

## Chapter 27.63

### SPECIAL PERMITS

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### **27.63.010 Procedures.**

Certain use types 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 use types 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 use types 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 use types 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. 19733 §31; June 25, 2012: prior Ord. 18480 §1; December 20, 2004: 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 council member, the Mayor or 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.

(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. 20108 §9; November 17, 2014; prior Ord. 18633 §7; October 24, 2005; 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).

**27.63.065 Platted Lots; Irregular Tracts.**

The use of more than one platted lot or irregular tract under common ownership or under combined ownership of the Permittees under a special permit separated by a street may be allowed by special permit to be used as a single premises provided some portion of the platted lots or irregular tracts on each side of the street are directly opposite of each other. (Ord. 20372 §19; August 29, 2016).

**27.63.070 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 Academies, Private Schools, Community Colleges, Colleges, or Other Post-Secondary Education Facilities.**

(a) Academies, community colleges, colleges, or other post-secondary education facilities 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, I-1 or I-3 zoning districts.

(b) The application for a special permit for an academy shall be accompanied by the following information:

- (1) Number of students, 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 academy. The parking and the loading and unloading area for such academy 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 information 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. 19827 §14; February 25, 2013: prior Ord. 19733 §31; June 25, 2012: Ord. 19109 §3; July 28, 2008: Ord. 16909 §3; December 18, 1995: Ord. 16854 §43; August 14, 1995: Ord. 15368 §19; December 18, 1989).

**27.63.080 Health Care Facilities; Non-Residential.**

Non-residential 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-2, O-3, R-T, B-1, B-2, B-3, B-5, H-2, H-3, H-4, or I-3 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 non-residential healthcare facility shall conform to all applicable state and federal requirements.

(d) Such facilities should be located on major streets. (Ord. 19733 §31; June 25, 2012: prior Ord. 18687 §26; March 20, 2006; 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 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.

(d) The Planning Commission may increase the number of members up to 100% when the dwelling is located within 600 feet of the boundary of a school, place of religious assembly, or early childhood care facility served by the members.

(e) In the AG zoning district, dwellings for members of a religious order shall be on a minimum of five acres. (Ord. 20212 §2; July 13, 2015: prior Ord. 20194 §1; May 11, 2015: Ord. 14276 §1; November 25, 1985: Ord. 12571 §312; May 8, 1979).

**27.63.100 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, H-4, and I-1 zoning districts. (Ord. 19733 §31; June 25, 2012: prior Ord. 12571 §313; May 8, 1979).

**27.63.110 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 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 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 Recreational Facilities; Outdoor.**

Outdoor 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 outdoor 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 outdoor recreational facilities and the adjacent environment.

(c) The Planning Commission may establish the parking requirements based on a determination of the parking needs and operation of the proposed uses; 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 outdoor 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 an outdoor recreational facility, the Planning Commission may approve or deny the sale of alcoholic beverages for consumption on the premises as an accessory use to the outdoor recreational facility, provided that the approval of such accessory use shall be subject to the following conditions:

- (1) The applicable locational requirements of Section 27.63.680 shall have been met or waived by the City Council.
- (2) The Permittee as the holder of any liquor license issued on the premises of an outdoor recreational facility shall agree in writing to voluntarily surrender and consent to the cancelling of the liquor license in the event the sale of alcoholic beverages for consumption on the premises as an accessory use to the outdoor recreational facility or the special permit for the outdoor recreational facility 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 such accessory use or 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 the sale of alcoholic beverages for consumption on the premises as an accessory use to the outdoor recreational facility approved as part of the special permit.

The Planning Commission shall impose such other conditions as are appropriate and necessary to protect the health, safety and general welfare in the approval of the sale of alcoholic beverages for consumption on the premises as an accessory use to an outdoor recreational facility.

The City Council may consider any of the following as cause to revoke the sale of alcoholic beverages for consumption on the premises as an accessory use to the outdoor recreational facility approved under this section:

- (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. (Ord. 20027 §1; June 9, 2014; prior Ord. 19139 §3; September 15, 2008: 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 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 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 Excavation.**

Excavation 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. The special permit may include and permit stone milling to be conducted as an accessory use to the excavation operation. 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. Stone milling shall mean the crushing, cutting, grinding, or otherwise processing of minerals associated with an excavation operation. Not all of the conditions will apply to pre-existing, long-term excavation sites.

(a) An application for a special permit for excavation 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 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. 20107 §1; November 3, 2014: prior Ord. 19224 §12; March 16, 2009: Ord. 12571 §319; May 8, 1979).

### **27.63.170 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 place of religious assembly; provided that the parking lots are used primarily in connection with the said college, university, or place of religious assembly.

(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. 20372 §40; August 29, 2016; 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 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 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) Motor fuel sales facilities 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) Motor fuel sales facilities 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. 19733 §31; June 25, 2012: prior Ord. 19132 §7; September 8, 2008: 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 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 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 Clubs.**

Clubs may be allowed by special permit in the AG, AGR, R-1, R-2, R-3, R-4, R-5, and O-1 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. 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. 20188 §1; April 27, 2015: prior Ord. 19733 §31; June 25, 2012: Ord. 18687 §27; March 20, 2006; 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 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, R-8, O-1, O-2, R-T, B-1, B-2, B-3, and B-5 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. 19827 §15; February 25, 2013: prior Ord. 19733 §31; June 25, 2012: Ord. 18903 §4; March 26, 2007: 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; November 5, 1979: Ord. 12571 §324; May 8, 1979).

**27.63.215 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, R-8, O-1, O-2, O-3, R-T, B-1, B-2, B-3, and B-5 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. 19733 §31; June 225, 2012: prior Ord. 18903 §6; March 26, 2007: Ord. 17947 §3; December 10, 2001: Ord. 15296 §1; September 11, 1989: Ord. 13546 §10; February 28, 1983).

### **27.63.216 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 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) 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 Chapter 27.72 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 27.02. 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. 19733 §31; June 25, 2012: prior Ord. 16820 § 9; July 10, 1995).

**27.63.220 Place of Religious Assembly Steeples, Towers, and Ornamental Spires.**

Place of Religious Assembly 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. 20372 §41; August 29, 2016: prior Ord. 12571 §325; May 8, 1979).

**27.63.225 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 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 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.

Stores and shops for retail sales and service of over 20,000 square feet may be allowed by special permit in the I-1 zoning district. (Ord. 19773 §4; September 10, 2012: prior Ord. 12657 §12; August 6, 1979: Ord. 12571 §327; May 8, 1979).

**27.63.250 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 AG, 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. 20137 §1; January 26, 2015: prior Ord. 19436 §3; August 23, 2010: Ord. 16844 §1; August 7, 1995: Ord. 12571 §328; May 8, 1979).

### **27.63.260 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 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 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 I-1 District.**

Any use type listed as a permitted special use in the I-1 district under Chapter 27.06 and not separately listed as a special permitted use in the I-1 district under this chapter may be allowed by special permit in the I-1 zoning district. (Ord. 19733 §31; June 25, 2012: prior Ord. 16909 §4; December 18, 1995: 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 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).

#### **27.63.320 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, R-6, R-7, or R-8 zoning districts in conformance with the provisions of Chapter 27.65. (Ord. 20043 §1; June 30, 2014: prior Ord. 12571 §335; May 8, 1979).

#### **27.63.330 Veterinary Facilities.**

(Repealed by Ord. 19733 §31; June 25, 2012: prior Ord. 12571 §336; May 8, 1979).

#### **27.63.340 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 Sale Barns.**

Sale barns may be allowed by special permit in the AG zoning district. (Ord. 12571 §338; May 8, 1979).

#### **27.63.370 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 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 Restaurants.**

Restaurants may be allowed by special permit in the O-3 zoning district. (Ord. 19733 §31; June 25, 2012: prior Ord. 18301 §4; February 9, 2004: Ord. 13901 §2; July 30, 1984: Ord. 12571 §341a; May 8, 1979).

#### **27.63.400 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 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 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 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) To limit unauthorized climbing on the WECS tower, a fence six feet high with a locking portal shall be placed around the WECS tower base unless the tower climbing apparatus is located no lower than twelve feet above the ground beneath the tower climbing apparatus. In lieu of the above, the WECS tower may be mounted on a rooftop.
- (e) 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. 19733 §31; June 25, 2012; prior Ord. 19158 §48; October 20, 2008; Ord. 18480 §9; December 20, 2004; Ord. 13487 §5; November 1, 1982; Ord. 12978 §26; August 25, 1980).

#### **27.63.425 Commercial Wind Energy Conversion Systems/Turbines (CWECS).**

A Commercial Wind Energy Conversion System(s) (CWECS) may be allowed in the AG District by special permit under the following conditions:

- (a) Each CWECS machine shall be no less than 1,000 feet from any property line of a dwelling unit not associated with the project.

(b) The distance from all external boundary lot lines and/or right-of-way lines of the special permit to any tower support base of a CW ECS machine shall be equal to the height of the tower plus the rotor radius.

(c) Each CW ECS machine, including all equipment, shall have a sound emission rating of no more than 35 dBA. Noise levels caused from the CW ECS machine(s) shall not exceed 35dBA at the property line of any dwellings within a one mile radius of a CW ECS machine. A noise study, incorporating both A and C weighted noise impacts on property within one mile may be required. Noise rating shall conform to International Electrotechnical Commission (IEC) standards unless otherwise directed by a government agency.

(d) Each CW ECS machine shall meet all FAA requirements, including but not limited to lighting and radar interference issues. Strobe lighting shall be avoided if alternative lighting is allowed. Color and finish shall be white, gray or another non-obtrusive, non-reflective finish.

(e) All applicable electrical, building, utility tie-in codes and other government regulations shall apply.

(f) The distance from any tower base of a CW ECS machine to any tower support base of another CW ECS machine under other ownership shall be spaced no less than a minimum of five (5) rotor diameters distance figured by the size of the largest rotor.

(g) The CW ECS shall have a decommissioning plan outlining the means, procedure and cost of removing the CW ECS machine(s) and all related supporting infrastructure and a bond or equivalent enforceable resource to guarantee removal and restoration upon discontinuance, decommissioning or abandonment.

(h) The CW ECS shall meet all federal, state and local rules and regulations.

The City Council may amend, modify or adjust conditions (a), (b), (c), (f) and (g) above, decrease the minimum regulations of the AG Agriculture District, or impose additional conditions as appropriate to preserve or promote the public health, safety and general welfare. (Ord. 19516 §3; April 11, 2011).

#### **27.63.430 Greenhouses.**

(Repealed by Ord. 20372 §20; August 19, 2016: prior Ord. 18480 §10; December 20, 2004: Ord. 13724; §3; October 31, 1983).

#### **27.63.440 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 non-conforming uses contained in Chapter 27.69. (Ord. 15971 §1; September 16, 1991: prior Ord. 13980 §12; October 29, 1984).

#### **27.63.460 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 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) Motor vehicle 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) Veterinary facilities;
- (9) Contractors' services, 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) Motor fuel service facilities;
- (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) Outdoor and enclosed commercial recreational facilities; provided that outdoor recreational facilities are 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) Places of Religious Assembly;
- (20) Motor vehicle repair, including vehicle body repair shops, provided that all disabled vehicles and all new and used parts are stored inside the building only;
- (21) Academies;
- (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) Motor vehicle and/or 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.
- (29) Sale of alcohol for uses that meet the conditions of Sections 27.63.680 and 27.63.685.
- (30) Non-residential healthcare facilities per the conditions of Section 27.63.080.

(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. 20372 §42; August 29, 2016: prior Ord. 19733 §31; June 25, 2012: Ord. 18960 §1; July 23, 2007: 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 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 Salvage Yards.**

Salvage yards may be allowed by special permit in the I-1 zoning district 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) 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 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 and/or recycling 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/recyclable material kept outside a building or buildings shall not be located in the required front yard;

(f) Salvage/recyclable 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/recyclable 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. 19733 §31; June 25, 2012: prior Ord. 17217 §1; July 14, 1997: Ord. 16822 §3; July 10, 1995: Ord. 14801 §1; December 7, 1987: Ord. 14185 §22; September 3, 1985).

### **27.63.510 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).

### **27.63.530 Healthcare Facilities, Residential.**

Residential health care facilities may be allowed by special permit in the AG, R-1, R-2, R-3, R-4, R-5, R-6, R-7, R-8, O-1, O-2, R-T, B-1, B-2, B-3, B-4, and B-5 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) Residential healthcare facilities shall be licensed to comply with all state requirements.

(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) AG zoning district: One person for 5,000 square feet of lot area;
- (ii) R-1 zoning district: One person per 3,000 square feet of lot area;
- (iii) R-2 and R-3 zoning districts: 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 through R-8 zoning districts: 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 lot 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. In the AG zoning district, residential healthcare facilities shall be located on a lot having a minimum of five acres. (Ord. 20212 §3; July 13, 2015: prior Ord. 19827 §16; February 25, 2013: Ord. 19733 §31; June 25, 2012: Ord. 18903 §7; March 26, 2007: Ord. 18480 §12; December 20, 2004: Ord. 17513 § 1; June 1, 1999: Ord. 16687 §2; October 17, 1994: Ord. 14562 §10; December 8, 1986).

### **27.63.550 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 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 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 places of religious assembly, 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 Nonprofit Religious, Educational and Philanthropic Institutions;  
R-6, R-7 and R-8 Districts.**

(Repealed by Ord. 19733 §31; June 25, 2012; prior Ord. 18957 §1; July 9, 2007; Ord. 18480 §14; December 20, 2004; Ord. 15159 §7; April 24, 1989).

**27.63.590 Temporary Storage of Construction Equipment and Materials.**

(Repealed by Ord. 20372 §21; August 29, 2016; prior Ord. 18480 §15; December 20, 2004; Ord. 17801 §1; March 5, 2001; Ord. 15133 §2; March 27, 1989).

**27.63.610 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 R-6, R-7, and R-8 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, place of religious assembly, 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.

(g) No such use shall be a store or shop for the sale of goods at retail. (Ord. 20372 §43; August 29, 2016; prior Ord. 19827 §16; February 25, 2013; Ord. 19733 §31; June 25, 2012; Ord. 15371 §6; December 18, 1989).

**27.63.620 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 Theaters, Indoor.**

Indoor 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 indoor theaters on the entertainment and cultural uses in the B-4 Lincoln Center Business District; and

(c) Not more than one indoor theater complex shall be allowed for each B-5 District, consisting of not more than six movie screens. (Ord. 19733 §31; June 25, 2012; prior Ord. 17111 §1; December 9, 1996; Ord. 16075 §3; March 16, 1992).

**27.63.640 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 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 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 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 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, place of religious assembly, or state mental health institution, or (ii) 100 feet from a residential district (except where such use is accessory to a golf course, country club, farm winery, or market garden).
- (4) 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, I-3

and O-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.

(c) For the purposes of this section, 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.

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

(e) 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. 20372 §44; August 29, 2016: prior Ord. 20027 §2; June 9, 2014: Ord. 20025 §1; June 2, 2014: Ord. 19702 §4; April 16, 2012: Ord. 19624 §3; September 26, 2011: Ord. 19405 §1; June 28, 2010: 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 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, place of religious assembly, 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 or for a farm winery. (Ord. 20372 §45;

August 29, 2016: prior Ord. 19624 §4; September 26, 2011: Ord. 19405 §2; June 28, 2010: 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 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 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 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 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 place of religious assembly; 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. 20372 §46; August 29, 2016: prior Ord. 17731 §12; September 25, 2000).

#### **27.63.740 Adult Day Service Facility.**

Adult day service facilities 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 healthcare 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 healthcare 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 day service facility 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 day service facility, the proposed use must be found to not detrimentally affect the residential or historic character of the surrounding area. (Ord. 19733 §31; June 25, 2012; prior Ord. 17780 §4; December 18, 2000).

**27.63.750 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 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 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 Outdoor Exercise Area Associated with a Veterinary Facility or Kennel.**

(Repealed by Ord. 20086 §3; August 25, 2014; prior Ord. 19733 §31; June 25, 2012; Ord. 18928 §21; June 4, 2007).

**27.63.790 Veterinary Facility or Kennel.**

(a) Veterinary facilities may be allowed by special permit in those zoning districts where such use is designated as a permitted special use under a Use Group Table in Chapter 27.06.

(b) Veterinary facilities and/or kennels which do not comply with the requirements for a permitted conditional use under Section 27.62.100 may be allowed by special permit in such districts under the following conditions:

- (1) All outdoor areas and fences surrounding outdoor areas shall meet the setbacks of the zoning district.
- (2) All outdoor 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.
- (3) Use of outdoor areas between the hours of 10:00 p.m. and 7:00 a.m. is prohibited.
- (4) Animals in the outdoor area shall be under the supervision of handlers at all times.
- (5) The Planning Commission may limit the number of animals allowed in the outdoor area at any one time.
- (6) The Planning Commission may increase or decrease these requirements dependent upon the character of the facilities and the effect on adjacent

land uses. (Ord. 20086 §4; August 25, 2014; prior Ord. 19733 §31; June 25, 2012; Ord. 18928 §22; June 4, 2007).

**27.63.800 Single-Family Dwellings.**

Single-family dwellings which do not meet the minimum lot area, average lot width, or yard requirements in Table 27.72.020(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 27.72.150.

(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. 19827 §47; February 25, 2013; prior Ord. 19392 §3; June 7, 2010).

**27.63.810 Farm Winery.**

Farm wineries may be allowed by special permit in the AG Agriculture District under the following conditions:

(a) No farm winery shall manufacture wine in excess of 50,000 gallons per year;

(b) A farm winery must produce a minimum of fifteen percent (15%) of its product from fruit or other agricultural products harvested from the premises following five (5) years of business;

(c) Wines produced at the farm winery may be sold on site at wholesale and retail;

(d) Wines produced at the farm winery may be sold at retail for consumption on the premises;

(e) Sampling of wine at the farm winery shall be permitted in reasonable amounts;

(f) A farm winery may sell retail items as an accessory to wine sales through a tasting or wine sales room;

(g) A farm winery may only serve food prepared off site by a Health Department licensed establishment in association with sampling and/or on premises consumption of wine. A farm winery shall not act in the capacity of a retail food establishment;

(h) Unless waived by the City Council, parking shall be in conformance with Chapter 27.67;

(i) The farm winery shall be licensed under the Nebraska Liquor Control Act as a farm winery. (Ord. 19624 §5; September 26, 2011).

### **27.63.820 Market Garden.**

Market gardens may be allowed by special permit in the AG and AGR zoning districts under the following conditions:

(a) The market garden shall have one or more of the following accessory uses associated with the market garden: restaurants, agricultural education and training centers, agricultural tourism, or sales of agricultural products not grown on site. The accessory uses must be located on the same premises as the market garden, and the products of the market garden must be a major feature of the use that is accessory to it;

(b) The total area for the market garden and its accessory uses must be at least 20 acres but not more than 40 acres. Areas used for grazing or growing of crops for the feeding of animals on site may be excluded in calculating the total area for the market garden.

(c) The combined total area of all market garden accessory uses shall not exceed ten percent of the total area for the market garden. A single family dwelling located on the same premises as the market garden shall not be considered an accessory use to the market garden and shall not be counted toward the combined maximum total area of all the market garden's accessory uses. The applicant shall provide a site plan showing the location, outdoor area, and building floor area of all accessory uses, their setbacks and intended use;

(d) The Planning Commission may limit the maximum square footage of buildings associated with the market garden accessory use;

(e) Direct access to a paved road may be required by the Planning Commission based upon the anticipated traffic generated by the use. The applicant shall include an estimate of all traffic generated based on the accessory uses on site in order to address the impact on the adjacent streets;

(f) Unless waived by the City Council, parking shall be in conformance with Chapter 27.67;

(g) Notwithstanding any provision to the contrary in Section 27.63.680, the Planning Commission may permit the sale of alcoholic beverages for consumption on the premises as part of a market garden accessory use. (Ord. 19702 §5; April 16, 2012).

### **27.63.830 Commercial Solar Energy Conversion System (CSECS).**

A Commercial Solar Energy Conversion System (CSECS) may be allowed in the AG District by special permit under the following conditions:

(a) The system uses photovoltaics to convert solar energy into electricity.

(b) On-site transmission lines shall, to the maximum extent practicable, be placed underground.

(c) Where said use is adjacent to residential zoned land, park land, school property, or major entryways or corridors into the city, town, or village, visual screening through setbacks, berming, and other techniques may be required by the Planning Commission as appropriate and necessary to address the site-related impacts of the CSECS on adjacent property and major entryways or corridors.

(d) Each CSECS facility shall have a decommissioning plan outlining the means, procedure, and costs of removing the machines and all related supporting infrastructure and a bond or equivalent enforcement resource to guarantee removal and restoration upon discontinuance, decommissioning, or abandonment. (Ord. 20171 §3; March 16, 2015).