

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

1 AN ORDINANCE amending Title 27 of the Lincoln Municipal Code by amending  
2 the Retail Sales and Services Use Group Table in Section 27.06.130 to show veterinary facilities as  
3 a permitted conditional use in the O-1, O-2, O-3, and R-T zoning districts; amending Section  
4 27.62.100 to allow kennels and/or veterinary facilities in those zoning districts where such use is  
5 designated as a permitted conditional use under a Use Group Table in Chapter 27.06; repealing  
6 Section 27.63.780, Outdoor Exercise Area Associated with a Veterinary Facility or Kennel;  
7 amending Section 27.63.790 to clarify that veterinary facilities are allowed as a permitted special use  
8 in the AG and AGR districts and that veterinary facilities and kennels which do not comply with the  
9 requirements for a permitted conditional use under Section 27.62.100 may be allowed by special  
10 permit under specified conditions; and repealing Sections 27.06.130, 27.62.100, and 27.63.790 of  
11 the Lincoln Municipal Code as hitherto existing.

12 Section 1. That Section 27.06.130 of the Lincoln Municipal Code be amended to read  
13 as follows:

14 **27.06.130 Retail Sales and Services Use Group**

15 Characteristics: The Retail Sales and Services Use Group is characterized by uses that are  
16 involved in the sale, lease, or rental of new or used products to the general public. They may also  
17 provide personal services, or provide product service or repair for consumer and business goods.  
18 Services and repairs are typically performed on site. Small-scale production, assembly, or  
19 manufacturing of retail goods and crafts primarily sold on the premises is permitted as accessory to  
20 business activity. A portion of the premise may be used for outdoor storage of products associated  
21 with the main use. These uses may be open 24 hours a day and may include drive up or drive thru  
22 facilities. These uses generally do not involve the use, storage, production, or manufacturing of  
23 hazardous chemicals. Such uses include but are not limited to retail sales, personal services, service

1 and repair facilities, motorized vehicle repair and sales, hotels and motels, ambulance services,  
 2 motorized fuel sales facility, parking lots, recycling drop-off facilities and off-sale of alcoholic  
 3 beverages. Parking as a primary use is part of this use group.

4 Use Group Table:

5	Uses	AG	AGR	R1	R2	R3	R4	R5	R6	R7	R8	O1	O2	O3	RT	B1	B2	B3	B4	B5	H1	H2	H3	H4	I1	I2	I3
6	Garden centers	S	S		S	S										P	P	P	P	P		P	P	P	P	P	P
7	Hotels and motels														P	P	P	P	P	P	P	P	P	P	P	P	C
8	Kennels	P	P													C	C	C	P			C	C	C	P	P	P
9	Mail order catalog sales											C	S	S		P	S	P	P			P	P	P	P	P	P
10	Marinas for sale, service,																										
11	and storage of motorboats															P			P	P					P	P	P
12	and related water craft																										
13	Motorized vehicle fuel																										
14	sales facility															P	P	P	C	P	P	P	P	P	P	P	P
15	Motorized vehicle																										
16	repair/service															C	P	C	C	P	P	P	P	P	P	P	P
17	Motorized vehicle sales																					C	C	P	P	P	P
18	Motorized vehicle wash																										
19	facilities															C	C	C	C	P	P	C	C	S	P	P	P
20	Off-sale alcoholic																										
21	beverages															S	C	S	P	C	S	S	S	S	S	P	S
22	Outdoor retail sales																						P	P	P	P	P
23	Outdoor seasonal sales	C	C	S	S	S	S	S	S	S	S	S	S	S		P	P	P	P	P		P	P	P	P	P	P
24	Parking garage as a primary												S												P	P	P
25	use																										
26	Parking lots as a primary				S	S	S	S	S	S	S		C												P	P	P
27	use															P		P	C			P	P		P	P	P
28	Parking lots, temporary				S	S	S	S	S	S	S									P					P	P	P
29	Parking lots, temporary																										
30	commercial				S	S														P					P	P	P
31	Personal services											C	C	C	C	P	P	P	P	P		P	P	P	P	P	P
32	Retail sales											C		C		P	P	P	P	P		P	C	C	C	P	P
33	Service and repair facilities														C	C	P	C	P	P		C	P	P	P	P	P
34	Veterinary facilities	S	S									C	C	C	C	C	C	C	P			C	C	C	P	P	P
35	All other uses in this Use																										
36	Group															P	P	P	P	P		P	P	P	P	P	P

37 Section 2. That Section 27.62.100 of the Lincoln Municipal Code be amended to read  
 38 as follows:

1     **27.62.100     Retail Sales and Services Use Group.**

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

5 (a)     Hotels and motels are allowed in the I-3 zoning district under the following conditions:

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

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

11 (b)     Kennels and/or Veterinary Facilities ~~are allowed in the: B-1, B-2, B-3, H-2, H-3 and H-4~~

12 ~~zoning Districts~~ may be allowed in those zoning districts where such use is designated as a

13 permitted conditional use under a Use Group Table in Chapter 27.06, under the following

14 conditions:

15             (1)     Any associated outdoor area must be located no closer than 200 feet from any R-1  
16 through R-8 residential district.

17             (2)     No more than 3 animals are permitted in the outdoor area at any one time.

18 (NOTE: If the above conditions cannot be met, the use may be allowed upon approval of a  
19 special permit pursuant to Chapter 27.63).

20 (c)     Motorized vehicle sales and/or repair/services facilities are permitted in the B-3, B-4, H-2  
21 and H-3 zoning districts and Motorized vehicle services is permitted in the B-1 under the  
22 following conditions:

23             (1)     In the B-1 and B-3 zoning districts:

24                     (i)     No facility shall be permitted to locate within 100 feet of any residential use  
25 or district;

26                     (ii)    Any facility located within 100 feet of any residential use or district which  
27 was lawfully established in the B-1 or B-3 zoning district on the effective  
28 date of this ordinance, shall screen the facility from such residential use or  
29 district by the use of an opaque fence six feet in height, constructed of wood,  
30 or of a substitute material found acceptable to the Director of Building and  
31 Safety;

32                     (iii)  The locational or screening requirements of (i) and (ii) above shall not apply  
33 when said residential use or district is across a public street from the  
34 motorized vehicle sales and/or repair facility, but shall apply if said  
35 residential use or district is across an alley or private drive from said facility;

- 1 (2) In the H-2 and H-3 zoning districts, the storage of vehicles for sale and resale is  
2 permitted in the front yard except for the front twelve feet under the following  
3 conditions:
- 4 (i) Parking barriers in accordance with parking lot design standards must be  
5 provided around the storage/display area to prevent the vehicles  
6 stored/displayed for sale or resale from overhanging the front twelve feet of  
7 the front yard.
  - 8 (ii) No vehicle shall be stored/displayed for sale or resale in the front yard upon  
9 a raised concrete island or on a raised display structure.
  - 10 (iii) The hood or trunk or both of vehicles stored/displayed for sale or resale in the  
11 front yard shall not be open except when being inspected by a customer or for  
12 servicing.
  - 13 (iv) The front twelve feet of the front yard shall be devoted to shrubs and grasses.
  - 14 (v) The front twelve feet of the front yard not permitted to be used for the storage  
15 of vehicles for sale and resale shall be screened at least sixty percent from  
16 zero feet to two feet above the surface of the lot. The design and construction  
17 of the landscaping shall be in conformance with the Design Standards for  
18 Screening and Landscaping except that fences may not be used to meet the  
19 above screening requirements. If plant material is used, the density  
20 percentage is calculated using the design size found in the City of Lincoln's  
21 plant material list approved by the Planning Director. The landscape screen  
22 shall be located throughout the area but far enough from the barrier so as to  
23 be protected from the bumpers of overhanging vehicles. Entrance driveways  
24 shall be excluded from the required screen.
  - 25 (vi) No fence shall be erected in the front yard.
  - 26 (vii) Lighting in the front yard shall be in conformance with the Design Standards  
27 for Outdoor Lighting.
  - 28 (viii) Any existing motorized vehicle sales facility lawfully established on the effective  
29 date of this ordinance which does not comply with conditions (i) through (vii)  
30 above may be continued in accordance with the provisions of Chapter 27.61 for  
31 nonconforming uses.
- 32 (3) In the area of the B-4 zoning district from 150 feet east of 17th Street to the eastern edge  
33 of the B-4 zoning district, motorized vehicle sales and/or repair/service facilities are  
34 prohibited;
- 35 (d) Motor fuel sales facilities are allowed in the B-4 zoning district under the following  
36 condition: In the area of the B-4 zoning district from 150 feet east of 17th Street to the  
37 eastern edge of the B-4 zoning district, fuel sales facilities are prohibited;
- 38 (e) Motorized vehicle wash facilities are allowed in the B-1, B-2, B-3, B-4, H-2, and H-3 zoning  
39 districts under the following conditions:
- 40 (1) In the B-1, B-2 and B-3 zoning districts, a self-service, coin-operated wash facility shall  
41 not exceed four wash bays.
  - 42 (2) In the H-2 and H-3 zoning districts, a self-service, coin-operated wash facility shall not  
43 exceed six wash bays.
  - 44 (3) In the B-2 and B-3 zoning districts, the stacking space shall not be located within the  
45 required front yard.

- 1 (4) In the area of the B-4 zoning district from 150 feet east of 17th Street to the eastern edge  
2 of the B-4 zoning district and in the area bounded by 10th Street, 150 feet north of “P”  
3 Street, 14th Street and “N” Street, motorized vehicle wash facilities are prohibited;
- 4 (f) Outdoor seasonal sales, tents and other temporary structures are allowed in the AG and AGR  
5 zoning districts under the following conditions:  
6 (1) In the AG and AGR zoning districts, roadside stands for the temporary or seasonal sale  
7 of produce shall:  
8 (i) Be located outside the city limits;  
9 (ii) Be allowed in addition to any other main use, regardless of lot size;  
10 (iii) Be allowed in a required yard, provided that such roadside stand shall be located  
11 no closer than thirty feet to the edge of a traveled roadway;  
12 (iv) Not be operated for more than 180 days in any one calendar year.
- 13 (g) Parking as a primary use is allowed in the O-2 and B-4 zoning districts under the following  
14 conditions:  
15 (1) In the O-2 zoning district provided that no part of the street frontage within the block  
16 face on which a parking lot is proposed to be located may be zoned residential.  
17 (2) In the area of the B-4 zoning district bounded by 10th Street, 150 feet north of “P”  
18 Street, 14th Street, and “N” Street, parking as a primary use is prohibited;  
19 (NOTE: If the above conditions cannot be met, the use may be allowed upon approval of a  
20 special permit pursuant to Chapter 27.63).
- 21 (h) Personal Services are allowed uses in the O-1, O-2, O-3, and R-T zoning district under the  
22 following conditions:  
23 (1) In the O-1 and O-3 zoning districts:  
24 (i) The services shall be located entirely within a building containing office or  
25 residential uses.  
26 (ii) The services shall not exceed twenty percent of the total square feet of floor area  
27 in such building.  
28 (2) In the O-2, and R-T zoning districts, the floor area of said building shall not exceed  
29 5,000 square feet.
- 30 (i) Retail sales including mail order catalog sales are allowed in the O-1, O-3, H-3, H-4 and I-1  
31 zoning districts under the following conditions:  
32 (1) In the O-1 and O-3 zoning districts:  
33 (i) The retail sales shall be located entirely within a building containing office or  
34 residential uses.  
35 (ii) Retail sales shall not exceed twenty percent of the total square feet of floor area  
36 in such building.  
37 (iii) Retail sales shall occupy no more than 10,000 square feet of floor area per  
38 business.  
39 (2) In the H-3 zoning district, retail sales shall occupy no more than 20,000 square feet of  
40 floor area per business.  
41 (3) In the H-4 zoning district, retail sales shall occupy no more than 30,000 square feet of  
42 floor area per business.  
43 (4) In the I-1 zoning district, retail sales and service shall occupy no more than 20,000  
44 square feet of floor area per business.

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

3 (j) Sale of alcoholic beverages for consumption off the premises is allowed in the B-2 and B-5  
4 zoning districts under the following conditions:

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

9 (2) Any exterior door opening must meet the following conditions:

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

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

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

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

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

41 (6) In addition, in the B-2 zoning district, all exterior door openings of the licensed  
42 premises shall be located more than 100 feet away from any parking spaces located in  
43 a side or rear yard adjacent to a residential district. For the purpose of this measurement,  
44 the side yard shall be 50 feet. In addition, if there is an intervening exterior wall of the  
45 building containing the licensed premises between the exterior door opening and such

1 residential district, then the 100 feet shall be measured from the exterior door opening,  
2 along the exterior base of the building wall(s) to the point where there is no intervening  
3 exterior building wall, and from that point the shortest, most direct distance to any  
4 parking spaces located in a side or rear yard adjacent to the residential district.

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

7 (k) Service and repair facilities are allowed in the R-T, B-1, B-3, and H-2 zoning districts under  
8 the following conditions:

9 (1) The floor area of said premises not devoted to sales or office space shall not exceed  
10 5,000 square feet; and

11 (2) All displays and merchandise shall be within the enclosure walls of the buildings.

12 (3) In addition, in the B-3 zoning district, appliance service and repair shall comply with the  
13 following additional conditions:

14 (i) No appliance sales and repair facility shall be permitted to locate within 100 feet  
15 of any residential use or district;

16 (ii) Any appliance service and repair facility located within 100 feet of any residential  
17 use or district which was lawfully established in this district on the effective date  
18 of this ordinance, shall screen the facility from such residential use or district by  
19 the use of an opaque fence six feet in height, constructed of wood, or of a  
20 substitute material found acceptable to the Director of Building and Safety;

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

25 Section 3. That Section 27.63.780 of the Lincoln Municipal Code be and the same is

26 hereby repealed as follows:

27 ~~**27.63.780 Outdoor Exercise Area Associated with a Veterinary Facility or Kennel.**~~

28 ~~Outdoor exercise areas associated with a veterinary facility or kennel may be allowed by~~  
29 ~~special permit in the H-3 and H-4 zoning districts under the following conditions:~~

30 ~~(a) All outdoor areas and fences surrounding outdoor areas shall meet the setbacks~~  
31 ~~of the zoning district.~~

32 ~~(b) All outdoor areas shall be screened 100% from the ground to six feet in height~~  
33 ~~with an opaque fence or wall. Slats in chain link fence are not acceptable.~~

34 ~~(c) Use of outdoor areas between the hours of 10:00 p.m. and 7:00 a.m. is prohibited.~~

35 ~~(d) An outdoor exercise area associated with a veterinary facility or kennel is only~~  
36 ~~allowed in conjunction with such veterinary facility or kennel.~~

37 ~~(e) The Planning Commission may limit the number of animals allowed in the~~  
38 ~~outdoor area at any one time.~~

39 ~~(f) The Planning Commission may increase or decrease these requirements~~  
40 ~~dependent upon the character of the facilities and the effect on adjacent land uses.~~

41 ~~(g) Animals in the outdoor area shall be under the supervision of handlers at all~~  
42 ~~times.~~

1 Section 4. That Section 27.63.790 of the Lincoln Municipal Code be amended to read  
2 as follows:

3 **27.63.790 Veterinary Facility or Kennel.**

4 ~~Outdoor areas for three or less animals associated with a veterinary facility may be allowed~~  
5 ~~by special permit in the AG, AGR, B-1, B-2, B-3, H-2, H-3, and H-4 zoning districts.~~

6 ~~Outdoor areas for three or less animals associated with a kennel may be allowed by special~~  
7 ~~permit in the B-1, B-2, B-3, H-2, H-3, and H-4 zoning districts.~~

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

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

13 (1) All outdoor areas and fences surrounding outdoor areas shall meet the  
14 setbacks of the zoning district.

15 (2) All outdoor areas shall be screened 100% from the ground to six feet in  
16 height with an opaque fence or wall. Slats in chain link fence are not  
17 acceptable.

18 (3) Use of outdoor areas between the hours of 10:00 p.m. and 7:00 a.m. is  
19 prohibited.

20 (4) Animals in the outdoor area shall be under the supervision of handlers at all  
21 times.

22 (5) The Planning Commission may limit the number of animals allowed in the  
23 outdoor area at any one time.

1           (6)    The Planning Commission may increase or decrease these requirements  
2                           dependent upon the character of the facilities and the effect on adjacent land  
3                           uses.

4           Section 5. That Sections 27.06.130, 27.62.100, and 27.63.790 of the Lincoln  
5 Municipal Code as hitherto existing be and the same are hereby repealed.

Section 6. Pursuant to Article VII, Section 7 of the City Charter, this ordinance shall be posted on the official bulletin board of the City, located on the wall across from the City Clerk’s office at 555 S. 10th Street, in lieu of and in place of newspaper publication with notice of passage and such posting to be given by publication one time in the official newspaper by the City Clerk. This ordinance shall take effect and be in force from and after its passage and publication as herein and in the City Charter provided.

Introduced by:  
\_\_\_\_\_

Approved as to Form & Legality:  
  
\_\_\_\_\_  
City Attorney

Approved this ___ day of _____, 2014:  _____ Mayor
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