11-89 Introduce: 6-27-11
Change of Zone 11020

ORDINANCE NO. _____

AN ORDINANCE amending Section 27.31.040 of the Lincoln Municipal Code relating to permitted conditional uses in the B-2 Planned Neighborhood Business District to modify conditional use requirements for the sale of alcoholic beverages for consumption on and off the premises by deleting required yards and parking prohibitions in a required yard when the building containing the licensed premises abuts a residential district and adding new language requiring all exterior door openings of the licensed premises to be located more than 100 feet away from any parking spaces located in a side or rear yard adjacent to a residential district; and repealing Section 27.31.040 of the Lincoln Municipal Code as hitherto existing.

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

Section 1. That Section 27.31.040 of the Lincoln Municipal Code be amended to read as follows:

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~~ 1) 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~~ all exterior door openings of the licensed premises shall be located more than 100 feet away from any parking spaces located in a side or rear yard adjacent to a residential district.. For the purpose of this measurement, the side yard shall be 50 feet. In addition, if there is an intervening exterior wall of the building containing the licensed premises between the exterior door opening and such 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 any parking spaces located in a side or rear yard adjacent to the residential district.

(~~3~~ 2) 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 licenses 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~~ 3) 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~~ 4) 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~~ 5) 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~~ 1) 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~~ all exterior door openings of the licensed premises shall be located more than 100 feet away from any parking spaces located in a side or rear yard adjacent to a residential district. For the purpose of this measurement, the side yard shall be 50 feet. In addition, if there is an intervening exterior wall of the building containing the licensed premises between the exterior door opening and such 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 any parking spaces located in a side or rear yard adjacent to the residential district.

(~~3~~ 2) 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 licenses 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~~ 3) 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~~ 4) 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~~ 5) 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.

Section 2. That Section 27.31.040 of the Lincoln Municipal Code as hitherto existing be and the same is hereby repealed.

Section 3. That this ordinance shall take effect and be in force from and after passage and publication in one issue of a daily or weekly newspaper of general circulation in the City, according to law.

Introduced by:

_____

Approved as to Form & Legality:

_____
City Attorney

Approved this ___ day of _____, 2011:

_____
Mayor