

ORDINANCE NO. \_\_\_\_\_

1 AN ORDINANCE amending Title 27 of the Lincoln Municipal Code to amend the  
2 conditions under which alcohol is allowed to be sold in the B-2 and B-5 zoning districts by  
3 amending Section 27.31.030 to delete the sale of alcoholic beverages for consumption on and off  
4 the premises as a permitted use in the B-2 Planned Neighborhood Business District; amending  
5 Section 27.31.040 to add said use as a permitted conditional use and to provide conditions of  
6 approval in the B-2 Planned Neighborhood Business District; amending Section 27.37.020 to delete  
7 the sale of alcoholic beverages for consumption on and off the premises as a permitted use in the  
8 B-5 Regional Business District; amending Section 27.37.025 to add said use as a permitted  
9 conditional use and to provide conditions of approval in the B-5 Regional Business District; and  
10 repealing Sections 27.31.030, 27.31.040, 27.37.020 and 27.37.025 of the Lincoln Municipal Code  
11 as hitherto existing.

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

13 Section 1. That Section 27.31.030 of the Lincoln Municipal Code be amended to  
14 read as follows:

15 **27.31.030 Permitted Uses.**

16 Any development, including building and open land uses, except farming and the sale of  
17 farm produce, shall be prohibited in the B-2 Planned Neighborhood Business District prior to the  
18 approval of a use permit in conformance with the requirements of this chapter. B-2 Planned  
19 Neighborhood Business District zoning shall not be permitted or granted upon any property having  
20 a total area of less than five acres. A building or premises shall be used only for the following  
21 purposes in the B-2 Planned Neighborhood Business District:

22 (a) Parks, playgrounds, and community buildings, owned or operated by a public  
23 agency;

- 1 (b) Public libraries;
- 2 (c) Public elementary and high schools, or private schools having a curriculum equi-  
3 valent to a public elementary or public high school, and having no rooms regularly used for housing  
4 or sleeping purposes;
- 5 (d) Churches;
- 6 (e) Nonprofit religious, educational, and philanthropic institutions;
- 7 (f) Banks, savings and loan associations, credit unions, and finance companies;
- 8 (g) Garden centers;
- 9 (h) Barber shops, beauty parlors, and shoeshine shops;
- 10 (i) Private schools, including but not limited to business or commercial schools, dance  
11 or music academies, and nursery schools;
- 12 (j) Service stations;
- 13 (k) Hospitals and clinics for animals, but not open kennels;
- 14 (l) Self-service laundromats;
- 15 (m) Receiving stores for dry cleaning or laundry;
- 16 (n) Dry cleaning or laundry establishments, provided that the floor area does not exceed  
17 2,000 square feet exclusive of office and pickup space.
- 18 (o) Messenger and telegraph stations;
- 19 (p) Office buildings;
- 20 (q) Restaurants;
- 21 (r) Stores or shops for the sale of goods at retail, but not including motor vehicles;
- 22 (s) Undertaking establishments;
- 23 (t) Photography studios;
- 24 (u) Bicycle sales and repair shops;
- 25 (v) Key shops;

- 1 (w) Ambulance services;
- 2 (x) Clubs;
- 3 (y) Enclosed commercial recreational facilities;
- 4 ~~(z) Sale of alcoholic beverages for consumption on the premises, provided the~~
- 5 ~~locational requirements of Section 27.63.680 have been met or waived by the City Council;~~
- 6 ~~(aa) Sale of alcoholic beverages for consumption off the premises, provided the~~
- 7 ~~locational requirements of Section 27.63.685 have been met or waived by the City Council;~~
- 8 (bb) (z) Tailor shops, shoe repair shops, upholstery shops, printing and photocopying
- 9 shops, or other, similar business establishments.

10 Section 2. That Section 27.31.040 of the Lincoln Municipal Code be amended to  
11 read

12 **27.31.040 Permitted Conditional Uses.**

13 A building or premises may be used for the following purposes in the B-2 Planned  
14 Neighborhood Business District in conformance with the conditions prescribed herein:

- 15 (a) Automobile wash facility:
  - 16 (1) Automatic, conveyor-operated: The length and location of vehicle stacking
  - 17 lane or lanes for the approach side or sides and the exit side or sides of the wash operation shall
  - 18 be in conformance with the "Guidelines and Regulations for Driveway Design and Location" as
  - 19 adopted by the City of Lincoln. The stacking space shall not be located within the required front
  - 20 yard.
  - 21 (2) Self-service, coin-operated car wash: The car wash facility shall not exceed
  - 22 four wash bays. The length and location of vehicle stacking lane or lanes for the approach side
  - 23 or sides and the exit side or sides of the wash operation shall be in conformance with the
  - 24 "Guidelines and Regulations for Driveway Design and Location" as adopted by the City of Lincoln.
  - 25 The stacking space shall not be located within the required front yard.

- 1 (b) Motels and hotels:
- 2 (1) A distance of at least twenty feet shall be maintained between buildings on  
3 the lot;
- 4 (2) Each hotel or motel unit shall have a minimum enclosed floor area of 200  
5 square feet.
- 6 (c) Dwellings, provided that:
- 7 (1) Dwellings shall only be permitted above the first story of a building;
- 8 (2) The first story shall be used for a nondwelling use permitted in the district;
- 9 (3) Said nondwelling use shall not:
- 10 (i) be accessory to the residential use;
- 11 (ii) be a parking lot or garage.
- 12 (4) Said first story shall not have more than twenty percent of its height below  
13 grade.
- 14 (d) Early childhood care facilities:
- 15 (1) Such facilities shall comply with all applicable state and local early childhood  
16 care requirements;
- 17 (2) Such facilities shall comply with all building and life safety code requirements.
- 18 (3) Such facilities shall be fenced and have play areas that comply with the  
19 design standards for early childhood care facilities.
- 20 (e) Tents and other temporary structures: Tents or other temporary structures shall be  
21 permitted for the temporary or seasonal sales of goods at retail under the following conditions:
- 22 (1) A tent or other temporary structure shall not reduce the amount of on-site  
23 parking to less than the minimum required;
- 24 (2) A tent or other temporary structure shall not remain on the premises for more  
25 than 180 consecutive days;

1                   (3)     A tent or other temporary structure shall comply with all applicable building  
2 and life safety codes;

3                   A tent or other temporary structure need not be shown on the approved use permit site plan.

4                   (f)     Sale of alcoholic beverages for consumption on the premises:

5                   (1)     When the building containing the licensed premises abuts a residential  
6 district, the required yards shall be met; provided that the side yard adjacent to such building shall  
7 be 50 feet.

8                   (2)     Parking shall be in conformance with the provisions of Chapter 27.67;  
9 provided that no parking spaces shall be located in that portion of any required side yard or rear  
10 yard of the building containing the licensed premises that abuts a residential district.

11                  (3)     Any exterior door opening must meet the following conditions:

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

22                  (ii)    If the exterior door opening faces a residential district, then such  
23 opening shall be at least 150 feet from a residential district as measured by the shortest, most  
24 direct perpendicular distance. The exterior door shall not be kept or propped open during the hours

1 of operation. For purposes of this section, “exterior door opening” shall mean (A) that portion of the  
2 exterior wall face of the building containing the licensed premises that contains a break to  
3 accommodate the exterior building door, door frame, door vestibule, or door entryway area; and  
4 (B) provides public or membership access to the licenses premises. “Exterior door opening” shall  
5 not apply to openings for emergency exit doors required by building or safety codes, loading doors  
6 or unloading doors that are not available for public or membership access in the ordinary course  
7 of business.

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

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

14 (6) Notwithstanding any contrary provision contained in Section 27.31.100, the  
15 yard requirements, the parking location requirements, and the exterior door opening location  
16 requirements in this section shall not be adjusted by the City Council.

17 (g) Sale of alcoholic beverages for consumption off the premises:

18 (1) When the building containing the licensed premises abuts a residential  
19 district, the required yards shall be met; provided that the side yard adjacent to such building shall  
20 be 50 feet.

21 (2) Parking shall be in conformance with the provisions of Chapter 27.67;  
22 provided that no parking spaces shall be located in that portion of any required side yard or rear  
23 yard of the building containing the licensed premises that abuts a residential district.

24 (3) Any exterior door opening must meet the following conditions:

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

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

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

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

1           (6)    Notwithstanding any contrary provision contained in Section 27.31.100, the  
2 yard requirements, the parking location requirements, and the exterior door opening location  
3 requirements in this section shall not be adjusted by the City Council.

4           Section 3. That Section 27.37.020 of the Lincoln Municipal Code be amended to  
5 read as follows:

6    **27.37.020    Use Regulations.**

7           (a)    General regulations. Any development, including building and open land uses,  
8 except farming and the sale of farm produce, shall be prohibited in the B-5 Planned Regional  
9 Business District prior to the approval of a use permit in conformance with the requirements of this  
10 chapter. B-5 Planned Regional Business District zoning shall not be permitted or granted upon any  
11 property having a total area of less than thirty acres.

12          (b)    Permitted uses. A building or premises may be used only for the following purposes  
13 in the B-5 Planned Regional Business District:

14               (1)    Stores or shops for the sale of goods at retail, and shops providing service  
15 for such goods;

16               (2)    Business offices;

17               (3)    Personal and professional services;

18               (4)    Places of public assembly, entertainment, or recreation, except theaters;

19               (5)    Hotels or motels;

20               (6)    Banks and savings and loan associations, credit unions, and finance  
21 companies;

22               (7)    Private schools, including but not limited to business or commercial schools,  
23 dance or music academies, and nursery schools;

24               (8)    Restaurants;

25               (9)    Service stations, and automobile washing services;

26               (10)   Automobile sales establishments;



- 1 (11) Residential uses;
- 2 (12) Public or nonprofit community services;
- 3 (13) Dry cleaning or laundry establishment; provided, the floor area does not ex-
- 4 ceed 2,000 square feet, exclusive of office and "pickup space";
- 5 (14) Enclosed commercial recreational facilities;
- 6 ~~(15) Sale of alcoholic beverages for consumption on the premises, provided the~~
- 7 ~~locational requirements of Section 27.63.680 have been met or waived by the City Council;~~
- 8 ~~—————(16) Sale of alcoholic beverages for consumption off the premises, provided the~~
- 9 ~~locational requirements of Section 27.63.685 have been met or waived by the City Council;~~
- 10 ~~(17)~~ (15) Tailor shops, shoe repair shops, upholstery shops, printing and
- 11 photocopying shops, or other, similar business establishments.

12 Section 4. That Section 27.37.025 of the Lincoln Municipal Code be amended to  
13 read as follows:

14 **27.37.025 Permitted Conditional Uses.**

15 Any building or premises may be used for the following purposes in the B-5 Planned  
16 Regional Business District in conformance with the conditions prescribed herein:

- 17 (a) Early childhood care facilities:
  - 18 (1) Such facilities shall comply with all applicable state and local early childhood
  - 19 care requirements;
  - 20 (2) Such facilities shall comply with all applicable building and life safety code
  - 21 requirements;
  - 22 (3) Such facilities shall be fenced and have play areas that comply with the
  - 23 design standards for early childhood care facilities.
- 24 (b) Tents and other temporary structures: Tents or other temporary structures shall be
- 25 permitted for the temporary or seasonal sales of goods at retail under the following conditions:

1 (1) A tent or other temporary structure shall not reduce the amount of on-site  
2 parking to less than the minimum required;

3 (2) A tent or other temporary structure shall not remain on the premises for more  
4 than 180 consecutive days;

5 (3) A tent or other temporary structure shall comply with all applicable building  
6 and life safety codes;

7 A tent or other temporary structure need not be shown on the approved use permit site plan.

8 (c) Sale of alcoholic beverages for consumption on the premises:

9 (1) When the building containing the licensed premises abuts a residential  
10 district, the required yards shall be met.

11 (2) Parking shall be in conformance with the provisions of Chapter 27.67;  
12 provided that no parking spaces shall be located in that portion of any required side yard or rear  
13 yard of the building containing the licensed premises that abuts a residential district.

14 (3) Any exterior door opening must meet the following conditions:

15 (i) Be located at least 100 feet (as measured by the shortest, most direct  
16 distance) from a day care facility, church, state mental health institution, park (excluding golf  
17 courses and hiker/biker trails), or a residential district; provided that, if there is an intervening  
18 exterior wall of the building containing the licensed premises between the exterior door opening and  
19 such day care facility, church, state mental health institution, park (excluding golf courses and  
20 hiker/biker trails), then the 100 feet shall be measured from the exterior door opening, along the  
21 exterior base of the building wall(s) to the point where there is no intervening exterior building wall,  
22 and from that point the shortest, most direct distance to the day care facility, church, state mental  
23 health institution, park (excluding golf courses and hiker/biker trails), or residential district.

24 (ii) If the exterior door opening faces a residential district, then such  
25 opening shall be at least 150 feet from a residential district as measured by the shortest, most  
26 direct perpendicular distance. The exterior door shall not be kept or propped open during the hours

1 of operation. For purposes of this section, “exterior door opening” shall mean (A) that portion of the  
2 exterior wall face of the building containing the licensed premises that contains a break to  
3 accommodate the exterior building door, door frame, door vestibule, or door entryway area; and  
4 (B) provides public or membership access to the licenses premises. “Exterior door opening” shall  
5 not apply to openings for emergency exit doors required by building or safety codes, loading doors  
6 or unloading doors that are not available for public or membership access in the ordinary course  
7 of business.

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

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

14 (6) Notwithstanding any contrary provision contained in Section 27.37.070, the  
15 yard requirements, the parking location requirements, and the exterior door opening location  
16 requirements in this section shall not be adjusted by the City Council.

17 (d) Sale of alcoholic beverages for consumption off the premises:

18 (1) When the building containing the licensed premises abuts a residential  
19 district, the required yards shall be met.

20 (2) Parking shall be in conformance with the provisions of Chapter 27.67;  
21 provided that no parking spaces shall be located in that portion of any required side yard or rear  
22 yard of the building containing the licensed premises that abuts a residential district.

23 (3) Any exterior door opening must meet the following conditions:

24 (i) Be located at least 100 feet (as measured by the shortest, most direct  
25 distance) from a day care facility, church, state mental health institution, park (excluding golf  
26 courses and hiker/biker trails), or a residential district; provided that, if there is an intervening

1 exterior wall of the building containing the licensed premises between the exterior door opening and  
2 such day care facility, church, state mental health institution, park (excluding golf courses and  
3 hiker/biker trails), or residential district, then the 100 feet shall be measured from the exterior door  
4 opening, along the exterior base of the building wall(s) to the point where there is no intervening  
5 exterior building wall, and from that point the shortest, most direct distance to the day care facility,  
6 church, state mental health institution, park (excluding golf courses and hiker/biker trails), or  
7 residential district.

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

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

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

24 (6) Notwithstanding any contrary provision contained in Section 27.37.070, the  
25 yard requirements, the parking location requirements, and the exterior door opening location  
26 requirements in this section shall not be adjusted by the City Council.

1                   Section 5. That Sections 27.31.030, 27.31.040, 27.37.020, and 27.37.025 of the  
2 Lincoln Municipal Code as hitherto existing be and the same are hereby repealed.

3                   Section 6. That this ordinance shall take effect and be in force from and after its  
4 passage and publication according to law.

Introduced by:

\_\_\_\_\_

Approved as to Form & Legality:

\_\_\_\_\_  
City Attorney

**Approved this \_\_\_ day of \_\_\_\_\_, 2004:**

\_\_\_\_\_  
**Mayor**