Safety. When such encroachment is completed, a FEMA approved Letter of Map Revision must also be provided by the applicant.

(3) Roadway bridges, and other drainage facilities, may have their superstructure submerged or partially submerged below the base flood level, provided that the facility has been designed to resist the hydrostatic and hydrodynamic loads as well as the effects of the buoyancy as certified by a registered professional engineer.

(4) Within the floodplain or floodprone area, all new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads including the effects of buoyancy; constructed with materials and utility equipment resistant to flood damage; and constructed by methods and practices that minimize flood damage. Electrical, heating, ventilation, plumbing, and air-conditioning equipment and other service facilities shall be elevated at least one foot above the base flood elevation or designed so as to prevent water

from entering or accumulating within the components during conditions of flooding. A registered professional engineer or architect shall certify that these provisions are satisfied.

(5) The location, grade, and floodproofing of all new and replacement water and sanitary sewer systems which are to be extended into or through any portion of the floodplain or floodprone area to serve the proposed development shall first be approved by the city prior to the extension of such utilities into the floodplain.

(6) New or replacement water supply systems and sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into said systems and discharges from said systems into flood waters. Individual disposal systems shall be designed in accordance with the standards set forth in Chapter 24.38 of the Lincoln Municipal Code in order to minimize impairment to them or contamination from them during flooding.

(7) On-site waste disposal systems shall be located to avoid impairment to the system or contamination from such systems during flooding.

(8) The storage or processing of materials that are in time of flooding buoyant, flammable, explosive, or could be injurious to human, animal, or plant life is prohibited.

(9) Storage of other material or equipment may be allowed if not subject to major damage by floods and firmly anchored to prevent flotation or if readily removable from the area within the time available after the issuance of flood warning by appropriate authorities.

(10) Filling, grading, and excavation may be allowed in the floodplain or floodprone area under the following conditions:

(i) Fill shall be protected against erosion and sediment by such measures as rip-rap, vegetative cover, bulkheading, or sedimentation basins as approved by the Director of Building and Safety.

(ii) Any fill to be deposited in the floodplain or floodprone area must be shown by the applicant not to be a detriment to the general public as well as the surrounding land owners.

(iii) Fill materials shall be of a selected type, preferably clean dirt, gravel, or rock no greater than two inches in diameter. The use of decomposing materials, such as wood and other degradables, shall be prohibited. Fill shall be placed in six inch compacted layers. Fill selection and placement shall recognize the effects of saturation from flood waters

on slope stability, uniform and differential settlement, and scour potentials.

(iv) Prior to placement of any fill or embankment materials, the land upon which fill is to be placed shall be cleared of debris, snags, stumps, brush, down timber, logs, and other objects. All materials and debris from this clearing shall be removed from the proposed fill and disposed of at approved locations outside the floodplain or floodprone area.

(v) Fill slopes for granular materials shall be no steeper than one vertical on two horizontal unless substantiating data justifying steeper slopes are submitted to the Director of Building and Safety and approved.

(vi) Excavation in the floodplain or floodprone area shall be done so that the land surface is maintained in such a manner that surface waters do not collect and pond unless specifically approved by the Director of Building and Safety.

(b) Residential Construction. All new construction and substantial improvements of residential structures within the floodplain or floodprone area shall have the lowest floor, including basement, elevated at least one foot above the base flood level. Garages and storage buildings used exclusively for the storage of motor vehicles, and storage of other items readily removable in the event of a flood warning may have their lowest floor below flood elevation, provided the building structure is capable of withstanding hydrostatic and hydrodynamic forces caused by the 100-year flood and, further, provided that no utilities are installed in the building except elevated or floodproofed electrical fixtures. If the building is converted to another use, it must be brought into full compliance with the requirements of this title governing such uses.

(c) Nonresidential Construction. All new construction and substantial improvements of commercial, industrial, and other nonresidential structures within the floodplain or floodprone area shall either have the lowest floor, including basement, elevated at least one foot above the base flood level or, together with attendant utility and sanitary facilities, be floodproofed so that below the base flood level plus one foot the structure is watertight in accordance with the performance standards set forth in the city's building code. A registered professional engineer or architect shall develop or review structural design, specifications, and plans for the construction, and shall certify that the design and methods of construc-

tion meet the watertight performance standards. The certification shall be provided to the city as set forth in Section 27.52.040 of this chapter.

(d) For all new construction and substantial improvements, fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:

(1) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided;

(2) The bottom of all openings shall be no higher than one foot above grade; and

(3) Openings may be equipped with screens, louvers, or other coverings or devices; provided, that they permit the automatic entry and exit of floodwaters.

(e) Manufactured Home Parks and Subdivisions. All manufactured homes shall be located in a manufactured home park or a manufactured home subdivision in accordance with Sections 27.63.120 and 27.63.125 of this title. No manufactured home shall be located in a manufactured home park or subdivision within the floodplain or floodprone area unless the following conditions are met:

(1) New manufactured home parks and subdivisions; expansions; substantial damage. Manufactured homes placed (i) on individual lots within or outside of new manufactured home parks or subdivisions, (ii) on individual lots within an expanded area of an existing manufactured home park or subdivision, or (iii) in an existing manufactured home park or subdivision in which a manufactured home has incurred substantial damage as the result of a flood, shall be elevated on a permanent foundation such that their lowest floor is at least one foot above the base flood elevation and be securely anchored to an adequately anchored foundation system in accordance with the standards to resist floatation, collapse, and lateral movement set forth in subsection (f) below;

(2) Existing manufactured home parks and subdivisions. Manufactured homes to be placed or substantially improved on individual lots in existing manufactured home parks or subdivisions, shall either

(i) be elevated on a permanent foundation such that their lowest floor is at least one foot above the base flood elevation or (ii) be supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than three feet in height above grade and be securely anchored to an adequately anchored foundation system in accordance with the standards to resist floatation, collapse, and lateral movement set forth in subsection (f) below.

If the option provided by (ii) above is exercised, the current owner and occupant, and any future buyer, renter, or occupier shall jointly acknowledge in writing that the option of piers as an alternative to placement of the manufactured home one foot above the base flood elevation has been exercised and, therefore, may be subject to flooding. Such acknowledgment shall be filed with the Director of Building and Safety prior to the issuance of hook-up permits to the subject home.

(3) Adequate surface drainage and access for a hauler are provided;

(4) Where manufactured homes are elevated on pilings, lots shall be large enough to permit steps; piling foundations shall be placed in stable soil no more than ten feet apart, and reinforcement shall be provided for pilings more than six feet above the ground level; and

(5) The grade of land for manufactured home parks or subdivisions which are situated within the floodplain or floodprone area shall be raised at least one foot above the base flood elevation.

(f) **Manufactured Homes Located Outside of a Manufactured Home Park or Subdivision.** Manufactured homes located outside of a manufactured home park or subdivision shall be elevated at least one foot above the base flood elevation or anchored to the elevated foundation to resist floatation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top and frame ties to ground anchors;

(1) If over-the-top ties are used, such ties shall be provided at each of the four corners of the manufactured home, with two additional ties per side at intermediate locations except that manufactured homes less than fifty feet in length may provide only one additional tie per side;

(2) Frame ties shall be provided at each corner of the manufactured home with five additional ties per side at intermediate points except that manufactured homes less than fifty feet in length may provide only four additional ties per side;

(3) All components of the anchoring system shall be capable of carrying a force of 4,800 pounds; and

(4) Any additions to the manufactured home shall be similarly anchored.

(g) **Recreational Vehicles:**

(1) Shall be on the site for fewer than 180 consecutive days;

(2) Shall be fully licensed and ready for highway use (on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions); or

(3) Meet the requirements for manufactured homes.

(h) **Floodways.**

(1) Encroachments into the floodway are prohibited, including fill, new construction, substantial improvements, and other development within the floodway unless certification by a qualified engineer is provided, demonstrating that the proposed encroachment will not result in any increase in flood levels during occurrence of the base flood discharge along the floodway profile.

An exception to the above shall be permitted provided the applicant has acquired by land rights purchase, flowage easement, or other legal arrangement the right to increase the flood levels on all affected lands, and provided that before any permit is issued the applicant submits a Federal Emergency Management Agency (FEMA) approved Conditional Letter of Map Revision to the Director of Building and Safety. When such encroachment is completed, a FEMA approved Letter of Map Revision must also be provided by the applicant.

(2) If the above provision is satisfied, all new construction and substantial improvements shall comply with all other applicable provisions contained in Section 27.52.030.

(3) The placement of any manufactured home parks and manufactured home subdivisions and the construction of new structures for human habitation within the floodway is prohibited.

(i) **AO Zones.** Designated AO zones within the floodplain have special flood hazards associated with base flood depths of one to three feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate; therefore, the following provisions apply within AO zones:

(1) All new construction and substantial improvements of residential structures shall have the

lowest floor (including basement) elevated above the highest adjacent grade at least as high as one foot above the depth number specified in feet on the FIRM (at least two feet if no depth number is specified).

(2) All new construction and substantial improvements of non-residential structures shall:

(i) Have the lowest floor elevated above the highest adjacent grade at least as high as one foot above the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified), or

(ii) Together with attendant utility and sanitary facilities be completely floodproofed to or above that level so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. Such certification shall be provided to the official as set forth in Section 27.52.040(d).

(3) Adequate drainage paths around structures on slopes shall be required in order to guide floodwaters around and away from proposed structures. (Ord. 18662 §3; January 9, 2006; prior Ord. 18403 §1; July 12, 2004; Ord. 18359 §3; May 10, 2004).

27.52.035 Standards for Salt Creek Flood Storage Area.

The following standards apply to the Salt Creek flood storage area.

(a) No development or improvement shall occur within any Salt Creek flood storage area unless the applicant has demonstrated that the total amount of flood storage volume to be eliminated by the development within the development area does not exceed, on a volumetric basis, the same percentage of allowable fill assigned to that flood storage area. The allowable fill shall be a percentage of the total flood storage volume available in the development area as of the effective date of this ordinance.

(1) For the purposes of the Salt Creek Flood Storage Area Standards, the development area may include adjacent or non-adjacent parcels within the same flood storage area. Within a single flood storage area, the allowable fill for an entire development area will be considered on a net basis. Individual parcels within a development area may have an amount of fill that is greater than the percentage of allowable fill assigned to that flood storage area, provided a permanent conservation

easement or permanent deed restriction to protect the flood storage is dedicated over another parcel or parcels within the development area, such that the net percentage of fill does not exceed the percentage of allowable fill.

(2) The above requirements for developments and improvements within a flood storage area of Salt Creek shall not apply to single family residential buildings, sheds, or detached garages that are allowed to be wet floodproofed as specified in Section 27.52.030(d) of this chapter. If wet floodproofing is not allowed for the structure as specified in these provisions or the applicant proposes to elevate the structure, then the requirements shall apply.

(3) Single family dwelling non-substantial improvements shall be exempt from the percentage of allowable fill requirements.

(4) Notwithstanding the requirements of this section, any development or improvement must comply with all other applicable provisions of this chapter. (Ord. 18893 §2; March 5, 2007).

27.52.040 Administration.

A development permit shall be required in conformance with the provisions of this chapter. All new construction of residential and nonresidential structures or other development, including the placement of manufactured homes, within the floodplain or floodprone area shall hereafter be in full compliance with the terms of this chapter and other applicable regulations. All existing residential and nonresidential structures that are not in compliance with the terms of this chapter shall be required to conform to these terms before substantial improvements can be made. It shall be the duty of the Director of Building and Safety to enforce this chapter. His duties shall include, but not be limited to:

(a) Review all development permits to assure that the permit requirements for this chapter have been satisfied;

(b) Review proposed development to assure that all necessary permits have been obtained from those agencies from which prior approval is required by federal, state or local law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334;

(c) Notify affected adjacent communities and the Nebraska Department of Natural Resources in riverine situations prior to any alteration or relocation of a watercourse, and submit copies of such notifications to FEMA, and assure that the flood-

carrying capacity within the altered or relocated portion of any watercourse is maintained;

(d) Require a registered professional engineer or registered professional land surveyor to verify the actual elevation in NAVD 1988 of the lowest floor, including basement, of all new or substantially improved structures and to which the new or substantially improved structures have been flood-proofed. The certification of the lowest floor shall be submitted to the Director of Building and Safety at the point of construction when the lowest floor elevation may be established and prior to the erection of the walls of any buildings. Such information shall be recorded and maintained by the Director of Building and Safety;

(e) Where floodproofing is utilized for a particular structure, obtain certification from a registered professional engineer or architect that the floodproofing methods are adequate in accordance with appropriate provisions of the city's building code;

(f) Where interpretation is needed as to the exact location of boundaries of the floodplain or floodprone area; for example, where there appears to be a conflict between a mapped boundary and actual field conditions, obtain the necessary interpretation from appropriate city engineering staff of the Department of Public Works and Utilities;

(g) In Zone A (no base flood elevations determined), require that proposed developments (including proposals for manufactured home parks and subdivisions) greater than either five acres or fifty lots include within such proposals detailed base flood elevation data based on an engineering study performed by a qualified engineer in accordance with FEMA approved methods for generating detailed base flood elevations. This provision shall not apply where the use of the property is not being changed and where there are no physical changes on the site which have the potential to increase the flood hazard.

(h) When base flood elevation data have not been provided on the FEMA Flood Insurance Rate Map, through the provisions in Section 27.52.040(g) above, or in other studies already completed or accepted by the City, obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal, state, or other source, as criteria for requiring that new construction, substantial improvements, or other developments in the floodplain or floodprone area meet the standards of this

chapter. (Ord. 18662 §4; January 9, 2006; prior Ord. 18359 §4; May 10, 2004).

27.52.050 Permit Procedures.

Application for a development permit shall be made to the Director of Building and Safety on forms furnished by him and may include, but not be limited to, the plans drawn to scale showing the nature, location, dimensions, and elevations of the area in question, existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing. Specifically, the following information is required:

(a) Base flood elevation in NAVD 1988 datum. When utilizing National Geodetic Vertical Datum of 1929 (NGVD 1929) base flood elevations from FEMA floodplain maps, 0.50 feet shall be added to NGVD 1929 to obtain NAVD 1988, unless a more accurate conversion factor using an established conversion program is demonstrated to the satisfaction of the Director of Building and Safety.

(b) Elevation of the lowest floor, including basement, of all structures. All elevations shall be submitted in NAVD 1988.

(c) Elevation to which any nonresidential structure has been floodproofed. All elevations shall be submitted in NAVD 1988.

(d) Documentation and certification from a registered professional engineer or architect that the nonresidential floodproofed structure meets the floodproofing specifications set forth in the city's building code.

(e) Documentation and certification from a registered professional engineer that if the development is in the floodway, that the development will cause no rise in the 100-year flood elevation.

(f) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

(g) Limits of floodway and floodplain or flood-prone area.

(h) If the permit is for fill or the development of multiple structures, the following additional information is required to be shown on a grading and drainage plan:

(1) A grading plan showing existing and proposed grades, location of channel and hydraulic cross-sections and profiles, with elevations in NAVD 1988 datum.

(2) Hydrologic and hydraulic summary report.

(3) The type and extent of the proposed use or development of the land which is located within the floodplain or floodprone area, along with such information as is necessary to determine the effect flood waters will have on such development and use and the effect such development and use may have upon the flood waters. All such information shall show the location of the proposed use, areas of habitation and employment, including the location, size, and floor elevation of any structures, the location and elevation of all parking areas, and the use, location, and elevations of all open land areas.

(4) The amount of fill material brought into the floodplain or floodprone area from outside the floodplain or floodprone area. (Ord. 18662 §5; January 9, 2006; prior Ord. 18359 §5; May 10, 2004).

27.52.055 Permit Expiration.

Every floodplain permit shall expire and become null and void two years following the date of issuance, regardless of the status of the permitted work. Before such work can be recommenced, a new permit shall be first obtained to do so.

Any permittee holding an unexpired permit may apply for an extension of the time within which work must be completed. The Director of Building and Safety may extend the time for completion of the work for a period not exceeding one year upon the permittee showing that circumstances beyond the control of the permittee have prevented action from being taken to complete the work. No permit shall be extended more than once.

Any permit issued prior to the effective date of this ordinance shall expire and become null and void two years following the effective date of this ordinance, regardless of the status of the permitted work, and may not be extended by the Director of Building and Safety. Before such work can be recommenced, a new permit shall be first obtained to do so. (Ord. 18359 §6; May 10, 2004).

27.52.060 Special Permits.

The City Council of the City of Lincoln may, by special permit, in accordance with provisions set forth in Chapter 27.63 of this title:

(a) Grant variances from the requirements of this chapter which permit construction in a manner otherwise prohibited by this chapter where specific enforcement would result in unnecessary hardship. However, variances shall not be issued by the city

within the selected floodway if any increase in flood levels during the base flood discharge would result.

(b) Grant requests for substantial improvements of existing residential and nonresidential structures that are not in conformity with the provisions of this chapter.

(c) Attach certain conditions to the special permit as it deems necessary to further the purposes of this chapter.

In passing upon such special permits, the city council shall consider that permits shall only be issued upon a determination that (i) they are the minimum necessary, considering the flood hazard, to afford relief; (ii) the granting will not result in increased flood heights, additional threats to public safety, extraordinary public expenses, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances; and (iii) the decision is based upon a showing of good and sufficient cause and a reasonable use of land involved.

Any applicant to whom a special permit is granted shall be given a written notice that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation. The Director of Building and Safety shall maintain all the records of special permits issued by the city council and report them to FEMA upon request. (Ord. 18359 §7; May 10, 2004).

27.52.070 Pre-existing Uses.

The following pre-existing uses will be allowed in the floodplain:

(a) Continuation of pre-existing uses. The lawful use of a building and premises existing prior to the effective date of this ordinance may be continued although such use does not conform to the provisions hereof; provided, that no expansion, enlargement, change, or alteration shall be made except in conformance with Section 27.52.070(b) below.

(b) Substantial improvements of preexisting uses. No existing building and premises which is not in conformity with the provisions of this chapter shall be substantially improved unless it is done in conformity with the provisions of this chapter. A request for the substantial improvement of a pre-existing use which does not conform to the provisions of this chapter shall be processed through special permit procedures set forth in Section 27.52.060 of this chapter. (Ord. 18359 §8; May 10, 2004).

27.52.080 Penalties for Violation.

Violation of the provisions of this chapter or failure to comply with any of its requirements shall be punished in accordance with Chapter 27.81. (Ord. 18359 §9; May 10, 2004).

27.52.090 Amendments.

The regulations, restrictions, and boundaries set forth in this chapter may from time to time be amended, supplemented, changed, or appealed to reflect any and all changes in the National Flood Disaster Protection Act of 1973, in accordance with the procedures set forth in Chapter 27.81. The regulations of this chapter are in compliance with the National Flood Insurance Program regulations, as amended, and the 1983 Nebraska Flood Plains Regulations Act. (Ord. 18359 §10; May 10, 2004).

CHAPTER 27.53

FLOOD REGULATIONS FOR NEW GROWTH AREAS

Sections:

27.53.010	Scope of Regulations.
27.53.020	Definitions.
27.53.030	Standards.
27.53.040	Administration.
27.53.050	Permit Procedures.
27.53.055	Permit Expiration.
27.53.060	Special Permits.
27.53.070	Pre-existing Uses.
27.53.080	Penalties for Violation.
27.53.090	Amendments.

27.53.010 Scope of Regulations.

The regulations set forth in this chapter, or set forth elsewhere in this title when referred to in this chapter, are known as the Flood Regulations for New Growth Areas. The regulations shall apply to all lands within New Growth Areas in the floodplain or floodprone areas within the zoning jurisdiction of the City of Lincoln that are subject to a one percent or greater chance of flooding in any given year. The September 21, 2001 official Flood Insurance Rate Map (FIRM) and Flood Insurance Study (FIS) for Lancaster County, Nebraska and Incorporated Areas and any revisions thereto are hereby adopted by reference and declared to be a part of this Chapter. A copy of the FIRM and FIS are on file in the Department of Building and Safety.

The degree of flood protection required by this Chapter is considered reasonable for regulatory purposes and is based on engineering and scientific methods of study. Larger floods may occur on rare occasions or the flood height may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. Compliance with these regulations does not imply that lands outside floodplain and floodprone areas or uses within such areas will be free from flooding or flood damage. This ordinance shall not create liability on the part of the City of Lincoln or any officer or employee thereof for any flood damages that may result from reliance on this ordinance or any administrative decision lawfully made thereunder. (Ord. 18360 §1; May 10, 2004).

27.53.020 Definitions.

For the purpose of this chapter, certain terms and words are defined:

2-Year Flood shall mean the flood having a fifty percent chance of being equaled or exceeded in any given year.

10-Year Flood shall mean the flood having a ten percent chance of being equaled or exceeded in any given year.

100-Year Flood shall mean the flood having a one percent chance of being equaled or exceeded in any given year.

Base Flood shall mean the flood having a one percent chance of being equaled or exceeded in any given year.

Basement shall mean any enclosed area having its floor below grade level on all sides.

Compensatory Storage shall mean replacement of storage volume that is hydrologically equivalent to lost storage when encroachment occurs in the floodplain or floodprone area.

Development shall mean any man-made change to improved or unimproved real estate, including but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.

Existing manufactured home park or subdivision shall mean a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of this ordinance.

Expansion to an existing manufactured home park or subdivision shall mean the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

FEMA shall mean the Federal Emergency Management Agency.

Flood Design Criteria shall mean Chapter 10 of the City of Lincoln Drainage Criteria Manual, adopted on February 22, 2000 by Resolution No. A-80038, as amended.

Flood Insurance Rate Map (FIRM) shall mean the September 21, 2001 Flood Insurance Rate Map and any revisions thereto, on which FEMA has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

Flood Insurance Study (FIS) shall mean the Flood Insurance Study for Lancaster County, Nebraska and Incorporated Areas published by FEMA in conjunction with the FIRM and containing background data such as base flood discharges and water surface elevations used to prepare the FIRM.

Floodplain shall mean those lands which are subject to a one percent or greater chance of flooding in any given year, as shown on the Flood Insurance Rate Map issued by FEMA for Lancaster County, Nebraska and incorporated areas, as amended.

Floodprone area shall mean those lands subject to a one percent or greater chance of flooding in any given year, as determined by hydrologic and hydraulic studies completed by the City or other government agency, or other acceptable source as approved by the City where this is the best available information.

Floodproofing shall mean any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

Floodway shall mean the channel of a river or other watercourses and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

Historic structure shall mean any structure that is: (a) listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register; (b) certified or preliminarily determined by the City of Lincoln, a Certified Local Government (CLG), in consultation with the Nebraska State Historic Preservation Officer (SHPO), as contributing to the historical significance of a locally or nationally designated historic district; (c) individually designated as a Landmark by the City of Lincoln, a CLG, under the provisions of Chapter 27.57 of the Lincoln Municipal Code.

Lateral Addition shall mean an addition to a non-residential structure which expands the floor area

of the first story. First story shall mean the lowest story in a building which qualifies as a story, as defined in Section 20.08 of the Lincoln Building Code.

Letter of Map Change (LOMC) shall mean a determination document issued by FEMA that officially revises the FIRM based on updated information, whether improved data or topography changes created by fill placement. Includes Letter of Map Amendment (LOMA), Letter of Map Revision (LOMR), and Letter of Map Revision based on Fill (LOMR-f).

Lowest floor shall mean the lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles or building access, in an area other than a basement area is not considered a building's lowest floor; provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.

Manufactured home shall mean, for purposes of this chapter, a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" shall not include a "recreational vehicle."

Manufactured home park or subdivision shall mean a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

Minimum Flood Corridor shall mean the existing channel bottom width plus 60 feet plus six times the channel depth and the corridor will be centered on the channel, as shown in Figure 1 below, or aligned such that the corridor follows the natural flow of flood waters.

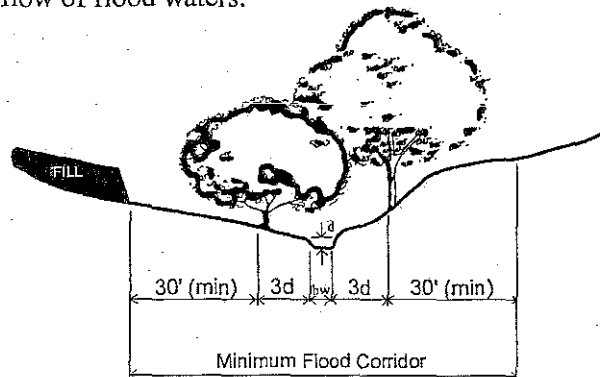


Figure 1 - Minimum Flood Corridor

NAVD shall mean the North American Vertical Datum of 1988.

New construction shall mean structures for which the start of construction commenced on or after the effective date of this ordinance and shall include any subsequent improvements to such structures.

New growth areas shall mean those areas outside the corporate limits of the City of Lincoln and zoned AG Agriculture and AGR Agricultural Residential on the effective date of this ordinance.

New manufactured home park or subdivision shall mean a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of this ordinance.

Non-substantial improvement shall mean any improvement that does not meet the definition of substantial improvement, as defined in this section.

Qualified engineer shall mean a registered professional engineer who, by reason of training and experience, is considered knowledgeable in hydrology and hydraulics and their application to the flood insurance study and has demonstrated competence to the satisfaction of the Director of Building and Safety.

Recreational vehicle shall mean a vehicle which is:

- (1) built on a single chassis;
- (2) 400 square feet or less when measured at the largest horizontal projections;
- (3) designed to be self-propelled or permanently towable by a light duty truck; and
- (4) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Riverine shall mean relating to, formed by, or resembling a river (including tributaries, streams, brooks, etc.).

Special Flood Hazard Area shall mean the land in the floodplain subject to a one percent or greater chance of flooding in any given year.

Start of construction shall mean either the first placement of permanent construction of a structure on a site, such as the pouring of slabs or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation, or the placement of a manufactured home on a foundation.

Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not as part of the main structure. For a substantial improvement, the actual start of construction shall mean the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimension of the building.

Structure shall mean, for floodplain and flood-prone area management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

Substantial damage shall mean damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal to or exceed fifty percent of the market value of the structure before the damage occurred.

Substantial improvement shall mean any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds fifty percent of the market value of the structure before the start of construction of the improvement. Substantial improvement shall include structures which have incurred substantial damage, regardless of the actual repair work performed. The term shall not, however, include either (i) any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or (ii) any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation of a historic structure.

Variance shall mean a grant of relief from the terms of a floodplain management regulation, this shall be done by Special Permit in accordance with section 27.53.060 of the Zoning Code.

Violation shall mean the failure of a structure or other development to be fully compliant with the floodplain management regulations as set forth in this chapter. A structure or other development without the elevation certificate, other certifications, or other

evidence of compliance as required is presumed to be in violation until such time as that documentation is provided.

Watershed Master Plan shall mean a plan generated by the City or by the City in cooperation with other agencies, which includes hydrologic and hydraulic modeling for the 100-year event, including 100-year floodplain elevation and limits. (Ord. 18360 §2; May 10, 2004).

27.53.030 Standards.

The following shall be the standards to be followed in connection with the Flood Regulations for New Growth Areas:

(a) General Standards:

(1) No development, substantial improvement or lateral addition may be permitted within the floodway as designated by the Federal Emergency Management Agency (FEMA) or as determined by hydrologic and hydraulic studies completed by the City or other government agency, or other acceptable source as approved by the City, unless the applicant has demonstrated that the proposed development or substantial improvement shall:

(i) Be accomplished in conformance with the Flood Design Criteria.

(ii) Be accomplished in conformance with Section 27.53.030(h) below.

(2) No development, substantial improvement or lateral addition may be permitted within the floodplain or floodprone area outside the floodway or where no floodway has been designated except as provided in Section 10.2 of the Flood Design Criteria unless the applicant has demonstrated that the proposed development or substantial improvement shall:

(i) Be accomplished in conformance with the Flood Design Criteria.

(ii) Cause no greater than five hundredths of a foot (0.05') of rise in the 100-year flood elevation.

(iii) Cause no greater than five hundredths of a foot (0.05') of rise in areas with a watershed master plan for the 2-, 10-, and 100-year flood elevations, as demonstrated using the hydraulic model from the watershed master plan.

(iv) Notwithstanding certain exceptions in the Flood Design Criteria allowing for greater than five hundredths of a foot (0.05') of rise in the flood elevation, the development shall not cause greater than

one foot (1.0') of rise in the FEMA-mapped flood fringe where no floodway has been designated.

An exception to the above shall be permitted provided the applicant has acquired by land rights purchase, flowage easement, or other legal arrangement the right to increase the flood levels greater than one foot (1.0') on all affected lands, and provided that before any permit is issued the applicant submits a FEMA approved Conditional Letter of Map Revision to the Director of Building and Safety. When such encroachment is completed, a FEMA approved Letter of Map Revision must also be provided by the applicant.

(3) No development, substantial improvement or lateral addition may be permitted within the floodplain or floodprone area except as provided in Section 10.2 of the Flood Design Criteria unless the applicant has demonstrated that the proposed development or substantial improvement shall:

(i) Be accomplished in conformance with the Flood Design Criteria.

(ii) Compensate for any flood storage lost by providing a hydrologically equivalent volume of storage adjacent to the area of the encroachment.

(iii) Compensate for flood storage lost below the existing 10 year water surface elevation by providing storage below the proposed 10 year water surface elevation, and compensate for flood storage lost above the existing 10 year water surface elevation with flood storage above the proposed 10 year water surface elevation.

(iv) Cause no increase in peak flow rates in areas with a watershed master plan for the 2-, 10-, and 100-year flood events, as demonstrated using the hydrologic model from the watershed master plan.

(4) Along stream channels within the floodplain or floodprone area which have a defined bed and bank or which have drainage areas exceeding 150 acres, development shall preserve a Minimum Flood Corridor. Minimum corridor preservation and mitigation for allowed encroachments shall be in conformance with Section 10.3 of the Flood Design Criteria.

(5) Roadway bridges, and other drainage facilities, may have their superstructure submerged or partially submerged below the base flood level, provided that the facility has been designed to resist the hydrostatic and hydrodynamic loads as well as the

effects of the buoyancy as certified by a registered professional engineer.

(6) Within the floodplain or floodprone area, all new construction, substantial improvements, and any lateral addition shall be anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads including the effects of buoyancy; constructed with materials and utility equipment resistant to flood damage; and constructed by methods and practices that minimize flood damage. Electrical, heating, ventilation, plumbing, and air-conditioning equipment and other service facilities for all new construction, substantial improvements, and any lateral addition, shall be elevated at least one foot above the base flood elevation or designed so as to prevent water from entering or accumulating within the components during conditions of flooding. A registered professional engineer or architect shall certify that these provisions are satisfied.

(7) The location, grade, and floodproofing of all new and replacement water and sanitary sewer systems which are to be extended into or through any portion of the floodplain or floodprone area to serve the proposed development shall first be approved by the city prior to the extension of such utilities into the floodplain or floodprone area.

(8) New or replacement water supply systems and sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters. Individual disposal systems shall be designed in accordance with the standards set forth in Chapter 24.38 of the Lincoln Municipal Code in order to minimize impairment to them or contamination from them during flooding.

(9) On-site waste disposal systems shall be located to avoid impairment to the system or contamination from such systems during flooding.

(10) The storage or processing of materials that are in time of flooding buoyant, flammable, explosive, or could be injurious to human, animal, or plant life is prohibited.

(11) Storage of other material or equipment may be allowed if not subject to major damage by floods and firmly anchored to prevent flotation or if readily removable from the area within the time available after the issuance of flood warning by appropriate authorities.

(12) Filling, grading, and excavation may be allowed in the designated floodplain or floodprone area under the following conditions:

(i) Fill shall be protected against erosion and sediment by such measures as rip-rap, vegetative cover, bulkheading, or sedimentation basins as approved by the Director of Building and Safety.

(ii) Any fill to be deposited in the floodplain or floodprone area must be shown by the applicant not to be a detriment to the general public as well as the surrounding land owners.

(iii) Fill materials shall be of a selected type, preferably clean dirt, gravel, or rock no greater than two inches in diameter. The use of decomposing materials, such as wood and other degradables, shall be prohibited. Fill shall be placed in six inch compacted layers. Fill selection and placement shall recognize the effects of saturation from flood waters on slope stability, uniform and differential settlement, and scour potentials.

(iv) Prior to placement of any fill or embankment materials, the area upon which fill is to be placed shall be cleared of debris, snags, stumps, brush, down timber, logs, and other objects. All materials and debris from this clearing shall be removed from the proposed fill and disposed of at approved locations outside the floodplain or floodprone area.

(v) Fill slopes for granular materials shall be no steeper than one vertical on two horizontal unless substantiating data justifying steeper slopes are submitted to the Director of Building and Safety and approved.

(vi) Excavation in the floodplain or floodprone area shall be done so that the land surface is maintained in such a manner that surface waters do not collect and pond unless specifically approved by the Director of Building and Safety.

(b) Residential Construction. All new construction and substantial improvements of residential structures within the designated floodplain or floodprone area shall have the lowest floor, including basement, elevated at least one foot above the base flood level. Garages and storage buildings used exclusively for the storage of motor vehicles, and storage of other items readily removable in the event of a flood warning may have their lowest floor below flood elevation, provided the building structure is capable of withstanding hydrostatic and hydrodynamic forces caused by the 100-year flood and, further,

provided that no utilities are installed in the building except elevated or floodproofed electrical fixtures. If the building is converted to another use, it must be brought into full compliance with the requirements of this title governing such uses.

(c) Nonresidential Construction. All new construction, substantial improvements, and any lateral addition to commercial, industrial, and other nonresidential structures within the floodplain or floodprone area shall either have the lowest floor, including basement, elevated at least one foot above the base flood level or, together with attendant utility and sanitary facilities, be floodproofed so that below the base flood level plus one foot the structure is watertight in accordance with the performance standards set forth in the city's building code. A registered professional engineer or architect shall develop or review structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction meet the watertight performance standards. The certification shall be provided to the city as set forth in Section 27.53.040 of this chapter.

(d) For all new construction and substantial improvements, fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:

(1) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided;

(2) The bottom of all openings shall be no higher than one foot above grade; and

(3) Openings may be equipped with screens, louvers, or other coverings or devices; provided, that they permit the automatic entry and exit of floodwaters.

(e) Manufactured Home Parks and Subdivisions. All manufactured homes shall be located in a manufactured home park or a manufactured home subdivision in accordance with Sections 27.63.120 and 27.63.125 of this title. No manufactured home shall be located in a manufactured

home park or subdivision within the floodplain or floodprone area unless the following conditions are met:

(1) New manufactured home parks and subdivisions; expansions; substantial damage. Manufactured homes placed (i) on individual lots within or outside of new manufactured home parks or subdivisions, (ii) on individual lots within an expanded area of an existing manufactured home park or subdivision, or (iii) in an existing manufactured home park or subdivision in which a manufactured home has incurred substantial damage as the result of a flood, shall be elevated on a permanent foundation such that their lowest floor is at least one foot above the base flood elevation and be securely anchored to an adequately anchored foundation system in accordance with the standards to resist floatation, collapse, and lateral movement set forth in subsection (f) below;

(2) Existing manufactured home parks and subdivisions. Manufactured homes to be placed or substantially improved on individual lots in existing manufactured home parks or subdivisions, shall either (i) be elevated on a permanent foundation such that their lowest floor is at least one foot above the base flood elevation or (ii) be supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than three feet in height above grade and be securely anchored to an adequately anchored foundation system in accordance with the standards to resist floatation, collapse, and lateral movement set forth in subsection (f) below.

If the option provided by (ii) above is exercised, the current owner and occupant, and any future buyer, renter, or occupier shall jointly acknowledge in writing that the option of piers as an alternative to placement of the manufactured home one foot above the base flood elevation has been exercised and, therefore, may be subject to flooding. Such acknowledgment shall be filed with the Director of Building and Safety prior to the issuance of hook-up permits to the subject home.

(3) Adequate surface drainage and access for a hauler are provided;

(4) Where manufactured homes are elevated on pilings, lots shall be large enough to permit steps, piling foundations shall be placed in stable soil no more than ten feet apart, and reinforcement shall be provided for pilings more than six feet above the ground level; and

(5) The grade of land for manufactured home parks or subdivisions which are situated within the floodplain or floodprone area shall be raised at least one foot above the base flood elevation.

(f) Manufactured Homes Located Outside of a Manufactured Home Park or Subdivision. Manufactured homes located outside of a manufactured home park or subdivision shall be elevated at least one foot above the base flood elevation or anchored to the elevated foundation to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top and frame ties to ground anchors;

(1) If over-the-top ties are used, such ties shall be provided at each of the four corners of the manufactured home, with two additional ties per side at intermediate locations except that manufactured homes less than fifty feet in length may provide only one additional tie per side;

(2) Frame ties shall be provided at each corner of the manufactured home with five additional ties per side at intermediate points except that manufactured homes less than fifty feet in length may provide only four additional ties per side;

(3) All components of the anchoring system shall be capable of carrying a force of 4,800 pounds; and

(4) Any additions to the manufactured home shall be similarly anchored.

(g) Recreational Vehicles:

(1) Shall be on the site for fewer than 180 consecutive days;

(2) Shall be fully licensed and ready for highway use (on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions); or

(3) Meet the requirements for manufactured homes.

(h) Floodways.

(1) Encroachments into the floodway are prohibited, including fill, new construction, substantial improvements, and other development within the floodway unless certification by a qualified engineer is provided, demonstrating that the proposed encroachment will not result in any increase in flood levels during occurrence of the base flood discharge along the floodway profile.

An exception to the above shall be permitted provided the applicant has acquired by land rights purchase, flowage easement, or other legal

arrangement the right to increase the flood levels on all affected lands, and provided that before any permit is issued the applicant submits a Federal Emergency Management Agency (FEMA) approved Conditional Letter of Map Revision to the Director of Building and Safety. When such encroachment is completed, a FEMA approved Letter of Map Revision must also be provided by the applicant.

(2) If the above provision is satisfied, all new construction and substantial improvements shall comply with all other applicable provisions contained in Section 27.53.030.

(3) The placement of any manufactured home parks and manufactured home subdivisions and the construction of new structures for human habitation within the floodway is prohibited.

(i) AO Zones. Designated AO zones within the floodplain have special flood hazards associated with base flood depths of one to three feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate; therefore, the following provisions apply within AO zones:

(1) All new construction and substantial improvements of residential structures shall have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as one foot above the depth number specified in feet on the FIRM (at least two feet if no depth number is specified).

(2) All new construction, any lateral addition, and substantial improvements of non-residential structures shall:

(i) Have the lowest floor elevated above the highest adjacent grade at least as high as one foot above the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified), or

(ii) Together with attendant utility and sanitary facilities be completely floodproofed to or above that level so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. Such certification shall be provided to the official as set forth in Section 27.53.040(d).

(3) Adequate drainage paths around structures on slopes shall be required in order to guide floodwaters around and away from proposed structures. (Ord. 18661 §1; January 9, 2006; prior Ord. 18360 §3; May 10, 2004).

27.53.040 Administration.

A development permit shall be required in conformance with the provisions of this chapter. All new construction of residential and nonresidential structures or other development, including the placement of manufactured homes, within the floodplain or floodprone area shall hereafter be in full compliance with the terms of this chapter and other applicable regulations. All existing residential and nonresidential structures that are not in compliance with the terms of this chapter shall be required to conform to these terms before substantial improvements can be made. It shall be the duty of the Director of Building and Safety to enforce this chapter. His duties shall include, but not be limited to:

(a) Review all development permits to assure that the permit requirements for this chapter have been satisfied;

(b) Review proposed development to assure that all necessary permits have been obtained from those agencies from which prior approval is required by federal, state or local law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334;

(c) Notify affected adjacent communities and the Nebraska Department of Natural Resources in riverine situations prior to any alteration or relocation of a watercourse, and submit copies of such notifications to FEMA, and assure that the flood-carrying capacity within the altered or relocated portion of any watercourse is maintained;

(d) Require a registered professional engineer or registered professional land surveyor to verify the actual elevation in NAVD 1988 of the lowest floor, including basement, of all new or substantially improved structures and to which the new or substantially improved structures have been floodproofed. The certification of the lowest floor shall be submitted to the Director of Building and Safety at the point of construction when the lowest floor elevation may be established and prior to the erection of the walls of any buildings. Such information shall be recorded and maintained by the Director of Building and Safety.

(e) Where floodproofing is utilized for a particular structure, obtain certification from a registered professional engineer or architect that the floodproofing methods are adequate in accordance with appropriate provisions of the city's building code;

(f) Where interpretation is needed as to the exact location of boundaries of the floodplain or

floodprone area; for example, where there appears to be a conflict between a mapped boundary and actual field conditions, obtain the necessary interpretation from appropriate city engineering staff of the Department of Public Works and Utilities;

(g) In Zone A (no base flood elevations determined), require that proposed developments (including proposals for manufactured home parks and subdivisions) greater than either five acres or fifty lots include within such proposals detailed base flood elevation data based on an engineering study performed by a qualified engineer in accordance with FEMA approved methods for generating detailed base flood elevations. The specific hydrologic and hydraulic methods to be used to generate base flood elevations and the data to be submitted are contained in Section 10.5 of the Flood Design Criteria. Upon completion of said study, data must be submitted to FEMA to obtain a Letter of Map Change based on the updated information. This provision shall not apply where the use of the property is not being changed and where there are no physical changes on the site which have the potential to increase the flood hazard.

(h) When base flood elevation data have not been provided on the FEMA Flood Insurance Rate Map, in an engineering study provided under subsection (g) above, or in other studies already completed or accepted by the City, obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal, state, or other source, as criteria for requiring that new construction, substantial improvements, or other developments in the floodplain or floodprone area meet the standards of this chapter. (Ord. 18360 §4; May 10, 2004).

27.53.050 Permit Procedures.

Application for a development permit shall be made to the Director of Building and Safety on forms furnished by him and may include, but not be limited to, the plans drawn to scale showing the nature, location, dimensions, and elevations of the area in question, existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing. Specifically, the following information is required:

(a) Base flood elevation in NAVD 1988 datum. When utilizing National Geodetic Vertical Datum of 1929 (NGVD 1929) base flood elevations from FEMA floodplain maps, 0.50 feet shall be added to NGVD 1929 to obtain NAVD 1988, unless a more accurate conversion factor using an established conversion

program is demonstrated to the satisfaction of the Director of Building and Safety.

(b) Elevation of the lowest floor, including basement, of all structures. All elevations shall be submitted in NAVD 1988.

(c) Elevation to which any nonresidential structure has been floodproofed. All elevations shall be submitted in NAVD 1988.

(d) Documentation and certification from a registered professional engineer or architect that the nonresidential floodproofed structure meets the floodproofing specifications set forth in the city's building code.

(e) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

(f) Limits of floodway, floodplain or floodprone area, and minimum flood corridor.

(g) A grading plan showing existing and proposed grades, location of channel and hydraulic cross-sections, with elevations in NAVD 1988 datum.

(h) The type and extent of the proposed use or development of the land which is located within the floodplain or floodprone area, along with such information as is necessary to determine the effect flood waters will have on such development and use and the effect such development and use may have upon the flood waters. All such information shall show the location of the proposed use, areas of habitation and employment, including the location, size, and floor elevation of any structures, the location and elevation of all parking areas, and the use, location, and elevations of all open land areas.

(i) Hydraulic cross sections, profiles, and summary report.

(j) In areas with no watershed master plans, existing and proposed water surface elevations for the 100-year flood event.

(k) In areas with watershed master plans, existing and proposed water surface elevations for the 2-, 10-, and 100-year flood event.

(l) If the proposed development is in the floodway, information, documentation and certification by a registered professional engineer demonstrating the development will cause no rise in the flood elevation as required by Section 10.2 of the Flood Design Criteria.

(m) If the proposed development is in the floodplain or floodprone area outside the floodway, information, documentation and certification by a registered professional engineer demonstrating the

development will not result in any increase in the 100-year flood elevation greater than five hundredths of a foot (0.05') of rise as required by Section 10.2 of the Flood Design Criteria.

(n) The amount of fill material to be brought into the floodplain or floodprone area from outside the floodplain or floodprone area and the locations and volumes of cut and fill within the floodplain or floodprone area;

(o) Locations of compensatory storage, and information and certification by a registered professional engineer demonstrating that compensatory storage is hydrologically equivalent as required by Section 10.2 of the Flood Design Criteria.

(p) In areas with watershed master plans, a hydrologic study and report that includes existing and proposed curve numbers, times of concentration, areas, schematics, and other related information as appropriate.

(q) Sequencing information for encroachments into minimum flood corridors as required by Section 10.3 of the Flood Design Criteria.

(r) Sequencing information for stream crossing structures as required by Section 10.4 of the Flood Design Criteria.

(s) Reference to the subdivision or development permit when permit applications are submitted for individual structures on property that is part of a larger subdivision or development permit and information specified in subsections 27.53.050(f) through 27.53.050(r) has been previously provided, in lieu of including information specified in those subsections with the individual permit. (Ord. 18360 §5; May 10, 2004).

27.53.055 Permit Expiration.

Every floodplain permit, except as provided below, shall expire and become null and void two years following the date of issuance, regardless of the status of the permitted work. Before such work can be recommenced, a new permit shall be first obtained to do so.

Any permittee holding an unexpired permit may apply in writing for an extension of the time within which work must be completed. The Director of Building and Safety may extend the time for completion of the work for a period not exceeding one year upon a showing by the permittee that circumstances beyond the control of the permittee have prevented action from being taken to complete the work. No permit shall be extended more than once.

Any permit issued prior to the effective date of this ordinance shall expire and become null and void two years following the effective date of this ordinance, regardless of the status of the permitted work, and may not be extended by the Director of Building and Safety. Before such work can be recommenced, a new permit shall be first obtained to do so. (Ord. 18360 §6; May 10, 2004).

27.53.060 Special Permits.

The City Council of the City of Lincoln may, by special permit, in accordance with provisions set forth in Chapter 27.63 of this title:

(a) Grant variances from the requirements of this chapter which permit construction in a manner otherwise prohibited by this chapter where specific enforcement would result in unnecessary hardship. However, variances shall not be issued by the city within the selected floodway if any increase in flood levels during the base flood discharge would result.

(b) Grant requests for substantial improvements of existing residential and nonresidential structures that are not in conformity with the provisions of this chapter.

(c) Attach certain conditions to the special permit as it deems necessary to further the purposes of this chapter.

In passing upon such special permits, the city council shall consider that permits shall only be issued upon a determination that (i) they are the minimum necessary, considering the flood hazard, to afford relief; (ii) the granting will not result in increased flood heights, additional threats to public safety, extraordinary public expenses, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances; and (iii) the decision is based upon a showing of good and sufficient cause and a reasonable use of land involved.

Any applicant to whom a special permit is granted shall be given a written notice that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation. The Director of Building and Safety shall maintain all the records of special permits issued by the city council and report them to FEMA upon request. (Ord. 18360 §7; May 10, 2004).

27.53.070 Pre-existing Uses.

The following pre-existing uses will be allowed within the floodplain or floodprone areas:

(a) Continuation of pre-existing uses. The lawful use of a building and premises existing prior to the effective date of this ordinance may be continued although such use does not conform to the provisions hereof; provided, that no expansion, enlargement, change, or alteration shall be made except in conformance with Section 27.53.070(b) below.

(b) Substantial improvements of preexisting uses. No existing building and premises which is not in conformity with the provisions of this chapter shall be substantially improved unless it is done in conformity with the provisions of this chapter. A request for the substantial improvement of a pre-existing use which does not conform to the provisions of this chapter shall be processed through special permit procedures set forth in Section 27.53.060 of this chapter. (Ord. 18360 §8; May 10, 2004).

27.53.080 Penalties for Violation.

Violation of the provisions of this chapter or failure to comply with any of its requirements shall be punished in accordance with Chapter 27.81. (Ord. 18360 §9; May 10, 2004).

27.53.090 Amendments.

The regulations, restrictions, and boundaries set forth in this chapter may from time to time be amended, supplemented, changed, or appealed to reflect any and all changes in the National Flood Disaster Protection Act of 1973, in accordance with the procedures set forth in Chapter 27.81. The regulations of this chapter are in compliance with the National Flood Insurance Program regulations, as amended, and the 1983 Nebraska Flood Plains Regulations Act. (Ord. 18360 §10; May 10, 2004).

Chapter 27.54

P PUBLIC USE DISTRICT

Sections:

- 27.54.010** **Scope of Regulations.**
- 27.54.020** **Permitted Uses.**

This district is intended to provide a district essentially for mapping purposes which will identify real property presently owned and used by any governmental entity, including local, state, or federal governmental units, and put to some form of public use. This district is not intended to be applied to land that is used by governmental entities on an easement or leased basis if title to the land is in private ownership. (Ord. 17747 §1; October 16, 2000; Ord. 12571 §267a; May 8, 1979).

27.54.010 **Scope of Regulations.**

The regulations set forth in this chapter, or set forth elsewhere in this title when referred to in this chapter, are the regulations in the P Public Use District. (Ord. 12571 §267a; May 8, 1979).

27.54.020 **Permitted Uses.**

A building or premises owned by any governmental entity, including local, county, state, federal governmental units and their subdivisions, and in some form of public use, shall be permitted to be located in the P Public Use District. The provisions of this chapter shall not apply to land in private ownership, even if leased to or the subject of an easement to a governmental entity, or to describe the future location of such public uses. (Ord. 12571 §267a; May 8, 1979).

27.54.030 **Area Regulations.**

(Repealed by Ord. 17747 §2; October 16, 2000; prior Ord. 12571 §267a; May 8, 1979).

*(Note: Chapter 27.55 - Flood Plain District -
repealed by Ord. 18360, passed May 10, 2004)*

(Prior Ordinance History: 17903, 17602, 17583, 16949, 16294,
15849, 15841, 15544, 14900, 14642, 14526, 14314, 13738, 12701, 12571)

Chapter 27.56

CAPITOL ENVIRONS DISTRICT

Sections:

- 27.56.010 Scope of Regulations.
- 27.56.015 Purpose.
- 27.56.017 Definitions.
- 27.56.020 Boundaries of District Map.
- 27.56.025 Capitol View Corridor Overlay District; Boundaries; Map.
- 27.56.030 Height of Buildings in Capitol Environs Area.
- 27.56.035 Regulation of Signs in Capitol View Corridor Overlay District.
- 27.56.040 Nebraska Capitol Environs Commission Created.
- 27.56.050 Membership.
- 27.56.060 Organization.
- 27.56.070 Secretary and Staff.
- 27.56.080 Attorney; Duties.
- 27.56.090 Powers and Duties.
- 27.56.100 Guidelines and Procedures for Review of Projects.
- 27.56.110 Procedure for Certificate.
- 27.56.120 Certificate; Approval or Denial.
- 27.56.130 Hazardous Structures.
- 27.56.140 Appeal.
- 27.56.150 Jurisdiction of the Commission Relative to Other Boards.
- 27.56.160 Additional Height and Area Requirements.

27.56.010 Scope of Regulations.

The regulations set forth in this chapter, or set forth elsewhere in this title when referred to in this chapter, are the regulations in the Capitol Environs District. (Ord. 12935 § 1; June 9, 1980; prior Ord. 12571 § 277; May 8, 1979).

27.56.015 Purpose.

The purpose of this chapter is to maintain and enhance the aesthetic quality, historic value, spiritual dignity, and physical dominance of the capitol over the cityscape; to foster pride in the beauty of the capitol and its environs by studying and publicizing their essential aspects; to provide a fit setting for the capitol by encouraging appropriate public improvements and private development, especially in the Capitol Environs District, and the mainte-

nance of those improvements; and to protect views to the capitol by proposing regulations and guidelines for designated view corridors.

The Capitol Environs District and the view corridors are intended to be zoning overlay districts. (Ord. 14949 § 1; August 15, 1988).

27.56.017 Definitions.

For the purpose of this chapter, certain terms and words are hereby defined, as follows:

(a) Capitol Square shall mean the state capitol and its four square block site, bounded by "K" Street on the north, "H" Street on the south, 14th Street on the west, and 16th Street on the east.

(b) Capitol Environs District shall mean the area indicated on the City of Lincoln Capitol Environs District Height Regulations Map.

(c) Capitol View Corridors shall mean those areas described in the 1977 Urban Design Plan for the Nebraska Capitol Environs as "Area 9: City View Corridors"; and "Area 10: Country View Corridors." (Ord. 14949 § 2; August 15, 1988).

27.56.020 Boundaries of District Map.

The boundaries of the Capitol Environs District are shown upon a map which is made a part hereof by reference, and said map is designated the "City of Lincoln Capitol Environs District Height Regulations Map". That part of the map designating the different districts and their boundaries and that part of the legend designating the symbol title shall have the same force and effect as if they were all fully set forth herein. Other notations and references are for information only. (Ord. 12935 § 2; June 9, 1980; prior Ord. 12571 § 278; May 8, 1979).

27.56.025 Capitol View Corridor Overlay District; Boundaries; Map.

The boundaries of the Capitol View Corridor Overlay District are shown upon a map which is made a part hereof by reference, and said map is designated the "Capitol View Corridor Overlay Map." That part of the map designating the different districts and their boundaries and that part of the legend designating the symbol title shall have the same force and effect as if they were all fully set forth herein. Other notations and references are for information only. (Ord. 15442 § 1; February 20, 1990).

27.56.030 Height of Buildings in Capitol Environs Area.

Notwithstanding the zoning on the property or the other rules and regulations of this title, there shall be established the following maximum heights for buildings and structures located in the shaded area on the Capitol Environs District Height Regulations Map.

(a) No building located within this district shall exceed the building height limit as shown on the Capitol Environs District Height Regulations Map, or the maximum building height permitted in the underlying zoning district, whichever is less.

(b) Any of the appurtenances listed in Section 27.71.020 of this title may not exceed twenty feet in height above the maximum permitted in subsection (a) hereof. In addition, all of said appurtenances must be set back a minimum of fifteen feet from all faces of a building when said faces are adjacent to a street. (Ord. 12935 § 3; June 9, 1980; prior Ord. 12571 § 279; May 8, 1979).

27.56.035 Regulation of Signs in Capitol View Corridor Overlay District.

Notwithstanding the underlying zoning or other rules and regulations of this title, there is hereby established the following regulations for off-premise signs and on-premise pole signs for properties located in the districts indicated on the Capitol View Corridor Overlay Map.

(a) No off-premise signs shall be permitted in the area designated District A.

(b) No off-premise signs or on-premise pole signs shall be permitted in the area designated District B.

(c) No off-premise signs shall be permitted in the area designated District C. On-premise pole signs shall be permitted in District C provided that the maximum height of such signs shall not exceed the height of the roadway surface of Capitol Parkway West. (The height of the roadway surface of Capitol Parkway West shall be calculated from the point on the roadway which is at a ninety degree angle from the roadway to the sign.) (Ord. 15442 § 2; February 20, 1990).

27.56.040 Nebraska Capitol Environs Commission Created.

There is hereby created the Nebraska Capitol Environs Commission. The Nebraska Capitol Environs

Commission shall consist of seven voting members and three ex officio, nonvoting members. (Ord. 14949 § 3; August 15, 1988).

27.56.050 Membership.

The Nebraska Capitol Environs Commission membership shall be appointed by the Mayor with confirmation by the majority of the City Council and shall include five members with due consideration given to appointment of an architect, landscape architect, an urban planner, a real estate developer and a member of the public at large. The Nebraska Capitol Environs Commission membership shall also include two members to be appointed by the Governor of the State of Nebraska, at least one of whom shall be a resident of the City of Lincoln, Nebraska. The three ex officio (nonvoting) members of the commission shall be City of Lincoln Planning Director or his designee, the City of Lincoln Director of Parks and Recreation or his designee, and the Director of the Nebraska Department of Administrative services or his designee. Members are to be appointed for terms of three years, provided that of the members first taking office, one of the governor's appointees shall be appointed for a two-year term and the other shall be appointed for a three-year term; and one of the Mayor's appointees shall be appointed for a one-year term, two shall be appointed for two-year terms, and two shall be appointed for three-year terms. Members may serve for more than one term and each member shall serve until the appointment of a successor. In the event of a vacancy, an appointment shall be made to fill the vacancy in the same manner as if at the beginning of the term, and the person appointed to fill the vacancy shall hold such office for the unexpired term. (Ord. 14949 § 4; August 15, 1988).

27.56.060 Organization.

The Nebraska Capitol Environs Commission shall elect from among its own members a chairman and such other officers as it may deem necessary. The commission shall make such rules and regulations as it may deem advisable and necessary for the conduct of its affairs, for the purpose of carrying out the intent of this chapter, which are not inconsistent with the laws of the city and the state. Four voting members shall constitute a quorum for the transaction of business and four affirmative votes shall be required for final action on any matter acted upon by the Nebraska Capitol Environs Commission. Mem-

bers shall serve without compensation. The Nebraska Capitol Environs Commission shall meet a least quarterly, with more frequent meetings as called by the chairman or as required elsewhere in this chapter. (Ord. 14949 § 5; August 15, 1988).

27.56.070 Secretary and Staff.

The Planning Director or his designee shall act as the nonvoting secretary to the Nebraska Capitol Environs Commission. The city, through the Planning Department, shall provide the commission with adequate staff to perform the duties prescribed under this chapter. (Ord. 14949 § 6; August 15, 1988).

27.56.080 Attorney; Duties.

The City Attorney shall be the ex officio attorney for the commission and shall advise the commission and represent it in any and all legal disputes or court or administrative action. (Ord. 14949 § 7; August 15, 1988).

27.56.090 Powers and Duties.

The powers and duties of the Nebraska Capitol Environs Commission shall be as follows:

(a) Study and describe the essential vistas, landscape features, buildings, landmarks, and other aspects that contribute to or detract from the capitol, the Capitol Environs District, and the Capitol View Corridors, drawing upon past studies, especially the Urban Design Plan for the Nebraska Capitol Environs of 1977;

(b) Consult with and consider the ideas and recommendations of groups including neighborhood and business organizations, public agencies, property owners, and other citizens interested in the capitol and the Capitol Environs District;

(c) Review and advise on any city or state plans, budgets, or procedures affecting the capitol, the Capitol Environs District, and Capitol View Corridors;

(d) Promote restoration and maintenance of the capitol grounds in accordance with the original design by Ernst Hemminghaus, as described in "Landscape Restoration Master Plan — Nebraska State Capitol Grounds" of January 1985;

(e) Develop and propose guidelines and review procedures for private and public improvements and maintenance on the twelve blocks adjacent to Capitol Square (bounded by "G" Street on the south, "L" Street on the north, 17th Street on the east, and 13th Street on the west), incorporating high stan-

dards of architecture, landscape architecture, urban design, historic preservation, and maintenance, as befits their location;

(f) Develop and propose specific guidelines and review procedures for each of the four axes of the Capitol Environs District, mindful of the existing character and future potential of each area and consistent with the Lincoln-Lancaster County Comprehensive Plan, addressing both public and private improvements, and providing incentives for high quality private development;

(g) Develop and propose guidelines to protect and enhance the Capitol View Corridors;

(h) Promote intergovernmental agreements among the state, City of Lincoln, Lancaster County, and Seward County to protect and enhance the Capitol View Corridors;

(i) Upon enactment of guidelines and procedures by the City Council, review private and public projects for conformance with the guidelines;

(j) Disseminate information to the public, city government, and state government concerning the special qualities of the capitol, the Capitol Environs District, and the capitol view corridors, and on the goals and decisions of the Nebraska Capitol Environs Commission;

(k) Prepare and deliver an annual report of the Nebraska Capitol Environs Commission's past actions and future goals to the Mayor and City Council of the City of Lincoln, the Governor of the State of Nebraska, and the Nebraska State Legislature;

(l) Study and offer proposals on other public and private plans and actions affecting the capitol, the Capitol Environs District, and the Capitol View Corridors, and do other acts as are mandated by this chapter. (Ord. 14949 § 8; August 15, 1988).

27.56.100 Guidelines and Procedures for Review of Projects.

(a) Design Standards. The Nebraska Capitol Environs Commission shall draft Capitol Environs District Design Standards to be adopted by resolution of the City Council after review and recommendation of the Planning Commission.

Such guidelines shall include procedures for design review. Prior to submitting the guidelines, incentives and procedures to the planning commission, the Nebraska Capitol Environs Commission shall hold at least one public hearing on the pro-

posed guidelines, notice of which shall be as specified for public hearings required under Chapters 27.57 and 27.81 of the Lincoln Municipal Code.

(b) **Work Subject to Design Review.** No person (including representatives of state government or any units of local government) shall carry out or cause to be carried out in the Capitol Environs District ("the District") any change in the appearance of the District for which a building permit or demolition permit is required, as specified in the Lincoln Building Code for the City, or any change regulated by the Capitol Environs Design Standards ("the Standards"), without a certificate issued by the Nebraska Capitol Environs Commission or the Commission Chair as described in Section 27.56.110. Ordinary maintenance and repair not otherwise subject to a building permit regulation or restricted by the Design Standards may be carried out without such a certificate. (Ord. 16698 § 1; November 14, 1994; prior Ord. 14949 § 9; August 15, 1988).

27.56.110 Procedure for Certificate.

The application for such certificate shall be filed with the Department of Building and Safety and shall be accompanied by plans for the proposed work to be done and such other information as the Director of Building and Safety shall require. The Department of Building and Safety shall review the application and plans for compliance with the existing building and zoning codes, ordinances and regulations. The application and plans shall be referred to the Planning Department.

The Planning Director may recommend and the Chair of the Nebraska Capitol Environs Commission may issue a certificate of "no material effect" if the application is for minor work which is not restricted by the Standards, which has no material effect on architectural or landscape features of the District, and which is in harmony with the purposes of this ordinance. Construction of new principal buildings facing the malls or Capitol Square always has "material effect" on significant features of the District and therefore shall not be eligible for a certificate of no material effect. When a certificate of no material effect is issued, a copy of that certificate shall be transmitted to the Commission at its next public meeting.

Other applications shall be transmitted by the Planning Department to the Nebraska Capitol Environs Commission along with any recommendations of the Department of Building and Safety and

the Planning Department. Within forty-five days of receipt of the application by the Department of Building and Safety, the Commission shall hold a public hearing on the application. Notice of the time, place, and purpose of such hearing shall be published by the Planning Department in a daily newspaper having general circulation in the City of Lincoln and shall be mailed to the certificate applicant not less than eight days prior to the date of hearing. The Nebraska Capitol Environs Commission may also give such other notice as may be deemed necessary and desirable, including posting of the property affected. During the public hearing, the Commission shall receive testimony and other information on the application, and shall review the application and plans in light of the Standards. (Ord. 16698 § 2; November 14, 1994).

27.56.120 Certificate; Approval or Denial.

Within thirty days of the hearing, the Nebraska Capitol Environs Commission shall approve or deny the application. The Commission may:

(a) Issue a certificate of "appropriateness" after adopting a finding that the proposed work meets the Standards and would not unduly hinder the protection, enhancement, perpetuation, and use of the Capitol Environs District;

(b) Issue a certificate of "exception on grounds of hardship" after adopting a finding that refusal to issue the certificate would create an extreme hardship on the applicant, and that the plight of the applicant is due to unique circumstances, and that the potential hardship is the result of the application of the ordinance and is not the result of any act or omission by the applicant;

(c) Refuse to issue a certificate, after adopting a finding that the application is not consistent with the purpose of this ordinance and of the Standards, and does not meet any of the above criteria.

The Nebraska Capitol Environs Commission's decision must be accompanied by written findings of fact. No change shall be made in the application for any building permit or in plans for other regulated work after issuance of a certificate by the Commission or the Commission Chair without resubmittal of the application and approval in the same manner as provided above. (Ord. 16698 § 3; November 14, 1994).

27.56.130 Hazardous Structures.

The Planning Director shall issue a certificate of "allowance on grounds of hazardous conditions" for razing a structure or other work if the Department of Building and Safety has determined that failure to carry out said work poses an immediate hazard to human health and safety. However, no owner shall by deliberate acts or deliberate neglect allow a property in the Capitol Environs District to become hazardous to human health and safety with the intent of then obtaining such certificate. When a certificate of "allowance on grounds of hazardous conditions" is issued, a copy of that certificate shall be transmitted to the Nebraska Capitol Environs Commission at its next public meeting. (Ord. 16698 § 4; November 14, 1994).

27.56.140 Appeal.

Any person aggrieved by any order, approval, disapproval, or other decision issued by the Nebraska Capitol Environs Commission or the Planning Director may appeal such order, approval, disapproval, or other decision to the City Council by filing a written appeal with the City Clerk within fourteen days of the date of such decision, except that governmental units may opt to appeal actions of the Nebraska Capitol Environs Commission or the Planning Director to the Nebraska Department of Administrative Services by so indicating at the time of filing the appeal with the City Clerk and by giving notice of such intent to the Building Division of the Nebraska Department of Administrative Services. Such appeal shall fully state the order, approval, disapproval, or other decision appealed from, the date thereof, and the facts of the matter. (Ord. 16698 § 5; November 14, 1994).

27.56.150 Jurisdiction of the Commission Relative to Other Boards.

Applications for changes of zone, special permit, and other applications under the zoning code for property within the Capitol Environs District shall be reviewed by the Nebraska Capitol Environs Commission relative to the conformance of the application to the protection, enhancement, perpetuation, and use of the Capitol Environs District; then forwarded to the Planning Commission with a written report of the findings of the Nebraska Capitol Environs Commission. Applications reviewed by the Commission shall not be subject to review by the Historic Preservation Commission or the Urban De-

sign Committee. However, the Nebraska Capitol Environs Commission shall defer review of applications pertaining to landmarks designated under Lincoln Municipal Code § 27.57.120 to the Historic Preservation Commission and shall accept "Certificates of Appropriateness" and "Certificates of Exception" approved by the Historic Preservation Commission as equivalent to certificates issued by the Nebraska Capitol Environs Commission. However, the "Certificate of Allowance" procedure outlined in Lincoln Municipal Code § 27.57.160 shall not pertain within the Capitol Environs District. (Ord. 16698 § 6; November 14, 1994).

27.56.160 Additional Height and Area Requirements.

(a) In that portion of the Capitol Environs District south of H Street, the required front yard adjacent to South 15th Street shall be eight feet. This shall be a "build-to" line. The South 15th Street facade of buildings in that portion of the District shall be located on a line parallel to the property line on South 15th Street, and eight feet behind that property line.

(b) For new buildings constructed on property with frontage on "Capitol Square" (properties on South 14th, "K", South 16th, and "H" Streets opposite the Capitol grounds), a minimum of four stories are required, with a maximum height of fifty-seven feet.

(c) For new buildings constructed on property in the Capitol Environs District not facing Capitol Square, but facing one of the malls, an eave or cornice line at least thirty feet in height is required.

(d) For townhouses in the Capitol Environs District south of "H" Street zoned R-6 Residential District, the minimum required lot area shall be 2,000 square feet per family. (Ord. 16698 § 7; November 14, 1994).



Chapter 27.57

HISTORIC PRESERVATION DISTRICT

Sections:

- 27.57.010 Name and Citation of Title.
- 27.57.020 Purpose.
- 27.57.030 Definitions; General Provisions.
- 27.57.040 Landmark.
- 27.57.050 Landmark District.
- 27.57.060 Historic Preservation Commission Created.
- 27.57.070 Membership.
- 27.57.080 Organization.
- 27.57.090 Secretary and Staff of Preservation Commission.
- 27.57.100 Attorney; Duties.
- 27.57.110 Powers and Duties.
- 27.57.120 Designation of Landmarks and Landmark Districts.
- 27.57.130 Requirement of Certificate for Certain Work.
- 27.57.140 Procedure for Certificate.
- 27.57.150 Certificate Approval or Denial.
- 27.57.160 Procedure Following Certificate Denial.
- 27.57.170 Hazardous Structures.
- 27.57.180 Appeal.

27.57.010 Name and Citation of Title.

This title shall be known, referred to, and cited as "Historic Preservation District" of the City of Lincoln. (Ord. 12910 § 1; April 28, 1980).

27.57.020 Purpose.

This title is to designate, preserve, protect, enhance, and perpetuate those structures and districts which are elements of the city's historical, cultural, archaeological, or architectural heritage; to stabilize and improve property values in such districts; to foster civic pride in the beauty and accomplishments of the past; to protect and enhance the city's attractions to tourists and visitors and the support and stimulus to business and industry thereby provided; to strengthen the economy of the city; to promote the use of historic districts and landmarks for the education, pleasure, and welfare of the people of the city; and to promote and encourage continued private ownership and utilization of such buildings and other structures now so owned and

used so that the objectives listed above can be attained while the owner can receive a reasonable economic return on the property. The historic landmarks and landmark districts are intended to be zoning overlay districts. (Ord. 12910 § 2; April 28, 1980).

27.57.030 Definitions; General Provisions.

For the purpose of this title, certain terms and words are hereby defined. Words used in the present tense shall include the future; the singular number shall include the plural and the plural the singular; the word "shall" is mandatory. (Ord. 12910 § 3; April 28, 1980).

27.57.040 Landmark.

Landmark shall mean an individual structure, or an integrated group of structures on a single lot or site, or a site having special historical, cultural, architectural, or archeological interest or value. (Ord. 12910 § 4; April 28, 1980).

27.57.050 Landmark District.

Landmark district shall mean an area containing a number of structures having special historical, cultural, architectural, or archaeological interest or value constituting a distinct section of the city. The landmark district shall have a minimum area of 45,000 square feet. (Ord. 12910 § 5; April 28, 1980).

27.57.060 Historic Preservation Commission Created.

There is hereby created the historic preservation commission (hereinafter, the "Preservation Commission"). The Preservation Commission shall consist of seven members appointed by the Mayor with confirmation by a majority of the City Council. (Ord. 12910 § 6; April 28, 1980).

27.57.070 Membership.

The Preservation Commission membership shall include at least two registered architects, one historian qualified in the field of American history, one registered landscape architect, if available; one licensed realtor; and two citizens at large. Members are to be appointed for terms of three years, provided that of those members first taking office, two shall be appointed for one year, two for two years, and three for three years. Members may serve for more than one term and each member shall serve until the appointment of a successor. In the event of a vacancy, an appointment shall be made to fill the vacancy in the same manner as if at the beginning of the term, and the person appointed to fill the vacancy shall hold such office for the unexpired term. (Ord. 12910 § 7; April 28, 1980).

27.57.080 Organization.

The Preservation Commission shall elect from among its own members a chairman and such other officers as it may deem necessary. The Preservation Commission shall make such rules and regulations as it may deem advisable and necessary for the conduct of its affairs, for the purpose of carrying out the intent of this chapter, which are not inconsistent with the laws of the city and the state. Four members shall constitute a quorum for the transaction of business and four affirmative votes shall be required for final action on any matter acted upon by the Preservation Commission. Members of the Preservation Commission shall serve without compensation. The Preservation Commission shall meet monthly. (Ord. 13727 § 1; November 7, 1983; prior Ord. 12910 § 8; April 28, 1980).

27.57.090 Secretary and Staff of Preservation Commission.

The Planning Director shall act as the nonvoting Secretary to the Preservation Commission. The city, through the Planning Department, shall provide the Preservation Commission with adequate staff to perform the duties prescribed under this chapter. (Ord. 12910 § 9; April 28, 1980).

27.57.100 Attorney; Duties.

The City Attorney shall be ex officio the Attorney for the Preservation Commission, and shall advise the Preservation Commission, and represent it in any and all legal disputes or court or administrative actions. (Ord. 12910 § 10; April 28, 1980).

27.57.110 Powers and Duties.

The powers and duties of the Preservation Commission shall be as follows:

- (a) Initiate and maintain an inventory of all sites, structures, and districts potentially eligible for designation as landmarks or landmark districts, pursuant to the standards in Section 27.57.120;
- (b) Consult with and consider the ideas and recommendations of civic groups including neighborhood and business organizations, public agencies, and citizens interested in historical preservation;
- (c) Inspect and investigate structures, sites, and areas which are believed worthy of preservation;
- (d) Disseminate information to the public concerning those structures, sites, and areas deemed worthy of preservation and encourage and advise property owners in the protection, enhancement, perpetuation, and use of landmarks and property of interest;

- (e) Prepare National Register nominations and, after consultation with Planning Commission, City Council, and Mayor, forward them to the State Historic Preservation Office, for all such sites, structures, and districts the Preservation Commission deems eligible for inclusion on the National Register of Historic Places;

- (f) Solicit gifts and contributions to be made to the city and assist in the preparation of applications for grant funds to be made to the city for the purpose of preservation;

- (g) For every building or district designated for preservation, prepare a guideline for preservation of the property;

- (h) Upon request of the property owner, render advice and guidance with respect to any proposed work on a landmark or in a landmark district;

- (i) Prepare and deliver an annual report of the Preservation Commission's past actions and future goals to the City Council;

- (j) Make recommendations and do such other acts as are mandated by this chapter. (Ord. 12910 § 11; April 28, 1980).

27.57.120 Designation of Landmarks and Landmark Districts.

A site, structure, or area may be designated as a landmark or landmark district if it is of historical, cultural, architectural, or archeological importance as evidenced by meeting one or more of the following standards for designation:

- (a) Associated with events, person, or persons who have made a significant contribution to the history, heritage, or culture of the City of Lincoln, the County of Lancaster, the State of Nebraska, or the United States;

- (b) Represents a distinctive architectural style or innovation, or is the work of a craftsman whose individual work is significant in the development of the City of Lincoln, the County of Lancaster, the State of Nebraska, or the United States; or

- (c) Represents archeological value in that it yields or may be likely to yield information pertaining to prehistory or history.

Any person, group of persons, or association may request the designation of a landmark or landmark district by submitting a petition for such designation to the Planning Department upon a form furnished by the Planning Department. The Preservation Commission, in addition, may on its own motion submit a petition for

designation. The Planning Director shall transmit all petitions to the Preservation Commission.

Each petition forwarded to the Preservation Commission by the Planning Director shall be considered by the Preservation Commission at a public hearing with a public record kept. Notice of the time, place, and purpose of such public hearing shall be published by the Planning Department in a daily newspaper having general circulation in the City of Lincoln and shall be mailed to the owners of all property included in the proposed designation not less than eight days prior to the date of the hearing, using for this purpose the name and addresses of the last known owners as indicated by the real property tax records of Lancaster County. The Preservation Commission may also give such other notice as may be deemed desirable and practicable.

Whenever possible, the Preservation Commission shall secure the written consent of the owner or owners before proceeding to secure designation as a landmark. The Preservation Commission shall apply the "standards for designation" in its decision.

Within ninety days of the receipt of the petition by the Planning Department, the Preservation Commission shall approve, disapprove, or modify the petition and shall notify the petitioner of its action. Petitions which are approved or approved as modified shall then be transmitted to the Planning Commission. Along with the petition, the Preservation Commission shall include a justification for the designation as a landmark or landmark district and its recommendations for guidelines for preservation of the landmark or landmark district.

The Planning Commission shall consider the petition at a public hearing with a public record kept. Notice of the hearing including posting of property shall be made according to Lincoln Municipal Code Section 27.81.050.

Such posting shall include the property contained in the original petition and the modified petition, if any, unless the applicant and the Preservation Commission agree otherwise.

The Planning Commission shall consider the petition in light of the "standards for designation" and the degree of conformity with the city's comprehensive plan. Within sixty days, the Planning Commission shall recommend approval, disapproval, modification, or continuance of the petition and shall notify the petitioner of its actions. All petitions except for those held for continued consideration shall then be transmitted to the City Council.

Upon receipt of a petition, the City Council may designate a landmark or landmark district by ordinance. The City Council shall consider the "standards for designation" as well as the recommendations of the Planning Director, the Preservation Commission, and Planning Commission, and shall further give consideration to the economic consequences to the city and to the affected owners. The designation shall be by majority vote, except that if any owner of property to be designated as a landmark does not consent to such designation, the vote shall be by two-thirds of the council members. A landmark district shall not be designated if written protests are made by owners of at least fifty-one percent of the included property, excluding public right-of-way, at or prior to public hearing on the designating ordinance. The sufficiency of such protests shall be determined by the City Council.

Each designating ordinance shall include a description and statement of the significance of the landmark or landmark district to justify its designation and a description of the particular features that should be preserved, a guideline for preservation of the landmark or landmark district including particular restrictions as to construction, alteration, repair, or demolition of the landmark or property within the landmark district, and the legal description of the landmark or landmark district.

Within ten days after the effective date of the ordinance designating property as a landmark or a landmark district, the Planning Director shall send to the owner of record of such property so designated or each property within the designated landmark district, by registered or certified mail, a copy of the designating ordinance and a letter outlining the basis for such designation and the obligations and restrictions which result from such designation. Immediately after the effective date of the ordinance designating property as a landmark or landmark district, the City Clerk shall file certified copies of the designating ordinance with the Register of Deeds and with the Department of Building and Safety. (Ord. 13219 § 1; October 12, 1981; prior Ord. 12910 § 12; April 28, 1980).

27.57.130 Requirement of Certificate for Certain Work.

No person shall carry out or cause to be carried out on a landmark or in a landmark district any change in the appearance of a landmark or landmark district for which a building permit or demolition permit is required, as specified in the Lincoln Building Code for the city, or any change restricted by the particular

designating ordinance without a certificate issued by the Preservation Commission or the Planning Director as described below. Ordinary maintenance and repair not otherwise subject to a building permit regulation or restricted by the designating ordinance may be carried out without a certificate issued by the Preservation Commission. (Ord. 13468 §1; September 27, 1982; prior Ord. 12910 §13; April 28, 1980).

27.57.140 Procedure for Certificate.

The application for such certificate shall be filed with the codes administration and shall be accompanied by plans for the proposed work to be done and such other information as the Director of Building and Safety shall require. The Department of Building and Safety shall review the application and plans for compliance with the existing building code ordinances and regulations. The application and plans shall be referred to the Planning Department.

The Planning Director may issue a certificate of "no material effect" if the application is for work which is not restricted by the designating ordinance and if the work contemplated in the application will have no effect on any architectural features of the landmark or landmark district as detailed in the particular designating ordinance and will be in harmony therewith.

Other applications shall be transmitted by the Planning Department to the Preservation Commission along with any recommendations by the Department of Building and Safety and the Planning Department. Within sixty days of receipt of the application by the Department of Building and Safety, the Preservation Commission shall hold a public hearing on the applications received by the Preservation Commission. Notice of the time, place, and purpose of such hearing shall be published by the Planning Department in a daily newspaper having a general circulation in the City of Lincoln and shall be mailed to the certificate applicant not less than eight days prior to the date of hearing. The Preservation Commission may also give such other notice as may be deemed desirable and necessary, including posting of the property affected.

During the public hearing, the Preservation Commission shall review the application and plans in light of the guideline for preservation of the property contained in the particular preservation designation ordinance for that landmark or landmark district. (Ord. 12910 §14; April 28, 1980).

27.57.150 Certificate Approval or Denial.

Within thirty days of the hearing, the Preservation Commission shall approve or deny the application for the certificate for certain work on the landmark or in a landmark district.

The Preservation Commission:

(a) May issue a certificate of "appropriateness" if, after focusing upon aesthetic, historical, and architectural values, it finds that the proposed work would not unduly hinder the protection, enhancement, perpetuation, and use of the landmark or landmark district;

(b) May issue a certificate of "exception on the ground of insufficient return or hardship" if it finds that the landmark or property within the landmark district cannot yield a reasonable return if the proposed work is not permitted, that the plight of the applicant is due to unique circumstances, and that the hardship is the result of the application of the ordinance and is not the result of any act or omission by the applicant; or

(3) May refuse to issue a certificate, if it finds that the application does not meet any of the above criteria.

The Preservation Commission's decision must be accompanied by written findings of fact. No change shall be made in the application for any building permit after issuance of a certificate by the Preservation Commission or the Planning Director without resubmittal to the Preservation Commission or the Planning Director and approval in the same manner as provided above. (Ord. 14082 §1; April 15, 1985; prior Ord. 12910 §15; April 28, 1980).

27.57.160 Procedure Following Certificate Denial.

If no certificate is issued, the applicant and the Preservation Commission shall enter into negotiations to develop a plan whereby modifications in the application would enable the Preservation Commission to issue a certificate under the criteria listed above and compatible with the guideline for preservation in the particular designation ordinance. If the proposed work involves demolition of all or a significant portion of a landmark or property within a landmark district or involves construction upon open areas of a landmark or within a landmark district and no acceptable plan is negotiated and approved by the applicant within three months of the Preservation Commission's decision not to issue a certificate, the city may proceed by eminent domain proceedings to

acquire the landmark or the affected property within the landmark district, but if the city does not initiate proceedings within ninety days, the Planning Director shall issue a certificate of "allowance," permitting the applicant to proceed with the work as proposed in the application. If the proposed work on a landmark or in a landmark district is other than the above and no acceptable plan is negotiated and approved by the applicant within three months of the Preservation Commission's decision not to issue a certificate, the Planning Director shall issue a certificate of "allowance," permitting the applicant to proceed with the work as proposed in the application. (Ord. 14082 §2; April 15, 1985; prior Ord. 12910 §16; April 28, 1980).

27.57.170 Hazardous Structures.

The Planning Director shall issue a certificate of "allowance on the ground of hazardous conditions" for razing a structure or other work if the codes administration has determined that the landmark or structure within the landmark district poses an immediate hazard to human health and safety. However, no owner shall by deliberate acts or deliberate neglect allow a landmark or property within a landmark district to become hazardous to human health and safety with the intent of then obtaining such permit. (Ord. 14082 §3; April 15, 1985; prior Ord. 12910 §17; April 28, 1980).

27.57.180 Appeal.

Any person aggrieved by any order, approval, disapproval, or other decision issued by the Preservation Commission, the Planning Director, or the Planning Commission may appeal such order, approval, disapproval, or other decision to the City Council by filing a written appeal with the City Clerk within thirty days of such order. Such appeal shall fully state the order, approval, disapproval, or other decision appealed from, the date thereof, and the facts of the matter.

The City Clerk shall refer the appeal to the City Council, which shall fix within thirty days a reasonable time for the hearing. Notice of the time, place, and purpose of such hearing shall be published in a daily newspaper having a general circulation in the City of Lincoln by the City Clerk and shall be mailed by certified or registered mail to the appealing party not less than eight days prior to the date of hearing. In exercising its appellate jurisdiction, the order approval, disapproval or other decision appealed from shall be deemed advisory and the City Council may in conformance with the provisions of this title make such decision as ought to be made. In making a determination, the Council may request information and recommendations from any department of the City of Lincoln. (Ord. 18633 §6; October 24, 2005; prior Ord. 12910 §18; April 28, 1980).



Chapter 27.58

AIRPORT ENVIRONS NOISE DISTRICT

Sections:

- 27.58.010 **Scope of Regulations.**
- 27.58.020 **Definitions.**
- 27.58.030 **Use Regulations.**
- 27.58.050 **Permitted Uses in Relation to Noise Exposure Levels.**
- 27.58.060 **Conditional Permitted Uses in Relation to Noise Exposure Levels.**
- 27.58.080 **Avigation and Noise Easements.**
- 27.58.090 **Pre-existing Uses.**
- 27.58.100 **Enforcement and Exemption.**

27.58.010 Scope of Regulations.

The regulations set forth in this chapter, or set forth elsewhere in this title when referred to in this chapter, are regulations in the Airport Environs Noise District. The regulations shall apply to the area in the vicinity of the Lincoln municipal airport defined as Airport Environs Noise District in Section 27.58.020. References to specific DNL lines shall mean those DNLs as shown on the "Airport Environs Noise District Map." (Ord. 18408 §1; August 2, 2004; prior Ord. 17752 §1; October 30, 2000; Ord. 17699 §1; July 24, 2000; Ord. 14431 §3; July 14, 1986; Ord. 13414 §1; June 14, 1982).

27.58.020 Definitions.

For the purpose of this chapter, certain terms and words are hereby defined:

Airborne noise shall mean noise radiated initially into and transmitted through air.

Airport Environs Noise District shall mean an area established on the Airport Environs Noise District Map (hereinafter Airport Environs Noise District Map), and more particularly described as follows:

Beginning at a point located on Southwest 12th street at the southeast corner of the north half of Section 9, Township 9 North, Range 6 East of the 6th P.M., Lancaster County, Nebraska, thence northerly along Southwest 12th Street, said line also being the east line of Sections 9 and 4, Township 9 North, Range 6 East, and the east line of Section 33, Township 10 North, Range 6 East a distance of approximately 8,100 feet to the centerline of the Burlington Northern Santa Fe railroad tracks; thence

northeasterly along said railroad track centerline a distance of approximately 2,000 feet; thence northerly along the centerline of Southwest 9th Street and its extension north and south through the west half of Sections 34 and 27, Township 10 North, Range 6 East a distance of approximately 8,200 feet to the centerline of a Burlington Northern Santa Fe railroad track. Said track being approximately 500 feet south of "O" Street; thence northeasterly along the former Burlington Northern Santa Fe railroad centerline through Sections 27 and 22, Township 10 North, Range 6 East to the intersection of said railroad centerline and the east line of Section 22, Township 10 North, Range 6 East; thence northerly along the east line of said Section 22 a distance of approximately 150 feet to the centerline of the Union Pacific railroad tracks; thence northwesterly along said railroad track centerline through Sections 22 and 15, Township 10 North, Range 6 East to an intersection with the west line of Section 15, Township 10 North, Range 6 East; thence north along the west line of Section 15, Township 10 North, Range 6 East to an intersection with the centerline of Northwest 12th Street; thence northerly along the centerline of Northwest 12th Street to its intersection with the centerline of Northwest 13th Street in Section 3 Township 10 North, Range 6 East; thence continuing northerly along the centerline of said Northwest 13th Street to its intersection with the centerline of West Fletcher Avenue; thence westerly along the centerline of said West Fletcher Avenue to a point on the west line of Section 34, Township 11 North, Range 6 East; thence northerly along the west line of said Section 34 to the southeast corner of Section 28, Township 11 North, Range 6 East; thence east along the south line of Section 27, Township 11 North, Range 6 East to an intersection with North 1st Street, said point also being the southeast corner of Section 27, Township 11 North, Range 6 East; thence north along North 1st Street and along the east line of Sections 27, 22, and 15, Township 11 North, Range 6 East to the City of Lincoln's three-mile zoning jurisdiction line; thence westerly along said three-mile zoning jurisdiction line to its intersection with Northwest 70th Street. Said point being on the west line of Section 24, Township 11, Range 5 East; thence south along the west line of Sections 24, 25 and 36, Township 11 North, Range 5 East, and along the west line of Sections 1, 12, 13, 24, 25 and 36, Township 10 North, Range 5 East, and along the west line of Sections 1 and 12, Township 9 North, Range 5 East to the southwest corner of the north half of Section 12, Township 9 North, Range 5 East; thence east along the south line of the north half

of Section 12, Township 9 North, Range 5 East, and along the south line of Sections 7, 8 and 9, Township 9 North, Range 6 East, said line also being along West Claire Avenue and its extension east and west, to the point of beginning at the southeast corner of the north half of Section 9, Township 9 North, Range 6 East.

Day-night average sound level (DNL) shall mean the sum of noise emission equivalent of A-weighted sound level during a 24-hour day typifying annual average conditions after addition of 10 decibels to sound levels in the night before 7:00 a.m. and after 10:00 p.m.

Exterior door shall mean all exit doors of a building that are located between conditioned and unconditioned space. A basement, crawl space, or garage is considered unconditioned space unless it is provided with a positive heat supply to maintain a minimum temperature of 50 degrees F.

Habitable space shall mean space or room in a structure for living, sleeping, eating, or cooking. Bathrooms, toilet compartments, closets, halls, storage or utility space, solariums, sunrooms and similar areas are not considered habitable space.

Noise-sensitive manufacturing and noise-sensitive communication facilities shall include, but not be limited to, the manufacture and assembly of micro-electronics, technical and scientific instruments, photographic and optical goods, and other manufacturing sensitive to speech interference or vibration, and radio and television broadcasting studios. (Ord. 18408 §2; August 2, 2004; prior Ord. 17752 §2; October 30, 2000; Ord. 17699 §2; July 24, 2000; Ord. 14431 §4; July 14, 1986; Ord. 13414 §3; June 14, 1982).

27.58.030 Use Regulations.

Any use permitted in the underlying zoning district in which the proposed use is located shall be allowed in the Airport Environs Noise District except as prohibited within the provisions of this chapter and, provided that additional requirements set forth in this chapter are met. References to allowable uses as provided within this chapter are conditioned upon the said use being in compliance with allowable uses within the underlying zoning district. (Ord. 18408 §3; August 2, 2004; prior Ord. 17752 §3; October 30, 2000; Ord. 17699 §3; July 24, 2000; Ord. 13414 §4; June 14, 1982).

27.58.050 Permitted Uses in Relation to Noise Exposure Levels.

(a) The use of a building or premises for any use permitted under Section 27.58.030 shall be allowed in the Airport Environs Noise District if it lies within the specified noise exposure levels set out in Figure 27.58.050 shown at the end of this chapter, conditioned upon compliance with Section 27.58.080 of this chapter.

(b) Where property is undeveloped, only such portion of it as is actually within the DNL lines shall be considered at or within that DNL line. However, at such time as said property shall be subdivided or platted, any platted buildable lots intersected by a DNL line shall be deemed to be wholly within the highest DNL line. (Ord. 18408 §4; August 2, 2004; prior Ord. 17752 §4; October 30, 2000; Ord. 17719 §2; August 21, 2000; Ord. 17699 §5; July 24, 2000; Ord. 13414 §6; June 14, 1982).

27.58.060 Conditional Permitted Uses in Relation to Noise Exposure Levels.

(a) The use of a building or premises for a use designated Y[1] in Figure 27.58.050 shown at the end of this chapter is permitted in the Airport Environs Noise District if it lies within the specified noise exposure levels, in conformance with the requirements of Section 27.58.080 of this title and the conditions prescribed herein:

(1) A building permit may be issued by the Director of Building and Safety provided that the building plan shows a design that incorporates acoustical features described below in addition to all other applicable requirements of the Lincoln Building Code as now existing or hereinafter amended:

- (i) All exterior doors shall be either:
 - A. solid-core or metal-clad construction of at least 1 3/4 inches thick, or
 - B. separately equipped with wood or metal storm door.
 - C. multiple-glazed.
- (ii) Multiple-glazed windows shall be provided for all habitable space.
- (iii) Through-the-wall/door mailboxes, venting skylights, jalousie windows, or other direct openings from the interior to the exterior of the building shall be prohibited.

(iv) Mechanical ventilation shall be provided of a type and design to provide adequate environmental comfort with all doors and windows closed during all seasons. Window and through-the-wall ventilation units shall not be used. Commercial cooking areas are exempt from these conditions. (Ord. 18408 §5; August 2, 2004; prior Ord. 17857 §6; June 4, 2001; Ord. 17752 §5; October 30, 2000; Ord. 17719 §3; August 21, 2000; Ord. 17699 §6; July 24, 2000; Ord. 14837 §2(part); February 29, 1988; Ord. 13414 §7; June 14, 1982).

27.58.080 Avigation and Noise Easements.

(a) All uses allowed within the Airport Environs Noise District, except as provided in Section 27.58.090, shall be conditioned upon the grant by the property owner of an avigation and noise easement. Such easement shall be a condition of subdivision, community unit plan, special permit, use permit, or building permit. The avigation and noises easement is to be submitted pursuant to the terms of this chapter and shall conform to the provisions contained in the model avigation and noise easement, a copy of which is shown in Figure 27.58.080 at the end of this chapter. (Ord. 18408 §6; August 2, 2004; prior Ord. 17752 §7; October 30, 2000; Ord. 17699 §8; July 24, 2000; Ord. 13414 §9; June 14, 1982).

27.58.090 Pre-existing Uses.

Any existing use which was lawfully established at the time of the effective date of this chapter may be continued although such use does not conform to the provisions hereof. However, the requirements set forth in this chapter shall be applicable to the portion of the use subject to enlargement, extension, conversion, reconstruction, or structural alteration, and not be retroactive to the entire existing structure. Nothing

shall prohibit the reconstruction of a building legally in use at the time of the adoption of this chapter. A request for enlargement, extension, conversion, reconstruction, or structural alteration of a pre-existing use which does not conform to the provisions of this chapter shall be processed through special permit procedures set forth in Chapter 27.63. No person applying for a special permit to enlarge, extend, convert, reconstruct, or alter a structure lawfully in existence at the time of the enactment of this chapter shall be required to submit an avigation and noise easement as a condition for approval thereof. (Ord. §18408 7; August 2, 2004; prior Ord. 13414 §10; June 14, 1982).

27.58.100 Enforcement and Exemption.

(a) Prior to the issuance of a building permit or other certificate, the Director of Building and Safety shall receive the executed avigation and noise easement for property in the Airport Environs Noise District which shall then be forwarded to the Airport Authority or shall have received evidence that the executed avigation and noise easement was previously furnished to the Airport Authority. All avigation and noise easements shall be forwarded to the Airport Authority, which shall then be filed with the Register of Deeds at Authority's expense.

(b) Uses in connection with the operation of the Lincoln municipal airport, and properties owned or leased by the City of Lincoln, the Airport Authority of the City of Lincoln, military units, or other governmental agencies are hereby declared compatible and shall be exempted from the requirements of this chapter. (Ord. 18408 § 8; August 2, 2004; prior Ord. 17752 §9; October 30, 2000; Ord. 17699 § 9; July 24, 2000; Ord. 13414 §11; June 14, 1982).

Figure 27.58.050

Generalized Use Matrix for Airport Environs Noise District

Uses Permitted Within Each Noise Contour Level *	Airport Noise Environs District			
	Below 60 DNL	60 to 65 DNL	65 to 70 DNL	70 to 75 DNL
All residential uses (incl. RV parks and campgrounds)	Y	Y [1]	N	N
Educational and religious facilities	Y	Y [1]	N	N
Health and childcare facilities	Y	Y [1]	N	N
Outdoor sport, recreation, entertainment (except for race tracks for motorized vehicles, open space and natural areas, golf courses and trails) and parks facilities.	Y	Y	N	N
Indoor sport, recreation, and entertainment facilities	Y	Y	Y	N
Noise-sensitive manufacturing and communication facilities	Y	Y	Y	N
Cemeteries, mausoleums and undertaking establishments	Y	Y	Y	N
Hotels/ motels	Y	Y	Y	N
Race Tracks for Motorized Vehicles	Y	Y	Y	N
Offices, retail and service businesses, restaurants, eating and drinking establishments	Y	Y [1]	Y [1]	Y [1]
Open space and natural areas	Y	Y	Y	Y
Golf courses and trails	Y	Y	Y	Y
Service stations and repair services	Y	Y	Y	Y
Assembly, processing, manufacturing, refining, mining, storage, transportation, utility, communication and distribution facilities	Y	Y	Y	Y
Farming, livestock, breeding and feeding; plant nurseries	Y	Y	Y	Y
Parking lots	Y	Y	Y	Y
Signs	Y	Y	Y	Y

Notes:
 Y - Permitted
 N - Not permitted

1. Development is required to incorporate acoustical features as a condition of building permit issuance, as described in Section 27.58.060 of this chapter.

* All uses permitted within the Airport Environs Noise District shall be conditioned upon the grant by the property owner of an aviation and noise easement agreement, as described in Section 27.58.080 of this chapter.

(Ord. 18408 § 4; August 2, 2004).

Figure 27.58.080
Model Avigation and Noise Easement

INDENTURE made this _____ day of _____, 20____, between _____

hereinafter called "Grantor", and Airport Authority of the City of Lincoln, a public body corporate and politic, hereinafter called "Airport Authority":

WHEREAS, Grantor is the owner in fee simple of a certain tract of land situated in Lancaster County, State of Nebraska, more particularly described as:

See attached Exhibit "A",

said tract of land being hereinafter referred to as "Grantor's Land"; and

WHEREAS, Airport Authority, as an agency of the City of Lincoln, Nebraska, is the owner and operator of a public airport known as Lincoln Municipal Airport situated on land adjacent or in close proximity to the above-described property; and

WHEREAS, Grantor has agreed in consideration of _____ (\$_____) and other valuable consideration, receipt of which is hereby acknowledged, to grant Airport Authority and City of Lincoln, Nebraska, the following Avigation and Noise Easement for the right of flight and consequent aircraft noise over Grantor's Land.

NOW THIS INDENTURE, WITNESSETH:

Grantor, for itself, its heirs, successors and assigns, for the said consideration, hereby grants and conveys to the City of Lincoln, Nebraska, the following Avigation and Noise Easement for the right of flight and consequent aircraft noise over Grantor's Land.

NOW THIS INDENTURE, WITNESSETH:

Grantor, for itself, its heirs, successors and assigns, for the said consideration, hereby grants and conveys to the City of Lincoln, Nebraska, for the use of Airport Authority, its successors and assigns, a perpetual easement and right-of-way for the unobstructed and unrestricted flight of aircraft in, through and across the airspace over and above Grantor's Land, at any legally permissible altitude, and the right, to the extent permitted by law, to make noise and cause fumes and disturbance arising from the ground and flight operations of all civil and military aircraft to, from and upon Lincoln Municipal Airport, regardless of the means of propulsion.

The Grantor, for itself, its heirs, successors, and assigns, does hereby waive all right to and interest in any claim or cause of action against the Airport Authority or the City of Lincoln, arising out of or from any legally permissible noise, vibration, avigations, pollution, light or noise generated from, above or on airport property, or sonic disturbance of any description, caused by flight operations of civil and military aircraft regardless of the means of propulsion, to, from and upon Lincoln Municipal Airport, which may result in damage to land or to any person, structure or other property located upon Grantor's Land, excepting, however, any claim or cause of action for any damage or injury to person or property resulting from any aircraft, or object therefrom, falling on, propelled into, or striking any person or property on Grantor's land.

The Grantor, for the said consideration, further agrees, that if Grantor or its heirs, successors or assigns, should sell or alienate any portion of Grantor's Land, Grantor, its heirs, successors or assigns shall include in every deed or conveyance evidencing such sale or alienation, a recitation that the grant is subject to all conditions contained within this Avigation and Noise Easement, and further as a condition of such transaction, Grantor shall require each Grantee to include such recitation in any subsequent deed or conveyance of any of the property herein above described as Grantor's Land.

In the event any condition or provision herein contained is held to be invalid by any court of competent jurisdiction, the invalidity of any such easement, condition or provision shall in no way affect any other condition or provision herein contained.

It is understood and agreed that this easement shall be binding upon the heirs, administrators, executors, and assigns of the Grantor, and that this easement shall run with Grantor's Land.

TO HAVE AND TO HOLD said Avigation and Noise Easement hereby granted unto the City of Lincoln for the use of the Airport Authority, its successors, and assigns, as appurtenant to the said Lincoln Municipal Airport and every part thereof.

IN WITNESS WHEREOF, the undersigned has caused its signature to be affixed this _____ day of _____, 20__.

By: _____

STATE OF NEBRASKA)
) ss.
COUNTY OF LANCASTER)

On this _____ day of _____, 20__, before me, a duly appointed and qualified notary public, personally appeared _____, to me personally known to be the same and identical person who signed the above and foregoing instrument and he did acknowledge the execution thereof to be his voluntary act and deed and that of _____.

WITNESS my hand and seal on the date last aforementioned.

Notary Public

(Ord. 18408 §6; August 2, 2004).

Chapter 27.59

AIRPORT ZONING REGULATIONS

Sections:

- 27.59.010 Definitions.
- 27.59.020 Location and Boundaries.
- 27.59.030 Zone Descriptions.
- 27.59.040 Height Restrictions.
- 27.59.060 Permit Required; Procedure.
- 27.59.070 Airport Hazards.
- 27.59.080 Nonconforming Height.
- 27.59.090 Administration.
- 27.59.100 Board of Zoning Appeals.
- 27.59.110 Powers of the Board of Zoning Appeals.
- 27.59.120 Airport Zoning Commission.
- 27.59.130 Use of Land.
- 27.59.140 Appeal from Board of Zoning Appeals.
- 27.59.150 Penalty for Violations.

27.59.010 Definitions.

As used in this chapter unless the context otherwise requires:

Airport shall mean the Lincoln municipal airport, located as provided in Section 27.59.020, below.

Airport hazard shall mean any structure or use of land which obstructs the airspace required for the flight of aircraft in landing or taking off at the airport or is otherwise hazardous to such landing or taking off of aircraft.

Nonconforming use shall mean any structure or use of land which does not conform to a requirement of this chapter or an amendment thereto, as of the effective date of this chapter.

Person shall mean any individual, firm, association, corporation, or body politic and includes any receiver, assignee, or similar representative thereof.

Structure shall mean any object constructed or installed by man.

Runway shall mean a portion of the airport, having a surface especially developed and maintained for the landing and take-off of aircraft.

City shall mean the City of Lincoln, Nebraska.

Lessee shall mean any person, other than the owner, in possession of land. (Ord. 12571 §280; May 8, 1979).

27.59.020 Location and Boundaries.

The vicinity of the airport, located in Sections 4, 5, 6, 7, 8, 9, 17 and 18, Township 10 North, and Sections 31 and 32, Township 11 North, Range 6 East of the Sixth Principal Meridian, Lancaster County, Nebraska, specifically being the area lying within the outer limits of a series of points forming a line which is a horizontal distance of three miles from the airport boundary or the corporate limits of the city, whichever is the lesser distance from the airport boundary line, is hereby declared an airport hazard area and is hereby zoned as follows:

The hazard area consists of approach zones, turning zones, and transition zones as defined in Section 27.59.030.

(a) The outer boundary of the hazard area is composed of a series of connected tangents and simple curves which also constitute the outer boundaries of the approach and turning zones.

(b) The inner boundary of the hazard area is a boundary line consisting of a series of intersecting tangents, 500 feet from and parallel to the centerlines of the runways and connecting the inner boundaries of adjacent approach zones at the ends of the runways. The boundaries of the airport hazard area, approach zones, turning zones and transition zones are delineated and shown on the Lincoln Airport Zoning Map. (Ord. 17967 §2; February 25, 2002; prior Ord. 12571 §281; May 8, 1979).

27.59.030 Zone Descriptions.

(a) An approach zone is located at each end of each existing or proposed runway for the landing or taking off of airplanes. Such approach zones begin 200 feet beyond the ends of the respective runways, and at such beginning are 1,000 feet in width, 500 feet on each side of the respective centerline, and extend and expand uniformly centered along the extended centerline of the respective runways to the outer boundary of the approach and turning zones at a rate of 30 feet of width for each 100 feet of horizontal length for each runway.

The inner area of each approach zone is that portion of the approach zone beginning 200 feet beyond the end of the respective or proposed runway and extending to the intersection of the controlling glide angle with a plane 150 feet above the highest elevations of the ends of the respective runways, at a rate of one foot vertically for each 50 feet horizontally.

The outer area of each approach zone is the area between the inner area of the approach zone and the outer limit of the approach and turning zones.

(b) The transition zones are the areas bounded by the inner boundary of the hazard area, the sides of contiguous inner areas of approach zones and the outer limits of the transition zones; said outer limits of the transition zones being the intersections, at elevations of 150 feet above the highest elevation at the ends or edges of the closest runway, or proposed runway, of a series of contiguous planes originating from bases established by the inner boundary of the hazard area and the edges of adjacent inner areas of approach zones; the planes rising from their respective bases at the rate of one foot vertically to seven feet horizontally to the lines of intersection previously referred to.

(c) The turning zones comprise all portions of the zoned area not contained in the approach zones and transition zones. The outer limits of the turning zones are a series of points forming a line which is a horizontal distance of three statute miles from the airport boundary line or the corporate limits of the city, whichever is the lesser distance from the airport. (Ord. 17967 §3; February 25, 2002; prior Ord. 12571 §282; May 8, 1979).

27.59.040 Height Restrictions.

No building or structure, smokestack, chimney, tower, or other structure or appurtenance thereto of any kind or character shall hereafter be erected, constructed, repaired, or established except as otherwise provided in Section 27.59.090:

(a) In the inner approach zones to a height above the planes forming the inner area of the approach zones;

(b) In the outer approach zones and in turning zones to a height in excess of 150 feet above the elevation at the closest runway end, as shown on the Lincoln Airport Zoning Map, or to a height in excess of seventy-five feet above the elevation of the natural ground at the location of the structure; except a maximum height of 275 feet shall be permitted in the following described area:

Beginning at a point 142 feet west of the west line of Tenth Street and 150 feet south of the south line of "R" Street; thence south to the centerline of "Q" Street; thence east along the centerline of "Q" Street to its intersection with the centerline of the north-south alley between 9th and 10th and "P" and "Q" Streets; thence south along said line to the centerline of the east-west alley between 9th and 10th and "P" and "Q" Streets; thence west along said line to a point 100 feet west of the west line of 9th Street; thence south to the centerline of "P" Street; thence

west along the centerline of "P" Street to its intersection with the centerline of the north-south alley between 8th and 9th and "O" and "P" Streets; thence south along said line to the centerline of "O" Street; thence west along the centerline of "O" Street to a point 150 feet west of the west line of 9th Street; thence south to the centerline of the east-west alley between 8th and 9th and "N" and "O" Streets; thence east along said line to the centerline of the north-south alley between 9th and 10th and "N" and "O" Streets; thence south along said line to the centerline of "K" Street; thence east along the centerline of "K" Street to its intersection with the centerline of the north-south alley between 10th and 11th and "J" and "K" Streets; thence south along said line to a point 150 feet south of the south line of "K" Street; thence east to the centerline of 11th Street; thence north along the centerline of 11th Street to the centerline of "K" Street; thence east along the centerline of "K" Street to the centerline of 12th Street; thence north along the centerline of 12th Street to the centerline of "L" Street; thence east along the centerline of "L" Street to the centerline of 13th Street; thence north along the centerline of 13th Street to the centerline of "M" Street; thence east along the centerline of "M" Street to the centerline of 14th Street; thence north along the centerline of 14th Street to the centerline of "N" Street; thence east along the centerline of "N" Street to the centerline of 15th Street; thence north along the centerline of 15th Street to the centerline of "O" Street; thence east along the centerline of "O" Street to a point 150 feet east of the east line of 15th Street; thence north to the centerline of the east-west alley between 15th and 16th and "Q" and "R" Streets; thence west along said line to a point 150 feet west of the west line of 15th Street; thence north to a point 95 feet south of the south line of "R" Street; thence west to the centerline of 14th Street; thence south along the centerline of the east-west alley between 13th and 14th and "Q" and "R" Streets; thence west along the said line to the point of beginning, and more specifically set forth upon a map which is attached hereto and made a part of this title, which map is designated as the airport zoning map.

(c) In the transition zones to a height above the planes forming the transition slopes;

(d) Within the inner boundary of the hazard area and in the existing or proposed runways to a height above the existing or proposed finished grade of said runways. All grades of said runways are hereby established by and referenced to the plans of said airport on file in the office of the City Clerk,

which plans are made a part of this chapter by reference. (Ord. 17967 §4; February 25, 2002; prior Ord. 12571 §283; May 8, 1979).

27.59.050 Airport Zoning Map.

(Repealed by Ord. 17967 §5; February 25, 2002; Ord. 12571 §284; May 8, 1979).

27.59.060 Permit Required; Procedure.

(a) It is hereafter unlawful to erect, construct, reconstruct, repair, or establish any building, tower, smokestack, chimney, or other structure or appurtenances thereto of any kind or character within the boundary of the hazard area of said airport without first obtaining a height permit from the building official.

(b) In the outer approach zones and within the turning zones, no height permit shall be required generally for construction which is no higher than seventy-five feet above the elevation of the natural ground at the point of construction, except in specifically "shaded" areas indicated on the airport zoning map. Structures or buildings proposed to be constructed within or in close proximity to such "shaded" areas on said map shall require certification as to elevation if in the opinion of the building official such structure or building may exceed the allowable height of that particular "shaded" portion of the map, provided that no certification as to elevation or a height permit shall be required for proposed accessory structures or accessory buildings to dwelling units when said proposed accessory structures or accessory buildings or any attachment thereto do not exceed the elevation of said dwelling unit.

(c) Application for a height permit as required under the provisions of this chapter shall be made upon a form which is available in the office of the building official. The application shall indicate the location, ground elevation with reference to the elevation at the closest point on a runway, and the height of the proposed structure. Said elevation shall be certified to by a land surveyor, registered by the State of Nebraska, which certificate must accompany said application.

(d) The building official shall require a registered professional surveyor to verify the actual height and location of any structure or building requiring a height permit. The certification shall be submitted to the building official at the point of final construction of the structure or building, but prior to operation or occupying the structure or building. Such information shall be recorded and maintained by

the building official. (Ord. 17967 §6; February 25, 2002; prior Ord. 12571 §285; May 8, 1979).

27.59.070 Airport Hazards.

(a) The Building Official shall examine or cause to be examined any transmission line, pole, tree, wires, or other structures or natural growth, not included in Section 27.59.060, reported to him as an airport hazard within the hazard area, and if such is found to be an airport hazard as defined in Section 27.59.010, it shall be the duty of the Building Official to give the owner of the property where such hazard exists written notice thereof, and to take such measures as are necessary and authorized by law to eliminate or alleviate said hazard. For the purpose of aiding the Building Official to determine whether the existence of any such reported transmission line, pole, tree, wires, or other structures or natural growth constitute an airport hazard, the Building Official may in each case request a written report from the State Department of Aeronautics under the provisions of Neb. Rev. Stat. §§ 3-108 and 3-113 (Reissue 1973) to advise whether or not an airport hazard, as defined in this chapter, exists.

(b) Notwithstanding any other provisions of this title, no use may be made of land within any zone established by this ordinance in such a manner as to create electrical interference with radio communication between the airport and aircraft, make it difficult for fliers to distinguish between airport lights and others, result in glare in the eyes of fliers using the airport, impair visibility in the vicinity of the airport, or otherwise endanger the landing, take-off, or maneuvering of aircraft. (Ord. 12571 §286; May 8, 1979).

27.59.080 Nonconforming Height.

Within the hazard area as hereinbefore defined, the lawful height of a building, structure, or premises existing at the time of the effective date of this chapter may be continued although such height does not conform to the provisions hereof. Within the hazard area no nonconforming building, structure, smokestack, chimney, or appurtenance thereof of any kind or character shall hereafter be replaced, substantially reconstructed, repaired, or altered to a height which constitutes a greater hazard to air navigation than existed before the effective date of this chapter, nor above the heights permitted by this chapter if such structures are torn down, destroyed, burned, deteriorated, or decayed to an extent of sixty percent or more, or abandoned for a period of twelve

months or more. (Ord. 17967 §7; February 25, 2002; prior Ord. 12571 §287; May 8, 1979).

27.59.090 Administration.

It is the duty of the Building Official who is the Director of Building and Safety of the City of Lincoln, to administer and enforce this chapter, and said officer is hereby appointed the "administrative agency" provided for in Neb. Rev. Stat. § 3-319 (Reissue 1943, as amended), and shall have all the powers and perform all the duties of the administrative agency as provided by the airport zoning act, until or unless otherwise ordered by the Mayor. Applications for permits and variances shall be made to the building official upon a form furnished by said official. Applications which are by this chapter to be decided by the building official shall be promptly considered and granted or denied. Applications for action by the Board of Zoning Appeals shall be forthwith transmitted by the Building Official to the Board for hearing and decision. (Ord. 12571 §288; May 8, 1979).

27.59.100 Board of Zoning Appeals.

(a) The Board of Zoning Appeals is the "Board of Adjustment" with respect to this chapter, to have and exercise the powers conferred by Section 27.59.120 and such other powers and duties as are conferred and imposed by law. Any person aggrieved or affected by any decision or action of the Building Official made in the administration of this chapter may appeal such decision or action to the Board of Zoning Appeals.

(b) Any appeal taken pursuant to this section shall be by the procedure established by Section 27.75.030. (Ord. 12571 §289; May 8, 1979).

27.59.110 Powers of the Board of Zoning Appeals.

The Board of Zoning Appeals has the following powers:

(a) To hear and decide appeals from any order, requirement, or decision made by the Building Official in the enforcement of this chapter;

(b) To hear and decide any special exceptions to the terms of this chapter which such board may be required to pass upon under this chapter; and

(c) To hear and decide specific variances to the extent necessary, where there are peculiar, exceptional, and unusual circumstances in connection with a specific situation where the relief granted would not be contrary to the public interest but would do sub-

stantial justice and be in accordance with the spirit of this chapter. Provided, that any variance may be allowed subject to any reasonable conditions that the Board of Zoning Appeals may deem necessary to effectuate the purpose of this chapter. (Ord. 12571 §290; May 8, 1979).

27.59.120 Airport Zoning Commission.

The Lincoln City-Lancaster County Planning Commission is hereby appointed the "Airport Zoning Commission," referred to in Neb. Rev. Stat. § 3-308, (Reissue 1943), to have and exercise the powers conferred by Neb. Rev. Stat. § 3-308, (Reissue 1943), and such other powers and duties as are conferred and imposed by law. (Ord. 12571 §291; May 8, 1979).

27.59.130 Use of Land.

No use of land which is prohibited by Title 27 of this code is permitted within the airport hazard area. (Ord. 12571 §292; May 8, 1979).

27.59.140 Appeal from Board of Zoning Appeals.

Any person aggrieved or taxpayer affected by any decision of the board of zoning appeals or governing body of a political subdivision which is of the opinion that a decision of the board of zoning appeals is illegal, may appeal to the District Court of Lancaster County in the manner provided in Neb. Rev. Stat. §§ 3-324 et seq. (Reissue 1973). (Ord. 12571 §293; May 8, 1979).

27.59.150 Penalty for Violations.

(a) Each violation of any provision of this chapter shall constitute a misdemeanor and shall be punishable by a fine of not less than \$50.00 nor more than \$300.00, or imprisonment for not less than five nor more than thirty days, or both such fine and imprisonment. Each day a violation continues to exist shall constitute a separate offense.

(b) In any case where use of land is made in violation of this chapter or where any building or structure is erected, constructed, reconstructed, altered, repaired, or converted in violation of this chapter, the city attorney, in addition to other remedies, is hereby authorized to institute on behalf of the city, injunction, mandamus, or any other appropriate action or proceeding to prevent such unlawful use, erection, construction, reconstruction, alteration, or conversion, or to correct or abate such violation. (Ord. 12571 §294; May 8, 1979).

Chapter 27.60

PLANNED UNIT DEVELOPMENT DISTRICT

Sections:

- 27.60.010 General Purpose.**
- 27.60.020 Requirements.**
- 27.60.030 Plan; Form.**
- 27.60.040 Plan; Procedure.**
- 27.60.050 Requirements After Approval.**
- 27.60.060 Planned Unit Development; Amendments.**
- 27.60.080 Previously Approved Planned Unit Developments.**

The planned unit development district is intended to provide a mechanism to permit flexibility in private or public development or redevelopment of areas throughout the city in the form of an overlay zone used in combination with one or more of the city's existing zoning districts. (Ord. 18437 §1; September 20, 2004).

27.60.010 General Purpose.

Planned unit development districts are intended to promote the public convenience and necessity; protect the health, safety, and welfare, to implement the goals and policies of the Comprehensive Plan and are to be used when it is necessary or appropriate to:

- (a) Permit flexibility in the regulation of land development;
- (b) Encourage innovation in land use, variety in design, layout, and type of construction;
- (c) Encourage the economy and efficiency in land use, natural resources, the provision of public services and utilities and the preservation of open space. (Ord. 18437 §2; September 20, 2004; prior Ord. 13896 §1; July 23, 1984).

27.60.020 Requirements.

- (a) General Requirements.

(1) The City or owners of any tract of land, at least three acres in size, may apply for a planned unit development designation in any district except the AG Agriculture and AGR Agricultural Residential districts.

(2) All regulations of the underlying zoning district shall apply, except as provided herein

and/or specifically modified by the City Council through the adoption of a development plan.

(3) The maximum residential density of a planned unit development shall be determined in accordance with the City of Lincoln Design Standards for community unit plans. Planned unit developments which comply with the City of Lincoln Design Standards for Density Bonuses may receive dwelling bonuses per those standards.

(4) Signs shall conform to Section 27.69.340, unless modified by the City Council.

(5) All development must meet the intent and spirit of the comprehensive plan.

- (b) Development Plan Requirements.

(1) The applicant shall submit a development plan for the proposed planned unit development.

(2) The development plan may propose and the City Council may approve any permitted use, conditional permitted use, or special permitted use allowed under the zoning code. Notwithstanding any regulation to the contrary, a separate special permit or use permit is not necessary to permit any such use.

(3) The development plan may propose and the City Council may approve area, height, sign, parking, landscaping, screening, traffic access and setback regulations for the project as a whole or for subareas or components of the project different from those within the underlying zoning district. In making its determination regarding approval of such proposed standards or restrictions, the City Council shall consider the character and scale of the proposed development as it relates to other uses and structures both within the district and outside the district, the character and scale of similar development within the area of the proposal, and consistency with other adopted plans or standards. The City Council may impose alternate or additional area, height, parking, landscaping, screening, traffic access, and setback regulations as necessary to protect and enhance areas within or adjacent to the planned unit development and to ensure compliance with the comprehensive plan and protect the health, safety, and general welfare.

(4) The development plan shall address the site-related impact and needs of the proposed development on existing and proposed street and utility systems. The City Council may impose conditions, restrictions, or standards as appropriate to achieve the intent of this ordinance, and require dedication of necessary rights-of-way or easements. In making its determination regarding such conditions,

restrictions, or standards, the Council shall consider the adequacy of existing or adjacent facilities, the timely provision of adequate facilities, the impact of the proposed development on existing and/or planned facilities, and the overall cost to the community.

(5) Where any portion of the total land area of a land use within the planned unit development is proposed to be adjacent to the perimeter of the planned unit development and such land use is not permitted in the adjacent zoning district, then the development plan must address how the proposal will mitigate any negative impacts. The City Council may impose additional standards and requirements for perimeter treatment to protect adjoining properties from adverse effects, and to achieve an appropriate transition of land uses and densities.

(6) For planned unit developments proposed over parcels in substantially developed areas, the development plan must include appropriate standards and regulations to assure that new development or renovations are in the scale and character of the existing neighborhood and are sensitive to adjacent properties with respect to height, scale, use and form of the surrounding neighborhood, including, but not limited to the following; land uses (including limitations on allowed uses), design standards for new construction (related to the scale and character of the surrounding neighborhood), height, parking, and setbacks, including both minimum and maximum setbacks. (Ord. 18437 §3; September 20, 2004; prior Ord. 17232 §11; August 18, 1997: Ord. 15795 §1; December 17, 1990: Ord. 15753 §1; October 15, 1990: Ord. 15672 §1; July 23, 1990: Ord. 15164 §4; May 8, 1989: Ord. 15154 §1; April 17, 1989: Ord. 14676 §1; June 1, 1987: Ord. 13896, as amended by Ord. 14020 §1; January 7, 1985).

27.60.030 Pre-application; Procedures and Requirements.

(Repealed by Ord. 18437 §4; September 20, 2004; prior Ord. 15164 §5; May 8, 1989: Ord. 14584 §1; January 20, 1987: Ord. 13896 §3; July 23, 1984).

27.60.030 Plan; Form.

The development plan shall be in the form and contain the information required of a community unit plan or preliminary plat. Development standards which differ from the underlying district shall be shown on the development plan.

For planned unit developments in existing neighborhoods or over parcels already substantially developed, the Planning Director may allow a development plan not as detailed as the requirements for community unit plans or preliminary plats since the site is substantially developed and issues such as drainage and utility connections are not a primary concern. However, the plan shall provide sufficient information to identify parcels included in the planned unit development, proposed land uses and design standards for buildings. (Ord. 18437 §5; September 20, 2004; PC 27.60.035; Ord. 17857 §7; June 4, 2001: Ord. 15164 §6; May 8, 1989: Ord. 14584 §3; January 20, 1987).

27.60.040 Plan; Procedure.

Upon filing of a development plan, together with all maps, data, and information required, the Planning Director shall distribute copies of the development plan and all accompanying materials to other city departments and governmental agencies which are directly concerned or potentially affected by the proposed planned unit development. Within fifteen days from the filing of the development plan, representatives of those city departments and governmental agencies described above shall provide written recommendations to the Planning Director who shall, within fifteen days thereafter, prepare a written report to the Planning Commission. Such report shall specify the Planning Director's recommendations regarding the conformity of the proposal to the comprehensive plan and shall recommend either approval, approval with revisions, or denial, as the case may be. The Planning Commission shall hold a public hearing on such application and provide notice thereof in accordance with Section 27.81.050, and shall make a report to the City Council. The report to the City Council shall include the effect of the development plan upon the surrounding neighborhood, the community, and other matters relating to public health, safety, and general welfare, reasons for recommending approval or denial of the application and if approval is recommended shall find that the proposed planned unit development meets the following conditions:

(a) The surrounding land will not be adversely affected;

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

(c) The buildings and land in the proposed planned unit development shall be used only for those purposes permitted by Section 27.60.020;

(d) The development plan meets the requirements of Chapters 27.52 and 27.53 of the Lincoln Municipal Code.

The City Council shall not take final action upon any application for a planned unit development under this plan until a report from the Planning Commission has been filed with the City Clerk; provided, that in the event that there is a delay of more than 60 days from the Planning Commission's initial public hearing date on the part of the Planning Commission in reporting its recommendation to the City Council, the applicant may appeal to the City Council requesting final action. If the City Council determines that the delay of the Planning Commission is unjustified, it shall direct the commission to submit a report no later than immediately after the commission's next regularly scheduled meeting.

Upon receipt of a report from the Planning Commission, the City Council shall proceed to give final consideration to the plan and may require that certain conditions be fulfilled by the applicant in conjunction with approval of the planned unit development.

Approval of a development plan shall be by ordinance after public hearing, in accordance with the requirements of Section 27.81.050.

All existing applications for a planned unit development which have been placed on pending by an applicant shall automatically expire and become null and void one year after the date this ordinance (Change of Zone No. 06062). All such applications which have been placed on pending by an applicant after the date of this ordinance (Change of Zone No. 06062) shall automatically expire and become null and void one year thereafter. At least thirty days before the date of expiration, the Planning Director shall cause notice of expiration to be sent to the applicant by regular United States mail, postage prepaid. Said notice shall advise the applicant that the application shall automatically expire unless prior to the expiration date, the Planning Director receives a request from the applicant to remove the application from pending and reschedule the matter

on the Planning Commission or City Council agenda as appropriate. (Ord. 18898 §6; March 12, 2007; prior Ord. 18437 §6; September 20, 2004; Ord. 14584 §4, January 20, 1987; Ord. 13896 §4; July 23, 1984).

27.60.050 Requirements After Approval.

Upon approval of the development plan, the developer shall cause to be prepared and submitted to the Planning Department a revised final plot plan with all required amendments and revisions. Thereafter, building permits and certificates of occupancy shall be issued only upon a finding of substantial compliance with the approved planned unit development, or as amended, regardless of any regulations to the contrary with regard to the height and location of buildings, yard requirements, open space requirements, type of dwelling unit, accessory uses and the fronting of lots upon public streets set forth elsewhere in this title and applying to the underlying zoning district(s) in which the planned unit development is located. (Ord. 18437 §7; September 20, 2004).

27.60.060 Planned Unit Development; Amendments.

After the City Council has approved a planned unit development, the Planning Director is authorized to approve amendments in the planned unit development provided that:

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

(b) Minor increases in the number of dwelling units or total floor area originally authorized by the City Council may be approved if such increases will not cause a significant adverse impact on the public infrastructure, existing development within the planned unit development and adjoining properties. Minor increases shall not exceed more than fifteen percent (15%) cumulative additional dwelling units or total floor area;

(c) Amendments shall keep with the intent and spirit of the approved development plan;

(d) Amendments shall not violate any regulation set forth in this title;

(e) No change is made to the applicable setback, yard, or height requirements for lots along the perimeter of the planned unit development;

(f) Minor internal changes to the applicable setback, yard, or height requirements may be made within the planned unit development if they conform to the intent of the approved development plan and do

not adversely impact existing development within the planned unit development;

(g) Any amendment not in conformance with this paragraph shall be submitted to the City Council in the same manner as a formal application for a planned unit development. (Ord. 18437 §10; September 20, 2004; prior Ord. 13896 §6; July 23, 1984).

27.60.080 Previously Approved Planned Unit Developments.

For planned unit developments adopted prior to the effective date of this section, the original conditions of the planned unit development shall apply.

Any proposed amendments shall be in accordance with Section 27.60.060, except the Planning Director may not increase the total number of dwelling units or total floor area by administrative amendment for previously approved planned unit developments. (Ord. 18437 §12; September 20, 2004).

Chapter 27.61

**NONCONFORMING
AND NONSTANDARD USES**

Sections:

- 27.61.010 Continuation of Nonconforming Use.**
- 27.61.020 Use Becoming Nonconforming by Change in Law or Boundaries.**
- 27.61.030 Discontinuance of Nonconforming Use.**
- 27.61.040 Extension or Enlargement.**
- 27.61.050 Restoration After Damage.**
- 27.61.060 Sign Regulations.**
- 27.61.070 Open Storage.**
- 27.61.080 Effect on Use Which is Illegal Under Prior Law.**
- 27.61.090 Continuation of Nonstandard Uses.**
- 27.61.100 Expansion of Nonstandard Single- and Two-family Dwellings Into Required Yards.**

27.61.010 Continuation of Nonconforming Use.

Subject to the provisions of this chapter, the lawful use of a building or premises existing immediately prior to the effective date of this title may be continued although such use does not conform to the provisions hereof.

If no structural alterations are made, a nonconforming use may be changed to another nonconforming use of the same or of a more restrictive category. For the purposes of this chapter, each of the following categories of use shall be considered to be "more restrictive" than those it precedes:

- (a) Single- and two-family residential;
- (b) Multiple-family residential;
- (c) Office buildings;
- (d) Retail sales and service;
- (e) General commercial;
- (f) Light industrial;
- (g) Heavy industrial;
- (h) Uses only by special permit in the I-1 industrial district.

Whenever a nonconforming use has been changed to a more restrictive use or to a conforming

use, such use shall not thereafter be changed to a less restrictive use.

Subject to the requirements of Sections 27.61.040 and 27.61.080, below, a nonconforming use not involving a building may be continued even though such use does not conform to the provisions hereof if no changes are made in regard to size or location of water lines, sewer lines or private roads. (Ord. 12571 §295; May 8, 1979).

27.61.020 Use Becoming Nonconforming by Change in Law or Boundaries.

Whenever the use of a building or premises becomes a nonconforming use through a change in the zoning ordinance or district boundaries, such use may be continued and if no structural alterations are made, it may be changed to another nonconforming use of the same or of a more restrictive category, subject to the provisions of this chapter. Whenever a nonconforming use has been changed to a more restrictive use or to a conforming use, such use shall not thereafter be changed to a less restrictive nonconforming use. (Ord. 12571 §296; May 8, 1979).

27.61.030 Discontinuance of Nonconforming Use.

In the event that a nonconforming use of any building or premises is discontinued or its normal operation stopped for a period of two years, the use of the same shall thereafter conform to the uses permitted in the district in which it is located. (Ord. 12571 §297; May 8, 1979).

27.61.040 Extension or Enlargement.

Any nonconforming building or premises devoted to a use not permitted by this title in the district in which the building or premises is located shall not be enlarged, extended, converted, reconstructed, or structurally altered unless such use is changed to a use permitted in the district in which the building or premises is located or unless authorized under the provisions of Section 27.63.280 or required to do so by law or order. (Ord. 12571 §298; May 8, 1979).

27.61.050 Restoration After Damage.

When the use of a building is nonconforming as defined in this chapter and such a building is damaged by a fire, explosion, act of God, or the public enemy to the extent of more than sixty percent of its fair market

value, it shall not be restored except in conformity with the regulations of the district in which the building is located, or in conformance with the provisions of Chapter 27.75 or Section 27.63.280. (Ord. 12571 §299; May 8, 1979).

27.61.060 Sign Regulations.

Signs for nonconforming uses and nonconforming signs shall be regulated in conformance with the provisions of Chapter 27.69. (Ord. 12571 §300; May 8, 1979).

27.61.070 Open Storage.

Where land within the R-1, R-2, R-3, and R-4 districts contain no main buildings as distinguished from accessory buildings and fences, and where said land was used solely for open storage immediately prior to the effective date of this title, use of such land for open storage shall be discontinued within two years.

Where land is used for a nonconforming or nonstandard use in conformance with the provisions of this chapter and where such land contains a main building or structure in addition to open storage, said open storage shall be brought in conformance with the area, front yard, side yard, rear yard, height, unobstructed open space, and parking requirements for the district in which it is located within the period of one year from the effective date of this title. (Ord. 12571 §301; May 8, 1979).

27.61.080 Effect on Use Which is Illegal Under Prior Law.

Nothing in this title shall be interpreted as authorization for, or approval of, the continuance of the use of a building or premises in violation of zoning regulations in effect immediately prior to the effective date of this title. (Ord. 12571 §302; May 8, 1979).

27.61.090 Continuation of Nonstandard Uses.

Nonstandard uses existing immediately prior to the effective date of this title and uses becoming nonstandard through a change in the zoning ordinance or district boundaries may be continued, although such uses do not conform to the provisions hereof.

Structures and buildings located upon a premises the use of which constitutes a nonstandard use may be enlarged, extended, or reconstructed, as follows:

(a) Enlargements, extensions, or reconstructions may be made as required by law or ordinance or ordered by the Director of Building and Safety to secure the safety of the structure;

(b) Enlargements, extensions or reconstruction of buildings or structures may be made if authorized under the provisions of Section 27.63.280;

(c) Enlargement, extension, or reconstruction of buildings or structures may otherwise be made if such changes comply with the minimum requirements as to front yard, side yard, rear yard, height, and unobstructed open space for the district in which they are located.

(d) The number of dwellings units in multiple dwellings shall be limited to no more than the number of dwelling units licensed with Building and Safety on the effective date of this title or on the effective date of the change in district boundaries from another zoning district to the new zoning district. (Ord. 19172 §12; November 3, 2008; prior Ord. 18827 §12; October 9, 2006; Ord. 18730 §1; May 22, 2006; Ord. 16798 §2; June 5, 1995; Ord. 12894 §23; April 7, 1980; Ord. 12571 §303; May 8, 1979).

27.61.100 Expansion of Nonstandard Single- and Two-family Dwellings Into Required Yards.

In the R-1, R-2, R-3, R-4, R-5, R-6, R-7, and R-8 districts, the expansion of a nonstandard single-family or two-family dwelling into a required yard is allowed under the following conditions:

(a) The proposed building expansion shall not extend further into any required yard than the furthest extension of the existing wall, not including a bay window or any other projection allowed by Chapter 27.71 or any wall of less than ten feet in length, of the single- or two-family dwelling and shall maintain a minimum required setback of three feet for a side yard and ten feet for a front or rear yard.

(b) The proposed building expansion shall comply with all other height and area regulations of the zoning district in which the building is located.

(c) The use of the building shall remain a single- or two-family dwelling.

(d) This does not allow for the enclosure of front porches that encroach into the front yard setback. (Ord. 19245 §1; May 4, 2009).

Chapter 27.63

SPECIAL PERMITS

Sections:

- 27.63.010 Procedures.
- 27.63.020 Action of Planning Commission.
- 27.63.025 Appeal of Planning Commission Action.
- 27.63.030 Amendments.
- 27.63.040 Pre-existing Uses.
- 27.63.050 Parking Regulations.
- 27.63.060 Sign Regulations.
- 27.63.070 Permitted Special Use: Early Childhood Care Facilities.
- 27.63.075 Permitted Special Use: Private Schools.
- 27.63.080 Permitted Special Use: Health Care Facilities.
- 27.63.090 Permitted Special Use: Dwellings For Members of a Religious Order.
- 27.63.100 Permitted Special Use: Farm Chemicals.
- 27.63.110 Permitted Special Use: Garden Centers.
- 27.63.120 Permitted Special Use: Mobile Home Courts.
- 27.63.125 Permitted Special Use: Mobile Home Subdivisions.
- 27.63.130 Permitted Special Use: Recreational Facilities.
- 27.63.140 Permitted Special Use: Outdoor Lighting For Recreational Facilities.
- 27.63.150 Permitted Special Use: Broadcast Towers.
- 27.63.160 Permitted Special Use: Excavation and Stone Milling.
- 27.63.170 Permitted Special Use: Parking Lots.
- 27.63.175 Permitted Special Use: Parking Garages in O-1 District.
- 27.63.180 Permitted Special Use: B-4 District.
- 27.63.190 Permitted Special Use: Temporary Parking Lots.
- 27.63.195 Permitted Special Use: Temporary Commercial Parking.
- 27.63.200 Permitted Special Use: Clubs.
- 27.63.210 Permitted Special Use: Elderly or Retirement Housing.
- 27.63.215 Permitted Special Use: Housing Facilities For the Physically Handicapped.
- 27.63.216 Permitted Special Use: Connection of Single-Family Dwelling to Accessory Building for the Physically Handicapped.
- 27.63.220 Permitted Special Use: Church Steeples, Towers, and Ornamental Spires.
- 27.63.225 Permitted Special Use: Public Utility and Cable Television Purposes.
- 27.63.230 Permitted Special Use: Outdoor Theaters.
- 27.63.240 Permitted Special Use: Retail Sales and Service.
- 27.63.250 Permitted Special Use: Permitted Use Exceeding the Maximum Height Permitted in District.
- 27.63.260 Permitted Special Use: Confined Feeding Facilities.
- 27.63.270 Permitted Special Use: Campgrounds.
- 27.63.280 Permitted Special Use: Expansion of Nonconforming and Nonstandard Uses.
- 27.63.290 Permitted Special Use: I-1 District.
- 27.63.300 Permitted Special Use: Bulk Storage of Petroleum Products.
- 27.63.320 Permitted Special Use: Community Unit Plans.
- 27.63.330 Permitted Special Use: Veterinary Facilities.
- 27.63.340 Permitted Special Use: Offices.
- 27.63.350 Permitted Special Use: Sale Barns.
- 27.63.370 Permitted Special Use: Banks.
- 27.63.380 Permitted Special Use: Flood Plain Construction.
- 27.63.390 Permitted Special Use: Restaurants; Motels and Hotels.
- 27.63.400 Permitted Special Use: Historic Preservation.
- 27.63.405 Permitted Special Use: Windows on Side Lot Lines for Any Use in a Historic Preservation District in B-1, B-3 and B-4 Districts.
- 27.63.410 Permitted Special Use: Dwellings Above First Story in B-1, B-3 and B-4 Districts.

- 27.63.420 Permitted Special Use: Wind Energy Conversion Systems (WECS) Over the District Height.
- 27.63.430 Permitted Special Use: Greenhouses.
- 27.63.440 Permitted Special Use: Outdoor Seasonal Sales.
- 27.63.460 Permitted Special Use: Airport Environs District.
- 27.63.470 Permitted Special Use: Planned Service Commercial.
- 27.63.490 Permitted Special Use: Small Batch Concrete Dispensing Units.
- 27.63.500 Permitted Special Use: Scrap Processing Operations, Salvage Yards, and Enclosed Disassembly Operations.
- 27.63.510 Permitted Special Use: Cemeteries.
- 27.63.530 Permitted Special Use: Domiciliary Care Facilities.
- 27.63.550 Permitted Special Use: Private Landing Strips and Appurtenances.
- 27.63.560 Permitted Special Use: Limited Landfills.
- 27.63.570 Permitted Special Use: Race Tracks For Motorized Vehicles.
- 27.63.580 Permitted Special Use: Nonprofit Religious, Educational and Philanthropic Institutions; R-6, R-7 and R-8 Districts.
- 27.63.590 Permitted Special Use: Temporary Storage of Construction Equipment and Materials.
- 27.63.610 Permitted Special Use: Neighborhood Support Services.
- 27.63.620 Permitted Special Use: Temporary Shelter for the Homeless.
- 27.63.630 Permitted Special Use: Theaters.
- 27.63.640 Permitted Special Use: Dwelling Units for Domestic Employees in Accessory Buildings.
- 27.63.650 Permitted Special Use: Mail Order Catalog Sales; O-2, O-3, and B-2 Districts.
- 27.63.660 Permitted Special Use: Heritage Centers; AG District.
- 27.63.670 Permitted Special Use: Amateur Radio Antenna Installation.
- 27.63.680 Permitted Special Use: Sale of Alcoholic Beverages for Consumption On the Premises.
- 27.63.685 Permitted Special Use: Sale of Alcoholic Beverages for Consumption Off the Premises.
- 27.63.690 Permitted Special Use: Community Halls; AG District.
- 27.63.710 Permitted Special Use: Off-Premises Signs.
- 27.63.720 Permitted Special Use: Personal Wireless Services Facilities.
- 27.63.730 Permitted Special Use: Sexually Oriented Live Entertainment Establishment.
- 27.63.740 Permitted Special Use: Adult Care Center.
- 27.63.750 Permitted Special Use: Alternative to Imprisonment Facility.
- 27.63.760 Permitted Special Use: Children's Home.
- 27.63.770 Permitted Special Use: Tree Service.
- 27.63.780 Permitted Special Use: Outdoor Exercise Area Associated with an Indoor Animal Hospital or Indoor Kennel.
- 27.63.790 Permitted Special Use: Indoor Animal Hospital or Indoor Kennel.
- 27.63.800 Permitted Special Use: Single-Family Dwellings.
- 27.63.010 Procedures.**

Certain development or uses of land by their nature tend to be incompatible with other land uses in the same zoning district, but may be found acceptable in certain circumstances when conditioned in a manner to protect abutting land uses and to protect the character of the area.

Applications for a special permit under this chapter shall be filed by the owner in writing with the Planning Department on a form provided by the city. Upon filing of the application, the City Council shall refer the application to the Planning Commission. The

Planning Commission may authorize, by special permit after public hearing, any of the following buildings or uses designated in this chapter as permitted special uses. Such permitted special uses shall be restricted to the particular district or districts listed under the applicable provisions below. Said special permit shall require conformance with all regulations of the applicable sections of this chapter. The Planning Commission shall impose such conditions as are appropriate and necessary to ensure compliance with the comprehensive plan and protect the health, safety, and general welfare in the issuance of any such special permits. Where specifically authorized under the applicable provisions below for any of the buildings or uses designated in this chapter as permitted special uses, the City Council may decrease the minimum regulations of the district in which the permitted special use is located or modify the specific conditions for approval of the special permit provided the public welfare and interest of the city and surrounding area are protected and the general interest and spirit of these regulations are preserved. Unless expressly modified by the terms of the special permit, all regulations of the district in which the permitted special use is located shall apply. Copies of a plot plan of the lot and proposed uses drawn to an accurate scale and showing all pertinent information shall accompany a request for a special permit. (Ord. 18480 §1; December 20, 2004; prior Ord. 16766 §6; April 10, 1995; Ord. 16593 §11; April 11, 1994; Ord. 15329 §5; August 7, 1989; Ord. 12571 §304; May 8, 1979).

27.63.020 Action of Planning Commission.

Before the issuance of any special permit for any of the buildings or uses enumerated in this chapter, the Planning Commission shall hold a public hearing upon such application and shall consider the effect of the proposed use upon the surrounding neighborhood, the Comprehensive Plan of the City of Lincoln, the community as a whole, and other matters relating to the public health, safety, and general welfare. If the applicant requests the City Council to make a permitted decrease in the minimum regulations of the district in which the permitted special use is located or to modify the specific conditions for approval of the special permit, the Planning Commission shall hold a public hearing upon such adjustment or modification at the same time that it hears the application for the special permit and shall make a report to the City Council regarding the effect the proposed use and

adjustment has upon the surrounding neighborhood, safety, community as a whole, and other matters relating to public health, safety, and general welfare. Upon receiving a report from the Planning Commission, the City Council, after public hearing, shall take final action upon the application for the special permit and the adjustment. In the event the Planning Commission fails to act upon the application within sixty days from the date the application is referred to the Planning Commission, the applicant may appeal to the City Council requesting final action. If the City Council determines that the delay of the Planning Commission is unjustified, it shall direct the commission to act no later than the commission's next regularly scheduled meeting.

All existing applications for a special permit which have been placed on pending by an applicant shall automatically expire and become null and void one year after the date this ordinance (Change of Zone No. 06062). All applications which have been placed on pending by an applicant after the date of this ordinance (Change of Zone No. 06062) shall automatically expire and become null and void one year thereafter. At least thirty days before the date of expiration, the Planning Director shall cause notice of expiration to be sent to the applicant by regular United States mail, postage prepaid. Said notice shall advise the applicant that the application shall automatically expire unless prior to the expiration date, the Planning Director receives a request from the applicant to remove the application from pending and reschedule the matter on the Planning Commission or City Council agenda as appropriate. (Ord. 18898 §7; March 12, 2007; prior Ord. 15239 §6; August 7, 1989; Ord. 12571 §305; May 8, 1979).

27.63.025 Appeal of Planning Commission Action.

(a) Any aggrieved person, council member, or any person or group officially designated to participate in the administration of this title may appeal any action of the Planning Commission to the City Council by filing notice of appeal with the City Clerk within fourteen days following the action of the Planning Commission.

(b) Upon receipt of the appeal by the City Council, the council shall hold a public hearing thereon within thirty days from the date of appeal. Notice of the public hearing shall be given as provided in Chapter 27.81.

(c) In exercising its appellate jurisdiction, the action appealed from shall be deemed advisory and the City Council may, after public hearing, in conformity with the provisions of this title make such decision as ought to be made. (Ord. 18633 §7; October 24, 2005; prior Ord. 18482 §1; December 20, 2004; Ord. 15239 §7; August 7, 1989).

27.63.030 Amendments.

After the application for a special permit has been approved, including the specific plot plan required under Section 27.63.010, the Planning Director is authorized to approve amendments to the special permit, provided that:

(a) A request for amendment is filed with the Planning Director, together with all information pertinent to the proposed amendment;

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

(c) Such amendment may provide for minor increases in total floor area and storage space originally permitted;

(d) There is no increase in the number of dwelling units;

(e) No reduction is made to the applicable setback or yard requirements;

(f) No public land is accepted;

(g) Such amendment shall not be contrary to the general purposes of this chapter;

(h) Any amendment not in conformance with this paragraph shall be submitted to the Planning Commission in the same manner as an original special permit. (Ord. 15239 §8; August 7, 1989; prior Ord. 13528 §5; January 3, 1983; Ord. 12571 §306; May 8, 1979).

27.63.040 Pre-existing Uses.

An existing use of the type listed in this chapter which was lawfully established on the effective date of this title shall be deemed to have received a special permit as herein required and shall be provided with such permit by the city upon request, and it shall not be a nonconforming use; provided, however, for any enlargement, extension, or relocation of such existing use an application in conformance with Section 27.63.010 shall be required. (Ord. 12571 §307; May 8, 1979).

27.63.050 Parking Regulations.

Minimum parking requirements, where applicable, for special permit uses shall be regulated in conformance with the provisions of Chapter 27.67. (Ord. 12571 §308; May 8, 1979).

27.63.060 Sign Regulations.

Signs for special permit uses shall be regulated in conformance with the provisions of Chapter 27.69. (Ord. 12571 §309; May 8, 1979).

27.63.070 Permitted Special Use: Early Childhood Care Facilities.

Early childhood care facilities may be allowed by special permit in the AG, AGR, R-1, R-2, R-3, R-4, R-5, R-6, R-7, R-8, O-1, O-2, O-3, R-T, H-4, I-1, I-2, or I-3 zoning districts under the following conditions:

(a) The application shall be accompanied by the following information:

(1) The number of children and number of staff members on the largest shift;

(2) A physical description of the facility and a site plan drawn to scale that includes, but is not limited to, the location and arrangement of parking spaces, the traffic circulation pattern, loading and unloading areas, fencing, play area, and entrances/exits to such facility;

(3) If the proposed facility is for twenty-one or more children and is located in a residential district, the application must also include a conversion plan which complies with the design standards for early childhood care facilities.

(b) Prior to occupancy, such facilities shall comply with all applicable state and local early childhood care and building requirements.

(c) Facilities with twenty-one to thirty children shall be located on collector or arterial streets. Facilities with thirty-one or more children shall be located on an arterial street. The location of such facilities on such streets shall comply with the design standards for early childhood care facilities.

(d) The site plan and play area for such facilities shall comply with the design standards for early childhood care facilities.

(e) The parking and loading/unloading area for such facilities shall comply with the provisions of Chapter 27.67 of the Lincoln Municipal Code. In residential districts, such parking and loading/

unloading area shall comply with the design standards for early childhood care facilities.

(f) If the proposed facility is located in an industrial district, the applicant shall submit to the Health Department, for its review and recommendation, information on the storage and use of hazardous chemicals in the vicinity, evacuation plans and internal air quality control.

(g) The City Council may modify these conditions, except for condition (b). (Ord. 18480 §2; December 20, 2004; prior Ord. 17232 §12; August 18, 1997; Ord. 16894 §2; November 2, 1995; Ord. 16854 §42; August 14, 1995; Ord. 16606 §3; May 9, 1994; Ord. 15368 §18; December 18, 1989; Ord. 14728 §3; August 10, 1987; Ord. 14576 §1; January 5, 1987; Ord. 14192 §3; September 3, 1985; Ord. 14023 §1; January 14, 1985; Ord. 12571 §310; May 8, 1979).

27.63.075 Permitted Special Use: Private Schools.

(a) Private schools, including but not limited to business or commercial schools, dance or music academies; gymnastic or martial arts schools; and special schools, when not otherwise permitted in the district, may be allowed by special permit in the AG, AGR, R-1, R-2, R-3, R-4, R-5, R-6, R-7, R-8, R-T, O-2, O-3, or I-1 zoning districts. Private schools shall not include:

- (1) Early childhood care facilities; or
- (2) Public or private schools that meet the State of Nebraska requirements for elementary or secondary education.

(b) The application for a special permit for a private school shall be accompanied by the following information:

(1) Number of children, time separation between classes, number of staff members on the largest shift, and limitations on hours and classes to minimize the number of persons on site at any one time.

(2) A physical description of the facility and a site plan drawn to scale that includes, but is not limited to, the location and arrangement of parking spaces, the traffic circulation pattern, loading and unloading area, and entrances/exits to such facility. The parking and the loading and unloading area for such facility must comply with the provisions of Chapter 27.67 of the Lincoln Municipal Code.

(c) If the proposed facility is located in an industrial district, the applicant shall submit informa-

tion on the storage and use of hazardous chemicals in the vicinity, evacuation plans, and internal air quality control to the Health Department for its review and recommendation. (Ord. 19109 §3; July 28, 2008; prior Ord. 16909 §3; Dec. 18, 1995; Ord. 16854 §43; August 14, 1995; Ord. 15368 §19; Dec. 18, 1989).

27.63.080 Permitted Special Use: Health Care Facilities.

Health care facilities may be allowed by special permit in the R-1, R-2, R-3, R-4, R-5, R-6, R-7, R-8, O-1, O-3, B-1, B-2, B-3, H-3, or I-1 zoning districts under the following conditions:

(a) Parking. Parking shall be in conformance with Chapter 27.67; additional parking requirements may be imposed. Traffic may be required to be discharged into a major street as designated in the Comprehensive Plan, or into a classified collector. No parking shall be permitted in required front or side yards; all parking shall be screened.

(b) Yard and area regulations.

(1) Buildings shall not occupy over thirty-five percent of the total land area covered by the special permit.

(2) Yards abutting a nonresidential district shall be the same as those required in said abutting district.

(3) Any yard abutting a residential district or located wholly or partially in a residential district shall be the greater of ten feet or that required in the said abutting district, plus an additional one foot setback for each one foot of height shall be provided between the yard line and the wall nearest the yard line for that portion of the building exceeding twenty feet in height.

(4) Required front and side yards shall be landscaped.

(5) The City Council may increase or decrease these requirements with consideration given to both facilities and adjacent environment.

(c) The proposed health care facility shall conform to all applicable state and federal requirements.

(d) The location of health care facilities shall be readily accessible to the area served. Such facilities should be located on major streets near the center of the area to be served.

(e) On-site pedestrian circulation sidewalk systems shall be constructed in conformance with the provisions of Section 27.81.010. (Ord. 18687 §26;



March 20, 2006; prior Ord. 15491 §1; March 19, 1990: Ord. 14035 §2; January 21, 1985: Ord. 13768 §3; February 21, 1984: Ord. 13053 §1; November 24, 1980: Ord. 12571 §311; May 8, 1979).

27.63.090 Permitted Special Use: Dwellings For Members of a Religious Order.

Dwellings for members of a religious order may be allowed by special permit in the AG, AGR, R-1 R-2, R-3, R-4, R-5, R-6, R-7 and R-8 zoning districts under the following conditions:

- (a) The dwelling be a single housekeeping unit;
- (b) Parking shall be in conformance with Chapter 27.67; and
- (c) The maximum number of members occupying such a facility shall not exceed the following ratios between the resident and the lot area:

- (1) AG and AGR, 1 resident/5,000 square feet;
- (2) R-1, 1 resident/3,000 square feet;
- (3) R-2 and R-3, 1 resident/2,000 square feet;
- (4) R-4, 1 resident/1,000 square feet;
- (5) R-5, R-6, R-7, and R-8, 1 resident/750 square feet. (Ord. 14276 §1; November 25, 1985: prior Ord. 12571 §312; May 8, 1979).

27.63.100 Permitted Special Use: Farm Chemicals.

Facilities for the commercial storage and sale of fertilizer and toxic or flammable agricultural chemicals such as herbicides, insecticides, and fungicides may be allowed in the AG, AGR, and H-4 zoning districts. (Ord. 12571 §313; May 8, 1979).

27.63.110 Permitted Special Use: Garden Centers.

Garden centers may be allowed by special permit in the AG, AGR, R-2, and R-3 zoning districts under the following conditions:

- (a) In the R-2 and R-3 zoning districts, the land shall be adjacent to the boundary of one of the following districts: 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;
- (b) In the AG and AGR zoning districts, buildings and parking shall be set back at least 100 feet from all exterior lot lines;
- (c) In the R-2 and R-3 zoning districts, buildings, parking stalls, and driving aisles shall be set back at least 30 feet from abutting residential lot lines;
- (d) Height regulations shall be the same as the zoning district in which it is located;

(e) If a building or parking lot is located on the garden center site adjacent to any residential district, the yards adjacent to said residential district shall be landscaped and screened as required in Section 7.5 titled "Adjacent Land Uses and Zoning Districts of Substantially Different Character; B-1, B-2, B-3, H-1, H-2, H-3, H-4, B-5, O-2, I-1, I-2, I-3 Abutting Residential Districts" in Chapter 3.50 of the approved Design Standards for Zoning;

(f) Access to the garden center shall be from a street that is designated as an existing or future arterial in the Comprehensive Plan. (Ord. 19354 §1; March 8, 2010: prior Ord. 17482 §3; March 29, 1999: Ord. 12571 §314; May 8, 1979).

27.63.120 Permitted Special Use: Mobile Home Courts.

Mobile home courts may be allowed by special permit in the R-1, R-2, R-3, and R-4 zoning districts under the following conditions:

- (a) The mobile home court has a minimum site area of ten acres.
- (b) The average lot per family within the court shall not be less than the lot area per family required in the district or districts in which the mobile home court is located.

(c) Twenty-five feet shall be maintained between mobile homes, and between mobile homes and buildings, in all horizontal directions, except as otherwise provided under Section 21.56.070 of the Lincoln Municipal Code.

(d) No mobile home shall be located closer than fifty feet to any exterior property line, except when the mobile home is located adjacent to a trailer court or another mobile home court. Land within said fifty-foot exterior open space shall be permanently landscaped in accordance with the landscape design standards adopted by the City of Lincoln, except for the necessary paving of roadways and walkways to reach the mobile home area; provided, however, such landscaping shall not create a traffic hazard by impairing visibility at street and roadway intersections.

(e) Mobile homes within the mobile home court shall be required to have a setback of at least twenty feet from the pavement of private roadways.

(f) The design and construction or installation of roadways, walkways, parking spaces, utilities, drainage facilities, storage facilities, recreational facilities, landscaping, and other improvements shall comply with the written design standards established

by resolution of the City Council. Said design standards shall be filed with the City Clerk and made available upon request.

(g) No mobile home court shall be occupied or otherwise used until the appropriate city official has found the same is in compliance with the resolution approving said special permit and all other applicable laws, regulations, and requirements.

(h) A special permit for a mobile home court shall be temporary and shall be valid only so long as the mobile home court existing thereunder complies with the resolution approving said special permit and all other applicable laws, regulations, and requirements.

(i) The Planning Commission may permit uses accessory to mobile homes and mobile home courts in the nature of off-street parking facilities, private recreational facilities, and storage and maintenance facilities.

(j) If the applicant requests a combination special permit for both a mobile home court and a community unit plan, the Planning Commission may adjust the requirements set forth in subparagraphs (c), (d), (e) and (f) when such adjustments would be consistent with the intent and purpose of this title to promote public safety and general welfare. However, this paragraph does not allow the minimum court area to be reduced to less than ten acres.

(k) Individual lots in mobile home courts may be created under the following conditions:

(1) A combination special permit for both a mobile home court and a community unit plan is granted for such mobile home court;

(2) The lot area and average lot width for each proposed lot complies with the requirements of the underlying district, and no adjustments thereto are granted under the community unit plan provisions of the required special permit;

(3) The proposed subdivision complies with the land subdivision ordinance, being Title 26 of the Lincoln Municipal Code;

(4) The proposed mobile home lots shall not include all or any portion of the private roadways within said mobile home court; and

(5) Provisions for permanent and continuous maintenance and supervision of the common areas, and private utilities and facilities shall be incorporated in covenants and restrictions governing the subdivided property and shall be approved by the City Attorney prior to filing in the office of the Register of Deeds.

(Ord. 18480 §3; December 20, 2004; prior Ord. 16145 §1; July 6, 1992; Ord. 13443, as amended by Ord. 13534 §1; January 24, 1983; Ord. 12571 §315; May 8, 1979).

27.63.125 Permitted Special Use: Mobile Home Subdivisions.

Mobile home subdivisions may be allowed by special permit in the R-1, R-2, R-3, and R-4 zoning districts under the following conditions:

(a) The mobile home subdivision shall have a minimum site area of ten acres.

(b) The created mobile home lots and yards shall comply with all the applicable height and area regulations of the underlying district in which such subdivision is to be located, except that the minimum horizontal distance between mobile homes and the exterior property lines of the mobile home subdivision shall be fifty feet.

(c) The mobile home lot area shall not include streets and private roadways.

(d) Parking shall comply with the requirements of the underlying district.

(e) The mobile home subdivision shall comply with Title 26 of the Lincoln Municipal Code, Land Subdivision.

(f) The streets, private roadways, walkways, parking spaces, utilities, drainage facilities, recreational facilities, landscaping, and other improvements shall be designed, constructed, and installed to comply with the written design standards adopted by the City Council.

(g) Permanent and continuous maintenance of the common facilities by the lot owners shall be incorporated in covenants and restrictions governing the subdivided property and shall receive the approval of the City Attorney before recordation with the County Register of Deeds.

(h) Each mobile home to be located within a mobile home subdivision shall have:

(1) No less than an 800 square foot floor area;

(2) No less than an eighteen foot exterior width;

(3) A two and one-half inch in twelve inch pitched roof or steeper;

(4) A nonreflective exterior siding material which is or simulates wood, stucco, or masonry;

(5) A nonreflective roof material which is or simulates asphalt or wood shingles, tile, or rock;

(6) Permanent connections to permanently located utilities complying with the Lincoln Plumbing Code and the Lincoln Electrical Code; and

(7) A certificate stating the mobile home's construction complies with the Federal Department of Housing, and Urban Development's mobile home construction and safety standards.

(i) The longest exterior dimension of the mobile home shall be less than three times the most narrow exterior dimension.

(j) The towing bar and hitch of the mobile home, wheels and tires, and axles shall be removed.

(k) Each mobile home shall be securely and permanently attached to a permanent foundation complying with the Lincoln Building Code.

(l) The exterior siding of the mobile home shall extend to the ground and shall be supported to withstand wind loads as set forth in the Lincoln Building Code, or the foundation shall form a complete enclosure under the exterior walls. The space beneath the mobile home shall be properly ventilated.

(m) The placement of the mobile home shall be inspected and shall comply with all applicable codes, ordinances, and design standards and, in particular, Title 5 of the Lincoln Municipal Code, before the mobile home is occupied.

Single-family dwellings and two-family dwellings complying with the Lincoln Building Code and the underlying zoning regulations may be permitted within the mobile home subdivision special permit area. (Ord. 13655 §1; August 8, 1983; prior Ord. 13535 §5; January 24, 1983).

27.63.130 Permitted Special Use: Recreational Facilities.

Recreational facilities may be allowed by special permit in the AG, AGR, R-1, R-2, R-3, R-4, R-5, R-6, R-7, R-8, O-1, O-3, B-1, B-2, and B-3 zoning districts, in conformance with the following conditions:

(a) The application for such special permit shall provide the following information:

(1) A statement describing all proposed accessory uses and accessory buildings to be included as part of the recreational facility.

(2) A site plan showing the location, height, and use of all structures on the parcel.

(b) Yard requirements in excess of those required in the district may be imposed. In the AG district, the City Council may decrease the yard requirements with

consideration given to both the recreational facilities and the adjacent environment.

(c) Parking shall be in conformance with Chapter 27.67; additional parking requirements may be imposed; no parking shall be permitted in any required yard. The application shall include the applicant's estimate of parking needed for the proposed facility.

(d) Outdoor lighting of the recreational facility may be permitted in conformance with the Design Standards for Outdoor Lighting.

(e) All buildings, including accessory buildings, shall be located so that they will not adversely affect any existing or reasonably anticipated future uses in the surrounding area.

(f) The Planning Commission may authorize temporary structures which exceed the maximum height requirements of the district in which they are located upon a finding by the Planning Commission that there is sufficient justification for such an adjustment and that there will be no significant adverse affect on existing or reasonably anticipated future uses in the surrounding area.

(g) As part of the special permit for a recreational facility for a golf course or country club, the Planning Commission may permit the sale of alcoholic beverages for consumption on the premises as an accessory use to the golf course or country club, provided the applicable locational requirements of Section 27.63.680 have been met or waived by the City Council. (Ord. 19139 §3; September 15, 2008; prior Ord. 18480 §4; December 20, 2004; Ord. 18097 §1; November 25, 2002; Ord. 16751 §1; March 20, 1995; Ord. 15143 §1; April 10, 1989; Ord. 12571 §316; May 8, 1979).

27.63.140 Permitted Special Use: Outdoor Lighting For Recreational Facilities.

Outdoor lighting for recreational facilities may be allowed by special permit in the H-2 and H-3 zoning districts. (Ord. 12571 §317; May 8, 1979).

27.63.150 Permitted Special Use: Broadcast Towers.

Broadcast towers may be allowed by special permit in the AG, AGR, R-1, R-2, R-3, R-4, R-5, R-6, R-7, R-8, 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, and I-3 zoning districts. The proposed broadcast tower shall be reviewed under the guidelines established in Chapter 27.68, "Personal Wireless Facilities." (Ord. 17589 §2; January 18,

2000: prior Ord. 17232 §13; August 18, 1997: Ord. 17070 §4; October 7, 1996: Ord. 15348 §1; November 13, 1989: Ord. 14123 §3; June 3, 1985: Ord. 12571 §318; May 8, 1979).

27.63.160 Permitted Special Use: Excavation and Stone Milling.

Excavation and stone milling may be allowed by special permit in the AG, AGR, R-3, B-2, H-2, H-3, H-4, I-1, and I-2 zoning districts under the conditions below. For purposes of this section, excavation shall mean the removal of clay, soil, limestone, sandstone, sand, or gravel from the earth on a project site in excess of one acre by excavating, stripping, leveling, or any other process together with all other types of mining and quarrying operations for material that is removed from the earth. Excavation shall not include grading of land in accordance with an approved preliminary plat, building permit, or normal farming practices.

(a) An application for a special permit for excavation or stone milling shall be accompanied by the following information:

(1) A legal description of the proposed site;

(2) A site plan drawn to scale that includes but is not limited to identifying proposed vehicle and equipment storage areas and entrance and exit locations to the operation;

(3) A map showing the site location and the location of private access roads, existing or proposed, and public roads and highways adjacent to the site which will be affected by the operation;

(4) A grading map showing existing contours, proposed excavation contours, proposed final grade contours, and excavation volumes;

(5) A full and adequate description of all phases of the contemplated operation and the specific listing of the type of machinery and equipment which will be or might be used to carry on the operation;

(6) A groundwater report from a groundwater hydrologist in cases where proposed operations are: (i) within 1,000 feet of any off-site private well, (ii) within 2,000 feet of a community well, or (iii) designed to result in an excavated area that does not drain to a lower area (i.e. a "hole"). The report should demonstrate that the operation and ultimate grading will not negatively impact nearby wells by draw-down or contamination, and/or that

monitoring wells will be installed to provide early warning of any such impact;

Where a pond or lake is proposed, the groundwater report shall also demonstrate that adequate water will be supplied via runoff and/or wells to maintain it as a functioning and attractive year-round water feature.

(7) Reclamation plans for returning the site to agricultural use approved by a local official of the Federal Department of Agriculture Natural Resources Conservation Service as meeting the standards of the "Farm Bill Compliance."

(b) Erosion controls, including retention and sediment basins shall be provided during excavation in conformance with state and federal standards and City land erosion and sediment control regulations to prevent a change in the character of runoff onto adjacent land.

(c) No more than twenty (20) acres of the site shall be open for operations at any one time. The surface shall be maintained in such a manner that surface waters do not collect and pond, unless specifically approved by the City. Underground drainage may be supplied if it connects to an existing drainage facility and is satisfactory to the City.

(d) Topsoil shall be collected and stored for redistribution on the site at the termination of the operation or termination of each phase.

(e) Excavation shall be conducted in such a way as not to constitute a hazard to any persons, nor to the adjoining properties. Dust shall be controlled on-site to meet Lincoln-Lancaster County Air Pollution Control Program Regulations. In addition, the Health Department may require dust control on unpaved perimeter roads.

(f) Safety screening may be required at the outer boundary of the site. Visual screening through setbacks, berming and other techniques may also be required where said boundary is adjacent to residential or park land, school property, or at major entryways/corridors into a city, town or village.

(g) Operating hours shall be limited to daylight hours, Monday through Saturday.

(h) A sign shall be posted and maintained at the entrance to the site. The sign shall be:

- (1) Clearly visible from the adjacent road;
- (2) At least 32 square feet in area;
- (3) Lettering shall be at least two inches in height, black on a white background;
- (4) The sign shall list:

- (i) The approved Special Permit Number;
- (ii) The name, contact phone, and email address for the land owner;
- (iii) The name, contact phone, and email address for the operator/ contractor;
- (iv) The Building and Safety Department contact number.

(i) The County or City Engineer may require installation of traffic signs to warn motorists of excavation or stone milling operations and truck traffic.

(j) The applicant will take appropriate measures, such as street sweeping or "rumble bars" as specified by the County or City Engineer to minimize mud or dirt tracking onto streets and roads on a continuing (daily) basis during operation.

(k) Upon completion of all terms, conditions and requirements of the special permit that are to be completed before beginning operations, the Permittee shall request the Director of Building and Safety to issue a certificate of operation. Permittee shall not begin operations until it has received said certificate of operation.

The certificate of operation shall not be issued by the Director of Building and Safety until the Director has inspected the premises covered by the special permit, reviewed documentation and evidence of completion of the conditions which shall be provided by the applicant, and has found that all terms, conditions and requirements of the special permit, that were to be completed before beginning operations, have been complied with.

Any amendment to a special permit approved subsequent to the issuance of a certificate of operation for such special permit shall require the issuance of a new certificate of operation which shall not be issued until the Director of Building and Safety has ascertained that any terms, conditions and requirements of the amendment to the special permit have been complied with.

(l) Operations shall commence within one year from the date the special permit is approved or the special permit will automatically terminate and be considered null and void. All existing certificates of operation shall automatically terminate on the same date.

(m) Prior to commencing operations, the Permittee shall provide the City with a penal bond in the amount of \$525.00 per acre intended to be disturbed to assure compliance with the final

reclamation plan, including but not limited to regrading, topsoil conditioning, and re-vegetation. A registered professional engineer must certify at closure of operations that grading and final reclamation has been completed in accordance with the approved plans before the bond may be released.

(n) Within nine months after the completion of excavation on any portion of the site, all cuts shall be returned to a slope of less than three to one, the topography and soils shall be restored and stabilized, and the land shall be graded, seeded, and sodded so as to prevent erosion and siltation, and to protect the health, safety, and general welfare of the public.

(o) A special permit may be approved for a maximum of three-years from the date the special permit is issued.

(p) Permittee shall prepare and submit an annual report to the Director of Building and Safety addressing the status and extent of operations and each condition of the special permit. Failure to submit the annual report shall constitute just cause for the City Council to revoke the special permit.

(q) Permittee shall be subject to an annual site inspection by the Director of Building and Safety. The cost of such inspection shall be paid for by the applicant. Cost shall be based upon the Department of Building and Safety's hourly rate in effect on the date of the application. Building and Safety shall:

(1) Inspect the site to determine whether terms, special conditions and requirements imposed by the City in the approval of the special permit have been met and complied with; and

(2) Review all complaints from public and other departments/agencies and report to the Planning Director.

(r) The City Council may modify or adjust any of the above conditions or impose additional conditions to preserve the public health, safety, and general welfare or to allow the applicant use of the property, while at the same time, protecting the surrounding property. (Ord. 19224 §12; March 16, 2009; prior Ord. 12571 §319; May 8, 1979).

27.63.170 Permitted Special Use: Parking Lots.

(a) Parking lots may be allowed by special permit in the R-1, R-2, R-3, R-4, R-5, R-6, R-7, R-8, and O-2 zoning districts in conformance with the provisions of Chapter 27.67 and under one of the following conditions:

(1) A. The premises upon which the parking lot is located shall not be located more than 300 feet from the boundary of one of the following districts: O-1, B-1, B-3, B-4, H-2, H-3, or I-1 and the following conditions shall be met:

(i) The parking lot shall not use a local residential street for access, unless access cannot be gained to the proposed parking lot from a non-residential street. If access is proposed from a local residential street, such access must be gained at a location that does not negatively impact adjacent residential zoned property.

(ii) Any adjacent alley serving the parking lot shall be paved.

B. In addition to the above conditions, the Planning Commission, in passing upon applications for special permits under subparagraph (1), shall also consider the following criteria:

(i) There shall be no residential use located between the parking lot and the commercial or industrial establishment.

(ii) The parking lot shall not disrupt the continuity of the block face, and the character of the existing residential neighborhood shall be preserved.

(iii) The parking lot shall be allowed only if it can function as a transitional use while protecting the adjacent residential use.

(iv) The parking lot shall abut a commercial or industrial zoning district.

An adjustment to these criteria may be granted by the Planning Commission upon a determination that there is a sufficient cause for such an adjustment and that there will be no significant impact on adjacent residential uses, or

(2) The land shall not be located more than 360 feet from property occupied by a college, university, or church; provided that the parking lots are used primarily in connection with the said college, university, or church.

(b) Parking areas consisting of less than six parking spaces may be allowed by special permit in the same zoning districts in conformance with the same provisions and under the same conditions applicable to parking lots as contained in paragraph (a) of this section.

(c) If requested by the applicant, the City Council may adjust the location of any sign permitted by section 27.69.160 and the location of parking and allow parking and drive aisles in the front and side yards and may increase the minimum screening and

landscaping requirements consistent with adequate protection of the environment and adjacent land uses. (Ord. 19139 §4; September 15, 2008; prior Ord. 19092 §1; June 9, 2008; Ord. 18480 §5; December 20, 2004; Ord. 15981 §1; September 30, 1991; Ord. 15522 §3; April 16, 1990; Ord. 15103 §1; February 13, 1989; Ord. 13353 §1; April 5, 1982; Ord. 12571 §320; May 8, 1979).

27.63.175 Permitted Special Use: Parking Garages in O-1 District.

Parking garages may be allowed by special permit under the following conditions:

(a) Such parking garages shall not abut Lincoln Mall, Centennial Mall, or the Capitol Square as defined in Section 27.56.017;

(b) Such parking garages shall be reviewed by the Nebraska State Capitol Environs Commission if the proposed site for a parking garage is located in the twelve blocks adjacent to Capitol Square (bounded by "G" Street on the south, "L" Street on the north, 17th Street on the east, and 13th Street on the west). (Ord. 15835 §3; March 4, 1991).

27.63.180 Permitted Special Use: B-4 District.

(a) Parking lots, storage garages, and other off-street parking facilities may be allowed by special permit in that portion of the B-4 zoning district bounded by 10th Street, "P" Street, 14th Street, and "N" Street, in conformance with the provisions of Chapter 27.67.

(b) Service stations or car washes may be permitted in that portion of the B-4 zoning district bounded by 10th Street, 150 feet north of "P" Street, 14th Street, and "N" Street; provided that:

(1) Such use is located wholly within and is accessory to a storage garage permitted under (a) above;

(2) Such use is so located that service and access are from within said storage garage.

(c) Drive-in teller windows may be permitted in that portion of the B-4 zoning district bounded by 10th Street, "P" Street, 14th Street, and "N" Street; provided, that such use is so designed that all customers waiting to be served, and all auto-storage lanes, are wholly within a parking lot or a storage garage.

(d) Service stations may be permitted in that portion of the B-4 zoning district from 150 feet east of 17th Street to the eastern edge of the B-4 Lincoln Center Business District. (Ord. 19132 §7; September

8, 2008: prior Ord. 17947 §1; December 10, 2001: Ord. 13334 §6; March 29, 1982: Ord. 12698 §2; September 24, 1979: Ord. 12571 §321; May 8, 1979).

27.63.190 Permitted Special Use: Temporary Parking Lots.

Parking lots may be allowed by special permit in the R-1, R-2, R-3, R-4, R-5, R-6, R-7, and R-8 zoning districts under the following conditions:

(a) The land shall not be located more than 600 feet from the boundary of one of the following districts: O-1, B-1, B-2, B-3, B-4, H-2, H-3, H-4, or I-1;

(b) Use of such temporary parking lot shall be for a period not to exceed twenty-four months;

(c) Such use is made necessary by reason of construction activity that makes existing parking inaccessible. (Ord. 12571 §322; May 8, 1979).

27.63.195 Permitted Special Use: Temporary Commercial Parking.

Temporary commercial parking lots or temporary commercial storage garages may be allowed by special permit in the R-2 and R-3 zoning districts under the following conditions:

(a) The land subject to the special permit shall be at least 300 feet distant from the nearest dwelling, except dwellings located on the subject land;

(b) Such use shall be for a period not to exceed twenty-four months;

(c) Such lots or garages shall comply with all height and area regulations of the district and other applicable codes and standards. (Ord. 13577 §1; April 25, 1983).

27.63.200 Permitted Special Use: Clubs.

Clubs may be allowed by special permit in the AG, AGR, R-1, R-2, R-3, R-4, R-5, O-1, and O-3 zoning districts under the following conditions:

(a) The application shall include the following information: Type of activity, expected peak use and building capacity, anticipated time of peak activity, and expected expansion of facilities.

(b) Clubs with an off-street parking demand of twenty spaces or more as determined by the city shall be located on major streets. Clubs with an off-street parking demand of less than twenty spaces as determined by the city may be located on any street.

(c) Parking requirements shall as a minimum be in conformance with the provisions of Chapter 27.67. Additional parking regulations, parking ingress and egress, location control, and buffering may be imposed. No parking shall be permitted in any required yard. The application shall include applicant's estimate of the parking needs of the proposed club.

(d) Height and area requirements shall as a minimum be in conformance with requirements of the district in which the use is located; additional requirements may be imposed. In the R-4, R-5, O-1, and O-3 districts, the buildings shall not cover over thirty-five percent of the total area of the lot. In the AG, AGR, R-1, R-2, and R-3 districts, the buildings shall not cover over fifteen percent of the total area of the lot; provided, however, the Planning Commission may adjust the percent of lot coverage to permit a club in an existing building. Except where abutting a non-residential district, buildings shall be set back from all yard lines a distance of not less than one foot for each one foot of building height; provided, however, the Planning Commission may adjust this requirement for existing buildings. Visual screening shall be required in any yard that abuts a residential district.

(e) On-site pedestrian circulation sidewalk systems shall be constructed in conformance with the provisions of Section 27.81.010. (Ord. 18687 §27; March 20, 2006; prior Ord. 16570 §1; March 7, 1994: Ord. 15763 §6; October 29, 1990: Ord. 13162 §1; June 29, 1981: Ord. 12657 §11; August 6, 1979: Ord. 12571 §323; May 8, 1979).

27.63.210 Permitted Special Use: Elderly or Retirement Housing.

Housing and related facilities for the elderly, either individually or in groups including accessory uses, shall be allowed by special permit in the R-1, R-2, R-3, R-4, R-5, R-6, R-7, and R-8 zoning districts under the following conditions:

(a) The height and yard requirements of the district in which the proposed use is located may be adjusted to provide flexibility in the placement of buildings and to provide compatibility with surrounding uses except that solar access to adjacent buildings

or potential buildings on lands under other ownership shall not be reduced by such adjustment.

(b) The minimum lot area of the district, or density requirement, shall not apply; provided, however, that the maximum number of units allowed shall be the greater of those permitted in the underlying zoning district or the community unit plan without bonuses, unless modified by subsection (h) below.

(c) Parking areas or buildings that are of a substantially different character or size than those normally found in that district or neighborhood shall be landscaped and screened in conformance with the standards adopted by resolution of the City Council, and the requirements of Chapter 27.67.

(d) The proposed use shall not have any adverse or detrimental effect upon the values of the surrounding real property.

(e) One dwelling unit in an elderly housing project may be designated as a caretaker unit and the occupants thereof shall not be subject to the age requirements otherwise applicable to occupants of such a project.

(f) Ten percent of the dwelling units in an elderly or retirement housing project may be designated as units for handicapped persons and the occupants thereof shall not be subject to the age requirements otherwise applicable to occupants of such a project. All of the units designated as units for handicapped persons shall comply with the "Design Standards for Density Bonuses" relating to housing for the handicapped as adopted by the City Council.

(g) Any individual under sixty years of age who resides with an elderly person sixty years of age or more in an elderly or retirement housing project dwelling unit may continue to reside in that dwelling unit after such elderly person has died or due to health reasons has been relocated to a different residence.

(h) The Planning Commission may grant, dependent upon the character of the development and effect on adjacent land uses:

(1) An increase of up to fifty percent in dwelling units over the maximum number of units allowed in (b) above, provided that all of the elderly or retirement housing and related facilities (including bonus units approved in this subsection (1)) comply with section 2.1 (general standards) of the "Design Standards for Density Bonuses" as adopted by the City Council; or

(2) An increase of up to eighty percent in dwelling units over the maximum number of units allowed in (b) above; provided:

(i) That all of the elderly or retirement housing and related facilities (including bonus units approved in this subsection (2)) comply with section 2.1 (general standards) of the "Design Standards for Density Bonuses" as adopted by the City Council; and

(ii) All bonus units approved in excess of fifty percent in dwelling units over the maximum number of units allowed in (b) above comply with section 2.2 (individual unit standards) of the "Design Standards for Density Bonuses" as adopted by the City Council.

(3) An increase of up to one hundred percent in dwelling units over the maximum number of units allowed in (b) above, provided that all of the elderly or retirement housing and related facilities (including bonus units approved in this subsection (3)) comply with section 2.1 (general standards) and section 2.2 (individual unit standards) of the "Design Standards for Density Bonuses" as adopted by the City Council, and the proposed site meets all of the following criteria:

(i) the minimum lot area is at least two acres;

(ii) the lot is less than 2,640 feet from a designated community or neighborhood center; and

(iii) the lot is contiguous with a designated arterial street.

(i) Parking shall be in conformance with Chapter 27.67 unless modified under Section 27.67.030(f) or under the conditions of the special permit. A parking stall with a minimum width of twelve feet shall be required at the rate of one space for every ten stalls required. Parking may be deferred or reduced where the developer substantiates the decreased need for parking. Plans shall show the location of deferred construction and shall meet city requirements for parking lot design. (Ord. 18903 §4; March 26, 2007; prior Ord. 18480 §6; December 20, 2004; Ord. 17947 §2; December 10, 2001; Ord. 14644 §11; April 13, 1987; Ord. 13942 §1; September 4, 1984; Ord. 13340 §1; March 22, 1982; Ord. 12751 §23; Nov. 5, 1979; Ord. 12571 §324; May 8, 1979).

27.63.215 Permitted Special Use: Housing Facilities for the Physically Handicapped.

Housing and related facilities for the physically handicapped, either individually or in groups, including accessory uses, shall be allowed by special permit in the R-1, R-2, R-3, R-4, R-5, R-6, R-7 and R-8 zoning districts under the following conditions:

(a) Parking shall be in conformance with Chapter 27.67 unless modified under Section 27.67.030(f) or under the condition of the special permit.

(b) The height and yard requirements of the district in which the proposed use is located shall apply; provided, however, that the height of the buildings may be increased above the district requirements up to twenty percent if the allowable building coverage is reduced by an equal percentage and solar access to adjacent buildings or potential buildings on land under other ownership is not reduced by such increase.

(c) The minimum lot area of the district, or density requirements, shall not apply; however, buildings shall not occupy more than thirty-five percent of the total area of the land subject to the special permit or more than forty percent of said area where all buildings are single story.

(d) Parking areas or buildings that are of a substantially different character or size than those normally found in that district or neighborhood shall be landscaped and screened in conformance with the standards adopted by resolution of the City Council, and the requirements of Chapter 27.67.

(e) Each occupied dwelling unit shall be occupied by at least one person who is physically handicapped. Such occupancy shall be certified annually.

(f) The design and development of all housing and related facilities for the physically handicapped shall comply with Section 3 (Housing for the Handicapped) of the Design Standards for Density Bonuses adopted by the City Council as follows:

(1) All dwelling units shall meet the requirements of either Type "A" or Type "B" dwelling units.

(2) A minimum of fifty percent of the dwelling units shall meet the requirements of Type "B" dwelling units.

(3) The numbers or percentages of each type of dwelling unit as provided above may be modified under condition of the special permit.

(g) Dwelling units for nonhandicapped live-in aides shall not be subject to occupancy requirements and/or Section 3 (Housing for the Handicapped) of the Design Standards for Density Bonuses. The units for live-in aides shall be subject to the terms and conditions of the special permit. (Ord. 18903 §6; March 26, 2007; prior Ord. 17947 §3; December 10, 2001; Ord. 15296 §1; September 11, 1989; Ord. 13546 §10; February 28, 1983).

27.63.216 Permitted Special Use: Connection of Single-Family Dwelling to Accessory Building for the Physically Handicapped.

Connection of an existing single-family dwelling to an existing accessory building for the purpose of providing enclosed access from the main building to the accessory building may be allowed by special permit in the R-1, R-2, R-3, R-4, R-5, R-6, R-7, and R-8 zoning districts under the following conditions:

(a) Both the existing dwelling and the existing accessory building comply with the yard requirements of the zoning district in which they are located; and

(b) The enclosed area of the structure attaching the two buildings shall not exceed the greater of 200 square feet or ten percent of the floor area of the main floor of the dwelling and shall not be served by a heating system, cooling system, or plumbing; and

(c) The enclosure shall be constructed in accordance with all applicable building and life safety codes; and

(d) The height and yard requirements of the district in which the single-family dwelling is located shall apply; however, the provisions of sections 27.11.080, 27.13.080, 27.15.080, 27.17.080, 27.19.080, 27.21.080, 27.23.080 and 27.24.080 which require accessory buildings to comply with the yard requirements of the main building shall not apply. The use of the accessory portion of the structure must remain as an accessory use; and

(e) The single-family dwelling shall be occupied by at least one person who is physically handicapped as defined within Section 27.03.335. The permittee shall certify such occupancy annually to the Department of Building and Safety; and

(f) Any permit issued pursuant to this section shall be conditioned upon the removal of the enclosed access structure within sixty days of the date on which the dwelling is no longer occupied by at least one

person who is physically handicapped. (Ord. 16820 § 9; July 10, 1995).

27.63.220 Permitted Special Use: Church Steeple, Towers, and Ornamental Spires.

Church steeples, towers, and ornamental spires exceeding the maximum height permitted in the district may be allowed by special permit in the AG, AGR, R-1, R-2, R-3, R-4, R-5, R-6, R-7, R-8, O-1, O-3, B-1, B-2, B-3, H-2, and H-3 zoning districts. (Ord. 12571 §325; May 8, 1979).

27.63.225 Permitted Special Use: Public Utility and Cable Television Purposes.

In the AG, AGR, R-1, R-2, R-3, R-4, R-5, R-6, R-7, R-8, O-1, O-2, O-3, B-1, B-2, B-3, B-5, H-1, H-2, H-3, and H-4 districts, a special use permit may be granted to permit the erection and use of a building or the use of premises for a public service corporation for public utility purposes or for a cable communications system for cable television purposes which the Planning Commission deems reasonably necessary for the public convenience or welfare; provided that:

(a) Parking shall be in conformance with Chapter 27.67;

(b) The minimum lot area, or density requirement, shall not apply; however, the building shall not occupy more than thirty-five percent of the total area of land subject to the special permit unless specifically adjusted by the City Council in approving the special use;

(c) Parking areas and buildings that are of a substantially different character or size than those found in the district or neighborhood shall be landscaped and screened in conformance with the standards adopted by resolution of the City Council and the requirements of Chapter 27.67;

(d) The proposed use shall not have any adverse or detrimental effect upon the values of the surrounding real properties. (Ord. 17561 § 1; October 18, 1999; prior Ord. 12928 §1; June 9, 1980; Ord. 12894 §24; April 7, 1980).

27.63.230 Permitted Special Use: Outdoor Theaters.

Outdoor theaters may be allowed by special permit in the H-2 and I-1 zoning districts. (Ord. 13745 §8; January 3, 1984; prior Ord. 12571 §326; May 8, 1979).

27.63.240 Permitted Special Use: Retail Sales and Service.

Stores and shops for retail sales and service of over 30,000 square feet and less than 100,000 square feet may be allowed by special permit in the H-4 zoning district. Stores and shops for retail sales and service exceeding 20,000 square feet in area may be allowed by special permit in the H-3 zoning district. (Ord. 12657 §12; August 6, 1979; prior Ord. 12571 §327; May 8, 1979).

27.63.250 Permitted Special Use: Permitted Use Exceeding the Maximum Height Permitted in District.

A permitted use exceeding the maximum height permitted in the district may be allowed by special permit in the O-1, B-4, H-2, H-3, H-4, I-1, and I-2 zoning districts in conformance with the restrictions, if any, of the zoning district. (Ord. 19436 §3; August 23, 2010; prior Ord. 16844 §1; August 7, 1995; Ord. 12571 §328; May 8, 1979).

27.63.260 Permitted Special Use: Confined Feeding Facilities.

Confined feeding facilities for livestock and poultry in excess of 15,000 square feet in area shall be allowed by special permit in those parts of the AG zoning district designated "agricultural" on the future land use map of the Lincoln-Lancaster County Comprehensive Plan. The application for a special permit shall be accompanied by a statement from the Department of Environmental Quality (DEQ) that either the facility does not need to provide for antipollution controls, or that the applicant has received approval from DEQ for antipollution controls. (Ord. 19172 §13; November 3, 2008; prior Ord. 16812 §1; June 19, 1995; Ord. 14431 §5; July 14, 1986; Ord. 12571 §329; May 8, 1979).

27.63.270 Permitted Special Use: Campgrounds.

Campgrounds for tents, tent-trailers, and recreational vehicles may be allowed by special permit in the AG and AGR zoning districts under the following conditions:

(a) Each campsite shall contain at least 2,500 square feet. The campsite shall be so designed that the required 2,500 square feet can be enclosed within a rectangle of which one side shall not exceed three times any other side.

(b) The campground shall be supplied with a water supply and sewage disposal facilities, including

washing, toilets, and similar facilities, all of which meet all applicable city codes and regulations.

(c) A side yard of fifty feet and a front yard of 100 feet shall be maintained on the campground; provided, however, that the 100-foot front yard requirement may be waived if the front yard abuts on a public street which has a right-of-way width of 200 feet or more.

(d) The access to public roads and highways shall be paved or surfaced in a similar manner to the adjacent public roads, and shall be approved by the city.

(e) Access roads shall be provided to each campsite and all access roads shall have a minimum unobstructed width of fourteen feet for all one-way roads, and twenty feet for all two-way roads.

(f) No campground may be occupied by the same person or persons more than thirty days in any one calendar year.

(g) No mobile homes shall be located in any campground, except as provided for in Section 27.81.010(d)(5).

(h) All special permits issued under this section are temporary and valid only during the period that the campground and associated facilities comply with the provisions of this title and all other applicable ordinances and regulations.

(i) All campground operators shall keep accurate records as to the length of time a person stays in the campground, and shall make said records available to any city official upon request. (Ord. 14469 §1; August 18, 1986; prior Ord. 12571 §330; May 8, 1979).

27.63.280 Special Permits: Expansion of Nonconforming and Nonstandard Uses.

In all zoning districts, except the B-5 zoning district, a special permit may be granted to authorize (1) the expansion or enlargement of a premises devoted to a use not permitted by this title in the district in which the premises is located; and/or (2) the issuance of a building permit to permit the enlargement, extension, conversion, reconstruction or structural alteration of any building located upon premises, the use of which constitute a nonconforming use. In all zoning districts, a special permit may be granted to authorize (1) the expansion or enlargement of a premises occupied by any nonstandard building, structure or use; and/or (2) the issuance of a building permit to permit the enlargement, extension, or

reconstruction of any building or structure located upon a premises the use of which constitutes a nonstandard use.

The minimum regulations of the district in which the permitted special use is located may be decreased provided the Planning Commission finds that such adjustment would not adversely effect the surrounding area and the adjustment is necessary in order for a building located upon a premises the use of which constitutes a non-conforming use or non-standard use to be enlarged, extended, converted, reconstructed or structurally altered.

In consideration of applications for the above special permits, the following criteria shall be given specific consideration:

- (a) Effects on adjacent property, traffic, city utility service needs;
- (b) Density of land use zoning for the subject property and adjacent property;
- (c) The degree of hardship upon the applicant which would be caused by failure to grant such a permit.

Signs permitted in the most restrictive zoning district in which the nonconforming use is allowed as a permitted or a conditional permitted use may be approved as part of the enlargement, extension, conversion, reconstruction, or structural alteration of any building located upon premises, the use of which constitutes a nonconforming use; provided, that the total sign area permitted by the underlying district in which the nonconforming use is located shall not be exceeded unless the Planning Commission finds that:

- (1) The sign or signs and their illumination, if any, will not adversely affect the surrounding area; and
- (2) The sign or signs are necessary for the expansion of the nonconforming use. (Ord. 19054 §1; March 10, 2008; prior Ord. 18730 §2; May 22, 2006: Ord. 18480 §7; December 20, 2004: Ord. 16814 §1; June 26, 1995: Ord. 14532 §1; October 13, 1986: Ord. 12571 §331; May 8, 1979).

27.63.290 Permitted Special Use: I-1 District.

The uses listed in Section 27.47.030 may be allowed by special permit in the I-1 zoning district. (Ord. 16909 §4; December 18, 1995: prior Ord 16884 §2; October 23, 1995: Ord. 16070 §3; March 9, 1992: Ord. 14905 §3; June 13, 1988: Ord. 14185 §20; September 3, 1985: Ord. 14035 §1; January 21, 1985: Ord. 13853 §2; May 21, 1984: Ord. 12657 §13; August 6, 1979: Ord. 12571 §332; May 8, 1979).

27.63.300 Permitted Special Use: Bulk Storage of Petroleum Products.

Bulk storage of petroleum products may be allowed by special permit in the H-3 or H-4 zoning districts. (Ord. 12571 §333; May 8, 1979).

27.63.310 Permitted Special Use: Mining, Quarrying, and Stone Mill.

(Repealed by Ord. 19224 §13; March 16, 2009: prior 17232 §14; August 18, 1997: Ord. 12571 §334; May 8, 1979).

27.63.320 Permitted Special Use: Community Unit Plans.

Community unit plans may be allowed by special permit in the AG, AGR, R-1, R-2, R-3, R-4, R-5, and R-6 zoning districts in conformance with the provisions of Chapter 27.65. (Ord. 12571 §335; May 8, 1979).

27.63.330 Permitted Special Use: Veterinary Facilities.

Veterinary facilities may be allowed by special permit in the AG and AGR zoning districts. (Ord. 12571 §336; May 8, 1979).

27.63.340 Permitted Special Use: Offices.

Offices may be allowed by special permit in the R-8 zoning district under the following conditions:

- (a) The building, including accessory buildings, shall not occupy more than twenty-five percent of the lot area; provided, however, the foregoing limitation shall not apply to buildings located in the Capitol Environs District.
- (b) New buildings shall be located on a lot containing no less than 14,000 square feet of lot area;
- (c) New buildings shall not exceed two stories in height. (Ord. 17746 §2; October 16, 2000: prior Ord. 14785 §2; November 9, 1987: Ord. 12571 §337; May 8, 1979).

27.63.350 Permitted Special Use: Sale Barns.

Sale barns may be allowed by special permit in the AG zoning district. (Ord. 12571 §338; May 8, 1979).

27.63.360 Permitted Special Use: Mining.

(Repealed by Ord. 19224 §14; March 16, 2009; prior Ord. 12571 §339; May 8, 1979).

27.63.370 Permitted Special Use: Banks.

Banks, savings and loan associations, credit unions, and finance companies may be allowed by special permit in the O-1 zoning district. (Ord. 12571 §340; May 8, 1979).

27.63.380 Permitted Special Use: Flood Plain Construction.

Certain construction may be allowed by special permit within the flood plain in conformance with Section 27.52.060 and Section 27.53.060 for Existing Urban Areas and New Growth Areas, respectively. (Ord. 19172 §14; November 3, 2008; prior Ord. 12571 §341; May 8, 1979).

27.63.390 Permitted Special Use: Restaurants; Motels and Hotels.

Restaurants may be allowed by special permit in the O-3 zoning district. Motels and hotels may be permitted under the following conditions:

(a) The number of hotel or motel units shall not exceed the number obtained by dividing the total square foot area of the site by 1,500;

(b) Each hotel or motel unit shall have a minimum enclosed floor area of 500 square feet; and

(c) Each hotel or motel unit shall be a single habitable unit with facilities which are used or intended to be used for living, sleeping, cooking, and eating. (Ord. 18301 §4; February 9, 2004; prior Ord. 13901 §2; July 30, 1984; Ord. 12571 §341a; May 8, 1979).

27.63.400 Permitted Special Use: Historic Preservation.

In any zoning district a special permit may be granted to allow the preservation of a historic structure or site and the reuse thereof. This permit shall be limited to structures or sites designated as landmarks under Chapter 27.57.

(a) The Planning Commission may approve, by special permit, any use of a historic structure or site in any zoning district after review and consideration of the following:

(1) The significance of the historic structure or site and the degree of variation sought from the permitted uses of the district;

(2) The extent to which economic factors necessitate the change in use;

(3) The extent of proposed exterior change to the structure or site;

(4) The impact on the surrounding area;

(5) The compatibility of the proposed use to the structure or site and the surrounding area; and

(6) The manner in which the public will be benefitted by such proposed use.

(b) The applicant shall submit with the application for a special permit the following:

(1) A plan of the existing and proposed grounds surrounding the structure or site, including outdoor furniture and plant material;

(2) A parking layout;

(3) Details regarding all proposed exterior modifications of the structure or site;

(4) Details of how the preservation of the structure or site is to be accomplished;

(5) Signs proposed for the structure or site; and

(6) Information concerning the economic use of the property.

(c) The City Council may decrease the area regulations and/or increase height regulations with consideration given to both the proposed use and the adjacent environment.

(d) The Historic Preservation Commission shall review the proposal for reuse for the structure and/or for adjustments to the applicable height and area regulations, including information regarding the above criteria, and for compliance with the guidelines developed for that landmark. The Preservation Commission shall make its recommendation to the Planning Commission prior to the public hearing required under Section 27.63.020. Upon approval of the special permit by the Planning Commission, a certificate of appropriateness shall be deemed to have been granted for any changes needing a certificate under Chapter 27.57 and shown in the application for special permit.

(e) The parking requirements of Chapter 27.67 may be modified for a structure designated as a landmark under Chapter 27.57, where modifications to the requirements of Chapter 27.67 are necessary to ensure preservation of the landmark.

(f) The sign requirements of Chapter 27.69 may be modified as described in Section 27.69.160 of the Lincoln Municipal Code, varying yard requirements and permitted number of signs, provided the Historic Preservation Commission has granted a certificate of appropriateness for the proposed signs, and the Planning Commission has considered the following:

(1) The impact of the sign or signs and their illumination, if any, on the surrounding area;

(2) The appropriateness of the sign or signs and their locations for the landmark and its site; and

(3) The necessity of the sign or signs for the proposed uses. (Ord. 19154 §1; October 6, 2008; prior Ord. 18480 §8; December 20, 2004; Ord. 15823 §1; February 11, 1991; Ord. 14475 §9; August 18, 1986; Ord. 13529 §1; January 3, 1983; Ord. 13053 §2; November 24, 1980; Ord. 12571 §343; May 8, 1979).

27.63.405 Permitted Special Use: Windows on Side Lot Lines For Any Use in a Historic Preservation District in B-1, B-3 and B-4 Districts.

In historic districts designated in accordance with the Lincoln Municipal Code, windows may be permitted in walls of existing buildings in B-1, B-3 and B-4 districts which do not provide the required side yard under the following conditions:

(a) The proposed windows shall be in buildings existing before November 2, 1953;

(b) The proposed windows shall be separated from any other building or structure by an open space of at least ten feet;

(c) The application shall be accompanied by building plans and specifications, approved by the Building Official, indicating the construction would meet all applicable codes and regulations, if the special permit is issued;

(d) The permittee agrees, by acceptance of the special permit, to protect the permitted windows in accordance with the Building Code within sixty days of receipt of notification from the Building Official of development upon the adjacent property which in any manner reduces the required separation to less than ten feet and to block said windows if the separation is reduced to less than five feet.

(e) The Historic Preservation Commission shall have approved a Certificate of Appropriateness before Planning Commission approval. (Ord. 16287 §1; December 21, 1992).

27.63.410 Permitted Special Use: Dwellings Above First Story in B-1, B-3 and B-4 Districts.

Dwellings above the first story of a building which cannot provide the required yard adjacent to the wall of such building which contains windows for such dwellings may be allowed by special permit in the B-1, B-3, and B-4 zoning districts under the following conditions:

(a) The proposed residential units shall be in buildings existing before January 1, 1990.

(b) The required windows for the dwellings shall be separated from any other building or structure by an open space of at least five feet.

(c) The application shall be accompanied by building plans and specifications, approved by the building official, indicating the construction would meet all applicable codes and regulations, if the special permit is issued.

(d) The permittee agrees, by acceptance of the special permit, to vacate the dwellings authorized by such special permit within sixty days of receipt of notification from the building official of development upon the adjacent property which in any manner reduces the required separation to less than five feet. (Ord. 15782 §6; November 26, 1990).

27.63.420 Permitted Special Use: Wind Energy Conversion Systems (WECS) Over the District Height.

In any zoning district, except the AG and AGR, a special permit may be granted to allow wind energy conversion systems (WECS) to exceed the height provisions of the district. A special permit may be granted by the Planning Commission subject to the following conditions:

(a) The distance from all lot lines to any tower support base of the WECS shall be equal to the height of the tower plus the rotor radius. The Planning Commission may grant a reduction in the specific setback table distance when it finds that such reduction shall not adversely affect surrounding property and is consistent with the intent of this title to promote the public health, safety, and general welfare.

(b) The distance from any tower support base of a WECS to any tower support base of another WECS under other ownership shall be a minimum of five rotor distances figured by the size of the largest rotor. The Planning Commission may grant a reduction in

this requirement if it finds that such reduction does not adversely affect the operation of either WECS.

(c) The WECS operation shall not cause interference to the radio and television reception on adjoining property.

(d) The WECS, if interconnected to a utility system, shall meet the requirements for interconnection and operation as set forth in the electric utility's then current service regulations applicable to WECS. (Ord. 19158 §48; October 20, 2008; prior Ord. 18480 §9; December 20, 2004; Ord. 13487 §5; November 1, 1982; Ord. 12978 §26; August 25, 1980).

27.63.430 Permitted Special Use: Greenhouses.

Greenhouses are intended to be located in areas of special consideration such as designated flood plains and noise hazard districts or in urban fringe or large lot developments where such use will not have an adverse impact on surrounding residential uses. Greenhouses shall be allowed by special permit in the R-3 district under the following conditions:

- (a) The minimum lot area is at least two acres;
- (b) No retail sales shall be conducted on the premises;
- (c) The greenhouse is an accessory use to a main residential use;
- (d) All materials are stored inside buildings;
- (e) Not more than twenty-five percent of the lot area may be devoted to such use;
- (f) The proposed use shall not have any adverse or detrimental effect upon the values of the surrounding land uses;
- (g) In order to assure such use is compatible with surrounding uses, the Planning Commission may impose more restrictive height, area, parking, and sign requirements as may be necessary. (Ord. 18480 §10; December 20, 2004; prior Ord. 13724; §3; October 31, 1983).

27.63.440 Permitted Special Use: Outdoor Seasonal Sales.

In any residential (R-) or office (O-) district, a special permit may be granted to allow temporary or seasonal sales subject to the requirements of the respective districts, all applicable ordinances, and the following conditions:

(a) The sale is sponsored and operated by a nonprofit organization or is directly associated with an approved special permit for a recreational facility;

(b) If the land is located within 300 feet from the boundary of a B-1, B-3, B-4, H-2, H-3, or I-1 zoning district, the minimum lot area is one-half acre;

(c) If the land is located at a distance greater than 300 feet from a B-1, B-3, B-4, H-2, H-3, or I-1 zoning district, the minimum lot area is one acre;

(d) The sale does not operate for more than forty-five days within any one year period;

(e) Adequate off-street parking is provided which complies with the City of Lincoln Design Standards;

(f) One sign may be permitted which conforms to the limitations for signs for nonconforming uses contained in Chapter 27.69. (Ord. 15971 §1; Sept. 16, 1991; prior Ord. 13980 §12; October 29, 1984).

27.63.460 Permitted Special Use: Airport Environs District.

Enlargement, extension, conversion, reconstruction, or structural alteration of a pre-existing use which does not conform to the provisions of Chapter 27.58 may be allowed by special permit. In considering applications for such special permits, the following criteria shall be given specific consideration:

- (a) The granting will not adversely affect the health, safety, and general welfare of property users in the airport vicinity as well as the community as a whole; and
- (b) The granting will not adversely affect the operations of the airport. (Ord. 13414 §13; June 14, 1982).

27.63.470 Permitted Special Use: Planned Service Commercial.

Planned service commercial development may be allowed by special permit in the H-4 General Commercial District under the following conditions:

- (a) The uses approved within a planned service commercial development shall be limited to:
 - (1) Automobile, motorcycle, and four-wheel truck sales;
 - (2) Warehouses;
 - (3) Mini-warehouses;
 - (4) Wholesale and distribution centers not exceeding 30,000 square feet in floor area per building, provided outside storage is permitted only when the storage area is enclosed with a solid fence, wall, and gates eight feet in height and the stored material and equipment is less than the height of the

fence, wall, and gates enclosing the storage area. The fence, wall, and gates shall be located where buildings are permitted;

(5) Service centers for the repair of household appliances and lawn and garden equipment, provided outdoor storage of items to be repaired are permitted only when the storage area is enclosed with a solid fence, wall, and gates eight feet in height and the items to be repaired are less than the height of the fence, wall, and gates enclosing the storage area and no salvage or scrap processing operation shall be permitted. The fence, wall, and gates shall be located where buildings are permitted;

(6) Dwellings for caretakers employed and required to reside on the premises;

(7) Ambulance services;

(8) Indoor animal hospitals;

(9) Contractors' office and storage, including electrical, plumbing, heating, and air-conditioning contractors, provided outdoor storage of equipment and materials shall be permitted only when the storage area is enclosed with a solid fence, wall, and gates eight feet in height and the stored equipment and material are less than the height of the fence, wall, and gates enclosing the storage area. The fence, wall, and gates shall be located where buildings are permitted;

(10) Restaurants;

(11) Service stations;

(12) Stores or shops for retail sales and services not exceeding 30,000 square feet in floor area per building; provided, there is at least four and one-half square feet of land area excluding other uses and their accessory uses within the approved special permit area per one square foot of floor area;

(13) Food storage lockers;

(14) Clubs, provided the activities are located no less than 150 feet from an abutting residential district;

(15) Private recreational facilities; provided they are located within the building and no less than 150 feet from an abutting residential district;

(16) Offices not exceeding 15,000 square feet of floor area per building; provided that there is at least four and one-half square feet of land area excluding other uses and their accessory uses within the approved special permit area per one square foot of floor area;

(17) Early childhood care facilities, provided that such facilities shall be fenced and have play areas that comply with the design standards for early

childhood care facilities. In addition, such facilities shall comply with all applicable state and local early childhood care requirements and all applicable building and life safety code requirements;

(18) Cabinet shops and stores; provided that the total floor area of the operation does not exceed 5,000 square feet and that all materials, both raw and finished, be stored inside;

(19) Churches;

(20) Automobile repair, including vehicle body repair shops, provided that all disabled vehicles and all new and used parts are stored inside the building only;

(21) Private schools;

(22) Banks, savings and loan associations, credit unions, and finance companies;

(23) Broadcast towers;

(24) Indoor kennels;

(25) Outdoor exercise area associated with an indoor animal hospital or indoor kennel; provided that such facilities comply with the requirements of Section 27.63.780.

(26) Automobile/truck wash facility:

(i) Automatic, conveyor-operated: The length and location of vehicle stacking lane or lanes for the approach side or sides and the exit side or sides of the wash operation shall be in conformance with the Guidelines and Regulations for Driveway Design and Location as adopted by the City of Lincoln.

(ii) Self-service, coin-operated: The length and location of vehicle stacking lane or lanes for the approach side or sides and the exit side or sides of the wash operation shall be in conformance with the Guidelines and Regulations for Driveway Design and Location as adopted by the City of Lincoln.

(27) Public elementary and high schools, or private schools having a curriculum equivalent to a public elementary or public high school, and having no rooms regularly used for housing or sleeping purposes.

(28) Motels and hotels. A distance of at least twenty feet shall be maintained between buildings on the lot and each hotel or motel unit shall have a minimum enclosed floor area of 200 square feet.

(29) Sale of alcohol for uses that meet the conditions of Sections 27.63.680 and 27.63.685.

(b) An applicant for a special permit under the provisions of this section shall comply with environmental performance standards relating to noise,

emission, dust, odor, glare, and heat as shall be from time to time established for those districts requiring use permits.

(c) Each application for a special permit under this section shall include a landscape plan which shall show proposed plantings in conformance with city standards in all required yard areas, open space areas, malls, parking areas, and around proposed buildings. The applicable standards shall be those adopted by resolution of the City Council for those districts requiring use permits.

(d) The City Council may increase or decrease the height and area regulations and the floor area to land area ratios otherwise applicable in the H-4 General Commercial District, consistent with adequate protection of the environments of adjacent land uses;

(e) That the land surrounding the tracts for the proposed planned service commercial development will not be adversely affected;

(f) That upon approval of a planned service commercial development, the land proposed to be included within such development shall not be developed for or devoted to any other permitted use or specially permitted use of the H-4 General Commercial District, except those specifically approved in the special permit authorizing the planned service commercial development, unless an amendment thereto has been approved in accordance with the procedures set forth for approving special permits generally. (Ord. 18960 §1; July 23, 2007: prior 18928 §20; June 4, 2007: Ord. 18625 §1; October 10, 2005: Ord. 18480 §11; December 20, 2004: Ord. 18270 §1; November 3, 2003: Ord. 16854 §44; August 14, 1995: Ord. 16394 §1; June 21, 1993: Ord. 16128 §2; June 8, 1992: Ord. 15868 §1; April 29, 1991: Ord. 15798 §1; December 17, 1990: Ord. 15738 §1; October 1, 1990: Ord. 15692 §1; August 20, 1990: Ord. 15594 §1; June 25, 1990: Ord. 14987 §1; September 19, 1988: Ord. 14672 §1; May 26, 1987: Ord. 14185 §21; September 3, 1985: Ord. 13565 §1; April 4, 1983: Ord. 13510 §2; December 13, 1982).

27.63.490 Permitted Special Use: Small Batch Concrete Dispensing Units.

Small batch concrete dispensing units may be allowed by special permit in the H-3 and H-4 zoning districts under the following conditions:

(a) The mixing chamber shall not have a mixing capacity of greater than one-fourth cubic yard and materials to be mixed shall be totally enclosed;

(b) The units shall be used only in conjunction with a permitted use in this district;

(c) Environmental performance standards. Such use shall comply with the environmental performance standards relating to noise, emission, dust, odor, glare, and heat as shall be from time to time established by various municipal departments and approved by resolution of the City Council;

(d) Outdoor storage of sand, gravel, or cement used in the concrete shall be screened from all adjoining properties and public rights-of-way. (Ord. 13865 §3; June 18, 1984).

27.63.500 Permitted Special Use: Scrap Processing Operations, Salvage Yards, and Enclosed Disassembly Operations.

Scrap processing operations and salvage yards may be allowed by special permit in the I-1 zoning district and enclosed disassembly operations may be allowed by special permit in the I-1 and I-2 zoning districts under the following conditions:

(a) Construction and operation shall comply with Chapters 5.41 and 8.26 of the Lincoln Municipal Code and any other applicable codes or requirements;

(b) Receiving areas for salvage material shall be designed to avoid the depositing of salvage material outside a building or outside screened storage areas;

(c) Scrap processing operations and salvage yards shall contain a minimum of two acres, except that the site may be as small as 20,000 square feet where the site abuts one or more existing scrap processing or salvage yards that exceed two acres in total, or where the site is located no closer than 100 feet to the boundary of the I-1 zoning district except where said boundaries are common with H-3 zoning district;

(d) Salvage material kept outside a building or buildings shall not be located closer than 500 feet from any of the following entrance corridors, except where existing land forms completely obstruct the view by the traveling public of the salvage material:

- (1) Interstate 80 and 180;
- (2) West Bypass and "K" and "L" extension;
- (3) U.S. 77 north of Morton Street;
- (4) U.S. 77 and Nebraska Highway 2 south of High Street;
- (5) Nebraska Highway 2 east of South 14th Street;
- (6) U.S. 6 east of a point one-fourth mile west of 70th Street;
- (7) U.S. 6 west of Salt Creek;

- (8) Cornhusker Highway west of Interstate 180;
- (9) North 27th Street north of Leighton Street;
- (10) West "O" Street and "O" Street west of 9th Street.

(e) Salvage material kept outside a building or buildings shall not be located in the required front yard;

(f) Salvage material kept outside a building or buildings shall be located at least 100 feet from the boundaries of the I-1 or I-2 zoning district except where said boundaries are common with the H-3 zoning district and shall be at least 500 feet from any residential zoning district;

(g) Salvage materials may be stored in enclosed semi-trailers provided that the semi-trailers are properly licensed and are operable to be drawn by a motor vehicle upon the streets and highways of the City of Lincoln and the State of Nebraska and the semi-trailer shall not be located in the required front yard. Where the side yard or rear yard of the salvage yard abuts a residential district, the semi-trailers shall be located at least twenty feet from the respective side lot line or rear lot line and the openings to the trailer shall not face the residential district.

(h) The City Council may decrease the setback requirements in (c) and (f) above upon finding that there is sufficient justification for such modification and that there will be no significant adverse effect on the adjacent property. (Ord. 17217 §1; July 14, 1997; prior Ord. 16822 §3; July 10, 1995; Ord. 14801 §1; December 7, 1987; Ord. 14185 §22; September 3, 1985).

27.63.510 Permitted Special Use: Cemeteries.

Cemeteries may be allowed by special permit in any residential district (R-1 through R-8), any highway district (H-1 through H-4), and the B-1, B-2, and B-3 districts. All required setbacks shall be maintained as landscaped or open space areas. Additional setback or screen requirements may be required to minimize impacts on adjacent properties. (Ord. 14378 §16; May 5, 1986).

27.63.520 Permitted Special Use: Churches; Increased Lot Coverage.

(Repealed by Ord. 18476 §15; December 13, 2004; prior Ord. 17439 §1; November 23, 1998; Ord. 14510 §8; September 8, 1986).

27.63.530 Permitted Special Use: Domiciliary Care Facilities.

Facilities to provide domiciliary care may be allowed in the R-1, R-2, R-3, R-4, R-5, R-6, R-7, and R-8 zoning districts under the following conditions:

(a) Parking shall be in conformance with Chapter 27.67 unless modified under the condition of the special permit, provided that no parking shall be permitted in the required front or side yards.

(b) Domiciliary care facilities shall be licensed to comply with all state requirements for domiciliaries and/or residential care facilities.

(c) The total number of client or employee residents shall not exceed the lot area ratio below except as provided for in this section, and provided that all facilities may have up to four individuals sixty years of age or older and one family acting as the residential caretaker:

(i) R-1 zoning district: One person per 3,000 square feet of lot area;

(ii) R-2 zoning district: One person per 2,000 square feet of lot area;

(iii) R-3 zoning district: One person per 2,000 square feet of lot area;

(iv) R-4 zoning district: One person per 1,000 square feet of lot area;

(v) R-5 zoning district: One person per 750 square feet of lot area;

(vi) R-6 zoning district: One person per 750 square feet of lot area;

(vii) R-7 zoning district: One person per 750 square feet of lot area;

(viii) R-8 zoning district: One person per 750 square feet of lot area.

(d) Depending on the character of the development and impacts on adjacent land uses, the Planning Commission may grant an increase in the number of residents allowed in (d) above where the site plan and building plans comply with the barrier-free standards in the design standards as adopted by the City Council. Such increase shall not exceed fifty percent.

(e) The height and yard requirements of the district in which the proposed use is located shall apply provided, however, that if the area of the lot is one acre or more, the height requirement of the district may be adjusted to provide flexibility in the design of buildings and to provide compatibility with surrounding uses except that solar access to adjacent buildings or potential buildings on land under other ownership shall not be reduced by such adjustment.

(Ord. 18903 §7; March 26, 2007; prior Ord. 18480 §12; December 20, 2004; Ord. 17513 § 1; June 1, 1999; Ord. 16687 §2; October 17, 1994; Ord. 14562 §10; December 8, 1986).

27.63.540 Permitted Special Use: Expansion of Nonstandard Single and Two-family Dwellings Into Required Yards.

(Repealed by Ord. 19171 §15; November 3, 2008; prior Ord. 14767 §10; October 12, 1987).

27.63.550 Permitted Special Use: Private Landing Strips and Appurtenances.

Private landing strips and appurtenances may be allowed by special permit in AG and AGR districts under the following conditions:

(a) The application shall be accompanied by the following information:

(1) A plot plan showing location of landing strips, taxiways, approach and clear zones as well as plans and elevations illustrating the airspace requirements of the landing area, and proposed accessory structures and uses.

(2) The type and use of aircraft for which the facility is intended.

(3) Number of aircraft to be stationed on the site.

(4) Frequency of flights and hours of operations.

(5) Diagram of flight patterns to be used in and out of the landing area.

(6) Drainage and grading plan of the site.

(7) Length, width, surface and lighting facilities of landing strips.

(8) Heights of any vegetation, buildings, pole lines, etc. that are adjacent to the landing area or within the approach and clear zones.

(9) The distance and differences in elevation between the ends of landing strips and any road, railroads, or highways that are adjacent to the landing strips.

(b) The site shall be located at least one mile away from any residential district (R-1 through R-8) and existing schools, hospitals, theaters, and nursing homes.

(c) The operation shall not result in air pollution and noise generation exceeding the city, state and federal standards.

(d) No structures shall be located within approach and clear zones if such structures encroach

upon the airspace required for the safe operation of aircraft for which the landing strips are intended. It shall be the duty and at the sole expense of the applicant to remove such structures.

(e) No use of the landing strip permitted shall create electrical interference with aerial navigational signals or radio communication, of aircraft overflying the landing strip, result in glare in the eyes of pilots using or overflying the landing strip, or otherwise in any way endanger or interfere with landing, takeoff, or maneuvering of aircraft using or flying in the vicinity of the landing strip.

(f) Buffer areas may be required to mitigate adverse impacts associated with the operations. Uses within such buffer areas shall be under the control of the applicant through restrictive easements or ownership of the property.

(g) Lighting devices such as flood lights and spot lights shall be so designed or shielded as not to cast illumination in an upward direction above an imaginary line extended from a light source parallel to the ground.

(h) No landing strip permit shall be granted under airspace designated as an approach or clear zone to any public airport.

(i) The design and operations of the landing strips shall be subject to the requirements of appropriate state and federal regulations. (Ord. 14773 §3; October 19, 1987).

27.63.560 Permitted Special Use: Limited Landfills.

A limited landfill, in which only building rubbish and demolition debris are disposed of, may be allowed by special permit in the I-1, H-3, and AG districts.

Construction and operation of the limited landfill shall comply with Chapter 8.32 of the Lincoln Municipal Code and any other federal, state, and local regulations and design standards which apply.

The application for said permit shall contain the following:

(a) A site plan showing the location of the fill area, circulation, equipment storage, and an operation plan showing existing and proposed final elevations, topography, drainage, vegetation and cover depth.

(b) Type and estimated volume of the building rubbish and demolition debris to be placed in the landfill.

(c) A statement of whether it will be a private limited landfill used exclusively by the applicant or a

public limited landfill, operated by the applicant and receiving materials from others; including the proposed days and hours of the week the landfill will be in operation; and the estimated traffic volume to the site.

(d) A certified copy of the names and addresses of the last known owners of the property and occupied buildings within 300 feet of the location for which a permit is requested. (Ord. 16941 §2; February 26, 1996; prior Ord. 14905 §4; June 13, 1988).

27.63.570 Permitted Special Use: Race Tracks For Motorized Vehicles.

Race tracks for motorized vehicles may be allowed by special permit in the AG and I-1 zoning districts in conformance with the following conditions:

(a) The application shall be accompanied by the following information:

(1) A plot plan drawn to an accurate scale showing the layout of the entire site including the track, seating area, restrooms, parking lot, concession stands, lighting facilities, and other pertinent information.

(2) Proposed water and sewer systems.

(3) Drainage and grading plan.

(4) Description of racing program including the type, number and average speed of motorized vehicles and time and frequency of operations.

(5) Landscaping and screening plan.

(6) Proposed measures to mitigate potential adverse environmental impacts, such as air quality, noise and glare.

(b) For sites located within the 65dB Ldn contour north of U.S. Highway 34 and any areas within the 70dB and 75dB Ldn contours of the Airport Environs Noise District as shown on the Airport Environs Noise District Map, the site shall contain at least twenty acres of land in the I-1 district and thirty acres of land in the AG district. For all other sites located within the city's zoning jurisdictions, except where race tracks are prohibited under Chapter 10.20, the site shall contain at least thirty-five acres of land in the I-1 district and fifty acres in the AG district.

(c) The proposed water, sewer and drainage facilities shall be reviewed and approved by the Department of Public Works and Utilities and the Health Department.

(d) The operation of the race track shall not create an A-weighted sound level (dBA) which exceeds 50 dBA, measured as a two minute equivalent A-weighted sound level (Leq) at any point beyond one mile from the center of the track. Longer or shorter Leq periods may be used that are appropriate to the type of racing event involved after consultation with the track operator. This restriction shall not apply to any area within the 65, 70, and 75 dB Ldn contours of the Airport Environs Noise District. To determine any noise level, a laboratory certified noise level meter meeting American National Standards Institute (ANSI) standards shall be used.

(e) The site shall not be located within the inner areas of approach zones to the runways at the Lincoln Municipal Airport as defined in Section 27.59.030 of this title.

(f) The site shall not be located in prime agricultural land and areas designated for residential use, rural use, parks and open space, and the major ecological and environmental protection areas in accordance with the Comprehensive Plan.

(g) The center of the race track shall be located at least one mile away from existing hospitals and churches, and residential areas, rural use areas, and parks and open space as designated by the Comprehensive Plan, provided that the Planning Commission may adjust such distance criteria if the race track is located within the 65 dB Ldn contour in the Airport Environs Noise District. Such an adjustment shall be granted only upon a determination by the Planning Commission that the proposed race track will not adversely affect adjacent land uses.

(h) The site shall be readily accessible from a major street or paved road with adequate access for law enforcement and emergency vehicles.

(i) The developer of a race track shall notify all residents within one mile of the center of the track if located in the AG district or within one-half mile of the center of the track if located in the I-1 district concerning the proposed race track. Receipts of such notice is mandatory as a condition precedent to the Planning Commission's public hearing.

(j) The site shall be located within reasonable reach of existing fire protection facilities. A report thereon shall be obtained from the fire protection district or authority in which the site is located. (Ord. 18480 §13; December 20, 2004; prior Ord. 17947 §4; December 10, 2001; Ord. 16949 §2; March 11, 1996; Ord. 14953 §3; August 22, 1988).

27.63.580 Permitted Special Use: Nonprofit Religious, Educational and Philanthropic Institutions; R-6, R-7 and R-8 Districts.

Nonprofit religious, educational and philanthropic institutions may be allowed by special permit in the R-6, R-7 and R-8 zoning districts under the following conditions:

(a) The amount of parking required shall be equal to the amount which would otherwise be required for the use as set forth in Chapter 27.67 which is most analogous to the use proposed in connection with such religious, educational or philanthropic institution as determined by the Planning Director. All required parking shall be located on the lot unless otherwise specifically approved by the Planning Commission, but in no event shall required parking be located more than 300 feet from the lot upon which the use is located.

(b) No such use shall be a retail store.

(c) All signage shall be in conformance with the district regulations as set forth in Chapter 27.69 of this code. (Ord. 18957 §1; July 9, 2007; prior Ord. 18480 §14; December 20, 2004; Ord. 15159 §7; April 24, 1989).

27.63.590 Permitted Special Use: Temporary Storage of Construction Equipment and Materials:

Temporary storage of construction equipment and materials may be allowed by special permit in the AG zoning district under the following conditions:

(a) The site shall be located in or within one mile of the future urban area as designated in the Comprehensive Plan.

(b) Such use shall comply with the height, and area regulations of the AG district; except that the City Council may reduce the minimum lot area to seven acres.

(c) The combined area of indoor and outdoor storage on the site shall not exceed two acres and such area shall be fenced.

(d) The building and outdoor storage area shall be screened in accordance with city design standards.

(e) Such use shall be permitted for a limited period of time not to exceed fifteen years which shall be determined by the Planning Commission with reference to the anticipated urbanization of the surrounding area in accordance with the Comprehensive Plan and the Capitol Improvements Plan. The

permittee may request one administrative amendment for an extension of the use up to five years. (Ord. 18480 §15; December 20, 2004; prior Ord. 17801 §1; March 5, 2001; Ord. 15133 §2; March 27, 1989).

27.63.600 Permitted Special Use: Mixed Use Redevelopment Project.

(Repealed by Ord. 18903 §8; March 26, 2007; prior Ord. 16362 §1; May 10, 1993; Ord. 16279 §1; December 7, 1992; prior Ord. 15165 §3; May 1, 1989).

27.63.610 Permitted Special Use: Neighborhood Support Services.

Neighborhood support services are those human, social, educational, counseling, health, and other support services provided primarily for the support of persons residing in adjacent residential areas, which occur frequently and so require facilities in relative proximity to places of residence. Neighborhood support services may be allowed by special permit in the R-1, R-2, R-3, R-4, and R-5 zoning districts under the following conditions:

(a) The use shall be operated by a nonprofit religious, educational, or philanthropic institution and shall be strictly restricted to administrative offices and assembly associated with such neighborhood support services.

(b) The site upon which the use is located shall be an existing structure adjacent, contiguous, or separated by an alley or street to a park, school, church, or neighborhood center.

(c) The use shall be restricted to the operation and administration of those neighborhood support services designed to primarily serve the local neighborhood and adjacent areas and not the entire city.

(d) The amount of parking required shall be equal to the amount which would otherwise be required for the use as set forth in Chapter 27.67 which is most analogous to the use proposed in connection with such neighborhood support services as determined by the Planning Director. All required parking shall be located on the lot unless otherwise specifically approved by the City Council, but in no event shall required parking be located more than 300 feet from the lot upon which the use is located.

(e) No such use shall render a service which is customarily carried on as a business nor shall any such use be approved which involves printing, publishing,

manufacturing, or other industrial uses on the premises.

(f) All signage shall be in conformance with the requirements set forth in Chapter 27.69 of this code. (Ord. 15371 §6; December 18, 1989).

27.63.620 Permitted Special Use: Temporary Shelter for the Homeless.

A temporary shelter for the homeless shall be allowed in the B-4 and I-1 zoning districts upon the issuance of a special permit. Such special permit shall be issued upon satisfaction of conditions imposed under this section.

(a) Parking shall be in conformance with Chapter 27.67. Parking requirements may be increased or decreased consistent with the hours of operation, anticipated staff requirements, and ancillary uses of the property;

(b) The distance between the proposed temporary shelter for the homeless and any existing group home or domestic shelter shall be at least 1,000 feet, measured from lot line to lot line;

(c) The hours of operation of the temporary shelter for the homeless may be restricted, and overnight lodging may be prohibited;

(d) Additional conditions may be imposed for the protection of abutting land uses and the height and area regulations of the underlying zoning district may be increased or decreased, consistent with the protection of the public health, safety, and general welfare. (Ord. 16070 §4; March 9, 1992).

27.63.630 Permitted Special Use: Theaters.

Theaters may be allowed in the B-5 District by special permit under the following conditions:

(a) A use permit for 400,000 square feet or more of commercial floor area has been issued;

(b) A Certificate of Occupancy has been issued for 300,000 square feet or more of commercial floor area; provided, however, that the City Council may decrease or waive this requirement upon a finding that the proposed theaters will have no significant adverse impact upon the property values and existing uses in the B-4 Lincoln Center Business District, with particular emphasis upon the effect of such proposed theaters on the entertainment and cultural uses in the B-4 Lincoln Center Business District; and

(c) Not more than one theater complex shall be allowed for each B-5 District, consisting of not more

than six movie screens. (Ord. 17111 §1; December 9, 1996; prior Ord. 16075 §3; March 16, 1992).

27.63.640 Permitted Special Use: Dwelling Units for Domestic Employees in Accessory Buildings.

(a) Dwelling units for domestic employees may be permitted in accessory buildings in the AG, AGR, and R-1 zoning districts under the following conditions:

(1) The premises for which a special permit is requested shall be a buildable lot for single-family use.

(2) No more than one dwelling unit for domestic employees shall be permitted.

(3) Parking shall be in conformance with Chapter 27.67, but additional parking requirements may be imposed.

(4) The number of domestic employees residing on the premise shall be limited to two.

(b) The application for such special permit shall provide the following information:

(1) A site plan showing the boundaries with dimensions and bearings of the parcel along with the location, height, and use of all structures on the parcel.

(2) The location of all driveways, garages, and parking spaces.

(3) The setback lines.

(c) For the purpose of this section, "domestic employee" shall mean an employee such as a household servant, gardener, caretaker, or chauffeur whose work is usually necessary or desirable for the maintenance and enjoyment of his or her employer's home. (Ord. 16088 §5; March 23, 1992).

27.63.650 Permitted Special Use: Mail Order Catalog Sales; O-2, O-3, and B-2 Districts.

Mail order catalog sales may be allowed in the O-2, O-3, and B-2 districts by special permit under the following conditions:

(a) The granting of the special permit will not result in an adverse impact greater than that of permitted uses in the district.

(b) Parking shall be in conformance with Chapter 27.67, except the City Council may reduce the parking requirements to those contained in the I-1 Industrial District provided that the applicant provides justifications for such modifications.

(c) The City Council may decrease the rear yard requirements with consideration given to the adjacent environment. (Ord. 16144 §10; July 6, 1992).

27.63.660 Permitted Special Use: Heritage Centers; AG District.

In the AG District, a special permit may be granted to allow a heritage center subject to the following conditions:

(a) More than one main building may be located on a lot in conformance with the district regulations; provided, however, buildings shall not cover more than five percent of the lot area.

(b) Mechanical rides shall be limited to hayrack rides and sightseeing vehicles. Rides designed primarily for use by children under four feet tall must comply with applicable state laws and regulations.

(c) Parking shall be in conformance with Chapter 27.67.

(d) The application for such special permit shall include provisions for minimizing impacts on county, city, or community services.

(e) Entertainment provided as part of a heritage center must be complementary to an historically significant era or activity. (Ord. 18903 §9; March 26, 2007; prior Ord. 16413 §3; July 12, 1993).

27.63.670 Permitted Special Use: Amateur Radio Antenna Installation.

(a) Amateur radio antenna installations exceeding sixty-five feet in height may be allowed by special permit in the AG, AGR, R-1, R-2, R-3, R-4, R-5, R-6, R-7, and R-8 zoning districts in conformance with the following conditions:

(1) The amateur radio antenna installation shall comply with all applicable governmental regulations and standards;

(2) The site for the amateur radio antenna installation shall be on the same premises as the main residence of the amateur radio operator;

(3) The site for the amateur radio antenna installation shall be licensed by the Federal Communications Commission as an amateur radio station for amateur radio communications;

(4) The amateur radio antenna installation may exceed the maximum height for the district in which they are located.

(5) Only equipment and facilities necessary to the operation of the amateur radio antenna installation shall be permitted and only if such

facilities are expressly permitted by the terms of the special permit.

(6) The application shall be accompanied by a site plan showing site boundary, locations of the proposed antenna installation, guy wire anchors, and nearby structures, tower design and building materials, equipment to be attached to the tower (e.g., antennas, mast, and rotor, etc.), and setbacks from the site boundary. It shall also be accompanied by the following:

(i) A landscape plan in accordance with the city's design standards for broadcast towers;

(ii) A statement indicating proposed measures designed to minimize potentially adverse visual effects on adjacent properties with consideration given to its design, unobtrusiveness, minimum height necessary to accommodate the radio service communications, avoidance of artificial light and coloring provisions;

(7) With the exception of those antenna installations to be mounted on existing structures, the following requirements shall be met:

(i) In the AG and AGR districts, the antenna installation shall be set back from public streets abutting the antenna installation site by a distance equal to or greater than the antenna installation height. The distance between the antenna installation and site boundary shall be equal to or greater than fifty percent of the antenna installation height. The distance between the anchors of the antenna installation and site boundaries shall be equal to or greater than the setback requirements established in the underlying zoning district. The City Council may grant a reduction in the required setbacks when it finds that such reduction shall not adversely affect adjacent properties and is consistent with the intent of this title to promote the public health, safety, and general welfare;

(ii) The tower shall have a galvanized finish or other rust inhibiting finish but can be painted green below treetop level. It shall not be painted in alternate bands of distinctive orange and white colors or equipped with lights unless specifically required for safety reasons by a governmental agency having jurisdiction thereof. If so required, such lights shall not exceed the minimum standards therefor.

(iii) To prevent vandalism or injuries, adequate security measures shall be provided around the antenna installation base (such as security fence

with a locking portal) or other device designed to prevent unauthorized access to the antenna.

(b) In consideration of applications for such special permits, the following criteria shall be given specific consideration:

(i) Adverse effects on adjacent property including, but not limited to:

a. Whether the proposed antenna installation will visually and aesthetically degrade the neighborhood.

b. Whether the proposed antenna installation has the potential to reduce property values.

(ii) The Federal Communications Commission declaratory ruling entitled PRB-1 recognizing the federal objectives in amateur radio operations and requiring that any zoning regulations which involve placement, screening, or height of antennas based upon legitimate health, safety or aesthetic considerations must be crafted to reasonably accommodate amateur communications and to represent the minimum practical regulation necessary to accomplish those purposes.

(iii) Potential alternatives to a blanket denial of the proposed antenna installation which could be approved. (Ord. 16673 §13; September 26, 1994).

27.63.680 Permitted Special Use: Sale of Alcoholic Beverages for Consumption On the Premises.

(a) The sale of alcoholic beverages for consumption on the premises may be allowed in the B-1, B-3, 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 district upon the approval of a special permit subject to the requirements of the respective districts, all applicable ordinances, and the following conditions:

(1) Parking shall be in conformance with Chapter 27.67.

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

(3) 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, park, church, or state mental health institution, or (ii) 100 feet from a residential district (except where such use is accessory to a golf course or country club).

(4) Any lighting on the property shall be designed and erected in accordance with all applicable lighting regulations and requirements.

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

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

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

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

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

(b) In addition, a special permit may be granted to allow alcoholic beverages to be sold for 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, and I-3 districts subject to the requirements of the respective districts, all applicable ordinances, and the following conditions:

(1) The Permittee as the holder of any liquor license issued on the premises pursuant to a special permit for the sale of alcoholic beverages for consumption on the premises of a restaurant shall agree in writing to voluntarily surrender and consent to the cancelling of the liquor license in the event the special permit is revoked by the City. If the Permittee is not the holder of the liquor license, the Permittee shall require such holder to agree in writing to voluntarily surrender and consent to the cancelling of the liquor license in the event the special permit is revoked by the City. In addition, the City shall request that the Nebraska Liquor Control Commission issue

the liquor license contingent upon the premises having such special permit.

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

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

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

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

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

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

(8) No drive-through windows shall be allowed.

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

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

(c) Alcoholic beverages may also be sold for consumption on the premises as an accessory use to a golf course or country club as part of a separate special permit under Section 27.63.130 approving the golf course or country club in any district where recreational facilities are allowed as a permitted use, permitted conditional use, or permitted special use.

(d) The City Council may consider any of the following as cause to revoke the special permit approved under these regulations:

(1) Revocation or cancellation of the liquor license for the specially permitted premises;

(2) Repeated violations related to the operation of the permittee's business; or

(3) Repeated or continuing failure to take reasonable steps to prevent unreasonable disturbances and anti-social behavior on the premises related to the operation of the permittee's business including, but not limited to, violence on site, drunkenness, vandalism, solicitation, or litter.

Notwithstanding the above, no special permit or amendment thereto shall be required for interior expansions of existing licensed liquor premises. (Ord. 19405 §1; June 28, 2010; prior Ord. 19038 §1; January 14, 2008; Ord. 18903 §10; March 26, 2007; Ord. 18325 §1; March 15, 2004; Ord. 18097 §2; November 25, 2002; Ord. 17232 §15; August 18, 1997; Ord. 16899 §1; November 20, 1995; Ord. 16743 §1; February 27, 1995; Ord. 16627 §1; July 5, 1994; Ord. 16593 §12; April 11, 1994).

27.63.685 Permitted Special Use: Sale of Alcoholic Beverages for Consumption Off the Premises.

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, and I-3 zoning districts upon the approval of a special permit. A special permit for such use may be granted subject to the requirements of the respective districts, all applicable ordinances, and the following conditions:

(a) Parking shall be in conformance with Chapter 27.67 of the Lincoln Municipal Code.

(b) The sale of alcoholic beverages for consumption on the premises shall not be permitted without issuance of a permit under Section 27.63.680 of this code.

(c) The licensed premises 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, park, church, or state mental health institution, or (ii) 100 feet from a residential district.

(d) Any lighting on the property shall be designed and erected in accordance with all applicable lighting regulations and requirements.

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

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

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

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

(i) All other regulatory requirements for liquor sale shall apply, including licensing by the state.

(j) The City Council may consider any of the following as cause to revoke the special permit approved under these regulations:

(1) Revocation or cancellation of the liquor license for the specially permitted premises; or

(2) Repeated violations related to the operation of the permittee's business.

Notwithstanding the above, no special permit or amendment thereto shall be required for interior expansions of existing licensed liquor premises. (Ord. 19405 §2; June 28, 2010: prior Ord. 18903 §11; March 26, 2007: Ord. 18325 §2; March 15, 2004: Ord. 17232 §16; August 18, 1997: Ord. 17229 §2; August 11, 1997: Ord. 17153 §1; March 10, 1997: Ord. 16899 §2; November 20, 1995: Ord. 16743 §2; February 27, 1995: Ord. 16627 §2; July 5, 1994: Ord. 16593 §13; April 11, 1994).

27.63 690 Permitted Special Use: Community Halls; AG District.

In the AG Agriculture District, a special permit may be granted to allow a community hall, subject to the following conditions:

(a) Rides shall be limited to hayrack rides.

(b) Parking shall be in conformance with Chapter 27.67.

(c) The site for the community hall shall be on the same premises as the main residence of the owner or operator of the hall.

(d) The use of the community hall will primarily be for one-day activities. It shall not be open for use more than three days per week.

(e) The community hall and any accessory building shown on the site plan shall not be relocated, altered, or enlarged unless approved by the City.

For the purposes of this section, community hall shall mean a building or premises open for rental and use by the public for recreational, social, and other special gatherings on an occasional basis. (Ord. 18903 §12; March 26, 2007: prior Ord. 17119 §1; December 16, 1996).

27.63.710 Permitted Special Use: Off-Premises Signs.

Off-premises signs which do not meet the siting limitations of Section 27.69.035(b)(2), (6), and (7) may be allowed by special permit upon a finding that the character of the protected area shall be preserved and upon a finding that approval of the special permit provides a public benefit to the community. (Ord. 17585 § 1; January 10, 2000).

27.63.720 Permitted Special Use: Personal Wireless Services Facilities.

Personal wireless services facilities may be allowed by administrative or special permit in any zoning district in conformance with the provisions of Chapter 27.68. (Ord. 17588 §15; January 18, 2000).

27.63.730 Permitted Special Use: Sexually Oriented Live Entertainment Establishment.

In the H-1, H-2, H-3, H-4, I-1, I-2, and I-3 zoning districts, a special permit may be granted to allow a sexually oriented live entertainment establishment, subject to the following conditions:

(a) Separation of a sexually oriented live entertainment establishment from other sexually oriented live entertainment establishments. Not more than two sexually oriented live entertainment establishments shall be located within 1,500 feet of each other measured from the nearest access doors of the two establishments, regardless of whether such uses are located in the same facility, separate facilities, or different zoning districts.

(b) Separation of sexually oriented live entertainment establishments from certain other uses.

(1) Types of other uses to which applicable. The separation requirements of this subsection shall apply to the location of the sexually oriented live entertainment establishment in relationship to property zoned AGR, R-1, R-2, R-3, R-4, R-5, R-6, R-7, R-8 for residential use; a church; a public elementary or high school or private school having a curriculum equivalent to a public elementary or high school; an early childhood care facility; a public park; a hospital; a public library; a public museum; an amusement park, recreation area or playground that primarily serves persons younger than 18; a correctional facility; or a residential treatment facility licensed by the State of Nebraska in which people reside while receiving therapy, counseling, rehabilitation for physical, emotional or mental disease or disability.

(2) General location requirements. No sexually oriented live entertainment establishment shall be located on the same block with (i) any property zoned AGR, R-1, R-2, R-3, R-4, R-5, R-6, R-7, or R-8 or (ii) any use specified in subsection (b)(1) above.

(3) Distance requirements. No sexually oriented live entertainment establishment shall be located within 1,000 feet of (i) any property zoned AGR, R-1, R-2, R-3, R-4, R-5, R-6, R-7, or R-8 or (ii) any use listed in subsection (b)(1) above measured from the nearest access door of the sexually oriented live entertainment establishment to the property line of such property or outdoor use or the nearest access door of a use within a building.

(c) Waiver of separation requirement. The City Council may modify or waive the separation requirements in subsections (b)(2) and (b)(3) above upon a finding by the City Council that there is sufficient justification for such adjustment and that there will be no significant adverse affect on existing or reasonably anticipated future uses in the surrounding area. (Ord. 17731 §12; September 25, 2000).

27.63.740 Permitted Special Use: Adult Care Center.

Adult care centers may be allowed by special permit in the R-2, R-3, or R-4 zoning districts under the following conditions as an accompaniment to a health care facility:

(a) The facility must be located on property abutting upon or directly across the street from and

fronting on the same street as property used for a health care facility.

(b) The application shall be accompanied by the following information:

(1) The number of adults and number of staff members on the largest shift;

(2) A physical description of the facility and a site plan drawn to scale that includes, but is not limited to, the location and arrangement of parking spaces, the traffic circulation pattern, loading and unloading areas, fencing, and entrances/exits to such facility;

(3) If the proposed facility is for six or more adults and is located in a residential district, the application must also include a conversion plan which complies with the design standards for early childhood care facilities.

(c) Prior to occupancy, such facilities shall comply with all applicable state and local adult care center and building requirements.

(d) Facilities with six to ten adults shall take access from a collector or arterial street. Facilities with eleven or more adults shall be take access from an arterial street. The location of such facilities on such streets shall comply with the design standards for early childhood care facilities. Notwithstanding the above, a facility located upon a corner lot which satisfies the above access requirements may take access from either abutting street.

(e) The site plan for such facilities shall comply with the design standards for early childhood care facilities.

(f) The parking and loading/unloading area for such facilities shall comply with the provisions of Chapter 27.67 of the Lincoln Municipal Code. In residential districts, such parking and loading/unloading areas shall comply with the design standards for early childhood care facilities.

(g) Before granting a special permit for the adult care center, the proposed use must be found to not detrimentally affect the residential or historic character of the surrounding area. (Ord. 17780 §4; December 18, 2000).

27.63.750 Permitted Special Use: Alternative to Imprisonment Facility.

Alternative to imprisonment facilities may be allowed by special permit in the AGR, R-1, R-2, R-3, R-4, R-5, R-6, R-7, and R-8 zoning districts. (Ord. 18535 §15; May 9, 2005).

27.63.760 Permitted Special Use: Children's Home.

Children's homes may be allowed by special permit in the AGR, R-1, R-2, R-3, R-4, R-5, R-6, R-7, and R-8 zoning districts. (Ord. 18535 §16; May 9, 2005).

27.63.770 Permitted Special Use: Tree Service.

Tree service may be allowed by Special Permit in the AG zoning district under the following conditions:

(a) Residential uses occupied by owner/caretaker shall be permitted.

(b) On lots, including undersized lots, where a prior special permit has been issued for the special uses set out in Sections 27.07.040(h), (i), (j), (k) and (r).

(c) The City Council may require screening or buffering from adjacent uses. (Ord. 18729 §3; May 8, 2006).

27.63.780 Permitted Special Use: Outdoor Exercise Area Associated with an Indoor Animal Hospital or Indoor Kennel.

Outdoor exercise areas associated with an indoor animal hospital or indoor kennel may be allowed by special permit in the H-3 and H-4 zoning districts under the following conditions:

(a) All outdoor exercise areas and fences surrounding outdoor exercise areas shall meet the setbacks of the zoning district, except the outdoor exercise area must be at least 200 feet from any R-1 through R-8 zoning district as measured to the closest point of the outdoor exercise area.

(b) All outdoor exercise areas shall be screened 100% from the ground to six feet in height with an opaque fence or wall. Slats in chain link fence are not acceptable.

(c) Use of outdoor exercise areas between the hours of 10:00 p.m. and 7:00 a.m. is prohibited.

(d) An outdoor exercise area associated with an indoor animal hospital or indoor kennel is only allowed in conjunction with such indoor animal hospital or indoor kennel.

(e) The Planning Commission may limit the number of animals allowed in the outdoor exercise area at any one time.

(f) The Planning Commission may increase these requirements dependent upon the character of the facilities and the effect on adjacent land uses.

(g) Animals in the outdoor exercise area shall be under the supervision of handlers at all times. (Ord. 18928 §21; June 4, 2007).

27.63.790 Permitted Special Use: Indoor Animal Hospital or Indoor Kennel.

Indoor animal hospitals and indoor kennels may be allowed by special permit in the B-1, B-2, B-3, H-2, H-3, and H-4 zoning districts. (Ord. 18928 §22; June 4, 2007).

27.63.800 Permitted Special Use: Single-Family Dwellings.

Single-family dwellings which do not meet the minimum lot area, average lot width, or yard requirements in Table 27.15.080(a) may be allowed by special permit in the R-3 district under the conditions below:

(a) Such use shall be located on a lot inside the City of Lincoln's January 1, 2010 corporate limits.

(b) Minimum lot requirements. See Section 27.15.030(f)(2).

(c) There must be at least 22 contiguous feet of uninterrupted curb space abutting each lot measured along the face of the curb from the edge of the curb return to the lot line.

(d) Any garage door or doors facing the street shall not occupy more than 40% of the width of the building facade, except that the garage door or doors may occupy up to 60% of the width of the building facade if there is living area or a covered balcony above the majority of the garage. Notwithstanding the above, detached garages which are not considered a part of and are primarily located to the side of or behind the main structure are exempt from this requirement.

(e) Garages facing and taking access from a street must have a minimum setback of 20 feet from the lot line.

(f) The principal street facade of each dwelling shall have at least one door. The principal street facade of each dwelling shall also have a minimum of one window per story oriented to the street. If the dwelling is two stories in height, both required windows may be located on the second floor. The minimum glazed area of a window shall be five square feet. (Ord. 19392 §3; June 7, 2010).

Chapter 27.65

COMMUNITY UNIT PLAN

Sections:

- 27.65.010 General Purpose.
- 27.65.020 Requirements.
- 27.65.025 Permitted Density; Not Transferable to AG or AGR Zoning Districts.
- 27.65.030 Procedures.
- 27.65.050 Requirements After Approval.
- 27.65.060 Community Unit Plan Amendments.
- 27.65.070 Form of Community Unit Plan in the R-1 through R-6 Zoning Districts and AG and AGR Zoning Districts Not Within BTA Overlay District.
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27.65.010 General Purpose.

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

27.65.020 Requirements.

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

(b) Specific Requirements.

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

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

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

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

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

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

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

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

time as City sanitary sewer and water utilities are extended to the Urban Reserve Component and the land within the community unit plan is annexed by the City of Lincoln.

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

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

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

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

(2) The proposed method of protecting the open space shall expressly (i) prohibit the construction or installation of any structures or other improvements in the open space for a period of 99 years, except minimal above ground structures or improvements reasonably necessary and incidental to the proposed use of the open space; and (ii) prohibit such uses as shooting ranges, basketball courts, baseball fields, football and soccer fields, racetracks, or other stadium uses, facilities for spectator sports, and any activities that would unreasonably disturb the residents of the community unit plan or the surrounding neighborhoods.

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

For the purposes of this subsection, "open space" shall mean land or water which is undeveloped

or which is set aside for public or private outdoor recreational uses, such as parks, trail systems, golf courses, or bodies of water for swimming, fishing, or boating.

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

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

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

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

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

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

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

27.65.030 Procedures.

An application and plot plan and plans for development of a community unit plan under this chapter

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

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

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

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

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

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

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

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

(2) A plan for funding infrastructure cost for conversion of the Acreage Development Component

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

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

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

27.65.050 Requirements After Approval.

Upon approval of the community unit plan by the Planning Commission, the developer shall cause to be prepared and submitted to the Planning Department a revised and reproducible final plot plan with all required amendments and revisions. Thereafter,

building permits and certificates of occupancy shall be issued only upon substantial compliance with the community unit plan as approved, or as amended, regardless of any regulations to the contrary with regard to the height and location of buildings, yard requirements, open space requirements, type of dwelling unit, accessory uses and the fronting of lots upon public streets set forth elsewhere in this title and applying to the zoning district or districts in which the community unit plan is located. (Ord. 18481 §4; Dec. 20, 2004; prior Ord. 12571 §348; May 8, 1979).

27.65.060 Community Unit Plan Amendments.

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

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

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

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

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

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

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

(g) Any amendment not in conformance with this paragraph shall be submitted to the Planning Commission in the same manner as an original community unit plan. (Ord. 18481 §5; December 20,

2004; prior Ord. 13528 §6; January 3, 1983: Ord. 12571 §349; May 8, 1979).

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

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

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

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

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

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

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

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

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

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

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

(j) Proposed areas for parks and playgrounds. Any parcels other than streets which are to be dedicated or reserved for public use shall be clearly

shown and said parcels shall be designated as outlots and assigned an alphabetical designation;

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

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

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

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

(1) The name of the community unit plan;

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

(3) North arrow, scale, date;

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

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

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

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

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

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

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

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

(i) If a public wastewater works or community wastewater works is established, the size

and location of all proposed sanitary sewers, the proposed manhole locations, any necessary extension to the existing public system or to the proposed community wastewater works, and the location of the proposed community wastewater works;

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

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

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

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

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

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

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

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

(iv) A copy of the drainage computations.

(9) A map or an aerial photograph showing the proposed streets, private roadways, driveways, parking areas, buildings and lots which includes the location, and identifies, by common name, all existing trees within the area of the community unit plan. Single trees which are three inches in caliper or larger measured five feet above the ground must be shown. However, if five or more trees are located so that each is within approximately ten feet of the edge of another tree, they will be considered a tree mass and the outline of the tree mass may be shown with a list of the common names of the trees which are within the tree mass. If the above-stated procedure is followed, the individual location of each tree within the tree mass is not necessary. An indication shall be made on the map showing which trees or tree masses are to remain and which trees or tree masses are to be removed;

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

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

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

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

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

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

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

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

(b) A future final plot plan for conversion of the Acreage Development Component shall be provided unless the final plot plan for the Acreage Development Component has an average lot size of less than one third acre. If the average lot area in final plot plan for the Acreage Development Component is between one-third acre to one acre, the future final plot plan shall provide at least two times the number of lots included in said final plot plan. If the Acreage Development Component coverage area of the community unit plan is reduced by 20%, a future final plot plan for conversion of the Acreage Development Component shall be provided unless the final plot plan for the Acreage Development Component has an average lot size of less than one-half acre and no lot in the Acreage Development Component coverage area exceeds one acre. If the average lot area in the final plot plan for the Acreage Development Component is more than one acre but less than three acres, the future final plot plan shall provide at least 2.5 times the number of lots included in said final plot plan. If the average lot area in the final plot plan for the Acreage Development Component is three acres or more, the future plot plan shall provide at least 3.0 times the number of lots included in said final plot plan. Any calculation of the number of lots to be included in the

future plot plan resulting in a partial lot shall be rounded up to the next whole number. The future final plot plan providing for conversion of the Acreage Development Component to higher urban residential density shall be accurately, clearly, and legibly drawn on tracing cloth or mylar in a sufficient size and scale to show the details of the plan clearly and shall contain the information required for final plot plans in Section 27.65.070 and the following information:

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

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

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

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

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

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

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

(3) A master stormwater management plan, indicating general grading concepts and directions,

stormwater retention and detention structures, and storm sewers.

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

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

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

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

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

27.65.080 Design Standards; Density.

The density of a community unit plan, the shape, size, and location of buildings, required open space buffers, recreational facilities, and utilities shall be constructed in conformance with the design standards adopted by resolution of the City Council. (Ord. 12571 §351; May 8, 1979).

27.65.090 Parking.

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

Chapter 27.67

PARKING

Sections:

- 27.67.010 Scope of Regulations.
- 27.67.020 Parking Matrix.
- 27.67.030 General Conditions.
- 27.67.040 Special Parking Requirements.
- 27.67.050 Special Conditions; B-4 Zoning District.
- 27.67.065 Special Conditions; Community Unit Plan and O-3 Zoning District.
- 27.67.066 Special Conditions: H-3 Zoning District
- 27.67.070 Special Conditions; R-6, R-7, and R-8 Zoning Districts.
- 27.67.075 Special Conditions; Capitol Environs District.
- 27.67.080 Special Conditions; Personal Vehicles.
- 27.67.085 Special Conditions; Unregistered, Wrecked, or Junked Vehicles.
- 27.67.090 Special Conditions; Nonconforming and Nonstandard Uses.
- 27.67.100 Special Conditions; Parking Lots.

27.67.010 Scope of Regulations.

Parking regulations for this title are as shown on the parking matrix and also as required in the additional conditions of this chapter. Any additional conditions imposed by any other ordinances or regulations also apply. If there is a conflict, the most restrictive ordinance, regulation, or other requirement shall apply. (Ord. 12571 §353; May 8, 1979).

27.67.020 Parking Matrix.

General parking requirements for this title are set out in Figure 27.67.020 at the end of this chapter. (Ord. 18998 §1; September 24, 2007: prior Ord. 18903 §13; March 26, 2007: Ord. 18826 §1; October 9, 2006: Ord. 17418 § 2; October 5, 1998; Ord. 17232 §17; August 18, 1997: Ord. 16958 §1; March 25, 1996: Ord. 16837 §1; July 31, 1995: Ord. 15784 §1; November 26, 1990: Ord. 15317 §10; October 16, 1989: Ord. 15165 §4; May 1, 1989: Ord. 15010 §1; October 10, 1988: Ord. 14696 §2; July 6, 1987: Ord.

13481, as amended by Ord. 13555 §1; March 7, 1983: Ord. 13234 §1; October 19, 1981: Ord. 13150 §1; June 15, 1981: Ord. 12657 §14; August 6, 1979: Ord. 12571 §354; May 8, 1979).

27.67.030 General Conditions.

The following general conditions shall apply, except as otherwise modified in this title:

(a) No parking space is permitted in the required front yard in any district except as follows:

(1) Parking lots, parking areas, and driving aisles in the front yard are permitted in the B-1, B-3, H-1, H-2, and H-3 zoning district in accordance with parking lot design standards; and

(2) Parking in the front yard is permitted in the R-1, R-2, R-3, and R-4 zoning districts for passenger cars, pickup trucks, or vans outside of an enclosed structure on a concrete driveway or its equivalent under the following conditions:

(i) The width of such parking area shall not exceed thirty-five percent of the width of the front yard;

(ii) The parking area shall be not less than two feet from and parallel to the side lot line and not less than two feet from the front property line;

(iii) The property shall be used for one- and two-family dwellings.

(3) Parking in the front yard is permitted as otherwise provided in Section 27.63.170.

(b) No parking space is permitted in the required side yard in any district except as otherwise provided in this chapter and in Section 27.63.170.

(c) Parking spaces are permitted in any required rear yard.

(d) All required parking spaces shall be provided on the same lot as the use for which they are required.

(e) Any parking requirement resulting in a partial parking space shall be rounded up to the next whole number.

(f) Where additional parking is required by this chapter due to a change in use and provision for such additional parking is not made, a special review and approval shall be required by the City Council.

(g) For single-family dwellings and two-family dwellings in the R-1, R-2, R-3 and R-4 zoning districts, the required parking spaces may be stacked front-to-back, one vehicle deep.

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(h) No parking space is required for the area of outdoor dining. (Ord. 19189 §1; December 15, 2008: prior Ord. 19092 §2; June 9, 2008: Ord. 18998 §2; September 24, 2007: Ord. 18770 §3; July 24, 2006: Ord. 18687 §28; March 20, 2006; Ord. 16958 §2; March 25, 1996: Ord. 15910 §1; June 24, 1991: Ord. 14215 §2; September 9, 1985: Ord. 12571 §355; May 8, 1979).

27.67.040 Parking Requirements; Special Conditions.

An alphabetical list of uses with special parking requirements for this title are set out in Figure 27.67.040 at the end of this chapter. The following special parking requirements shall apply to the listed uses in place of the general parking requirements found in Section 27.67.020:

(a) Fraternity, sorority, and rooming and boarding houses:

(1) In the R-6 District:

(i) Fraternities: One space/400 sq. ft. livable floor area, within 600 feet of the building;

(ii) Sorority, rooming or boarding house: One space/700 sq. ft. livable floor area within 600 feet of the building.

(2) In the R-7 and R-8 Districts:

(i) Fraternities: One space/700 sq. ft. livable floor area, within 1,200 feet of the building.

(ii) Sorority, rooming or boarding house: One space/1,100 sq. ft. livable floor area within 1,200 feet of the building.

(b) Group homes: One space per three client or employee residents, plus two spaces per three nonresident employees on the largest shift; provided, however, that no spaces shall be required for client residents who will not possess motor vehicle operator's licenses. Appropriate documentation from the group home licensing agency shall be provided evidencing the non-possession of motor vehicle operator's licenses by clients.

(c) Adult care centers: One space/ employee on the largest shift, plus off-street loading/unloading area for one automobile per ten care receivers. Joint parking with another use is acceptable if the adult care center and the other use have nonconcurrent parking demands.

(d) Nursing homes: One space/3 beds.

(e) Elderly or retirement housing: One space/dwelling unit.

(f) Mini-warehouses:

(1) Two spaces for manager's quarters;

(2) One space for every 200 storage cubicles to be located at the project office for the use of clients; provided access lanes and roads to the storage area are twenty feet in width to allow vehicles to unload and pass. If access lanes and roads are less than twenty feet in width, parking at a rate of one space per ten storage cubicles shall be provided equally throughout the storage area.

(g) Doctors' and dentists' offices: One space/ 225 sq. ft. of floor area.

(h) Drive-in restaurants: One space/40 sq. ft. of floor area.

(i) Bowling alleys: spaces/lane (plus required parking for affiliated uses.)

(j) Auditoriums, theaters, grandstands, stadia, amphitheaters, and other places of public assembly: One space/50 sq. ft. of seating-area plus parking for affiliated uses within 300 ft. of the main use.

(k) Recreational uses:

(1) Racquetball and other court games: Four spaces/court (plus required spaces for affiliated uses);

(2) Swimming pools: One space/100 sq. ft. of water surface (plus parking for affiliated uses) as determined by the city;

(3) Golf courses: Two spaces/hole of course, plus parking for affiliated uses.

(l) Hospitals: One space/2.5 beds, plus one space/employee on the largest shift.

(m) Churches, chapels, public schools, private schools having a curriculum equivalent to a public elementary or public high school, and private business or commercial schools: One space/50 sq. ft. in largest assembly hall as determined by the City.

(n) Gymnastic, karate, judo, dance, music, and other similar academies: One space for every three students allowed per class session plus one space for every employee. In those instances where two sessions of classes occur one after another, without at least one-half hour separation between sessions, the maximum number of students allowed at both sessions shall be combined in determining the amount of required parking per class session.

(o) Housing for the physically handicapped: (see also Section 27.63.215) One space/ dwelling unit.

(p) Domestic shelters: One space for every four residents based on the maximum occupancy allowed by the lot area and two spaces for every three employees on the largest shift.

(q) Scrap processing operation or salvage yard: Six spaces, two spaces/acre of lot area or one space/1,000 square feet of floor area, whichever is greater.

(r) Dwellings for members of a religious order: one space for every three residents.

(s) Warehouses:

(1) Warehouses with a floor area of 50,000 square feet or less: one space per every 1,000 square feet of floor area or a minimum of one space per employee on the largest shift. The floor area shall be calculated based on the total floor area of all structures on the lot.

(2) Warehouses with a floor area of more than 50,000 square feet: one space per every 1,000 square feet of floor area for the first 50,000 square feet of floor area and one additional space per 2,000 square feet of floor area in excess of 50,000 square feet, or a minimum of one space per employee on the largest shift. The floor area shall be calculated based on the total floor area of all structures on the lot.

(3) If the number of spaces required by the building ratio is greater than required by the employee ratio in (1) or (2) above, the additional parking spaces need not be provided physically, but sufficient areas shall be reserved for to accommodate construction of the additional spaces. If the Building Official finds at any time that the character of the use of the warehouse is such as to require the full provision of parking facilities to be constructed, the Building Official shall report this fact to the City Council which may, after holding a hearing of which the owner shall be notified, require such additional parking to be installed.

(t) Hotels and motels: one space per room and one space per 100 square feet of accessory uses.

(u) Restaurants and Social Halls: one space per 100 square feet.

(v) Dwellings for caretakers employed and residing on the premises: one space per dwelling unit.

(w) Early childhood care facilities: One space/employee on the largest shift, plus off-street loading/unloading area for one automobile per ten care receivers. Joint parking with another use is acceptable if the early childhood care facility and the other use have nonconcurrent parking demands.

(x) Domiciliary Care Facilities: One space for every four residents based on the maximum occupancy allowed by the lot area and two spaces for every three employees on the largest shift.

(y) Sale of alcoholic beverages for consumption on the premises: Provide on site one space per 100 square feet of gross floor area.

(z) Greenhouses located in the AG or AGR zoning districts: One parking space shall be provided for each employee on the maximum shift.

(aa) Heritage Centers located in the AG zoning district: One space shall be provided for every 200 square feet of floor area devoted to permanent retail and service use. In addition, an overflow parking area shall be provided with three stalls for every acre included within the special permit area.

(bb) Community Halls located in the AG zoning district: There shall be adequate parking for vehicles compatible with the number of people using the facility.

(cc) Off-street Freight Loading Requirements. At the time of construction, alteration, or enlargement of any commercial or industrial building having a floor area of 10,000 square feet or more, and containing a use or uses which requires off-street freight loading, off-street freight loading areas shall be provided on the premises to serve the use and maintained as follows:

(1) Six hundred square feet for the first 10,000 square feet of floor area;

(2) An additional 600 square feet for each additional 20,000 square feet of floor area.

(dd) Joint Parking. Uses that have non-concurrent parking demand may join their parking facilities so as to reduce aggregate parking requirements as follows:

(1) B-5 District. The uses shall be located in the B-5 District and may include adjacent churches or chapels located outside the B-5 District. Uses that have nonconcurrent parking demand may join their parking facilities; however, the use having the largest floor area shall provide 4.5 parking spaces for every 1,000 square feet of floor area, and all other uses included in the joint parking arrangement shall provide two parking spaces per 1,000 square feet of their floor area; provided, however, that the number of additional spaces that would be required in the absence of this paragraph need not be provided physically, but sufficient land shall be reserved in the event that future uses may not have nonconcurrent parking demand. For the purpose of determining the adequacy of the joint parking arrangement, all such joint parking use shall be authorized by a written agreement between the city and all parties to such use.

(2) O-3, B-1, B-2, B-3, B-4, H-2, H-3, and H-4 Zoning Districts. The uses shall be located in the following zoning districts: O-3, B-1, B-2, B-3, B-4, H-2, H-3, and H-4, and may include uses in adjacent O-2 districts and adjacent churches and chapels outside the above districts. The aggregate parking requirement shall be computed on the basis of providing the parking required for that use or those uses having concurrent parking demand that have the largest parking demands as determined by the parking matrix (Section 27.67.020) and any additional conditions in this chapter; provided, however, that the number of additional spaces that would be required in the absence of this paragraph need not be provided physically, but sufficient land shall be reserved in the event that future uses may not have nonconcurrent parking demand. For the purpose of determining the adequacy of the joint parking arrangement, all such joint parking use shall be authorized by a written agreement between the city and all parties to such use.

(3) O-1 District. The uses shall be located in the O-1 District and may include adjacent churches or chapels located outside the O-1 District. Uses that have nonconcurrent parking demand may join their parking facilities. The aggregate parking requirement shall be computed on the basis of providing the parking required for that use or those uses having concurrent parking demands that have the largest parking demands as determined by the parking matrix and any additional conditions in this chapter; provided, however, that the number of additional spaces that would be required in the absence of this paragraph need not be provided physically, but sufficient land shall be reserved in the event the future uses may not have nonconcurrent parking demand. For the purpose of determining the adequacy of the joint parking arrangement, all such joint parking use shall be authorized by a written agreement between the city and all parties to such use.

(ee) Data Center: Two (2) spaces per three (3) employees on largest shift, plus land shall be reserved to provide required parking for office uses in the underlying zoning districts in the event the Data Center is changed to another office use. (Ord. 19406 §2; June 28, 2010: prior Ord. 18977 §9; August 20, 2007: Ord. 18903 §14; March 26, 2007: Ord. 18680 §1; March 13, 2006: Ord. 17418 §3; October 5, 1998: Ord. 16854 §45; August 14, 1995: Ord. 16253 §3; October 26, 1992: Ord. 15861 §1; April 15, 1991: Ord. 14185, as amended by Ord. 14276, November 25, 1985: Ord. 13610 §1; June 6, 1983: Ord. 13546 §11;

February 28, 1983: Ord. 13302 §9; February 1, 1982: Ord. 13291 §1; January 4, 1982: Ord. 12751 §24; November 5, 1979: Ord. 12679 §5; September 4, 1979: Ord. 12571 §356; May 8, 1979).

27.67.050 Special Conditions; B-4 Zoning District.

The following special parking requirements shall apply to the B-4 zoning district:

(a) In the area located from 150 feet east of 17th Street to the western boundary of the B-4 District, there will be no parking requirements. There will also be no parking requirements in the area located between the centerline of "N" Street and the centerline of "P" Street from 150 feet east of 17th Street to the eastern boundary of B-4 District.

(b) In the area located from 150 feet east of 17th Street to the eastern boundary of the B-4 District, not specifically excepted in section (a) above, the following shall be provided on site or within 300 feet of the premises:

(1) Industrial and manufacturing uses: Two spaces per three employees on the largest shift, or one space per 1,000 square feet of floor area; provided, however, that if the number of spaces required by the building ratio is greater than that required by the employee ratio, the additional parking spaces need not be provided physically, but sufficient space shall be reserved for future physical development.

(2) Other commercial business and office uses: One parking space per 600 square feet;

(3) Residential uses: One parking space per dwelling unit. (Ord. 19132 §8; September 8, 2008: prior Ord. 13442 §1; September 7, 1982: Ord. 12571 §357; May 8, 1979).

27.67.065 Special Conditions; Community Unit Plan and O-3 Zoning District.

(a) In a community unit plan, the following parking regulations shall apply:

(1) Two parking spaces per dwelling unit, except that dwellings for nonrelated persons shall have one space for each resident. The City Council may reduce the community unit plan parking requirement to no less than one and one-half parking spaces per dwelling unit, except for dwellings for nonrelated persons, when the application includes information justifying the reduction;

(2) The location of required parking as set forth elsewhere in this chapter may be adjusted by the City Council;

(3) All other parking requirements in the district or districts in which a community unit plan is located shall apply.

(b) In the O-3 zoning district, the following parking regulations shall apply:

(1) Two parking spaces per dwelling unit, however, the City Council may reduce the parking requirement to no less than one and one-half parking spaces per dwelling unit when the application includes information justifying the reduction;

(2) The location of required parking as set forth elsewhere in this chapter may be adjusted by the City Council;

(3) All other parking requirements in the O-3 zoning district shall apply. (Ord. 17949 §2; December 17, 2001; prior Ord. 16958 §3; March 25, 1996; Ord. 13526 §1; January 3, 1983; Ord. 12878 §3; March 31, 1980).

27.67.066 Special Conditions: H-3 Zoning District.

The following special parking requirements shall apply to permitted conditional uses in the H-3 zoning district.

(a) Vehicle body repair shops, truck and heavy equipment sales, farm machinery sales establishments, motor truck terminals, mobile home sales, places of business of plumbing and heating and air conditioning contractors and cabinet shops, automobile sales and repair, but not including vehicle repair shops, and assembly facilities: One space per 500 square feet of floor area, or one space per employee on the largest shift; however, if the number of spaces required by the building ratio is greater than that required by the employee ratio, the additional parking spaces need not be provided physically, but sufficient space shall be reserved for future physical development.

(b) All other parking requirements in the H-3 zoning district shall apply. (Ord. 17311 §3; March 23, 1998).

27.67.070 Special Conditions; R-6, R-7, and R-8 Zoning Districts.

In the R-6, R-7, and R-8 zoning districts, parking is permitted in the required side yard, provided that there shall be no parking within seven feet of any side lot line and parking is permitted in the area behind all buildings within the required side yard up to any side lot line. (Ord. 12657 §15; August 6, 1979; prior Ord. 12571 §359; May 8, 1979).

27.67.075 Special Conditions; Capitol Environs District.

In the Capitol Environs District, two parking spaces per dwelling unit are required; however, upon application, the City Council may reduce the parking requirement to no less than one parking space per dwelling unit when the application includes information justifying the reduction. (Ord. 16958 §4; March 25, 1996).

27.67.080 Special Conditions; Personal Vehicles.

In the R-1, R-2, R-3 or R-4 residential districts, parking, in addition to, not in lieu of, the required parking space(s) in the zoning district shall be permitted under the following conditions:

(a) A personal vehicle, including a passenger car, recreational vehicle, trailer, boat, van, or pickup truck, may be parked inside of an enclosed structure when the structure conforms to the zoning requirements of the particular district in which it is located;

(b) A personal vehicle, including a passenger car, recreational vehicle, trailer, boat, van, or pickup truck, may be parked outside of an enclosed structure in the side yard or rear yard but not within two feet of a property line;

(c) A recreational vehicle, trailer, or boat may be parked outside of an enclosed structure in the required front yard on a concrete driveway or its equivalent under the following conditions:

(1) Space is unavailable in the rear yard or outside the side yard and there is no reasonable access to either the rear yard or side yards. A corner lot is always deemed to have reasonable access to the rear yard; a fence is not deemed to prevent reasonable access.

(2) Enclosed parking is not possible in conformance with the requirements of the district; such enclosure is not a requirement for parking a recreational vehicle, trailer, or boat;

(3) The recreational vehicle, trailer, or boat is parked perpendicular to the front curb;

(4) The recreational vehicle, trailer, or boat may be parked not less than two feet from the front property line, and not less than two feet from the side lot line.

(5) No part of the recreational vehicle, trailer, or boat may extend over the public sidewalk or the public right-of-way.

(6) Parking is permitted only for storage and any recreational vehicle, trailer, or boat shall not be:

(i) used for dwelling purposes for more than fourteen days in any calendar year; cooking is not permitted at any time;

(ii) permanently connected to sewer lines, water lines, or electricity. A recreational vehicle may be connected to electricity temporarily for charging batteries;

(iii) used for storage of goods, materials, or equipment other than those items considered to be a part of the unit or essential for its immediate use.

(7) Notwithstanding the provisions of this section, the recreational vehicle, trailer, or boat may be parked anywhere on the premises during loading or unloading, and the use of electricity or water is permitted when necessary to prepare a recreational vehicle for use.

(8) The recreational vehicle, trailer, or boat shall be owned by the resident on the property where the recreational vehicle, trailer, or boat is parked for storage. (Ord. 14215 §2; September 9, 1985; prior Ord. 12571 §360; May 8, 1979).

27.67.085 Special Conditions; Unregistered, Wrecked, or Junked Vehicles.

No unregistered motor vehicle or trailer and no non-operating, wrecked, junked, or partially dismantled vehicle may be stored or parked in any zoning district for more than thirty days except under the following conditions:

(a) In all zoning districts, any unregistered motor vehicle and any non-operating, wrecked, junked, or partially dismantled vehicle may be stored or parked inside an enclosed structure when the structure conforms to the zoning requirements of the particular district in which it is located.

(b) In the AG, AGR, R-1, R-2, R-3, R-4, R-5, R-6, R-7, and R-8 zoning districts, the City Clerk may grant an administrative permit to permit the storage or parking of up to two unregistered motor vehicles and/or non-operating, wrecked, junked, or partially dismantled vehicles on any premises used for residential purposes as follows:

(1) Application for the administrative permit shall be filed in writing with the City Clerk on a form provided by the City and shall contain the name and address of the applicant and the make, model, year, and vehicle identification number of each vehicle to be restored or repaired.

(2) The vehicle(s) to be restored or repaired shall be owned by the applicant.

(3) The fee for such administrative permit shall be \$50.00 per vehicle.

(4) The permit shall cover the vehicle(s) only and does not authorize the storage of any miscellaneous vehicle parts or junk contained in, on or near the vehicle(s).

(5) All such permits shall expire 180 days following the date of issuance thereof.

(6) Administrative permits for said vehicles shall be renewable one time only upon payment of the \$50.00 fee per vehicle.

(c) This section shall not apply to a vehicle on the premises of a business enterprise operating in a lawful place and manner, when necessary to the lawful operation of such business enterprise, a vehicle on the premises of a farmstead as defined in Neb. Rev. Stat. §15-905 (Reissue 1997) when necessary for the operation of the farmstead, or a vehicle in an appropriate storage place or depository maintained in a lawful place and manner.

(d) Hobbyist Permits. An unregistered motor vehicle or non-operating, wrecked, junked, or partially dismantled vehicle lawfully stored or parked in the AG, AGR, R-1, R-2, R-3, R-4, R-5, R-6, R-7, or R-8 zoning district under a hobbyist permit issued in accordance with Lincoln Municipal Code Section 10.42.115 shall be deemed to have received an administrative permit as herein required.

(e) For the purposes of this section, the terms "motor vehicle," "trailer," and "vehicle" shall have the same definition as provided for those respective terms in Chapter 10.02 of the Lincoln Municipal Code. (Ord. 17753 §1; October 30, 2000).

27.67.090 Special Conditions; Nonconforming Uses.

If a nonconforming use is changed to a more restrictive nonconforming use or to a conforming use, it shall comply with all of the parking requirements of this chapter for such use.

A residential use which is nonstandard as to parking as of March 27, 1996 shall be allowed to continue.

A residential use which is nonstandard as to parking may not be converted to a use which would make it more nonstandard as to parking.

A residential use which is nonstandard as to parking may be converted to a use that would make it less nonstandard as to parking. (Ord. 16958 §5; March 25, 1996; prior Ord. 12571 §361; May 8, 1979).

27.67.100 Special Conditions; Parking Lots.

(a) Parking lots consisting of six or more parking spaces located in any zoning district except for nonpermanent lots that are allowed for no more than a period of two years, and lots for the purpose of sale, resale, or servicing of vehicles shall be constructed in accordance with the following requirements:

(1) Design standards: The City of Lincoln shall adopt design standards to be approved by resolution of the City Council for surfacing, drainage, barriers, screening, lighting, landscaping, and layout of the parking lots and place the same on file with the City Clerk. All parking lots authorized by this chapter shall be constructed pursuant to and in conformance with the design standards adopted by the city and on file with the City Clerk.

(2) Barriers: An adequate barrier shall be provided along the outer edge of the parking lot as required by Section 10.32.240 and Section 10.32.250 of the Lincoln Municipal Code. Barriers shall be located to prevent the parking of vehicles in the required front yard when prohibited by this title, and to provide protection to any landscaping or screen planting. Barriers shall be in conformance with Chapter 14.44 of the Lincoln Municipal Code and any applicable standards adopted by resolution of the City Council.

(3) Entrances and exits: The location and design of all entrances and exits shall be subject to the approval of the city.

(4) Lighting: Lighting in parking lots shall be in conformance with the Design Standards for Outdoor Lighting.

(5) Signs: Only one sign, not to exceed three square feet in area and not located on public right-of-way, is permitted at each entrance and/or exit designating that entrance or exit and may state conditions of use of the parking lot. No other signs except as otherwise permitted in the zoning district shall be permitted except (i) one-way driveway signs which shall be the same size and located in the same manner as entrance or exit signs; and (ii) signs for parking spaces for the handicapped conforming to adopted design standards.

(b) Nonconforming parking lots: All parking lots lawfully existing on the effective date of this ordinance may be continued, although such parking lots do not conform to the provisions hereof. Such lots shall be maintained in conformance with Title 8

of the Lincoln Municipal Code. Such nonconforming parking lot may not be enlarged or extended, except as provided herein. In the event that such parking lots are discontinued or the normal operation thereof is stopped for a period of two years, any resumption of the use of said parking lot shall thereafter conform to all of the requirements of this ordinance.

(c) Waiver of surfacing requirement: Upon application to the City Council, the owner of a parking lot may be relieved of the surfacing requirement of this section if the council finds that:

(1) The parking lot is (i) to be used in conjunction with a nonprofit, religious, educational, or philanthropic institution; (ii) in excess of the parking required by the provisions of this title and not pay parking; or (iii) used for employee parking and located wholly within an industrial district; and

(2) Alternate materials or techniques shall be utilized which provide reasonable control of dust, runoffs, and safe circulation; and

(3) (i) The location of the parking lot is a sufficient distance from surrounding uses that it will not adversely affect the surrounding uses; or

(ii) The frequency of use of the parking lot is so low that compliance with the surfacing requirement of this section would cause undue economic hardship upon the owner as compared with minimal impact upon surrounding land uses.

Notwithstanding that a waiver is granted, if it is later found that dust or noise, created by the use of a parking lot exceeds the maximum levels set forth in Title 8 of the Lincoln Municipal Code, then such waiver may, after notice and hearing by the City Council, be revoked. Thereafter, the use of such parking lot shall cease unless surfaced in accordance with the adopted design standards.

(d) The following provisions shall apply to extension and enlargement of nonconforming parking lots:

(1) If an existing nonconforming parking lot having less than twenty spaces is expanded fifty percent or more in area, the extension shall be surfaced in conformance with the appropriate design standards.

(2) If an existing nonconforming parking lot with twenty spaces or more is expanded twenty-five percent or more in area, the extension shall be surfaced in conformance with the appropriate design standards.

(e) In the event that the main use of a lot for a nonstandard or nonconforming parking lot is changed in whole or in part to another use, any continued use or resumption of the use of said lot for parking shall thereafter conform to all the requirements of this ordinance. (Ord. 19139 §5; September 15, 2008; prior Ord. 14254 §1; October 21, 1985; Ord. 14084 §1; April 15, 1985; Ord. 14007 §1; December 10, 1984; Ord. 12848 §1; February 19, 1980; Ord. 12571 §362; May 8, 1979).

Figure 27.67.020 PARKING MATRIX												
Parking Spaces Required												
	Dwellings				Office/Retail/Commercial Uses							Industrial Uses
	0.5 per dwelling unit	1 per dwelling unit	1.75 per dwelling unit	2 per dwelling unit	1 per 1,200 sq. ft.	2 per 3 persons on max. shift or 1 per 1,000 sq. ft.*	1 per 600 sq. ft.	1 per 500 sq. ft.	1 per 300 sq. ft.	4.5 per 1,000 sq. ft.	1 per 150 sq. ft.	2 per 3 persons on maximum shift or 1 per 1,000 sq. ft.*
AG	AG District: None except uses with special parking requirements listed under Section 27.67.040 of the Lincoln Municipal Code.											
AGR				•								
R-1				•								
R-2				•								
R-3				•								
R-4				•								
R-5			•									
R-6			•									
R-7		•										
R-8		•						•				
R-T		•							•			
O-1	•				within 900'							
O-2		•							•			
O-3				•					•			
B-1		•							within 300'			
B-2		•							within 300'			
B-3		within 300'						within 300'				
B-4	B-4 District: Refer to special parking requirements under Section 27.67.050 of the Lincoln Municipal Code.											
B-5				•						•		
H-1											•	
H-2									within 300'			
H-3									within 300'			
H-4									•			
I-1						within 300'						within 300'
I-2						within 300'						within 300'
I-3									•			•

* If the number of spaces required by the building ratio is greater than required by the employee ratio, an additional parking area shall be reserved to accommodate the construction of the additional spaces.
Refer to Figure 27.67.040 of the Lincoln Municipal Code for a list of uses with special parking requirements.
Refer to Section 27.67.040 of the Lincoln Municipal Code for uses with special parking requirements.
Refer to Section 27.67.066 of the Lincoln Municipal Code for uses in the H-3 district with special parking requirements.
Any parking requirement resulting in a partial parking space shall be rounded up to the next whole number as per Section 27.67.030(e) of the Lincoln Municipal Code.

Figure 27.67.040
Uses with Special Parking Requirements

The following uses have special parking requirements that shall apply in place of the general parking requirements found in Section 27.67.020:

Academies	27.67.040(n)
Adult care centers	27.67.040(c)
Amphitheaters	27.67.040(j)
Auditoriums	27.67.040(j)
Boarding houses	27.67.040(a)
Bowling alleys	27.67.040(i)
Chapels	27.67.040(m)
Churches	27.67.040(m)
Community Halls (located in the AG zoning district)	27.67.040(bb)
Court games	27.67.040(k)(1)
Dance academies	27.67.040(n)
Dentists' offices	27.67.040(g)
Doctors' offices	27.67.040(g)
Domestic shelters	27.67.040(p)
Domiciliary Care Facilities	27.67.040(x)
Drive-in restaurants	27.67.040(h)
Dwellings for members of a religious order	27.67.040(r)
Dwellings for caretakers employed and residing on premises	27.67.040(v)
Early childhood care facilities	27.67.040(w)
Elderly housing	27.67.040(e)
Fraternities	27.67.040(a)
Grandstands	27.67.040(j)
Greenhouses (located in the AG or AGR zoning districts)	27.67.040(z)
Group homes	27.67.040(b)
Golf courses	27.67.040(k)(3)
Gymnastic academies	27.67.040(n)
Heritage Centers (located in the AG zoning district)	27.67.040(aa)
Hospitals	27.67.040(l)
Hotels	27.67.040(t)
Housing for the physically handicapped	27.67.040(o)
Judo academies	27.67.040(n)
Karate academies	27.67.040(n)
Mini-warehouses	27.67.040(f)
Motels	27.67.040(t)
Music academies	27.67.040(n)
Nursing homes	27.67.040(d)
Places of public assembly	27.67.040(j)
Private business or commercial schools	27.67.040(m)
Private schools having a curriculum equivalent to a public school	27.67.040(m)
Public schools	27.67.040(m)
Racquetball facilities	27.67.040(k)(1)
Recreational uses	27.67.040(k)
Restaurants (also see Drive-in restaurants)	27.67.040(u)
Retirement housing	27.67.040(e)
Rooming houses	27.67.040(a)
Salvage yards	27.67.040(q)
Sale of alcoholic beverages for consumption on the premises	27.67.040(y)
Scrap processing operations	27.67.040(q)
Social Halls	27.67.040(u)
Sororities	27.67.040(a)
Stadia	27.67.040(j)
Swimming pools	27.67.040(k)(2)
Theaters	27.67.040(j)
Warehouses	27.67.040(s)

Chapter 27.68

Personal Wireless Facilities

Sections:

27.68.010	Purpose.
27.68.020	Definitions.
27.68.030	Permits Required.
27.68.040	Term of Permit.
27.68.050	Renewal Applications.
27.68.060	Renewal Determinations.
27.68.070	Obligation to Cure As a Condition of Renewal.
27.68.080	Location Preferences.
27.68.090	Application Requirements.
27.68.100	Standards for Evaluation.
27.68.110	Design Criteria for Personal Wireless Service Facilities.
27.68.120	General Requirements.
27.68.130	Non-use; Abandonment.
27.68.140	Zoning Districts Allowed.

27.68.010 Purpose.

These regulations are adopted to protect the public health, safety and welfare, and to minimize visual impact, while furthering the development of enhanced telecommunications services in the City. These regulations are designed to comply with the Telecommunications Act of 1996 and any other applicable laws. The provisions of this chapter are not intended to and shall not be interpreted to prohibit or to have the effect of prohibiting personal wireless services. This chapter shall not be applied in such a manner as to unreasonably discriminate between providers of functionally equivalent personal wireless services. (Ord. 17588 §1; January 18, 2000).

27.68.020 Definitions.

For the purpose of this chapter, the following terms shall have the meaning ascribed to them below:

Abandonment, in the case of a non co-located facility, shall mean: (a) failure to start operations within 90 days of completion of the structure, or (b) to cease operation for a period of 90 or more consecutive days. In the case of a co-located facility, abandonment shall mean: (a) failure to start operations within 180 days of completion of the structure, or (b)

to cease operation for a period of 180 or more consecutive days. In the event that factors beyond a provider's control postpone the start of or cause the temporary cessation of operations of a co-located or non-co-located facility, the time limitations specified herein shall be extended for such period of delay.

Administrative permit shall mean a process and approval by the Planning Director as described in this chapter.

Antenna shall mean any exterior apparatus designed for telephonic, radio, data, Internet, or video communications through the sending and/or receiving of electromagnetic waves, and includes equipment attached to a tower or building for the purpose of providing personal wireless services, including unlicensed wireless telecommunications services, wireless telecommunications services utilizing frequencies authorized by the Federal Communications Commission for "cellular", "enhanced specialized mobile radio", "specialized mobile radio" and "personal communications services", telecommunications services, and its attendant base station.

Antenna support structure shall mean any pole, telescoping mast, tower, tripod, or other structure which supports a device used in the transmitting or receiving of radio frequency signals.

Array shall mean a set of antennas for one carrier or service that are placed on a structure at a given height and spaced so as to avoid interference.

Camouflage describes a personal wireless service facility that is disguised, hidden, or integrated with an existing structure or a personal wireless service facility that is placed within an existing or proposed structure so as to be effectively hidden from view.

Co-location shall mean the location of antenna or an array of antennas on a personal wireless facility or antenna support structure by more than one personal wireless service provider.

Design shall mean the appearance of personal wireless service facilities, including such features as their materials, colors, texture, scale, and shape.

EIA shall mean the Electronics Industry Association.

Equipment enclosure shall mean a structure, shelter, cabinet, or vault used to house and protect the electronic equipment necessary for processing wireless communication signals and associated equipment. Associated equipment may include air conditioning, backup power supplies and emergency generators.

FAA shall mean the Federal Aviation Administration.

FCC shall mean the Federal Communications Commission.

Fall zone shall mean the area on the ground within a prescribed radius from the base of a personal wireless service facility within which there is a potential hazard from falling debris or collapsing material.

Governing authority shall mean the City Council of the City of Lincoln.

Height shall mean the vertical distance above grade to the highest point of the antenna support structure, including the lightning rod and antenna.

Mount shall mean the structure or surface upon which personal wireless service facilities are mounted. There are three types of mounts: (i) Building mounted – a personal wireless service facility affixed to the roof or side of a building; (ii) Ground mounted – a personal wireless service facility fixed to the ground such as a tower; and (iii) Structure mounted – a personal wireless service facility fixed to a structure other than a building, such as light standards, utility poles, and bridges.

Personal wireless service, personal wireless service facilities, personal wireless facilities and facilities used in this chapter shall be defined in the same manner as in Title 47, United States Code, Section 332 (c)(7)(C), as they may be amended now or in the future and includes facilities for the transmission and reception of radio or microwave signals used for communication, cellular phone, personal communications services, enhanced specialized mobile radio, and any other wireless services licensed by the FCC and unlicensed wireless services.

Provider shall mean every corporation, company, association, joint stock company, firm, partnership, limited liability company, other entity and individual which provides personal wireless service over personal wireless service facilities.

Screening shall mean materials which effectively hide personal wireless facilities from view, or landscaping in accordance with the requirements of the "Design Standards for Zoning."

Security barrier shall mean a wall, fence, or berm that has the purpose of sealing a personal wireless service facility from unauthorized entry or trespass.

Site shall mean a tract or parcel of land that contains personal wireless service facilities including

any antenna, support structure, building, accessory buildings, and parking and may include other uses associated with and ancillary to personal wireless services.

Special permit shall mean a process and approval as currently described in Chapter 27.63 of the Zoning Ordinance, or as otherwise set forth in City ordinances or regulations.

Tower shall mean any structure that is designed, constructed or used for the primary purpose of supporting one or more antennas, including self-supporting lattice towers, guyed towers, or monopole towers. The term encompasses personal wireless service facilities including microwave towers, common-carrier towers, cellular telephone towers or personal communications services towers, alternative tower structures, and the like.

Unlicensed wireless services shall mean commercial mobile services that operate on public frequencies and do not need a FCC license. (Ord. 18602 §1; August 22, 2005; prior Ord. 17588 §2; January 18, 2000).

27.68.030 Permits Required.

(a) No person shall locate an antenna or tower for personal wireless services or alter an existing personal wireless services facility upon any lot or parcel except as provided in this chapter.

(b) Maintenance or repair of a personal wireless service facility and related equipment, excluding structural work or changes in height, dimensions, towers, or buildings, is excluded from the requirement to obtain an administrative or special permit. However, building permits may still be required.

(c) Installation of personal wireless service facilities requires either an administrative permit issued by the Planning Director or approval of a special permit by the Planning Commission, except co-location on existing wireless facilities previously authorized by either an administrative permit or special permit.

(1) Administrative Permit: In any zoning district, the Planning Director may issue an administrative permit approving an application to replace an existing tower or to co-locate additional antennas on a camouflaged facility or rooftop facility, or facility subject to an existing special permit, if the application does not exceed the permitted height in the district or the height as allowed by special permit, and will have minimal adverse effect on the surrounding property,

entryway corridors to the City, Capitol Environs District, Capitol View Corridors as described in Section 27.56.017, landmarks or landmark districts designated in accordance with Chapter 27.57, or properties listed or eligible to be listed on the National Register of Historic Places.

Within 45 days of receiving a complete application, the Planning Director shall act on the request for an administrative permit, or shall refer the application to the Historic Preservation Commission, Nebraska Capitol Environs Commission, and/or Planning Commission for public hearing as may required under Chapter 27.56, Chapter 27.57, or Chapter 27.63 of the Lincoln Municipal Code, or the other requirements of this Code.

If a request for an administrative permit is not acted upon within 45 days, or is denied, or the conditions imposed thereon are unacceptable to the applicant, then the applicant may, by written notice to the Planning Director, convert the request for an administrative permit to an application for a special permit. Moreover, an applicant may, in lieu of and without first seeking an administrative permit hereunder, request a special permit for its proposed facility.

(2) Special Permit: All towers and additions to existing facilities not issued or eligible for an administrative permit and all requests for a special permit shall be reviewed and evaluated, according to the procedure established in Chapter 27.63 of the Lincoln Municipal Code. In the event that the proposed special permit is denied by the Planning Commission, no new request shall be made for the same or substantially similar administrative or special permit within a period of three months after denial thereof.

Any decision to deny a special permit under this chapter shall be made in writing and shall state the specific reasons for the denial. Any denial by the Planning Commission may be appealed to the City Council. Any denial by the City Council shall be deemed a final administrative decision, subject to judicial review and appeal. (Ord. 18602 §2; August 22, 2005; prior Ord. 17588 §3; January 18, 2000).

27.68.040 Term of Permit.

An administrative or special permit granted hereunder shall be in effect for a term of fifteen years unless it is sooner terminated due to abandonment or

failure to comply with this Code. (Ord. 17588 §4; January 18, 2000).

27.68.050 Renewal Applications.

A permittee that desires to renew its administrative or special permit hereunder shall, not more than 365 days nor less than 90 days before expiration of the current permit, file an application with the City for renewal of its permit which shall include the applicable information required pursuant to the permit application. (Ord. 17588 §5; January 18, 2000).

27.68.060 Renewal Determinations.

After receiving a complete application hereunder, the Planning Director in the case of an administrative permit and the Planning Commission in the case of a special permit, shall make a determination granting or denying the renewal application in whole or in part. If the renewal application is denied, the determination shall include the reasons for non-renewal. The standards enumerated in this Code shall apply when determining to grant or deny the application, plus a determination of the applicant's compliance with the requirements of this Code. (Ord. 17588 §6; January 18, 2000).

27.68.070 Obligation to Cure As a Condition of Renewal.

No permit shall be renewed until any ongoing violations or defaults in the permittee's performance of the requirements of this Code, and all applicable laws, statutes, codes, ordinances, rules and regulations have been cured, or a plan detailing the corrective action to be taken by the permittee has been approved by the City. (Ord. 17588 §7; January 18, 2000).

27.68.080 Location Preferences.

Personal wireless facilities shall be located and designed to minimize any significant adverse effect on the abutting property. Sites shall be placed in locations where the existing topography, vegetation, buildings, or other structures provide the greatest amount of screening. The locational preferences for siting new personal wireless service facilities are listed below:

(a) Preferred Location Sites:

(1) Publicly owned sites on which personal wireless facilities can be unobtrusively located with due regard to visibility, aesthetic issues, traffic flow, public safety, health and welfare. Such sites may

include locating on existing buildings, co-locating on existing towers, screened roof-top mounts, water towers, billboards, electric substations, or other camouflaged sites, but shall not include new towers.

(2) Privately owned sites on which personal wireless facilities can be unobtrusively located with due regard to visibility, aesthetic issues, traffic flow, public safety, health and welfare. Such sites may include locating on existing buildings, co-locating on existing towers, screened roof-top mounts, water towers, billboards, electric substations, or other camouflaged sites, but shall not include new towers.

(3) Publicly owned sites in which the facility is minimally obtrusive, has a minimal impact on the surrounding area, is an appropriate distance from residential land uses, has minimal impact on residential uses, with due regard being given to the scale of the facility and the surrounding area and the impact on the location.

(4) Sites in commercially or industrially zoned districts in which the facility is minimally obtrusive, has a minimal impact on the surrounding area, is an appropriate distance from residential land uses, has minimal impact on residential uses, with due regard being given to the scale of the facility and the surrounding area and the impact on the location.

(b) Limited Preference Sites;

(1) Sites on other public property.

(2) Sites on other commercially or industrially zoned property.

(c) Sensitive Location Sites. Sites located in areas with predominantly residential uses, environmentally sensitive areas, Capitol View Corridors, the Capitol Environs District, entryway corridors, landmarks or landmark districts, properties listed or eligible to be listed on the National Register of Historic Places, the Airport Environs, and other sensitive areas. (Ord. 17588 §8; January 18, 2000).

27.68.090 Application Requirements.

(a) Pre-Application Conference. Prior to the acceptance of an application by the City, applicants shall participate in a pre-application conference for the purposes of discussing application requirements, specifics of the site, plans for current and future facilities.

(b) Applications for either an administrative permit or a special permit for a personal wireless facility shall be filed with the Planning Director and shall include the following:

(1) A plot plan of the lot and the proposed uses drawn to an accurate scale and showing all pertinent information. The application material shall provide sufficient information, as determined by the Planning Director, to allow a complete review of the proposal. The application material shall also include sufficient detail to indicate compliance with design standards. Failure to provide adequate information may result in the rejection of the application.

(2) A statement identifying which location preference, identified in Section 27.68.080, the proposed facility is meeting. If the proposed location is not a preferred location site, describe:

(i) Whether any preferred location sites are located within the service area of the proposed personal wireless service facility;

(ii) What good faith efforts and measures were taken to investigate each of these preferred location sites and why such efforts were unsuccessful;

(iii) Why the use of a preferred location site is not technologically, legally or economically feasible;

(iv) How and why the proposed site is required to meet service demands for the proposed facility and citywide network; and

(v) The distance between the proposed facility and the nearest residential unit and residentially zoned properties.

(3) A description of the security barrier surrounding the base of the tower and accessory equipment. The description should include the method of fencing, finished color and, if applicable, the method of camouflage and illumination. Access shall be through a locked gate. The tower shall either have no climbing devices attached to the lower twenty feet of the tower or shall be fitted with anti-climbing devices.

(4) A statement indicating proposed measures designed to minimize potentially adverse visual effects on adjacent properties with consideration given to design, unobtrusiveness, minimum height necessary to accommodate antenna, avoidance of artificial light and coloring provisions;

(5) Provide a description of the anticipated maintenance and monitoring program for the antennae and back up equipment, including frequency of maintenance services.

(6) Provide copies of any environmental documents required by any federal agency. (Ord. 18229 §5; August 18, 2003; prior Ord. 17588 §9; January 18, 2000).

27.68.100 Standards for Evaluation.

(a) The Planning Commission may approve, by special permit, a personal wireless facility in any zoning district after review and consideration of all of the following:

- (1) Conformity with Comprehensive Plan.
- (2) Preference of site location in accordance with Section 27.68.080.
- (3) Compatibility with abutting property and surrounding land uses.
- (4) Adverse impacts such as the visual, environmental or noise impacts;
- (5) Screening potential of existing vegetation, structures and topographic features, and screening potential of proposed facilities, ground level equipment, buildings and tower base.
- (6) Scale of facility in relation to surrounding land uses.
- (7) Compatibility with surrounding uses.
- (8) Impact on views/vistas.
- (9) Impact on landmark structures/districts, historically significant structures/districts, architecturally significant structures, landmark vistas or scenery and view corridors from visually obtrusive antennas and back-up equipment.
- (10) Impact on natural resources, open spaces, recreational trails, and other recreational resources.
- (11) Color and finish.
- (12) Ability to co-locate.
- (13) Availability of suitable existing structures for antenna mounting.

(b) An application to construct new towers may be denied if the applicant has not shown by substantial evidence that it has made a good faith effort to mount the facilities on an existing structure and/or tower.

(c) Locations in sensitive location sites shall be considered only if the applicant:

- (1) Provides evidence showing what good faith efforts and measures were taken to secure a preferred location site or limited preference site within one-half mile of the proposed facility; and
- (2) Demonstrates with engineering evidence why each such preferred location site or limited preference site was not technologically, legally or economically feasible.

(d) Personal wireless facilities approved by special permit may be allowed to exceed the height of the district in which they are located. (Ord. 17588 §10; January 18, 2000).

27.68.110 Design Criteria for Personal Wireless Service Facilities.

(a) Equipment enclosures used primarily for personal wireless service facilities: Ground level equipment, buildings, and the tower base shall be screened from public view. The standards for the equipment buildings are as follows:

(1) The maximum floor area is 450 square feet and the maximum height is twelve feet. The Planning Commission may increase the maximum area to accommodate co-location.

(2) Ground level buildings shall be screened from view by landscape plantings, fencing, or other appropriate means, as specified herein or in the Design Standards for Zoning.

(3) Equipment buildings mounted on a roof shall have a color, and texture similar to the exterior building walls.

(4) Equipment buildings which are located in residential zones shall be designed so as to conform in appearance with residential structures.

(5) Equipment buildings, antenna, and related equipment shall occupy no more than twenty-five percent (25%) of the total roof area of a building, which may vary in the City's sole discretion if co-location and an adequate penthouse type structure are used.

(6) All base equipment and structures shall be located no closer to the property line than the minimum setback for the zone in which it is located.

(b) Security Fencing: A well-constructed fence not less than six feet in height from the finished grade shall be provided around each tower and equipment enclosure. Access to the tower shall be through a locked gate. Screening shall be in conformance with design standards.

(c) Color/Finish/Lights: The tower shall have a galvanized finish. It shall not be painted in alternate bands of distinctive orange and white colors or equipped with lights unless specifically required for safety reasons by a governmental agency having jurisdiction thereof. If so required, such lights shall not exceed the necessary minimum standards therefor. The color, finish and lighting of the facility shall be specified at the time of application review. No signals, lights, or signs shall be permitted on towers unless required by the FCC or the FAA. Options on lighting shall be indicated on the application.

(d) Antenna Accommodations. In order to reduce the number of antenna support structures

needed in the City in the future, any new proposed support structure shall be designed to accommodate antenna for at least one additional provider. Area shall be reserved for other providers' equipment near the base of the applicant's tower, unless co-location is shown to be infeasible. The site plan for towers in excess of 100 feet in height must propose space for two comparable providers, while the site plan for towers of 100 feet or less in height must propose space for one comparable provider, unless co-location is shown to be infeasible.

(e) Antenna Criteria: Antenna on or above a structure shall be subject to the following:

(1) The proposal shall demonstrate that the antenna and support structure are safe and the surrounding areas will not be negatively affected by support structure failure, falling ice, or other debris. All support structures shall be fitted with anti-climbing devices as required in Section 27.68.090 (b)(3).

(2) Antenna attached to the wall of an existing building shall be mounted in a configuration as flush to the wall as technically possible and should not project above the wall on which it is attached, unless adequately screened.

(3) The antenna shall be architecturally compatible with the building and/or wall on which it is mounted, and designed and located so as to minimize any adverse aesthetic impact. The antenna shall be constructed, painted, or fully screened to match as closely as possible the color and texture of the building and wall on which it is mounted.

(4) The antenna may be attached to an existing conforming mechanical equipment enclosure which projects above the roof of the building, but may not project any higher than that allowed in the applicable zoning district.

(5) If an accessory equipment shelter is present, it must blend with the surrounding buildings in architectural character and color.

(6) Roof mounted antenna and related base stations shall be completely screened from view by materials that are consistent and compatible with the design, color, and materials of the building.

(7) Rooftop mounts and related base stations shall be screened and integrated with the design of the building.

(8) Antenna attached to the roof of a building, an existing tower, a water tank, or a similar structure must be either:

(i) Omnidirectional or whip antenna no more than seven inches in diameter; or

(ii) Panel antenna no more than two feet wide and eight feet long.

(9) Antenna, antenna arrays, and support structures shall not extend more than the permitted height in the applicable zoning district. The antenna, antenna array, and their support structure shall be mounted so as to blend with the structure to which the antenna is attached. The antenna and its support structure shall be designed to withstand a wind force of 100 miles per hour without the use of supporting guy wires. The antenna, antenna array, and their support structure shall be a color that blends with the structure on which they are mounted.

(f) Free-standing roof-top antenna support structures: The roof-top structure must be architecturally and visually (color, size, bulk) compatible with surrounding existing buildings, structures, vegetation, and/or uses. Such facilities will be considered architecturally and visually compatible if they are camouflaged to disguise the facility.

Site location and development shall preserve the pre-existing character of the site as much as possible. Existing vegetation should be preserved or improved, and disturbance of the existing topography of the site should be minimized, unless such disturbance would result in less visual impact of the site on the surrounding area. The effectiveness of visual mitigation techniques must be evaluated by the City, in the City's sole discretion.

(g) Fall Zone. Towers and other camouflaged support structures shall be set back a distance no less than one half than the height of the structure from property lines. The Planning Commission may grant a reduction in the required fall zone when it finds that such reduction will not adversely impact adjacent properties, and is consistent with the intent of this title to promote the public health, safety and welfare. However in no instance shall the setback be less than that required by the underlying zoning district. (Ord. 18602 §3; August 22, 2005; prior Ord. 17588 §11; January 18, 2000).

27.68.120 General Requirements.

The personal wireless service provider shall comply at all times with the current applicable FCC and FAA standards and regulations, and any of those of other agencies of the federal government with authority to regulate towers and antennas.

(a) **Building Codes; Safety Standards.** To ensure the structural integrity of towers, the owner of a tower shall ensure that it is maintained in compliance with standards contained in applicable City building codes and the applicable standards for towers that are published by the Electronic Industries Association ("EIA"), as amended from time to time. If, upon inspection, the City concludes that a tower fails to comply with such codes and standards, then upon notice being provided to the owner of the tower, the owner shall have thirty (30) days to bring the tower into compliance with such standards. If the owner fails to bring its tower into compliance within thirty (30) days, the City may remove the tower at the owner's expense.

(b) **Structural Design.** Towers shall be constructed to the EIA Standards, which may be amended from time to time, and all applicable construction/building codes. Further, any improvements and/or additions to existing towers shall comply with the requirements of this chapter and shall require submission of site plans sealed and verified by a professional engineer which demonstrate compliance with the EIA Standards and all other good industry practices. The plans shall be submitted and reviewed at the time building permits are requested.

(c) **Required Parking.** Parking shall be required as per Chapter 27.67 of the Zoning Code.

(d) **Tower Separation.** An applicant will be required to demonstrate why it is necessary from a technical standpoint to have a tower within one-half (1/2) mile of a tower whether it is owned or utilized by applicant or another provider.

(e) **Surety and Indemnity Requirements.**

(1) Prior to issuance of a building permit, the applicant shall post a surety, approved by the City Attorney, with the City in the minimum amount necessary, as determined by the City, to guarantee the future removal of the facilities. The surety may not be revoked or terminated during the term of the permit. The City may use the surety for any expenses it incurs in removing any of the provider's facilities.

(2) A provider shall at its sole cost and expense, indemnify and hold harmless the City, its officers, officials, boards, commissions, agents, representatives, and employees against any and all claims, suits, losses, expenses, causes of actions, proceedings, and judgments for damage arising out of, resulting from, or alleged to arise out of or resulting from the construction, operation, repair, maintenance

or removal of the provider's facilities. Indemnified expenses shall include, but not be limited to, all out-of-pocket expenses, such as costs of suit and defense and reasonable attorney fees, and shall also include the reasonable value of any services rendered by the City Attorney's office and any employees of the City and any consultants retained by the City.

(f) **Safety Inspection Requirements.** The facility operator shall conduct safety inspections in accordance with the EIA and FCC Standards and within 60 days of the inspection, file a report with the Department of Building and Safety. (Ord. 17588 §12; January 18, 2000).

27.68.130 Non-use; Abandonment.

In addition to the definition of abandonment provided in Section 27.68.020, facilities shall be considered abandoned ninety (90) days after the expiration of an administrative permit or special permit and partially abandoned in the event that a portion of the antenna support structure is no longer used.

(a) **Abandonment:** No less than thirty (30) days prior to the date that a personal wireless service provider plans to abandon, partially abandon or discontinue operation of a facility, the provider must notify the City by certified U.S. mail of the proposed date of abandonment, partial abandonment or discontinuation of operation. In the event that a provider fails to give notice, the facility shall be considered abandoned upon the City's discovery of discontinuation of operation for more than 90 and 180 days, as the case may be, on all or part of such facility. Upon such abandonment, the provider shall have sixty (60) days or such additional period of time determined in the reasonable discretion of the City within which to:

(1) Reactivate the use of the facility or transfer the facility to another provider who makes actual use of the facility; or

(2) Dismantle and remove facility. If the facility or portion thereof is not removed within the sixty (60) days time period or additional period of time allowed by the City, the City may remove such tower or portion thereof or antenna at the provider's expense. If there are two or more providers collocated on a facility, then this provision shall not become effective until all providers cease using the facility or until a portion of the antenna support structure is no longer used.

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At the earlier of sixty (60) days from the date of abandonment without reactivation or upon completion of dismantling and removal, City approval for the facility or a portion thereof shall automatically expire.

(b) If ownership of a facility is transferred from one provider to another, the previous provider and the new provider shall be required to notify the City of the change of ownership or transfer within thirty days of the change of ownership or transfer of the facility. The new provider shall be required to make amendments to the application that is on file with the City, in order to provide current information. The new provider shall also provide a surety in accordance with Section 27.68.120. (Ord. 17588 §13; January 18, 2000).

27.68.140 Zoning Districts Allowed.

Personal wireless services facilities may be allowed by administrative or special permit in any zoning district. (Ord. 17588 §14; January 18, 2000).

Chapter 27.69**SIGNS****Sections:**

- 27.69.010 **Scope of Regulations.**
- 27.69.020 **Definitions.**
- 27.69.021 **General Sign Types.**
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- 27.69.090 **Churches, Schools, and Community Playhouses.**
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- 27.69.320 **Nonconforming Signs.**
- 27.69.330 **Cemetery Grounds.**
- 27.69.340 **Permitted Signs for Planned Unit Developments.**

27.69.010 Scope of Regulations.

The sign regulations for this title are as set forth in this chapter. Any additional conditions imposed by

Title 22 of the Lincoln Municipal Code, the State of Nebraska, or federal government, and other applicable ordinances or regulations also apply. In the event of any conflict, the most restrictive ordinance, regulation, or other requirement shall apply. (Ord. 12571 §363; May 8, 1979).

27.69.020 Definitions.

For the purpose of this chapter, certain terms and words are hereby defined.

ANIMATION shall mean the movement of any object or light used in conjunction with a sign such as blinking, flashing, traveling, scrolling, or changing degree of intensity of any light movement other than burning continuously.

CENTER shall mean the area within the boundaries of a planned unit development (PUD), use permit, or special permit for a planned service commercial development (collectively a "planned commercial center"). Center shall also mean any other area not within the boundaries of a planned commercial center in which any building or group of buildings has two or more businesses sharing parking and access.

CENTER IDENTIFICATION SIGN shall mean a sign on which at least 10% of the sign area identifies a center by name, address or symbol. In addition to the name of the center, the center identification sign may also display the names of the businesses within the center. A center sign may be located on any property within the center without being considered an off-premises sign.

CHANGEABLE COPY SIGN shall mean any sign on which message copy can be changed through the use of attachable letters and numerals or by electronic switching of lamps, light emitting devices, or illuminated tubes. This includes public message displays or any sign which features automatic switching such as time and temperature signs.

COMMERCIAL SIGN shall mean any sign which serves to advertise and/or identify a product, service, or activity conducted on or off the premises on which the sign is located.

DIRECTIONAL SIGN shall mean any sign that is designated and erected for the purpose of providing direction and/or orientation for pedestrian or vehicular traffic. A business name and/or logo is permissible on a directional sign.

ELECTRIC SIGN shall mean any sign containing electrical wiring which is attached or intended to be attached to an electrical energy source, but not including signs illuminated by an exterior light source not an integral part of the sign.

ELECTRONIC CHANGEABLE COPY SIGN shall mean a sign containing a computer or digital software generated message or other automated or remote method of changing copy.

ERECTED shall mean attached, altered, built, constructed, reconstructed, enlarged, or moved and shall include the painting of wall signs.

FACADE shall mean that portion of any exterior elevation of a building extending vertically from the grade to the top parapet wall or eaves and horizontally across the building in one plane of elevation. A facade may extend above the roof line.

FADE shall mean a transition from one message to another by means of varying light intensity, where the first message gradually reduces intensity to the point of not being legible and/or gradually increases intensity to become legible.

FLAG shall mean a sign constructed of a nonrigid piece of fabric attached to a pole structure on one vertical side only.

FLASHING/BLINKING/PULSATING SIGN shall mean the interior or exterior of a sign which contains flashing lights or exhibits noticeable changes in light intensity with a basic on-off of the same light source or display pattern or which includes the illusion of intermittent or flashing light by means of animation, or an externally-mounted intermittent light source.

FREESTANDING SIGN shall mean any sign supported by structures or supports that are anchored in the ground and that are independent from any building or other structure.

GROUND SIGN shall mean any freestanding sign in which the top edge of the sign is ten feet or less above grade.

HEIGHT OF A SIGN shall mean the distance between the lowest grade level within two feet of either side of a sign, and the highest part of the sign or its support; except that if the property was lower than the adjacent roadway, then the height of the sign is to be calculated from the street grade at a ninety degree angle from the sign.

ILLUMINATED SIGN shall mean any sign which is directly lighted by any electrical light source, internal or external, regardless of technology. This

definition shall not include signs which are illuminated by street lights or other light sources owned by any public agency or light sources which are specifically operated for the purpose of lighting the area in which the sign is located rather than the sign itself.

MARQUEE (canopy or awning) shall mean a protective shelter or overhang which projects more than twenty-four inches from the face of a building that is otherwise permitted by code or ordinance.

MARQUEE SIGN shall mean a sign attached to the face or on top or below a marquee.

MOBILE SIGN shall mean a sign designed and constructed to be transported by its own wheels. When placed, a mobile sign must be supported by at least four integral metal supports which raise the wheels off the ground. Such sign shall not exceed ten feet in height.

MURAL shall mean an artistic image or design painted or affixed to the exterior surface of a structure that does not contain a commercial text message, graphic or image.

NIT shall mean a unit of luminance equal to one candela (one candle) per square meter.

NONCOMMERCIAL SIGN shall mean any sign that is not a commercial sign.

NONSTRUCTURAL TRIM shall mean the molding, battens, caps, nailing strips, latticing, cutouts, or ladders and walkways which are attached to the sign structure.

OFF-PREMISES SIGN shall mean any sign which serves to advertise a product, service, or activity not conducted on the premises on which the sign is located or within 300 lineal feet thereof.

ON-PREMISES SIGN shall mean any sign which serves to advertise and/or identify a product, service, or activity conducted on the premises on which the sign is located, or identifies said premises or a use thereof.

PERSON shall mean and include any person, firm, partnership, association, corporation, company, or organization of any kind.

POLE SIGN shall mean any freestanding sign in which the top edge of the sign is more than ten feet above grade.

PROJECTING SIGN shall mean any sign other than a wall sign which is attached to and projects at an angle of not less than forty-five degrees from a structure or building face.

PROJECTION shall mean the distance by which a sign extends beyond a building or structure.

REAL ESTATE SIGN shall mean any sign which identifies an offer to sell, rent, or lease of the premises on which the sign is located.

REVEAL shall mean a message transition where portions of the message appear and/or disappear sequentially.

ROOF LINE shall mean the uppermost exterior surface of the roof of a building.

ROOF SIGN shall mean any sign mounted on the main roof portion of a building or on the top most edge of a parapet wall of a building; and which is wholly or partially supported by such building. For the purpose of this chapter, signs mounted on mansard facades, penthouse eaves, facades and architectural projections such as canopies or marquees shall not be considered to be roof signs. Signs mounted on an ornamental attachment not used for shelter or protection of persons or property, such as cupolas, shall be considered roof signs.

ROTATING SIGN shall mean any sign or portion of a sign which moves in a revolving or similar manner, but not including multi-prism indexing signs.

SEASONAL OR HOLIDAY SIGN shall mean any noncommercial signs used for special occasions, such as religious and national holidays.

SCROLL or **TRAVEL** shall mean a message transition where the message that is leaving or appearing appears to move vertically or horizontally across the display surface.

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

SIGN STRUCTURE shall mean any structure which is designed or used to support any sign as defined in this chapter. A sign structure may be a single pole and may or may not be an integral part of the building.

TEMPORARY SIGN shall mean any outdoor sign or device including but not limited to banners, pennants, flags, or advertising display constructed of cloth, canvas, light fabric, cardboard, or other light materials, with or without frames, intended to be displayed for a limited period of time and which is not permanently affixed; provided, that temporary signs shall not include mobile signs.

WALL SIGN shall mean any sign painted on or attached to the wall or facade of a building with the display surface parallel to or at an angle to which it is attached, and which projects no more than twenty-four inches from the wall surface. No wall sign shall extend vertically or horizontally beyond the building facade from which the sign is attached. A wall sign may project into a right-of-way. A wall sign may be located at any height on a parapet or facade. A wall sign may be mounted on a mansard facade or penthouse facade.

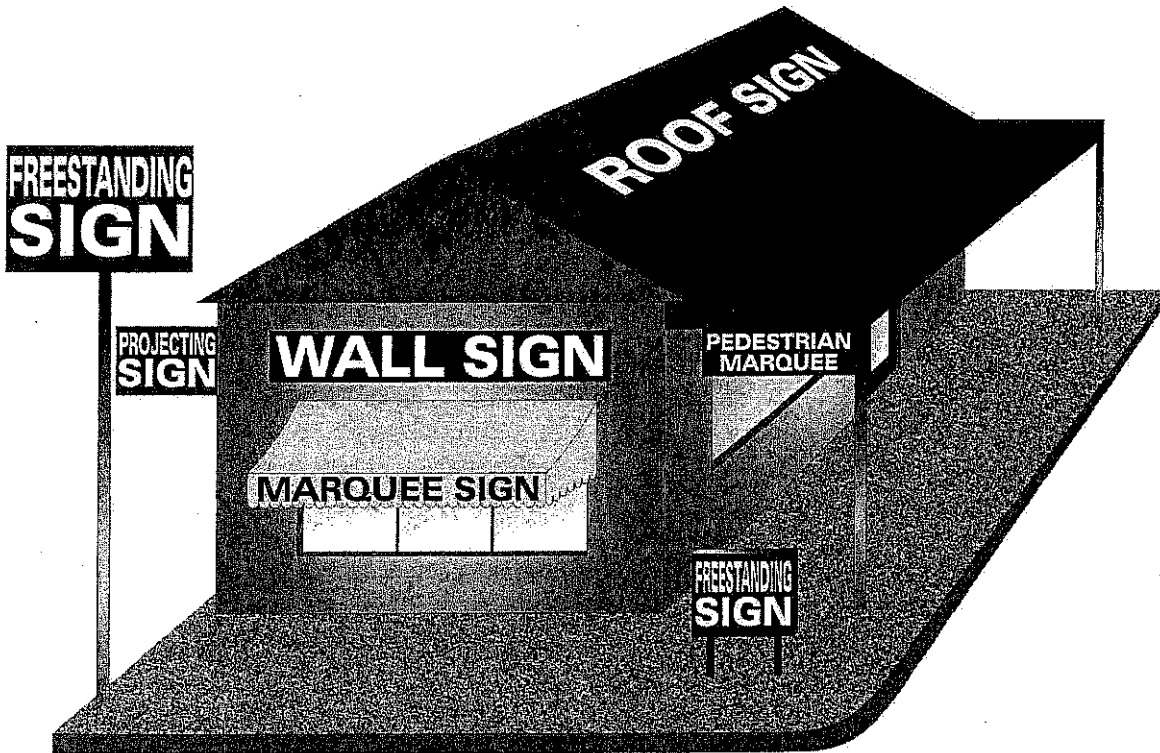
WINDOW SIGN shall mean a sign installed inside a window which can be viewed from outside the premises and is six feet or less from the window or is located within a window display area formed by walls or doors that block the view into the main building. (Ord. 19404 §1; June 28, 2010: prior Ord. 19283 §1; July 27, 2009: Ord. 19113 §1; July 28, 2008: Ord. 18857 §1; December 4, 2006: Ord. 16949 §4; March 11, 1996: Ord. 16735 §1; February 13, 1995: Ord. 16180 §1; August 3, 1992: Ord. 16109 §1; May 11, 1992: Ord. 15308 §1; October 2, 1989: Ord. 15223 §1; July 24, 1989: Ord. 14539, as amended by Ord. 14613 §1; March 9, 1987: Ord. 13668, as amended by Ord. 13790 §1; March 26, 1984: Ord. 12571 §364; May 8, 1979).

27.69.021 General Sign Types.

[See Figure 1 on the following page.]

(Ord. 19283 §2; July 27, 2009).

27.69.021 - General Sign Types - Figure 1



27.69.022 Calculating the Sign Area of a Sign.

The sign area of a double-faced sign or two-sided or three-sided V-type sign not exceeding an angle of sixty degrees shall be calculated on one face of the sign only. The sign area of a four-sided sign is to be calculated as two signs, and the sign area of a triangular, three-sided sign shall be calculated on its largest face.

(a) Freestanding Sign. The sign area of a freestanding sign shall be calculated by the area defined by the constructed or fabricated cabinet, panel or frame. If the sign consists of more than one section or module, all areas will be totaled. If the sign does

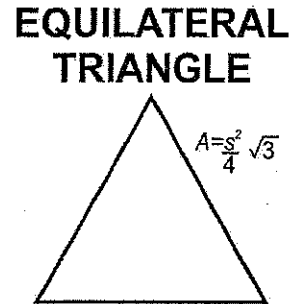
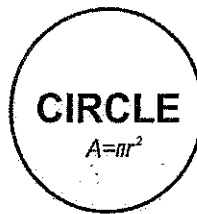
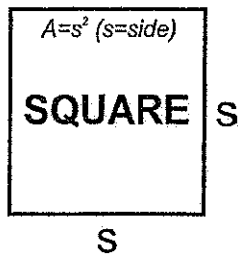
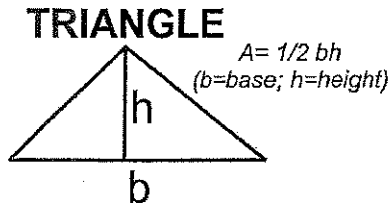
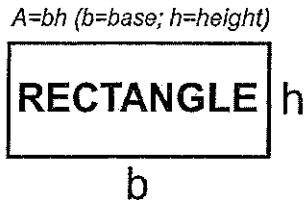
not have a defined cabinet, panel or frame, or the cabinet, panel or frame is of an irregular shape, the sign area shall be calculated the same as a wall sign

(b) Wall Sign. The sign area of a wall sign shall be calculated by using up to a simple eight-sided geometric figure around the advertising message and shall include any framing or border.

(c) Marquee Sign. The sign area of a marquee sign shall be counted toward the total allowable wall sign area of the parallel wall face to which the marquee is attached; the sign area of a marquee sign attached perpendicular to the wall shall be counted toward the allowed sign area of a projecting sign.

[See Figures 2, 3, 4 and 5 on the following pages]

Simple Geometric Figures - Figure 2



Calculating the area of a wall sign - Examples - Figure 3



Sign with a cabinet or panel -calculate the shaded area



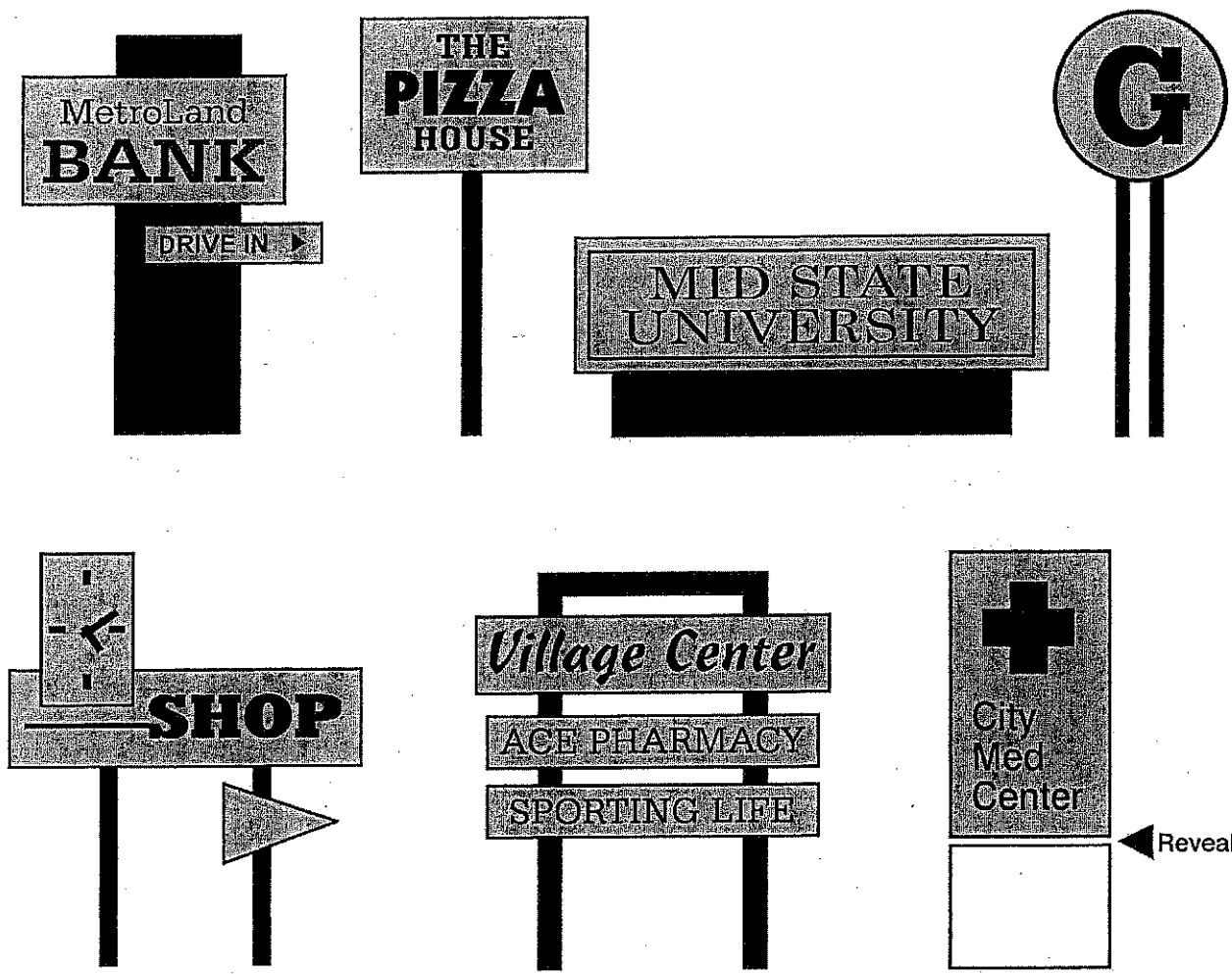
Sign made up of individual letters mounted on a wall -calculate the area around each word



Sign painted on a wall - calculate the painted area including the painted background.

Calculating the area of a sign constructed with panels or cabinets - Examples - Figure 4

The sum of the shaded area represents sign area.



Calculating the area of a sign *without* a defined panel or cabinet or signs with an irregular shape - Examples - Figure 5

The sign area is calculated by using up to a simple eight-sided geometric figure around the advertising message and includes any frame or border. The dotted line represents the calculated sign area.



(Ord. 19283 §3; July 27, 2009).

27.69.030 General Provisions.

Except as otherwise provided in this chapter or in any other applicable ordinance or regulation, no sign or part thereof shall be erected or maintained in any zoning district except in conformance with these General Provisions. The General Provisions apply to both on-premises and off-premises signs.

(a) Location, Height, Area, and Other General Requirements.

(1) No sign shall be erected or maintained in a required yard except as otherwise provided in this chapter, or encroach upon or overhang any adjacent property or public right-of-way.

(2) No sign shall be erected upon or against a roof or on top of or above the parapet of a building.

(3) No sign shall exceed the maximum height permitted for buildings in the zoning district in which the sign is located.

(4) Every sign shall be permanently attached to the ground, or to a building or structure which is permanently attached to the ground, except for mobile signs and temporary signs as provided in this chapter and in Title 22 of the Lincoln Municipal Code.

(5) No sign shall be painted on or attached to rocks, trees, or any other natural object.

(6) No sign shall be erected, placed, or maintained in a location that violates the site obstruction regulations of the Department of Public Works and Utilities for street intersections or entrances or exits from private property.

(7) No sign or part thereof shall be erected in those zoning districts which are adjacent to or within the area of the interstate and federal-aid primary road systems in contravention of the advertising controls of the State of Nebraska.

(8) Every freestanding sign permitted on a "per frontage" basis shall be allocated to and be located proximate to the specific frontage which would authorize such sign.

(9) The required space between the location of any sign and an abutting residential district shall be as follows:

- (i) 50 feet if non-illuminated,
- (ii) 100 feet if illuminated;

(10) No sign shall move, rotate, revolve, or simulate animation by means of spinning, fluttering, or reflective devices or lighting, except a sign may rotate or revolve at a rate not to exceed six revolutions per minute.

(11) In the area of the B-4 zoning district beginning 150 feet east of 17th Street and continuing to the western boundary of the B-4 District, on-premises signs may be animated, blink, flash, or simulate animation.

(12) The sign regulations for location, height and area of a sign may be modified by the City Council in connection with the granting of a special sign district, planned unit development, use permit, special permit for a community unit plan, or special permit for a planned service commercial development, provided such modification is in conformance with all other requirements of Title 27.

(13) All freestanding signs must be spaced a minimum of 50 feet apart.

(14) No sign shall be erected, placed or maintained in any location in violation of the zoning regulations of the City of Lincoln.

(15) No person shall permit the placement, construction, or erection of a swinging sign.

(16) No person shall place, construct, or erect any sign which, by reason of its size, location, movement, content, coloring, or manner of illumination, may be confused with or construed as a traffic control sign, signal, or device, or the light of an emergency or road equipment vehicle.

(17) No person shall place, construct or erect any sign which hides from view any traffic control sign or signal or device.

(18) Minor reductions in the required setback and/or spacing requirements for a sign not to exceed five feet may be approved upon a finding that (i) such reduction is the minimum necessary to avoid interference with an existing utility line or to avoid a significant obstruction from view by an existing building, sign, or landscape feature, and (ii) such

reduction will have no significant adverse effect on existing or reasonably anticipated future uses in the surrounding area. Any requests for modifications from the setback and/or spacing requirements for a sign shall be filed with the Planning Director. Such request shall set forth the specific modification requested and all supporting reasons and documentation as to why the modification should be granted, how the public welfare will be preserved, and why the modification will not detract from the intent and spirit of these sign regulations. Within thirty days from the filing of the request for modification, the Planning Director shall approve or deny the request and shall notify the applicant in writing of the approval or denial of the request. Any council member or aggrieved person may appeal any approval or denial of the request for modification by the Planning Director in accordance with the Request for Waiver Procedure found in Chapter 1.00, Sections 2.1.1 and 2.1.2 of the City of Lincoln Design Standards.

(19) Frontage for every center sign permitted on a "per frontage" basis shall mean only that frontage of the center adjacent to an arterial or collector street.

(b) Freestanding Signs. See Section 27.69.040 (Tables 2 and 3).

(c) Wall Signs. Wall signs are allowed in the R-T and all O, B, H and I zoning districts, subject to the following restrictions:

(1) In the O-1, O-2, and R-T zoning districts, one wall sign per architectural elevation per building is allowed. The wall sign shall not exceed 25 square feet in sign area per architectural elevation nor be located on the side of the building abutting a residential district or facing a local or collector street when the land across the street is zoned residential.

(2) In all other allowed zoning districts, the wall sign shall have a maximum sign area of 30% per architectural elevation or 500 square feet, whichever is less.

(3) No wall sign or wall sign structure shall project more than two and one-half inches into a public alley when installed below a height of fourteen feet above grade of the public alley, nor more than twenty-four inches into a public alley when installed at a height fourteen feet or greater above grade of the public alley.

(4) No wall sign or wall sign structure shall project more than two and one-half inches over any sidewalk or parking lot when installed below a height of seven feet six inches above grade.

(5) All other wall signs shall have a maximum projection over public property as set forth in Section 27.69.030 Table (1).

(6) Wall signs shall comply with all applicable federal-aid project requirements restricting signs on or over public right-of-way.

27.69.030 Table (1) - Projection of Wall Signs

<i>Clearance</i>	<i>Maximum Projections</i>
Less than 7'6" above grad	2 1/2 inches
Over 7'6" above grade	24 inches

(d) Projecting Signs. Projecting signs are allowed in the R-T and all O, B, H, and I zoning districts, subject to the following restrictions:

(1) The projecting sign shall be in lieu of one freestanding sign.

(2) The projecting sign shall have a minimum ground clearance of eight feet above the walk or grade below.

(3) The projecting sign shall not exceed 100 square feet in sign area.

(4) In the O-1, O-2, and R-T zoning districts, the projecting sign shall not exceed 25 square feet in sign area and such sign shall not be located on the side of the building abutting a residential district or facing a local or collector street when the land across the street is zoned residential.

(5) The projecting sign may project from a building a maximum of six feet six inches. The projecting sign may project over the public right-of-way when the building is erected adjacent to the front property line, but shall not project above the roof line or top of a cornice wall. Subject to the provisions of Title 10 and Title 22 of the Lincoln Municipal Code, the projecting sign may project over public property as set forth in 27.69.030 Table (2). The projecting sign shall comply with all applicable federal-aid project requirements restricting signs and structures on or over the public right-of-way. No projecting sign shall project within two feet of the curb line. No projecting sign or projecting sign structure shall project more than two and one-half inches into a public alley when installed below a height of fourteen feet above grade of the public alley, nor more than twenty-four inches when installed at a height of fourteen feet or greater above said grade.

27.69.030 Table (2) - Projection of Signs

<i>Clearance</i>	<i>Maximum Projections</i>
Less than 8 feet above grade . . .	NOT ALLOWED
Over 8 feet above grade	6 feet 6 inches
Over 8 feet above grade and at 45 degrees to a corner	9 feet

(e) Marquee Signs. Marquee signs are allowed in all O, B, H and I zoning districts, except the O-1, O-2 and R-T zoning districts subject to the following restrictions:

(1) The marquee sign shall be designed so that sign support braces are not visible from street level.

(2) When a building is erected adjacent to the front property line, the marquee sign may be attached to the marquee extending into or over the right-of-way.

(3) The marquee sign shall not exceed three feet in height or the height or vertical thickness of the marquee, whichever is greater.

(4) The marquee sign shall have a minimum ground clearance of eight feet above the walk or grade below.

(5) The sign area of a marquee sign shall be counted toward the total allowable wall sign area of the parallel face to which the marquee is attached. If the marquee sign is attached perpendicular to the wall, it shall be counted toward the allowed projecting sign area.

(f) Electronic Changeable Copy Signs.

(1) Electronic Changeable Copy (On-Premises). In all nonresidential zoning districts except in the O-1, O-2 and R-T zoning districts, on-premises electronic changeable copy signs are allowed subject to the following restrictions:

(i) The sign area displaying electronic changeable messages shall not exceed 80 square feet of sign area and such sign area shall be included as a part of the total permitted signage for the premises on which it is located.

(ii) No message on an electronic changeable copy sign shall be animated, except in the B-4 zoning district pursuant to Section 27.69.030 (a)(11).

(iii) Transition between messages are permitted but such transitions may only fade, scroll, travel, or reveal, and the transition shall not exceed a duration of one second.

(2) Electronic Changeable Copy (Off-Premises). In all nonresidential zoning districts, off-premises electronic changeable copy signs are allowed subject to the following restrictions:

(i) If the off-premises sign area displaying electronic changeable messages is greater than 80 square feet, the message shall hold for at least ten seconds. If said sign area is 80 square feet or less, the message shall hold for at least one second.

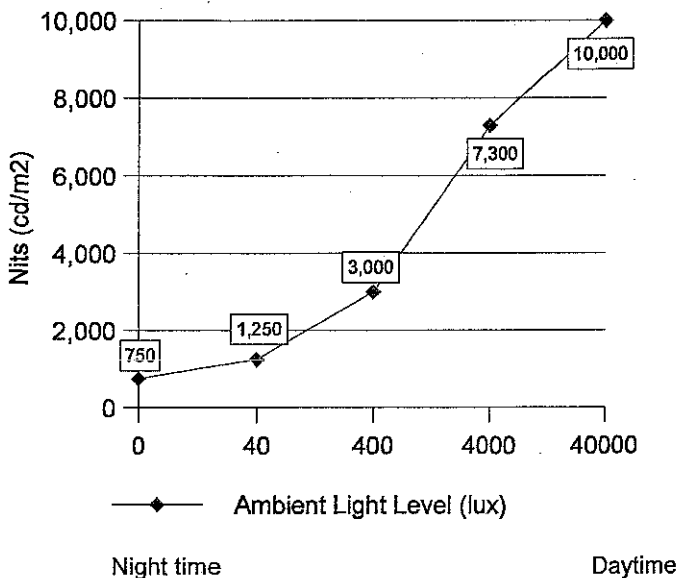
(ii) No message on an electronic changeable copy sign shall be animated.

(iii) Transition between messages are permitted but such transitions may only fade, scroll, travel, or reveal, and the transition shall not exceed a duration of one second.

(3) Prior to the issuance of an electronic changeable copy sign permit, the applicant shall provide written certification from the sign manufacturer that the light intensity has been preset not to exceed the above illumination levels, and the preset intensity level is protected from end user manipulation by password protected software or other method approved by the Director of Building and Safety.

(4) Illuminated electronic changeable copy signs shall be equipped with a sensor and/or timer or other device approved by the Director of Building and Safety to automatically adjust the day/night light intensity levels in accordance with Figure 6 below.

Figure 6 - Maximum Sign Brightness with Varying Ambient Light



(g) Illumination.

(1) In all nonresidential districts, signs may be illuminated, except that the surface illumination of any sign shall not exceed the levels shown in Figure 6 below for different conditions of ambient light.

(2) In all residential districts, signs shall be non-illuminated and nonreflecting; except in the R-8 district, uses other than dwellings may be illuminated as otherwise stated in this chapter.

(3) No sign shall blink or flash, display an animated message, nor be illuminated by any device so as to appear to blink or flash or simulate animation, except for mobile signs and B-4 zoning district signs permitted by Section 27.69.030.(a)(11).

(4) Lighted vending machines are not permitted in view from off the premises in any residential zoning district.

(5) Fraternities and sororities within one-half mile of an educational campus may have illuminated signs but neon or gas tubing shall be used only as back lighting.

(h) Mobile Signs. Mobile signs identifying special sales and openings shall be permitted on the premises of a commercial establishment for no more than sixty days in any calendar year in all B, H, and I zoning districts where commercial establishments are permitted subject to the following restrictions:

(1) The mobile sign shall not exceed sixty square feet of sign area.

(2) The mobile sign may be located one-half the distance into the required front yard.

(i) Historic Preservation. All signs for designated landmarks and signs located in designated landmark districts must receive a certificate of appropriateness from the Historic Preservation Commission.

(j) Capitol View Corridor. On-premises free-standing signs in the Capitol View Corridor Overlay District shall be subject to the regulations of said district, notwithstanding the otherwise applicable regulations of the underlying zoning district.

(k) Variance for Pre-existing Signs. All signs installed prior to the effective date of Ordinance No. 18857 which do not qualify as a nonconforming use in subparagraph (m) below may be continued for a period of ten years from the effective date of Ordinance No. 18857 provided that:

(1) The sign was installed pursuant to and in compliance with a permit issued by the Department of Building and Safety; and

(2) The sign conforms with or is modified to conform with the illumination requirements shown on Figure 6 of Section 27.69.030(h). Notwithstanding the above, such sign shall be brought into compliance when one or more of the conditions listed in Section 27.69.320 occurs.

(l) Nonconforming Signs. Whenever the lawful use of a sign does not conform with the provisions of any change in the zoning code or district boundaries, the use of such nonconforming sign may be continued except as otherwise provided in Sections 27.69.035 and 27.69.320.

(m) Directional Signs. Directional signs are permitted in all districts subject to the following restrictions:

(1) A directional sign located in the front yard shall not exceed a sign area of two square feet.

(2) A directional sign located outside the front yard shall not exceed a sign area of six square feet.

(n) Noncommercial Signs. Notwithstanding any other provision of this chapter, any off-premises sign or on-premises sign permitted by this chapter may advertise, identify, attract attention to, or convey information regarding any noncommercial message including, but not limited to, political, religious, charitable, sociological, or ideological activities, issues or beliefs.

(o) Banner Signs. Banner signs may extend up to six inches into the public right-of-way when located eight feet or more above grade of said right-of-way. Banners may extend over public property and may extend across a public street only by permission of the Mayor, and shall be subject to all related laws and ordinances. Such signs, when extended over a public street, shall maintain a minimum clearance of twenty feet. (Ord. 19404 §2; June 28, 2010; prior Ord. 19283 §4; July 27, 2009; Ord. 19092 §3; June 9, 2008; Ord. 18857 §2; December 4, 2006; Ord. 17585 § 2; January 10, 2000; Ord. 16949 §5; March 11, 1996; Ord. 16735 §2; February 13, 1995; Ord. 15507 §1; April 2, 1990; Ord. 15442 §3; February 20, 1990; Ord. 14725 §1; August 3, 1987; Ord. 14613 §2; March 9, 1987; Ord. 13611 §1; June 6, 1983; Ord. 12571 §365; May 8, 1979).

27.69.035 Off-Premises Signs.

(a) Administrative Permits. Off-premises signs are permitted in the B-1, B-3, B-4, H-1, H-2, H-3, H-4, and I-1 zoning districts by administrative permit issued by the Director of Building and Safety. The administrative permits shall automatically expire ten

years from their date of issuance. The permittee may make application for renewal of the administrative permit.

(1) Applications for administrative permits and renewals thereof shall include:

(i) The legal description of the land upon which an off-premises sign is to be located.

(ii) A copy of a signed lease or other verification that the applicant has permission of the owner of the land upon which the off-premises sign shall be located to locate the off-premises sign thereon.

(iii) The area of the proposed off-premises sign.

(iv) The description and location of a nonconforming off-premises sign or signs to be removed as required by subsection (e) below or which was removed after January 10, 2000 and registered with the Department of Building and Safety and not previously used to satisfy the requirement of subsection (3) below. The above provisions are not required to be met for renewal of an administrative permit. For the purpose of this section, a nonconforming off-premises sign shall mean any off-premises sign which was lawfully installed on the January 10, 2000 effective date of Ordinance No. 17585 and for which an administrative permit has not been issued.

(2) The administrative permit and any renewals thereof shall be issued under the following conditions:

(i) The off-premises sign shall be subject to the provisions of this section, notwithstanding any other applicable regulation of the zoning district in which the off-premises sign is located.

(ii) The nonconforming off-premises sign or signs identified in the application for removal shall be removed prior to application for the permit or within 30 days of the date of the issuance of the permit.

(iii) The off-premises sign shall be removed within 30 days following the expiration of the permit.

(b) Siting Limitations.

(1) The minimum distance between an off-premises sign and an existing off-premises sign or nonconforming off-premises sign shall be 600 feet measured in all directions regardless of the zoning jurisdiction in which the existing off-premises sign or nonconforming off-premises sign is located.

(2) The minimum distance between any two off-premises electronic changeable copy signs shall be 5,000 feet measured in all directions regardless of the zoning jurisdiction in which the existing off-premises electronic changeable copy sign is located.

(3) The minimum distance between an off-premises sign and a public elementary or public high school, private school having a curriculum equivalent to a public elementary or public high school, college or university, park, or cemetery shall be 600 feet measured in all directions regardless of the zoning jurisdiction in which the public elementary or high school, private school having a curriculum equivalent to a public elementary or public high school, university, park, or cemetery is located.

(4) No off-premises sign shall be permitted in the areas designated as District A, District B, or District C of the Capitol View Corridor Overlay District.

(5) No off-premises sign shall be permitted within the B-4 zoning district area bounded by 10th Street, 14th Street, N Street, and P Street.

(6) Within one-fourth mile on either side of the corporate limits of the City, the minimum distance between an off-premises sign and any of the below listed entrance corridors to the City shall be 800 feet measured in all directions.

- (i) Interstate 80 and 180;
- (ii) West Bypass and "K" and "L" Extension;
- (iii) U.S. 77 north of Morton Street;
- (iv) Nebraska Highway 2;
- (v) U.S. 6;
- (vi) Cornhusker Highway;
- (vii) North 27th Street;
- (viii) "O" Street.

(7) Off-premises signs shall be located a minimum of 150 feet or one-half of the depth of the zoning district in which the off-premises sign shall be located, whichever is greater, measured in all directions from all residential zoning districts.

(8) No off-premises signs shall be located within 600 feet measured in all directions from a sensitivity zone. For the purpose of this section, a sensitivity zone shall mean an historic district, historic landmark, and Capitol environs.

(9) No off-premises signs shall be located within 660 feet of Interstate 80 and 180.

Notwithstanding the above (b)(1) through (b)(9) siting limitations, the Director of Building and Safety may approve an administrative permit for the face of the sign to be changed to an electronic changeable

copy sign of equal or lesser face area provided that the sign is located at least 150 feet from and does not face a residential district, cemetery or park.

(c) Lighting. Illumination of off-premises signs shall not be allowed from midnight to 5:00 a.m., except for government initiated emergency information announcements. If off-premises signs are illuminated by reflected lighting, the lighting shall be provided by downlighting methods, until such time as sign illumination standards are adopted by resolution of the City Council and thereafter it shall in accordance with design standards. The lighting shall be controlled by an automatic timing device.

(d) Abandoned Signs. In addition to all other applicable regulations, off-premises sign structures and existing nonconforming off-premises sign structures which contain no sign copy on all faces for a continuous period of six months shall be considered an abandoned sign and shall be removed. This removal shall take place within ten days of the date of the abandonment.

(e) Removal of Existing Nonconforming Off-Premises Signs. For each new off-premises sign of a given total face area (rather than area of sign) to be erected within the zoning jurisdiction of the City in conformance with this section, an existing nonconforming off-premises sign or signs encompassing equal or greater total face area to the new off-premises sign shall be removed. In the alternative a nonconforming off-premises sign or signs removed after January 10, 2000 and registered with the Director of Building and Safety encompassing equal or greater face area to the new off-premises sign may be removed from the from the Director of Building and Safety registration and used in whole or part to satisfy this requirement. Notwithstanding the foregoing, for each new off-premises electronic changeable copy sign of a given sign area (rather than face area) to be erected within the zoning jurisdiction of the City in conformance with this section, three existing nonconforming signs each encompassing equal or greater sign area to the new off-premises electronic changeable copy sign shall be removed. In the alternative, three nonconforming off-premises signs removed after January 10, 2000 and registered with the Director of Building and Safety, each encompassing equal or greater sign area value to the new off-premises sign, may be removed from the Director of Building and Safety registration and used in whole or part to satisfy this requirement.

(f) Notwithstanding (e) above, upon request of the applicant, the City Council may, after report and

recommendation of the Planning Commission, grant the applicant a bonus of one additional off-premises sign of equal square footage to the nonconforming off-premises sign to be removed upon a finding that the nonconforming off-premises sign to be removed is located in an area of special aesthetic value to the community and that removal of the nonconforming off-premises sign in question is a special desire of the community. (Ord. 18857 §3; December 4, 2006; prior

Ord. 18485 §1; December 20, 2004; Ord. 17585 §3; January 10, 2000; Ord. 17526 § 1; July 12, 1999).

27.69.040 Sign Tables.

General sign requirements for this title are as shown on Table 1 (Off-Premises Signs); Table 2 (Signs for Residential Zoning Districts); and Table 3 (Signs for Commercial and Industrial Zoning Districts).

**TABLE 1
Off-Premises Signs**

Zoning District	Area	Height	Qualifications In Addition to Provisions of Section 27.69.035
H-1, H-4, B-1	300 sq. ft.	35 ft.	N/A
H-2	700 sq. ft.	35 ft.	Such signs shall be located 33 feet inside the front property line
B-3	400 sq. ft.	35 ft.	In any B-3 zoning district which is twelve acres or more in area, including public right-of-way located therein
B-4	700 sq. ft.	45 ft.	Only applied to the area beginning 150 feet east of 17th Street and continuing to the western boundary of the B-4 District.
I-1, H-3	700 sq. ft.	45 ft.	N/A

**TABLE 2
Signs for Residential Zoning Districts**

AG & AGR			
RESIDENTIAL / NONRESIDENTIAL	SIGN CLASSIFICATION	NUMBER, LOCATION & SIGN TYPE	MAX. SIGN AREA AND HEIGHT
RESIDENTIAL USES To identify home occupations, block parents, name of the premises or occupants thereof, or similar information	WALL	1	2 sq. ft.
NONRESIDENTIAL USES Announcing the business or activity being conducted on the premise All freestanding signs must be spaced 150 feet apart	WALL	1 per frontage	70 sq. ft.
	OR FREESTANDING	1 per frontage	70 sq. ft. 8 ft. tall

R-1 to R-4			
RESIDENTIAL	SIGN CLASSIFICATION	NUMBER, LOCATION & SIGN TYPE	MAX. SIGN AREA AND HEIGHT
<u>RESIDENTIAL</u> To identify home occupations, block parents, name of the premises or occupants thereof, or similar information	WALL	1	2 sq. ft.
R-5 to R-8			
USES	SIGN CLASSIFICATION	NUMBER, LOCATION & SIGN TYPE	MAX. SIGN AREA AND HEIGHT
<u>ALL USES</u> to identify home occupations, block parents, name of the premises or occupants thereof, or similar information	WALL	1	2 sq. ft.
<u>MULTIPLE FAMILY DWELLINGS</u> identifying name and use of the building	WALL	1	6 sq. ft.
	OR		
	FREESTANDING	1	6 sq. ft. 6 ft. tall
AND			
<u>MULTIPLE FAMILY DWELLINGS</u> identifying the quarters of an on premise building manager or custodian	WALL	1	1 sq. ft.
	OR		
<u>USES OTHER THAN DWELLINGS</u> in the R-5, R-6, R-7 and R-8	FREESTANDING	1	1 sq. ft. 6 ft. tall
	WALL	1 per building facade	32 sq. ft.
OR			
<u>R-8</u> to identify the building or activity being conducted on the premises	FREESTANDING	1 for each main building	32 sq. ft. 6 ft. tall
<u>FRATERNITIES AND SORORITIES</u> within ½ mile of an educational institution	WALL	1	20 sq. ft.

TABLE 3
Signs For Commercial and Industrial Zoning Districts

ZONING DISTRICT	SIGN TYPE	NUMBER OF PERMITTED SIGNS	INSIDE THE FRONT YARD	OUTSIDE THE FRONT YARD
B-1, B-3, B-4 *	FREESTANDING	1 per business per frontage	50 sq. ft. 15 ft. tall	100 sq. ft. 25 ft. tall
	OR			
	CENTER	1 per frontage	50 sq. ft. 15 ft. tall	150 sq. ft. 35 ft. tall
* Beginning 150 feet east of 17th Street and continuing to the eastern boundary of the B-4 District, the maximum height of any freestanding signs (whether inside or outside the front yard) is 8 feet tall.				
B-2, B-5	FREESTANDING	1 per main building	50 sq. ft. 12 ft. tall	100 sq. ft. 18 ft. tall
	AND			
	CENTER	1 per frontage	50 sq. ft. 12 ft. tall	150 sq. ft. 35 ft. tall
H-1	FREESTANDING	1 per business per frontage	50 sq. ft. 15 ft. tall	100 sq. ft. 25 ft. tall
	AND			
	INTERSTATE <i>if within 660 ft of a designated interstate</i>	1	150 sq. ft. 15 ft. tall	300 sq. ft. 80 ft. tall
H-2, H-3	FREESTANDING	1 per business per frontage	50 sq. ft. 15 ft. tall	100 sq. ft. 25 ft. tall
	OR			
	CENTER	1 per frontage	N/A	150 sq. ft. 35 ft. tall
	AND			
	INTERSTATE (H-3 ONLY) <i>if within 660 ft of a designated interstate</i>	1	150 sq. ft. 15 ft. tall	300 sq. ft. 80 ft. tall
H-4	FREESTANDING	1 per main building	50 sq. ft. 15 ft. tall	100 sq. ft. 25 ft. tall
	AND			
	CENTER	1 per frontage	N/A	150 sq. ft. 35 ft. tall
	AND			
	INTERSTATE <i>if within 660 ft of a designated interstate</i>	1	150 sq. ft. 15 ft. tall	300 sq. ft. 80 ft. tall

ZONING DISTRICT	SIGN TYPE	NUMBER OF PERMITTED SIGNS	INSIDE THE FRONT YARD	OUTSIDE THE FRONT YARD
I-1	FREESTANDING	1 per business per frontage	50 sq. ft. 15 ft. tall	100 sq. ft. 25 ft. tall
	AND			
	CENTER	1 per frontage	N/A	150 sq. ft. 35 ft. tall
		AND		
	1 per entrance	50 sq. ft. 15 ft. tall	50 sq. ft. 15 ft. tall	
I-2, I-3	FREESTANDING	1 per business per frontage	50 sq. ft. 12 ft. tall	100 sq. ft. 18 ft. tall
	AND			
	CENTER	1 per frontage	N/A	150 sq. ft. 18 ft. tall
		OR		
	2 per entrance	50 sq. ft. 12 ft. tall	50 sq. ft. 18 ft. tall	
O-1, O-2	FREESTANDING	1 per main building	N/A	32 sq. ft. 8 ft. tall
O-3	FREESTANDING	1 per main building	50 sq. ft. 12 ft. tall	50 sq. ft. 18 ft. tall
	AND			
	CENTER	1 per of frontage	50 sq. ft. 12 ft. tall	100 sq. ft. 35 ft. tall
R-T	FREESTANDING	1 per main building	N/A	32 sq. ft. 8 ft. tall

(Ord. 19283 §5; July 27, 2009; prior Ord. 12679 §6; September 4, 1979).

27.69.041 Permitted Signs; AG and AGR Zoning Districts.

(Repealed by Ord. 19283 §6; July 27, 2009; prior Ord. 16735 §3; Feb. 13, 1995; Ord. 14613 §3; March 9, 1987; Ord. 13582 §1; May 2, 1983; Ord. 12697 §7; Sept. 4, 1979).

27.69.042 Permitted Signs; R-1, R-2, R-3, and R-4 Zoning Districts.

(Repealed by Ord. 19283 §7; July 27, 2009; prior Ord. 16735 §4; February 13, 1995; Ord. 14613 §4; March 9, 1987; Ord. 12679 §8; Sept. 4, 1979).

27.69.043 Permitted Signs; R-5, R-6, R-7, and R-8 Zoning Districts.

(Repealed by Ord. 19283 §8; July 27, 2009; prior Ord. 16735 §5; February 13, 1995; Ord. 14527, as amended by Ord. 14613 §5; March 9, 1987; Ord. 13566 §1; April 4, 1983; Ord. 13039 §1; Nov. 17, 1980; Ord. 12679 §9; Sept. 4, 1979).

27.69.044 Permitted Signs; O-1, O-2, and O-3 Zoning Districts.

(Repealed by Ord. 19283 §9; July 27, 2009; prior Ord. 17836 §1; April 23, 2001; Ord. 17650 §1; April 17, 2000; Ord. 17076 §1; October 21, 1996; Ord. 16781 §1; May 1, 1995; Ord. 16735 §6; February

13, 1995: Ord. 16127 §1; June 8, 1992: Ord. 14725 §2; August 3, 1987: Ord. 14613 §6; March 9, 1987: Ord. 14073 §1; April 1, 1985: Ord. 13233 §1; October 19, 1981: Ord. 13120 §1; March 30, 1981: Ord. 12679 §10; September 4, 1979).

27.69.045 Permitted Signs; B-1 Zoning District.

(Repealed by Ord. 19283 §10; July 27, 2009: prior Ord. 17585 § 4; January 10, 2000: Ord. 16823 §1; July 10, 1995: Ord. 16735 §7; February 13, 1995: Ord. 16180 §1; August 3, 1992: Ord. 16012 §1; November 18, 1991: Ord. 14725 §3; August 3, 1987: Ord. 14613, as amended by Ord. 14677 §1; June 1, 1987: Ord. 12751 §25; Nov. 5, 1979: Ord. 12679 §11; Sept. 4, 1979: Ord. 12571 §366 (part); May 8, 1979).

27.69.046 Permitted Signs; B-2 Zoning District.

(Repealed by Ord. 19283 §11; July 27, 2009: prior Ord. 18791 §1; August 21, 2006: Ord. 16781 §2; May 1, 1995: Ord. 16735 §8; February 13, 1995: Ord. 16180 §3; August 3, 1992: Ord. 16012 §2; November 18, 1991: Ord. 14725 §4; August 3, 1987: Ord. 14613 §8; March 9, 1987: Ord. 13685 §1; Sept. 6, 1983: Ord. 12679 §12; Sept. 4, 1979: Ord. 12571 §366 (part); May 8, 1979).

27.69.047 Permitted Signs; H-1 and H-4 Zoning Districts.

(Repealed by Ord. 19283 §12; July 27, 2009: prior Ord. 19196 §1; January 26, 2009: Ord. 17585 § 5; January 10, 2000: Ord. 16735 §9; February 13, 1995: Ord. 16291 §1; January 11, 1993: Ord. 16180 §4; August 3, 1992: Ord. 16012 §3; November 18, 1991: Ord. 14613 §9; March 9, 1987: Ord. 13685 §2; Sept. 6, 1983: Ord. 12679 §13; Sept. 4, 1979).

27.69.048 Permitted Signs; H-2 Zoning District.

(Repealed by Ord. 19283 §13; July 27, 2009: prior Ord. 17585 § 6; January 10, 2000: Ord. 16823 §2; July 10, 1995: Ord. 16735 §10; February 13, 1995: Ord. 16180 §5; August 3, 1992: Ord. 16012 §4; November 18, 1991: Ord. 14725 §5; August 3, 1987: Ord. 14613 §10; March 9, 1987: Ord. 12751 §26; November 5, 1979: Ord. 12679 §14; Sept. 4, 1979).

27.69.049 Permitted Signs; H-3 Zoning District.

(Repealed by Ord. 19283 §14; July 27, 2009: prior Ord. 19196 §2; January 26, 2009: Ord. 17585 § 7; January 10, 2000: Ord. 16823 §3; July 10, 1995: Ord. 16735 §11; February 13, 1995: Ord. 16180 §6; August 3, 1992: Ord. 16012 §5; November 18, 1991: Ord. 14613 §11; March 9, 1987: Ord. 13677 §1;

August 29, 1983: Ord. 12751 §27; November 5, 1979: Ord. 12679 §15; September 4, 1979).

27.69.050 Permitted Signs; B-3 Zoning District.

(Repealed by Ord. 19283 §15; July 27, 2009: prior Ord. 17585 §8; January 10, 2000: Ord. 16823 §4; July 10, 1995: Ord. 16735 §12; February 13, 1995: Ord. 16361 §1; May 10, 1993: Ord. 16180 §7; August 3, 1992: Ord. 16012 §6; November 18, 1991: Ord. 14725 §6; August 3, 1987: Ord. 14613 §12; March 9, 1987: Ord. 12751 §28; November 5, 1979: Ord. 12679 §16; September 4, 1979).

27.69.060 Permitted Signs; B-5 Zoning District.

(Repealed by Ord. 19283 §16; July 27, 2009: prior Ord. 16735 §13; February 13, 1995: Ord. 16012 §7; November 18, 1991: Ord. 14613 §13; March 9, 1987: Ord. 14050 §3; February 11, 1985: Ord. 12751 §28; November 5, 1979: Ord. 12679 §17; September 4, 1979: Ord. 12571 §366 (part) May 8, 1979).

27.69.070 Permitted Signs; B-4 Zoning District.

(Repealed by Ord. 19283 §17; July 27, 2009: prior Ord. 19132 §9; September 8, 2008: Ord. 18857 §4; December 4, 2006: Ord. 17585 §9; January 10, 2000: Ord. 16735 §14; February 13, 1995: Ord. 16180 §8; August 3, 1992: Ord. 16012 §8; November 18, 1991: Ord. 15990 §1; October 14, 1991: Ord. 15803 §1; January 7, 1991: Ord. 15691 §1; August 20, 1990: Ord. 15308 §2; October 2, 1989: Ord. 14725 §7; August 3, 1987: Ords. 14377 and 14395, as amended by Ord. 14613 §14; March 9, 1987: Ord. 13611 §3; June 6, 1983: Ord. 12751 §30; Nov. 5, 1979: Ord. 12679 §18; Sept. 4, 1979: Ord. 12571 §366; May 8, 1979).

27.69.075 Permitted Signs; I-1 Zoning District.

(Repealed by Ord. 19283 §18; July 27, 2009: prior Ord. 17585 §10; January 11, 2000: prior Ord. 16735 §15; February 13, 1995).

27.69.080 Permitted Signs; I-2 Zoning District.

(Repealed by Ord. 19283 §19; July 27, 2009: prior Ord. 17232 §18; August 18, 1997: Ord. 16735 §16; February 13, 1995: Ord. 16180 §9; August 3, 1992: Ord. 16109 §2; May 11, 1992: Ord. 16053 §1; February 18, 1992: Ord. 16012 §9; November 18, 1991: Ord. 15411 §1; January 22, 1990: Ord. 15076 §1; December 19, 1988: Ord. 14613 §15; March 9, 1987: Ord. 12679 §19; September 4, 1979: Ord. 12571 §366; May 8, 1979).

27.69.081 Permitted Signs; I-3 Employment Center District.

(Repealed by Ord. 19283 §20; July 27, 2009: prior Ord. 18791 §2; August 21, 2006: Ord. 17232 §19; August 18, 1997).

27.69.083 Permitted Signs; R-T Residential Transition District.

(Repealed by Ord. 19283 §21; July 27, 2009: prior Ord. 16735 §17; February 13, 1995: Ord. 16649 §1; August 1, 1994: Ord. 15317 §11; October 16, 1989).

27.69.090 Churches, Schools, and Community Playhouses.

In any residential zoning district, churches, schools, and community playhouses are permitted one on-premises internally illuminated freestanding sign on each street frontage, not exceeding fifty square feet of area or six feet in height, for each bulletin board or sign and its supporting structure, and one on-premises wall sign on each building facade, not exceeding twenty square feet in sign area. When a school, church, or community playhouse is located a minimum of 200 feet from any street frontage and is located in an AG or AGR district, said wall sign shall be a maximum of 100 square feet in area.

(a) A permitted freestanding sign may be located in the required front yard if it meets the following conditions and requirements:

(1) Signs may contain a maximum of fifty square feet in sign area if non-illuminated. If illuminated, such sign shall contain a maximum of thirty-two square feet in sign area, and shall be internally illuminated only;

(2) Has a setback from the front lot line at least one-half the distance of the required front yard;

(3) Has a setback from the side lot line at least 100 feet if abutting residential lots; and

(4) One temporary sign of up to thirty-two square feet may be allowed on premises for up to ten days.

(b) A permitted freestanding sign fronting on an arterial street may include electronic changeable copy if it meets the following conditions and requirements:

(1) Total area of the electronic changeable copy sign shall not exceed 75% of the total allowed freestanding sign area;

(2) The electronic changeable copy sign shall have a setback from the side and rear lot lines of at least 150 feet if abutting residential lots and shall

have a setback from a front lot line of at least 150 feet if the sign copy is parallel to the front lot line;

(3) The electronic changeable copy sign message shall hold for at least three seconds and transition to a new message shall not exceed a duration of one second; and

(4) The electronic changeable copy sign shall be turned off between 10:00 p.m. and 7:00 a.m. (Ord. 19283 §22; July 27, 2009: prior Ord. 19199 §1; January 26, 2009: Ord. 18288 §1; January 5, 2004: Ord. 16735 §18; February 13, 1995: Ord. 16000 §1; November 12, 1991: Ords. 14278, 14297, and 14539, as amended by Ord. 14613 §16; March 9, 1987: and Ords. 13734, 13668, 13611, 13790, 13418, 13582, 13133, 13054, 12923, 12893, 12751, 12679, 12657, and 12571).

27.69.100 Non-illuminated Temporary Signs.

The following non-illuminated temporary signs are allowed in all zoning districts, provided that the sign area and height of the sign shall not exceed the following limitations by zoning district:

- Residential Districts -- ten square feet of sign area.
- Nonresidential Districts -- 40 square feet of sign area and six feet in height.

(a) Temporary real estate signs identifying an offer for the sale or lease of all or part of the premises on which the sign is located are permitted provided that such signs shall be removed within one week after closing of the sale or lease of the premises.

(b) Temporary construction signs of contractors or artisans identifying the contractors or artisans performing work on the premises on which the sign is located are permitted provided such signs shall be limited to one sign per contractor or artisan and shall be removed within one week after completion of the work of the contractor or artisan.

(c) Temporary noncommercial signs in connection with political campaigns, nonprofit civic activities, and other noncommercial activities are permitted. (Ord. 19283 §23; July 27, 2009: prior Ord. 16076 §1; March 16, 1992: Ord. 15693 §1; August 20, 1990: Ord. 14613 §17; March 9, 1987).

27.69.110 Official Signs, Plaques, Flags, Street Numbers.

In any zoning district, the following signs shall be allowed:

(a) Official signs authorized by a government or subdivision thereof, including traffic, directional, and warning signs, public notices, and proclamations;

(b) Flags of any government or subdivision thereof, or of any educational, charitable, religious, or political organization;

(c) Historical or commemorative plaques or tablets;

(d) Memorial plaques, building cornerstones, or building names, when cut or carved into a masonry surface, or when made of noncombustible material and made an integral part of the building or structure it identifies;

(e) Street numbers and street identification signs;

(f) Reflectors and other safety signs or devices used to mark driveways, towers, airport approaches, and other potentially dangerous structures or situations;

(g) Directional signs authorized pursuant to rules and regulations established by the Director of Public Works and Utilities for business areas affected by major street construction projects;

(h) One non-illuminated, non-reflecting wall sign not exceeding two square feet in sign area. (Ord. 16949 §6; March 11, 1996; prior Ord. 16735 §19; February 13, 1995; Ord. 14613 §18; March 9, 1987).

27.69.120 Holiday Decorations.

In all zoning districts, seasonal or holiday signs or decorations for religious or national holidays are permitted. Such decorations may blink, flash, or move and may be located in a required yard; provided, however, that no such holiday decoration shall interfere with traffic or present any other hazard to the safety or welfare of the public. (Ord. 14613 §19; March 9, 1987).

27.69.130 Other Permitted Signs; Construction Sites.

(Repealed by Ord. 19283 §25; July 27, 2009; prior Ord. 16735 §20; February 13, 1995; Ord. 14613 §20; March 9, 1987).

27.69.140 Commercial Districts; Special Sales.

(a) In the B, H, and I zoning districts where commercial establishments are permitted, temporary signs or mobile signs identifying special sales and openings shall be permitted on the premises of a commercial establishment for no more than sixty days in any calendar year. No temporary sign shall exceed 100 square feet in sign area. One temporary sign is permitted on each building elevation. Mobile signs shall not exceed sixty square feet of sign area and may

be located one-half the distance into the required front yard.

(b) In lieu of the signs permitted in (a) above, a temporary sign which is more than sixty square feet, but less than 300 square feet, in sign area, shall be permitted on no more than two occasions and for no more than a combined total of ten days in any calendar year. Such a temporary sign shall be constructed or inflated in the three dimensional form of a person, animal, or object directly relating to the company or product which is the subject of the special sale or opening. The temporary sign shall be secured to the ground per the requirements of Chapter 22.05 of the Lincoln Municipal Code and shall not be permitted to float or become airborne. (Ord. 19283 §26; July 27, 2009; prior Ord. 16735 §21; February 13, 1995; prior Ord. 14863 §1; April 25, 1988; Ord. 14613 §21; March 9, 1987).

27.69.150 Nonconforming Use.

In all residential zoning districts, no more than two on-premises signs not exceeding thirty-two square feet in sign area shall be permitted on a building if the building is a nonconforming use. If the lot on which the nonconforming use is located is contiguous to or across an alley from a zoning district in which said nonconforming use would be a permitted use, the signs may be illuminated. (Ord. 19283 §27; July 27, 2009; prior Ord. 16735 §22; February 13, 1995; Ord. 14613 §22; March 9, 1987).

27.69.160 Special Permitted Uses.

In all residential zoning districts, special permitted uses may have the greater of the district signs or a sign identifying or describing the name of the building and the business or services offered on the premises. One sign only per special use shall be permitted if it meets the following conditions and requirements:

(a) The sign shall not be more than twenty square feet in sign area;

(b) The sign shall not be located in any required yard;

(c) The sign shall not be more than eight feet in height if it is not a wall sign;

(d) The sign shall be in keeping with the character of the area in which it is located.

Notwithstanding the above, for specially permitted commercial uses of historic structures or sites approved under the provisions of Section 27.63.400 of this title, two signs per entrance may be permitted, one of which, limited to five feet in height, may be located

in a required front yard, provided that the Historic Preservation Commission has deemed those signs appropriate. (Ord. 19283 §28; July 27, 2009: prior Ord. 16735 §23; February 13, 1995: prior Ord. 15823 §2; February 11, 1991: Ord. 14613 §23; March 9, 1987).

27.69.170 Other Allowed Signs; Temporary Signs.

(Repealed by Ord. 19283 §29; July 27, 2009: prior Ord. 16735 §24; February 13, 1995: Ord. 14613 §24; March 9, 1987).

27.69.180 Service Station Signs.

In those zoning districts where service stations are permitted, the following signs are permitted on the premises used as service stations in addition to those signs otherwise permitted in the zoning district in which such service station is located:

(a) Gasoline Price Sign: One gasoline price sign per frontage, not to exceed thirty-two square feet of sign area. Said gasoline price sign shall be attached to the permitted freestanding sign structure.

(b) Canopy/Fascia Sign: Two canopy/fascia signs per canopy face; not to exceed a combined total of fifty square feet of sign area for an emblem, logo, and/or business name. Stripes and graphics may be allowed on the remaining area of the canopy fascia.

(c) Pump Island Signs: Each pump island may have one pump island sign per pump cabinet not to exceed twenty square feet of sign area.

(d) Full- and self-service island identification, air, restroom, garbage cans, and dispenser identification will not be counted as signs. (Ord. 19283 §30; July 27, 2009: prior Ord. 16735 §25; February 13, 1995: Ord. 15895 §1; May 20, 1991: prior Ord. 14613 §25; March 9, 1987).

27.69.190 Murals.

In all zoning districts, murals, exclusive of any sign area, painted on walls of a building, fence, or similar structure shall be permitted; provided that a permit therefor is obtained from the Department of Building and Safety, and that such mural shall not interfere with traffic or present any other hazard or detriment to the public health, safety, or general welfare. (Ord. 16735 §26; February 13, 1995: prior Ord. 14613 §26; March 9, 1987).

27.69.200 Historically Significant Signs.

In all zoning districts, historically significant signs may be exempted from the provisions of this

chapter by resolution of the City Council, or by being in conformance with any historic preservation ordinance adopted by the city. (Ord. 14613 §27; March 9, 1987).

27.69.210 Other Permitted Signs; Directional Signs; Parking Lots.

(Repealed by Ord. 19283 §31; July 27, 2009: prior Ord. 16735 §27; February 13, 1995: Ord. 14613 §28; March 9, 1987).

27.69.220 Complex or Subdivision Area Signs.

In all residential zoning districts, freestanding signs identifying a complex for multiple family dwellings, domiciliary care facilities, or elderly or retirement housing or subdivision area shall be permitted under the following conditions:

(a) Freestanding signs shall not exceed thirty-two square feet in area or six feet in height.

(b) Freestanding signs may be located in the required front yard or building line district adjacent to an arterial street.

(c) Two freestanding signs may be located at each entrance.

(d) If the complex for multiple family dwellings, domiciliary facilities, or elderly or retirement housing or the subdivision area fronts upon but does not have access to an arterial street, one additional freestanding sign per arterial street frontage without access may be located abutting such arterial street.

(e) Freestanding signs may be illuminated by a ground light, internally or by downlighting methods if located at least 100 feet from the side lot line of an abutting residential zoned lot; provided that if the abutting residential zoned lot is used for multi-family use or a special permitted use, the above 100-foot setback does not apply.

(f) Freestanding signs located in the building line district shall be moved at the sole cost of the owner when necessary for public use. (Ord. 19404 §3; June 28, 2010: prior Ord. 19283 §32; July 27, 2009: Ord. 18895 §1; March 12, 2007: Ord. 16959 §1; March 25, 1996: Ord. 16735 §28; February 13, 1995: Ord. 14613 §29; March 9, 1987).

27.69.230 Subdivision Promotion Signs.

In any zoning district, a subdivision promotion sign for the original sale of lots shall be permitted under the following conditions:

There shall be permitted on an original tract of ten acres or less only one sign, which sign shall not exceed 100 square feet in sign area; on an original

tract of more than ten acres, no more than two signs, which signs shall not exceed a composite size of 150 square feet in sign area and no one sign shall exceed 100 square feet in sign area. Such sign shall be nonilluminated. (Ord. 19283 §33; July 27, 2009; prior Ord. 16735 §29; February 13, 1995; Ord. 14613 §30; March 9, 1987).

27.69.240 Nonresidential; Menu Boards.

In any commercial district, two on-premises freestanding signs each not to exceed forty-five square feet in sign area or one on-premises freestanding sign not to exceed fifty square feet in sign area functioning as menu boards are permitted in conjunction with an eating establishment utilizing ordering from the vehicle; provided, any sign shall not exceed eight feet in height and shall not be permitted in the required front or side yard of the district in which it is located. (Ord. 19283 §33; July 27, 2009; prior Ord. 17576 § 1; November 15, 1999; Ord. 16735 §30; February 13, 1995; Ord. 14613 §31; March 9, 1987).

27.69.250 Nonresidential; Flags.

In any commercial or industrial district, a flag, in addition to the flags permitted under Section 27.69.110(b) above, is permitted in lieu of a permitted freestanding sign. No single flag shall exceed 150 square feet in sign area or the sign area of the replaced freestanding sign, whichever is smaller. This section shall not limit the provisions of the B-4 zoning district relating to flags.

In the area of the B-4 zoning district beginning 150 feet east of 17th Street and continuing to the western boundary of the B-4 zoning district, flags of any organization, party, or individual are permitted, including flags mounted above or on roofs. The total sign area for all flags shall not exceed that allowed for wall signs in the B-4 zoning district as described in Section 27.69.040 Table 3in. No single flag shall exceed 150 square feet. (Ord. 19283 §35; July 27, 2009; prior Ord. 14613 §32; March 9, 1987).

27.69.260 Health Care Facilities and Post Secondary Schools.

Campuses of health care facilities and private post secondary schools having more than one building and two acres of land, may have a campus signing plan approved under the provisions of Section 27.63.080 to provide for public safety and to accommodate the unique requirements for services, provided:

(a) The signing plan shall be designed to minimize adverse impact on surrounding properties;

(b) Any signs proposed in required yards shall be approved as part of the landscaping plan;

(c) No freestanding sign shall exceed eight feet in height or fifty square feet in sign area if on a major street, and six feet in height and thirty-two square feet on any other street;

(d) Sign shall have no exposed illumination, except one "emergency" sign may have direct lighting;

(e) All wall signs over fifty square feet in sign area shall be approved in the permit.

Said campus signing plan may be approved by administrative amendment as provided in Section 27.63.030 if a special permit is existent for the health care facility or secondary school and plot plan.

The campus signing plan regulations in subparagraphs (c), (d), and (e) above may be modified by the City Council in connection with the granting of a special permit in conformance with the requirements of Chapter 27.63. (Ord. 19283 §36; July 27, 2009; prior Ord. 16181 §1; August 3, 1992; Ord. 15616 §1; July 9, 1990; Ord. 14613 §33; March 9, 1987).

27.69.290 Nonresidential; Permanent Window Signs.

In all nonresidential zoning districts, permanent window signs shall be permitted; provided that such signing does not cover more than twenty-five percent of the area of any window or door. (Ord. 14613 §36; March 9, 1987).

27.69.300 Nonresidential; Special Sign District.

(a) In any nonresidential district, occupants of sixty percent or more of the street frontage of any block face may petition the City Council for the formation of a special sign district for the purpose of defining an area of particular historical, ethnic, cultural, or entertainment atmosphere; or for defining an area with a special or unique theme; or for defining an area in which the City has undertaken a program for the redevelopment of blighted and substandard areas pursuant to an approved Redevelopment Plan. Said merchants shall present proposed sign criteria to the City Council according to the procedure established for a zoning amendment. Such petition shall include specific sign regulations for the special sign district which may be more or less restrictive than the underlying district.

(b) In any nonresidential district designated by the City Council as a landmark district in accordance with Section 27.57.120, the Planning Director may

petition the City Council to create a special sign district. Such petition shall include specific sign regulations for the district which may be more or less restrictive than the underlying zoning district. A special sign district shall not be designated if written protests are made by the record owners of over fifty percent of the included properties, excluding public right-of-way, at or prior to the public hearing by the City Council on the designation.

Before designating an area within a non-residential landmark district as a special sign district and adopting specific sign regulations for such district, the City Council shall refer the petition to the Historic Preservation Commission. The Historic Preservation Commission shall hold a public hearing on such petition, and thereafter shall make its recommendation regarding approval, disapproval, or modification of the petition, and the proposed sign regulations. The petition shall then be transmitted to the Planning Commission. The Planning Commission shall consider the petition at a public hearing and thereafter shall make a report to the City Council recommending approval, disapproval, or modification of the petition and the proposed sign regulations.

After receiving the recommendation and report of the Historic Preservation Commission and the Planning Commission, the City Council shall proceed to give final consideration to the petition and the proposed sign regulations.

(c) After the City Council has approved a nonresidential special sign district, the Planning Director is authorized to approve amendments provided that:

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

(2) The request for amendment proposes a minor increase in the number, size, height, location, or other special sign district regulation for signs which are more restrictive than the underlying zoning district and such increase does not cause a significant adverse impact on existing development within the district and adjoining properties;

(3) The request for amendment is in conformance with the sign regulations for the underlying zoning district. (Ord. 18935 §1; June 11, 2007: prior Ord. 18753 §1; June 19, 2006: Ord. 16735 §33; February 13, 1995: Ord. 15722 §1; September 17, 1990: Ord. 14613 §37; March 9, 1987).

27.69.310 Nonresidential; Roof Signs.

In all nonresidential zoning districts which allow freestanding signs, a roof sign may be permitted on buildings with a roof pitch of 1/12 or greater as an alternative to either:

- (a) the permitted freestanding sign, or
- (b) the permitted wall signs in the same architectural elevation as the requested roof sign.

Said roof sign shall not exceed thirty percent coverage of the roof area (determined by the area of the roof in elevation view), except that in no instance shall the permitted roof sign be larger than the freestanding sign permitted in the district. The roof sign shall be a minimum of one foot below the roof line. (Ord. 19283 §37; July 27, 2009: prior Ord. 16735 §34; February 13, 1995: prior Ord. 16180 §10; August 3, 1992: Ord. 15934 §1; August 5, 1991: Ord. 14613 §38; March 9, 1987).

27.69.320 Nonconforming Signs.

(a) All nonconforming signs shall be brought into compliance when one or more of the following occurs:

(1) When the sign is damaged by any means in excess of sixty percent of its replacement value at the time such damage occurs.

(2) When normal maintenance or modifications exceed 25% of the value of the sign structure, except as otherwise permitted in subsection (b) below.

(3) When the sign is required to be moved because of a local, state, or federal project, except as otherwise permitted in subsection (b) below.

(4) When a painted wall sign is repainted. Face changes will be allowed to a nonconforming sign.

(b) Notwithstanding the above, the owner of a nonconforming off-premises sign with multiple stack, or side-by-side faces in one direction, may replace said sign provided that:

(1) The replacement sign shall have not less than 200 square feet nor more than 300 square feet per face.

(2) The replacement sign shall have a single back-to-back faces configuration. Faces on individual structures shall be generally consistent in size.

(3) The sign structure for the replacement sign shall utilize a monopole design that is structurally rated to accommodate the replacement sign.

(4) The new sign structure shall not exceed an overall height of 30 feet, including any downlit light fixtures.

(5) The sign face height for the replacement sign shall not exceed 28 feet, except that the Planning Director may approve up to five feet of additional height provided that the replacement sign's visibility is restricted to a greater degree than the existing sign face, which in the case of an existing sign with stacked faces means the lower sign face, and provided further that the increased height does not adversely affect public health, safety, or general welfare.

(6) If the replacement sign is illuminated by reflected lighting, the lighting shall be provided by downlighting methods or in accordance with digital lighting regulations if a digital display face is utilized.

(7) The replacement sign shall be located a minimum distance of 150 feet from a residential district, park or cemetery when facing such district, park or cemetery.

(8) The replacement sign will be installed within 180 days of the removal of the existing off-premises sign being replaced.

(9) Two square feet of face area for every one square foot of face area installed on the replacement sign as viewed from one side shall be removed from the Director of Building and Safety's registration of nonconforming off-premises signs removed after January 10, 2000, except that if a digital face is utilized, four square feet of sign area (rather than face area) shall be deducted for every one square foot of sign area in the replacement sign.

(10) The Planning Director may approve an alternate location for the replacement sign on the same site or on an adjacent site within 150 feet of the existing site provided that the alternate sign location is located no closer to the street right-of-way, does not result in increasing any nonconformity with the siting limitations in Section 27.69.035(b), does not significantly increase the visual impact on any nearby residential properties or otherwise adversely affect public health, safety or general welfare. (Ord. 19006 §1; October 8, 2007; prior Ord. 16735 §35; February 13, 1995; Ord. 14613 §39; March 9, 1987).

27.69.330 Cemetery Grounds.

Cemeteries may have a cemetery grounds signing plan approved under the provisions of Section 27.63.510 to provide public information and to accommodate the unique requirements for services, provided:

(a) The signing plan shall be designed to minimize adverse impact on surrounding properties;

(b) Any sign proposed to be located in a required yard shall be approved as part of a landscaping plan;

(c) No freestanding sign shall exceed eight feet in height or fifty square feet in area if located along a major street and six feet in height and thirty-two square feet in sign area if located along any other street;

(d) Signs shall have no exposed illumination, except LED or similar technologies;

(e) All wall signs over fifty square feet in sign area shall be approved in the permit;

(f) Signs located along a major street shall be spaced a minimum of 500 feet apart from each other.

Such cemetery grounds signing plan may be approved by administrative amendment as provided in Section 27.63.030 if a special permit has been issued for the cemetery.

The cemetery grounds signing plan regulations in subparagraphs (c), (d), (e) and (f) above may be modified by the City Council in connection with the granting of a special permit for a cemetery. (Ord. 19283 §38; July 27, 2009; prior Ord. 18857 §6; December 4, 2006; Ord. 15146 §1; April 10, 1989).

27.69.340 Permitted Signs for Planned Unit Developments.

In any zoning district where a planned unit development has been approved, the specific regulations are as follows:

(a) For nonresidential uses:

(1) Where a use is not otherwise permitted in the underlying district or authorized by the City Council pursuant to Section 27.60.020(b)(2): One illuminated wall sign per business is permitted. If the floor area is 2,000 square feet or less, the sign shall have a maximum of twenty square feet of sign area. For a business with a floor area of over 2,000 square feet, one square foot of sign area per 100 square feet of floor area (maximum of fifty square feet) is permitted. One illuminated freestanding sign per building not exceeding fifty square feet in sign area and six feet in height is permitted. Such sign shall be located from the front lot line at least one-half of the required setback distance.

(2) In all other instances, signs for office uses and retail uses shall respectively be governed by the O-3 district provisions in Section 27.69.040 Table 3, B-2 district provisions as described in Section 27.69.040 Table 3, and the I-3 district provisions as described in Section 27.69.040, Table 3.

(b) The sign regulations in this section may be modified by the City Council. (Ord. 19404 §4; June 28, 2010; prior Ord. 19283 §39; July 27, 2009: Ord. 16735 §36; Feb. 13, 1995: Ord. 16575 §1; March 14, 1994: Ord. 16487 §1; Sept. 27, 1993: Ord. 15795 §2; Dec. 17, 1990).

Chapter 27.70

ADDITIONAL USE REGULATIONS

Sections:

- 27.70.010 Home Occupations.
- 27.70.020 Dwellings for Nonrelated Persons.
- 27.70.030 Subdivision Promotion Activity.
- 27.70.040 Lots Fronting Upon Private Roadways.
- 27.70.050 Requirements After Approval.

27.70.010 Home Occupations.

A home occupation may be carried on within a dwelling unit or accessory building under the following conditions:

(a) There is no sign other than one nonanimated, nonilluminated, nonreflecting nameplate not more than two square feet in area, which nameplate designates the home occupation carried on within, in letters not to exceed two inches in height and attached to the building wherein the home occupation is conducted.

(b) There is no commodity sold upon the premises except that which is prepared on the premises in connection with such occupation or activity or which is sold in relation and incidental to such occupation or activity. This section shall not prohibit the sale of restored antique articles on premises for which a second-hand dealer's permit has been issued by the city and which permit was in force and effect on May 30, 1981; provided, however, that the discontinuance of such sales for a continuous period of six months or the failure to pay the required occupation tax and maintain a current permit shall constitute a termination of the rights granted under this exception and thereafter any home occupation conducted upon such premises shall strictly conform to the conditions applicable to home occupations generally. Welding, vehicle body repair, mechanical repair, or rebuilding or dismantling of vehicles are not permitted as a home occupation.

(c) There is no person engaged in the home occupation employed on the premises other than a member of the family residing on the premises; provided, that the building official may approve one

nonresident employee upon application by the owner showing:

(1) Certification by the appropriate state or federal agency that the owner is physically disabled;

(2) Certification of an attending physician that the owner cannot perform the tasks required by the home occupation without assistance; and

(3) There are no other employees either resident or nonresident engaged in the home occupation on the premises.

(d) Any activities carried on outdoors in connection with the home occupation is screened and there is no outdoor storage of any equipment, machinery, parts, or other articles of any nature used in connection with such home occupation, except that day care centers may have permanent play equipment such as slides and swing sets located in the required side or rear yards. The placement of play equipment in the required front yard of a day care center shall be permitted only by resolution of the City Council.

(e) There is no chemical, mechanical, or electrical equipment used which will cause noise or odors disturbing to the residents of surrounding property or interference with television or radio reception.

(f) The maximum allowable area that may be utilized in conducting such home occupation shall be equal to twenty percent of the floor area of the dwelling unit. (Ord. 14887 §1; May 31, 1988; prior Ord. 14537 §1; October 27, 1986; Ord. 13228 §1; October 12, 1981; Ord. 12571 §369; May 8, 1979).

27.70.020 Dwellings for Nonrelated Persons.

Dwellings for four to six persons not immediately related by blood, marriage, or adoption and living as a single housekeeping unit shall be permitted under a community unit plan which is larger than ten acres, provided that the maximum number of persons occupying each dwelling and the total number of occupants shall not exceed the following lot area ratios:

(a) R-1, 1 occupant/3,000 square feet of lot area;

(b) R-2 and R-3, 1 occupant/2,000 square feet of lot area;

(c) R-4, 1 occupant/1,000 square feet of lot area;

(d) R-5, 1 occupant/750 square feet of lot area.

Notwithstanding the above, the maximum density of dwellings for nonrelated persons shall be subject to

the overall maximum number of permitted dwelling units within the boundaries of the community unit plan as calculated in accordance with Section 27.65.020, including any reduction of density due to the size of the tract of land. (Ord. 17949 §3; December 17, 2001; prior Ord. 12571 §370; May 8, 1979).

27.70.030 Subdivision Promotion Activity.

In areas of new construction or lot development, a subdivision promotion activity may be established in a residential zoning district for the purpose of selling lots or homes in the area under the following conditions:

(a) The purpose of the subdivision promotion activity shall be to promote the sales of lots or homes in the subdivision or area in which the subdivision promotion activity is located or where similar homes are being constructed;

(b) Any office or similar premises used in connection with the subdivision promotion activity shall be located within a subdivision display home and no exterior reconstruction or any permanent alteration of the said display home shall be permitted in establishing said office;

(c) There shall be no sign on the premises other than those permitted in Chapter 27.69;

(d) The subdivision promotion activity may continue for a period of one year from the issuance of the first occupancy permit to each builder, contractor, or subdivider within a subdivision or lot development area. At the expiration of one year, a permit shall be obtained from the Department of Building and Safety to allow continuation of the subdivision promotion activity. This permit may be granted after an evaluation of the location or proposed location of the subdivision promotion activity by the Department of Building and Safety with consideration given to the type of development in the immediate area of the promotion activity, and the effect of the promotion activity on the adjacent area;

(e) Subdivision display homes which do not contain any subdivision promotion activities, including offices or continuing sales activities or continuing displays, shall not be governed by these provisions. (Ord. 12571 §371; May 8, 1979).

27.70.040 Lots Fronting Upon Private Roadways.

Lots located in the AG, AGR, R-1, R-2, R-3, R-4, R-5, and R-6 zoning districts may front upon and take access to a private roadway if said lots are located within an approved community unit plan under Chapter 27.65 of this title. Lots located in other zoning districts may front upon and take access to a private roadway if said private roadway has been approved either in connection with a use permit under the provisions of this title or with a subdivision of property in conformance with all of the requirements of Title 26 of the Lincoln Municipal Code. All such lots shall also comply with all of the requirements of this title as applicable. (Ord. 12571 §372; May 8, 1979).

27.70.050 Requirements After Approval.

Upon approval of a use permit pursuant to Chapters 27.27, 27.28, 27.31, 27.37, or 27.51, the developer shall cause to be prepared and submitted to the Planning Department a revised and reproducible final plot plan with all required amendments and revisions. Thereafter, building permits, certificates of occupancy and subdivisions of the property shall be issued or approved upon substantial compliance with the plot plan as approved, or as amended. In circumstances where there are minor variations from the final plan, the Planning Director, or his designee, shall review the plan and determine if the proposal is in substantial conformance with the spirit and intent of the approved plan.

The final plot plan shall contain the following information:

(a) A certified boundary survey and legal description showing sufficient linear, angular, and curve data to determine the bearing and length of all boundary lines of the use permit, location of section lines and section corners, and gross acreage. If the use permit abuts an existing plat, the distances, angles, and bearing of any common lines shall be shown and any differences in measurement shown.

(b) A certificate for showing the final action of the Planning Commission or City Council including the date and resolution number.

(c) Locations, name, tangent lengths, centerline radius of each curve and its interior angle, and width of all proposed and existing streets, highways, private

roadways, and other public ways within and adjacent to the development;

(d) Location, width, and direction of flow of all water courses in and adjacent to the use permit area, including the limits of the flood plain and floodway as defined in Section 27.52.020 or 27.53.020 for Existing Urban Areas and New Growth Areas, respectively;

(e) The location and size of all existing and proposed sanitary and storm sewers, drainage ways, culverts, watermains, fire hydrants, and existing power lines and other underground structures, cables, or other public utilities within the tract of land and adjacent streets, together with the location and width of existing and proposed easements, and, if appropriate, access easements;

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

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

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

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

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

(k) The following data shall be shown on each sheet of the plot plan:

(1) The name, address, and telephone number of the person or company responsible for preparation of the plot plan;

(2) North arrow, scale, date;

(3) Sheet number and the total number of sheets comprising the plot plan;

(l) The following information shall accompany the plot plan:

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

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

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

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

(5) The approved method of providing sanitary sewer service to the area;

(6) The approved method of providing an adequate potable water supply;

(7) The approved drainage study;

(8) A map or an aerial photograph showing the proposed streets, private roadways, driveways, parking areas, buildings and lots which includes the locating, and identifies, by common name, all existing trees within the area of the use permit. Single trees which are three inches in caliper or larger measured five feet above the ground must be shown. However, if five or more trees are located so that each is within approximately ten feet of the edge of another tree, they will be considered a tree mass and the outline of the tree mass may be shown with a list of the common names of the trees which are within the tree mass. If the above-stated procedure is followed, the individual location of each tree within the tree mass is not necessary. An indication shall be made on the map showing which trees or tree masses are to remain and which trees or tree masses are to be removed;

(9) A vicinity sketch showing the general location of the use permit in relation to existing streets, section lines, and city limits;

(10) The approved site grading plan showing existing and proposed contour lines with intervals at no greater distance than five feet based on NAVD 1988, and if necessary, spot elevations showing complete proposed grading of the use permit, including any cross-sections required as conditions of approval showing existing and proposed ground lines and buildings. Information as to where fill will be obtained and the amount of the fill shall be included if all or part of the property is located within the flood plain as defined in Section 27.52.020 or 27.53.020 for Existing Urban Areas and New Growth Areas, respectively. If the proposed location from which said fill is obtained is later to be changed, the developer shall inform the Public Works and Utilities

Department of the location of the proposed new borrow area and obtain approval thereof from the Director of Public Works and Utilities;

(11) The approved landscape plan. (Ord. 19172 §16; November 3, 2008: prior Ord. 18501 §2; February 14, 2005: Ord. 17857 §9; June 4, 2001: Ord. 17232 §20; August 18, 1997: Ord. 16949 §7; March 11, 1996: Ord. 16284 §5; December 14, 1992).

Chapter 27.71

ADDITIONAL HEIGHT AND AREA
REGULATIONS

Sections:

- | | | | |
|-----------|---|-----------|---|
| 27.71.010 | Scope of Regulations. | 27.71.160 | Public Utilities. |
| 27.71.020 | Necessary Mechanical Appurtenances. | 27.71.165 | Outdoor Lighting. |
| 27.71.025 | Chimneys, Antenna Installations, Towers, and Grain Elevators. | 27.71.170 | Adjustment of Front Yard Requirements. |
| 27.71.030 | Front and Side Yards; Driveways. | 27.71.175 | Adjustment of Yard and Lot Area Requirements to Allow the Subdivision of a Lot. |
| 27.71.040 | Construction and Use of Accessory Buildings. | 27.71.180 | Side and Rear Yard Requirements. |
| 27.71.050 | Projections From Buildings. | 27.71.190 | Building Line District. |
| 27.71.060 | Walkways in the Rear Yard. | 27.71.200 | Uses Within Building Line Districts; Adjustments. |
| 27.71.070 | Occupancy of Basements and Cellars. | 27.71.210 | Enlargement and Alteration of Lots. |
| 27.71.080 | Fences. | 27.71.220 | Replacing Nonstandard Accessory Building on Narrow Lot. |
| 27.71.090 | Fire Escapes and Chimneys; Projection Into Yards. | 27.71.230 | Minimum Separation Between Buildings and Pedestrian Way Easement. |
| 27.71.095 | Light Wells and Egress Windows; Projection into Required Yards. | 27.71.240 | Yard Accessories in Required Yards. |
| 27.71.100 | Porches, Balconies, Patios, and Terraces in Front Yards. | 27.71.250 | Buildings, Churches, Height of. |
| 27.71.110 | Projection of Terraces, Patios, Decks, and Ornamental Features. | 27.71.260 | Premises That Do Not Meet the Minimum Acreage Requirement of the O-3, B-2, B-5, or I-3 District. |
| 27.71.115 | Canopies in Front Yard. | 27.71.270 | Outdoor Dining. |
| 27.71.120 | Temporary Buildings and Fences; Temporary Paving Plants; Temporary Concrete Batch Plants. | | |
| 27.71.130 | 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. | 27.71.010 | Scope of Regulations.
The district regulations hereinafter set forth in this chapter qualify or supplement, as the case may be, the district regulations appearing elsewhere in this title. (Ord. 12571 §373; May 8, 1979). |
| 27.71.140 | Two or More Buildings For Two-Family Dwellings, Multiple-Family, Institutional, or Hotel Purposes. | 27.71.020 | Necessary Mechanical Appurtenances.
All necessary mechanical appurtenances located on top of a building are exempt from the height regulations contained in this title as follows:
(a) No such appurtenances may exceed twenty feet in height above the maximum permitted in the district in which they are located;
(b) All of said appurtenances must be set back a minimum of fifteen feet from all faces of a building when said faces are adjacent to a street. (Ord. 12571 §374; May 8, 1979). |
| 27.71.150 | Multiple Dwelling Considered as One Building. | | |
| 27.71.155 | Projection of Building Facades into the Required Front Yard in the R-4, R-5, R-6, R-7, and R-8 Districts in Areas of the City Annexed Prior to January 31, 1949. | | |

27.71.025 Chimneys, Antenna Towers, and Grain Elevators.

Chimneys, cooling towers, elevator bulkheads, grain elevators, fire towers, stage towers or scenery lofts, amateur radio antenna installations not exceeding sixty-five feet in height (which includes a tower not exceeding fifty feet in height), non-commercial radio towers not exceeding fifty feet in height, wind energy conversion systems over the height of the district authorized by conditional use or special permit, or water towers are exempt from the height regulations as contained herein. (Ord. 19158 §49; October 22, 2008: prior Ord. 16673 §14; Sept. 26, 1994: Ord. 13487 §6; Nov. 1, 1982: Ord. 13004 §2; Sept. 29, 1980: Ord. 12978 §27; August 25, 1980: Ord. 12657 §17; August 6, 1979).

27.71.030 Front and Side Yards; Driveways.

A driveway shall be permitted within the required front and side yards only if the driveway provides a connection to a parking space that is or will be located as permitted in this title, provided that in the O-2, O-3, B-2, B-5, H-4, I-1, I-2, and I-3 districts the driveway shall be substantially perpendicular to the street and shall not be wider than thirty feet. Vehicle stacking for drive-in facilities shall be permitted within the required side yard if such side yard does not abut a residential district. (Ord. 18770 §4; July 24, 2006: prior Ord. 18687 §29; March 20, 2006: Ord. 16481 §1; September 20, 1993: Ord. 15307 §1; October 2, 1989: Ord. 14466 §1; August 18, 1986: Ord. 13469 §1; September 27, 1982: Ord. 12571 §375; May 8, 1979).

27.71.035 Front Yards; Gasoline Pumps Permitted.

(Repealed by Ord. 18387 §30; March 20, 2006: prior Ord. 14466, as amended by Ord. 14581 §1; January 12, 1987).

27.71.040 Construction and Use of Accessory Buildings.

No accessory buildings shall be constructed upon a lot until the construction of the main building has been commenced, and no accessory buildings shall be used for dwelling purposes, except that in the AG,

AGR, and R-1 zoning districts, an accessory building may be used for dwelling purposes by not more than two domestic employees employed entirely on the premises if a special permit for such use has been obtained in conformance with the requirements of Chapter 27.63. (Ord. 16088 §4; March 23, 1992: prior Ord. 12571 §376; May 8, 1979).

27.71.050 Projections From Buildings.

Every part of any required yard shall be open to the sky, unobstructed by a building, except:

(a) Eaves may project into a front or rear yard thirty-six inches, exclusive of gutters.

(b) Eaves may project into a side yard twenty-four inches, or two-fifths of the required side yard, whichever projection is greater, exclusive of gutters.

(c) Ordinary projection of sills, belt courses, cornices, vertical solar screens, and ornamental features which may project twelve inches.

(d) Except in the R-1, R-2, R-3, and R-4 districts, air conditioners or heat pumps, not to exceed five ton units or parts thereof, may project into a required side yard, provided that such projection shall be distant at least two feet from the adjacent lot line and shall not extend more than three feet from the building. Such air conditioners may project into a required front yard but shall not extend more than three feet from the building, and such air conditioner or heat pump may extend into one side of a corner lot. In R-1, R-2, R-3, or R-4 districts, air conditioners or heat pumps not to exceed five tons or parts thereof may project into such yards not more than four feet from the building it serves, and in no event shall be closer than one foot to the adjacent lot line, and such air conditioner or heat pump may extend into one side of a corner lot.

(e) Solar collectors which are a part of the main building may extend into a required rear yard for a distance not to exceed ten feet, and solar collectors may extend into a required side yard, provided that they have a minimum seven foot clearance from grade; and provided, further, that such extension shall be distant at least three feet from the adjacent lot line and may project into a side yard forty-eight inches, or two-fifths of the required side yard, whichever projection is greater.

(f) Ornamental siding and wall sheathing material, not including brick veneer, may project a maximum of two inches into any required yard.

(g) As otherwise provided in this title. (Ord. 15819 §1; February 4, 1991: prior Ord. 13728 §1; November 7, 1983: Ord. 13522 §1; December 27, 1982: Ord. 13211 §1; September 21, 1981: Ord. 13067 §5; January 5, 1981: Ord. 12899 §1; April 14, 1980: Ord. 12571 §377; May 8, 1979).

27.71.060 Walkways in the Rear Yard.

In the required rear yards of the O-1, B-1, B-2, B-3, H-1, H-2, H-3, and I-1 districts, enclosed walkways not more than one story in height nor eight feet in width are permitted within two feet of the rear lot line. (Ord. 12571 §378; May 8, 1979).

27.71.070 Occupancy of Basements and Cellars.

No basement or cellar shall be occupied for residential purposes until the remainder of the building has been substantially completed. (Ord. 12571 § 379; May 8, 1979).

27.71.080 Fences.

(a) Permitted Locations and Heights. Notwithstanding the area regulations of this title with respect to the requirements for open space for front yard, side yard, and rear yard, fences may be erected to a height not to exceed seventy-six inches on any part of a lot or premises. In addition, fences may be erected to a height not to exceed one hundred two inches on any part of a lot or premises under one of the following conditions:

(1) The fence is located in a required front yard of a lot in a residentially zoned district which has more than one required front yard;

(2) The fence is located within any commercial or industrial district;

(3) The fence is located on a common lot line between a residentially zoned district and a commercially or industrially zoned district; or

(4) The fence is located in the rear or side yard of a residentially zoned district;

provided that no fence over seventy-six inches shall be located within four feet from any main structure on an abutting lot.

(b) Prohibited Locations. No fence shall be erected within:

(1) The triangular area required for sight distance of vehicles entering or exiting the

property or entering an adjacent intersection, in conformance with the design standards of the city and the "guidelines and regulations for driveway design and approach."

(2) Ten feet from the opening side of all padmounted equipment (the side with decals on the lid), three feet from the opening side of the power pedestals (the side with the padlock), or twelve inches from the other non-opening sides of the padmounted equipment or power pedestals.

(c) Measurement. The height of a fence shall be determined by a measurement from the ground beneath the fence. Swales and other earth depressions up to six feet wide shall not be used when measuring the fence's height. Man-made earth berms, terraces, and retaining walls that elevate the fence shall be considered a part of the fence. Notwithstanding the above, if a lot or premises is lower than an adjacent major street, as defined in Section 26.07.190 of the Land Subdivision Ordinance, then the height of the fence shall be determined by a measurement from the street grade at a ninety degree angle from the fence; provided, however, the total vertical measurement from the ground beneath the fence to the top of the fence shall not exceed twelve feet.

(d) The height limitation herein provided for fences permitted on any part of a lot or premises, notwithstanding the area regulation of this title with the requirements for open space from front yard, side yard, and rear yard, shall not apply to fences required by the city for uses permitted by the city. It is not intended that any structure other than a fence is permitted on any part of a lot or premises by this section, and all other structures must comply with area and use regulations of this title. (Ord. 18582 §1; August 1, 2005: prior Ord. 15896 §1; May 20, 1991: Ord. 13521 §1; December 27, 1982: Ord. 13215 §1; October 5, 1981: Ord. 12571 §380; May 8, 1979).

27.71.090 Fire Escapes and Chimneys; Projection Into Yards.

Open lattice enclosed fire escapes, fireproof outside stairways, and balconies opening upon fire towers, and the ordinary projections of chimneys and flues into the rear yard may be permitted by the building inspector for a distance of not more than three and one-half feet and where the same are so placed as not to obstruct light and ventilation of adjacent dwellings.

Chimneys, flues, and fireplaces may be permitted by the director of building and safety to project into any required yard for a distance of not more than two feet where the same are so placed as not to obstruct light and ventilation. (Ord. 12571 §381; May 8, 1979).

27.71.095 Light Wells and Egress Windows; Projection into Required Yards.

Any light well or egress window may be located in any required front, side or rear yard, provided:

(a) No such light well or egress window may be placed within two feet of any property line;

(b) Any light well or egress window located in any required yard must have a safety railing that meets all requirements for safety railings of the Uniform Building Code as adopted by the Lincoln Municipal Code if it is within five feet of any sidewalk, walkway, or driveway;

(c) The construction of the light wells or egress windows meets the requirements of the Uniform Building Code as adopted by the Lincoln Municipal Code;

(d) The well does not extend more than one foot above the finished grade.

The requirements of (b) above may be waived by the City Council. (Ord. 17634 §1; March 13, 2000).

27.71.100 Porches, Balconies, Patios, and Terraces in Front Yards.

An open, unenclosed porch may project into a required front yard for a distance not exceeding ten feet; provided, however, such porches on residences in the R-1, R-2, R-3, R-4, R-5, R-6, R-7 and R-8 zoning districts which project into the required front yard no closer than ten feet from the street line may be enclosed under the following conditions:

(a) The enclosed porch shall not be served by a heating system, cooling system, or plumbing;

(b) At least forty percent of the other residences on the same frontage in the same zoning district extend into the required front yard a distance equal to or greater than the applicant's porch (for the purpose of this section, extensions into the front yard may be a porch, balcony, vestibule, or the main part of the building);

(c) The applicant's porch shall not be located within any building line district; and

(d) At least fifty percent of each exterior wall shall be transparent.

Balconies may project into a required front yard for a distance not exceeding six feet. In the B-1, B-3, B-4, H-1, H-2 and H-3 zoning districts, patios and paved terraces may project into a required front yard. In the O-3, B-2, B-5, H-4, I-1 I-2 and I-3 zoning districts, patios and paved terraces may project into a required front yard for a distance not to exceed fifteen (15) feet. An enclosed vestibule containing not more than forty square feet may project into a required front yard for a distance not to exceed four feet. This section shall not be interpreted as establishing a different required front yard in that district, nor shall this section be used to adjust front yard setbacks under Section 27.71.170 of this ordinance. (Ord. 18770 §5; July 24, 2006; prior Ord. 14780 §21; November 2, 1987; Ord. 13532 §1; January 17, 1983; Ord. 13067 §6; January 5, 1981; Ord. 12571 §382; May 8, 1979).

27.71.110 Projection of Terraces, Patios, Decks, and Ornamental Features.

Terraces, patios, uncovered decks, and ornamental features which do not extend more than three feet above or below the adjacent ground level may project into a required side or rear yard, provided these projections be distant at least two feet from the adjacent side lot line. (Ord. 13067 §7; January 5, 1981; prior Ord. 12571 §383; May 8, 1979).

27.71.115 Canopies in Front Yard.

In O-3, B-1, B-2, B-3, B-4, B-5, H-1, H-2, H-3, H-4, I-1, I-2 and I-3 zoning districts, canopies may project into a required front yard; provided, that a five foot setback shall be maintained from the property line, and such canopies shall not cover more than six square feet of ground area per each foot of frontage, and no portion of the canopy shall be lower than nine feet above grade. (Ord. 18770 §6; July 24, 2006; prior Ord. 16054 §1; February 18, 1992; Ord. 14581 §2; January 12, 1987; Ord. 14225 §1; September 30, 1985; Ord. 12571 §383a; May 8, 1979).

27.71.120 Temporary Buildings and Fences; Temporary Paving Plants; Temporary Concrete Batch Plants.

(a) Temporary buildings that are used in conjunction with construction work only may be permitted in any district during the period that the building is being constructed, but such temporary building shall be removed upon completion of the construction work. Temporary fences used in conjunction with construction work only are permitted under the following conditions:

(1) Not to exceed ninety-six inches in height;

(2) Only permitted to protect construction work and materials;

(3) May be permitted on any part of a lot but not encompassing any greater area than necessary to provide protection to the construction work or materials and encompassing only that part of a lot necessary to allow construction activity and access around the structures;

(4) Shall be removed upon completion of the construction work or the availability of other protection within the lot. On lots or areas in which more than one building will be under construction, the area enclosed by the fence shall be reduced as construction proceeds.

(5) Such temporary fence shall not obstruct the visibility of the construction site nor prevent access to the site by emergency vehicles.

(6) No fence shall be erected within that triangular area required for sight distance of vehicles entering or exiting the property or entering an adjacent intersection in conformance with the "design standards" and "guidelines and regulations for driveway design" of the city.

(b) Temporary paving plants used for the paving of federal or state highways or county roads are permitted in any zoning district during the project construction period under the following conditions:

(1) The plant shall be located outside the city limits on premises abutting the specific construction project and having access to a paved road.

(2) The boundaries of the property used for the plant shall be located no closer than 300 feet from an occupied dwelling or from any school, church, library, early childhood care facility, hospital, motel, or park.

(3) The permittee shall require its suppliers to use paved roads or other designated truck routes approved by the County Engineer for the delivery of supplies to the paving plant.

(4) Paving material prepared at the plant shall not be transported to any location other than the abutting project.

(5) The plant shall be removed upon substantial completion of the construction project.

(c) Temporary concrete paving plants. Temporary concrete paving plants are permitted in any zoning district by administrative permit issued by the

Planning Director. The Planning Director shall not issue a permit or renew a permit without written approval by the Director of the Lincoln-Lancaster County Health Department and the Director of the Public Works and Utilities Department.

(1) Applications for an administrative permit shall include:

(i) A site plan showing the entire limits of the permit area including the plant location, material storage areas, and the ingress/egress;

(ii) A dust control and suppression plan including the plant operations and haul roads to and from plant to project;

(iii) A description or manufacturer's specification regarding particulate control equipment;

(iv) A copy of a signed contract or other verification that the applicant is under contract to supply concrete for a city arterial street paving project;

(v) A noise control plan that will allow the operation to comply with Chapter 8.24 of the Lincoln Municipal Code.

(vi) A copy of a signed lease or other verification that the applicant has permission of the owner of the land upon which the plant shall be located to locate the plant thereon.

(2) The administrative permit shall be issued under the following conditions:

(i) The plant site shall be approved by the City Engineer or if outside the city limits by the County Engineer and shall be located in the general vicinity of the specific arterial street paving project or projects and have access to a paved road;

(ii) The boundaries of the property used for the plant shall be located no closer than 300 feet from an occupied dwelling or from any school, church, library, early childhood care facility, hospital, motel, or park;

(iii) The permittee shall require its suppliers to use only paved roads approved by the Director of Public Works or the County Engineer as the case may be, for the delivery of supplies to the plant. The permittee shall further require that the drivers of concrete trucks leaving the plant also use said paved roads. EXCEPTION: The use of nonpaved roads may be approved on a case-by-case basis by the Director of Public Works or the County Engineer;

(iv) The permit site shall be cleaned up and restored to its pre-permit condition within thirty days following the completion of the project. Restoration includes replanting of vegetation and

maintenance of erosion and sediment control until the site is reestablished. Any paved or unpaved road damaged by the permittee's use of such road, including permittee's suppliers and concrete trucks entering and/or leaving the plant, shall be repaired at permittee's cost and expense;

(v) All concrete produced by this plant shall be used to complete the project. The concrete shall not be provided for concrete work to be performed by persons other than the permittee;

(vi) The anticipated set up and removal dates shall be identified on the application. Amendments to these dates must be requested to the Planning Director in writing;

(vii) The applicant shall submit a performance bond satisfactory to the City Attorney in the minimum amount of \$5,000, or an amount determined by the City to be sufficient, to guarantee performance and clean up of the permit site and to pay for repairs to paved and unpaved roads damaged by permittee's use of such roads.

(3) Permits issued pursuant to this section shall expire on the completion date of the project as set forth in the permit application. The Planning Director may extend the expiration date by administrative amendment upon a showing that the project completion is delayed or that the permittee has contracted for another project in conformance with subparagraph (a) above.

(d) Temporary concrete batch plants. Temporary concrete batch plants are permitted in any zoning district by administrative permit issued by the Planning Director. The Planning Director shall not issue a permit or renew a permit without written approval by the Director of the Lincoln-Lancaster County Health Department.

(1) Applications for the administrative permit shall include:

(i) A site plan showing the entire limits of the permit area including the plant location, material storage areas, and the ingress/egress;

(ii) A dust control and suppression plan including the plant operations and haul roads to and from plant to project;

(iii) A statement indicating the typical hours of operation. The plant may operate no more than fourteen hours per day, except on New Year Day, Memorial Day, the 4th of July, Labor Day, Thanksgiving Day, and Christmas when the operation shall not begin before noon;

(iv) A description or manufacturer's specification regarding particulate control equipment;

(v) A copy of a signed contract or other verification that the applicant is under contract to supply concrete for a project requiring at least 3,000 yards of concrete located within the same section or one mile of the permitted plant. The contract or other verification shall include the commencement and ending dates of the project. The Planning Director may increase the one-mile distance limit to no more than two miles if necessary to avoid routing trucks through local streets or inadequate county roads, or locations near occupied dwellings, schools, libraries, churches, or other noise or dust sensitive uses; and

(vi) A noise control plan that will allow the operation to comply with Chapter 8.24 of the Lincoln Municipal Code.

(vii) A copy of a signed lease or other verification that the applicant has permission of the owner of the land upon which the plant shall be located to locate the plant thereon.

(2) The administrative permit shall be issued under the following conditions:

(i) The plant shall be located on premises in the same section or within one mile of the project identified on the application or as authorized under subparagraph (d)(1)(v) above;

(ii) The silo, batch plant, and aggregate storage shall be located no closer than 300 feet from an occupied dwelling or from any school, church, library, early childhood care facility, hospital, motel, or park;

(iii) The permittee shall require its suppliers to use only paved roads approved by the Director of Public Works or the County Engineer as the case may be, for the delivery of supplies to the concrete batch plant. The permittee shall further require that the drivers of concrete trucks leaving the plant also use said paved roads. EXCEPTION: The use of nonpaved roads may be approved on a case-by-case basis by the Director of Public Works or County Engineer. Additional bonding may be required to pay for repairs of damage to such nonpaved roads;

(iv) The plant shall be removed upon completion of the project identified in the application; or upon construction and occupancy resulting in a violation of subparagraph (d)(2)(ii) above. The permit site shall be cleaned up and restored to its pre-permit condition within thirty days following the completion of the project;

(v) All concrete produced by this plant shall be used to complete the project, except that the permittee may use the concrete product for sidewalks, driveways, foundations, parking lots, and other small concrete work to be performed by the permittee. The concrete shall not be provided for concrete work to be performed by persons other than the permittee. The amount of concrete produced for small concrete work shall not exceed fifty percent of that produced for the project;

(vi) The plant shall be recalibrated to the satisfaction of the Public Works and Utilities Department prior to construction of any public improvement using concrete produced by this plant;

(vii) The anticipated set up and removal dates shall be identified on the application. Amendments to these dates must be requested to the Planning Director in writing;

(viii) The applicant shall submit a performance bond satisfactory to the City Attorney in the amount of \$5,000 to guarantee performance and clean up of the permit site.

(3) Permits issued pursuant to this section shall expire on December 31 of each year or the completion date of the project as set forth in the permit application, whichever is earlier. The Planning Director may extend the expiration date by an administrative amendment upon a showing that the project completion is delayed by weather or other causes beyond control of the permittee, or that the permittee has contracted for another project in conformance with subparagraph (a) above; however, no extension of the expiration date may extend the permit beyond December 31 of the year of issuance. Renewal of a previously issued permit shall be by application in the same form as the original permit.

(4) The Planning Director may revoke the temporary permit for any one or more of the following violations:

(i) Failure to operate the facility in accordance with the provisions of this section or with the approved application;

(ii) A violation of any city, county, state, or federal law;

(iii) Denial of access to the site to determine compliance with this section;

(iv) Unreasonable noise or disturbance to the surrounding neighborhood;

(5) The action of the Planning Director in approving, denying, refusing to renew or revoking a

permit pursuant to this section may be appealed. Any aggrieved person may appeal the action of the Planning Director to the Planning Commission by filing notice of appeal with the Planning Director within fourteen days following the decision of the Planning Director. Final action by the Planning Commission may be appealed to the City Council by any aggrieved person by filing notice of appeal with the City Clerk within fourteen days following the action by the Planning Commission. (Ord. 18369 §1; May 24, 2004; prior Ord. 17501 § 1; May 3, 1999; Ord. 17214 §1; July 14, 1997; Ord. 13221 §1; October 12, 1981; Ord. 12571 §384; May 8, 1979).

27.71.130 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 addition, in the R-5, R-6, R-7, and R-8 districts, the lot or tract must meet the minimum lot requirements and conditions in said district for each main building or use. (Ord. 18957 §2; July 9, 2007; prior Ord. 12571 §385; May 8, 1979).

27.71.140 Two or More Buildings for Two-family Dwellings, Multiple-family, or Institutional Purposes.

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

under the special permit or planned unit development. (Ord. 19018 §1; November 5, 2007; prior Ord. 18957 §3; July 9, 2007; Ord. 13326 §1; March 1, 1982; Ord. 12571 §386; May 8, 1979).

27.71.150 Multiple Dwelling Considered as One Building.

For the purpose of the side yard regulations, a two-family dwelling or a multiple dwelling shall be considered as one building occupying one lot. (Ord. 12571 §387; May 8, 1979).

27.71.155 Projection of Building Facades into the Required Front Yard in the R-4, R-5, R-6, R-7, and R-8 Districts in Areas of the City Annexed Prior to January 31, 1949.

The following provisions shall apply to the R-4, R-5, R-6, R-7 and R-8 districts in areas of the City annexed prior to January 31, 1949. In order to encourage variation of the front elevation, up to twenty-five percent of the length of the principal street facade of a building may project up to two feet into the required front yard. Notwithstanding the above, a porch may not project into a required front yard beyond that otherwise allowed by Section 27.71.100 or Section 27.71.110. (Ord. 17664 §11; May 1, 2000).

27.71.160 Public Utilities.

Notwithstanding the regulations of the various districts, public utilities structures may be erected where necessary in any district on any lot of one acre or more in area. Poles and towers used for the support of wires and appurtenant equipment for supplying public utility services shall not be considered as structures or buildings under this title. When located adjacent to any residential district, such structures shall be screened in conformance with the standards adopted by resolution of the City Council. (Ord. 12571 §389; May 8, 1979).

27.71.165 Outdoor Lighting.

All outdoor lighting shall be designed, installed, and maintained in accordance with all applicable lighting design standards adopted by resolution of the City Council. (Ord. 18514 §1; March 14, 2005).

27.71.170 Adjustment of Front Yard Requirements.

The front yards located within the same zoning district may be adjusted in the hereinafter-stated circumstances. This section shall not apply to the R-3, O-3, B-2, B-5, H-4, and I-3 zoning districts.

(a) Where any forty percent (40%) or more of the frontage in the same zoning district is developed with two or more main buildings that have (with a variation of five feet or less) a front yard greater in depth than herein required, new buildings shall not be erected closer to the street than the greater of the front yards established by the existing main building nearest the street line.

(b) Where any forty percent (40%) or more of the frontage in the same zoning district is developed with two or more buildings that have a front yard of less depth than herein required, then:

(1) Where a building is to be erected on a parcel of land that is within 100 feet of existing main buildings on both sides, the minimum front yard shall be a line drawn between the two closest front corners of the adjacent main building on each side; or

(2) Where a building is to be erected on a parcel of land that is within 100 feet of an existing main building on one side only, such building may be erected as close to the street as the existing adjacent main building. (Ord. 17232 §21; August 18, 1997; prior Ord. 13588 §21; May 9, 1983; Ord. 13363 §1; 1982; Ord. 13084 §1; January 26, 1981; Ord. 12979 §1; August 25, 1980; Ord. 12571 §390; May 8, 1979).

27.71.175 Adjustment of Yard and Lot Area Requirements to Allow the Subdivision of a Lot.

(a) Subdivision of a Two-Family Dwelling on a Corner Lot. In the R-1, R-2, R-3, R-4, R-5, R-6, R-7, and R-8 zoning districts, the Planning Director may adjust the required side yard, rear yard, or lot area for a single-family dwelling to permit the subdivision of a corner lot occupied by a two-family dwelling constructed as two attached single-family dwellings within a single structure into two lots each occupied by one of the two single-family dwellings; provided, however, the two-family dwelling must have conformed to the required lot area and yard regulations prior to the subdivision.

(b) Subdivision of a Two-Family Dwelling on an Interior Lot. In the R-1, R-2, R-3, R-4, R-5, R-6, R-7, and R-8 zoning districts, the Planning Director may adjust the lot area, lot width, or both, for a single-family dwelling to permit the subdivision of an interior lot occupied by or to be occupied by a two-family dwelling constructed as two attached single-family dwellings within a single structure into separate lots each occupied by one of the single-family dwellings within said two-family dwelling; provided, the lot to be subdivided conforms to the required lot area regulations for the two-family dwelling prior to the subdivision.

(c) Subdivision of a Townhouse on an Interior Lot. In the R-5, R-6, R-7, and R-8 zoning districts, the Planning Director may adjust the lot area, lot width, or both, for a single-family dwelling to permit the subdivision of an interior lot occupied by or to be occupied by a townhouse into two or more separate lots each occupied by one of the single-family dwellings within said townhouse; provided, the lot to be subdivided conforms to the required lot area regulations for the townhouse prior to the subdivision. (Ord. 17290 §1; February 9, 1998; prior Ord. 16971 §6; April 22, 1996).

27.71.180 Side and Rear Yard Requirements.

The requirements of side or rear yards on lots that are required to provide three or more front yards or their equivalent may be modified in the following circumstances:

(a) A lot in a dwelling district need provide only a side yard on an interior lot line when the required yard on the adjacent property is also a side yard. A rear yard shall be required on an interior lot line when the required yard on adjacent property is a rear yard.

(b) A lot in a business, commercial, or industrial district need provide only a side yard on an interior lot line unless the lot is occupied by a dwelling other than a hotel or motel, or the adjacent property is in a dwelling district, in which case the rules of subsection (a) of this section shall apply. (Ord. 12571 §391; May 8, 1979).

27.71.190 Building Line District.

On those streets and highways shown on the "Lincoln Building Line District Map," dated November 1, 1985, which is adopted as a part hereof and incorporated by reference herein, and as the same may be from time to time amended, no structure, sign, parking, or required vehicle stacking shall be located, constructed, or erected within an area designated as a building line district, except as permitted under Section 27.71.200. At intersections that are designated as being within a building line district, the district shall extend for a distance of 650 feet from the centerline of the intersecting street or to the next lot line beyond 650 feet, but not to exceed 700 feet. The street centerlines referred to in this section and on the

"Lincoln Building Line District Map" refer to the street centerlines as they existed on the effective date of this title. (Ord. 15129 §1; March 20, 1989: prior Ord. 14386 §1; May 19, 1986: Ord. 13556 §1; March 7, 1983: Ord. 12947 §3; June 30, 1980: Ord. 12571 §392; May 8, 1979).

27.71.200 Uses Within Building Line Districts; Adjustments.

(a) The City Council may authorize by resolution the location or placement of accessory buildings and structures, not including main buildings or accessory buildings which are part of a main building, within a building line district; provided that such location or placement otherwise meets the requirements of all applicable ordinances, codes, and design standards. Where such uses are not otherwise permitted in the required yard by the applicable district regulations, such uses may not be located within a building line district but the city council, by resolution, may allow such uses to encroach into the required yard, measured from the yard line, a distance equal to the width of the building line district, but in no event beyond the required yard. The applicant for such building or structure shall agree in writing that it shall be moved at the sole cost of the applicant whenever necessary for public use.

(b) Parking spaces, other than required parking, and signs may be located within a building line district and shall not require authorization by the City Council if the applicable district regulations otherwise permit the location of such uses in the required yard. Where such uses are not otherwise permitted in the required yard by the applicable district regulations, such uses may not be located within a building line district but may encroach into the required yard, measured from the yard line, a distance equal to the width of the building line district, but in no event beyond the required yard. Such parking spaces or signs shall comply with all other applicable ordinances, codes, and design standards relating thereto. Signs authorized by this section shall be removed at the sole cost of the property owner whenever necessary for public use. In the case of parking authorized by this section, the property owner shall agree to reimburse the city for the costs of removal of the parking which exceed the costs the city would normally incur in the widening of such street without the existence of such parking spaces.

(c) The City Council may modify the building line district along the frontage in a block to permit reasonable use of individual property; provided, however, that such a modification shall be granted only when the City Council finds that the modification will not interfere with reasonably anticipated future right-of-way requirements. Any such modification shall first be submitted to the Planning Commission for its recommendation and report and, prior to action by the Planning Commission, all property owners of the frontage in the block for which the modification is requested shall be notified of such request by United States mail. This notice shall be in addition to, and not in lieu of, the notice requirements of Chapter 27.81 of this code.

(d) For purposes of this section, the yard line and the required yard shall be measured from the building line district line rather than the lot line or property line. (Ord. 15129 §2; March 20, 1989: prior Ord. 14386 §2; May 19, 1986: Ord. 14253 §1; October 21, 1985: Ord. 13556 §2; March 7, 1983: Ord. 12720 §1; October 22, 1979: Ord. 12571 §393; May 8, 1979).

27.71.210 Enlargement and Alteration of Lots.

(a) Any lot or premises which does not meet the area, width, or frontage requirements, or any combination thereof, of the district in which it is situated, may be enlarged without affecting the purposes for which it may be used; provided, that such enlargement does not result in the creation of an additional lot which does not conform to the applicable requirements of this code.

(b) In the AG or AGR zoning district, the common lot lines of two or more adjoining lots, both or all of which do not meet the area, width, or frontage requirements, or any combination thereof, of the district in which such lots are situated, may be altered without affecting the purposes for which such lots may be used, provided:

(1) That such alteration does not result in the creation of a lot which does not meet the minimum standards for water and sanitary sewage disposal systems as required by applicable state, county, and city regulations; and

(2) That such alteration meets all requirements of the city land subdivision ordinance.

(3) That the newly created lots in the AG zoning district shall have a required front yard, side yard and rear yard that conforms to Section

27.07.080(h)(3)(i); except that the required side yard shall not be less than ten percent of the lot width or fifteen feet, whichever is greater.

(4) That the newly created lots in the AGR zoning district shall have a required front yard, side yard and rear yard that conforms to Section 27.09.080(a); except that the required side yard may be adjusted for corner lots or lots with a width of 100 feet or less as provided in subsections 27.09.080(c) or (d), respectively.

(c) In those instances where a governmental agency acquires land for the purposes of road right-of-way from lots which were legally existing on the effective date of this title, or lots which were lawfully created after the effective date of this section, the acquisition of said right-of-way shall not affect the status of said lot as a buildable lot with respect to minimum lot area, width, or frontage requirements of this title provided:

(1) That all new construction, enlargements, extensions, or conversions of any buildings, structures, or uses including open land uses shall comply with all applicable provisions of this title.

(2) That such lots located in AG and AGR districts contain a minimum of one acre and have an average lot width of not less than 150 feet.

(3) That such lots located in an "R" residential district contain a lot area of not less than 4,000 square feet and an average lot width of not less than forty feet. (Ord. 18922 §1; May 7, 2007; prior Ord. 16409 §1; July 6, 1993; Ord. 15615 §1; July 9, 1990; Ord. 13324 §1; March 1, 1982; Ord. 13100 §1; March 2, 1981).

27.71.220 Replacing Non-standard Accessory Building on Narrow Lot.

In the R-1, R-2, R-4, R-5, R-6, R-7, and R-8 zoning districts, a new or replacement accessory building may be erected on the site of an existing detached accessory building constructed on or before November 2, 1953, on a lot of record with an average lot width of less than fifty feet although the site does not meet the required minimum setback from a side, rear, or side and rear lot line(s), provided:

(a) Such new or replacement accessory building does not extend beyond the exterior perimeter of the existing accessory building; and

(b) Such new or replacement accessory building shall otherwise comply with all applicable city ordinances. (Ord. 13527 §1; January 3, 1983).

27.71.230 Minimum Separation Between Buildings and Pedestrian Way Easement.

The minimum separation between a building and a pedestrian way easement shall be ten feet. (Ord. 13957 §1; September 17, 1984).

27.71.240 Yard Accessories in Required Yards.

Poles, posts, and other customary yard accessories, ornaments, and furniture may be located in any yard subject to requirements limiting obstruction of visibility and height limitations. (Ord. 14448 §1; July 28, 1986).

27.71.250 Buildings, Churches, Height of.

In all districts where churches are allowed, the main church building including church steeples, towers, and ornamental spires, used for the conduct of worship or religious services, may exceed the district height limit by the addition of one foot for each foot that such building is set back from all required yards. (Ord. 17105 §1; December 2, 1996).

27.71.260 Premises That Do Not Meet the Minimum Acreage Requirement of the O-3, B-2, B-5, or I-3 District.

A use permit may be granted upon a premises which does not meet the minimum total acreage requirement for approval of a use permit in the O-3, B-2, B-5, or I-3 zoning district, provided that:

(a) The premises was legally created prior to January 1, 2000;

(b) The premises has remained under separate ownership from adjoining properties formerly in the applicable district; and

(c) The zoning district in which the premises is located has been reduced in size by other changes of zone isolating the premises from similarly zoned properties. (Ord. 17668 §1; May 15, 2000).

27.71.270 Outdoor Dining.

Outdoor dining is permitted in the O-3, B-1, B-2, B-3, B-4, B-5, H-1, H-2, H-3, H-4, I-1, I-2, and I-3 zoning districts. In the B-1, B-3, B-4, H-1, H-2 and H-3 zoning districts outdoor dining is permitted in the required front yard. In the O-3, B-2, B-5, H-4, I-1, I-2 and I-3 zoning districts, outdoor dining is permitted in the required front yard; provided, that a five foot setback shall be maintained from the property line. No outdoor dining is permitted in any side or rear yard. (Ord. 18770 §7; July 24, 2006).

Chapter 27.75

BOARD OF ZONING APPEALS

Sections:

- 27.75.010 Creation; Membership.
- 27.75.020 Meetings.
- 27.75.030 Appeal Procedure.
- 27.75.040 Jurisdiction.
- 27.75.050 Decisions of Board; Scope and Factors Considered.
- 27.75.060 Decision of Board Transmitted to City Clerk.

27.75.010 Creation; Membership.

The Board of Zoning Appeals is hereby continued, and members of the board on the effective date of this title shall continue to serve for the remainder of their appointed terms. The members of said board shall be appointed by the Mayor with the consent of the City Council, and such members must be approved by the County Board of Commissioners before the board may be the City-county Board. There shall be five members of the board, and not less than one nor more than two shall be members of the Planning Commission. Two members of the board shall have experience in the fields of real estate, law, planning, or related fields. Appointments shall be made for a term of five years, and one term shall expire each year. Vacancies shall be filled by appointment for the unexpired term only. Members may be removed by the affirmative vote of four members of the City Council after being given a written statement of the charges, and a hearing, which shall be a public hearing if the member so requests. (Ord. 12571 § 394; May 8, 1979).

27.75.020 Meetings.

The members of the Board of Zoning Appeals shall meet at least once each month at such time and place as they may fix by resolution. They shall select one of their number as chairman, who shall serve one year and until a successor has been selected. Special meetings may be called at any time by the chairman. A majority of the board shall constitute a quorum for the transaction of business, and three affirmative votes shall be required for final action on any matter acted upon by the board. The board shall cause a proper record to be kept of its proceedings. (Ord. 12571 § 395; May 8, 1979).

27.75.030 Appeal Procedure.

(a) Appeals to the Board of Zoning Appeals may be taken by any person aggrieved or by any office, department or bureau of the City of Lincoln affected by any decision of the director of building and safety. The decision of the director of building and safety shall be made in writing and the appeal shall be taken within sixty days from such written decision by filing with the director of building and safety a notice of appeal specifying the grounds thereof. The Director of Building and Safety shall forthwith transmit to the Board of Zoning Appeals all the papers constituting the record upon which the action appealed from is taken.

(b) Upon receipt of the appeal by the board, the board shall fix a reasonable time for the hearing thereon within thirty days. Notice shall be given as provided in Chapter 27.81.

(c) If, due to the absence of one or more of the members of the board, any proposition put to a vote shall fail to receive three or more votes either for or against, said proposition shall be deemed to have received neither approval nor disapproval. (Ord. 12571 § 396; May 8, 1979).

27.75.040 Jurisdiction.

The jurisdiction of the Board of Zoning Appeals shall be limited to the following:

(a) Powers relative to errors. To hear appeals where it is alleged there is an error in any order, decision, or determination made by an administrative official in the enforcement of this title;

(b) Powers relative to variances. To hear and decide upon petitions for variances and, subject to such standards, principles, and procedures provided in this title, to vary the strict application of the height, area, parking, density or sign requirements to the extent necessary to permit the owner a reasonable use of the land in those specified instances where there are peculiar, exceptional and unusual circumstances in connection with a specific parcel of land, which circumstances are not generally found within the locality or neighborhood concerned.

(c) Powers relative to exceptions. Upon petition, the board is hereby empowered to make the following zoning exceptions:

(1) To permit the reconstruction of a nonconforming building which has been destroyed, or partially destroyed by fire or act of God where the board shall find some compelling public necessity

requiring the continuance of the nonconforming use;

(2) To interpret the provisions of the title where the street layout actually on the ground varies from street layout as shown on the map fixing the several districts, which map is attached to and made a part of the title;

(3) To reduce the parking requirements in the commercial, business or industrial districts whenever the character of the use of building is such as to make unnecessary the full provisions of parking facilities as required. In permitting a reduction, the board may restrict the use of the building to uses requiring a similar reduced number of parking facilities. The granting of a reduction in parking requirements shall not serve as a convenience to the petitioner but shall recognize the varying demands for off-street parking by different uses that cannot reasonably be determined in detail in the zoning ordinance.

(d) Powers relative to airport zoning. The board shall have the power designated to it by Sections 27.59.110 and 27.59.120. (Ord. 14649 §1; April 20, 1987; prior Ord. 13440 §1; September 7, 1982; Ord. 12571 §397; May 8, 1979).

Annot.: Use variances are customarily concerned with "hardship" while area variances are customarily concerned with "practical difficulty." Alumni Control Board v. City of Lincoln, 179 Neb. 194, 137 N.W.2d 800 (1965). Proper criteria on review of application for variance include:

(1) *Whether strict compliance would preclude a permitted use of property;*

(2) *Whether grant of variance would do substantial justice to both property owner and neighbors;*

(3) *Whether relief can be granted in such a fashion that the spirit of the ordinance will be observed and the public safety and welfare secured. Id. University of Nebraska housing code and economic realities applying to fraternity house operation are not practical difficulties sufficient to sustain an application for a variance.*

27.75.050 Decisions of Board; Scope and Factors Considered.

In exercising the above-mentioned jurisdiction, the board may in conformity with the provisions of this title reverse or affirm, wholly or partially, or may modify the order, requirement, decision, or

determination appealed from and may make such decision as ought to be made. In considering all appeals and petitions within its jurisdiction under this title, the board shall, before making any finding in a specific case, first determine that the proposed change will not constitute a change in the district map and will not impair an adequate supply of light and air to adjacent property, or increase the congestion in public streets, or increase the public danger of fire and safety, or materially diminish or impair established property values within the surrounding area, or in any other respect impair the public health, safety, comfort, morals, and welfare of the City of Lincoln. In making a determination, the board may request information and recommendations from any department of the City of Lincoln. Every decision by the board shall be accompanied by a written finding of fact based on testimony and other evidence, specifying the reason for granting or denying the variation. In the event that the proposed variance or exception is denied by the Board of Zoning Appeals, no new request shall be made for the same or a substantially similar variance or exception within one year of said denial thereof. (Ord. 12571 §398; May 8, 1979).

27.75.060 Decision of Board Transmitted to City Clerk.

Decisions of the Board of Zoning Appeals, accompanied by the written findings of fact, shall be transmitted to the City Clerk by the board within one week after such actions have been taken. Any decision approving an appeal shall be by resolution of the board, a certified copy of which shall be filed with the Register of Deeds by the petitioner at the expense of the petitioner within sixty days after such approval, or such approval shall be null and void. (Ord. 12571 §399; May 8, 1979).

Chapter 27.77
**CERTIFICATES OF OCCUPANCY AND
CERTIFICATES OF COMPLIANCE**

Sections:

- 27.77.010 Required for Changed or New Occupancy.**
- 27.77.020 Certificate of Occupancy; Required for Building Permit.**
- 27.77.030 Certificate of Occupancy; Required for Nonconforming Uses.**
- 27.77.040 Record of Certificates of Occupancy to be Kept.**
- 27.77.050 Special Permits; Certificate of Compliance.**

27.77.010 Required for Changed or New Occupancy.

Subsequent to the effective date of this title, no change in the use or occupancy of land, nor any change of use, occupancy, or occupancy classification under the building code of any existing building or portion thereof shall be made, nor shall any new building be used or occupied, except as hereinafter specifically provided, until a certificate of occupancy has been issued by the building official. Every certificate of occupancy shall state that the new use, occupancy, or occupancy classification complies:

(a) With the provisions of this title or with the terms, conditions, and requirements of the special permit authorizing such building or use, as the case may be; and

(b) With the provisions of the building code. Such certificate shall include, where applicable:

- (1) The building permit number;
- (2) Address and legal description;
- (3) The name of the owner;
- (4) A description of the building or portion thereof, or of the premises or portion thereof for which the certificate is issued;
- (5) The name of the building official issuing the same. (Ord. 12571 §400; May 8, 1979).

27.77.020 Certificate of Occupancy; Required for Building Permit.

No permit for the erection, structural alteration, conversion, enlargement or reconstruction of any building or use of land shall be issued before the application has been submitted, reviewed and a finding made that the proposed uses will meet the requirements of the zoning ordinance for a certificate of occupancy; and no building or premises shall be used or occupied until such certificate is issued. (Ord. 12571 §401; May 8, 1979).

27.77.030 Certificate of Occupancy; Required for Nonconforming Uses.

A certificate of occupancy shall be required of all lawful nonconforming uses of land or buildings created by adoption of or amendment to this title. Application for such certificates of occupancy for nonconforming uses shall be filed with the building official by the owner or lessees of the land or building occupied by such nonconforming use within two years from the date that such nonconforming use is created. It shall be the duty of the building official to issue a certificate of occupancy for a lawful nonconforming use. Failure of the building official to issue such certificate of occupancy for nonconforming use may be considered evidence that such nonconforming use did not lawfully exist at the effective date of this title or any amendment thereto creating such a nonconforming use. (Ord. 12571 §402; May 8, 1979).

27.77.040 Record of Certificates of Occupancy to be Kept.

A record of all certificates of occupancy shall be kept on file in the office of the building official, and copies shall be furnished on request to any person having a proprietary or tenancy interest in land or buildings affected by such certificate of occupancy. (Ord. 12571 §400; May 8, 1979).

27.77.050 Special Permits; Certificate of Compliance.

Upon completion of construction of any

Upon completion of construction of any improvements as authorized or required by the City Council for any buildings or uses for which a special permit was granted, the permittee may apply for inspection and partial certification, and upon completion of construction of all such improvements, the permittee shall apply to the building official for a certificate of compliance, which certificate shall not be issued until the building official has inspected the premises covered by the special permit and has found that all terms, conditions, and requirements of the special permit have been complied with. If the building official finds at any time that the terms, conditions, and requirements of a special permit have not been complied with, or that any phase thereof has not been completed within the time required under said special permit or any administrative amendment thereto, the building official shall report this fact to the City Council which may, after a hearing of which the permittee shall be notified, revoke such special permit for failure to comply with such terms, conditions, and requirements, or take such other action as it may deem necessary to obtain compliance. Any amendment to a special permit approved subsequent to the issuance of a certificate of compliance for such special permit shall require application by the permittee for a new certificate of compliance which shall not be issued until the building official has ascertained that any terms, conditions, and requirements of the amendment to the special permit have been complied with. For purposes of this section, the term "special permit" shall include authorizations under Chapters 27.31, 27.37, 27.53, 27.65, 27.63, and 27.69. (Ord. 12571 §404; May 8, 1979).

**Chapter 27.79
PLOT PLAN**

Section:

**27.79.010 Plot Plan to Accompany
Application for Building
Permit.**

**27.79.010 Plot Plan to Accompany
Application for Building Permit.**

Each application for a building permit shall be accompanied by a plot plan showing the actual dimensions of the lot to be built upon, the size, shape, and location of the building to be erected, and such other information as may be necessary to provide for the enforcement of this title. A record of applications and plot plans shall be kept in the office of the Director of Building and Safety. (Ord. 12571 §405; May 8, 1979).

27.200.1

Chapter 27.80

FEEES

Sections:

27.80.010 General Regulations.

27.80.010 General Regulations.

Any person applying for a change of zone, a planned unit development, a use permit, a community unit plan, a special permit, an administrative amendment to a use permit, special permit, or planned unit development, an appeal to the Board of Zoning Appeals, an administrative height permit in connection with the Airport Zoning District, a reduction of required parking as provided in Section 27.67.030, a floodplain development permit, a text change, a postponement which requires additional legal notice, or any other application under Title 27 of the Lincoln Municipal Code shall pay an appropriate fee therefor established by resolution of the City Council. Under no condition shall any fee be refunded for failure of said application to be granted by the City Council or other appropriate authority. No fee shall be required when any application or requested action is initiated by the City Council on its own motion, or by any council member or by any person or group officially designated to participate in the administration of this title. (Ord. 11917 §1; August 4, 2008; prior Ord. 12571 §406; May 8, 1979).

27.80.020 Change of Zone.

(Repealed by Ord. 11917 §2; August 4, 2008; prior Ord. 18229 §6; August 18, 2003; Ord. 17548 §1; September 7, 1999; Ord. 15214 §1; July 10, 1989; Ord. 12571 §407; May 8, 1979).

27.80.025 Planned Unit Development.

(Repealed by Ord. 11917 §2; August 4, 2008; prior Ord. 18484 §1; December 20, 2004; Ord. 18229 §7; August 18, 2003; Ord. 17548 §2; September 7, 1999; Ord. 15214 §2; July 10, 1989).

27.80.030 Use Permits.

(Repealed by Ord. 11917 §2; August 4, 2008; prior Ord. 18229 §8; August 18, 2003; Ord. 17548 §3; September 7, 1999; Ord. 17232 §22; August 18,

1997; Ord. 16789 §1; May 8, 1995; Ord. 15214 §3; July 10, 1989; Ord. 14138 §5; July 1, 1985; Ord. 12751 §33; November 5, 1970; Ord. 12571 §408; May 8, 1979).

27.80.040 Community Unit Plan or Mobile Home Court/Mobile Home Subdivision.

(Ord. 11917 §2; August 4, 2008; prior Ord. 18229 §9; August 18, 2003; Ord. 17548 §4; September 7, 1999; Ord. 15214 §4; July 10, 1989; Ord. 12571 §409; May 8, 1979).

27.80.050 Mobile Home Courts and Mobile Home Subdivisions.

(Repealed by Ord. 18229 §10; August 18, 2003; Ord. 17548 §5; September 7, 1999; Ord. 15214 §5; July 10, 1989; Ord. 12657 §18; August 6, 1979; Ord. 12571 §410; May 8, 1979).

27.80.060 Special Permit.

(Repealed by Ord. 11917 §2; August 4, 2008; prior Ord. 18229 §11; August 18, 2003; Ord. 17548 §6; September 7, 1999; Ord. 15214 §6; July 10, 1989; Ord. 14138 §6; July 1, 1985; Ord. 12571 §411; May 8, 1979).

27.80.070 Administrative Amendments.

(Repealed by Ord. 11917 §2; August 4, 2008; prior Ord. 18229 §12; August 18, 2003; Ord. 17548 §7; September 7, 1999; Ord. 15214 §7; July 10, 1989; Ord. 12571 §412; May 8, 1979).

27.80.080 Board of Zoning Appeals.

(Repealed by Ord. 11917 §2; August 4, 2008; prior Ord. 18229 §13; August 18, 2003; Ord. 17548 §8; September 7, 1999; Ord. 15214 §8; July 10, 1989; Ord. 12571 §413; May 8, 1979).

27.80.090 Airport Zoning.

(Repealed by Ord. 11917 §2; August 4, 2008; prior Ord. 18229 §14; August 18, 2003; Ord. 17548 §9; September 7, 1999; Ord. 15214 §9; July 10, 1989; Ord. 12571 §414; May 8, 1979).

27.80.100 Parking.

(Repealed by Ord. 11917 §2; August 4, 2008; prior Ord. 18229 §15; August 18, 2003; Ord. 17548 §10; September 7, 1999; Ord. 15214 §10; July 10, 1989; Ord. 12571 §415; May 8, 1979).

27.80.105 Flood Plain Development Permits.

(Repealed by Ord. 11917 §2; August 4, 2008: prior Ord. 18229 §16; August 18, 2003: Ord. 17063 §1; September 23, 1996).

27.80.110 Changes in Text.

(Repealed by Ord. 11917 §2; August 4, 2008: prior Ord. 18229 §17; August 18, 2003: Ord. 17548 §11; September 7, 1999: Ord. 15214 §11; July 10, 1989: Ord. 12571 §416; May 8, 1979).

27.80.120 Subdivision Promotion Activity Permits.

(Repealed by Ord. 18229 §18; August 18, 2003: prior Ord. 17548 §12; September 7, 1999: Ord. 15214 §12; July 10, 1989: Ord. 12571 §417; May 8, 1979).

27.80.125 Postponement Fee.

(Repealed by Ord. 11917 §2; August 4, 2008: prior Ord. 18229 §19; August 18, 2003).

27.80.130 General Fees.

(Repealed by Ord. 11917 §2; August 4, 2008: prior Ord. 18229 §20; August 18, 2003: Ord. 17548 §13; September 7, 1999: Ord. 15214 §13; July 10, 1989: Ord. 12571 §418; May 8, 1979).

27.80.140 Exemption for City Filing on Its Own Behalf.

(Repealed by Ord. 11917 §2; August 4, 2008: prior Ord. 18229 §21; August 18, 2003: Ord. 12571 §419; May 8, 1979).

Chapter 27.81

GENERAL PROVISIONS

Sections:

- 27.81.010 General Regulations.**
- 27.81.020 Interpretation, Purpose, and Conflict.**
- 27.81.021 Appeals of Administrative Approvals.**
- 27.81.022 Notice of Administrative Approvals.**
- 27.81.025 Publication in Pamphlet Form.**
- 27.81.030 Purpose of Catch-heads, Introductory Statements, and Illustrations.**
- 27.81.040 Amendments.**
- 27.81.050 Notice of Public Hearings.**
- 27.81.060 Enforcement.**
- 27.81.070 Violation and Penalty.**
- 27.81.080 Severability.**
- 27.81.090 Conflicts.**
- 27.81.100 Savings Clause.**
- 27.81.110 When Effective.**

27.81.010 General Regulations.

The following general regulations shall apply to all zoning districts:

(a) Except as otherwise provided in this title, no building shall be erected, converted, enlarged, reconstructed, or structurally altered, nor shall any structure or land be used:

(1) Except for a purpose permitted in the district in which the structure or land is located;

(2) Except in conformance with the height and minimum lot requirements, and the parking and sign regulations, and any other applicable requirements of the district in which the structure or land is located;

(3) Except in conformance with the City of Lincoln Design Standards (but not including Appendix A) for Zoning Regulations adopted by resolution of the City Council.

(b) The minimum yards and other open spaces, including lot area per family, required by this title for each and every building at the time of passage of this

title or for any building hereafter erected shall not be encroached upon or considered as yard or open space requirements for any other buildings, nor shall any lot area be reduced beyond the district requirements of this title.

(c) There shall be no grading or disturbance of any land one acre or greater in size except for tilling, cultivation, or agriculturally related conservation practices without first submitting a drainage and grading plan to the Director of Public Works and Utilities. No person shall engage in construction activity in the Construction Site Discharges Overlay District without a permit in conformance with Chapter 28.01 setting forth the requirements of the design standards applicable to stormwater management, erosion and sedimentation control, including the preservation of minimum flood corridors, and obtaining approval of said plan; provided, however, that the requirement to preserve a minimum flood corridor will not apply to property within a subdivision approved prior to March 8, 2000. The required grading and drainage plan may be waived by the Director of Public Works and Utilities upon submittal of a written request for such waiver stating that the grading or land disturbance is conducted as part of agricultural operations, that the land will remain in agricultural use for a period not less than three years, and that grading or land disturbance for any other purposes shall not be conducted prior to submitting and obtaining approval of a grading and drainage plan as required by this section. For the purpose of this section, the Construction Site Discharges Overlay District is defined to mean the corporate limits of the City of Lincoln and the land outside the corporate limits designated as Tier I.

(d) On or after May 1, 2006, no permit for the erection or construction of any new building and no permit for the substantial enlargement of any existing building located in the O-2, O-3, R-T, B-1, B-2, B-3, B-5, H-1, H-2, H-3, H-4, I-1, I-2, and I-3 zoning district shall be issued before the applicant has submitted a Pedestrian Circulation Plan to the City for review and approval. In addition, on or after May 1, 2006, no permit for the erection or construction of any club or health care facility pursuant to Sections 27.63.200 and 27.63.080, respectively, and no permit for the substantial enlargement of any club or health care facility shall be issued before the permittee has

submitted a Pedestrian Circulation Plan to the City for review and approval. The Pedestrian Circulation Plan shall conform to the City of Lincoln's Design Standards for Pedestrian Circulation in Commercial and Industrial Areas. An on-site sidewalk system shall be constructed for any new building and for any redevelopment of any existing building in accordance with the approved Pedestrian Circulation Plan prior to the issuance of a certificate of occupancy for the building. For the purpose of this section, substantial enlargement shall mean any addition to an existing building the cost of which equals or exceeds fifty percent of the County Assessor's assessed value of the property before the start of construction of the addition.

(e) Every building hereafter erected or structurally altered shall be located on a lot as herein defined and in no case shall there be more than one main building on one lot except as otherwise provided in Chapters 27.60, 27.63, 27.65, and 27.71.

(f) All inhabited or occupied mobile homes shall conform to one of the following:

(1) Used as a dwelling and located in a mobile home court or mobile home subdivision operating under a valid special permit in conformance with Chapter 27.63;

(2) Used as a dwelling associated with a farm;

(3) Used as a temporary office or shelter incidental to construction or development on the premises on which the mobile home is located; or

(4) One mobile home may be used as an office in any mobile home court or mobile home subdivision operating under a valid special permit in conformance with Chapter 27.63; provided, the mobile home used as an office is located on an approved mobile home space or lot and such office is used only for conducting the business of the mobile home court or subdivision in which the office is located. Said mobile home may also be used as a dwelling.

(5) One mobile home may be used as an office in any campground operating under a valid special permit in conformance with Chapter 27.63; provided, the mobile home is used only for conducting the business of the campground. Said mobile home may also be used as a dwelling for the campground manager.

A mobile home not in conformance with one of the above shall not be occupied or inhabited; nor shall

it be connected to utilities, except when being displayed for sale by a dealer or manufacturer.

(g) If a single building or lot is located in two or more zoning districts, each part of the building or lot shall comply with the regulations of the district in which it is located, except as provided in Chapter 27.05 or Chapter 27.75. (Ord. 19018 §2; November 5, 2007; prior Ord. 18948 §1; June 25, 2007: Ord. 18687 §31; March 20, 2006; Ord. 18362 §1; May 10, 2004: Ord. 18186 §1; June 2, 2003: Ord. 17618 §28; February 22, 2000; Ord. 14469 §2; August 18, 1986: Ord. 14348 §1; March 31, 1986: Ord. 13535 §6; January 24, 1983: Ord. 12571 §420; May 8, 1979).

27.81.020 Interpretation, Purpose, and Conflict.

In interpreting and applying the provisions of this title, they shall be held to be the minimum requirements for the promotion of the public safety, health, convenience, comfort, prosperity and general welfare. It is not intended by this title to interfere with or abrogate or annul any easements, covenants, or other agreements between parties, except that if this title imposes a greater restriction, this title shall control. (Ord. 12571 §421; May 8, 1979).

27.81.021 Appeals of Administrative Approvals.

Any council member or aggrieved person may appeal any approval or denial of (i) an administrative permit and renewal thereof for personal wireless services; (ii) an administrative amendment to a use permit, special permit, community unit plan, planned unit development; or (iii) an alternate location for a replacement sign for a nonconforming off-premises sign by the Planning Director to the Planning Commission by filing a notice of appeal within fourteen days following the date the action being appealed was approved by the Planning Director.

Any aggrieved person or any person or group officially designated to participate in the administration of this title or any council member may appeal any action of the Planning Commission approving or denying (i) an administrative permit and renewal thereof for personal wireless services; (ii) an administrative amendment to a use permit, special permit, community unit plan, planned unit development; or (iii) an alternate location for a replacement sign for a nonconforming off-premises sign to the City Council by filing a notice of appeal with the City Clerk within

fourteen days following the action of the Planning Commission.

Upon receipt of an appeal as provided above, the Planning Commission or City Council, as appropriate, shall hold a public hearing thereon within thirty days from the date of the appeal. Notice of public hearing shall be given as provided in Section 27.81.050.

In exercising its appellate jurisdiction, the action appealed from shall be deemed advisory and the Planning Commission or City Council, as appropriate, shall take final action on the application.

If the Planning Commission approves the matter being appealed from and its action is not further appealed to the City Council, the final plans shall be signed by the chairman of the Commission. If the City Council approves the final plans after an appeal, the plans shall be returned to the Planning Department for signing by the chairman of the Commission. (Ord. 19319 §1; October 19, 2009).

27.81.022 Notice of Administrative Approvals.

The Planning Director's approval of any requested amendment shall be posted on the Planning Department's webpage. The Planning Director shall further submit a weekly report to the City Clerk of Administrative Permits and Administrative Amendments approved by the Planning Director to be placed on the City Council agenda under Report of City Officers. (Ord. 19319 §2; October 19, 2009).

27.81.025 Publication in Pamphlet Form.

This title may be published in pamphlet form for distribution in the city. (Ord. 12571 §421; May 8, 1979).

27.81.030 Purpose of Catch-heads, Introductory Statements, and Illustrations.

The catch-heads appearing in connection with the sections of this title are inserted simply for convenience to serve the purpose of an index. The introductory statements found at the beginning of each zoning district are to serve as general references only. The illustrative examples of zoning terms found at the end of Chapter 27.03 and at the end of Section 27.71.190 are inserted simply for convenience and clarification. The catch-heads, introductory statements, and illustrative examples of zoning terms shall be wholly disregarded by any person, officer, court, or

other tribunal in construing the terms and provisions of this title. (Ord. 14386 §3; May 19, 1986; prior Ord. 12571 §422; May 8, 1979).

27.81.040 Amendments.

The City Council may from time to time on its own motion, or on petition, amend, supplement, or otherwise modify this title. Any such proposed amendment, supplement, or modification shall first be submitted to the Planning Commission for its recommendations and report. Said report shall contain the findings of the commission regarding the effect of the proposed amendment, supplement, or modification upon adjacent property and upon the Comprehensive Plan of the City of Lincoln. After the recommendations and report of the Planning Commission have been filed, the City Council shall, before enacting any proposed amendment, supplement, or modification hold a public hearing in relation thereto, giving notice of the time and place of such hearing as provided in Section 27.81.050 hereafter. The applicant may withdraw a request for amendment at any time before notice of the public hearing before the City Council is given. After notice of public hearing has been given, the application may only be withdrawn with the approval of the City Council.

All existing applications for a change of zone which have been placed on pending by an applicant shall automatically expire one year after the date this ordinance (Change of Zone No. 06062). All such applications which have been placed on pending by an applicant after the date of this ordinance (Change of Zone No. 06062) shall automatically expire and become null and void one year thereafter. At least thirty days before the date of expiration, the Planning Director shall cause notice of expiration to be sent to the applicant by regular United States mail, postage prepaid. Said notice shall advise the applicant that the application shall automatically expire unless prior to the expiration date, the Planning Director receives a request from the applicant to remove the application from pending and reschedule the matter on the Planning Commission or City Council agenda as appropriate.

In the event that the proposed amendment or change is denied by the City Council, no new request shall be made for the same or substantially similar amendment or change within one year of said denial

thereof. (Ord. 18898 §9; March 12, 2007; prior Ord. 16044 §1; February 3, 1992; Ord. 12571 §423; May 8, 1979).

27.81.050 Notice of Public Hearings.

Public hearings required to be held by the City Council, Planning Commission, Historic Preservation Commission, or Board of Zoning Appeals under this title shall not be held until notice thereof has been given in compliance with the following provisions:

(a) A notice shall be posted in a conspicuous place on or near the property upon which action is pending. The notice shall be posted upon or as near to the subject premises as possible so that it is easily visible from the street, and such notice shall be so posted for at least eight consecutive days before the date of such hearing. It shall be unlawful for any person to remove, mutilate, destroy, or change the posted notice prior to the hearing.

(b) At least eight days before the date of hearing, the City Clerk shall have published in a daily newspaper having a general circulation in the City of Lincoln a notice of the time, place, and subject matter of the public hearing.

(c) For public hearings required to be held by the Historic Preservation Commission for an application for a designation as a landmark or landmark district or for a special permit, and for public hearings required to be held by the Planning Commission and the Board of Zoning Appeals, additional notice shall be given as follows: At least ten days before the date of hearing, the Planning Director shall cause notice of the requested item to be sent (i) to the record owner or owners of the property upon which action is pending when the petitioner for such request is other than the owner or any person or group officially designated to participate in the administration of this title and (ii) to the record owners of property located within 200 feet of the property upon which action is pending when such owners' property is located within the corporate limits of the city and to the record owners of property located within one-fourth mile of the property upon which action is pending when such owners' property is located outside the corporate limits of the city; provided, however, that subsections (i) and (ii) shall not apply when the petitioner for such request is any person or group officially designated to participate in the administration of this title. Such notice shall be

sent by regular United States mail, postage prepaid, to each owner's address as it appears on the last equalized assessment roll of the county or as known to the Planning Director.

(d) No decision or recommendation which the Historic Preservation Commission, the Planning Commission, or the Board of Zoning Appeals is required to make under this title shall be void or invalidated or affected in any way, for any irregularity, defect, error, or failure on the part of the Planning Director to cause notice to be given as required in subsection (c) above.

(e) It shall not be necessary to give further notice of adjourned or continued public hearing.

(f) Other notice, as may be deemed appropriate by the public body conducting the hearing, may be given in advance of public hearings. Such notice is not mandatory or required as a condition precedent to any such public hearing. (Ord. 15764 §1; October 29, 1990; prior Ord. 15214 §14; July 10, 1989; Ord. 15212 §1; July 3, 1989; Ord. 13219 §2; October 12, 1981; Ord. 12571 §424; May 8, 1979).

27.81.060 Enforcement.

It shall be the duty of the Director of Building and Safety of the City of Lincoln to enforce this title. Appeals from a decision of the Director of Building and Safety may be made to the Board of Zoning Appeals as provided in Chapter 27.75. (Ord. 12571 §425; May 8, 1979).

27.81.070 Violation and Penalty.

The owner or agent of a building or premises in or upon which a violation of any provision of this title has been committed or shall exist, or the lessee or tenant of an entire building or entire premises in or upon which violation has been committed or shall exist, or the agent, architect, building contractor or any other person who commits, takes part, or assists in any violation or who maintains any building or premises in or upon which such violation shall exist, shall be guilty of a misdemeanor and shall be punished by a fine not to exceed \$100.00. Each and every day that such violation continues after notification may constitute a separate offense.

In case any building or structure is in the course of being erected, constructed, reconstructed, altered, or repaired, or any excavation, filling, or grading of

land is being performed in violation of this title, the building official may order such unlawful erection, construction, reconstruction, alteration, excavation, filling, or grading stopped by written notice served on any persons engaged in such activity, and any such persons shall forthwith stop such activity until authorized to proceed by the building official. Any person who continues such activity without authorization shall be deemed in violation of this section and be subject to the penalties provided hereunder.

In addition to other remedies, in case any building or structure is in the course of being, or has been, erected, constructed, reconstructed, altered, repaired, converted, or maintained or any building, structure, or land is used in violation of this title, the City Attorney may institute injunction, mandamus, or other appropriate action or proceeding to prevent such unlawful erection, construction, reconstruction, alteration, conversion, maintenance, or use or to correct or abate such violation or to prevent the occupancy of said building, structure, or land. (Ord. 14900 §2; June 6, 1988; prior Ord. 12571 §426; May 8, 1979).

27.81.080 Severability.

If any section, subsection, sentence, clause, or phrase of this title is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of this title. (Ord. 12571 §427; May 8, 1979).

27.81.090 Conflicts.

Should any provision of this title be interpreted to conflict with any other ordinance of the City of Lincoln, or with any applicable state or federal statute, the more restrictive regulation shall apply. (Ord. 12571 §428; May 8, 1979).

27.81.100 Savings Clause.

This title shall in no manner affect pending actions, either civil or criminal, founded on or growing out of any ordinance, or part of any ordinance hereby repealed; this title shall in no manner affect rights or causes of action, either civil or criminal, not in suit that may have already accrued or grown out of any ordinance or part of any ordinance hereby repealed. (Ord. 12571 §429; May 8, 1979).

27.81.110 When Effective.

This title shall be in full force and effect from and after its passage and publication as provided by law. (Ord. 12571 §430; May 8, 1979).

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Chapter 27.82

IMPACT FEES

Sections:

- 27.82.010 Short Title, Authority and Applicability.
 - 27.82.020 Legislative Findings and Purpose.
 - 27.82.030 Intent.
 - 27.82.040 Definitions.
 - 27.82.050 Imposition of Impact Fees.
 - 27.82.060 Exemptions From Impact Fees.
 - 27.82.070 Impact Fee Funds.
 - 27.82.080 Refunds of Impact Fees Paid.
 - 27.82.090 Post-Ordinance Developer Agreements Regarding Impact Fee Facilities.
 - 27.82.100 Developer Reimbursement for Pre-Ordinance Participation in Financing or Construction of Impact Fee Facilities.
 - 27.82.110 Miscellaneous Provisions.
 - Appendix 1 Downtown/Antelope Valley Arterial Street Fee Exclusion Area Map.
 - Appendix 2 Water Distribution Impact Fee Benefit Areas Map.
 - Appendix 3 Arterial Street Impact Fee Benefit Areas Map.
 - Appendix 4 Neighborhood Park & Trail Impact Fee Benefit Areas Map.
- 27.82.010 Short Title, Authority and Applicability.
- (a) This ordinance may be known and cited as the "Impact Fee Ordinance," and is referred to herein as "this ordinance."
- (b) This ordinance is enacted pursuant to the authority granted to the City by the Constitution of the State of Nebraska, the Nebraska revised statutes, and the City's home rule charter.
- (c) The provisions of this ordinance shall apply to all of the territory within the corporate limits of the City. (Ord. 18113 §1; January 13, 2003).

27.82.020 Legislative Findings and Purpose.

The City Council of Lincoln, Nebraska finds that:

(a) Both population and employment within the City are growing, and are creating demands for new residential and nonresidential development.

(b) New development within the City is creating additional demand and need for public facilities, including water and wastewater systems, arterial streets, and neighborhood parks and trails. The Comprehensive Plan's land use assumptions indicate that new development will continue and will place ever increasing demands on the City to provide such facilities.

(c) The protection of the health, safety, and general welfare of the citizens of the City requires that the public facilities of the City be expanded to meet the demand of new development for public facilities.

(d) Under the City's current laws, taxes, fees, utility charges, and other forms of revenue generated from new development do not generate sufficient funds to provide those public facilities required to serve the new development.

(e) It is only proper that those property owners who benefit by the expansion of public facilities for new development should bear their proportionate share of the cost of that expansion.

(f) The creation of an equitable impact fee system would enable the City to impose a more proportionate share of the costs of required improvements to the water and wastewater systems, arterial streets, and neighborhood parks and trails on those developments that create the need for them.

(g) All types of development that are not explicitly exempted from the provisions of this ordinance will generate demand for the types of facilities for which impact fees are being imposed pursuant to this ordinance.

(h) The Lincoln Impact Fee Study prepared by Duncan Associates dated October 2002 sets forth reasonable methodologies and analyses for determining the impacts of various types of development on the City's public facilities, and for determining the cost of acquiring land and the cost of acquiring or constructing facilities and equipment necessary to serve new development.

(i) The assumptions and service standards referenced in the Lincoln Impact Fee Study are those used by the City in evaluating the need to expand or construct public facilities.

(j) The impact fees described in this ordinance are based on the Lincoln Impact Fee Study, and do not exceed the costs of acquiring additional land and the costs of acquiring or constructing additional facilities or equipment required to serve the new developments that will pay the fees.

(k) The types of improvements to each type of public facility considered in the Lincoln Impact Fee Study will benefit all new development in the City, and it is therefore appropriate to treat the entire City as a single service area for purposes of calculating the impact fees for each type of facility. However, the service area may be divided into multiple benefit areas in order to show a greater link between fees paid and benefit received.

(l) It is in the public interest and consistent with the Comprehensive Plan and other public policies of the City to promote the construction and preservation of Low Income Housing and therefore impact fees should be waived in whole or part for such development.

(m) The City recognizes that new development in certain areas of the City was previously approved and regulated on a case-by-case basis by agreements between the City and the developer wherein the City and the developer made individualized determinations of the projected impact full development and operation of the property would have on the City's arterial streets, water or wastewater facilities, and neighborhood parks and trails and agreed upon the necessary improvements to be paid for and/or constructed by the developer as said developer's proportionate share of the cost of providing public facilities for the proposed development. Therefore, the City finds that impact fees should be categorically waived for those specific types of impact fee facility improvements which were paid for or constructed by such developers under said agreements.

(n) There is both a rational nexus and a rough proportionality as required by *Nollan v. California Coastal Commission*, 483 U.S. 825 (1987) and *Dolan v. City of Tigard*, 512 U.S. 374 (1994) between the development impacts created by each type of development covered by this ordinance and the

impact fees that such development will be required to pay.

(o) There is a reasonable relationship or nexus as required by *Simpson v. City of North Platte*, 206 Neb. 240, 292 N.W.2d 297 (1980) between the development impacts created by each type of development covered by this ordinance and the impact fees that such development will be required to pay.

(p) This ordinance creates a system by which impact fees paid by new developments will be used to expand or improve the type of public facility for which the fee was paid, so that the new development that pays each fee will receive a corresponding benefit within a reasonable period of time after the fee is paid.

(q) This ordinance creates a system under which impact fees will not be used to cure existing deficiencies in public facilities; nor used for their maintenance and operation.

(r) The City recognizes that under Nebraska law the power of eminent domain is superior to the zoning power and that the City, under its zoning authority, is not permitted to prevent or place limitations upon a public use of property in the furtherance of which a governmental entity has been granted condemnation power by the State Legislature. Therefore, the City finds that impact fees cannot be collected for governmental projects for the construction of which the agency in question has the power to condemn or appropriate lands by eminent domain.

(s) Under the legislative findings in the Nebraska Housing Agency Act (*Neb. Rev. Stat. §§ 71-1572 to 71-15,168* (2000 Cum. Supp.)) the Nebraska Legislature declares that there exists in this state a shortage of residential housing that is decent, safe, sanitary, and affordable to persons of low and moderate income which cannot be remedied by the ordinary functioning of private enterprise alone; that the provision of such affordable housing is a public purpose which can best be carried out by affording local housing agencies the necessary powers to enable them to carry out their purposes. Under the Act, a local housing agency is declared to be a political subdivision of the State and is granted the power to condemn property for the purpose of providing affordable housing subject to local planning, zoning, and building codes. The Housing Authority of the City of Lincoln was established by the City in 1946

and is a local housing agency under the Act and as such is subject to the City's zoning regulations. However, the Act encourages intergovernmental cooperation between the Housing Authority of the City of Lincoln and the City and specifically authorizes the City to grant exceptions from its zoning regulations in order to facilitate development in furtherance of the purposes of the Act. The Act further authorizes the City of Lincoln incur the entire expense of any public improvements made by the City for the purpose of aiding and cooperating with the Housing Authority of the City of Lincoln's provision of affordable housing pursuant to the Act. Therefore, in consideration of the State's policy that the City cooperate with the Housing Authority of the City of Lincoln in order to promote and facilitate the Housing Authority of the City of Lincoln's construction of decent, safe and sanitary housing which is affordable to persons of low and moderate income, all impact fees should be waived for such development.

(t) Due to the shortfall of funds necessary to address the community's existing and future public infrastructure needs, the Mayor has created the Mayor's Infrastructure Finance Committee ("Committee") to develop a comprehensive financial package in addition to impact fees that ensures maintenance of the City's existing public infrastructure and the delivery of future public infrastructure to facilitate community growth. The Committee is responsible for preparing an integrated package of recommendations for the Mayor and City Council that combines the work product of three work groups: infrastructure cost savings/efficiencies, financial options and state legislation, operating under the Committee's direction as outlined in the Mayor's Infrastructure Finance Committee Charge to the Committee dated October 3, 2002, as the same may be amended from time to time ("Charge to the Committee"). The Charge to the Committee calls for the Committee's overall work to be completed no later than June 1, 2003. (Ord. 181 13 §2; January 13, 2003).

27.82.030 Intent.

(a) The intent of this ordinance is to ensure that adequate water and wastewater systems, arterial streets, and parks and trails are available to serve new growth and development in the City of Lincoln and to regulate the use and development of land so as to ensure that new growth and development bears its proportionate share of the cost of improvements to the

City's water and wastewater systems, arterial streets, and neighborhood parks and trails needed to serve such new growth and development; to ensure that the proportionate share for each type of public facility does not exceed the cost of providing that type of public facility to the new development that paid the fee; and to ensure that funds collected from new developments are actually used to construct public facilities that benefit such new developments.

(b) It is not the intent of this ordinance to collect any money from any new development in excess of the actual amount necessary to offset demands generated by that new development for the type of public facility for which the fee was paid.

(c) It is not the intent of this ordinance that any monies collected from any impact fee and deposited in an impact fee account ever be co-mingled with monies from a different impact fee account or ever be used for a type of public facility different from that for which the fee was paid.

(d) It is the intent of this ordinance to base water and wastewater impact fees on the typical usage in a new building or other facility. Extinguishing of fires is not a part of typical usage; maintaining pressure and flow to serve fire-fighting needs is a part of the system overhead that is calculated into system costs in general and should not be charged to a particular site or location. To allow adequate fire flow to sprinklers and internal hydrants at some large and at-risk properties, it may be necessary for fire protection purposes to install a larger water meter than would be necessary to meet day-to-day needs of that facility. In those cases, it is the policy of the City that the impact fee for water and wastewater should be based on the meter size needed by that facility for its typical usage, without regard to fire-flow. (Ord. 18113 §3; January 13, 2003).

27.82.040 Definitions.

Unless the context specifically indicates otherwise, the meaning of terms used in this chapter shall be as follows:

Building permit. The City permit required to erect, construct, enlarge, alter, repair, remove, convert, or demolish any building, structure, swimming pool, or parking lot pursuant to the Lincoln Building Code.

Connection. The physical tie-in of a private water or wastewater service or system to the City's public water or wastewater system.

Cost of construction. All design costs, construction costs, engineering fees, testing expenses, inspection fees, and related miscellaneous costs.

Developer. Any person or legal entity undertaking development.

Development. Any construction expansion or conversion of a building, structure or use which creates additional demand for Impact Fee Facilities, any change in use of a building or structure which creates additional demand for Impact Fee Facilities, or any change in the use of land, which creates additional demand for Impact Fee Facilities, or any connection to the City's public water or wastewater system which creates additional demand for Impact Fee Facilities.

Downtown/Antelope Valley Exclusion Area. The area established and shown on the Downtown/Antelope Valley Exclusion Area Map.

Duplex. Shall have the same meaning as two-family dwelling, as defined in section 27.03.200.

Encumber. To legally obligate by contract or otherwise commit to use by appropriation or other official act of the City.

Fee payor. That person or entity who pays an impact fee.

Gross Floor Area. The floor area within the inside perimeter of the exterior walls of the building under consideration, exclusive of vent shafts and courts, without deduction for corridors, stairways, closets, the thickness of interior walls, columns or other features. The floor area of a building, or portion thereof, not provided with surrounding exterior walls shall be the usable area under the horizontal projection of the roof or floor above. The gross floor area shall not include shafts with no openings or interior courts.

Impact Fee Administrator. The person or persons designated by the City to be responsible for administering this ordinance.

Impact Fee Facility. One or more elements of the City's water and wastewater systems, arterial streets, and neighborhood parks and trails included in the calculations of the impact fees in the Impact Fee Study.

Impact Fee Facility Improvement. Planning, engineering design, construction inspection, on-site construction, off-site construction, equipment purchases, and financing costs including the issuance of bonds or other obligations of indebtedness associated with new or expanded facilities, buildings, and equipment that expand the capacity of an Impact Fee Facility and that have an average useful life of at least

fifteen (15) years, but not including maintenance, operations, or improvements that do not expand capacity. An Impact Fee Facility Improvement shall also include land acquisition for water storage reservoirs, water pumping stations, wastewater trunk lines, and neighborhood parks.

Lincoln Impact Fee Study or Impact Fee Study. The Lincoln Impact Fee Study prepared by Duncan Associates dated October 2002.

Low-to-Moderate-Income Area. An area determined by the United States Department of Housing and Urban Development (HUD) to be a low-to-moderate-income area based upon census data.

Low-to-Moderate-Income Owner-Occupied Housing. An owner-occupied unit which is sold to or built by a household whose adjusted gross income is 80% or less of the area median income adjusted for household size.

Low-to-Moderate Income Rental Housing. A tenant-occupied unit which is rented to a household whose adjusted gross income is 80% or less of the area median income adjusted for household size and which is rent restricted under local, state or federal regulations, to households whose adjusted gross income is 80% or less of the area median income adjusted for household size, and which restrictions through means of a land use restriction agreement or similar legal document runs with the property for an initial period of at least fifteen years.

Mobile home. Shall be defined as in Section 27.03.430.

Mobile home court. The use of land for sites for mobile homes not located on individual platted lots.

Multi-family. Shall have the same meaning as multiple dwelling, as defined in Section 27.03.210, except that it excludes townhouses.

Neighborhood Park and Trail Impact Fee Exclusion Area. The area established and shown on the Neighborhood Park and Trail Impact Fee Benefit Areas Map as the Existing Neighborhood Park and Trail Impact Fee Exclusion Area.

Person shall include a natural person, joint venture, joint stock company, partnership, association, club, company, corporation, business, trust, organization, or the manager, lessee, agent, servant, officer, or employee of any of them.

Present Value. The current value of past, present, or future payments, contributions or dedications of

goods, materials, construction or money, taking into account when appropriate depreciation and inflation.

Qualified Professional. A professional engineer, surveyor, financial analyst or planner providing services within the scope of his license, education, or experience.

Single-family detached. A single-family dwelling, as defined in Section 27.03.190, that is not attached to any other dwelling by any means and that is the only dwelling unit on the lot. This term shall include a mobile home located on a separately platted lot.

Site-related improvements. All site specific improvements primarily planned, designed, or built to provide necessary access and service to the proposed development, including all site driveways and local and collector streets leading only to the proposed development; all traffic control devices that primarily give access to the development; acceleration/deceleration lanes and left-turn and right-turn lanes to allow turning movements into or out of the development from site driveways and local and collector streets.

Tap. The act of connecting to a public water main or public wastewater collector.

Tap fee. The permit fee required pursuant to Lincoln Municipal Code Section 17.10.040 to cover the City's cost in making the tap and of furnishing the required supply connection, water meter with meter stops, and meter couplings, and other required meter apparatus.

Townhouse. Shall have the same meaning as townhouse, as defined in Section 27.03.630. (Ord. 18324 §1; March 15, 2004; prior Ord. 18113 §4; January 13, 2003).

27.82.050 Imposition of Impact Fees.

(a) Requirement. On and after June 2, 2003 and the adoption of impact fee schedules by resolution of the City Council, any person who applies for a building permit for a development or who applies for any other permit for a development where a building permit is not required, or who seeks to engage in a development for which no permit is required, shall pay a water system impact fee, water distribution impact fee, wastewater impact fee, arterial street impact fee, and neighborhood park and trail impact fee unless the type of development described in the permit or to be engaged in is specifically exempted, waived or subsidized by this ordinance, or unless the type of development described in the permit or to be

engaged in is not located in an impact fee benefit district for the above-described impact fees.

(b) Payment of Impact Fees. A person applying for any of the permits for a development listed in subsection (a) above shall pay each impact fee required by this ordinance to the Impact Fee Administrator prior to the issuance of any such permit. If the issuance of a permit is not required for the development (e.g. golf course, park, change of use, etc), then the person seeking to engage in the development shall pay each impact fee required by this ordinance prior to the occurrence of any one of the following events, whichever occurs first:

(1) Completion of any connection to the City's water and wastewater systems; or

(2) The date when any part of the development opens for business or goes into use.

No such permits shall be issued, no such connections shall be made, and no such other development shall be opened for business or allowed to go into use until each impact fee required by this ordinance has been paid.

All impact fees paid by a person pursuant to this ordinance shall be promptly deposited in the appropriate impact fee accounts described in Section 27.82.070.

(c) Calculation of Impact Fees from Impact Fee Schedules.

(1) Unless the person applying for any of the permits for a development listed in subsection (a) above or the person seeking to engage in a development for which no permit is required requests that the City determine the amount of such fee pursuant to an independent fee calculation study, the Impact Fee Administrator shall determine the amount of each required impact fee through the use of impact fee schedules adopted by the City Council.

(2) If the type of development or meter size that a permit is applied for or the type of development to be engaged in for which no permit is required is not listed in a schedule, then the Impact Fee Administrator shall use the fee applicable to the most nearly comparable type, land use, or meter size in such schedule. In the case of arterial street impact fees, decisions about what use is most nearly comparable shall be guided by the most recent edition of "Trip Generation" and the companion "Trip Generation Manual" prepared by the Institute of Transportation Engineers, or if such publications are no longer available, then by a similar publication.

(3) If the type of development or meter size that a permit is applied for or the type of development to be engaged in for which no permit is required includes a mix of those uses or meter sizes listed in a schedule, then the fee shall be determined by adding up the fees that would be payable for each use or meter size if it was a free-standing use pursuant to such schedule.

(4) If a person is applying for a permit to allow a change of use or meter size or for the expansion, redevelopment, or modification of an existing development, the fee shall be based on the net increase in the fee for the new use or meter size as compared to the previous use, provided that the previous use was in operation within fifteen years prior to the first building permit for the redevelopment.

(5) If no use was in operation on the site within the last fifteen years, the redevelopment shall be treated the same as a new development.

(6) If the proposed change of use, meter size, expansion, redevelopment, or modification results in a net decrease in the fee for the new use or development as compared to the previous use, meter size, or development, there shall be no refund of or credit for impact fees previously paid.

(7) In the case of a demolition or termination of an existing use or structure, the impact fee for future redevelopment of that site shall be based upon the net increase in the impact fee for the new or proposed land use as compared to the previous use. Credit for the prior use shall not be transferable to another location, except that if the old location was acquired by the City for use for an Impact Fee Facility and will not be redeveloped, the City will receive a credit against future impact fees equal to the impact fee that would have been assessed against the relocated use which may be transferred by the City to a community redevelopment project in another location within the same benefit area.

(8) In the case of a relocation of a use, an impact fee shall be assessed to the relocated use at its new location. Credits from the old location shall not be transferable to the new location. Future redevelopment of the old location from which the use was removed will receive a credit against the impact fee assessed equal to the impact fee that would have been assessed against the relocated use.

(d) Calculating Fees Through an Independent Fee Calculation Study.

(1) General Provisions. If in the judgment of the Impact Fee Administrator there is no comparable type, land use or meter size in such fee schedules which can be used to accurately describe the impacts resulting from any proposed development, the person applying for a permit for such development or the person seeking to engage in such development for which no permit is required shall provide to the Administrator for the Administrator's review and evaluation an independent fee calculation prepared at City expense by a qualified professional in the preparation of an impact fee analysis. In addition, if such person elects not to have the impact fee determined according to the impact fee schedules, such person may request that the Impact Fee Administrator determine the amount of a required impact fee for the proposed development by reference to an independent fee calculation study prepared at such person's cost by a qualified professional in the preparation of such analysis. Any such study shall be based on the same service standards and unit costs for facilities used in the Impact Fee Study, and shall document the methodologies and assumptions used. Any independent fee calculation study submitted by such person may be accepted, rejected, or accepted with modifications by the impact Fee Administrator as the basis for calculating an impact fee. If such study is accepted or accepted with modifications as a more accurate measure of the demand for Impact Fee Facilities created by the proposed development than the applicable impact fee shown in the appropriate impact fee schedules, then the impact fee due under this ordinance shall be calculated according to such study.

(2) Additional Requirements for Arterial Street Impact Fee Studies. In addition to those requirements listed in subsection (d)(1) above, any independent fee calculation study submitted by a person for purposes of calculating an arterial street impact fee shall show the traffic engineering and economic methodologies and assumptions used, including but not limited to the following forms of documentation:

(i) Such studies must include documentation of trip generation rates, trip lengths, the percentage of trips from the site that represent net additions to current trips from the site (if any), the percentage of trips that are new trips as opposed to pass-by or diverted-link trips, and any other trip data for the proposed land use.

(ii) Such studies must include documentation of any special factors that such person believes will reduce the traffic volumes otherwise attributable to the proposed land uses. (Ord. 18113 §5; January 13, 2003).

27.82.060 Exemptions From Impact Fees.

(a) Exemptions From All Impact Fees. The following types of development shall be exempted from payment of all impact fees otherwise due pursuant to this ordinance:

(1) Replacement of a destroyed or partially destroyed residential building or structure with a new building or structure of the same use, and with the same number of residential units, provided that the rebuilding or replacement occurs no later than fifteen years after the demolition or removal of the previous structure.

(2) Replacement of a destroyed or partially destroyed nonresidential building or structure with a new building or structure of the same gross floor area and use, provided that the rebuilding or replacement occurs no later than fifteen years after the demolition or removal of the previous structure.

(3) Installation or replacement of a mobile home on a lot or site where all impact fees for such lot or site have previously been paid pursuant to this ordinance or where a mobile home legally existed on such lot or site on or prior to June 2, 2003.

(4) Room additions, remodeling, rehabilitation or other improvements to an existing structure, provided that there is no increase in the number of dwelling units for residential use or in the amount of gross square footage for nonresidential use.

(5) Construction pursuant to a building permit based upon a complete application filed with the City prior to June 2, 2003, provided the construction proceeds according to the terms of the building permit. If said building permit application expires, application for a new building permit shall be treated the same as a new development. A building permit application shall not be deemed to be complete until the application, together with all required attachments, information, or other accompanying documents, are filed with the City.

(6) Low-to-Moderate Income Owner-Occupied Housing; provided that:

(i) The housing unit has an initial purchase price that does not exceed the FHA mortgage limit for the Lincoln Area as determined by

the United States Department of Housing and Urban Development (HUD);

(ii) The housing unit is the principal residence of an owner whose household has an adjusted gross income which is 80% or less of the area median income adjusted for household size; and

(iii) Neither the owner nor any member of the owner's household whose combined adjusted gross income is 80% or less of the area median income adjusted for household size has purchased housing which qualified for a Low-Income Owner-Occupied Housing exemption within the immediately preceding five years.

An Owner-Occupied unit which is sold to a household whose adjusted gross income is 60% or less of the area median income adjusted for a household size shall be entitled to a 100% exemption from all Impact Fees.

An Owner-Occupied unit which is sold to a household whose adjusted gross income is more than 60% but is 80% or less of the area median income adjusted for household size shall be entitled to a 50% exemption from all Impact Fees.

(7) Low-to-Moderate Income Rental Housing located outside of a low or moderate income area.

(i) A Tenant-Occupied unit which is restricted to rental to a household whose adjusted gross income is 60% or less of the area median income adjusted for household size shall be entitled to a 100% exemption from all Impact Fees.

(ii) A Tenant-Occupied unit which is restricted to rental to a household whose adjusted gross income is 80% or less of the area median income adjusted for household size shall be entitled to a 50% exemption from all Impact Fees.

(8) Development or construction by any governmental entity for which the governmental entity has the statutory power of eminent domain shall not pay any impact fees since these entities are exempt from local zoning.

(9) Development or construction by the Housing Authority of the City of Lincoln pursuant to the Nebraska Housing Agency Act.

(b) Exemptions From Specific Impact Fees. The following types of projects shall be exempted from the following types of impact fees:

(1) Development, pursuant to a written agreement or other approval between the City and a developer which was entered into prior to June 1, 2002, and which specifically included or required the participation by the developer in the financing or

construction of the Impact Fee Facilities for the approved development shall be exempt from the impact fee charged for those specific types of Impact Fee Facilities the developer agreed to finance or construct in whole or in part. The Impact Fee Administrator shall determine in writing whether or not any other agreement or other approval qualifies for an exemption. The Impact Fee Administrator shall maintain a record of the agreements or other approvals that qualify for category exemptions. A copy of said record shall be filed in the Office of the City Clerk.

Notwithstanding the above, the exemption shall not apply to any amendment, modification, or change to the approved development to allow a change of use, an increase in meter size, an increase in the amount of gross square footage for non-residential use, or an increase in the number of dwelling units for residential use that increases the impact on the Impact Fee Facility in question. In such case, the fee shall be based on the net increase in the fee for the new use, meter size, gross square footage for nonresidential use or number of dwelling units for residential use as compared to the previous use, meter size, gross square footage for nonresidential use and number of dwelling units for residential use.

(2) Where the Bureau of Fire Prevention requires that a water meter be increased in size above that required for the ordinary usage of a building or other facility for the purposes of maintaining fireflow to internal lines, the water and wastewater fees for that building or other facility shall be based on the meter size that would be required without regard to the fireflow requirements.

(3) Any separate water meter connected only to an irrigation system and not to any building or other facility designed for human occupancy shall not be included in the calculation of the wastewater impact fee.

(4) Other types of development shall be exempted from payment of specific impact fees otherwise due pursuant to this ordinance if the person applying for a permit for such development or the person seeking to engage in such development for which no permit is required can demonstrate that the proposed land use and development will produce no additional demand for a specific Impact Fee Facility beyond what was generated from such site prior to the proposed development, using an average cost (not marginal cost) methodology. The fact that a proposed development has direct access to, or is located close

to, an existing facility of the type covered by an impact fee, shall not by itself be evidence that the proposed development will have no impact on the need for Impact Fee Facilities of the type covered by the impact fee.

(c) Request for Exemption Required. If a permit is required for the proposed development, any such claim for exemption must be made no later than the date of the application for the permit for the proposed development except that a claim of exemption for Low-to-Moderate Income Owner-Occupied Housing must be made no later than ten days following execution of the purchase contract. If the issuance of a permit is not required for the development, then any such claim for exemption must be made no later than the occurrence of any one of the following events, whichever occurs first:

- (1) Completion of any connection to the City's water and wastewater systems; or
- (2) The date when any part of the development opens for business or goes into use.

Any claim for exemption not made at or before that time provided above shall be deemed waived.

(d) Determination of Validity. The Impact Fee Administrator shall determine the validity of any claim for exemption pursuant to the criteria set forth in this ordinance.

(e) Funding of Exemptions. The proportionate share of any Impact Fee Facility or Impact Fee Facility Improvement cost directly related to the exemptions granted pursuant to Subsection (a)(6), (7), and (8) above shall be funded from a revenue source other than impact fees. (Ord. 18324 §2; March 15, 2004; prior Ord. 18283 §1A; December 8, 2003; Ord. 18113 §6; January 13, 2003).

27.82.070 Impact Fee Funds.

(a) Creation of Benefit Districts. Impact fees shall be spent only within the benefit district in which they were collected, except that (1) water system impact fees, water distribution impact fees, and wastewater impact fees may be spent for water system impact fee facility improvements, water distribution impact fee facility improvements, and wastewater impact fee facility improvements, respectively, outside the corporate limits of the City which benefit the district in which they were collected; and (2) any arterial street used as a boundary between two arterial street benefit districts shall be considered as included within both benefit districts and may be improved

with fees collected in either benefit district. The following benefit districts are hereby created:

(1) Water System Impact Fee Benefit District shall be the area served by the Lincoln water system;

(2) Water Distribution Benefit District Nos. 1 through 7, inclusive, shall be the respective incorporated areas of the City established and shown on the Water Distribution Impact Fee Benefit Areas Map as Water Distribution Benefit Area Nos. 1 through 7, inclusive.

(3) Wastewater Impact Fee Benefit District shall be the area served by the Lincoln Wastewater System;

(4) Arterial Street Impact Fee Benefit District Nos. 1 through 7, inclusive, shall be the respective incorporated areas of the City established and shown on the Arterial Street Impact Fee Benefit Areas Map as Arterial Street Benefit Area Nos. 1 through 7, inclusive, except for that portion of the Downtown/Antelope Valley Exclusion Area located within any of areas.

(5) Neighborhood Park and Trail Impact Fee Benefit District Nos. 1 through 7, inclusive, shall be the respective incorporated areas of the City established and shown on the Neighborhood Park and Trail Impact Fee Benefit Areas Map as Neighborhood Park and Trail Benefit Area Nos. 1 through 7, inclusive, except for that portion of the Neighborhood Park and Trail Impact Fee Exclusion Area located within said areas.

(b) Creation of Impact Fee Fund. An Impact Fee Fund is hereby created and shall include a separate impact fee account for each impact fee benefit district as an interest bearing account distinct from the General Fund of the City:

(c) Monies in an Impact Fee Account. Each impact fee account shall contain only those impact fees collected pursuant to this ordinance for the types of Impact Fee Facilities reflected in the title of the account plus any interest which may accrue from time to time on such amounts.

(d) Use of Monies in an Impact Fee Account. The monies in each impact fee account shall be used only:

(1) To acquire or construct Impact Fee Facilities or Impact Fee Facility Improvements of the type reflected in the title of the account and in the location specified in Section 27.82.070(a); or

(2) As described in Section 27.82.080 (Refunds) or as described in Section 27.82.090 (Post-

Ordinance Agreements), or as described in Section 27.82.100 (Pre-Ordinance Reimbursements), or

(3) To retire bonds, or other obligations of indebtedness issued to fund the construction of Impact Fee Facility Improvements.

(4) To pay consultant fees to update the impact fees.

(5) To pay the expenses of collecting the fee and administering this ordinance, except that no more than two percent (2%) of the impact fees collected may be used to compensate the City for such expenses. In the case of refunds of impact fees under Section 27.82.080, or reimbursements under Sections 27.82.090 and 27.82.100, the City shall be entitled to retain up to two percent (2%) of the impact fee payments made by the applicant or the reimbursement due the applicant as payment for the expenses of processing the refund or reimbursement request. (Ord. 18283 §1B; December 8, 2003; prior Ord. 18113 §7; January 13, 2003).

27.82.080 Refunds of Impact Fees Paid.

(a) Passage of Time. Any monies in any impact fee account that have not been spent or encumbered within eight years after the date on which such fee was paid shall, upon application to the Impact Fee Administrator by the fee payor, be returned to such person with interest since the date of payment at the rate earned by the City on the fees. Fees shall be deemed to be spent on the basis that the first fee collected shall be the first fee spent. Within six months of the end of the eight-year period from the date on which the unspent impact fee was paid, the Impact Fee Administrator shall notify the fee payor of eligibility for a refund at the address listed with the Impact Fee Administrator. In order to receive such refund, the fee payor shall be required to submit an application for such refund within twelve months after the expiration of such eight-year period. Any monies in an impact fee account for which no application for a refund has been timely made shall be retained by the City and expended on the type of Impact Fee Facilities reflected in the title of the account without further limitation as to time of expenditure.

(b) Expiration of Permit. If a person has paid an impact fee required by this ordinance and has obtained a building permit or any other permit for a development or extensions thereto, and the permit or extension for which the fee was paid later expires without the possibility of further extension, and the

development activity for which the impact fee was imposed did not occur and no impact has resulted, then such fee payor shall be entitled to a refund of the fee paid, with interest. In order to be eligible to receive such refund, such fee payor shall be required to submit an application for such refund within six months after the expiration of the permit or extension for which the fee was paid.

(c) Approval of Low-to-Moderate Income Owner-Occupied Housing Exemption. If, after an impact fee has been paid pursuant to this ordinance for a development which subsequently qualifies for a Low-to-Moderate Owner-Occupied Housing Exemption pursuant to Section 27.82.060(a)(6), then such purchaser shall be entitled to a reimbursement of the fee paid, without interest. In order to be eligible to receive such reimbursement, such purchaser shall be required to submit an application for such exemption and reimbursement no later than ten days following the execution of the purchase contract.

(d) No Refund for Altered Development. After an impact fee has been paid pursuant to this ordinance, no refund of any part of such fee shall be made if the development for which the fee was paid is later demolished, destroyed, or is altered, reconstructed, or reconfigured so as to reduce the size of the development, the number of units in the development, or the amount of traffic generated by the development.

(e) Notice to Fee Payor. At the time of payment of any impact fee under this ordinance, the Impact Fee Administrator shall provide the person paying such fee with written notice of those circumstances under which refunds of such fees will be made. Failure to deliver such written notice shall not invalidate any collection of any impact fee under this ordinance. (Ord. 18324 §3; March 15, 2004; prior Ord. 18283 §1C; December 8, 2003; Ord. 18113 §8; January 13, 2003).

27.82.090 Post-Ordinance Developer Agreements Regarding Impact Fee Facilities.

(a) General Provision. On and after June 2, 2003, where a proposed development includes or requires the construction of Impact Fee Facilities in connection with such development, the City and developer may agree in writing to have the developer participate in the financing or construction of part or all of such Impact Fee Facilities.

Such agreement may provide for future cash reimbursements to the developer for the developer's participation in the financing or construction of the Impact Fee Facilities consistent with the following requirements:

(1) Reimbursement for each type of Impact Fee Facility financed or constructed by the developer may be paid with interest at the rate earned by the City or its impact fee fund account.

(2) No reimbursement shall be paid from impact fees received for a different type of Impact Fee Facility or against any other monies due to the City from such development and any reimbursement to be paid from impact fees shall not constitute general liability of the City nor shall impact fees paid in one Benefit District be used to reimburse for construction of Impact Fee Facilities in another Benefit District.

(3) The reimbursement shall be calculated and documented as follows:

(i) The value of land dedicated or donated for water storage reservoirs, water pumping stations, wastewater trunk lines, and neighborhood parks shall, at such person's option, be valued at (a) 100% of the most recent assessed value for such land as shown in the records of the County Assessor, or (b) the land's fair market value based on its appraised land value on the date of transfer of ownership to the City, as determined by a certified appraiser who was selected and paid for by such person, and who used generally accepted appraisal techniques. If the City disagrees with the appraised value, the Impact Fee Administrator may engage another appraiser at the City's expense, and the value shall be an amount equal to the average of the two appraisals. If either party rejects the average of the two appraisals, a third appraisal shall be obtained, with the cost of such third appraisal being shared equally by such person and the City. The third appraiser shall be selected by the first two appraisers, and the third appraisal shall be binding on both parties.

(ii) If only a portion of a parcel of land is dedicated or donated for the uses described in 3(i) above, the value of such land shall, at such person's option, be valued at (a) 100% of the land's assessed value for such land based upon the most recent assessed value for the parent parcel as shown in the records of the County Assessor, or (b) the land's fair market value based on the appraised land value of the parent parcel on the date of transfer of ownership to the City, as determined by a certified appraiser who

was selected and paid for by such person, and who used generally accepted appraisal techniques. If the City disagrees with the appraised value, the Impact Fee Administrator may engage another appraiser at the City's expense, and the value shall be an amount equal to the average of the two appraisals. If either party rejects the average of the two appraisals, a third appraisal shall be obtained, with the cost of such third appraisal being shared equally by such person and the City. The third appraiser shall be selected by the first two appraisers, and the third appraisal shall be binding on both parties.

(iii) The value of Impact Fee Facilities constructed by the developer shall be based upon the actual cost of construction as verified by receipts submitted by the developer.

(4) The reimbursement shall only be paid to the developer who participated in the financing or construction of part or all of the Impact Fee Facilities or the developer's legal successor in interest with an express right or entitlement to any reimbursement which has been expressly transferred or assigned to the successor in interest.

(5) In the absence of an express transfer or assignment of the right or entitlement to the reimbursement, the right or entitlement shall be deemed "not to run with the land." (Ord. 18113 §9; January 13, 2003).

27.82.100 Developer Reimbursement for Pre-Ordinance Participation in Financing or Construction of Impact Fee Facilities.

(a) General Provisions. On and after June 2, 2003, where a pre-ordinance development not subject to an exemption from impact fees pursuant to Section 27.82.060(b)(1) included or required the participation by the developer in the financing or construction of Impact Fee Facilities, said developer or the developer's legal successor in interest with the right or entitlement to a reimbursement which has been expressly transferred or assigned to the successor in interest will be entitled to a cash reimbursement for the present value of land dedicated or donated for water storage reservoirs, water pumping stations, wastewater trunk lines and neighborhood parks and/or the present value of the Impact Fee Facilities constructed by said developer as provided in (b) below.

(b) Reimbursement shall be calculated as follows:

(1) No reimbursement shall be provided under this section for dedications, contributions, payments or construction made more than fifteen (15) years prior to June 2, 2003.

(2) The present value of land dedicated or donated shall, at such person's option, be valued at (a) 100% of the most recent assessed value for such land as shown in the records of the County Assessor, or (b) the land's present fair market value based on its appraised land value on the date of transfer of ownership to the City, as determined by a certified appraiser who was selected and paid for by such person, and who used generally accepted appraisal techniques. If the City disagrees with the appraised value, the Impact Fee Administrator may engage another appraiser at the City's expense, and the value shall be an amount equal to the average of the two appraisals. If either party rejects the average of the two appraisals, a third appraisal shall be obtained, with the cost of such third appraisal being shared equally by such person and the City. The third appraiser shall be selected by the first two appraisers, and the third appraisal shall be binding on both parties.

(3) If only a portion of a parcel of land is dedicated or donated, the present value of such land shall, at such person's option, be valued at (a) 100% of the land's assessed value for such land based upon the most recent assessed value for the parent parcel as shown in the records of the County Assessor, or (b) the land's present fair market value based on the appraised land value of the parent parcel on the date of transfer of ownership to the City, as determined by a certified appraiser who was selected and paid for by such person, and who used generally accepted appraisal techniques. If the City disagrees with the appraised value, the Impact Fee Administrator may engage another appraiser at the City's expense, and the value shall be an amount equal to the average of the two appraisals. If either party rejects the average of the two appraisals, a third appraisal shall be obtained, with the cost of such third appraisal being shared equally by such person and the City. The third appraiser shall be selected by the first two appraisers, and the third appraisal shall be binding on both parties.

(4) The amount of the reimbursement for a contribution payment or construction made to an

Impact Fee Facility prior to the effective date of the ordinance shall be the present value of the contribution payment or the cost of construction, less the total amount of impact fees for the same type of Impact Fee Facility that would have been due and payable for development already undertaken within the whole development had that development been subject to the impact fees imposed pursuant to Section 27.82.050.

(c) Procedure. No reimbursement shall be provided unless the developer who participated in the financing or construction of the Impact Fee Facilities or the developer's legal successor in interest makes application on forms provided by the City for the reimbursement within one year following the effective date of this ordinance or such developer's claim for the reimbursement shall be deemed waived. The application for reimbursement must contain a statement under oath of the facts that qualify such developer or the developer's legal successor in interest to receive a reimbursement, and must be accompanied by documents evidencing the developer, at the request and demand of the City, dedicated specific parcels of land for specific Impact Fee Facilities, or contributed to the cost of constructing specific Impact Fee Facilities, or constructed specific Impact Fee Facilities in accordance with all applicable state or city design and construction standards.

(d) Payment of the Reimbursement. Reimbursements for each type of Impact Fee Facility shall be paid from and shall not exceed the impact fees which become due and payable under this ordinance within the development for that same type of Impact Fee Facility or against any other monies due to the City from such development and the reimbursement shall not constitute a general liability of the City. (Ord. 18113 §10; January 13, 2003).

27.82.110 Miscellaneous Provisions.

(a) Interest. Interest earned on monies in any impact fee account shall be considered part of such account, and shall be subject to the same restrictions on use applicable to the impact fees deposited in such account.

(b) First-In/First-Out Accounting. Monies in each impact fee account shall be considered to be spent in the order collected, on a first-in/first-out basis.

(c) No Operation or Maintenance. No monies from any impact fee account shall be spent for

periodic or routine operation or maintenance of any facility of any type.

(d) No Restriction on Development Conditions. Nothing in this ordinance shall restrict the City from requiring a person to construct reasonable project improvements required to serve such person's project, whether or not such improvements are of a type for which reimbursements are available under Section 27.82.090.

(e) Records. The Impact Fee Administrator shall maintain accurate records of the impact fees paid, including the name and address of the person paying such fees, the project for which the fees were paid, the date of payment of each fee, the amounts received in payment for each fee, and any other matters that the Impact Fee Administrator deems appropriate or necessary to the accurate accounting of such fees, and such records shall be available for review by the public during City business hours.

(f) Assignment of Impact Fee Account Monies. The approved Capital Improvement Program which includes any Impact Fee Facilities scheduled for construction shall assign monies to fund in whole or in part such Impact Fee Facilities from the Impact Fee Fund Account of the type for which the fees in that account were paid. Any monies, including any accrued interest, not assigned to specific projects within such capital improvements program and not expended pursuant to Section 27.82.080 (Refunds) or 27.82.090 (Reimbursements) shall be retained in the same impact fee account until the next fiscal year.

(g) Mistake or Misrepresentation. If an impact fee has been calculated and paid based on a mistake or misrepresentation, it shall be recalculated. Any amounts overpaid by a person shall be refunded by the City to such person within thirty days after the City's acceptance of the recalculated amount, with interest since the date of such overpayment at the rate earned by the City on the funds. Any amounts underpaid by such person shall be paid to the City within thirty days after the Impact Fee Administrator's acceptance of the recalculated amount, with interest since the date of such underpayment at the rate then earned by the City on its impact fee funds. In the case of an underpayment to the City, the City may refuse to issue any additional permits or approvals for the project for which the impact fee was previously underpaid until such underpayment is corrected, and if amounts owed to the City are not paid within such thirty-day period, the City may also

repeal any permits issued in reliance on the previous payment of such impact fee and refund such fee to the then current owner of the land.

(h) Reimbursement of Impact Fees to Promote Economic Development. In order to promote the economic development of the City, the City shall reimburse a developer for some or all of the arterial street impact fees imposed on a proposed development or redevelopment from other funds of the City that are not restricted to other uses. Notwithstanding the above, no such reimbursement of arterial street impact fees shall be made except in conformance with specific economic development criteria and qualifications adopted by resolution of the City Council which, if met, entitle a developer to a reimbursement of some or all of the arterial street impact fees imposed on the development.

(i) Appeals. Any determination made by any official of the City charged with the administration of any part of this ordinance may be appealed by the aggrieved party to the City Council by filing (1) a written Notice of Appeal on a form provided by the City, and (2) a written explanation of why the appellant feels that a determination was in error. Appeals must be filed with the City Clerk within ten days after the determination for which the appeal is being filed. At the regular meeting following the filing of the appeal, the City Council shall fix a time and place for hearing the appeal, and the City Clerk shall mail notice of the hearing to the appellant at the address given in the Notice of Appeal. The hearing shall be conducted at the time and place stated in such notice given by the City Council. In an appeal of an impact fee, the Council shall not waive the fees, although the fees may be reduced pursuant to subsection (h) above or may be reduced upon a finding that the impact fee was incorrectly calculated, or that unusual circumstances of the development demonstrate that application of the fee to the development would be unfair or unjust. In exercising its appellate jurisdiction, the action appealed from shall be deemed advisory and the City Council may make such decision as ought to be made. The City Council shall make specific and detailed findings of fact with respect to each controverted issue on appeal. The determination of the City Council shall be final.

(j) Periodic Review. The impact fees and the administrative procedures established by this ordinance shall be reviewed at least once every three fiscal years to ensure that:

(1) The demand and cost assumptions underlying such fees are still valid,

(2) The resulting fees do not exceed the actual cost of constructing Impact Fee Facilities of the type for which the fee was paid and that are required to serve new development,

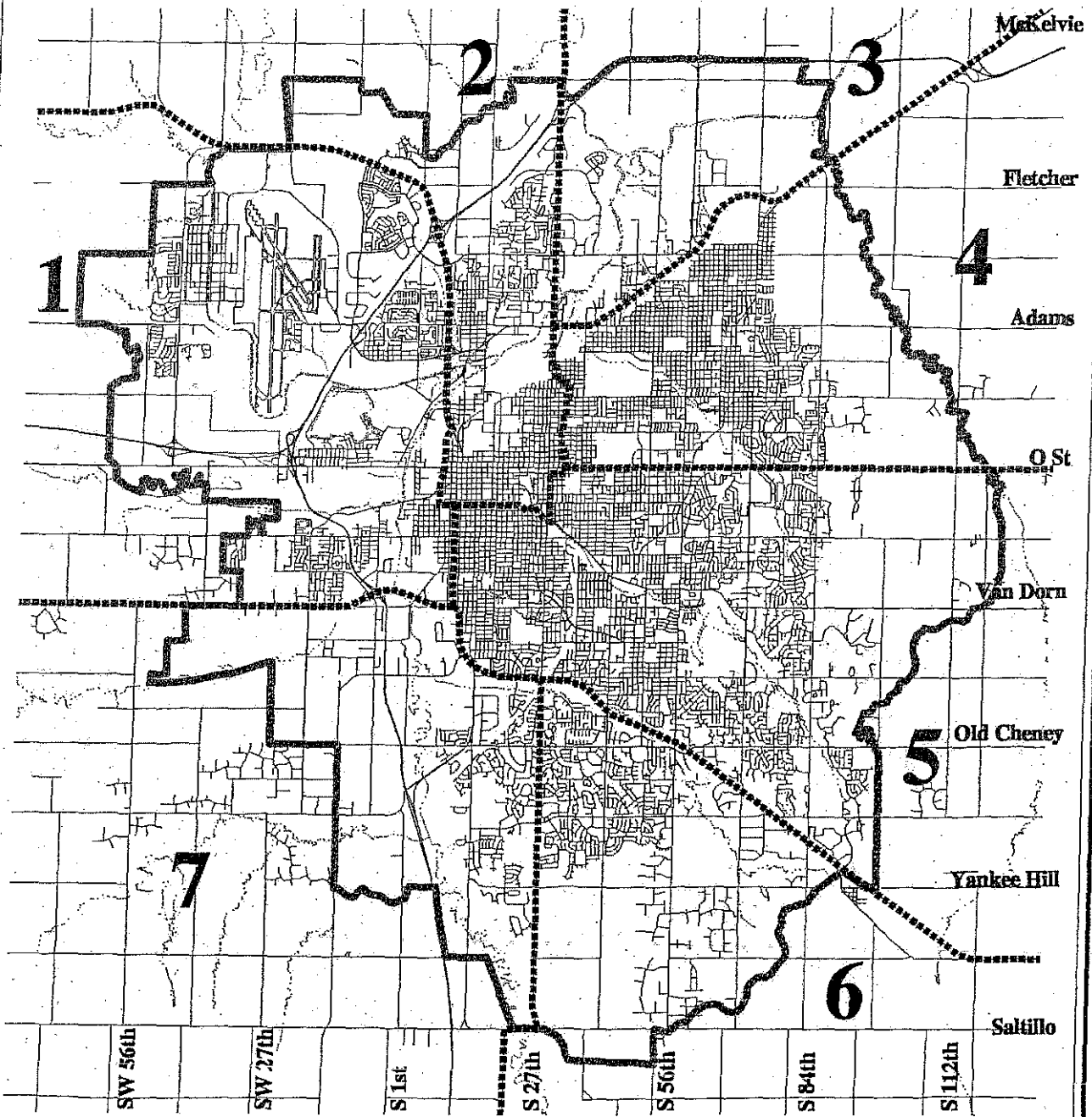
(3) The monies collected or to be collected in each impact fee fund have been or are expected to be spent for Impact Fee Facilities of the type for which such fees were paid, and

(4) That such Impact Fee Facilities will benefit those developments for which the fees were paid.

(k) Adjustments for Inflation. Beginning on January 1, 2005, and on January 1 of each following year unless and until the impact fee schedules are otherwise revised or replaced by City Council, each fee amount set forth in each schedule shall be adjusted to reflect the effects of inflation on those costs set forth in the Impact Fee Study by multiplying such amount by a fraction, the numerator of which is the U.S. Consumer Price Index for All Items for the most recent month of August, and the denominator of which is U.S. Consumer Price Index for All Items for the period one year prior to the period reflected in the numerator.

(l) Violations. Violation of this ordinance shall be a misdemeanor and shall be subject to those remedies provided in Section 27.81.070. Knowingly furnishing false information to any official of the City charged with the administration of this ordinance on any matter relating to the administration of this ordinance, including without limitation to knowingly furnishing false information regarding the expected size, use, or traffic impacts from a proposed development, shall be a violation of this ordinance. In addition to or in lieu of any criminal prosecution, the City or any person applying for a permit of the types described in Section 27.82.050(a) or any person seeking to engage in a development for which no permit is requested shall have the right to sue in civil court to enforce the provisions of this ordinance. (Ord. 18633 §8; October 24, 2005; prior Ord. 18449 §1; October 11, 2004; Ord. 18283 §1D; December 8, 2003; Ord. 18113 §11; January 13, 2003).

WATER DISTRIBUTION IMPACT FEE BENEFIT AREAS MAP

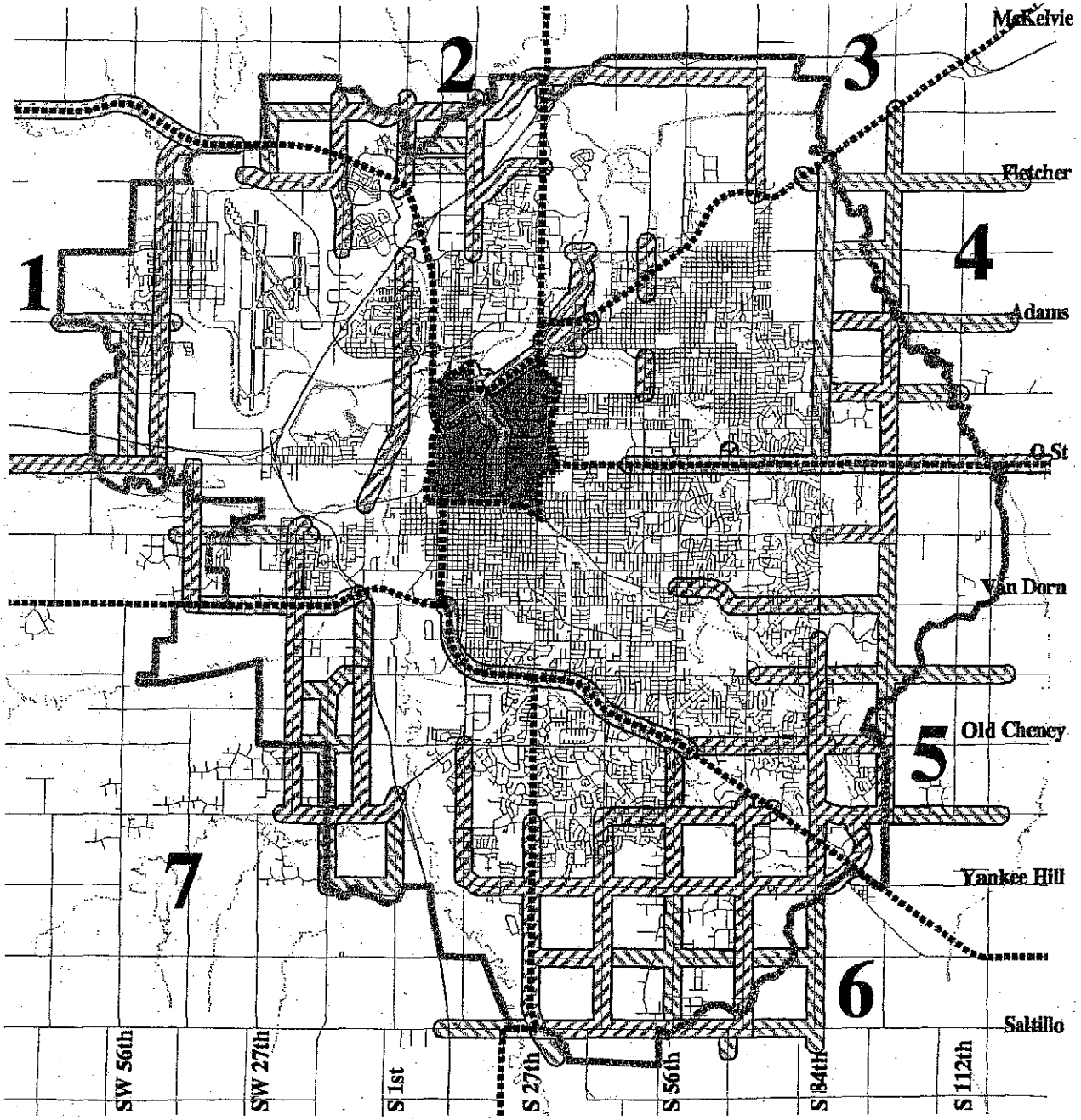








- Future Service Limit
- Benefit Area Boundary

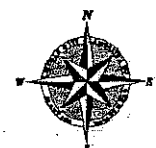


SCALE:
1 in = 11,500 Ft

ARTERIAL STREET IMPACT FEE BENEFIT AREAS MAP

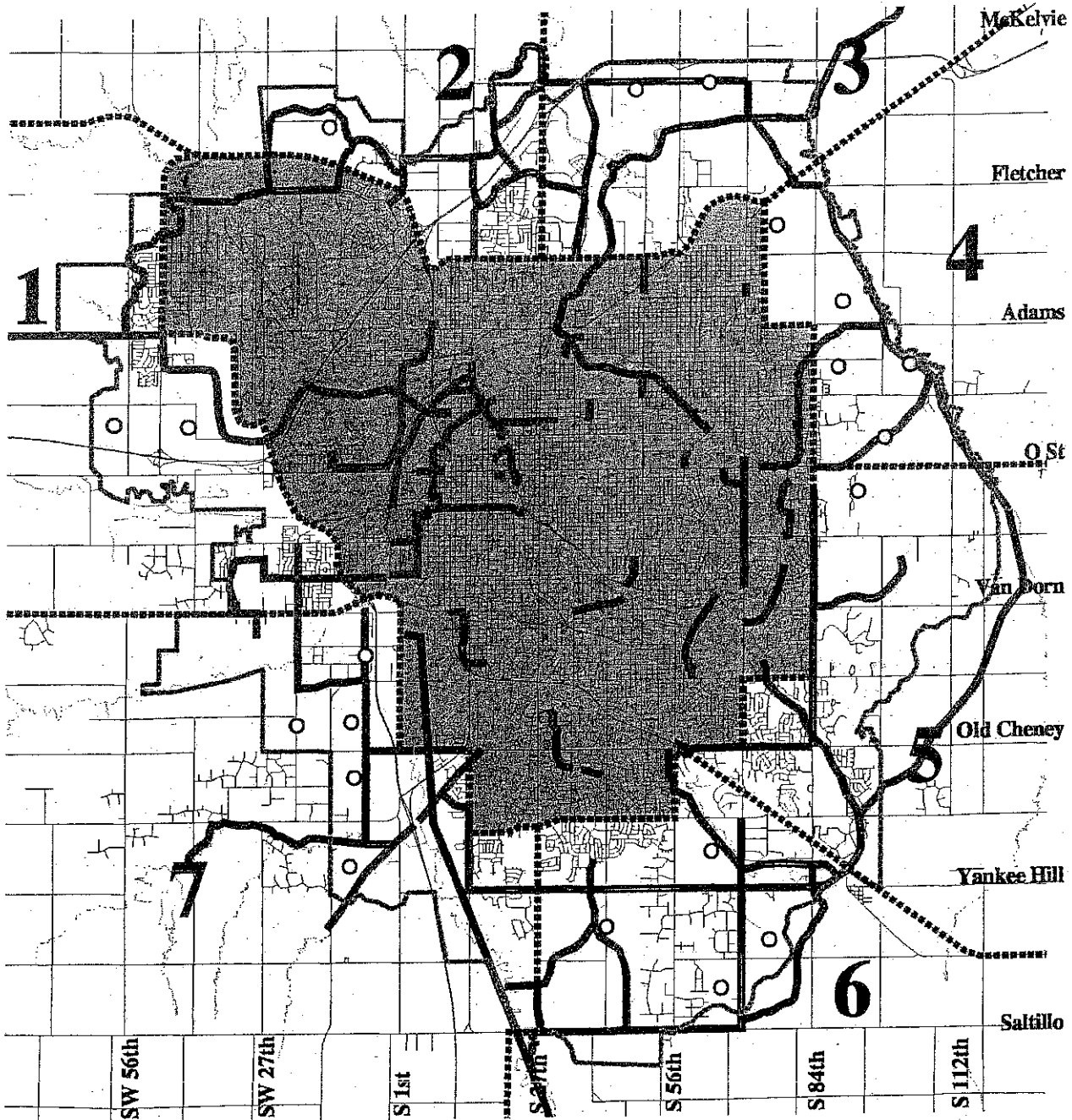


-  Future Service Limit
-  Benefit Area Boundary
-  Downtown/Antelope Valley Impact Fee Exclusion Area
-  2 Lanes + Center Turn Lane
-  4 Lanes + Center Turn Lane
-  6 Lanes + Center Turn Lane

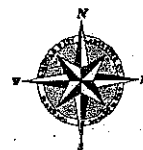


SCALE:
1 in = 11,500 Ft

NEIGHBORHOOD PARK & TRAIL IMPACT FEE BENEFIT AREAS MAP



- Future Service Limit
- Benefit Area Boundary
- Existing Neighborhood Park & Trail Impact Fee Exclusion Area
- Future Trail
- Future Neighborhood Park



SCALE:
1 In = 11,500 Ft

January 13, 2003

Chapter 27.83

BUILD THROUGH ACREAGE OVERLAY DISTRICT

Sections:

- 27.83.010 Scope of Regulations.
- 27.83.020 Purpose.
- 27.83.030 BTA Overlay District; Boundaries; Map.
- 27.83.040 Use Regulations.
- 27.83.050 Single-Family Dwellings Under Community Unit Plans (CUP).
- 27.83.060 Area, Height, Grading and Land Use Disturbance, Parking, and Sign Regulations.

27.83.010 Scope of Regulations.

The regulations set forth in this chapter, or set forth elsewhere in this title when referred to in this chapter, are the regulations of the BTA Build Through Acreage Overlay District. The regulations set forth in this chapter shall only apply to applications for development submitted after October 25, 2004. (Ord. 18556 §1; June 20, 2005; prior Ord. 18454 §6; October 11, 2004).

27.83.020 Purpose.

The purpose of this chapter is to provide a mechanism for approval of short-term acreage development in portions of the City of Lincoln's zoning jurisdiction that are unlikely to receive urban services, and consequent urban density development, within the next 20 to 25 years (generally the area designated as Tiers II and III in the Lincoln/Lancaster County 2030 Comprehensive Plan) in the form of an overlay zone in combination with the City's existing AG Agriculture and AGR Agricultural Residential Districts. The overlay district is intended to allow owners the opportunity to realize a reasonable return on their property and to accommodate a continuing demand for acreage development without obstructing future urban development. The BTA Overlay District allows owners to develop a portion of their property with low-density residential development, while

reserving the majority of the property for future long-term development with urban services. It also provides for the eventual transition of the previously developed acreage residential use to higher densities with the extension of urban services. (Ord. 19172 §18; November 3, 2008; prior Ord. 18454 §7; October 11, 2004).

27.83.030 BTA Overlay District; Boundaries; Map.

The BTA Overlay District applies to all land zoned AG and AGR on the effective date of this Ordinance outside of, but within three miles of the city limits and all land which may hereinafter come within three miles of the city limits by virtue of annexation which was at the time of annexation zoned AG Agriculture District or AGR Agricultural Residential District under its previous county zoning. (Ord. 18454 §8; October 11, 2004).

27.83.040 Use Regulations.

Any use permitted in the underlying AG Agriculture District or AGR Agricultural Residential District in which the proposed use is located shall be allowed in the BTA Overlay District, except as prohibited within the provisions of this chapter and provided the additional requirements of this chapter are met. (Ord. 18454 §9; October 11, 2004).

27.83.050 Single-Family Dwellings Under Community Unit Plans (CUP).

A building or premises may be used for a single-family dwelling containing less than the minimum lot area of the underlying zoning district in the BTA Overlay District if a special permit for such use has been obtained in conformance with the requirements of Chapters 27.63 and 27.65. (Ord. 18454 §10; October 11, 2004).

27.83.060 Area, Height, Grading and Land Use Disturbance, Parking, and Sign Regulations.

The area, height, grading and land disturbance, parking, and sign regulations in the underlying AG or AGR zoning district shall apply in the BTA Overlay District except as otherwise provided herein. (Ord. 18454 §11; October 11, 2004).

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