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\_\_\_\_\_

Please add my name to your mailing list to be notified when supplements which update the City of Lincoln Zoning Book (Title 27 Lincoln Municipal Code) are available.

NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

Mail to: Lincoln City/Lancaster County Planning Dept.  
Attn: Teresa McKinstry  
555 S. 10<sup>th</sup> St. #213  
Lincoln NE 68508

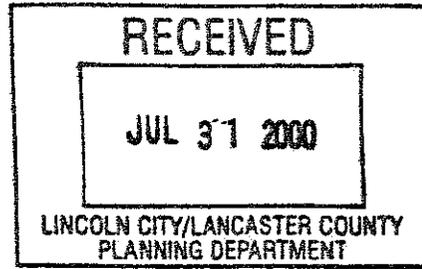
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## TITLE 27 TEXT AMENDMENTS

	Section Number	Effective Date	Subject of Amendment	Application Number	Ordinance Number
◆	27.58.010 27.58.020 27.58.030 27.58.040 27.58.050 27.58.060 27.58.070 27.58.080 27.58.100	7/24/00	Refer to the Airport Environs District as the Airport Environs Noise District; delete an erroneous reference to subparagraphs (b) and (c) of Section 27.58.010; amend the reference from Comprehensive Plan Figure 21 to Airport Environs Noise District Map; amend Section 27.58.020 to refer to the Airport Environs District 1 as the Airport Environs Noise District 1; to amend the reference from Comprehensive Plan Figure 21 to Airport Environs Noise District Map; to amend references to Airport Environs District 1 and Airport Environs District 2 as Airport Environs Noise District 1 and Airport Environs Noise District 2 and amend the title of Chapter 27.58 from Airport Environs District to Airport Environs Noise District.	CZ #3251	17699
			◆ = INDICATES NEW ORDINANCE		

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00-128  
Change of Zone 3251



Introduced: 7-10-00

ORDINANCE NO. 17699

AN ORDINANCE amending Chapter 27.58 of the Lincoln Municipal Code relating to the Airport Environs District by amending Section 27.58.010 to refer to the Airport Environs District as the Airport Environs Noise District, to delete an erroneous reference to subparagraphs (b) and (c) of Section 27.58.010, and to amend the reference from Comprehensive Plan Figure 21 to Airport Environs Noise District Map; amending Section 27.58.020 to refer to the Airport Environs District 1 as the Airport Environs Noise District 1 and to amend the reference from Comprehensive Plan Figure 21 to Airport Environs Noise District Map; and amending Sections 27.58.030, 27.58.040, 27.58.050, 27.58.060, 27.58.070, 27.58.080 and 27.58.100 to amend references to Airport Environs District 1 and Airport Environs District 2 as Airport Environs Noise District 1 and Airport Environs Noise District 2 and amending the title of Chapter 27.58 from Airport Environs District to Airport Environs Noise District; and repealing Sections 27.58.010, 27.58.020, 27.58.030, 27.58.040, 27.58.050, 27.58.060, 27.58.070, 27.58.080 and 27.58.100 as the Lincoln Municipal Code as hitherto existing.

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

Section 1. That Section 27.58.010 of the Lincoln Municipal Code be amended to read as follows:

**27.58.010 Scope of Regulations.**

The regulations set forth in this chapter, or set forth elsewhere in this title when referred to in this chapter, are regulations in the airport environs noise district. The regulations shall apply to the area in the vicinity of the Lincoln municipal airport ~~as described~~ defined as

~~Airport Environs Noise District 1 and Airport Environs Noise District 2 in Sections 27.58.020(b) and (c). References to specific Ldn lines shall mean those Ldns as shown on the "Lincoln Municipal Airport Composite Noise Contours Map" shown as Figure 21 in the Lincoln-Lancaster County Comprehensive Plan. "Airport Environs Noise District Map."~~

Section 2. That Section 27.58.020 of the Lincoln Municipal Code be amended to read as follows:

**27.58.020 Definitions.**

For the purpose of this chapter, certain terms and words are hereby defined:

**Airborne noise** shall mean noise radiated initially into and transmitted through air.

**Airport Environs Noise District 1** shall mean an area established on the ~~"Lincoln Zoning District Map"~~ based on the ~~"Lincoln Municipal Airport Composite Noise Contours Map"~~ shown as Figure 21 of the Lincoln-Lancaster County Comprehensive Plan, Airport Environs Noise District Map dated June 1, 2000 (hereinafter Airport Environs Noise District Map), and more particularly described as follows:

Beginning at a point located on Southwest 12th Street at the southeast corner of the northern half of Section 9, Township 9 North, Range 6 East, heading north approximately 8,100 feet along Southwest 12th Street, the eastern borders of Sections 9, Township 9 North, Range 6 East, and 4, Township 9 North, Range 6 East, and Section 33, Township 10 North, Range 6 East to the tracks of the Burlington Northern Railroad; heading then northeast approximately 2,000 feet along the railroad tracks; then heading north approximately 8,200 feet through the western half of Section 34, Township 10 North, Range 6 East, along Southwest 9th Street and the western half of Section 27, Township 10 North, Range 6 East to the tracks of the Burlington Northern Railroad, 500 feet south of West "O" Street; following the railroad tracks northeast to the eastern border of Section 22, Township 10 North, Range 6 East; following the tracks of the Union Pacific Railroad northwesterly to Northwest 12th Street; heading then north along Northwest 12th Street to the southeast corner of Section 28, Township 11 North, Range 6 East; heading then east approximately one mile to North 1st Street; heading

then north along North 1st Street to the city's three-mile zoning jurisdiction line; heading then west along the city's three-mile zoning jurisdiction line to Northwest 40th Street; heading then south to the southwest corner of Section 20, Township 11 North, Range 6 East; heading then west on McKelvie Road to the northwest corner of Section 25, Township 11 North, Range 5 East; heading then south on Northwest 70th Street to Fletcher Avenue; heading then east along Fletcher Avenue to Northwest 56th Street; heading then south on Northwest 56th Street approximately 19,400 feet to Interstate 80; heading then west along Interstate 80 to the western border of Section 24, Township 10 North, Range 5 East; heading then south along the western borders of Sections 24, Township 10 North, Range 5 East and 25, Township 10 North, Range 5 East to West "A" Street; heading then east along West "A" Street to the southwest corner of Section 30, Township 10 North, Range 6 East; heading then south along the western border of Section 31, Township 10 North, Range 6 East to Van Dorn Street; heading then east on Van Dorn Street to Southwest 40th Street; heading then south on Southwest 40th Street to West Claire Avenue; and then heading east along West Claire Avenue to its termination at Coddington Avenue and then further east approximately 2,700 feet to a point located at Southwest 12th Street at the southeast corner of the northern half of Section 9, Township 9 North, Range 6 East.

**Airport Environs Noise District 2** shall consist of three rectangular areas located within Airport Environs Noise District 1 shown as runway protection and special use zones on Figure 21 of the Lincoln-Lancaster County Comprehensive Plan. ~~Said Figure 21~~ the Airport Environs Noise District Map. Said Airport Environs Noise District Map is incorporated herein by this reference. The Airport Environs Noise District Map is located in the office of the City Clerk with a copy located in the office by the Planning Director. The said runway protection and special use zones are more particularly described as follows:

(1) A rectangular area bounded on the north by the southern end of runway 17R/35L of the Lincoln municipal airport and on the south by the northern boundary of the state reformatory, and extending 1,250 feet laterally to both east and west sides as measured from the extended central line of runway 17R/35L.

(2) A rectangular area bounded on the southeast by the northwestern end of runway 14/32 of the Lincoln municipal airport and extending northwesterly a distance of 5,200 feet and extending 1,250 feet laterally to both northeast and southwest sides as measured from the extended central line of runway 14/32.

(3) A rectangular area bounded on the south by the northern end of runway 17R/35L of the Lincoln municipal airport and extending north a distance of 5,200 feet and extending 1,250 feet laterally to both east and west sides as measured from the extended central line of runway 17R/35L.

**Day-night average sound level (Ldn)** shall mean the sum of noise emission equivalent of A-weighted sound level during a 24-hour day typifying annual average conditions after addition of 10 decibels to sound levels in the night before 7:00 a.m. and after 10:00 p.m.

**Exterior door** shall mean all exit doors of a building that are located between conditioned and unconditioned space. A basement, crawl space, or garage is considered unconditioned space unless it is provided with a positive heat supply to maintain a minimum temperature of 50 degrees F.;

**Habitable space** shall mean space or room in a structure for living, sleeping, eating, or cooking. Bathrooms, toilet compartments, closets, halls, storage or utility space, and similar areas are not considered habitable space.

**Noise-sensitive manufacturing and noise-sensitive communication facilities** shall include, but not be limited to, the manufacture and assembly of micro-electronics, technical and scientific instruments, photographic and optical goods, and other manufacturing sensitive to speech interference or vibration, and radio and television broadcasting studios.

Section 3. That Section 27.58.030 of the Lincoln Municipal Code be amended to read as follows:

**27.58.030 Use Regulations.**

Any use permitted in the underlying zoning district in which the proposed use is located shall be allowed in the Airport Environs Noise District 1 and Airport Environs Noise District 2 except as prohibited within the provisions of this chapter and, provided that additional requirements set forth in this chapter are met. References to allowable uses as provided within this chapter are conditioned upon the said use being in compliance with allowable uses within the underlying zoning district.

Section 4. That Section 27.58.040 of the Lincoln Municipal Code be amended to read as follows:

**27.58.040 Prohibited Uses; Airport Environs Noise District 1.**

Within the Airport Environs Noise District 1 at Ldn 65 line and above, no building shall be erected, converted, reconstructed, or structurally altered for use as a church, library, school, health care facility, housing for the elderly, mobile home court, auditorium, concert hall, and music shell.

Section 5. That Section 27.58.050 of the Lincoln Municipal Code be amended to read as follows:

**27.58.050 Permitted Uses in Relation to Noise Exposure Levels.**

A use of a building or premises for the following purposes may be allowed in the Airport Environs Noise District 1 if it lies within the specified noise exposure levels shown below, but outside of Airport Environs Noise District 2, conditioned upon compliance with Section 27.58.080 of this chapter.

(a) Mobile home courts, schools, libraries, churches, health care facilities, auditoriums, concert halls, housing for the elderly, and music shells, not to exceed Ldn 65 line.

1 (b) Residential uses which comply with Section 27.58.060, hotels and motels,  
2 playgrounds, neighborhood parks, noise-sensitive manufacturing, and noise-sensitive  
3 communication facilities, not to exceed Ldn 70 line.

4 (c) Cemeteries, mausoleums and undertaking establishments, riding, water sports,  
5 tennis courts, skating rinks, bowling alleys and other recreational facilities, theaters, spectator  
6 sports, and veterinary facilities and kennels, not to exceed Ldn 75 line.

7 (d) Office buildings, personal business, governmental services, communication  
8 facilities, extensive natural recreational areas, financial institutions, retail trade, restaurants,  
9 bars, amusements, sports arenas, golf courses and related support facilities, wholesale,  
10 manufacturing, construction services, repair services, livestock farming, animal breeding,  
11 utilities, agriculture, mining, fishing, forestry, warehouses, storage facilities, historical  
12 preservation, wind energy conversion systems, transportation facilities, no noise-related  
13 restrictions.

14 Where property is undeveloped, only such portion of it as is actually within the Ldn  
15 lines shall be considered at or within that Ldn line. However, at such time as said property  
16 shall be subdivided or platted, any platted buildable lots intersected by an Ldn line shall be  
17 deemed to be wholly within the highest Ldn line.

18 Section 6. That Section 27.58.060 of the Lincoln Municipal Code be amended  
19 to read as follows:

20 **27.58.060 Conditional Residential Uses.**

21 A building or premises may be used for residential purposes except mobile home  
22 courts, health care facilities, and housing for the elderly, in areas between Ldn 65 line and Ldn  
23 70 line, except within Airport Environs Noise District 2; in conformance with the requirements  
24 of Section 27.58.080 of this title and the conditions prescribed herein:

(a) Prior to applying for a building permit, an applicant shall prepare and submit to the Planning Director for his review and approval a site plan for the proposed building or buildings which shall be designed to minimize the impact of noise. This may include, but need not be limited to:

(1) Placing as much distance as possible between the noise source and noise-sensitive activities;

(2) Placing noise-compatible activities, such as parking lots and open space, between the noise source and the sensitive activities;

(3) Using buildings as noise barriers;

(4) Orienting buildings so that nonhabitable space, such as utility rooms, laundry rooms and garages, are located between the noise source and the habitable space;

(5) Utilizing the site's natural shape and contours or constructing noise barriers between noise sources and noise-sensitive areas. Such noise barriers may include but need not be limited to berms made of sloping mounds of earth, walls and fences constructed of a variety of material, dense plantings of trees and shrubs, e.g., 100-foot depth, and any of these combinations.

(b) The site plan submitted to the Planning Director shall be accompanied by the following information:

(1) An accurately drawn plan showing location of existing and proposed structures on the property, open space, parking areas, location of existing trees, proposed landscape plans, sidewalks, floor plan identifying bedrooms, kitchens, living rooms, garages, etc., lot lines and building setback lines;

(2) Contour lines at intervals not to exceed five feet based on city data, if the site has not been platted;

(3) Location of site with relation to specific Ldn lines;

- (4) Grading plan, if any;
- (5) Discussion of additional steps to minimize the noise impact, if any;
- (6) Date prepared, scale, and north point;
- (7) Name, address and telephone number of applicant;
- (8) Other relevant information, if any, relating to noise attenuation.

(c) Within twenty days from the receipt of a site plan with the required information, the Planning Director shall notify the applicant and the Director of Building and Safety whether or not the site plan has been approved or disapproved. If the site plan is disapproved, the Planning Director shall specify the reasons for such disapproval. A site plan shall be approved if it reflects a reasonably effective method of minimizing the impact of the noise to which the proposed building or buildings would be subjected.

(d) If the site plan is approved by the Planning Director, a building permit may be issued by the Director of Building and Safety provided that the building plan shows a design that incorporates acoustical features described below in addition to all other applicable requirements of the Lincoln Building Code as now existing or hereinafter amended:

(1) All exterior doors shall be either:

(i) solid-core or metal-clad construction of at least 1 3/4 inches thick,

or

(ii) separately equipped with wood or metal storm door.

(2) Storm or multiple-glazed windows shall be provided for all habitable space.

(3) Through-the-wall/door mailboxes, window or dome skylights, jalousie windows, or other direct openings from the interior to the exterior of the building shall be prohibited.

(4) Mechanical ventilation shall be provided of a type and design to provide adequate environmental comfort with all doors and windows closed during all seasons. Window and through-the-wall ventilation units shall not be used.

(5) Workmanship on doors and windows must be such that they are as close-fitting as possible or weather-stripping seals shall be incorporated on all edges to eliminate gaps.

(e) In the event that the Planning Director disapproves the site plan, the applicant may, within ten days after notification of such disapproval, appeal the decision of the Planning Director to the City Council. The City Council shall, by resolution, affirm, reverse, or modify the decision of the Planning Director.

Section 7. That Section 27.58.070 of the Lincoln Municipal Code be amended to read as follows:

**27.58.070 Prohibited Uses, Airport Environs Noise District 2.**

All residential use is prohibited within Airport Environs Noise District 2, except for resident security guards, caretakers or supervisory personnel employed and residing on the premises, and pre-existing uses as provided in Section 27.58.090. All regulations contained herein with regard to uses within Airport Environs Noise District 1 shall be applicable to Airport Environs Noise District 2.

Section 8. That Section 27.58.080 of the Lincoln Municipal Code be amended to read as follows:

**27.58.080 Avigation and Noise Easements; Covenant, Notice and Acknowledgment.**

(a) All uses allowed within Airport Environs Noise District 2 except as provided in Section 27.58.090 shall be conditioned upon an acknowledgment by the property owner of the airport noise and overflight impact by the grant of an avigation and noise easement to the airport authority of the City of Lincoln, Nebraska, providing for disclosure of the impact to

future purchasers, as a condition of subdivision, community unit plan, use permit, or building permit. Avigation easements submitted pursuant to the terms of this chapter shall conform to the provisions contained in the model avigation and noise easement, a copy of which shall remain on file in the office of the Executive Director of the Lincoln Airport Authority and the City Clerk of the City of Lincoln.

(b) All uses allowed within Airport Environs Noise District 1, except as provided in Section 27.58.090 shall be conditioned upon the grant by the property owner of a covenant, notice, and acknowledgment that the property is located in Airport Environs Noise District 1, providing for the disclosure of the airport noise and overflight impact to future purchasers, as a condition of subdivision, community unit plan, special permit, use permit, or building permit. Covenant, notice, and acknowledgment that property is located in Airport Environs Noise District 1 to be submitted pursuant to the terms of this chapter shall conform to the provisions contained in the model covenant, a copy of which shall remain on file in the office of the Executive Director of the Lincoln Airport Authority and the City Clerk of the City of Lincoln.

Section 9. That Section 27.58.100 of the Lincoln Municipal Code be amended to read as follows:

**27.58.100 Enforcement and Exemption.**

(a) Prior to the issuance of a building permit or other certificate, the Director of Building and Safety shall receive either the executed avigation and noise easement for property in Airport Environs Noise District 2 or the executed covenant, notice, and acknowledgment for property in Airport Environs Noise District 1 which shall then be forwarded to the Airport Authority or shall have received evidence that the executed easement or covenant was previously furnished to the Airport Authority. All easements and covenants shall be forwarded

to the Airport Authority, which shall then be filed with the Register of Deeds at Authority's expense.

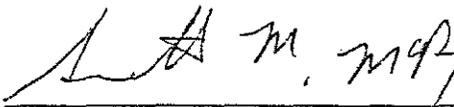
(b) Uses in connection with the operation of the Lincoln municipal airport, and properties owned or leased by the City of Lincoln, the Airport Authority of the City of Lincoln, military units, or other governmental agencies are hereby declared compatible and shall be exempted from the requirements of this chapter.

Section 10. That Sections 27.58.010, 27.58.020, 27.58.030, 27.58.040, 27.58.050, 27.58.060, 27.58.070, 27.58.080 and 27.58.100 of the Lincoln Municipal Code as hitherto existing be and the same are hereby repealed.

Section 11. The Airport Environs Noise District Map dated June 1, 2000, is attached hereto, marked as Attachment A.

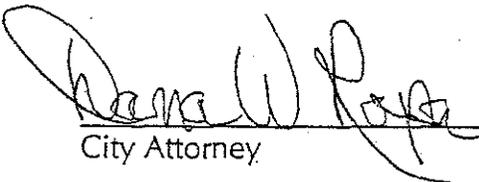
Section 12. That this ordinance shall take effect and be in force from and after its passage and publication according to law.

Introduced by:

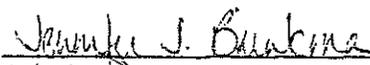
  
\_\_\_\_\_

AYES: Camp, Cook, Fortenberry,  
McRoy, Seng, Shoecraft;  
NAYS: None;  
ABSENT: Johnson.

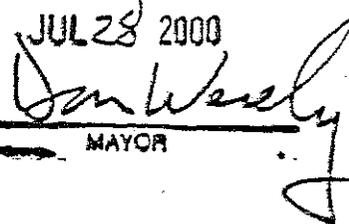
Approved as to Form & Legality:

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

Staff Review Completed:

  
\_\_\_\_\_  
Administrative Assistant

**APPROVED**

JUL 28 2000  
  
\_\_\_\_\_  
MAYOR

**PASSED**

JUL 24 2000

By City Clerk

Title 27

ZONING

Chapters:

- 27.01 Purpose and Title
- 27.03 General Definitions
- 27.05 Districts and Boundaries
- 27.07 AG Agriculture District
- 27.09 AGR Agricultural Residential District
- 27.11 R-1 Residential District
- 27.13 R-2 Residential District
- 27.15 R-3 Residential District
- 27.17 R-4 Residential District
- 27.18 Reserved
- 27.19 R-5 Residential District
- 27.21 R-6 Residential District
- 27.23 R-7 Residential District
- 27.24 R-8 Residential District
- 27.25 O-1 Office District
- 27.26 O-2 Suburban Office District
- 27.27 O-3 Office Park District
- 27.28 R-T Residential Transition District
- 27.29 B-1 Local Business District
- 27.31 B-2 Planned Neighborhood Business District
- 27.33 B-3 Commercial District
- 27.35 B-4 Lincoln Center Business District
- 27.37 B-5 Planned Regional Business District
- 27.39 H-1 Interstate Commercial District
- 27.41 H-2 Highway Business District
- 27.43 H-3 Highway Commercial District
- 27.45 H-4 General Commercial District
- 27.47 I-1 Industrial District
- 27.49 I-2 Industrial Park District
- 27.51 I-3 Employment Center District
- 27.53 Reserved
- 27.54 P Public Use District
- 27.55 Floodplain District
- 27.56 Capitol Environs District
- 27.57 Historic Preservation District
- 27.58 Airport Environs District
- 27.59 Airport Zoning Regulations
- 27.60 Planned Unit Development District
- 27.61 Nonconforming and Nonstandard Uses
- 27.63 Special Permits
- 27.65 Community Unit Plan
- 27.67 Parking

**Chapters (cont.):**

- 27.68 Personal Wireless Facilities**
- 27.69 Signs**
- 27.70 Additional Use Regulations**
- 27.71 Additional Height and Area Regulations**
- 27.75 Board of Zoning Appeals**
- 27.77 Certificates of Occupancy and Certificates of Compliance**
- 27.79 Plot Plan**
- 27.80 Fees**
- 27.81 General Provisions**

**Chapter 27.01****PURPOSE AND TITLE****Sections:****27.01.010 Purpose.****27.01.020 Name and Citation of Title.****27.01.010 Purpose.**

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

**27.01.020 Name and Citation of Title.**

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

Chapter 27.03

GENERAL DEFINITIONS

Sections:

- 27.03.010 Definitions; General Provisions.
- 27.03.020 Abutting.
- 27.03.030 Accessory Buildings and Uses.
- 27.03.035 Administrative Offices.
- 27.03.037 Adult Care Center.
- 27.03.040 Agriculture.
- 27.03.050 Alley.
- 27.03.055 Amateur Radio Antenna Installation.
- 27.03.060 Apartment.
- 27.03.070 Apartment Hotel.
- 27.03.080 Apartment House.
- 27.03.085 Average Lot Width.
- 27.03.090 Basement.
- 27.03.100 Boarding House.
- 27.03.110 Broadcast Tower.
- 27.03.120 Building.
- 27.03.130 Buildings, Height of.
- 27.03.140 Campsite.
- 27.03.150 Cellar.
- 27.03.155 Early Childhood Care Facility.
- 27.03.160 Club.
- 27.03.170 District.
- 27.03.175 Domiciliary Care Facility.
- 27.03.180 Dwelling.
- 27.03.190 Dwelling, Single-family.
- 27.03.200 Dwelling, Two-family.
- 27.03.210 Dwelling, Multiple.
- 27.03.213 Domestic Shelter.
- 27.03.214 Elderly or Retirement Housing.
- 27.03.215 Enclosed Commercial Recreational Facilities.
- 27.03.217 Enclosed Disassembly Operation.
- 27.03.220 Family.
- 27.03.230 Feedlot, Commercial.
- 27.03.240 Flood Plain.
- 27.03.250 Floor Area.
- 27.03.260 Frontage.
- 27.03.270 Garage, Private.
- 27.03.280 Garden Center.
- 27.03.290 Grade.
- 27.03.295 Greenhouse.
- 27.03.300 Group Home.
- 27.03.310 Health Care Facilities.
- 27.03.315 Heritage Center.
- 27.03.320 Home Occupation.

- 27.03.335 Housing for the Physically Handicapped.
- 27.03.340 Landscaping.
- 27.03.350 Lodging house.
- 27.03.360 Lot.
- 27.03.370 Lot, Corner.
- 27.03.380 Lot, Depth of.
- 27.03.390 Lot, Double Frontage.
- 27.03.400 Lot of Record.
- 27.03.410 Lot, Platted.
- 27.03.415 Mail Order Catalog Sales.
- 27.03.420 Mini-warehouse.
- 27.03.430 Mobile Home.
- 27.03.440 Multiple Dwelling Unit.
- 27.03.450 Nonconforming Use.
- 27.03.460 Nonstandard Use.
- 27.03.470 Office Building.
- 27.03.473 Owner.
- 27.03.480 Parking Lot.
- 27.03.490 Parking Space.
- 27.03.493 Permanent Residence.
- 27.03.495 Premises.
- 27.03.500 Recreational Facilities.
- 27.03.510 Recreational Vehicle.
- 27.03.520 Recycling Center.
- 27.03.530 Salvage Operation, Scrap Processing Operation, and Salvage Material.
- 27.03.535 Salvage Yard.
- 27.03.540 Service Station.
- 27.03.550 Sign.
- 27.03.560 Solar Screen.
- 27.03.570 Story.
- 27.03.580 Street.
- 27.03.590 Street Centerline.
- 27.03.600 Street Line.
- 27.03.610 Structure.
- 27.03.620 Structural Alteration.
- 27.03.625 Temporary Shelter for the Homeless.
- 27.03.630 Townhouse.
- 27.03.635 Technology Transfer Industries or Applications.
- 27.03.636 Warehouse.
- 27.03.640 Yard Line.
- 27.03.650 Yard, Required.
- 27.03.660 Yard, Required Front.
- 27.03.670 Yard, Required Rear.
- 27.03.680 Yard, Required Side.

27.03.010 Definitions; General Provisions.

For the purpose of this title, certain terms and words are hereby defined. Certain chapters contain definitions

which are additional to those listed here. Words used in the present tense shall include the future; the singular number shall include the plural and the plural the singular; the word "structure" shall include the word "building," and the word "shall" is mandatory. (Ord. 12571 § 3; May 8, 1979).

**27.03.020 Abutting.**

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

**27.03.030 Accessory Buildings and Uses.**

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

**27.03.035 Administrative Offices.**

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

**27.03.037 Adult Care Center.**

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

**27.03.040 Agriculture.**

Agriculture shall mean the use of land for the purpose of raising and harvesting crops; or for the raising,

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

**27.03.050 Alley.**

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

**27.03.055 Amateur Radio Antenna Installation.**

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

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

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

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

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

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

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

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

**27.03.060 Apartment.**

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

**27.03.070 Apartment Hotel.**

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

**27.03.080 Apartment House.**

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

**27.03.085 Average Lot Width.**

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

**27.03.090 Basement.**

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

**27.03.100 Boarding House.**

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

**27.03.110 Broadcast Tower.**

Broadcast tower shall mean a structure for the transmission or broadcast of radio, television, radar, or microwaves; provided, however, that personal wireless service facilities and noncommercial radio towers not exceeding fifty feet in height and amateur radio antenna installations shall not be considered broadcast towers. (Ord. 17589 §1; January 18, 2000:

prior Ord. 16673 §2; September 26, 1994: Ord. 13004 §1; September 29, 1980: Ord. 12571 §13; May 8, 1979).

**27.03.120 Building.**

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

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

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

**27.03.130 Buildings, Height of.**

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

**27.03.140 Campsite.**

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

**27.03.150 Cellar.**

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

**27.03.155 Early Childhood Care Facility.**

Early childhood care facility shall mean a building for the provision of services in lieu of parental supervision for four or more children under thirteen years of age for compensation either directly or indirectly, on the average of less than twelve hours per day, but more than two hours per week, and shall

include any employer-sponsored child care, child care home, child care center, before- and after-school child care program, or preschool or nursery school, but shall not include casual care at irregular intervals, a recreation camp, classes or services provided by a religious organization other than child care or preschool or nursery school, or a preschool program conducted in a school approved pursuant to Nebraska State Statutes. (Ord. 16854 §1; August 14; 1995).

**27.03.160 Club.**

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

**27.03.170 District.**

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

**27.03.175 Domiciliary Care Facility.**

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

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

(b) Accommodations, board, and care, such as personal assistance in feeding, dressing, and other essential daily living activities, to four or more persons sixty years of age or older who are unrelated by blood, marriage, or adoption who by reason of illness, disease, injury, deformity, disability, or physical or mental infirmity are unable to sufficiently or properly care for themselves or manage their own

affairs, but who do not require the daily services of a licensed, practical, or registered nurse.

Domiciliary care facilities may include accessory uses such as beauty parlors, pharmacies, gift shops, ice cream parlors, banks, or similar uses provided for the convenience of the residents. However, such accessory uses shall be located entirely within the facility and shall not have any separate entrance, but shall be accessible through an interior lobby, corridor, or passageway of the facility. No accessory use shall have any sign which is visible from the exterior of the facility. The total floor area occupied by all such accessory uses shall not exceed five percent of the floor area of the facility or 2,000 square feet, whichever is less, and each use shall not exceed 300 square feet. (Ord. 16934 §1; February 12, 1996; prior Ord. 16687 §1; October 17, 1994; Ord. 14562 §1; December 8, 1986).

**27.03.180 Dwelling.**

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

**27.03.190 Dwelling, Single-family.**

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

**27.03.200 Dwelling, Two-family.**

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

**27.03.210 Dwelling, Multiple.**

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

**27.03.213 Domestic Shelter.**

Domestic shelter shall mean a temporary shelter for individuals affected by domestic violence. Such use shall be operated by a public or nonprofit entity and may provide temporary boarding, lodging, counseling, and support services. (Ord. 14060 §1; February 25, 1985).

**27.03.214 Elderly or Retirement Housing.**

Elderly or retirement housing shall mean a housing project which incorporates specific features designed to alleviate access problems commonly expe-

rienced by the elderly, and in which each occupied dwelling unit is occupied by at least one person of sixty years of age or more, except as provided in Section 27.63.210. (Ord. 14644 § 1; April 13, 1987).

**27.03.215 Enclosed Commercial Recreational Facilities.**

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

**27.03.217 Enclosed Disassembly Operation.**

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

**27.03.220 Family.**

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

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

**27.03.230 Feedlot, Commercial.**

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

**27.03.240 Flood Plain.**

Flood plain shall mean those lands which are subject to a one percent or greater chance of flooding in any given year. (See Chapter 27.55 for additional definitions.) (Ord. 12571 § 26; May 8, 1979).

**27.03.250 Floor Area.**

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

**27.03.260 Frontage.**

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

**27.03.270 Garage, Private.**

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

**27.03.280 Garden Center.**

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

**27.03.290 Grade.**

Grade shall mean:

- (a) For buildings having walls adjoining one street only, the elevation of the sidewalk at the center of the wall adjoining the street;
- (b) For buildings having walls adjoining more than one street, the average of the elevation of the sidewalk at the center of all walls adjoining the streets;
- (c) For buildings having no wall adjoining the street, the average level of the finished surface of the ground adjacent to the exterior walls of the building.

Any wall approximately parallel to and not more than five feet from a street line is to be considered as adjoining the street and where no sidewalk exists, the

sidewalk grade shall be established by the Department of Public Works and Utilities. (Ord. 12571 § 31; May 8, 1979).

**27.03.295 Greenhouse.**

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

**27.03.300 Group Home.**

Group home shall mean a facility in which more than two but less than sixteen persons who are unrelated by blood, marriage, or adoption reside while receiving therapy or counseling, but not nursing care, for any of the purposes listed below. Such facility shall be licensed or approved by the State of Nebraska or other appropriate agency.

(a) Adaptation to living with, or rehabilitation from, the handicaps of physical disability;

(b) Adaptation to living with, or rehabilitation from, the handicaps of emotional or mental disorder, or mental retardation;

(c) Rehabilitation from the effects of drug or alcohol abuse;

(d) Supervision while under a program of alternatives to imprisonment, including but not limited to pre-release, work-release, and probationary programs. (Ord. 12571 § 32; May 8, 1979).

**27.03.310 Health Care Facilities.**

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

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

(b) Convalescent or nursing home;

(c) A facility in which sixteen or more people reside while receiving therapy, counseling, or rehabilitation for physical, emotional, or mental disease or disability;

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

(e) Public health clinics and facilities;

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

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

**27.03.315 Heritage Center.**

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

**27.03.320 Home Occupation.**

Home occupation shall mean any occupation or activity carried on within a dwelling unit or accessory building by a member of the family residing on the premises, which occupation or activity is incidental and secondary to the residential occupancy and does not change the residential character thereof. The regulations pertaining to home occupations can be found in Section 27.70.010. (Ord. 12571 § 34; May 8, 1979).

**27.03.330 Housing for the Elderly.**

(Repealed by Ord. 14644 § 2; April 13, 1987; prior Ord. 13339 § 1; March 26, 1982; Ord. 12571 § 35; May 8, 1979).

**27.03.335 Housing for the Physically Handicapped.**

Housing for the physically handicapped shall mean any dwelling in which each occupied dwelling unit is occupied by at least one person who has a physical handicap. A physical handicap is a mobility impairment which requires certain construction design features for ingress, egress, and freedom of movement within the premises. Such impairment shall be expected to be permanent or of long or indefinite duration. Such design features include but are not limited to ground level construction, level entrances, wider doorways, adjustable

counters, roll-in showers, lower electrical switches, higher outlets, and lever-type hardware. (Ord. 13546 § 1; February 28, 1983).

**27.03.340 Landscaping.**

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

**27.03.345 Limited Automobile Repair Facility.**

(Repealed by Ord. 14774 § 2; October 19, 1987; prior Ord. 14083 § 1; April 15, 1985).

**27.03.350 Lodging House.**

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

**27.03.360 Lot.**

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

**27.03.370 Lot, Corner.**

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

**27.03.380 Lot, Depth of.**

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

**27.03.390 Lot, Double Frontage.**

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

**27.03.400 Lot of Record.**

Lot of record shall mean a lot which is part of a subdivision, the plat of which has been recorded in the office of the Register of Deeds for Lancaster County on or before November 2, 1953, unless another date is specifically established in this title, provided that said lot

has a frontage of not less than forty feet; or, an irregular tract lot as described by a deed recorded with the Register of Deeds for Lancaster County on or before November 2, 1953, unless another date is specifically established in this title, provided that such lot is numbered and described by the county surveyor and is not greater in area than one acre. (Ord. 12571 § 42; May 8, 1979).

**27.03.410 Lot, Platted.**

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

**27.03.415 Mail Order Catalog Sales.**

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

**27.03.420 Mini-warehouse.**

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

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

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

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

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

**27.03.430 Mobile Home.**

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

**27.03.440 Multiple Dwelling Unit.**

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

**27.03.450 Nonconforming Use.**

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

**27.03.460 Nonstandard Use.**

Nonstandard use shall mean the category of nonconformance consisting of lots occupied by buildings or structures or uses which existed immediately prior to the effective date of this title or which become nonstandard through a change in the zoning ordinance or district boundaries that fail to comply with any of the following: minimum lot requirements for the area, density, width, front yard, side yard, rear yard, height, unobstructed open space, or parking for the district in which they are located, even though the use of the premises conforms to the permitted uses within the district as set out in the provisions of this title. (Ord. 16798 § 1; June 5, 1995; prior Ord. 12571 § 48; May 8, 1979).

**27.03.470 Office Building.**

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

Office buildings shall also include the use of an office or clinic by a practitioner, or group of practitioners, in the field of medicine, dentistry, or podiatry; provided, however, that patients upon whom surgical procedures have been performed or who have otherwise received care or treatment at such office or clinic shall not be permitted to

stay on the premises for recovery or observation for more than 24 hours. (Ord. 17326 § 2; April 20, 1998; prior Ord. 12571 § 49; May 8, 1979).

**27.03.473 Owner.**

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

**27.03.480 Parking Lot.**

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

**27.03.490 Parking Space.**

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

**27.03.493 Permanent Residence.**

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

**27.03.495 Premises.**

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

**27.03.500 Recreational Facilities.**

Recreational facilities shall mean facilities primarily for participation by the public in athletic activities such as tennis, handball, racquetball, basketball, and other court games; jogging, track and field, baseball, football, soccer, and other field games; skating, swimming, or

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

#### **27.03.510 Recreational Vehicle.**

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

#### **27.03.520 Recycling Center.**

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

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

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

#### **27.03.535 Salvage Yard.**

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

#### **27.03.540 Service Station.**

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

(a) The retail sale of gasoline, oil, tires, batteries, and accessories for motor vehicles;

(b) The retail sale and installation of mufflers, shocks and transmissions; and

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

#### **27.03.550 Sign.**

Sign shall mean any structure, fixture, graphics, illustration, statue, or other device visible from off the premises designed or intended to advertise, to identify, to attract attention to, or to convey information regarding any goods, product, service, business, location, institution, activity, person, solicitation, issue, or campaign, with the exception of merchandise window displays, flags of any nation, state, or political subdivision, and sculpture. For purposes of removal, sign shall also include any sign structure.

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

#### **27.03.560 Solar Screen.**

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

#### **27.03.570 Story.**

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

**27.03.580 Street.**

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

**27.03.590 Street Centerline.**

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

**27.03.600 Street Line.**

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

**27.03.610 Structure.**

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

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

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

**27.03.620 Structural alteration.**

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

**27.03.625 Temporary Shelter for the Homeless.**

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

**27.03.630 Townhouse.**

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

**27.03.635 Technology Transfer Industries or Applications.**

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

**27.03.636 Warehouse.**

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

**27.03.640 Yard Line.**

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

**27.03.650 Yard, Required.**

Required yard shall mean the required minimum open space between the property line and the yard line. The

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

**27.03.660 Yard, Required Front.**

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

**27.03.670 Yard, Required Rear.**

The required rear yard shall extend across the rear of a lot between the side lot lines. On corner lots, the

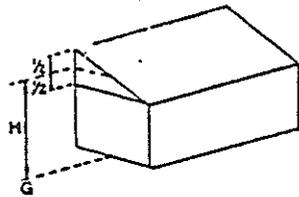
required rear yard may be to the rear of either street, provided that the minimum required rear yard shall be calculated on the longest average lot dimension. On interior lots, the required rear yard shall in all cases be at the opposite end of the lot from the front yard. (Ord. 12571 § 69; May 8, 1979).

**27.03.680 Yard, Required Side.**

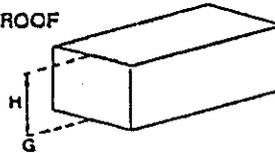
The required side yard shall extend between the front yard line and the rear yard line. There shall be only one required side yard on a corner lot. (Ord. 12571 § 70; May 8, 1979).

# BUILDING HEIGHT

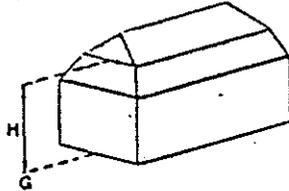
SHED ROOF



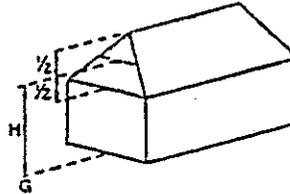
FLAT ROOF



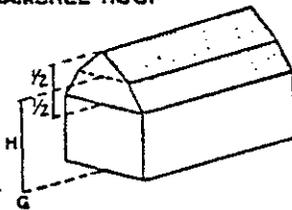
MANSARD ROOF



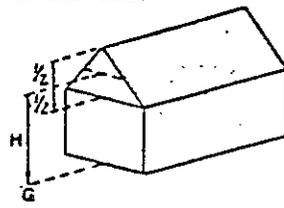
HIP ROOF



GAMBREL ROOF

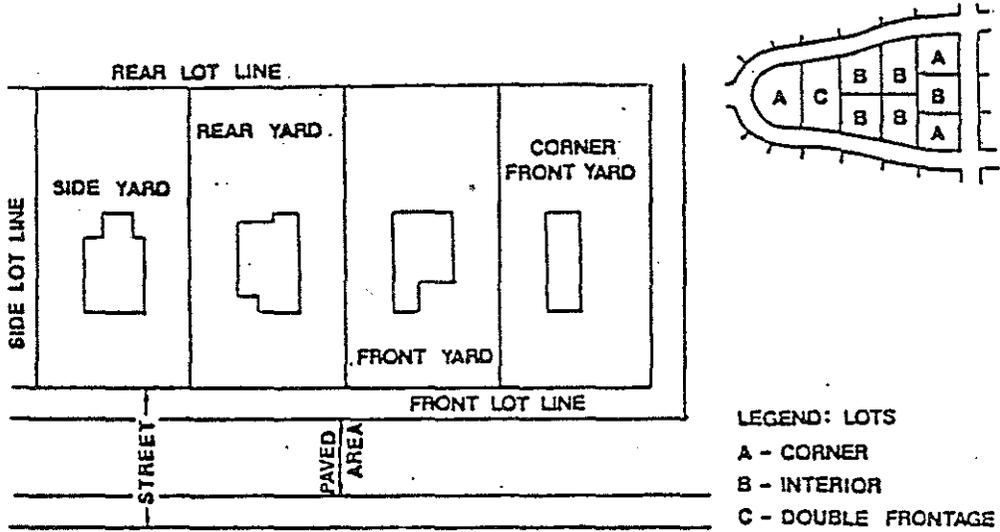


GABLE ROOF

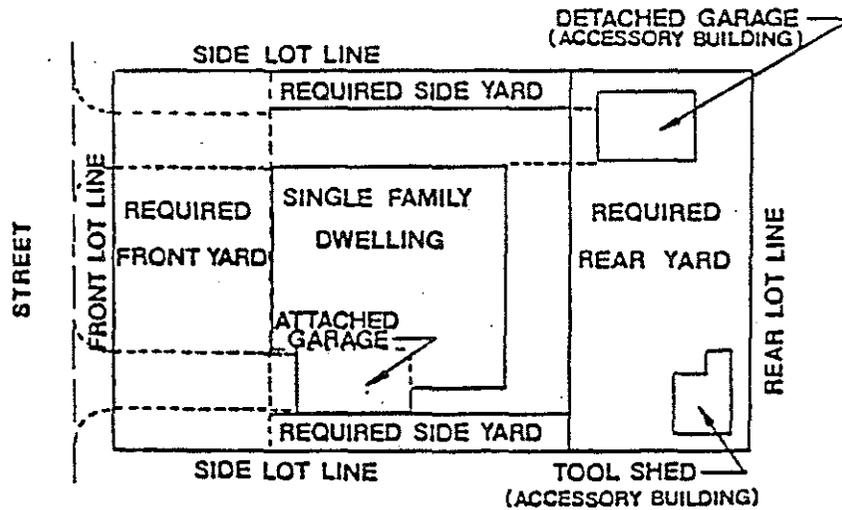


H=HEIGHT OF BUILDING  
G=GRADE

## REQUIRED YARDS



## BUILDING—PRINCIPAL AND ACCESSORY



## Chapter 27.05

### DISTRICTS AND BOUNDARIES

#### Sections:

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

#### 27.05.010 Districts Designated.

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

#### 27.05.020 Boundaries of Districts; Maps.

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

#### 27.05.030 Rules Where Uncertainty as to Boundaries Arises.

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

(a) The district boundaries are either streets or alleys unless otherwise shown, and where the dis-

tricts designated on the map made a part of this title by reference are bounded approximately by street or alley lines, the street or alley shall be construed to be the boundary of the district;

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

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

#### 27.05.040 Vacation of Streets and Alleys.

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

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

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

#### 27.05.060 Classification of Districts.

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

**Chapter 27.07****AG AGRICULTURE DISTRICT****Sections:**

- 27.07.010 Scope of Regulations.**
- 27.07.020 Permitted Uses.**
- 27.07.030 Permitted Conditional Uses.**
- 27.07.040 Permitted Special Uses.**
- 27.07.050 Accessory Uses.**
- 27.07.060 Parking Regulations.**
- 27.07.070 Sign Regulations.**
- 27.07.075 Grading and Land Disturbance Regulations.**
- 27.07.080 Height and Area Regulations.**

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

**27.07.010 Scope of Regulations.**

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

**27.07.020 Permitted Uses.**

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

- (a) Agriculture, except confined feeding facilities for livestock or poultry;
- (b) Confined feeding facilities for livestock or poultry, of a maximum area of 15,000 square feet;
- (c) Breeding, raising, management, and sale of fur-bearing animals and the produce thereof;
- (d) Dog-breeding establishments and kennels;
- (e) Stables and riding academies;
- (f) Public uses: including but not limited to public parks, playgrounds, golf courses, and recreational uses; fire stations; public elementary and high schools, or private schools having a curriculum equivalent to a public elementary or public high school; and public utilities and utility distribution systems;

(g) Single-family dwellings;

(h) Churches. (Ord. 17649 §1; April 17, 2000; prior Ord. 12571 §78; May 8, 1979).

**27.07.030 Permitted Conditional Uses.**

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

(a) Cemeteries, including mausoleums:

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

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

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

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

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

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

(d) Group homes:

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

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

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

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

(1) The distance from all lot lines to any tower support base of the WECS shall be determined according to the following WECS setback table. Intermediate rotor size distances shall be interpolated. The City Council may grant a reduction in the specific setback table distance when it finds that such reduction shall not adversely affect surrounding property and is consistent with the intent of this title to promote the public health, safety, and general welfare.

**WECS SETBACK TABLE**

<b>Rotor Diameter in Feet</b>	<b>Setback Distance</b>
5	100
10	165
15	220
20	270
25	310
30	340
35	365
40	385

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

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

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

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

(f) Greenhouses:

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

(2) One parking space shall be provided for each employee on the maximum shift.

(g) Early childhood care facilities in churches:

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) Domestic Shelter:

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

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

(3) The distance between the proposed use of any existing domestic shelter measured from lot line to lot line shall not be less than one mile. (Ord. 17508 § 1; May 17, 1999: prior Ord. 17104 §1; December 2, 1996: Ord. 16854 §2; August 14, 1995: Ord. 15751 §1; October 15, 1990: Ord. 13982A §1; November 5,

1984: Ord. 13487 §1; November 1, 1982: Ord. 12571 §79; May 8, 1979).

#### **27.07.040 Permitted Special Uses.**

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

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

- (v) Clubs;
- (w) Dwelling units for domestic employees in accessory buildings;
- (x) Heritage centers;
- (y) Community halls. (Ord. 17119 §1; December 16, 1996: prior Ord. 16854 §3; August 14, 1995: Ord. 16673 §3; September 26, 1994: Ord. 16413 §2; July 12, 1993: Ord. 16088 §1; March 23, 1992: Ord. 15763 §1; October 29, 1990: Ord. 15368 §1; December 18, 1989: Ord. 15133 §1; March 27, 1989: Ord. 15092 §1; January 16, 1989: Ord. 14953 §1; August 22, 1988: Ord. 14905 §1; June 13, 1988: Ord. 14780 §1; November 2, 1987: Ord. 14773 §1; October 19, 1987: Ord. 14431 §1; July 14, 1986: Ord. 13487, amended by Ord. 13588 §1; May 9, 1983: Ord. 12978 §1; August 25, 1980: Ord. 12894 §1; April 7, 1980: Ord. 12571 §80; May 8, 1979).

#### **27.07.050 Accessory Uses.**

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

#### **27.07.060 Parking Regulations.**

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

#### **27.07.070 Sign Regulations.**

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

#### **27.07.075 Grading and Land Disturbance Regulations.**

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

#### **27.07.080 Height and Area Regulations.**

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

- (a) General requirements:

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

Table 27.07.080(a)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

g. Churches.

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

- a. Agriculture, except commercial feed-lots;
- b. Public use including, but not limited to, public parks, playgrounds, golf courses and recreational uses, fire stations, public elementary and high school or private schools having a curriculum equivalent to a public elementary or public high school, and public utilities and utility distribution systems;
- c. A single-family dwelling;
- d. Churches.

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

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

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

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

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

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

- (1) has existed on such land for more than five years;
- (2) such structure is, or has been, used as the primary residence associated with a farm; and
- (3) such lot or parcel of land and structure shall be in conformance with the following maximum height and minimum lot requirements:

(i) General requirements:

*[See Table 27.07.080(i) below]*

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

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

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

**Table 27.07.080(i)**

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

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

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

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

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

**Chapter 27.09****AGR AGRICULTURAL RESIDENTIAL  
DISTRICT****Sections:**

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

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

**27.09.010 Scope of Regulations.**

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

**27.09.020 Permitted Uses.**

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

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

- (e) Churches;
- (f) Single-family dwellings. (Ord. 12571 §86; May 8, 1979).

**27.09.030 Permitted Conditional Uses.**

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

- (a) Cemeteries, including mausoleums:
  - (1) Mausoleums shall be located at least 200 feet from every street line and adjoining property line;
  - (2) Any cemetery established after the effective date of this title shall contain an area of twenty acres or more;
- (b) Pet cemeteries: Minimum area shall be five acres;
- (c) Roadside stands for the temporary or seasonal sale of produce;
  - (1) Such roadside stands shall be permitted in a required yard; however, no roadside stand shall be permitted in a right of way, nor closer than thirty feet to the edge of a traveled roadway;
  - (2) Such roadside stand shall not be operated for more than 180 days in any one year.
- (d) Group homes:
  - (1) Group homes shall comply with all sign, height, and area regulations of the district, and all provisions of the minimum standard housing ordinance. Parking shall be regulated in conformance with the provisions of Chapter 27.67;
  - (2) The distance between the proposed use and any existing group home measured from lot line to lot line is not less than one-half mile;
  - (3) Such use shall be permitted only so long as the facility continues to be validly licensed by the State of Nebraska.
- (e) Wind energy conversion system, provided they meet the following conditions:
  - (1) The distance from all lot lines to any tower support base of the WECS shall be determined according to the following WECS setback table. Intermediate rotor size distances shall be interpolated. The City Council may grant a reduction in the specific setback table distance when it finds that such reduction shall not adversely affect surrounding property and is consistent with the intent of this title

to promote the public health, safety, and general welfare.

**WECS SETBACK TABLE**

<b>Rotor Diameter in Feet</b>	<b>Setback Distance</b>
5	100
10	165
15	220
20	270
25	310
30	340
35	365
40	385

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

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

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

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

(f) Greenhouses:

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

(2) All materials shall be stored inside buildings;

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

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

(5) One parking space shall be provided for each employee on the maximum shift.

(g) Early childhood care facilities in churches:

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) Domestic Shelter:

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

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

(3) The distance between the proposed use of any existing domestic shelter measured from lot line to lot line shall not be less than one mile. (Ord. 17104 §2; December 2, 1996: prior Ord. 16854 §4; August 14, 1995: Ord. 15751 §1; October 15, 1990: Ord. 13982A §2; November 12, 1984: Ord. 13487 §3; November 1, 1982: Ord. 12571 §87; May 8, 1979).

#### **27.09.040 Permitted Special Uses.**

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

- (a) Private schools;
- (b) Recreational facilities;
- (c) Dwellings for members of religious orders;
- (d) Broadcast towers;
- (e) Campgrounds;
- (f) Veterinary facilities;
- (g) Mining or extraction of minerals from any portion of the district, and the storage and processing thereof;
- (h) Garden centers;
- (i) Facilities for the commercial storage or sale of fertilizer or toxic or flammable agricultural chemicals;
- (j) Church steeples, amateur radio antenna installations, towers, and ornamental spires which exceed the maximum district height;
- (k) Community unit plans shall be permitted in conformance with the provisions of Chapter 27.65;
- (l) Expansion of nonconforming uses;
- (m) Historic preservation;
- (n) Public utility purposes;
- (o) Private landing strips and appurtenances;
- (p) Early childhood care facilities with sixteen or more children, or with fifteen or fewer children not meeting the specified conditions for a permitted conditional use under Section 27.09.030.;
- (q) Clubs;
- (r) Dwelling units for domestic employees in accessory buildings. (Ord. 16854 §5; August 14, 1995: prior Ord. 16673 §4; September 26, 1994: Ord. 16088 §2; March 23, 1992: Ord. 15763 §2; October 29, 1990: Ord. 15368 §2; December 18, 1989: Ord. 14780 §2; November 2, 1987: Ord. 14773 §2; October 19, 1987: Ord. 13588 §2; May 9, 1983: Ord. 13487 §4; November 1, 1982: Ord. 12978 §2; August

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

#### **27.09.050 Accessory Uses.**

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

#### **27.09.060 Parking Regulations.**

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

#### **27.09.070 Sign Regulations.**

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

#### **27.09.075 Grading and Land Disturbance Regulations.**

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

#### **27.09.080 Height and Area Regulations.**

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

- (a) General requirements:  
*[See Table 27.09.080(a) at the end of this chapter]*
- (b) There shall be a required front yard on each street side of a double frontage lot;
- (c) There shall be a required front yard on each street side of a corner lot; provided, however, that the buildable width of a lot of record on November 2, 1953, need not be reduced below thirty-five feet except where necessary to provide a required side yard of not less than five feet in place of one of the required front yards.
- (d) Where a lot of record on November 2, 1953, has a width of 100 feet or less, the required side yard may be reduced to a width of not less than ten percent of the width of the lot, but in no instance shall it be less than five feet.

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

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

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

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

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

Table 27.09.080(a)

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

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

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

**Chapter 27.11****R-1 RESIDENTIAL DISTRICT****Sections:**

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

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

**27.11.010 Scope of Regulations.**

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

**27.11.020 Use Regulations.**

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

- (a) Single-family dwellings;
- (b) Two-family dwellings;
- (c) Parks, playgrounds, and community buildings owned or operated by a public agency;
- (d) Public libraries;
- (e) Public elementary and high schools, or private schools having a curriculum equivalent to a public elementary or public high school and having no facilities regularly used for housing or sleeping purposes. (Ord. 12571 §94; May 8, 1979).

**27.11.030 Permitted Conditional Uses.**

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

**(a) Churches:**

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

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

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

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

**(b) Group homes:**

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

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

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

**(c) Early childhood care facilities in churches:**

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

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

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

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

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

**(d) Domestic shelter:**

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

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

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

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

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

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

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

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

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

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

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

**27.11.040 Permitted Special Uses.**

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

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

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

(c) Health care facilities;

(d) Dwellings for members of religious orders;

(e) Mobile home courts;

(f) Recreational facilities;

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

(h) Broadcast towers;

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

(j) Elderly or retirement housing;

(k) Expansion of nonconforming uses;

(l) Historic preservation;

(m) Public utility purposes;

(n) Wind energy conversion systems;

(o) Mobile home subdivisions;

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

(q) Outdoor seasonal sales;

(r) Cemeteries;

(s) Churches; increased lot coverage;

(t) Domiciliary care facility;

(u) Expansion of nonstandard single and two-family dwellings into required yards;

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

(w) Neighborhood support services;

(x) Clubs;

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

(z) Connection of single-family dwelling to accessory building for the physically handicapped. (Ord. 16854 §7; August 14, 1995: prior Ord. 16820 §1; July 10, 1995: Ord. 16673 §5; September 26, 1994: Ord. 16088 §3; March 23, 1992: Ord. 15763 §3; October 29, 1990: Ord. 15371 §1; December 18, 1989: Ord. 15368 §3; December 18, 1989: Ord. 14815 §1; January 4, 1988: Ord. 14780 §3; November 2, 1987: Ord. 14767 §1; October 12, 1987: Ords. 14475, 14510, 14562, amended by Ord. 14644 §3, April 13, 1987: Ord. 14378 §1; May 5, 1986: Ord. 13980 §1; October 29, 1984: Ord. 13535, amended by Ord. 13546 §2; February 28, 1982: Ord. 13588 §3; May 9, 1983: Ord. 12978 §3; August 25, 1980: Ord. 12894 §3; April 7, 1980: Ord. 12571 §96; May 8, 1979).

**27.11.050 Accessory Uses.**

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

**27.11.060 Parking Regulations.**

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

**27.11.070 Sign Regulations.**

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

**27.11.075 Grading and Land Disturbance Regulations.**

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

**27.11.080 Height and Area Regulations.**

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

## (a) General requirements:

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

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

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

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

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

(i) Accessory buildings not a part of the main structure may be located in the required rear yard, but such accessory buildings may not occupy more than forty percent of the required rear yard and shall not be closer than two feet to any side or rear lot line nor more than fifteen feet in height. Accessory

buildings not a part of the main structure, if located not less than sixty feet from the front lot line, may extend into the required side yard though not closer than two feet to the side lot line. A garage which is entered from an alley shall not be located closer than ten feet to the alley line.

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

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

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

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

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

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

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

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

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

(g) In those locations in the R-1 Residential District where, on November 2, 1953, and continuing

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

(h) Multiple dwellings existing in this district on the effective date of this title shall be considered nonstandard uses in conformance with the provisions of Chapter 27.61. (Ord. 15347 §1; November 13, 1989; prior Ord. 14447 §1; July 28, 1986: Ord. 13929 §1; August 27, 1984: Ord. 13359 §1; April 26, 1982: Ord. 12751 §1; November 5, 1979: Ord. 12657 §1; August 6, 1979: Ord. 12571 §100; May 8, 1979).

**Table 27.11.080(a)**

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

## Chapter 27.13

### R-2 RESIDENTIAL DISTRICT

#### Sections:

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

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

#### 27.13.010 Scope of Regulations.

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

#### 27.13.020 Use Regulations.

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

- (a) Single-family dwellings;
- (b) Two-family dwellings;
- (c) Parks, playgrounds, and community buildings owned or operated by a public agency;
- (d) Public libraries;
- (e) Public elementary and high schools, or private schools having a curriculum equivalent to a public elementary or public high school and having

no facilities regularly used for housing or sleeping purposes. (Ord. 12571 §102; May 8, 1979).

#### 27.13.030 Permitted Conditional Uses.

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

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

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

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

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

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

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

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

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

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

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

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

#### **27.13.040 Permitted Special Uses.**

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

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

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

(c) Health care facilities;

(d) Dwellings for members of religious orders;

(e) Mobile home courts;

(f) Recreational facilities;

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

(h) Broadcast towers;

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

(j) Elderly or retirement housing;

(k) Expansion of nonconforming uses;

(l) Historic preservation;

(m) Public utility purposes;

(n) Wind energy conversion systems;

(o) Mobile home subdivisions;

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

(q) Outdoor seasonal sales;

(r) Cemeteries;

(s) Churches; increased lot coverage;

(t) Domiciliary care facility;

(u) Expansion of nonstandard single and two-family dwellings into required yards;

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

(w) Neighborhood support services;

(x) Clubs;

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

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

#### **27.13.050 Accessory Uses.**

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

#### **27.13.060 Parking Regulations.**

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

**27.13.070 Sign Regulations.**

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

**27.13.075 Grading and Land Disturbance Regulations.**

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

**27.13.080 Height and Area Regulations.**

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

- (a) General requirements:
- (b) There shall be a required front yard on each street side of a double-frontage lot.
- (c) There shall be a required front yard on each street side of a corner lot; provided, however, that the buildable width of a lot of record on November 2, 1953, need not be reduced to less than thirty-five feet except where necessary to provide a required side yard of not less than five feet in place of one of the required front yards.
- (d) Accessory buildings which are attached to or not located more than six feet from the main structure shall be considered a part of the main structure and shall comply with the height, front, side, and rear yard requirements of the main building.
  - (i) Accessory buildings not a part of the main structure may be located in the required rear yard but such accessory buildings may not occupy more than forty percent of the required rear yard and shall not be closer than two feet to any side or rear lot line nor more than fifteen feet in height. Accessory buildings not a part of the main structure, if located not less than sixty feet from the front lot line, may extend into the required side yard though not closer than two feet to the side lot line. A garage which is entered from an alley shall not be located closer than ten feet to the alley line.
  - (ii) Accessory buildings or structures not a part of the main structure may be located in the required front yard on double-frontage lots where at least one frontage is along a major street, provided:
    - (1) Accessory buildings or structures shall not occupy any portion of any required front yard along the local street.

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

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

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

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

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

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

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

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

(g) Multiple dwellings existing in this district on the effective date of this title shall be considered nonstandard uses in conformance with the provisions of Chapter 27.61.

(h) If two or more abutting lots existing on or before November 2, 1953, have an aggregate width of at least seventy-five feet, such lots may be used for a

two-family dwelling, notwithstanding the average lot width requirements of subparagraph (a) of this section. (Ord. 15347 §2; November 13, 1989: prior Ord. 14447 §2; July 28, 1986: Ord. 13929 §2; August 27, 1984: Ord. 13509 §1; December 13, 1982: Ord. 13359 §2; April 26, 1982: Ord. 13350 §11; March 29, 1982: Ord. 12751 §2; November 5, 1979: Ord. 12657 §2; August 6, 1979: Ord. 12571 §108; May 8, 1979).

**Table 27.13.080(a)**

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

\* See subparagraph (b)

## Chapter 27.15

### R-3 RESIDENTIAL DISTRICT

#### Sections:

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

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

#### 27.15.010 Scope of Regulations.

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

#### 27.15.020 Use Regulations.

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

- (a) Single-family dwellings;
- (b) Two-family dwellings;
- (c) Parks, playgrounds, and community buildings owned or operated by a public agency;
- (d) Public libraries;
- (e) Public elementary and high schools, or private schools having a curriculum equivalent to a public elementary or public high school and having no facilities regularly used for housing or sleeping purposes. (Ord. 12571 §110; May 8, 1979).

#### 27.15.030 Permitted Conditional Uses.

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

##### (a) Churches:

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

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

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

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

##### (b) Group homes:

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

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

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

##### (c) Early childhood care facilities in churches:

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

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

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

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

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

##### (d) Domestic shelter:

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

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

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

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

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

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

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

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

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

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

(7) Early childhood care facilities located in mobile homes shall have a severe weather emergency action plan approved by the Health Department. (Ord. 16854 §10; August 14, 1995: prior Ord. 15751 §5; October 15, 1990: Ord. 14071 §3; March 25, 1985: Ord. 13302 §3; February 1, 1982: Ord. 12571 §111; May 8, 1979).

**27.15.040 Permitted Special Uses.**

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

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

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

(2) All the requirements of Chapter 27.65.

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

- (c) Health care facilities;
- (d) Dwellings for members of religious orders;
- (e) Mobile home courts;
- (f) Recreational facilities;
- (g) Church steeples, amateur radio antenna installations, towers, and ornamental spires which exceed the maximum district height;

- (h) Broadcast towers;
- (i) Extracting sand, gravel, and soil;
- (j) Certain parking lots as defined in Chapter

27.63;

- (k) Elderly or retirement housing;
- (l) Expansion of nonconforming uses;
- (m) Historic preservation;
- (n) Garden centers;
- (o) Public utility purposes;
- (p) Wind energy conversion systems;
- (q) Mobile home subdivisions;
- (r) Housing and related facilities for the physically handicapped;
- (s) Greenhouses;
- (t) Outdoor seasonal sales;
- (u) Cemeteries;
- (v) Churches; increased lot coverage;
- (w) Domiciliary care facility;
- (x) Expansion of nonstandard single and two-family dwellings into required yards;
- (y) Early childhood care facilities with sixteen or more children, or with fifteen or fewer children not meeting the specified conditions for a permitted conditional use under Section 27.15.030;
- (z) Neighborhood support services;
- (aa) Clubs

(bb) Connection of single-family dwelling to accessory building for the physically handicapped. (Ord. 17482 §2; March 29, 1999: prior Ord. 16854 §11; August 14, 1995: Ord. 16820 §3; July 10, 1995: Ord. 16673 §7; September 26, 1994: Ord. 15763 §5; October 29, 1990: Ord. 15371 §3; December 18, 1989: Ord. 15368 §5; December 18, 1989: Ord. 14767 §3; October 12, 1987: Ords. 14475, 14510, 14562, amended by Ord. 14644 §5; April 13, 1987: Ord. 14378 §3; May 5, 1986: Ord. 14074 §3; April 8, 1985: Ord. 14071 §3; March 25, 1985: Ord. 13980 §3; October 29, 1984: Ord. 13724 §2; October 31, 1983: Ord. 13546 §4; February 28, 1983: Ord. 13535 §3; January 24, 1983: Ord. 12978 §5; August 25, 1980: Ord. 12894 §5; April 7, 1980: Ord. 12571 §112; May 8, 1979).

**27.15.050 Accessory Uses.**

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

**27.15.060 Parking Regulations.**

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

**27.15.070 Sign Regulations.**

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

**27.15.075 Grading and Land Disturbance Regulations.**

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

**27.15.080 Height and Area Regulations.**

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

## (a) General requirements:

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

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

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

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

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

entered from an alley shall not be located closer than ten feet to the alley line.

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

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

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

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

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

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

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

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

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

(f) Multiple dwellings existing in this district on the effective date of this title shall be considered nonstandard uses in conformance with the provisions of Chapter 27.61. (Ord. 15347 §3; November 13, 1989; prior Ord. 14447 §3; July 28, 1986; Ord. 14251 §1; October 14, 1985; Ord. 13929 §3; August 27, 1984; Ord. 13359 §3; April 26, 1982; Ord. 12751 §3; November 5, 1979; Ord. 12657 §3; August 6, 1979; Ord. 12571 §116; May 8, 1979).

Table 27.15.080(a)

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

## Chapter 27.17

### R-4 RESIDENTIAL DISTRICT

#### Sections:

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

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

#### 27.17.010 Scope of Regulations.

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

#### 27.17.020 Use Regulations.

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

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

#### 27.17.030 Permitted Conditional Uses.

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

##### (a) Churches:

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

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

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

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

##### (b) Group homes:

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

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

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

##### (c) Early childhood care facilities in churches:

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

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

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

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

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

##### (d) Domestic shelter:

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

(2) The maximum number of residents occupying such a facility shall not exceed one person per 1,000 square feet of lot area;

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

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

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

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

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

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

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

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

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

**27.17.040 Permitted Special Uses.**

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

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

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

(c) Health care facilities;

(d) Dwellings for members of religious orders;

(e) Mobile home courts;

(f) Recreational facilities;

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

(h) Broadcast towers;

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

(j) Clubs;

(k) Elderly or retirement housing;

(l) Expansion of nonconforming uses;

(m) Historic preservation;

(n) Public utility purposes;

(o) Wind energy conversion systems;

(p) Mobile home subdivisions;

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

(r) Outdoor seasonal sales;

(s) Cemeteries;

(t) Churches; increased lot coverage;

(u) Domiciliary care facility;

(v) Expansion of nonstandard single and two-family dwellings into required yards;

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

(x) Neighborhood support services;

(y) Connection of single-family dwelling to accessory building for the physically handicapped.

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

**27.17.050 Accessory Uses.**

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

**27.17.060 Parking Regulations.**

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

**27.17.070 Sign Regulations.**

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

**27.17.075 Grading and Land Disturbance Regulations.**

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

**27.17.080 Height and Area Regulations.**

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

- (a) General requirements:

*[See Table 27.17.080(a) below]*

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

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

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

**Table 27.17.080(a)**

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

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

(f) In those locations in the R-4 Residential District where, on November 2, 1953, and continuing thereafter, forty percent or more of the frontage on the same side of a street between two street intersections is lawfully occupied by two or more buildings, consisting of multiple dwellings, three- and four-family dwellings may be erected in conformance with the height, minimum lot requirements, and parking regulations of the R-5 Residential District.

(g) Multiple dwellings existing in this district on the effective date of this title shall be considered nonstandard uses in conformance with the provisions of Chapter 27.61. (Ord. 16971 §1; April 22, 1996; prior Ord. 14447 §4; July 28, 1986; Ord. 13929 §4; August 27, 1984; Ord. 12751 §4; November 5, 1979; Ord. 12657 §4; August 6, 1979; Ord. 12571 §124; May 8, 1979).

**27.17.090 Neighborhood Design Standards.**

Each application for a building permit for new construction of a principal building within this district shall comply with the neighborhood design standards. (Ord. 17664 §1; May 1, 2000).

**Chapter 27.18**

**RESERVED\***

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

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**Chapter 27.19****R-5 RESIDENTIAL DISTRICT****Sections:**

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

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

**27.19.010 Scope of Regulations.**

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

**27.19.020 Use Regulations.**

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

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

**27.19.030 Permitted Conditional Uses.**

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

## (a) Churches:

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

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

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

## (b) Group homes:

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

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

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

## (c) Early childhood care facilities in churches:

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

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

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

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

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

## (d) Domestic shelter:

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

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

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

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

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

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

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

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

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

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

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

#### **27.19.040 Permitted Special Uses.**

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

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

(b) Health care facilities;

(c) Dwellings for members of religious orders;

(d) Recreational facilities;

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

(f) Broadcast towers;

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

(h) Clubs;

(i) Elderly or retirement housing;

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

(k) Expansion of nonconforming uses;

(l) Historic preservation;

(m) Public utility purposes;

(n) Wind energy conversion systems;

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

(p) Outdoor seasonal sales;

(q) Cemeteries;

(r) Churches; increased lot coverage;

(s) Domiciliary care facility;

(t) Expansion of nonstandard single and two-family dwellings into required yards;

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

(v) Neighborhood support services;

(w) Connection of single-family dwelling to accessory building for the physically handicapped. (Ord. 16854 §15; August 14, 1995: prior Ord. 16820 §5; July 10, 1995: Ord. 16673 §9; September 26, 1994: Ord. 15371 §5; December 18, 1989: Ord. 15368 §7; December 18, 1989: Ord. 14815 §4; January 4, 1988: Ord. 14780 §6; November 2, 1987: Ord. 14767 §5; October 12, 1987: Ords. 14475, 14510, 14562, as amended by Ord. 14644 §7; April 13, 1987: Ord. 14074 §3; April 8, 1985: Ord. 13980 §1; October 29, 1984: Ord. 13588 §6; May 9, 1983: Ord. 13546 §6; February 28, 1983: Ord. 12978 §7; August 25, 1980: Ord. 12894 §7; April 7, 1980: Ord. 12571 §128; May 8, 1979).

#### **27.19.050 Accessory Uses.**

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

#### **27.19.060 Parking Regulations.**

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

#### **27.19.070 Sign Regulations.**

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

### 27.19.075 Grading and Land Disturbance Regulations.

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

### 27.19.080 Height and Area Regulations.

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

(a) General requirements:

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

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

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

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

125 square feet for the first dwelling unit;

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

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

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

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

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

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

(f) Where a lot of record as of November 2, 1953, has less area or width or both less area and width than herein required and its boundary lines along their entire length abutted lands under other ownership on November 2, 1953, and have not since been changed, the lot may be used for a single-family dwelling, two-family dwelling, or for any non-dwelling use permitted in this chapter. (Ord. 17664 §3; May 1, 2000; prior Ord. 16971 §2; April 22, 1996: Ord. 14447 §5; July 28, 1986: Ord. 13929 §5; August 27, 1985: Ord. 12751 §5; September 5, 1979: Ord. 12701 §1; October 2, 1979: Ord. 12571 §132; May 8, 1979).

### 27.19.090 Neighborhood Design Standards.

Each application for a building permit for new construction of a principal building within this district shall comply with the neighborhood design standards. (Ord. 17664 §4; May 1, 2000).

Table 27.19.080(a)

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

\* Smaller of 30' or 20% of depth.

**Chapter 27.21****R-6 RESIDENTIAL DISTRICT****Sections:**

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

This district is intended to provide a generally redeveloping area of moderately high residential density between eleven and fourteen dwelling units per acre. This district provides for single-family, two-family, multiple and townhouse residential uses, lodging and boarding houses, private clubs, fraternities and sororities, and support facilities, such as schools, parks, community buildings, and churches.

**27.21.010 Scope of Regulations.**

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

**27.21.020 Use Regulations.**

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

- (a) Single-family dwellings;
- (b) Two-family dwellings;
- (c) Multiple dwellings;
- (d) Townhouses;
- (e) Parks, playgrounds, and community buildings owned or operated by a public agency;
- (f) Public libraries;
- (g) Public elementary and high schools, or private schools having a curriculum equivalent to a public elementary or public high school and having no rooms regularly used for housing or sleeping purposes;
- (h) Private clubs, fraternities, sororities, and lodges, except those the primary activity of which is

a service customarily carried on as a business. (Ord. 17531 § 1; July 26, 1999; prior Ord. 15159 §1; April 24, 1989; Ord. 12571 §134; May 8, 1979).

**27.21.030 Permitted Conditional Uses.**

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

## (a) Churches:

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

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

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

## (b) Group homes:

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

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

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

## (c) Early childhood care facilities in churches:

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

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

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

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

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

## (d) Domestic shelter:

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

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

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

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

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

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

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

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

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

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

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

#### **27.21.040 Permitted Special Uses.**

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

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

(b) Health care facilities;

(c) Dwellings for members of religious orders;

(d) Recreational facilities;

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

(f) Broadcast towers;

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

(h) Elderly or retirement housing;

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

(j) Expansion of nonconforming uses;

(k) Historic preservation;

(l) Public utility purposes;

(m) Wind energy conversion systems;

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

(o) Outdoor seasonal sales;

(p) Cemeteries;

(q) Churches; increased lot coverage;

(r) Domiciliary care facility;

(s) Expansion of nonstandard single and two-family dwellings into required yards;

(t) Nonprofit religious, educational or philanthropic institutions;

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

(v) Connection of single-family dwelling to accessory building for the physically handicapped. (Ord. 16854 §17; August 14, 1995: prior Ord. 16820 §6; July 10, 1995: Ord. 16673 §10; September 26, 1994: Ord. 15368 §8; December 18, 1989: Ord. 15159 §2; April 24, 1989: Ord. 14815 §5; January 4, 1988: Ord. 14780 §7; November 2, 1987: Ord. 14767 §6; October 12, 1987: Ords. 14510, 14475, 14562, amended by Ord. 14644 §8; April 13, 1987: Ord. 14378 §6; May 5, 1986: Ord. 14074 §6; April 8, 1985: Ord. 13980 §6; October 29, 1984: Ord. 13588 §7; May 9, 1983: Ord. 13546 §7; February 28, 1983: Ord. 12978 §8; August 25, 1980: Ord. 12894 §8; April 7, 1980: Ord. 12571 §136; May 8, 1979).

#### **27.21.050 Accessory Uses.**

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

#### **27.21.060 Parking Regulations.**

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

#### **27.21.070 Sign Regulations.**

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

**27.21.075 Grading and Land Disturbance Regulations.**

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

**27.21.080 Height and Area Regulations.**

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

(a) General requirements:

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

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

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

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

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

125 square feet for the first dwelling unit;  
80 square feet per unit for each additional dwelling unit beyond one.

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

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

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

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

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

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

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

(g) Where a lot of record as of November 2, 1953, has less area or width or both less area and width than herein required and its boundary lines along their entire length abutted lands under other ownership on November 2, 1953, and have not since been changed, the lot may be used for a single-family dwelling, two-family dwelling, or for any non-dwelling use permitted in this chapter. (Ord. 17664 §5; May 1, 2000; prior Ord. 16971 §3; April 22, 1996; Ord. 14447 §6; July 28, 1986; Ord. 13929 §6; August 27, 1984; Ord. 13067 §2; January 5, 1981; Ord. 12751 §6; November 5, 1979; Ord. 12701 §2; October 2, 1979; Ord. 12571 §140; May 8, 1979).

**27.21.090 Neighborhood Design Standards.**

Each application for a building permit for new construction of a principal building within this district shall comply with the neighborhood design standards. (Ord. 17664 §6; May 1, 2000).

Table 27.21.080(a)

Table 27.21.080(a)						
	Lot Area (Sq. ft.)	Avg. Lot Width	Req'd Front Yard	Req'd Side Yard	Req'd Rear Yard	Height
Dwelling, single- family	4,000	50'	20'	5'	*	35'
Dwelling, two-family	2,500 per family	25' per family	20'	5' or 0' on party wall	*	35'
Townhouses	2,500 per family	20' per family	20'	5' or 0' on party wall	*	35'
Dwelling, Multiple	1,100 per unit	50'	20'	7' or 10' if over 20' in height	*	35'
Other permitted uses	4,000	50'	20'	5'	*	35'
* Smaller of 30' or 20% of depth.						
** Over 35' in height, add one foot to the required side and rear yards for each additional two feet of height.						

## Chapter 27.23

### R-7 RESIDENTIAL DISTRICT

#### Sections:

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

This district is intended to provide a redeveloping area of comparatively high density residential use in the range of fifteen dwelling units, gross, per acre. This district provides for single-family, two-family, multiple, and townhouse residential uses, lodging and boarding houses, apartment hotels, private clubs, fraternities and sororities, and such facilities as schools, parks, community buildings, and churches.

#### 27.23.010 Scope of Regulations.

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

#### 27.23.020 Use Regulations.

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

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

(i) Private clubs, fraternities, sororities, and lodges, except those the primary activity of which is a service customarily carried on as a business. (Ord. 17531 § 2; July 26, 1999; prior Ord. 15159 §3; April 24, 1989; Ord. 12571 §142; May 8, 1979).

#### 27.23.030 Permitted Conditional Uses.

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

##### (a) Churches:

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

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

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

##### (b) Group homes:

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

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

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

##### (c) Early childhood care facilities in churches:

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

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

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

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

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

##### (d) Domestic shelter:

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

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

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

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

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

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

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

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

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

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

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

#### **27.23.040 Permitted Special Uses.**

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

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

(b) Health care facilities;

(c) Dwellings for members of religious orders;

(d) Recreational facilities;

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

(f) Broadcast towers;

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

(h) Elderly or retirement housing;

(i) Expansion of nonconforming uses;

(j) Historic preservation;

(k) Public utility purposes;

(l) Wind energy conversion systems;

(m) Housing and related facilities for the handicapped;

(n) Outdoor seasonal sales;

(o) Cemeteries;

(p) Churches; increased lot coverage;

(q) Domiciliary care facility;

(r) Expansion of nonstandard single and two-family dwellings into required yards;

(s) Nonprofit religious, educational or philanthropic institutions;

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

(u) Connection of single-family dwelling to accessory building for the physically handicapped. (Ord. 16854 §19; August 14, 1995: prior Ord. 16820 §7; July 10, 1995: Ord. 16673 §11; September 26, 1994: Ord. 15368 §9; December 18, 1989: Ord. 15159 §4; April 24, 1989: Ord. 14815 §6; January 4, 1988: Ord. 14780 §8; November 2, 1987: Ord. 14767 §7; October 12, 1987: Ords. 14475, 14510, 14562 amended by Ord. 14644 §9; April 13, 1987: Ord. 14378 §7; May 5, 1986: Ord. 13588 §8; May 9, 1983: Ord. 13546 §8; February 28, 1983: Ord. 12978 §12; August 25, 1980: Ord. 12894 §9; April 7, 1980: Ord. 12571 §144; May 8, 1979).

#### **27.23.050 Accessory Uses.**

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

#### **27.23.060 Parking Regulations.**

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

#### **27.23.070 Sign Regulations.**

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

**27.23.075 Grading and Land Disturbance Regulations.**

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

**27.23.080 Height and Area Regulations.**

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

(a) General requirements:

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

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

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

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

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

125 square feet for the first dwelling unit;

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

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

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

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

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

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

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

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

(g) Where a lot of record as of November 2, 1953, has less area or width or both less area and width than herein required and its boundary lines along their entire length abutted lands under other ownership on November 2, 1953, and have not since been changed, the lot may be used for a single-family dwelling, two-family dwelling, or for any non-dwelling use permitted in this chapter. (Ord. 17664 §7; May 1, 2000: prior Ord. 16971 §4; April 22, 1996: Ord. 13929 §8; August 27, 1984: Ord. 13067 §4; January 5, 1981: Ord. 12751 §7; November 5, 1979: Ord. 12701 §3; October 2, 1979: Ord. 12571 §148; May 8, 1979).

**27.23.090 Neighborhood Design Standards.**

Each application for a building permit for new construction of a principal building within this district shall comply with the neighborhood design standards. (Ord. 17664§8; May 1, 2000).

Table 27.23.080(a)

Table 27.23.080(a)						
	Lot Area (Sq. ft.)	Avg. Lot Width	Req'd Front Yard	Req'd Side Yard	Req'd Rear Yard	Height
Dwelling, single- family	4,000	50'	20'	5'	*	35'
Dwelling, two-family	2,000 per family	25' per family	20'	5' or 0' on party wall	*	35'
Townhouses	2,000 per family	20' per family	20'	5' or 0' on party wall	*	35'
Dwelling, Multiple	700 per unit	50'	20'	Total 15', (min. 7' per side)	*	45'**
Other permitted uses	4,000	50'	20'	5'	*	35'

\* Smaller of 30' or 20% of depth.

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

## Chapter 27.24

### R-8 RESIDENTIAL DISTRICT

#### Sections:

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

This district is intended to permit high density residential uses; lodging and boarding houses; apartment hotels; private clubs; civic, cultural, educational, labor, professional, trade and fraternal membership organizations; and such facilities as schools, parks, community buildings, and churches exclusively in that area designated as the E-1 multiple dwelling district which existed immediately prior to the effective date of this title.

#### 27.24.010 Scope of Regulations.

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

#### 27.24.020 Use Regulations.

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

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

rooms regularly used for housing or sleeping purposes;

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

(j) Churches. (Ord. 17531 § 3; July 26, 1999; prior Ord. 15159 §5; April 24, 1989; Ord. 12571 §148a; May 8, 1979).

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

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

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

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

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

#### 27.24.030 Permitted Conditional Uses.

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

##### (a) Group homes:

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

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

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

##### (b) Early childhood care facilities in churches:

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

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

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

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

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

(c) Domestic shelter:

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

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

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

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

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

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

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

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

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

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

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

**27.24.040 Permitted Special Uses.**

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

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

(b) Health care facilities;

(c) Dwellings for members of religious orders;

(d) Recreational facilities;  
(e) Broadcast towers;  
(f) Certain parking lots as defined in Chapter 27.63;

(g) Elderly or retirement housing;

(h) Expansion of nonconforming uses;

(i) Historic preservation;

(j) Offices for professional services provided by physicians, surgeons, chiropractors, osteopaths, physical therapists, dentists, architects, engineers, lawyers, and accountants;

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

(l) Public utility purposes;

(m) Wind energy conversion systems;

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

(o) Outdoor seasonal sales;

(p) Cemeteries;

(q) Domiciliary care facility;

(r) Expansion of nonstandard single and two-family dwellings into required yards;

(s) Nonprofit religious, educational or philanthropic institutions;

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

(u) Connection of single-family dwelling to accessory building for the physically handicapped. (Ord. 16854 §21; August 14, 1995: prior Ord. 16820 §8; July 10, 1995: Ord. 16673 §12; September 26, 1994: Ord. 15368 §10; December 18, 1989: Ord. 15159 §6; April 24, 1989: Ord. 14815 §7; January 4, 1988: Ord. 14780 §9; November 2, 1987: Ord. 14767 §8; October 12, 1987: Ords. 14475, 14562, amended by Ord. 14644 §10, April 13, 1987: Ord. 14475 §8; August 18, 1986: Ord. 14378 §8; May 5, 1986: Ord. 14074 §4; August 18, 1985: Ord. 13980 §8; October 29, 1984: Ord. 13588 §9; May 9, 1983: Ord. 13546 §9; February 28, 1983: Ord. 12978 §10; August 25, 1980: Ord. 12894 §10; April 7, 1980: Ord. 12571 §148a; May 8, 1979).

**27.24.045 Office Space Limitation.**

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

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

**27.24.050 Accessory Uses.**

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

**27.24.060 Parking Regulations.**

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

**27.24.070 Sign Regulations.**

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

**27.24.075 Grading and Land Disturbance Regulations.**

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

**27.24.080 Height and Area Regulations.**

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

(a) General requirements:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(g) Where a lot of record as of November 2, 1953, has less area or width or both less area and width than herein required and its boundary lines along their entire length abutted lands under other ownership on November 2, 1953, and have not since been changed, the lot may be used for a single-family dwelling, two-family dwelling, or for any nondwelling use permitted in this chapter. (Ord. 17664 §9; May 1, 2000; prior Ord. 16971 §5; April 22, 1996: Ord. 13929 §8; August 27, 1984: Ord. 13067 §4; January 5, 1981: Ord. 12751 §8; November 5, 1979: Ord. 12679 §2; September 4, 1979: Ord. 12571 §148a; May 8, 1979).

**27.24.090 Neighborhood Design Standards.**

Each application for a building permit for new construction of a principal building within this district shall comply with the neighborhood design standards. (Ord. 17664 §10; May 1, 2000).

**Chapter 27.25****O-1 OFFICE DISTRICT****Sections:**

- 27.25.010 Scope of Regulations.**
- 27.25.020 Permitted Uses.**
- 27.25.025 Permitted Conditional Uses.**
- 27.25.030 Permitted Special Uses.**
- 27.25.040 Accessory Uses.**
- 27.25.050 Parking Regulations.**
- 27.25.060 Sign Regulations.**
- 27.25.065 Grading and Land Disturbance Regulations.**
- 27.25.070 Height and Area Regulations.**

This district is intended to provide a re-developing area of office uses in the general area of the County-City Building and the State Capitol Building. This district provides for office buildings, dwellings, public uses, and certain religious, educational, and philanthropic institutions.

**27.25.010 Scope of Regulations.**

The regulations set forth in this chapter, or set forth elsewhere in this title when referred to in this chapter, are the regulations in the O-1 Office District. (Ord. 12571 §149; May 8, 1979).

**27.25.020 Permitted Uses.**

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

- (a) Office buildings;
- (b) Dwellings;
- (c) Parks, playgrounds, and community buildings, owned or operated by a public agency;
- (d) Public libraries;
- (e) Public elementary and high schools, or private schools having a curriculum equivalent to a public elementary or public high school, and having no rooms regularly used for housing or sleeping purposes;
- (f) Churches;
- (g) Nonprofit religious, educational, and philanthropic institutions. (Ord. 12571 §150; May 8, 1979).

**27.25.025 Permitted Conditional Uses.**

The following uses are permitted in the O-1 Office District if they are located entirely within a building containing office or residential uses, and provided that such additional uses shall not exceed twenty percent of the total square feet of floor area in such building.

- (a) Barber shops, beauty parlors, and shoeshine shops;
- (b) Messenger and telegraph stations;
- (c) Restaurants;
- (d) Stores or shops for sale of goods at retail, but not including motor vehicles, of no more than 10,000 square feet of floor area for each such store or shop;
- (e) Photography studios;
- (f) Tailor shops, shoe repairing, upholstery shops, printing, photocopying, or similar business establishments. The floor area of said premises not devoted to sales or office space shall not exceed 5,000 square feet;
- (g) Receiving stores for dry cleaning or laundry;
- (h) Early childhood care facilities with a maximum of fifteen children present at any time:
  - (1) Such facilities shall comply with all applicable state and local early childhood care requirements;
  - (2) Such facilities shall comply with all applicable building and life safety code requirements;
  - (3) Such facilities shall be fenced and have play areas that comply with the design standards for early childhood care facilities;
  - (4) Such facilities must receive a conditional use permit from the Department of Building and Safety. (Ord. 16854 §22; August 14, 1995; prior Ord. 13232 §1; October 19, 1981).

**27.25.030 Permitted Special Uses.**

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

- (a) Private schools, other than those permitted under Section 27.25.020(e) above;
- (b) Health care facilities;
- (c) Recreational facilities;
- (d) Clubs;

(e) Church steeples, towers, and ornamental spires which exceed the maximum height of forty-five feet;

(f) Banks, savings and loan associations, credit unions, and finance companies;

(g) Expansion of nonconforming uses;

(h) Historic preservation;

(i) Any permitted use which exceeds the maximum height permitted in the district up to seventy-five feet;

(j) Public utility purposes;

(k) Wind energy conversion systems;

(l) Outdoor seasonal sales;

(m) Early childhood care facilities with sixteen or more children, or with fifteen or fewer children not meeting the specified conditions for a permitted conditional use under Section 27.25.025;

(n) Parking garages, including parking garages accessory to a main use. (Ord. 16854 §22b; August 14, 1995; prior Ord. 15835 §1; March 4, 1991; Ord. 15368 §11; December 18, 1989; Ord. 13980 §9; October 29, 1984; Ord. 13235 §1; October 19, 1981; Ord. 12978 §11; August 25, 1980; Ord. 12894 §11; April 7, 1980; Ord. 12571 §152; May 8, 1979).

**27.25.040 Accessory Uses.**

Accessory uses permitted in the O-1 Office District are accessory buildings and uses customarily

incident to the permitted uses. Accessory parking garages shall not abut Lincoln Mall, Centennial Mall, and Capitol Square as defined in Section 27.56.017. (Ord. 15835 §2; March 4, 1991; prior Ord. 12571 § 153; May 8, 1979).

**27.25.050 Parking Regulations.**

All parking within the O-1 Office District shall be regulated in conformance with the provisions of Chapter 27.67. (Ord. 12571 §154; May 8, 1979).

**27.25.060 Sign Regulations.**

Signs within the O-1 Office District shall be regulated in conformance with the provisions of Chapter 27.69. (Ord. 12571 §155; May 8, 1979).

**27.25.065 Grading and Land Disturbance Regulations.**

Grading and land disturbance within the O-1 Office District shall be regulated in conformance with the provisions of Chapter 27.81. (Ord. 17618 §12; February 22, 2000.)

**27.25.070 Height and Area Regulations.**

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

- (a) General requirements:

	Lot Area (Sq. ft.)	Frontage	Req'd Front Yard	Req'd Side Yard	Req'd Rear Yard	Height
Dwelling	220 per unit	50'	0'	0'	0'	75'*
Other Permitted Uses	0	0'	0'	0'	0'	75'*

\* The maximum height of O-1 districts shall be the least of seventy-five feet or height limitation imposed by Chapter 27.56, the Capitol Environs District.

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

125 square feet for the first dwelling unit;

80 square feet per unit for the next four dwelling units;

25 square feet per unit for the next four dwelling units;

20 square feet per unit for each additional dwelling unit beyond nine.

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

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

(2) This required open space may be provided either on a balcony four or more feet in depth or on a rooftop, provided that the roof is designed and surfaced in such a manner that it may be developed with areas of planting, open space, recreation and other uses that are consistent with similar uses in ground-level side and rear yards for dwellings. Such rooftop areas may not be occupied by structures such as vents, exhaust intakes, or other mechanical devices, except where they do not interfere with the usable nature of the open space.

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

(c) Dwellings existing in this district on the effective date of this title which do not meet the requirements of this chapter shall be considered nonstandard uses in conformance with the provisions of Chapter 27.61.

Accessory buildings for such non-standard dwellings shall not extend into any required yard except as follows:

Accessory buildings which are attached to or not located more than six feet from the main structure shall be considered a part of the main structure and shall comply with the height, front, side and rear yard requirements of the main building. Accessory buildings not a part of the main structure may be located in the required rear yard but such accessory buildings may not occupy more than forty percent of the required rear yard and shall not be nearer than two feet to any side or rear lot line, nor more than fifteen feet in height. Accessory buildings not a part of the main structure, if located not less than sixty feet from the front lot line, may extend into the required side yard though not nearer than two feet to the side lot line. A garage which is entered from an alley shall not be located closer than ten feet to the alley line. (Ord. 15724 §1; September 17, 1990; prior Ord. 13232 §2; October 19, 1981; Ord. 12751 §9; November 5, 1979; Ord. 12571 §156; May 8, 1979).



## CHAPTER 27.26

### O-2 SUBURBAN OFFICE DISTRICT

#### Sections:

- 27.26.010 Scope of Regulations.
- 27.26.020 Permitted Uses.
- 27.26.030 Permitted Conditional Uses.
- 27.26.040 Permitted Special Uses.
- 27.26.050 Accessory Uses.
- 27.26.060 Parking Regulations.
- 27.26.070 Sign Regulations.
- 27.26.075 Grading and Land Disturbance Regulations.
- 27.26.080 Height and Area Regulations.

This district is intended to provide a re-developing area, primarily of office uses in those suburban areas previously zoned O-1 Office District and those fronting on the same street, with the same side lot lines and within 150 feet of the following districts: B-1, B-3, B-4, H-2, H-3, and I-1. This district is intended as a transition zone where it abuts the previously mentioned districts. (Ord. 12701 §5; October 2, 1979).

#### 27.26.010 Scope of Regulations.

The regulations set forth in this chapter, or set forth elsewhere in this title when referred to in this chapter, are the regulations in the O-2 Suburban Office District. (Ord. 12571 §228; May 8, 1979).

#### 27.26.020 Permitted Uses.

A building or premises shall be permitted to be used for the following purposes in the O-2 Suburban Office District:

- (a) Office buildings;
- (b) Parks, playgrounds, and community buildings, owned or operated by a public agency;
- (c) Public libraries;
- (d) Public elementary and high schools, or private schools having a curriculum equivalent to a public elementary or public high school, and having no rooms regularly used for housing or sleeping purposes;
- (e) Churches;
- (f) Nonprofit religious, educational, and philanthropic institutions;

(g) Banks, savings and loans, credit unions, and finance companies;

(h) Barber shops, beauty parlors, and shoeshine shops;

(i) Tailor shops, shoe repair shops, upholstery shops, printing and photocopying shops, or other, similar business establishments; however, that portion of the premises of such business establishments not devoted to sales or office space shall not exceed 5,000 square feet of floor area. (Ord. 16767 §1; April 10, 1995: prior Ord. 13466 §1; September 20, 1982: Ord. 12679 §3; September 4, 1979: Ord. 12571 §229; May 8, 1979).

#### 27.26.030 Permitted Conditional Uses.

Any building or premises may be used for the following purposes in the O-2 Suburban Office District in conformance with the conditions prescribed herein:

(a) Dwellings, provided that:

(1) Dwellings shall only be permitted above the first story of a building;

(2) The first story shall be used for a nondwelling use permitted in the district;

(3) Said nondwelling use shall not:

(i) be accessory to the residential use;

(ii) be a parking lot or garage;

(4) Said first story shall not have more than twenty percent of its height below grade.

(b) Photography studios, provided that said studios be used only for the taking of photographs and the development of photographs taken by the owner or employees of the studio.

(c) Parking lots, provided that no part of the frontage within the block face on which a parking lot is proposed is zoned residential.

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

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

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

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

(4) Such facilities must receive a conditional use permit from the Department of Building and Safety. (Ord. 16854 §23; August 14, 1995: prior Ord. 15522 §1; April 16, 1990: Ord. 13579 §1; May 2, 1983: Ord. 12571; §230; May 8, 1979).

**27.26.040 Permitted Special Uses.**

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

- (a) Broadcast towers;
- (b) Expansion of nonconforming uses;
- (c) Historic preservation;
- (d) Public utility purposes;
- (e) Wind energy conversion systems;
- (f) Outdoor seasonal sales;
- (g) Certain parking lots as defined in Chapter 27.63;
- (h) Mail order catalog sales;
- (i) Early childhood care facilities with sixteen or more children, or with fifteen or fewer children not meeting the specified conditions for a permitted conditional use under Section 27.26.030;
- (j) Private schools. (Ord. 17254 § 1; October 6, 1997; prior Ord. 16854 §24; August 14, 1995; Ord. 16606 §1; May 9, 1994; Ord. 16144 §2; July 6, 1992; Ord. 15522 §2; April 16, 1990; Ord. 14780 §10; November 2, 1987; Ord. 13980 as amended by Ord. 14123 §2; June 3, 1985; Ord. 13588 §10; May 9, 1983; Ord. 12978 §12; August 25, 1980; Ord. 12894 §12; April 7, 1980; Ord. 12571 §231; May 8, 1979).

**27.26.050 Accessory Uses.**

Accessory uses permitted in the O-2 Suburban Office District are accessory buildings and uses customarily incident to the permitted uses. (Ord. 12571 §232; May 8, 1979).

**27.26.060 Parking Regulations.**

All parking within the O-2 Suburban Office District shall be regulated in conformance with the provisions of Chapter 27.67. (Ord. 12571 §233; May 8, 1979).

**27.26.070 Sign Regulations.**

Signs within the O-2 Suburban Office District shall be regulated in conformance with the provisions of Chapter 27.69. (Ord. 12571 §234; May 8, 1979).

**27.26.075 Grading and Land Disturbance Regulations.**

Grading and land disturbance within the O-2 Suburban Office District shall be regulated in conformance with the provisions of Chapter 27.81. (Ord. 17618 §13; February 22, 2000.)

**27.26.080 Height and Area Regulations.**

The maximum height and minimum lot requirements within the O-2 Suburban Office District shall be as follows:

- (a) General requirements:

	Lot Area (Sq. ft.)	Frontage	Req'd Front Yard	Req'd Side Yard	Req'd Rear Yard	Height
Dwelling	4,000	50'		10'	40'	25'
Dwelling, two-family	4,000	50'	30' or same as abutting residential district	10'	40'	25'
Other Permitted	Less than 15,000	50'	whichever is lesser	10', **	40'	25'
Uses	15,000 and over	100'		20', **	40'	25'

\* When a side or rear yard abuts a residential district, it shall be screened in conformance with the landscape design standards adopted by the City of Lincoln.

\*\* 0' when abutting a commercial or industrial district.

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

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

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

- 125 square feet for the first dwelling unit;
- 80 square feet per unit for the next four dwelling units;
- 25 square feet per unit for the next four dwelling units;
- 20 square feet per unit for each additional dwelling unit beyond nine.

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

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

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

(3) This required open space may be provided either on a balcony four or more feet in depth or on a rooftop, provided that the roof is designed and surfaced in such a manner that it may be developed with areas of planting, open space, recreation and other uses that are consistent with similar uses in ground-level side and rear yards for dwellings. Such rooftop areas may not be occupied by structures such as vents, exhaust intakes, or other mechanical devices, except where they do not interfere with the usable nature of the open space;

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

(e) Accessory buildings which are attached to or are located not more than ten feet from the main structure shall be considered a part of the main structure and shall comply with the height, and front,

side, and rear yard requirements of the main structure. Accessory buildings not a part of the main structure may be located in the required rear yard if such yard does not abut a residential district, but such accessory buildings may not occupy more than thirty percent of the required rear yard and shall not be nearer than two feet to any side or rear lot line. Such detached accessory buildings shall not exceed fifteen feet in height. Accessory buildings not a part of the main structure, if located not less than sixty feet from the front lot line, may extend into the required side yard though not nearer than two feet to the side lot line. A garage which is entered from an alley shall not be located closer than ten feet to the alley line;

(f) Dwellings existing in this district on the effective date of this title which do not meet the requirements of this chapter shall be considered non-standard uses in conformance with the provisions of Chapter 27.61. (Ord. 12894 §13; April 7, 1980; prior Ord. 12751 §10; November 5, 1979; Ord. 12657 §5; August 6, 1979; Ord. 12571 §235; May 8, 1979).

#### **27.26.090 Extension Beyond Abutting Business or Industrial District; Open Space Requirement.**

Whenever an O-2 zoning district extends further from the street than an abutting B-1, B-3, B-4, H-2, H-3, or I-1 district, then no building, structure, parking, nor access drive shall be permitted further from the street than the adjacent boundary line that is parallel to the street of the abutting B-1, B-3, B-4, H-2, H-3, or I-1 district. That portion of the O-2 district further from the street than the B-1, B-3, B-4, H-2, H-3, or I-1 districts shall be maintained as open space and have landscaping improvements, such as trees, shrubs, grasses, paths, fountains, or benches. If the B-1, B-3, B-4, H-2, H-3, or I-1 district is located on a corner and the O-2 district completely bounds the B-1, B-3, B-4, H-2, H-3, or I-1 district, the open space may be included as part of the required rear yard even though each owner of the open space may not have the required depth for the required rear yard; provided, there is joint agreement between the property owners, satisfactory to the Director of Building and Safety, for the development and maintenance of the open space. (Ord. 12818 §1; January 21, 1980).



## Chapter 27.27

### O-3 OFFICE PARK DISTRICT

#### Sections:

- 27.27.010 **Scope of Regulations.**
- 27.27.020 **Use Regulations.**
- 27.27.025 **Permitted Conditional Uses.**
- 27.27.030 **Permitted Special Uses.**
- 27.27.040 **Accessory Uses.**
- 27.27.050 **Parking Regulations.**
- 27.27.060 **Sign Regulations.**
- 27.27.065 **Grading and Land Disturbance Regulations.**
- 27.27.070 **Height and Area Regulations.**
- 27.27.080 **Use Permit; Procedures and Requirements.**

This district is intended to provide a developing or redeveloping area primarily consisting of a mixture of office and other types of compatible and complementary commercial uses, and residential uses in suburban areas. This district is intended to be located on arterial streets in close proximity to commercial uses. This district is intended to provide an appealing atmosphere, stressing the quality of the environment.

#### 27.27.010 **Scope of Regulations.**

The regulations set forth in this chapter, or set forth elsewhere in this title when referred to in this chapter, are the regulations in the O-3 Office Park District. (Ord. 12571 §156a; May 8, 1979).

#### 27.27.020 **Use Regulations.**

Any development, including building and open land uses, except farming and the sale of farm produce, shall be prohibited in the O-3 Office Park District prior to the approval of a use permit in conformance with the requirements of this chapter. O-3 Office Park District zoning shall not be permitted or granted upon any property having a total area of less than two acres. A building or premises shall be permitted to be used for the following purposes in the O-3 Office Park District:

- (a) Office buildings;
- (b) Single-family dwellings;
- (c) Two-family dwellings;
- (d) Multiple dwellings;
- (e) Townhouses;
- (f) Pharmacies;

- (g) Medical supply shops;
- (h) Barber shops, beauty parlors, and shoeshine shops;
- (i) Book, newspaper, and magazine stores;
- (j) Parks, playgrounds, and community buildings owned or operated by a public agency;
- (k) Public libraries;
- (l) Banks, savings and loan associations, credit unions, and finance companies, and insurance companies;
- (m) Churches;
- (n) Nonprofit religious, educational, and philanthropic institutions;
- (o) Technology transfer industries or applications if the area proposed for such use is designated in the Comprehensive Plan as a Technology Park;
- (p) Tailor shops, shoe repair shops, upholstery shops, printing and photocopying shops, or other, similar business establishments; however, that portion of the premises of such business establishments not devoted to sales or office space shall not exceed 5,000 square feet of floor area.

The total area occupied by permitted uses identified as (f), (g), (h), (i) and (p) shall be located within an office building and shall be accessible only through an interior lobby, corridor, or passageway of the office building; provided, however, a pharmacy may also have a separate exterior entrance if the total area occupied by such pharmacy does not exceed five percent of the total square footage of the office building or 1,000 square feet, whichever is less. (Ord. 16931 §1; February 12, 1996; prior Ord. 16767 §2; April 10, 1995; Ord. 16326 §2; March 15, 1993; Ord. 12571 §156a; May 8, 1979).

#### 27.27.025 **Permitted Conditional Uses.**

Any building or premises may be used for the following purpose in the O-3 Office Park District in conformance with the conditions prescribed herein:

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

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

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

(3) Such facilities shall be fenced and have play areas that comply with the design standards for early childhood care facilities. (Ord. 16854 §25; August 14, 1995).

**27.27.030 Permitted Special Uses.**

A building or premises may be used for the following purposes in the O-3 Office Park District if a combined use permit and special permit for such use has been obtained in conformance with the requirements of this chapter and Chapter 27.63:

- (a) Expansion of nonconforming uses;
- (b) Historic preservation;
- (c) Restaurants;
- (d) Medical testing laboratories;
- (e) Recreational facilities;
- (f) Clubs;
- (g) Church steeples, towers, and ornamental spires which exceed the maximum height;
- (h) Broadcast towers;
- (i) Public utility purposes;
- (j) Wind energy conversion systems;
- (k) Health care facilities;
- (l) Motels and hotels;
- (m) Private schools;
- (n) Outdoor seasonal sales;
- (o) Early childhood care facilities with sixteen or more children, or with fifteen or fewer children not meeting the specified conditions for a permitted conditional use under Section 27.27.025;
- (p) Mail order catalog sales;
- (q) Sale of alcoholic beverages for consumption on the premises in restaurants, provided the locational requirements of Section 27.63.680 have been met or waived by the City Council. (Ord. 17320 §1; April 20, 1998: prior Ord. 16870 §1; October 2, 1995: Ord. 16854 §26; August 14, 1995: Ord. 16616 §1; June 6, 1994: Ord. 16144 §3; July 6, 1992: Ord. 15368 §12; December 18, 1989: Ord. 14123 as amended by Ord. 14138 §1; July 1, 1985: Ord. 13980 §10; October 29, 1984: Ord. 13941 §12; September 4, 1984: Ord. 13901 §1; July 30, 1984: Ord. 13768 §2; February 21, 1984: Ord. 12978 §13; August 25, 1980: Ord. 12878 §1; March 31, 1980: Ord. 12894 §14; April 15, 1980: Ord. 12571 §156a; May 8, 1979).

**27.27.040 Accessory Uses.**

Accessory uses permitted in the O-3 Office Park District are accessory buildings and uses customarily incident to the permitted uses. (Ord. 12571 §156a; May 8, 1979).

**27.27.050 Parking Regulations.**

All parking within the O-3 Office Park District shall be regulated in conformance with the provisions of Chapter 27.67. (Ord. 12571 §156a; May 8, 1979).

**27.27.060 Sign Regulations.**

Signs within the O-3 Office Park District shall be regulated in conformance with the provisions of Chapter 27.69. (Ord. 12571 §156a; May 8, 1979).

**27.27.065 Grading and Land Disturbance Regulations.**

Grading and land disturbance within the O-3 Office Park District shall be regulated in conformance with the provisions of Chapter 27.81. (Ord. 17618 §14; February 22, 2000.)

**27.27.070 Height and Area Regulations.**

Minimum area for the establishment of this district is two acres. The maximum height and minimum lot requirements within the O-3 Office Park District shall be as follows:

- (a) General requirements:

*[See Table 27.27.070(a) on page 27-64]*

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

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

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

- 125 square feet for the first dwelling unit;

- 80 square feet per unit for the next four dwelling units;

- 25 square feet per unit for the next four dwelling units;

- 20 square feet per unit for each additional dwelling unit beyond nine.

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

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

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

(3) This required open space may be provided either on a balcony four or more feet in depth or on a rooftop, provided that the roof is designed and surfaced in such a manner that it may be developed with areas of planting, open space, recreation, and other uses that are consistent with similar uses in ground-level side and rear yards for dwellings. Such rooftop areas may not be occupied by structures such as vents, exhaust intakes, or other mechanical devices, except where they do not interfere with the usable nature of the open space;

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

(e) Accessory buildings which are attached to or located not more than ten feet from the main structure shall be considered a part of the main structure and shall comply with the height, and front, side, and rear yard requirements of the main structure. Accessory buildings not a part of the main structure may be located in the required rear yard if such yard does not abut a residential district, but such accessory buildings may not occupy more than thirty percent of the required rear yard and shall not be nearer than two feet to any side or rear lot line. Such detached accessory buildings shall not exceed fifteen feet in height. Accessory buildings not a part of the main structure, if located not less than sixty feet from the front lot line, may extend into the required side yard though not nearer than two feet to the side lot line. A garage which is entered from an alley shall not be located closer than ten feet to the alley line. (Ord. 12751 §11; November 5, 1979; prior Ord. 12571 § 156a; May 8, 1979).

#### **27.27.080 Use Permit; Procedures and Requirements.**

(a) Minimum requirements: No use permit shall be granted upon any property having a total area of less than two acres, except as otherwise provided herein, nor for any plan unless it is in conformance with all applicable city standards and with all regulations of the applicable sections of this chapter. The Planning Commission shall impose such conditions as are appropriate and necessary to ensure compliance with the Comprehensive Plan and protect the health, safety, and general welfare in the issuance of any such use permits. Such conditions may include an increase in the minimum yard requirements and decrease in the maximum height restrictions set forth in this chapter.

Lots fronting on private roadways may be permitted. Unless expressly modified by the terms of the use permit, all regulations of the O-3 Office Park District shall apply.

(b) Application requirements: Applications for a use permit under this section shall be filed in writing by the owner on a form provided by the city with the Planning Department. Where any portion of the land area of a use permit for technology transfer industries or applications is proposed to be adjacent to the perimeter of the O-3 zoning district and such use is not permitted in the adjacent zoning district, then the applicant must provide information demonstrating how the proposal will mitigate any negative impacts on the adjacent zoning district. The Planning Commission may impose such other standards and requirements for perimeter treatment as are appropriate and necessary to protect adjoining properties from adverse effects and to achieve an appropriate transition of land uses and densities. A preliminary plan shall accompany each application and shall include the following information:

- (1) Boundary survey and gross acreage;
- (2) Contour lines at intervals not to exceed five feet based on city data. Spot elevations on 100-foot grid shall be required to fully indicate the topography on flat land;
- (3) Street right-of-way;
- (4) Utility easements;
- (5) Adjacent land use and zoning classifications;
- (6) Location of structures on property;
- (7) Vicinity map;
- (8) Date prepared, scale, and north point;
- (9) Schematic and location of buildings;
- (10) Parking areas and capacity;
- (11) Open space for residential uses;
- (12) Use of buildings, such as retail, service, restaurant, office, residential, and other uses;
- (13) Height of buildings;
- (14) Location of existing trees and proposed landscape plan;
- (15) Proposed vehicular and pedestrian circulation system including egress and ingress;
- (16) Building and parking setback lines;
- (17) Grading plan;
- (18) On-site and off-site water and sanitary sewer improvements;
- (19) On-site and off-site drainage and storm sewer improvements;

(20) Location of proposed free-standing signs;

(21) Cross-section for paving of parking lots and sidewalks;

(22) Proposed name of the shopping center;

(23) Name, address, and telephone number of developer; certified record owner or owners and addresses; and legal description of the proposed use permit area, including the number of acres.

(c) Environmental performance standards: Any applicant for a use permit under the provisions of this section shall comply with environmental performance standards relating to noise, emission, dust, odor, glare, and heat as shall be from time to time established by various municipal departments and approved by resolution of the City Council.

(d) Landscape plan: Each application for a use permit under this section shall include a landscape plan which shall show proposed plantings in conformance with city standards in all required yard areas, open space areas, malls, parking areas, and around proposed buildings. The Planning Director shall develop appropriate written standards for such landscape plans, which standards shall be approved by resolution of the City Council.

(e) Planning Commission review: Upon the filing of an application together with all maps, data, and information required by this section, the City Council shall refer the application to the Planning Commission. The Planning Commission shall hold a public hearing upon such application and shall consider the effect of the proposed use upon the surrounding neighborhood, the community as a whole, and other matters relating to public health, safety, and general welfare.

(f) Planning Commission action: After holding at least one public hearing, the Planning Commission shall proceed to give final consideration to the application and may require that certain conditions be fulfilled by the applicant in conjunction with approval of the use permit applied for, and may include the requirement that applicant grant additional right-of-way in accordance with the Comprehensive Plan. The Planning Commission may require the execution of a written agreement with the city relating to the installation of public improvements by the applicant, together with the execution of performance bonds or provision of other appropriate surety relating thereto. The installation of all public improvements shall be accomplished in compliance with existing city standards as provided by ordinance or by departmental

publications approved by resolution of the City Council. In the event the Planning Commission fails to act upon the application within sixty days from the date of referral, the applicant may appeal to the City Council requesting final action. If the City Council determines that the delay of the Planning Commission is unjustified, it shall direct the commission to act upon the application no later than the commission's next regularly scheduled meeting.

(g) Appeal of Planning Commission action:

(1) Any aggrieved person or any person or group officially designated to participate in the administration of this title may appeal any action of the Planning Commission to the City Council by filing notice of appeal with the City Clerk within fourteen days following the action of the Planning Commission.

(2) Upon receipt of the appeal by the City Council, the council shall hold a public hearing thereon within thirty days from the date of appeal. Notice of the public hearing shall be given as provided in Chapter 27.81.

(3) The City Council may, after public hearing, in conformity with the provisions of this title reverse or affirm, wholly or partially, or may modify the action of the Planning Commission appealed from.

(h) Adjustment: Upon request of the applicant, the City Council may, after report and recommendation of the Planning Commission, decrease the minimum yard requirements and increase the maximum height restrictions set forth in this chapter at the periphery of the use permit area consistent with adequate protection of the environment of the use permit area and adjacent areas. Upon the request of the applicant, the City Council may, after report and recommendation of the Planning Commission, decrease the minimum yard requirements and increase the maximum height restrictions and may adjust the requirements relative to the location of buildings, required parking spaces, and lot frontage set forth in this chapter in the interior of the use permit area consistent with the adequate protection of the environment of the use permit area. The Planning Commission shall hold a public hearing upon the requested adjustment at the same time that it hears the application for the use permit and shall make a report to the City Council regarding the effect the proposed use and adjustment has upon the surrounding neighborhood, the community as a whole, and other matters relating to public health, safety, and general welfare. Upon receiving a report from the Planning Commission, the

City Council shall take final action upon the application for the use permit and the requested adjustment.

(i) Amendment: The Planning Director is authorized to approve amendments to any use permit granted under this section, provided that:

(1) A request for amendment is filed with the Planning Director, together with any of the information specified in paragraph (b) above which is pertinent to the proposed amendment;

(2) Such amendment shall not violate any provisions of this title;

(3) Such amendment may provide for minor increases in total floor area and storage space originally permitted;

(4) There is no increase in the number of dwelling units;

(5) No reduction is made to the applicable setback or yard requirements;

(6) No public land is accepted;

(7) Such amendment shall not be contrary to the general purpose of this chapter;

(8) Any amendment not in conformance with this paragraph shall be submitted to the Planning Commission in the same manner as an original application for a use permit.

(j) Building permits, certificates of occupancy, and certificates of compliance: Upon the approval of a use permit as provided for under this section, building permits and certificates of occupancy may be issued. Certificates of compliance shall not be issued until there has been compliance with all conditions of a use permit and subsequent amendments within each phase of development of a use permit.

(k) Preexisting uses: An existing use of a type permitted in this chapter which was lawfully established in this district on the effective date of this title shall be deemed to have received a use permit as herein required and shall be provided with such permit by the Director of Building and Safety upon request, and it shall not be a nonconforming use; provided, however, for any enlargement, extension, or relocation of such existing use, an application in conformance with this section shall be required.

(l) If an application for a use permit located within a flood plain is granted approval by the city, it shall not be necessary for the applicant to make an application for a special permit to be approved by the City Council as required by Resolution Nos. A-55150, A-56382, and A-57540. It shall be presumed that the applicant has received all such approvals as may be required by the foregoing resolutions by virtue of the city granting approval to the use permit.

(m) A use permit may be granted for a lot of less than two acres, provided:

(1) The lot was legally created prior to the effective date of this ordinance; and

(2) The lot has remained under separate ownership from adjoining properties in the O-3 district.

The Planning Commission may, under the above conditions, adjust the requirements under paragraph (a) to permit the applicant a reasonable use of his property. (Ord. 17287 §1; February 2, 1998: prior Ord. 16766 §2; April 10, 1995: Ord. 16326 §3; March 15, 1993: Ord. 16288 §1; December 21, 1992: Ord. 15239 §1; August 7, 1989: Ord. 13528 §1; January 3, 1983: Ord. 13077 §1; January 12, 1981: Ord. 12878 §1; March 31, 1980: Ord. 12751 §12; November 5, 1979: Ord. 12571 §156a; May 8, 1979).

Table 27.27.070(a)

Table 27.27.070(a)						
	Lot Area (Sq. ft.)	Frontage	Req'd Front Yard	Req'd Side Yard	Req'd Rear Yard	Height
Dwelling, single family	4,000	50'	30'	15' or the same	40'	35'
Dwelling, two-family	4,000	50'	30'	as the	40'	35'
Dwelling, multiple	1,500 per unit	50'	30'	abutting district	40'	35'
Other Permitted Uses	4,000	50'	20'	whichever is greater	40'	45'
Townhouses	2,500 per unit	20'	30'	0' or 10' on non- party wall side	40'	35'

## Chapter 27.28

### R-T Residential Transition District

#### Sections:

- 27.28.010 Scope of Regulations.
- 27.28.020 Use Regulations.
- 27.28.030 Permitted Conditional Uses.
- 27.28.040 Permitted Special Uses.
- 27.28.050 Accessory Uses.
- 27.28.060 Parking Regulations.
- 27.28.070 Sign Regulations.
- 27.28.075 Grading and Land Disturbance Regulations.
- 27.28.080 Height and Area Regulations.
- 27.28.090 Use Permit; Procedures and Requirements.

#### 27.28.010 Scope of Regulations.

The regulations set forth in the chapter, or set forth elsewhere in this title when referred to in this chapter, are the regulations in the R-T Residential Transition District. (Ord. 15317 §1; October 16, 1989).

#### 27.28.020 Use Regulations.

(a) General Regulations. Any development, except single-family dwellings, two-family dwellings, group homes, and domestic shelters shall be prohibited in the R-T Residential Transition District prior to the approval of a use permit in conformance with the requirements of this chapter. An R-T Residential Transition designation may be granted to any property abutting upon, or directly across a street from and fronting the same street as property zoned B-1, B-2, B-3, H-2, H-3, H-4, I-1, and I-2. Each building to be located within a Residential Transition District shall have:

- (1) A two and one-half inch in twelve inch pitched roof or steeper;
- (2) A nonreflective exterior siding material which is or simulates wood, stucco, brick, or stone;
- (3) A nonreflective roof material which is or simulates asphalt or wood shingles, tile, or rock;
- (4) No air conditioners on the roof.

(b) Permitted Uses. A building or premises shall be permitted to be used for the following purposes in the R-T Residential Transition District:

- (1) Single-family dwellings;
- (2) Two-family dwellings;
- (3) Office buildings;
- (4) Barber shops, beauty parlors, shoe shine and repair shops, tailor shops, upholstery shops, and printing and photocopying shops not exceeding 5,000 square feet.
- (5) Parks, playgrounds, and community buildings owned or operated by a public agency;
- (6) Public libraries;
- (7) Banks, savings and loan associations, credit unions and finance companies, and insurance companies, and photography shops provided there are no drive-up or drive-thru facilities or automatic teller machines;
- (8) Churches;
- (9) Non-profit religious, educational, and philanthropic institutions;
- (10) Receiving stores for cleaning and laundry;
- (11) Pharmacies;
- (12) Medical supply shops;
- (13) Clubs;
- (14) Repair shops for electrical, radio, television equipment, and household appliances not exceeding 5,000 square feet;
- (15) Photography studios. (Ord. 17078 §1; October 21, 1996; prior Ord. 16767 §3; April 10, 1995; Ord. 16110 §1; May 11, 1992; Ord. 15317 §2; October 16, 1989).

#### 27.28.030 Permitted Conditional Uses.

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

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

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

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

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

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

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

(3) Such facilities shall be fenced and have play areas that comply with the design standards for early childhood care facilities. (Ord. 16854 §27; August 14, 1995; prior Ord. 15317 §3; October 16, 1989).

**27.28.040 Permitted Special Uses.**

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

- (a) Expansion of nonconforming uses;
- (b) Historic preservation;
- (c) Medical testing laboratories;
- (d) Public utility purposes;
- (e) Private schools

(f) Early childhood care facilities with sixteen or more children, or with fifteen or fewer children not meeting the specified conditions for a permitted conditional use under Section 27.28.030;

(g) Broadcast towers. (Ord. 17070 §1; October 7, 1996; prior Ord. 16854 §28; August 14, 1995; Ord. 16606 §2; May 9, 1994; Ord. 15317 §4; October 16, 1989).

**27.28.050 Accessory Uses.**

Accessory uses permitted in the R-T Residential Transition District are accessory buildings and uses customarily incident to the permitted uses. (Ord. 15317 §5; October 16, 1989).

**27.28.060 Parking Regulations.**

All parking within the R-T Residential Transition District shall be regulated in conformance with the provisions of Chapter 27.67. (Ord. 15317 §6; October 16, 1989).

**27.28.070 Sign Regulations.**

Signs within the R-T Residential Transition District shall be regulated in conformance with the provisions of Chapter 27.69. (Ord. 15317 §7; October 16, 1989).

**27.28.075 Grading and Land Disturbance Regulations.**

Grading and land disturbance within the R-T Residential Transition District shall be regulated in conformance with the provisions of Chapter 27.81. (Ord. 17618 §15; February 22, 2000.)

**27.28.080 Height and Area Regulations.**

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

- (a) General requirements:

	Lot Area (Sq. ft.)	Frontage	Req'd Front Yard	Req'd Side Yard	Req'd Rear Yard	Height
All Permitted Uses	4,000	50'	10' or same as abutting residential district, whichever is greater	*10' **0'	*10' **0'	*28'
* When a side or rear yard abuts a residential district, it shall be screened in conformance with the landscape design standards adopted by the City of Lincoln.						
** When abutting a commercial or industrial district.						

(b) When abutting a residential district, the side and rear yard shall be devoted entirely to trees, shrubs, and grasses, and secondary sidewalks in conjunction with landscaping.

(c) There shall be a required front yard on each street side of a lot and the required front yard shall be devoted entirely to trees, shrubs, and grasses except for driveways which are substantially perpendicular to the street.

(d) Parking lots, including driveways except for single-family and two-family dwellings, shall not be located closer than twenty feet to any residential zoning district; provided, however, the City Council may adjust these setbacks to facilitate the rehabilitation of existing houses.

(e) No building footprint (ground cover) shall exceed 5,000 square feet.

(f) Accessory buildings shall comply with the height, front, side, and rear yard requirements. (Ord. 15317 §8; October 16, 1989).

#### **27.28.090 Use Permit; Procedures and Requirements.**

(a) Minimum requirements: The Planning Commission shall impose such conditions as are appropriate and necessary to ensure compliance with the Comprehensive Plan and protect the health, safety, and general welfare in the issuance of any such use permit. Such conditions may include an increase in the minimum yard requirements and decrease in the maximum height restrictions set forth in this chapter. Lots fronting on private roadways may be permitted. Unless expressly modified by the terms of the use permit, all regulations of the R-T Residential Transition District shall apply.

(b) Application requirements: Applications for a use permit under this section shall be filed by the owner in writing on a form provided by the city with the Planning Department. Plans shall accompany each application and shall include the following information:

- (1) Boundary survey and gross acreage;
- (2) Contour lines at intervals not to exceed five feet based on city data. Spot elevations on 100-foot grid shall be required to fully indicate the topography on flat land;
- (3) Street right-of-way;
- (4) Utility easements;
- (5) Adjacent land use and zoning classifications;
- (6) Location of structures on property;

- (7) Vicinity map;
- (8) Date prepared, scale, and north point;
- (9) Schematic and location of buildings;
- (10) Parking areas and capacity;
- (11) Use of buildings, such as retail, service, restaurant, office, residential, and other uses;
- (12) Height of buildings;
- (13) Location of existing trees and proposed landscape plan;
- (14) Proposed vehicular and pedestrian circulation system including egress and ingress;
- (15) Building and parking setback lines;
- (16) Grading plan;
- (17) On-site and off-site water and sanitary sewer improvements;
- (18) On-site and off-site drainage and storm sewer improvements;
- (19) Location of proposed free-standing signs;
- (20) Cross-section for paving of parking lots and sidewalks;
- (21) Name, address, and telephone number of developer; certified record owner or owners and addresses; and legal description of the proposed use permit area, including the number of acres.

(c) Environmental performance standards: Any applicant for a use permit under the provisions of this section shall comply with environmental performance standards relating to noise, emission, dust, odor, glare, and heat as shall be from time to time established by various municipal departments and approved by resolution of the City Council.

(d) Landscape plan: Each application for a use permit under this section shall include a landscape plan which shall show proposed plantings in conformance with city standards in all required yard areas, open space areas, malls, parking areas, and around proposed buildings. The Planning Director shall develop appropriate written standards for such landscape plans, which standards shall be approved by resolution of the City Council.

(e) Planning Commission review: Upon the filing of an application together with all maps, data, and information required by this section, the City Council shall refer the application to the Planning Commission. The Planning Commission shall hold a public hearing upon such application and shall consider the effect of the proposed use upon the surrounding neighborhood, the community as a whole, and other matters relating to public health, safety, and general welfare.

(f) Planning Commission action: After holding at least one public hearing, the Planning Commission shall proceed to give final consideration to the application and may require that certain conditions be fulfilled by the applicant in conjunction with approval of the use permit applied for, and may include the requirement that applicant grant additional right-of-way in accordance with the comprehensive plan. The Planning Commission may require the execution of a written agreement with the city relating to the installation of public improvements by the applicant, together with the execution of performance bonds or provision of other appropriate surety relating thereto. The installation of all public improvements shall be accomplished in compliance with existing city standards as provided by ordinance or by departmental publications approved by resolution of the City Council. In the event the Planning Commission fails to act upon the application within sixty days from the date of referral, the applicant may appeal to the City Council requesting final action. If the City Council determines that the delay of the Planning Commission is unjustified, it shall direct the commission to act upon the application no later than the Commission's next regularly scheduled meeting.

(g) Appeal of Planning Commission action:

(1) Any aggrieved person or any person or group officially designated to participate in the administration of this title may appeal any action of the Planning Commission to the City Council by filing notice of appeal with the City Clerk within fourteen days following the action of the Planning Commission.

(2) Upon receipt of the appeal by the City Council, the council shall hold a public hearing thereon within thirty days from the date of appeal. Notice of the public hearing shall be given as provided in Chapter 27.81.

(3) The City Council may, after public hearing, in conformity with the provisions of this title reverse or affirm, wholly or partially, or may modify the action of the Planning Commission appealed from.

(h) Adjustment: Upon request of the applicant, the City Council may, after report and recommendation of the Planning Commission, decrease the minimum yard requirements and increase the maximum height restrictions and may adjust the requirements relative to the location of buildings and required parking spaces and lot frontage set forth in this chapter consistent with adequate protection of the environment of the use permit area and adjacent areas

provided the building shall not exceed the height of the tallest residence on the same and facing block fronts. The Planning Commission shall hold a public hearing upon the requested adjustment at the same time that it hears the application for the use permit and shall make a report to the City Council regarding the effect the proposed use and adjustment has upon the surrounding neighborhood, the community as a whole, and other matters relating to public health, safety, and general welfare. Upon receiving a report from the Planning Commission, the City Council shall take final action upon the application for the use permit and the requested adjustment.

(i) Amendment: The Planning Director is authorized to approve amendments to any use permit granted under this section, provided that:

(1) A request for amendment is filed with the Planning Director, together with any of the information specified in paragraph (b) above which is pertinent to the proposed amendment;

(2) Such amendment shall not violate any provisions of this title;

(3) Such amendment may provide for minor increases in total floor area and storage space originally permitted;

(4) There is no increase in the number of dwelling units;

(5) No reduction is made to the applicable setback or yard requirements;

(6) No public land is accepted;

(7) Such amendment shall not be contrary to the general purpose of this chapter;

(8) Any amendment not in conformance with this paragraph shall be submitted to the Planning Commission in the same manner as an original application for a use permit.

(j) Building permits, certificates of occupancy, and certificates of compliance: Upon the approval of a use permit as provided for under this section, building permits and certificates of occupancy may be issued. Certificates of compliance shall not be issued until there has been compliance with all conditions of a use permit and subsequent amendments within each phase of development of a use permit.

(k) Preexisting uses: An existing use of a type permitted in this chapter which was lawfully established in this district on the effective date of this title shall be deemed to have received a use permit as herein required and shall be provided with such permit by the Director of Building and Safety upon request, and it shall not be a nonconforming use; provided,

however, for any enlargement, extension, or relocation of such existing use, an application in conformance with this section shall be required.

(1) If an application for a use permit located within a flood plain is granted approval by the city, it shall not be necessary for the applicant to make an application for a special permit to be approved by the City Council as required by Resolution Nos. A-55150, A-56382, and A-57540. It shall be presumed that the applicant has received all such approvals as may be required by the foregoing resolutions by virtue of the city granting approval to the use permit. (Ord. 16766 §3; April 10, 1995: prior Ord. 16284 §1; December 14, 1992: Ord. 15317 §9; October 16, 1989).



## Chapter 27.29

### B-1 LOCAL BUSINESS DISTRICT

#### Sections:

- 27.29.010 Scope of Regulations.
- 27.29.020 Permitted Uses.
- 27.29.030 Permitted Conditional Uses.
- 27.29.040 Permitted Special Uses.
- 27.29.050 Accessory Uses.
- 27.29.060 Parking Regulations.
- 27.29.070 Sign Regulations.
- 27.29.075 Grading and Land Disturbance Regulations.
- 27.29.080 Height and Area Regulations.

This district is intended to provide a stable area of local retail relating to existing communities and existing neighborhoods. It provides for functional business uses to serve those communities and neighborhoods. Dwellings are permitted only above the first floor.

#### 27.29.010 Scope of Regulations.

The regulations set forth in this chapter, or set forth elsewhere in this title when referred to in this chapter, are the regulations in the B-1 Local Business District. (Ord. 12571 §157; May 8, 1979).

#### 27.29.020 Permitted Uses.

A building or premises shall be permitted to be used for the following purposes in the B-1 Local Business District:

- (a) Parks, playgrounds, and community buildings, owned or operated by a public agency;
- (b) Public libraries;
- (c) Public elementary and high schools, or private schools having a curriculum equivalent to a public elementary or public high school, and having no rooms regularly used for housing or sleeping purposes;
- (d) Churches;
- (e) Nonprofit religious, educational, and philanthropic institutions;
- (f) Banks, savings and loan associations, credit unions, and finance companies;
- (g) Barber shops, beauty parlors, and shoeshine shops;

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

- (i) Adult care centers;
- (j) Service stations;
- (k) Hospitals and clinics for animals, but not open kennels;
- (l) Self-service laundromats;
- (m) Messenger and telegraph stations;
- (n) Office buildings;
- (o) Parking lots and storage garages;
- (p) Restaurants;
- (q) Stores or shops for the sale of goods at retail, but not including motor vehicles;
- (r) Undertaking establishments;
- (s) Photography studios;
- (t) Bicycle sales and repair shops;
- (u) Key shops;
- (v) Ambulance services;
- (w) Garden centers;
- (x) Clubs;
- (y) Marinas, for sale, service, and storage of motor boats and other related water craft;
- (z) Receiving store for dry or steam cleaning which shall be done elsewhere;
- (aa) Dry cleaning or laundry establishments, provided that the floor area does not exceed 2,000 square feet exclusive of office and pickup space;
- (bb) Enclosed commercial recreational facilities;
- (cc) Mail order catalog sales;
- (dd) Tailor shops, shoe repair shops, upholstery shops, printing and photocopying shops, or other, similar business establishments. (Ord. 16962 §1; March 25, 1996: prior Ord. 16767 §4; April 10, 1995: Ord. 16488 §1; September 27, 1993: Ord. 16144 §4; July 6, 1992: Ord. 14626 §1; March 16, 1987: Ord. 13736, as amended by Ord. 13745 §1; January 3, 1984: Ord. No. 12751 §13; November 5, 1979: Ord. 12571 §158; May 8, 1979).

#### 27.29.030 Permitted Conditional Uses.

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

- (a) Automobile wash facility:

(1) Automatic, conveyor-operated: The length and location of vehicle stacking lane or lanes for the approach side or sides and the exit side or sides of the wash operation shall be in conformance with

the "guidelines and regulations for driveway design and location" as adopted by the City of Lincoln.

(2) Self-service, coin-operated car wash: The car wash facility shall not exceed four wash bays. The length and location of vehicle stacking lane or lanes for the approach side or sides and the exit side or sides of the wash operation shall be in conformance with the "guidelines and regulations for driveway design and location" as adopted by the City of Lincoln.

(b) Motels and hotels:

(1) A distance of at least twenty feet shall be maintained between buildings on the lot;

(2) Each hotel or motel unit shall have a minimum enclosed floor area of 200 square feet.

(c) Tailor shops, shoe repairing, printing, photocopying, repair shops for electrical, radio, television equipment, and household appliances, or other similar businesses:

The floor area of said premises not devoted to sales or office space shall not exceed 5,000 square feet;

(d) Dwellings, provided that:

(1) Dwellings shall only be permitted above the first story of a building;

(2) The first story shall be used for a nondwelling use permitted in the district;

(3) Said nondwelling use shall not:

- (i) be accessory to the residential use,
- (ii) be a parking lot or garage;

(4) Said first story shall not have more than twenty percent of its height below grade.

(e) Sales and showrooms for the sale at retail of plumbing, electrical, and heating and air conditioning equipment and supplies, including service facilities and rental of equipment, provided:

(1) All activities and storage shall be within an enclosed building;

(2) A portion of the premises shall be devoted to retailing.

(f) Early childhood care facilities:

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

(2) Such facilities shall comply with all applicable building and life safety code requirements.

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

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

Safety. (Ord. 16926 §1; February 5, 1996: prior Ord. 16854 §29; August 14, 1995: Ord. 14372 §1; April 21, 1986: Ord. 13344 §1; March 29, 1982: Ord. 12571 §159; May 8, 1979).

#### 27.29.040 Permitted Special Uses.

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

(a) Health care facilities;

(b) Recreational facilities;

(c) Broadcast towers;

(d) Church steeples, towers, and ornamental spires which exceed the maximum of forty feet;

(e) Expansion of nonconforming uses;

(f) Historic preservation;

(g) Public utility purposes;

(h) Wind energy conversion systems;

(i) Cemeteries;

(j) Dwellings above the first story of a building which cannot meet the yard requirements of Section 27.29.080(g);

(k) Sale of alcoholic beverages for consumption on the premises;

(l) Sale of alcoholic beverages for consumption off the premises. (Ord. 16593 §1; April 11, 1994: prior Ord. 15782 §1; November 26, 1990: Ord. 14780 §11; November 2, 1987: Ord. 14378 §9; May 5, 1986: Ord. 13588 §11; May 9, 1983: Ord. 12978 §14; August 25, 1980: Ord. 12894 §15; April 7, 1980: Ord. 12571 §160; May 8, 1979).

#### 27.29.050 Accessory Uses.

Accessory uses permitted in the B-1 Local Business District are accessory buildings and uses customarily incident to the permitted uses. (Ord. 12571 §161; May 8, 1979).

#### 27.29.060 Parking Regulations.

All parking within the B-1 Local Business District shall be regulated in conformance with the provisions of Chapter 27.67. (Ord. 12571 §162; May 8, 1979).

#### 27.29.070 Sign Regulations.

Signs within the B-1 Local Business District shall be regulated in conformance with the provisions of Chapter 27.69. (Ord. 12571 §163; May 8, 1979).

### 27.29.075 Grading and Land Disturbance Regulations.

Grading and land disturbance within the B-1 Local Business District shall be regulated in conformance with the provisions of Chapter 27.81. (Ord. 17618 §16; February 22, 2000.)

### 27.29.080 Height and Area Regulations.

The maximum height and minimum lot requirements within the B-1 Local Business District shall be as follows:

(a) General requirements:

*[See Table 27.29.080(a) on page 27-70]*

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

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

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

125 square feet for the first dwelling unit;

80 square feet per unit for the next four dwelling units;

25 square feet per unit for the next four dwelling units;

20 square feet per unit for each additional dwelling unit beyond nine.

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

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

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

(3) This required open space may be provided either on a balcony four or more feet in depth or on a rooftop, provided that the roof is designed and surfaced in such a manner that it may be developed with areas of planting, open space, recreational and other uses that are consistent with

similar uses in ground-level side and rear yards for dwellings. Such rooftop areas may not be occupied by structures such as vents, exhaust intakes, or other mechanical devices, except where they do not interfere with the usable nature of the open space;

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

(e) Accessory buildings shall not extend into any required yard except accessory buildings to nonstandard residential uses may be allowed in the required rear yard when no more than thirty percent of such yard is occupied and such building is not nearer than two feet to any side or rear lot line.

(f) Dwellings existing in this district on the effective date of this title which do not meet the requirements of this chapter shall be considered nonstandard uses in conformance with the provisions of Chapter 27.61.

Accessory buildings for such non-standard dwellings shall not extend into any required yard except as follows:

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

(g) Where a yard is not otherwise required, a five foot yard shall be required adjacent to the wall of a building which contains windows for dwelling units. The yard shall be on the premises on which the building is situated. (Ord. 15782 §2; November 26, 1990; prior Ord. 15724 §2; September 17, 1990; Ord. 13134 §1; May 4, 1981; Ord. 12571 §164; May 8, 1979).

Table 27.29.080(a)

Table 27.29.080(a)						
	Lot Area (Sq.ft.)	Frontage	Req'd Front Yard	Req'd Side Yard	Req'd Rear Yard	Height
Dwelling, above first story	2,000 per unit	50'	20'	0', 10' if abutting residential district	Smaller of 30' or 20% of depth	40'
Other Permitted Uses	0	0'	20'			40'

\* When a side or rear yard abuts a residential district, it shall be screened in conformance with the landscape design standards adopted by the City of Lincoln.

## Chapter 27.31

### B-2 PLANNED NEIGHBORHOOD BUSINESS DISTRICT

#### Sections:

- 27.31.010 Scope of Regulations.
- 27.31.020 General Purpose.
- 27.31.030 Permitted Uses.
- 27.31.040 Permitted Conditional Uses.
- 27.31.050 Permitted Special Uses.
- 27.31.060 Accessory Uses.
- 27.31.070 Parking Regulations.
- 27.31.080 Sign Regulations.
- 27.31.085 Grading and Land Disturbance Regulations.
- 27.31.090 Height and Area Regulations.
- 27.31.100 Use Permits; Procedures and Requirements.

This district is intended to provide a developing area for planned retail uses to serve neighborhoods. This district includes a use permit provision to provide for the integration of the business area with adjacent residential areas and thus reduce the adverse impact on residential areas through enhanced design.

#### 27.31.010 Scope of Regulations.

The regulations set forth in this chapter, or set forth elsewhere in this title when referred to in this chapter, are the regulations in the B-2 Planned Neighborhood Business District. (Ord. 12571 §165; May 8, 1979).

#### 27.31.020 General Purpose.

The regulations for the B-2 Planned Neighborhood Business District set forth in this chapter are established to permit the development of local retail shopping facilities and related activities which will provide for planned and controlled consumer services on a neighborhood level, promote healthful economic growth, create a desirable environment, best complement the general land use pattern of the community, and assist in implementing the established goals and policies of the community. (Ord. 12571 §166; May 8, 1979).

#### 27.31.030 Permitted Uses.

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

- (a) Parks, playgrounds, and community buildings, owned or operated by a public agency;
- (b) Public libraries;
- (c) Public elementary and high schools, or private schools having a curriculum equivalent to a public elementary or public high school, and having no rooms regularly used for housing or sleeping purposes;
- (d) Churches;
- (e) Nonprofit religious, educational, and philanthropic institutions;
- (f) Banks, savings and loan associations, credit unions, and finance companies;
- (g) Garden centers;
- (h) Barber shops, beauty parlors, and shoeshine shops;
- (i) Private schools, including but not limited to business or commercial schools, dance or music academies, and nursery schools;
- (j) Service stations;
- (k) Hospitals and clinics for animals, but not open kennels;
- (l) Self-service laundromats;
- (m) Receiving stores for dry cleaning or laundry;
- (n) Dry cleaning or laundry establishments, provided that the floor area does not exceed 2,000 square feet exclusive of office and pickup space.
- (o) Messenger and telegraph stations;
- (p) Office buildings;
- (q) Restaurants;
- (r) Stores or shops for the sale of goods at retail, but not including motor vehicles;
- (s) Undertaking establishments;
- (t) Photography studios;
- (u) Bicycle sales and repair shops;

- (v) Key shops;
- (w) Ambulance services;
- (x) Clubs;
- (y) Enclosed commercial recreational facilities;
- (z) Sale of alcoholic beverages for consumption on the premises, provided the locational requirements of Section 27.63.680 have been met or waived by the City Council;

(aa) Sale of alcoholic beverages for consumption off the premises, provided the locational requirements of Section 27.63.685 have been met or waived by the City Council;

(bb) Tailor shops, shoe repair shops, upholstery shops, printing and photocopying shops, or other, similar business establishments. (Ord. 17320 §2; April 20, 1998; prior Ord. 16962 §2; March 25, 1996: Ord. 16767 §5; April 10, 1995: Ord. 16593 §2; April 11, 1994: Ord. 14626 §2; March 16, 1987: Ord. 13736, as amended by Ord. 13745 §2; January 3, 1984: Ord. 12571 §167; May 8, 1979).

**27.31.040 Permitted Conditional Uses.**

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

(a) Automobile wash facility:

(1) Automatic, conveyor-operated: The length and location of vehicle stacking lane or lanes for the approach side or sides and the exit side or sides of the wash operation shall be in conformance with the "Guidelines and Regulations for Driveway Design and Location" as adopted by the City of Lincoln. The stacking space shall not be located within the required front yard.

(2) Self-service, coin-operated car wash: The car wash facility shall not exceed four wash bays. The length and location of vehicle stacking lane or lanes for the approach side or sides and the exit side or sides of the wash operation shall be in conformance with the "Guidelines and Regulations for Driveway Design and Location" as adopted by the City of Lincoln. The stacking space shall not be located within the required front yard.

(b) Motels and hotels:

(1) A distance of at least twenty feet shall be maintained between buildings on the lot;

(2) Each hotel or motel unit shall have a minimum enclosed floor area of 200 square feet.

(c) Dwellings, provided that:

(1) Dwellings shall only be permitted above the first story of a building;

(2) The first story shall be used for a nondwelling use permitted in the district;

(3) Said nondwelling use shall not:

(i) be accessory to the residential use;

(ii) be a parking lot or garage.

(4) Said first story shall not have more than twenty percent of its height below grade.

(d) Early childhood care facilities:

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

(2) Such facilities shall comply with all building and life safety code requirements.

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

(e) Tents and other temporary structures: Tents or other temporary structures shall be permitted for the temporary or seasonal sales of goods at retail under the following conditions:

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

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

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

A tent or other temporary structure need not be shown on the approved use permit site plan. (Ord. 17364 §1; June 29, 1998; prior Ord. 17051 §1; August 26, 1996: Ord. 16926 §2; February 5, 1996: Ord. 16854 §30; August 14, 1995: Ord. 13344 §2; March 29, 1982: Ord. 12571 §168; May 8, 1979).

**27.31.050 Permitted Special Uses.**

A building or premises may be used for the following purposes in the B-2 Planned Neighborhood Business District if a combined use permit and special permit for such use has been obtained in conformance with the requirements of this chapter and Chapter 27.63:

(a) Health care facilities;

(b) Recreational facilities;

(c) Broadcast towers;

- (d) Extraction of sand, gravel, and soil;
- (e) Church steeples, towers, and ornamental spires which exceed the maximum height permitted in the B-2 Planned Neighborhood Business District;
- (f) Expansion of nonconforming uses;
- (g) Historic preservation;
- (h) Public utility purposes;
- (i) Wind energy conversion systems;
- (j) Cemeteries;
- (k) Mail order catalog sales. (Ord. 16144 §5; July 6, 1992; prior Ord. 14378 §10; May 5, 1986: Ord. 14138 §10; June 1, 1985: Ord. 12978 §15; August 25, 1980: Ord. 12894 §18; April 7, 1980: Ord. 12571 §169; May 8, 1979).

#### **27.31.060 Accessory Uses.**

Accessory uses permitted in the B-2 Planned Neighborhood Business District are accessory buildings and uses customarily incident to the permitted uses. (Ord. 12571 §170; May 8, 1979).

#### **27.31.070 Parking Regulations.**

All parking within the B-2 Planned Neighborhood Business District shall be regulated in conformance with the provisions of Chapter 27.67. (Ord. 12571 §171; May 8, 1979).

#### **27.31.080 Sign Regulations.**

Signs within the B-2 Planned Neighborhood Business District shall be regulated in conformance with the provisions of Chapter 27.69. (Ord. 12571 §172; May 8, 1979).

#### **27.31.085 Grading and Land Disturbance Regulations.**

Grading and land disturbance within the B-2 Planned Neighborhood Business District shall be regulated in conformance with the provisions of Chapter 27.81. (Ord. 17618 §17; February 22, 2000.)

#### **27.31.090 Height and Area Regulations.**

The maximum height and minimum lot requirements within the B-2 Planned Neighborhood Business District shall be as follows:

- (a) General requirements:  
[See Table 27.31.090(a) on page 27-74.2]
- (b) There shall be a required front yard on each street side of a double frontage lot;

(c) There shall be a required front yard on each street side of a corner lot; provided, however, that the buildable width of a lot of record on April 29, 1963, need not be reduced to less than twenty-eight feet except where necessary to provide a required side yard of not less than five feet in place of one of the required front yards;

(d) Accessory buildings shall not extend into any required yard;

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

125 square feet for the first dwelling unit;  
80 square feet per unit for the next four dwelling units;

25 square feet per unit for the next four dwelling units;

20 square feet per unit for each additional dwelling unit beyond nine.

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

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

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

(3) Required open space may be provided either on a balcony four or more feet in depth or on a rooftop; provided, the roof is designed and surfaced in such a manner that it may be developed with areas of planting, open space, recreation, and other uses that are consistent with similar uses in ground-level side and rear yards for dwellings. Such rooftop areas may not be occupied by structures such as vents, exhaust intakes, or other mechanical devices, except where they do not interfere with the usable nature of the open space.

(4) The depth-to-width ratio of any area used to fulfill the open space requirement may not exceed three to one if the smallest dimension of the open space is twelve feet or less. (Ord. 12571 §173; May 8, 1979).

**27.31.100 Use Permit; Procedures and Requirements.**

(a) Minimum requirements: No use permit shall be granted upon any property having a total area of less than five acres, except as provided under Section 27.31.100(k), nor for any plan unless it is in conformance with all applicable city standards and with all regulations of the applicable sections of this chapter. The Planning Commission shall impose such conditions as are appropriate and necessary to ensure compliance with the Comprehensive Plan and protect the health, safety, and general welfare in the issuance of any such use permits. Such conditions may include an increase in the minimum yard requirements and decrease in the maximum height restrictions set forth in this chapter. Lots fronting on private roadways may be permitted. Unless expressly modified by the terms of the use permit, all regulations of the B-2 Planned Neighborhood Business District shall apply.

(b) Application requirements: Applications for a use permit under this section shall be filed by the owner in writing on a form provided by the city with the Planning Department. A preliminary plan shall accompany each application and shall include the following information:

- (1) Boundary survey and gross acreage;
- (2) Contour lines at intervals not to exceed five feet based on city data. Spot elevations on 100-foot grid shall be required to fully indicate the topography on flat land;
- (3) Street right of way;
- (4) Utility easements;
- (5) Adjacent land use and zoning classifications;
- (6) Location of structures on property;
- (7) Vicinity map;
- (8) Date prepared, scale and north point;
- (9) Schematic and location of buildings;
- (10) Parking areas and capacity;
- (11) Open space for residential uses;
- (12) Use of buildings, such as retail, service, restaurant, office, residential and other uses;
- (13) Height of buildings;
- (14) Location of existing trees and proposed landscape plan;
- (15) Proposed vehicular and pedestrian circulation system including egress and ingress;
- (16) Building and parking setback lines;
- (17) Grading plan;

(18) On-site and off-site water and sanitary sewer improvements;

(19) On-site and off-site drainage and storm sewer improvements;

(20) Location of proposed free-standing signs;

(21) Cross-section for paving of parking lots and sidewalks;

(22) Proposed name of the shopping center;

(23) Name, address, and telephone number of developer; certified record owner or owners and addresses; and legal description of the proposed use permit area, including the number of acres.

(c) Environmental performance standards: Any applicant for a use permit under the provisions of this section shall comply with environmental performance standards relating to noise, emission, dust, odor, glare, and heat as shall be from time to time established by various municipal departments and approved by resolution of the City Council.

(d) Landscape plan: Each application for a use permit under this section shall include a landscape plan which shall show proposed plantings in conformance with city standards in all required yard areas, open space areas, malls, parking areas and around proposed buildings. The Planning Director shall develop appropriate written standards for such landscape plans, which standards shall be approved by resolution of the City Council.

(e) Planning Commission review: Upon the filing of an application together with all maps, data, and information required by this section, the City Council shall refer the application to the Planning Commission. The Planning Commission shall hold a public hearing upon such application and shall consider the effect of the proposed use upon the surrounding neighborhood, the community as a whole, and other matters relating to public health, safety, and general welfare.

(f) Planning Commission action: After holding at least one public hearing, the Planning Commission shall proceed to give final consideration to the application and may require that certain conditions be fulfilled by the applicant in conjunction with approval of the use permit applied for, and may include the requirement that applicant grant additional right of way in accordance with the Comprehensive Plan. The Planning Commission may require the execution of a written agreement with the city relating to the

installation of public improvements by the applicant, together with the execution of performance bonds or provision of other appropriate surety relating thereto. The installation of all public improvements shall be accomplished in compliance with existing city standards as provided by ordinance or by departmental publications approved by resolution of the City Council. In the event the Planning Commission fails to act upon the application within sixty days from the date of referral, the applicant may appeal to the City Council requesting final action. If the City Council determines that the delay of the Planning Commission is unjustified, it shall direct the commission to act upon the application no later than the commission's next regularly scheduled meeting.

(g) Appeal of Planning Commission action:

(1) Any aggrieved person or any person or group officially designated to participate in the administration of this title may appeal any action of the Planning Commission to the City Council by filing notice of appeal with the City Clerk within fourteen days following the action of the Planning Commission.

(2) Upon receipt of the appeal by the City Council, the council shall hold a public hearing thereon within thirty days from the date of appeal. Notice of the public hearing shall be given as provided in Chapter 27.81.

(3) The City Council may, after public hearing, in conformity with the provisions of this title reverse or affirm, wholly or partially, or may modify the action of the Planning Commission appealed from.

(h) Adjustment of yard requirements and height restrictions: Upon request of the applicant, the City Council may, after report and recommendation of the Planning Commission, decrease the minimum yard requirements and increase the maximum height restrictions and may adjust the requirements relative to the location of buildings and required parking spaces and lot frontage set forth in this chapter consistent with adequate protection of the environment of adjacent land uses. The Planning Commission shall hold a public hearing upon the requested adjustment at the same time that it hears the application for the use permit and shall make a report to the City Council regarding the effect the proposed use and adjustment has upon the surrounding neighborhood, the community as a whole, and other matters relating to

public health, safety, and general welfare. Upon receiving a report from the Planning Commission, the City Council shall take final action upon the use permit and the adjustment.

(i) Amendment: The Planning Director is authorized to approve amendments to any use permit granted under this section, provided that:

(1) A request for amendment is filed with the Planning Director, together with any of the information specified in paragraph (b) above which is pertinent to the proposed amendment;

(2) Such amendment shall not violate any provisions of this title;

(3) Such amendment may provide for minor increases in total floor area and storage space originally permitted;

(4) There is no increase in the number of dwelling units;

(5) No reduction is made to the applicable setback or yard requirements;

(6) No public land is accepted;

(7) Such amendment shall not be contrary to the general purpose of this section as specified in Section 27.31.020;

(8) Any amendment not in conformance with this paragraph shall be submitted to the Planning Commission in the same manner as an original application for a use permit.

(j) Building permits, certificates of occupancy, and certificates of compliance: Upon the approval of a use permit as provided for under this section, building permits and certificates of occupancy may be issued. Certificates of compliance shall not be issued until there has been compliance with all conditions of a use permit and subsequent amendments within each phase of development of a use permit.

(k) Preexisting uses: An existing use of a type permitted in this chapter which was lawfully established in this district on the effective date of this title shall be deemed to have received a use permit as herein required and shall be provided with such permit by the Director of Building and Safety upon request, and it shall not be a nonconforming use; provided, however, for any enlargement, extension, or relocation of such existing use, an application in conformance with this section shall be required.

(l) A use permit may be granted for a lot of less than five acres, provided:

(1) The lot was legally created prior to the effective date of this ordinance;

(2) The lot has remained under separate ownership from adjoining properties in the B-2 district.

The Planning Commission may, under the above conditions, adjust the requirements under paragraph (b) to permit the applicant a reasonable use of his property.

(m) If an application for a use permit located within a flood plain is granted approval by the city, it shall not be necessary for the applicant to make an

application for a special permit to be approved by the City Council as required by Resolution Nos. A-55150, A-56382, and A-57540. It shall be presumed that the applicant has received all such approvals as may be required by the foregoing resolutions by virtue of the city granting approval to the use permit. (Ord. 16766 §4; April 10, 1995: prior Ord. 16284 §2; December 14, 1992: Ord. 15239 §2; August 7, 1989: Ord. 13528 §2; January 3, 1983: Ord. 13078 §1; January 12, 1981: Ord. 12751 §14; November 5, 1979: Ord. 12571 §174; May 8, 1979).

**Table 27.31.090(a)**

	<b>Lot Area (Sq. ft.)</b>	<b>Req'd Front Yard</b>	<b>Req'd Side Yard</b>	<b>Req'd Rear Yard</b>	<b>Height</b>
Dwellings	2,000 per unit	50'	20'	50'	40'
Other Permitted Uses	0	50'	0', 20'* when abutting residential district	0', 50'* when abutting residential district	40'

\* When a side or rear yard abuts a residential district, it shall be screened in conformance with the landscape design standards adopted by the City of Lincoln.

## Chapter 27.33

### B-3 COMMERCIAL DISTRICT

#### Sections:

- 27.33.010 Scope of Regulations.
- 27.33.020 Permitted Uses.
- 27.33.030 Permitted Conditional Uses.
- 27.33.040 Permitted Special Uses.
- 27.33.050 Accessory Uses.
- 27.33.060 Parking Regulations.
- 27.33.070 Sign Regulations.
- 27.33.075 Grading and Land Disturbance Regulations.
- 27.33.080 Height and Area Regulations.

This is a district providing for local commercial uses in a redeveloping neighborhood generally located in established retail centers of those neighborhoods. The uses permitted generally are those for neighborhood uses, plus additional limited manufacturing uses that reflect the character of that commercial area.

#### 27.33.010 Scope of Regulations.

The regulations set forth in this chapter, or set forth elsewhere in this title when referred to in this chapter, are the regulations in the B-3 Commercial District. (Ord. 12571 §205; May 8, 1979).

#### 27.33.020 Permitted Uses.

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

- (a) Parks, playgrounds, and community buildings, owned or operated by a public agency;
- (b) Public libraries;
- (c) Public elementary and high schools, or private schools having a curriculum equivalent to a public elementary or public high school, and having no rooms regularly used for housing or sleeping purposes;
- (d) Churches;
- (e) Nonprofit religious, educational, and philanthropic institutions;

- (f) Banks, savings and loan associations, credit unions, and finance companies;
- (g) Barber shops, beauty parlors, and shoeshine shops;
- (h) Private schools, including but not limited to, business or commercial schools, dance or music academies, and nursery schools;
- (i) Adult care centers;
- (j) Hospitals and clinics for animals, but not open kennels;
- (k) Self-service laundromats, and laundrettes;
- (l) Receiving stores for dry cleaning or laundry;
- (m) Messenger and telegraph stations;
- (n) Office buildings;
- (o) Restaurants;
- (p) Stores or shops for the sale of goods at retail;
- (q) Undertaking establishments;
- (r) Photography studios;
- (s) Key shops;
- (t) Ambulance services;
- (u) Retail bakery;
- (v) Sales and showrooms, including service facilities and rental of equipment, provided all displays and merchandise are within the enclosure walls of the buildings;
- (w) Milk distribution stations, but not involving any bottling on the premises;
- (x) Food storage lockers;
- (y) Optical lens grinding and finishing;
- (z) Clubs;
- (aa) Parking lots and storage garages;
- (bb) Enclosed commercial recreational facilities;
- (cc) Service stations and automobile, motorcycle, bicycle, and home and office equipment, and appliance sales and repair facilities, but not including vehicle body repair shops
- (dd) Mail order catalog sales;
- (ee) Tailor shops, shoe repair shops, upholstery shops, printing and photocopying shops, or other, similar business establishments. (Ord. 16962 §3; March 25, 1996: prior Ord. 16767 §6; April 10, 1995: Ord. 16253 §2; October 26, 1992: Ord. 16144 §6; July 6, 1992: Ord. 14185 §5; September 3, 1985: Ord. 13736 as amended by Ord. 13745 §3; January 3, 1984: Ord. 12571 §206; May 8, 1979).

**27.33.030 Permitted Conditional Uses.**

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

**(a) Automobile wash facility:**

(1) Automatic, conveyor-operated: The length and location of vehicle stacking lane or lanes for the approach side or sides and the exit side or sides of the wash operation shall be in conformance with the "guidelines and regulations for driveway design and location" as adopted by the City of Lincoln. The stacking space shall not be located within the required front yard.

(2) Self-service, coin-operated car wash: The car wash facility shall not exceed four wash bays. The length and location of vehicle stacking lane or lanes for the approach side or sides and the exit side or sides of the wash operation shall be in conformance with the "guidelines and regulations for driveway design and location" as adopted by the City of Lincoln. The stacking space shall not be located within the required front yard.

(b) Motels and hotels: A distance of at least twenty feet shall be maintained between buildings on the lot, and each hotel or motel unit shall have a minimum enclosed floor area of 200 square feet.

(c) Furnace, heating, sheet metal, electrical shops or electrical contractors, heating and air conditioning contractors, and cabinet shops or stores:

(1) The floor area of said premises not devoted to sales or office space shall not exceed 8,000 square feet;

(2) Not more than ten percent of the lot or tract occupied by the establishment shall be used for open and unenclosed storage of material and equipment.

**(d) Tire stores and sales, including vulcanizing:**

(1) The floor area of said premises not devoted to sales or office space shall not exceed 4,000 square feet;

(2) There shall be no manufacturing on the premises.

(e) Tailor shops, shoe repairing, upholstery shops, printing, photocopying, household appliances repairs, or similar business establishments; dyeing and drycleaning works; laundry; plumbing and water softener service shops.

The floor area of said premises not devoted to sales or office space shall not exceed 4,000 square feet.

**(f) Dwellings, provided that:**

(1) Except as provided subparagraph 2 below, dwellings shall only be permitted above the first story of a building, with the first story used for a non-dwelling use as permitted in the district. Such non-dwelling use shall not be accessory to the residential use or be a parking lot or garage.

(2) Dwellings shall be permitted in buildings that were originally constructed for a residential use prior to November 1, 1997.

**(g) Recycling center:**

(1) The building area of such center shall not exceed 4,000 square feet;

(2) Adequate traffic stacking shall be provided on site as determined by the city;

(3) All required parking shall be provided on site;

(4) The facility shall not be designed to receive nor shall it accept shipments by semi-trailer trucks;

(5) The construction and operation of such center shall comply with all applicable health and fire codes;

**(h) Vehicle body repair shop:**

(1) All salvage material including vehicles being salvaged shall be kept inside a building;

(2) All vehicles stored outside a building shall be repaired to an operating state within thirty days;

(3) All vehicles stored outside a building waiting repair shall be screened in accordance with the screening requirements for salvage and scrap processing operations;

(4) The construction and operation of such shop shall comply with all applicable health and fire codes;

(5) Vehicle body repair shops lawfully existing on the effective date of this ordinance shall have until January 1, 1987 to be brought into compliance with conditions (1), (2), (3), and (4) above.

**(i) Early childhood care facilities:**

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

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

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

(4) Such facilities must receive a conditional use permit from the Department of Building and Safety. (Ord. 17262 §1; October 20, 1997; prior Ord. 16926 §3; February 5, 1996: Ord. 16854 §31; August 14, 1995: Ord. 14185 §6; September 3, 1985: Ord. 13344 §3; March 29, 1982: Ord. 12571 §207; May 8, 1979).

#### **27.33.040 Permitted Special Uses.**

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

- (a) Health care facilities;
- (b) Recreational facilities;
- (c) Church steeples, towers, and ornamental spires which exceed the maximum district height;
- (d) Broadcast towers;
- (e) Expansion of nonconforming use;
- (f) Historic preservation;
- (g) Public utility purposes;
- (h) Wind energy conversion systems;
- (i) Cemeteries;
- (j) Dwellings above the first story of a building which cannot meet the yard requirements of Section 27.33.080(g);
- (k) Sale of alcoholic beverages for consumption on the premises;
- (l) Sale of alcoholic beverages for consumption off the premises;
- (m) Storage of vehicles for sale and resale on any portion of the lot where parking is permitted. (Ord. 17265 §2; October 20, 1997: prior Ord. 16593 §3; April 11, 1994: Ord. 15782 §3; November 26, 1990: 14780 §12; November 2, 1987: Ord. 14378 §11; May 5, 1986: Ord. 13588 §12; May 9, 1983: Ord. 12978 §16; August 25, 1980: Ord. 12894 §17; April 7, 1980: Ord. 12571 §208; May 8, 1979).

#### **27.33.050 Accessory Uses.**

Accessory uses permitted in the B-3 Commercial District are accessory buildings and uses customarily incident to the permitted uses. (Ord. 12571 §209; May 8, 1979).

#### **27.33.060 Parking Regulations.**

All parking within the B-3 Commercial District shall be regulated in conformance with the provisions of Chapter 27.67. (Ord. 12571 §210; May 8, 1979).

#### **27.33.070 Sign Regulations.**

Signs within the B-3 Commercial District shall be regulated in conformance with the provisions of Chapter 27.69. (Ord. 12571 §211; May 8, 1979).

#### **27.33.075 Grading and Land Disturbance Regulations.**

Grading and land disturbance within the B-3 Commercial District shall be regulated in conformance with the provisions of Chapter 27.81. (Ord. 17618 §18; February 22, 2000.)

#### **27.33.080 Height and Area Regulations.**

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

- (a) General requirements:

*[See Table 27.33.080(a) on page 27-76.2]*

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

- (d) Open space requirements for residential use:

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

- 125 square feet for the first dwelling unit;
- 80 square feet per unit for the next four dwelling units;
- 25 square feet per unit for the next four dwelling units;
- 20 square feet per unit for each additional dwelling unit beyond nine.

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

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

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

(3) Required open space may be provided either on a balcony four or more feet in depth or on a rooftop, provided that the roof is designed and surfaced in such a manner that it may be developed with areas of planting, open space, recreation and other uses that are consistent with similar uses in ground-level side and rear yards for dwellings. Such rooftop areas may not be occupied by structures such as vents, exhaust intakes, or other mechanical devices, except where they do not interfere with the usable nature of the open space.

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

(e) Accessory buildings shall not extend into any required yard except accessory buildings to nonstandard residential uses may be allowed in the required rear yard when no more than thirty percent of such yard is occupied and such building is not nearer than two feet to any side or rear lot line.

(f) Dwellings existing in this district on the effective date of this title which do not meet the requirements of this chapter shall be considered non-standard uses in conformance with the provisions of Chapter 27.61.

Accessory buildings for such non-standard dwellings shall not extend into any required yard except as follows:

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

(g) Where a yard is not otherwise required, a five foot yard shall be required adjacent to the wall of a building which contains windows for dwelling units. The yard shall be on the premises on which the building is situated. (Ord. 15782 §4; November 26, 1990: prior Ord. 15724 §3; September 17, 1990: Ord. 14696 §1; July 6, 1987: Ord. 14137 §1; July 1, 1985: Ord. 13134 §2; May 4, 1981: Ord. 12638 §1; July 16, 1979: Ord. 12571 §212; May 8, 1979).

**Table 27.33.080(a)**

	Lot Area (Sq. ft.)	Frontage	Req'd Front Yard	Req'd Side Yard	Req'd Rear Yard	Height
Dwelling, Above First Story	1,000 per unit	0'	0'; if block face partially in residential district,	0',5'*	0',30'*	45'; 35' if abutting R-1, R-2 or R-3 zoning district
Other Permitted Uses	0	0'	same as abutting residential district	0', 5'* if abutting residential district	0', 30'* if abutting residential district	

\* When a side or rear yard abuts a residential district, it shall be screened in conformance with the landscape design standards adopted by the City of Lincoln.

## Chapter 27.35

### B-4 LINCOLN CENTER BUSINESS DISTRICT

#### Sections:

- 27.35.010 Scope of Regulations.
- 27.35.020 Permitted Uses.
- 27.35.025 Permitted Conditional Uses.
- 27.35.030 Permitted Special Uses.
- 27.35.040 Accessory Uses.
- 27.35.050 Parking Regulations.
- 27.35.060 Sign Regulations.
- 27.35.065 Grading and Land Disturbance Regulations.
- 27.35.070 Height and Area Regulations.

This is a district for a redeveloping area applicable to the business and retail uses located in the area of the Lincoln Center Business District. It is designed so that Lincoln center remains as the dominant multi-use center and key focal point of business, social, and cultural activity in the Lincoln urban area. This district should include a large variety of activities, including retail and office functions, housing, commercial services, institutions, and transportation. It is intended that relationships between permitted functions will be carefully developed, and the need for access, circulation, and amenities will be given special attention.

#### 27.35.010 Scope of Regulations.

The regulations set forth in this chapter, or set forth elsewhere in this title when referred to in this chapter, are the regulations in the B-4 Lincoln Center Business District. (Ord. 12571 §213; May 8, 1979).

#### 27.35.020 Permitted Uses.

Subject to the restrictions and requirements of Section 27.35.030 below, a building or premises may be used for any lawful purpose in the B-4 Lincoln Center Business District, except the following:

- (a) The refining, distillation, or manufacture of:
  - (1) Acids or alcohols, except that craft breweries as defined in the Nebraska Liquor Control Act are permitted;
  - (2) Ammonia, bleach, or chlorine;

- (3) Asphalt, tar, or products made therewith, including roofing or waterproofing;
- (4) Cement, lime, gypsum, or plaster of paris;
- (5) Disinfectants;
- (6) Dyestuffs;
- (7) Fertilizer;
- (8) Glue, sizing, or gelatin;
- (9) Oilcloth, linoleum, or oiled rubber goods;
- (10) Paint, shellac, turpentine, or oils;
- (11) Paper or pulp;
- (12) Rubber, gutta-percha, balata, creosote, or products treated therewith;
- (13) Shoe polish;
- (b) The operation of:
  - (1) Bag cleaning works;
  - (2) Blast furnaces, coke ovens, smelting or ore reduction works;
  - (3) Boiler works;
  - (4) Forge;
  - (5) Rock crusher, stone mill, or quarry;
  - (6) Rolling mill;
  - (7) Yeast plant;
- (c) Production, manufacture, distribution, or commercial storage of toxic, radioactive, flammable, or explosive materials, including chemicals and gases, fireworks and explosives, arsenals and magazines;
- (d) Tanning, curing, or storage of raw hides or skins; stockyards or slaughter of animals or fowl; rendering fat; distillation of bones, coal, or wood;
- (e) Dumping or reduction of garbage, offal, or dead animals; scrap processing operation or salvage yard;
- (f) Grain elevators and grain mills;
- (g) Refining of natural gas or petroleum or their products; or bulk storage thereof not located underground and in full compliance with all applicable city regulations;
- (h) Brick, tile, pottery, or terra cotta manufacture, other than the manufacture of handicrafts;
- (i) The manufacture of acetylene, the transfer of the gas from one container to another, or the storage of the gas in containers having a capacity greater than the equivalent of 1,000 cubic feet at standard temperature and pressure;
- (j) And in general those uses, not limited to the above, which may be obnoxious or offensive or hazardous to health by reason of odor, dust, smoke, gas, glare, radiation, or noise;

(k) In the area of the B-4 Lincoln Center Business District bounded by 10th Street, "P" Street, 14th Street, and "N" Street, except as provided by Section 27.35.030 below:

(1) Parking lots, parking garages, and other off-street parking facilities;

(2) Uses in which the customer is served directly in the car, including but not limited to drive-in restaurants, drive-in teller windows, gas stations, or car washes. (Ord. 17120 §1; December 16, 1996: prior Ord. 14185 §7; September 3, 1985: Ord. 12571 §214; May 8, 1979).

**27.35.025 Permitted Conditional Uses.**

A building or premises may be used for the following purposes in the B-4 Lincoln Center Business District in conformance with the conditions prescribed herein:

(a) Recycling center:

(1) The building area of such center shall not exceed 8,000 square feet;

(2) Adequate traffic stacking shall be provided on site as determined by the city;

(3) All required parking shall be provided on site;

(4) The facility shall not be designed to receive nor shall it accept shipments by semi-trailer trucks;

(5) The construction and operation of such center shall comply with all applicable health and fire codes.

(b) Vehicle body repair shop:

(1) All salvage material including vehicles being salvaged shall be kept inside a building;

(2) All vehicles stored outside a building shall be repaired to an operating state within thirty days;

(3) All vehicles stored outside a building waiting repair shall be screened in accordance with the screening requirements for salvage and scrap processing operations;

(4) The construction and operation of such shop shall comply with all applicable health and fire codes;

(5) Vehicle body repair shops lawfully existing on the effective date of this ordinance shall have until January 1, 1987 to be brought into compliance with conditions (1), (2), (3), and (4) above.

(c) Early childhood care facilities:

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

(2) Such facilities shall comply with all applicable building and life safety code requirements.

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

(4) Such facilities must receive a conditional use permit from the Department of Building and Safety. (Ord. 16854 §32; August 14, 1995: prior Ord. 14185 §8; September 3, 1985).

**27.35.030 Permitted Special Uses.**

(a) A building or premises may be used for the following purposes in the B-4 Lincoln Center Business District if a special permit for such use has been obtained in conformance with the requirements of Chapter 27.63:

(1) Expansion of nonconforming use;

(2) Historic preservation;

(3) Any permitted use which exceeds the maximum height permitted in the district;

(4) Temporary shelter for the homeless.

(b) A building or premises may be used for the following purposes in that portion of the B-4 Lincoln Center Business District bounded by 10th Street, "P" Street, 14th Street, and "N" Street if a special permit for such use has been obtained in conformance with the requirements of Chapter 27.63:

(1) Parking lots, parking garages, and other off-street parking facilities;

(2) Gas stations and car washes located within a parking garage when such uses are accessory to the parking garage;

(3) Drive-in teller windows;

(4) Wind energy conversion systems.

(c) Dwellings above the first story of a building which cannot meet the yard requirements of Section 27.35.070(e). (Ord. 16070 §2; March 9, 1992: prior Ord. 15782 §5; November 26, 1990: Ord. 14780 §13; November 2, 1987: Ord. 13588 §13; May 9, 1983: Ord. 12978 §17; August 25, 1980: Ord. 12698 §1; September 24, 1979: Ord. 12571 §215; May 8, 1979).

**27.35.040 Accessory Uses.**

Accessory uses permitted in the B-4 Lincoln Center Business District are accessory buildings and uses customarily incident to the permitted uses. (Ord. 12571 §216; May 8, 1979).

**27.35.050 Parking Regulations.**

All parking within the B-4 Lincoln Center Business District shall be regulated in conformance with the provisions of Chapter 27.67. (Ord. 12571 § 217; May 8, 1979).

**27.35.060 Sign Regulations.**

Signs within the B-4 Lincoln Center Business District shall be regulated in conformance with the provisions of Chapter 27.69. (Ord. 12571 §218; May 8, 1979).

**27.35.065 Grading and Land Disturbance Regulations.**

Grading and land disturbance within the B-4 Lincoln Center Business District shall be regulated in conformance with the provisions of Chapter 27.81. (Ord. 17618 §19; February 22, 2000.)

**27.35.070 Height and Area Regulations.**

The maximum height and minimum lot requirements within the B-4 Lincoln Center Business District shall be as follows:

(a) For the area of the B-4 Lincoln Center Business District located from 150 feet east of 17th Street to the eastern boundary of the B-4 Lincoln Center Business District, the following maximum height and minimum lot requirements shall apply:

*(See Table 27.35.070(a) at the end of this chapter)*

(b) For the area of the B-4 Lincoln Center Business District not included in section (a) above, the following maximum height and minimum lot requirements shall apply:

*(See Table 27.35.070(b) at the end of this chapter)*

(c) Where any front yard is required in this district, there shall be a required front yard along each street side of a double frontage lot.

(d) Where any front yard is required in this district, there shall be a required front yard on each street side of a corner lot; provided, however, that the buildable width of a lot of record on

November 2, 1953, need not be reduced to less than twenty-eight feet except where necessary to provide a required side yard of not less than five feet in place of one of the required front yards.

(e) Where a yard is not otherwise required, a yard shall be required adjacent to any wall of a building which contains windows for dwelling units. The yard requirement shall be five feet for structures under thirty-five feet in height, ten feet for structures thirty-five to fifty feet in height, and twenty feet for those structures over fifty feet in height. Depending upon the location of said windows, this yard may be a side yard, a rear yard, or located in or on an interior courtyard. If the required yard abuts an alley, one-half of the alley may be counted as part or all of the required yard. This yard need not start at the ground level but may begin on the top surface of a nonresidential building.

(f) Accessory buildings which are attached to or located not more than ten feet from the main structure shall be considered a part of the main structure and shall comply with the height and front, side, and rear yard requirements of the main structure. Accessory buildings not a part of the main structure may be located in any required rear yard, but such accessory buildings may not occupy more than thirty percent of the required rear yard, and shall not be nearer than two feet to any side or rear lot line, nor more than fifteen feet in height. Accessory buildings not a part of the main structure, if located not less than sixty feet from the front lot line, may extend into the required side yard though not nearer than two feet to the side lot line. A garage which is entered from an alley shall not be located closer than ten feet to the alley line. (Ord. 16615 §1; June 6, 1994; prior Ord. 16224 §1; September 14, 1992; Ord. 16066 §1; March 2, 1992; Ord. 13163 §1; June 29, 1981; Ord. 12751 §15; November 5, 1979; Ord. 12571 §219; May 8, 1979).

Table 27.35.070(a)

	Lot Area (Sq.ft.)	Avg. Lot Width	Req'd Front Yard	Req'd Side Yard	Req'd Rear Yard	Height
Dwelling, single-family	4,000	50'	20'*	5'*	Smaller of	75'***
Dwelling, two-family	2,000 per family	50'	20'*	5'*	30'	75'***
Townhouses	2,000 per family	20'	20'*	0' or 5'* on nonparty wall side.	or 20%	75'***
<b>Dwelling, Multiple:</b>					of	
Lots containing 14,000 or less	700 per unit	50'	20'*	Total* 15', min. 5'	depth*	75'***
Lots containing more than 14,000 but less than 21,000 sq. ft.	600 per unit	100'	20'*	Total* 25', min. 8'		75'***
Lots containing 21,000 sq. ft. or more	550 per unit	150'	20'*	Total* 30', min. 10'		75'***
Other Permitted Uses	0	50'	20'*	5'*		75'***

\* In the area located between 142 feet south of the south right-of-way line of "N" Street and 142 feet north of the north right-of-way line of "P" Street, no yards shall be required.

\*\* Over thirty-five feet in height, add one foot to the required side and rear yards for each additional two feet of height.

Table 27.35.070(b)

	Lot Area (Sq.ft.)	Req'd Front Yard	Req'd Side Yard	Req'd Rear Yard	Height
Dwellings	0	0'	0' (Except as req'd in §27.35.070(e))	0' (Except as req'd in §27.35.070(e))	275'
Other Permitted Uses	0	0'	0'	0'	275'
*	When any yard is abutting a residential district, the yard requirement shall be that of the abutting residential district.				
**	West of 9th Street, the maximum height shall be seventy-five feet.				



**Chapter 27.37****B-5 PLANNED REGIONAL  
BUSINESS DISTRICT****Sections:**

- 27.37.010** Scope of Regulations.
- 27.37.020** Use Regulations.
- 27.37.025** Permitted Conditional Uses.
- 27.37.030** Permitted Special Uses.
- 27.37.033** Accessory Uses.
- 27.37.040** Parking Regulations.
- 27.37.050** Sign Regulations.
- 27.37.055** Grading and Land Disturbance Regulations.
- 27.37.060** Height and Area Regulations.
- 27.37.070** Use Permits; Procedures and Requirements.

The regulations set forth in this chapter are established to permit the development of regional retail shopping facilities and related activities which will provide for planned and controlled consumer services for all segments of the population, promote healthful economic growth, create a desirable environment, best complement the general land use pattern of the community, and assist in implementing the established goals and policies of the community.

**27.37.010 Scope of Regulations.**

The regulations set forth in this chapter, or set forth elsewhere in this title and referred to in this chapter, are the regulations for the B-5 Planned Regional Business District. (Ord. 12571 §220; May 8, 1979).

**27.37.020 Use Regulations.**

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

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

- (1) Stores or shops for the sale of goods at retail, and shops providing service for such goods;
- (2) Business offices;
- (3) Personal and professional services;
- (4) Places of public assembly, entertainment, or recreation, except theaters;
- (5) Hotels or motels;
- (6) Banks and savings and loan associations, credit unions, and finance companies;
- (7) Private schools, including but not limited to business or commercial schools, dance or music academies, and nursery schools;
- (8) Restaurants;
- (9) Service stations, and automobile washing services;
- (10) Automobile sales establishments;
- (11) Residential uses;
- (12) Public or nonprofit community services;
- (13) Dry cleaning or laundry establishment; provided, the floor area does not exceed 2,000 square feet, exclusive of office and "pickup space";
- (14) Enclosed commercial recreational facilities;
- (15) Medical testing laboratories;
- (16) Sale of alcoholic beverages for consumption on the premises, provided the locational requirements of Section 27.63.680 have been met or waived by the City Council;
- (17) Sale of alcoholic beverages for consumption off the premises, provided the locational requirements of Section 27.63.685 have been met or waived by the City Council;
- (18) Tailor shops, shoe repair shops, upholstery shops, printing and photocopying shops, or other, similar business establishments. (Ord. 17320 §3; April 20, 1998: prior Ord. 16962 §4; March 25, 1996: Ord. 16767 §7; April 10, 1995: Ord. 16593 §4; April 11, 1994: Ord. 16075 §1; March 16, 1992: Ord. 15368 §13; December 18, 1989: Ord. 15310 §1; October 2, 1989: Ord. 13736 §4; December 12, 1983: Ord. 12751 §16; November 5, 1979: Ord. 12571 § 221; May 8, 1979).

**27.37.025 Permitted Conditional Uses.**

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

- (a) Early childhood care facilities:

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

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

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

(b) Tents and other temporary structures: Tents or other temporary structures shall be permitted for the temporary or seasonal sales of goods at retail under the following conditions:

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

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

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

A tent or other temporary structure need not be shown on the approved use permit site plan. (Ord. 17051 §2; August 26, 1996; prior Ord. 16854 §33; August 14, 1995).

#### **27.37.030 Permitted Special Uses.**

A building or premises may be used for the following purposes in the B-5 Planned Regional Business District if a combined use permit and special permit for such use has been obtained in conformance with the requirements of this chapter and Chapter 27.63:

- (a) Historic preservation;
- (b) Public utility purposes;
- (c) Wind energy conversion systems;
- (d) Theaters;
- (e) Broadcast towers. (Ord. 17070 §2; October 7, 1996; prior Ord. 16075 §2; March 16, 1992: Ord. 14774 §2; October 19, 1987: Ord. 14138 §3; July 1, 1985: Ord. 14050 §1; February 11, 1985: Ord. 12978 §18; August 25, 1980: Ord. 12894 §18; April 15, 1980: Ord. 12571 §222; May 8, 1979).

#### **27.37.033 Accessory Uses.**

Accessory uses permitted in the B-5 Planned Regional Business District are accessory buildings and uses customarily incident to the permitted uses. (Ord. 12571 §223; May 8, 1979).

#### **27.37.040 Parking Regulations.**

All parking within the B-5 Planned Regional Business District shall be regulated in conformance with the provisions of Chapter 27.67. (Ord. 12571 § 224; May 8, 1979).

#### **27.37.050 Sign Regulations.**

Signs within the B-5 Planned Regional Business District shall be regulated in conformance with the provisions of Chapter 27.69. (Ord. 12571 §225; May 8, 1979).

#### **27.37.055 Grading and Land Disturbance Regulations.**

Grading and land disturbance within the B-5 Planned Regional Business District shall be regulated in conformance with the provisions of Chapter 27.81. (Ord. 17618 §20; February 22, 2000.)

#### **27.37.060 Height and Area Regulations.**

The maximum height and minimum lot requirements within the B-5 Planned Regional Business District shall be as follows:

(a) The required front yard shall be fifty feet. The required front yard shall be entirely landscaped, except for the necessary paving of walkways and driveways to reach parking and loading areas in the side or rear yards, provided that any driveways which traverse the front yard shall not be wider than thirty feet.

(b) There shall be a required yard of 100 feet wherever a lot abuts a residential district, and such yard shall be screened in conformance with the landscape design standards adopted by resolution of the City Council.

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

(d) There shall be a required front yard along each street side of a corner lot.

(e) The maximum permitted height shall be forty feet.

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

- 125 square feet for the first dwelling unit;
- 80 square feet per unit for the next four dwelling units;
- 25 square feet per unit for the next four dwelling units;

20 square feet per unit for each additional dwelling unit beyond nine.

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

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

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

(3) Required open space may be provided either on a balcony four or more feet in depth or on a rooftop, provided that the roof is designed and surfaced in such a manner that it may be developed with areas of plantings, open space, recreational, and other uses that are consistent with similar uses in ground-level side and rear yards for dwellings. Such rooftop areas may not be occupied by structures such as vents, exhaust intakes, or other mechanical devices, except where they do not interfere with the usable nature of the open space;

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

(g) Accessory buildings which are attached to or not located more than ten feet from the main structure shall be considered a part of the main structure and shall comply with the height and yard requirements of the main structure. Accessory buildings not a part of the main structure may be located in the required rear yard if such yard does not abut a residential district or use, but such accessory buildings may not occupy more than thirty percent of the required rear yard and shall not be nearer than two feet to any side or rear lot line, nor more than fifteen feet in height. A garage which is entered from an alley shall not be located closer than ten feet to the alley line. (Ord. 12571 §226; May 8, 1979).

#### **27.37.070 Use Permits; Procedures and Requirements.**

(a) Minimum requirements. No use permit shall be granted upon any property having a total area of less than thirty acres, nor for any plan unless it is in conformance with all applicable city standards and with all regulations of the applicable sections of this chapter. The Planning Commission shall impose such

conditions as are appropriate and necessary to ensure compliance with the Comprehensive Plan and protect the health, safety, and general welfare in the issuance of any use permits. Such conditions may include an increase in the minimum yard requirements and a decrease in the maximum height restrictions set forth in this chapter. Lots fronting on private roadways may be permitted. Unless expressly modified by the terms of the use permit, all regulations of the B-5 Planned Regional Business District shall apply.

(b) Environmental performance standards. Any applicant for a use permit under the provisions of this section shall comply with such environmental performance standards relating to noise, emission, dust, odor, glare, and heat as shall be from time to time established by various municipal departments and approved by resolution of the City Council.

(c) Environmental impact statement and market analysis. If any application for a change of zone to the B-5 Planned Regional Business District or for a use permit under the provisions of this section substantially deviates from the Comprehensive Plan in terms of location or size, as determined by the Planning Director, the applicant shall submit an environmental impact statement and a market analysis which shall serve as a guide to the Planning Commission for evaluation of such application in terms of need, desirability, supportability, and its implications for the overall growth of the community. The Planning Director shall develop appropriate written standards and forms for such environmental impact statement and market analysis, which shall be approved by the City Council after report and recommendation of the Planning Commission.

(d) Landscape plan. Each application for a use permit under this section shall include a landscape plan which shall show proposed plantings in conformance with city standards in all required yard areas, open space areas, malls, parking areas and around proposed buildings. The Planning Director shall develop appropriate written standards for such landscape plans, which standards shall be approved by resolution of the City Council.

(e) Application requirements. Applications for a use permit under this section shall be filed by the owner in writing with the Planning Department on a form provided by the city. A preliminary plan shall accompany each application and shall include the following information:

(1) Boundary survey and gross acreage;

(2) Contour lines at intervals not to exceed five feet based on city data. Spot elevations on one hundred foot grids shall be required to fully indicate the topography on flat land;

(3) Street right of way;

(4) Utility easements;

(5) Adjacent land use and zoning classifications;

(6) Location of structures on property;

(7) Vicinity map;

(8) Date prepared, scale and north point;

(9) Schematic building layout;

(10) Parking areas and capacity;

(11) Open space for residential uses;

(12) Use of buildings, such as retail, service, restaurant, office, residential, and other uses. Buildings to be included in the first phase construction shall include tenant occupancies where known. A clear demonstration shall be made that the residential use will be protected from adverse effects, such as traffic, air pollution, noise, and glare; and the mixing of residential and commercial uses on the ground level shall be discouraged;

(13) Acreage and percentage of total developed building area, parking lots, open space, malls, and other features;

(14) Height of buildings;

(15) Location of existing trees and proposed landscape plan;

(16) Proposed vehicular and pedestrian circulation system, including ingress and egress;

(17) Building and parking setback lines;

(18) Grading plan;

(19) Phase of development and proposed starting dates;

(20) Discussion of adverse environmental effects of the project and proposed steps to minimize these effects;

(21) On-site and off-site water and sanitary sewer improvements;

(22) On-site and off-site drainage and storm sewer improvements;

(23) Location of proposed free-standing signs;

(24) Cross-section for paving of parking lots and sidewalks;

(25) Proposed name, if any, of the shopping center;

(26) Name, address, and telephone number of developer, certified record owner, or owners, and

addresses; legal description of the proposed use permit area, including the number of acres.

(f) Planning Commission review. Upon the filing of an application together with all maps, data, and information required by this section, the City Council shall refer the application to the Planning Commission. The Planning Commission shall hold a public hearing upon such application and shall consider the effect of the proposed use upon the surrounding neighborhood, the community as a whole, and other matters relating to public health, safety, and general welfare.

(g) Planning Commission action. After holding at least one public hearing, the Planning Commission shall proceed to give final consideration to the application and may require that certain conditions be fulfilled by the applicant in conjunction with approval of the use permit applied for, and may include the requirement that applicant grant additional right of way in accordance with the Comprehensive Plan. The Planning Commission may require the execution of a written agreement with the city relating to the installation of public improvements by the applicant, together with the execution of performance bonds or provision of other appropriate surety relating thereto. The installation of all public improvements shall be accomplished in compliance with existing city standards as provided by ordinance or by departmental publications approved by resolution of the City Council. In the event the Planning Commission fails to act upon the application within sixty days from the date of referral, the applicant may appeal to the City Council requesting final action. If the City Council determines that the delay of the Planning Commission is unjustified, it shall direct the commission to act upon the application no later than the commission's next regularly scheduled meeting.

(h) Appeal of Planning Commission action. (1) Any aggrieved person or any person or group officially designated to participate in the administration of this title may appeal any action of the Planning Commission to the City Council by filing notice of appeal with the City Clerk within fourteen days following the action of the Planning Commission.

(2) Upon receipt of the appeal by the City Council, the council shall hold a public hearing thereon within thirty days from the date of appeal. Notice of the public hearing shall be given as provided in Chapter 27.81.

(3) The City Council may, after public hearing, in conformity with the provisions of this title reverse or affirm, wholly or partially, or may modify the action of the Planning Commission appealed from.

(i) Adjustment of yard requirements, height restrictions, and parking.

(1) Upon request of the applicant, the City Council may, after report and recommendation of the Planning Commission, decrease the minimum yard requirements and increase the maximum height restrictions and may adjust the requirements relative to the location of buildings and required parking spaces and lot frontage set forth in this chapter consistent with adequate protection of the environment of adjacent land uses.

(2) Upon request of the applicant, the City Council may, after report and recommendation of the Planning Commission, decrease the required parking set forth in this chapter and Chapter 27.67 if it is determined that the mix of uses or ownership patterns create situations where the applicability of a particular standard is not feasible.

(3) The Planning Commission shall hold a public hearing upon the requested adjustment at the same time that it hears the application for the use permit and shall make a report to the City Council regarding the effect the proposed use and adjustment has upon the surrounding neighborhood, the community as a whole, and other matters relating to public health, safety, and general welfare. Upon receiving a report from the Planning Commission, the City Council shall take final action upon the application for the use permit and the requested adjustment.

(j) Amendment. The Planning Director is authorized to approve amendments to any use permit granted under this section, including square footage of floor area and storage space in phases of development; provided, that:

(1) A request for amendment is filed with the Planning Director, together with any of the information specified in paragraph (f) above which is pertinent to the proposed amendment;

(2) Such amendment shall not violate any provisions of this title;

(3) Such amendment may provide for minor increases in total floor area and storage space originally permitted;

(4) There is no increase in the number of dwelling units;

(5) No reduction is made to the applicable setback or yard requirements;

(6) No public land is accepted;

(7) Such amendment shall not be contrary to the general purpose section as specified in paragraph (a) above;

(8) Any amendment not in conformance with this paragraph shall be submitted to the Planning Commission in the same manner as an original use permit.

(k) Building permits, certificates of occupancy and certificates of compliance. Upon the approval of a use permit as provided for under this section, building permits and certificates of occupancy may be issued. Certificates of compliance shall not be issued until there has been compliance with all conditions and subsequent amendments within each phase of development of a use permit.

(l) Preexisting uses. An existing use of a type permitted in this chapter which was lawfully established in this district on the effective date of this title, and any enlargement or extension as permitted in this section, shall be deemed to have received a use permit as herein required and shall be provided with such permit by the Director of Building and Safety upon request, and shall not be a nonconforming use.

(m) If an application for a use permit located within a flood plain is granted approval by the city, it shall not be necessary for the applicant to make an application for a special permit to be approved by the City Council as required by Resolution Nos. A-55150, A-56382, and A-57540. It shall be presumed that the applicant has received all such approvals as may be required by the foregoing resolutions by virtue of the city granting approval to the use permit. (Ord. 16766 §5; April 10, 1995; prior Ord. 16284 §3; December 14, 1992: Ord. 15239 §3; August 7, 1989: Ord. 13528 §3; January 3, 1983: Ord. 13080 §1; January 12, 1981: Ord. 12751 §17; November 5, 1979: Ord. 12571 §227; May 8, 1979).



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**Chapter 27.39****H-1 INTERSTATE  
COMMERCIAL DISTRICT****Sections:**

- 27.39.010 Scope of Regulations.**
- 27.39.020 Permitted Uses.**
- 27.39.030 Permitted Special Uses.**
- 27.39.040 Accessory Uses.**
- 27.39.050 Parking Regulations.**
- 27.39.060 Sign Regulations.**
- 27.39.065 Grading and Land Disturbance Regulations.**
- 27.39.070 Height and Area Regulations.**

This is a district located principally near the interstate highway, intended to serve highway travelers where hotels, service stations, garages, and restaurants should be available.

**27.39.010 Scope of Regulations.**

The regulations set forth in this chapter, or set forth elsewhere in this title when referred to in this chapter, are the regulations in the H-1 Interstate Commercial District. (Ord. 12571 §175; May 8, 1979).

**27.39.020 Permitted Uses.**

A building or premises shall be used only for the following purposes in the H-1 Interstate Commercial District:

- (a) Public or storage garages;
- (b) Restaurants;
- (c) Service stations;
- (d) Hotels and motels;
- (e) Dwelling for a caretaker employed and residing on the premises. (Ord. 12571 §176; May 8, 1979).

**27.39.030 Permitted Special Uses.**

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

- (a) Expansion of nonconforming uses;
- (b) Historic preservation;
- (c) Public utility purposes;
- (d) Wind energy conversion systems;
- (e) Cemeteries;
- (f) Sale of alcoholic beverages for consumption on the premises;
- (g) Broadcast towers;
- (h) Sale of alcoholic beverages for consumption off the premises. (Ord. 17229 §1; August 11, 1997; prior Ord. 17070 §3; October 7, 1996; Ord. 16593 §5; April 11, 1994; Ord. 14780 §14; November 2, 1987; Ord. 14378 §12; May 5, 1986; Ord. 13588 §14; May 9, 1983; Ord. 12978 §19; August 25, 1980; Ord. 12894 §19; April 7, 1980; Ord. 12571 §177; May 8, 1979).

**27.39.040 Accessory Uses.**

Accessory uses permitted in the H-1 Interstate Commercial District are accessory buildings and uses customarily incident to the permitted uses. Hotels and motels may include as accessory uses dwellings for persons employed on the premises, and a shop or store for the sale of goods at retail primarily for the use of residents or guests of such hotel or motel when such uses are located entirely within the building with no separate entrance from the outside. Service stations may include, as accessory uses, tire recapping provided that there is no manufacturing on the premises and the floor area of the premises devoted to tire recapping and tire repairs does not exceed 4,000 square feet, and the temporary storage of not more than twenty vehicles impounded by state, county, or local law enforcement officials. (Ord. 16102 §1; April 27, 1992; prior Ord. 15009 §1; October 10, 1988; Ord. 12571 §178; May 8, 1979).

**27.39.050 Parking Regulations.**

All parking within the H-1 Interstate Commercial District shall be regulated in conformance with the provisions of Chapter 27.67. (Ord. 12571 §179; May 8, 1979).

**27.39.060 Sign Regulations.**

Signs within the H-1 Interstate Commercial District shall be regulated in conformance with the provisions of Chapter 27.69. (Ord. 12571 §180; May 8, 1979).

**27.39.065 Grading and Land Disturbance Regulations.**

Grading and land disturbance within the H-1 Interstate Commercial District shall be regulated in conformance with the provisions of Chapter 27.81. (Ord. 17618 §21; February 22, 2000.)

**27.39.070 Height and Area Regulations.**

The maximum height and minimum lot requirements within the H-1 Interstate Commercial District shall be as follows:

(a) General requirements:

*(See Table 27.39.070(a) below)*

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

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

(d) Accessory buildings which are attached to or not located more than ten feet from the main structure shall be considered a part of the main structure and shall comply with the height and front, side, and rear yard requirements of the main structure. Accessory buildings not a part of the main structure may be located in the required rear yard, but such accessory buildings may not occupy more than thirty percent of the required rear yard and shall not be nearer than two feet to any side or rear lot line. Such detached accessory buildings shall not exceed fifteen feet in height. Accessory buildings not a part of the main structure, if located not less than sixty feet from the front lot line, may extend into the required side yard though not nearer than two feet to the side lot line. A garage which is entered from an alley shall not be located closer than ten feet to the alley line.

(e) Dwellings existing in this district on the effective date of this title shall be considered nonstandard uses in conformance with the provisions of Chapter 27.61. (Ord. 12751 §18; November 5, 1979; prior Ord. 12571 §181; May 8, 1979).

**Table 27.39.070(a)**

	<b>Lot Area (Sq. ft.)</b>	<b>Avg. Lot Width</b>	<b>Req'd Front Yard</b>	<b>Req'd Side Yard</b>	<b>Req'd Rear Yard</b>	<b>Height</b>
All permitted uses	5,000	50'	25'	5'	Smaller of 30' or 20% of depth	45'

## Chapter 27.41

### H-2 HIGHWAY BUSINESS DISTRICT

#### Sections:

- 27.41.010 Scope of Regulations.
- 27.41.020 Permitted Uses.
- 27.41.030 Permitted Conditional Uses.
- 27.41.040 Permitted Special Uses.
- 27.41.050 Accessory Uses.
- 27.41.060 Parking Regulations.
- 27.41.070 Sign Regulations.
- 27.41.075 Grading and Land Disturbance Regulations.
- 27.41.080 Height and Area Regulations.

This is a district for a redeveloping area intended to provide business and services oriented to major arterial streets. It provides for those uses usually found in neighborhood business areas, plus a limited number of additional uses, such as auto repair garages, mini-warehouses, and auto sales.

#### 27.41.010 Scope of Regulations.

The regulations set forth in this chapter, or set forth elsewhere in this title when referred to in this chapter, are the regulations in the H-2 Highway Business District. (Ord. 12571 §182; May 8, 1979).

#### 27.41.020 Permitted Uses.

A building or premises shall be permitted to be used for the following purposes in the H-2 Highway Business District:

- (a) Parks, playgrounds, and community buildings, owned or operated by a public agency;
- (b) Public libraries;
- (c) Public elementary and high schools, or private schools having a curriculum equivalent to a public elementary or public high school, and having no rooms regularly used for housing or sleeping purposes;
- (d) Churches;
- (e) Banks, savings and loan associations, credit unions, and finance companies;
- (f) Barber shops, beauty parlors, and shoeshine shops;
- (g) Private schools;

(h) Dwelling for a caretaker employed and residing on the premises;

(i) Hospitals and clinics for animals, but not open kennels;

(j) Messenger and telegraph stations;

(k) Office buildings;

(l) Restaurants;

(m) Undertaking establishments;

(n) Photography studios;

(o) Key shops;

(p) Ambulance services;

(q) Recreational facilities;

(r) Food storage lockers;

(s) Bakeries;

(t) Bottling works;

(u) Laundry, and drycleaning establishments, including laundromats, and receiving stores for drycleaning or laundry;

(v) Printing shops;

(w) Mini-warehouses;

(x) Optical lens grinding and finishing;

(y) Parking lots;

(z) Clubs;

(aa) Stores or shops for the sale of goods at retail, not otherwise permitted in this chapter, of no more than 20,000 square feet of floor area;

(bb) Enclosed commercial recreational facilities;

(cc) Service stations and automobile, motorcycle, bicycle, and home and office equipment, and appliance sales and repair, but not including vehicle body repair shops;

(dd) Mail order catalog sales;

(ee) Warehouses, provided that no storage bay shall exceed 600 square feet. (Ord. 17362 §1; June 29, 1998; prior Ord. 16854 §34; August 14, 1995; Ord. 16144 §7; July 6, 1992; Ord. 14185 §9; September 3, 1985; Ord. 13736 §5; December 12, 1983; Ord. 12571 §183; May 8, 1979).

#### 27.41.030 Permitted Conditional Uses.

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

(a) Automobile/truck wash facility:

(1) Automatic, conveyor-operated: The length and location of vehicle stacking lane or lanes for the approach side or sides and the exit side or sides of the wash operation shall be in conformance with the "guidelines and regulations for driveway

design and location" as adopted by the City of Lincoln.

(2) Self-service, coin-operated: The wash facility shall not exceed six wash bays. The length and location of vehicle stacking lane or lanes for the approach side or sides and the exit side or sides of the wash operation shall be in conformance with the "guidelines and regulations for driveway design and location" as adopted by the City of Lincoln.

(b) Motels and hotels: A distance of at least twenty feet shall be maintained between buildings on the lot, and each hotel or motel unit shall have a minimum enclosed floor area of 200 square feet.

(c) Service facilities, including but not limited to repair and maintenance of home and office equipment, electrical appliances, radio and television sets, and rental equipment; and the places of business of plumbing, electrical, and heating and air conditioning contractors.

All storage and display of merchandise shall be screened from public view by a fence, walls, shrubs, material obstruction, or all such storage and display shall be within the enclosure walls of a building.

(d) Early childhood care facilities:

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

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

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

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

(e) Recycling center:

(1) Building area of such center shall not exceed 8,000 square feet;

(2) Adequate traffic stacking shall be provided on site as determined by the city;

(3) All required parking shall be provided on site;

(4) The facility shall not be designed to receive nor shall it accept shipments by semi-trailer trucks;

(5) Construction and operation of such center shall comply with all applicable health and fire codes.

(f) Vehicle body repair shop:

(1) All salvage material including vehicles being salvaged shall be inside a building;

(2) All vehicles stored outside shall be repaired to an operating state within thirty days;

(3) All vehicles stored outside waiting repair shall be screened in accordance with the screening requirements for salvage and scrap processing operations;

(4) Construction and operation of such shop shall comply with all applicable health and fire codes;

(5) Vehicle body repair shops lawfully existing on the effective date of this ordinance shall have until January 1, 1987 to be brought into compliance with conditions (1), (2), (3), and (4) above. (Ord. 16926 §4; February 5, 1996: prior Ord. 16854 §35; August 14, 1995: Ord. 14185 §10; September 3, 1985: Ord. 13700 §1; September 26, 1983: Ord. 13344 §4; March 29, 1982: Ord. 12571 §184; May 8, 1979).

#### 27.41.040 Permitted Special Uses.

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

(a) Outdoor theaters;

(b) Broadcast towers;

(c) Extraction of sand, gravel, and soil;

(d) Church steeples, towers, and ornamental spires exceeding the maximum permitted height of the H-2 Highway Business District;

(e) Outdoor lighting for recreational facilities;

(f) Expansion of nonconforming uses;

(g) Historic preservation;

(h) Public utilities purposes;

(i) Wind energy conversion systems;

(j) Cemeteries;

(k) Sale of alcoholic beverages for consumption on the premises;

(l) Sale of alcoholic beverages for consumption off the premises;

(m) Storage of vehicles for sale and resale on any portion of the lot where parking is permitted. (Ord. 17265 §3; October 20, 1997: prior Ord. 16593 §6; April 11, 1994: Ord. 14780 §15; November 2, 1987: Ord. 14378 §13; May 5, 1986: Ord. 13745 §4; January 3, 1984: Ord. 13588 §15; May 9, 1983: Ord. 12978 §20; August 25, 1980: Ord. 12894 §20; April 7, 1980: Ord. 12571 §185; May 8, 1979).

**27.41.050 Accessory Uses.**

Accessory uses permitted in the H-2 Highway Business District are accessory buildings and uses customarily incident to the permitted uses, including parking lots. (Ord. 12571 §186; May 8, 1979).

**27.41.060 Parking Regulations.**

All parking within the H-2 Highway Business District shall be regulated in conformance with the provisions of Chapter 27.67. (Ord. 12571 §187; May 8, 1979).

**27.41.070 Sign Regulations.**

Signs within the H-2 Highway Business District shall be regulated in conformance with the provisions of Chapter 27.69. (Ord. 12571 §188; May 8, 1979).

**27.41.075 Grading and Land Disturbance Regulations.**

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

**27.41.080 Height and Area Regulations.**

The maximum height and minimum lot requirements within the H-2 Highway Business District shall be as follows:

- (a) General requirements:

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

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

(d) Accessory buildings which are attached to or not located more than ten feet from the main structure shall be considered a part of the main structure and shall comply with the height and front, side, and rear yard requirements of the main structure. Accessory buildings not a part of the main structure may be located in the required rear yard, but such accessory buildings may not occupy more than thirty percent of the required rear yard and shall not be nearer than two feet to any side or rear lot line. Such detached accessory buildings shall not exceed fifteen feet in height. Accessory buildings not a part of the main structure, if located not less than sixty feet from the front lot line, may extend into the required side yard though not nearer than two feet to the side lot line. A garage which is entered from an alley shall not be located closer than ten feet to the alley line.

(e) Dwellings existing in this district on the effective date of this title shall be considered nonstandard uses in conformance with the provisions of Chapter 27.61. (Ord. 12751 §19; November 5, 1979; prior Ord. 12571 §189; May 8, 1979).

**Table 27.41.080(a)**

	Lot Area (Sq. ft.)	Avg. Lot Width	Req'd Front Yard	Req'd Side Yard	Req'd Rear Yard	Height
All permitted uses	0	0'	25'	5', 20'* when abutting residential district	Smaller of 30'* or 20% of depth	45'
* When a side or rear yard abuts a residential district, it shall be screened in conformance with the landscape design standards adopted by the City of Lincoln.						



**Chapter 27.43****H-3 HIGHWAY  
COMMERCIAL DISTRICT****Sections:**

- 27.43.010 Scope of Regulations.**
- 27.43.020 Permitted Uses.**
- 27.43.030 Permitted Conditional Uses.**
- 27.43.040 Permitted Special Uses.**
- 27.43.050 Accessory Uses.**
- 27.43.060 Parking Regulations.**
- 27.43.070 Sign Regulations.**
- 27.43.075 Grading and Land Disturbance Regulations.**
- 27.43.080 Height and Area Regulations.**

This is a district for a redeveloping area intended to provide for low-density commercial uses requiring high visibility and/or access from major highways. The uses permitted generally include those of the neighborhood and highway business areas.

**27.43.010 Scope of Regulations.**

The regulations set forth in this chapter, or set forth elsewhere in this title when referred to in this chapter, are the regulations in the H-3 Highway Commercial District. (Ord. 12571 §190; May 8, 1979).

**27.43.020 Permitted Uses.**

A building or premises shall be permitted to be used for the following purposes in the H-3 Highway Commercial District:

- (a) Parks, playgrounds, and community buildings, owned or operated by a public agency;
- (b) Public libraries;
- (c) Public elementary and high schools, or private schools having a curriculum equivalent to a public elementary or public high school, and having no rooms regularly used for housing or sleeping purposes;
- (d) Churches;
- (e) Nonprofit religious, educational, and philanthropic institutions;

(f) Banks, savings and loan associations, credit unions and finance companies;

(g) Barber shops, beauty parlors, and shoeshine shops;

(h) Private schools;

(i) Dwelling for a caretaker employed and residing on the premises;

(j) Hospitals and clinics for animals, but not open kennels;

(k) Messenger and telegraph stations;

(l) Office buildings;

(m) Restaurants;

(n) Undertaking establishments;

(o) Photography studios;

(p) Key shops;

(q) Ambulance services;

(r) Recreational uses;

(s) Food storage lockers;

(t) Bakeries;

(u) Bottling works;

(v) Printing shops and photocopy centers;

(w) Mini-warehouses;

(x) Optical lens grinding and finishing;

(y) Laundries, dyeing, and drycleaning establishments, including launderettes, laundromats, and receiving stores for drycleaning or laundry;

(z) Creameries;

(aa) Sale barns;

(bb) Warehouses;

(cc) Outdoor theaters;

(dd) Parking lots;

(ee) Clubs;

(ff) Service facilities, including but not limited to repair and maintenance of home and office equipment and appliances;

(gg) Contractors' offices and storage yards, and lumber and coal yards;

(hh) Stores or shops for the sale of goods at retail, not otherwise permitted in this chapter, of no more than 20,000 square feet of floor area;

(ii) Enclosed commercial recreational facilities;

(jj) Service stations and motorcycle, bicycle, home and office equipment, and appliance sales and repair but not including vehicle body repair shops;

(kk) Mail order catalog sales. (Ord. 17311 §1; March 23, 1998; prior Ord. 16854 §36; August 14, 1995; Ord. 16144 §8; July 6, 1992; Ord. 14185 as amended by Ord. 14310; §1; January 27, 1986; Ord. 13736 §6; December 12, 1983; Ord. 12571 §191; May 8, 1979).

**27.43.030 Permitted Conditional Uses.**

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

**(a) Automobile/truck wash facility:**

(1) Automatic, conveyor-operated: The length and location of vehicle stacking lane or lanes for the approach side or sides and the exit side or sides of the wash operation shall be in conformance with the "guidelines and regulations for driveway design and location" as adopted by the City of Lincoln.

(2) Self-service, coin-operated: The length and location of vehicle stacking lane or lanes for the approach side or sides and the exit side or sides of the wash operation shall be in conformance with the "guidelines and regulations for driveway design and location" as adopted by the City of Lincoln.

(b) Motels and hotels: A distance of at least twenty feet shall be maintained between buildings on the lot and each hotel or motel unit shall have a minimum enclosed floor area of 200 square feet.

**(c) Early childhood care facilities:**

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

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

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

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

**(d) Recycling center:**

(1) Building area of such center shall not exceed 8,000 square feet;

(2) Adequate traffic stacking shall be provided on site as determined by the city;

(3) All required parking shall be provided on site;

(4) The facility shall not be designed to receive nor shall it accept shipments by semi-trailer trucks;

(5) Construction and operation of such center shall comply with all applicable health and fire codes.

**(e) Vehicle body repair shop:**

(1) All salvage material including vehicles being salvaged shall be inside a building;

(2) All vehicles stored outside shall be repaired to an operating state within thirty days;

(3) All vehicles stored outside waiting repair shall be screened in accordance with the screening requirements for salvage and scrap processing operations;

(4) Construction and operation of such shop shall comply with all applicable health and fire codes;

(5) Vehicle body repair shops lawfully existing on the effective date of this ordinance shall have until January 1, 1987 to be brought into compliance with conditions (1), (2), (3), and (4) above.

(6) Parking shall be provided in accordance with Section 27.67.066.

(7) Vehicle body repair shops shall not be converted to a permitted use unless all the parking requirements of Section 27.67.020 for such use are met.

**(f) Truck and heavy equipment sales:**

(1) Parking shall be provided in accordance with Section 27.67.066.

(2) Truck and heavy equipment sales shall not be converted to a permitted use unless all the parking requirements of Section 27.67.020 for such use are met.

**(g) Farm machinery sales establishments:**

(1) Parking shall be provided in accordance with Section 27.67.066.

(2) Farm machinery sales establishments shall not be converted to a permitted use unless all the parking requirements of Section 27.67.020 for such use are met.

**(h) Motor truck terminals:**

(1) Parking shall be provided in accordance with Section 27.67.066.

(2) Motor truck terminals shall not be converted to a permitted use unless all the parking requirements of Section 27.67.020 for such use are met.

**(i) Mobile home sales:**

(1) Parking shall be provided in accordance with Section 27.67.066.

(2) Mobile home sales shall not be converted to a permitted use unless all the parking requirements of Section 27.67.020 for such use are met.

(j) Places of business of plumbing contractors, heating and air conditioning contractors, and cabinet shops:

(1) Parking shall be provided in accordance with Section 27.67.066.

(2) Said places of business shall not be converted to a permitted unless all the parking requirements of Section 27.67.020 for such use are met.

(k) Automobile sales and repair, but not including vehicle body repair shops:

(1) Parking shall be provided in accordance with Section 27.67.066.

(2) Automobile sales and repair shops shall not be converted to a permitted use unless all the parking requirements of Section 27.67.020 for such use are met.

(l) Assembly facilities, including but not limited to the assembly of equipment, instruments and appliances such as computers and musical instruments.

(1) Assembly facilities may include limited fabrication of finished parts to be used in such assembly.

(2) The floor area of such facilities shall not exceed 50,000 square feet.

(3) Parking shall be provided in accordance with Section 27.67.066.

(4) Assembly facilities shall not be converted to a permitted use unless all the parking requirements of Section 27.67.020 for such use are met. (Ord. 17311 §2; March 23, 1998: prior Ord. 16926 §5; February 5, 1996: Ord. 16854 §37; August 14, 1995: Ord. 14185, as amended by Ord. 14310 §2; January 27, 1986: Ord. 13700 §2; September 26, 1983: Ord. 13344 §5; March 29, 1982: Ord. 12571 §192; May 8, 1979).

#### **27.43.040 Permitted Special Uses.**

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

- (a) Extraction of sand, gravel, and soil;
- (b) Bulk storage of petroleum products;
- (c) Broadcast towers;
- (d) Church steeples, towers, and ornamental spires exceeding the maximum permitted height in the H-3 Highway Commercial District;
- (e) Outdoor lighting for recreational facilities;
- (f) Expansion of nonconforming use;
- (g) Historic preservation;

(h) Stores and shops for retail sales and service which exceed 20,000 square feet of floor area;

(i) Public utility purposes;

(j) Wind energy conversion systems;

(k) Small batch concrete dispensing units;

(l) Health care facilities;

(m) Cemeteries;

(n) Sale of alcoholic beverages for consumption on the premises;

(o) Sale of alcoholic beverages for consumption off the premises;

(p) Limited landfills;

(q) Storage of vehicles for sale and resale on any portion of the lot where parking is permitted. (Ord. 17265 §4; October 20, 1997: prior Ord. 16941 §1; February 26, 1996: Ord. 16593 §7; April 11, 1994: Ord. 14780 §16; November 2, 1987: Ord. 13865, 13866, amended by Ord. 14378 §14; May 5, 1986: Ord. 13588 §16; May 9, 1983: Ord. 12978 §21; August 25, 1980: Ord. 12984 §21; April 7, 1980: Ord. 12657 §6; August 6, 1979: Ord. 12571 §193; May 8, 1979).

#### **27.43.050 Accessory Uses.**

Accessory uses permitted in the H-3 Highway Commercial District are accessory buildings and uses customarily incident to the permitted uses, including parking lots. (Ord. 12571 §194; May 8, 1979).

#### **27.43.060 Parking Regulations.**

All parking within the H-3 Highway Commercial District shall be regulated in conformance with the provisions of Chapter 27.67. (Ord. 12571 §195; May 8, 1979).

#### **27.43.070 Sign Regulations.**

Signs within the H-3 Highway Commercial District shall be regulated in conformance with the provisions of Chapter 27.69. (Ord. 12571 §196; May 8, 1979).

#### **27.43.075 Grading and Land Disturbance Regulations.**

Grading and land disturbance within the H-3 Highway Commercial District shall be regulated in conformance with the provisions of Chapter 27.81. (Ord. 17618 §23; February 22, 2000.)

**27.43.080 Height and Area Regulations.**

The maximum height and minimum lot requirements within the H-3 Highway Commercial District shall be as follows:

(a) General requirements:

*(See Table 27.43.080(a) below)*

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

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

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

yard requirements of the main structure. Accessory buildings not a part of the main structure may be located in the required rear yard, but such accessory buildings may not occupy more than thirty percent of the required rear yard and shall not be nearer than two feet to any side or rear lot line. Such detached accessory buildings shall not exceed fifteen feet in height. Accessory buildings not a part of the main structure, if located not less than sixty feet from the front lot line, may extend into the required side yard though not nearer than two feet to the side lot line. A garage which is entered from an alley shall not be located closer than ten feet to the alley line.

(e) Dwellings existing in this district on the effective date of this title shall be considered nonstandard uses in conformance with the provisions of Chapter 27.61. (Ord. 12751 §20; November 5, 1979; prior Ord. 12657 §7; August 6, 1979; Ord. 12571 §197; May 8, 1979).

**Table 27.43.080(a)**

	<b>Lot Area (Sq. ft.)</b>	<b>Avg. Lot Width</b>	<b>Req'd Front Yard</b>	<b>Req'd Side Yard</b>	<b>Req'd Rear Yard</b>	<b>Height</b>
All permitted uses	0	0'	30'	Smaller of 15' or 10% of lot width, min. 5'; 20' when abutting residential district	Smaller of 30'* or 20% of depth	45'
* When a side or rear yard abuts a residential district, it shall be screened in conformance with the landscape design standards adopted by the City of Lincoln.						

## Chapter 27.45

### H-4 GENERAL COMMERCIAL DISTRICT

#### Sections:

- 27.45.010 Scope of Regulations.
- 27.45.020 Permitted Uses.
- 27.45.030 Permitted Special Uses.
- 27.45.040 Accessory Uses.
- 27.45.050 Parking Regulations.
- 27.45.060 Sign Regulations.
- 27.45.065 Grading and Land Disturbance Regulations.
- 27.45.070 Height and Area Regulations.

This district is intended to provide a developing area for low-density commercial uses, requiring high visibility and access from major highways. The permitted uses should be planned to reduce internal conflicts and conflicts with surrounding uses. This district is specifically tailored to provide for certain general commercial uses as stated in the comprehensive plan.

#### 27.45.010 Scope of Regulations.

The regulations set forth in this chapter, or set forth elsewhere in this title when referred to in this chapter, are the regulations in the H-4 General Commercial District. (Ord. 12571 §198; May 8, 1979).

#### 27.45.020 Permitted Uses.

H-4 General Commercial District zoning shall not be permitted or granted upon any property having a total area of less than five acres. A building or premises shall be permitted to be used for the following purposes in the H-4 General Commercial District:

- (a) Automobile, motorcycle, truck, and heavy equipment sales;
- (b) Commercial storage or sale of farm implements and products used for agriculture, but not including fertilizer, or toxic or flammable agricultural chemicals;
- (c) Lumber yards;
- (d) Warehouses;
- (e) Mini-warehouses;
- (f) Service centers for the repair of machinery and equipment, but not including salvage or scrap processing operations;

- (g) Truck terminals;
- (h) Dwellings for caretakers employed and required to reside on the premises;
- (i) Ambulance service;
- (j) Outdoor theaters;
- (k) Hospitals and clinics for animals but not open kennels;
- (l) Sale barns;
- (m) Contractors' offices and storage, including electrical, plumbing, heating, and air conditioning contractors;
- (n) Restaurants;
- (o) Service stations;
- (p) Truck stops;
- (q) Mobile home sales;
- (r) Auctions;
- (s) Stores or shops for retail sales and service, not to exceed 30,000 square feet of floor area;
- (t) Food storage lockers;
- (u) Enclosed commercial recreational facilities;
- (v) Banks, savings and loan associations, credit unions, and finance companies;
- (w) Mail order catalog sales. (Ord. 17436 §1; November 16, 1998: prior Ord. 16144 §9; July 6, 1992: Ord. 16128 §1; June 8, 1992: Ord. 14185 §13; September 3, 1985: Ord. 13736 §7; December 12, 1983: Ord. 12657 §8; August 6, 1979: Ord. 12571 §199; May 8, 1979).

#### 27.45.030 Permitted Special Uses.

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

- (a) Extraction of sand, gravel, and soil;
- (b) Bulk storage of petroleum products;
- (c) Stores and shops for retail sales and service of more than 30,000 but less than 100,000 square feet in floor area;
- (d) Any permitted use which exceeds the maximum height permitted in the district;
- (e) Facilities for the commercial storage or sale of fertilizer, or toxic or flammable agricultural chemicals;
- (f) Broadcast towers;
- (g) Expansion of nonconforming use;
- (h) Historic preservation;
- (i) Public utility purposes;
- (j) Wind energy conversion systems;
- (k) Planned service commercial development;

- (l) Small batch concrete dispensing units;
- (m) Cemeteries;
- (n) Sale of alcoholic beverages for consumption on the premises;
- (o) Sale of alcoholic beverages for consumption off the premises;
- (p) Early childhood care facilities. (Ord. 16894 §1; November 6, 1995: prior Ord. 16854 §38; August 14, 1995: Ord. 16593 §8; April 11, 1994: Ord. 14780 §17; November 2, 1987: Ord. 14378 §15; May 5, 1986: Ord. 13865 §2; June 18, 1984: Ord. 13588 §17; May 9, 1983: Ord. 13510 §1; December 13, 1982: Ord. 12978 §22; August 25, 1980: Ord. 12894 §22; April 7, 1980: Ord. 12657 §9; August 6, 1979: Ord. 12571 §200; May 8, 1979).

**27.45.040 Accessory Uses.**

Accessory uses permitted in the H-4 General Commercial District are accessory buildings and uses customarily incident to the permitted uses, including parking lots. (Ord. 12571 §201; May 8, 1979).

**27.45.050 Parking Regulations.**

All parking within the H-4 General Commercial District shall be regulated in conformance with the provisions of Chapter 27.67. (Ord. 12571 §202; May 8, 1979).

**27.45.060 Sign Regulations.**

Signs within the H-4 General Commercial District shall be regulated in conformance with the provisions of Chapter 27.69. (Ord. 12571 §203; May 8, 1979).

**27.45.065 Grading and Land Disturbance Regulations.**

Grading and land disturbance within the H-4 General Commercial District shall be regulated in conformance with the provisions of Chapter 27.81. (Ord. 17618 §24; February 22, 2000.)

**27.45.070 Height and Area Regulations.**

The maximum height and minimum lot requirements within the H-4 General Commercial District shall be as follows:

- (a) General requirements:

*(See Table 27.45.080(a) at the end of this chapter)*

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

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

- (d) Accessory buildings which are attached to or not located more than ten feet from the main structure shall be considered a part of the main structure and shall comply with the height and front, side, and rear yard requirements of the main structure. Accessory buildings not a part of the main structure may be located in the required rear yard if such yard does not abut a residential district, but such accessory buildings may not occupy more than thirty percent of the required rear yard and shall not be nearer than two feet to any side or rear lot line. Such detached accessory buildings shall not exceed fifteen feet in height. Accessory buildings not a part of the main structure, if located not less than sixty feet from the front lot line, may extend into the required side yard though not nearer than two feet to the side lot line. A garage which is entered from an alley shall not be located closer than ten feet to the alley line.

- (e) Dwellings existing in this district on the effective date of this title shall be considered nonstandard uses in conformance with the provisions of Chapter 27.61. (Ord. 12751 §21; November 5, 1979: prior Ord. 12571 §204; May 8, 1979).

Table 27.45.070(a)

	Lot Area (Sq. ft.)	Frontage	Req'd Front Yard	Req'd Side Yard	Req'd Rear Yard	Height
All permitted uses	15,000	75'	50'	20'; 50'* if abutting residential district	20'; 50'* if abutting residential district	35'

\* When a side or rear yard abuts a residential district, it shall be screened in conformance with the landscape design standards adopted by the City of Lincoln.



## Chapter 27.47

### I-1 INDUSTRIAL DISTRICT

#### Sections:

- 27.47.010 Scope of Regulations.
- 27.47.020 Use Regulations.
- 27.47.030 Permitted Special Uses.
- 27.47.035 Permitted Conditional Uses.
- 27.47.040 Accessory Uses.
- 27.47.050 Parking Regulations.
- 27.47.060 Sign Regulations.
- 27.47.065 Grading and Land Disturbance Regulations.
- 27.47.070 Height and Area Regulations.

This district is for a developing stable or redeveloping area representing light and heavy industrial uses and having a relatively high intensity of use and land coverage. (Ord. 12701 §6; October 2, 1979; prior Ord. 12571 §235; May 8, 1979).

#### 27.47.010 Scope of Regulations.

The regulations set forth in this chapter, or set forth elsewhere in this title when referred to in this chapter, are the I-1 Industrial District regulations. (Ord. 12571 §236; May 8, 1979).

#### 27.47.020 Use Regulations.

(a) General regulations. No building shall be erected, converted, reconstructed, or structurally altered for use as a church, library, school (except a private school authorized pursuant to Section 27.63.075), hospital, indoor theater, or residence, except for resident watchmen and caretakers or supervisory personnel employed and residing on the premises or as permitted in accordance with Chapter 27.63 of this title. Those special permitted uses in Section 27.47.030 below shall be limited by the restrictions placed thereon.

(b) Permitted uses. Subject to the foregoing, a building or premises may be used for any commercial or industrial purpose not in conflict with any other ordinances or regulations of the City of Lincoln. (Ord. 16909 §1; December 18, 1995; prior Ord. 15368 §14; December 18, 1989; Ord. 15165 §1; May 1, 1989; Ord. 14728 §1; August 10, 1987; Ord. 13745 §5; January 3, 1984; Ord. 12571 §237; May 8, 1979).

#### 27.47.030 Permitted Special Uses.

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

- (a) The refining, distillation or manufacture of:
  - (1) Acids or alcohols;
  - (2) Ammonia, bleach, or chlorine;
  - (3) Asphalt, tar, or products made therewith, including roofing or waterproofing;
  - (4) Cement, lime, gypsum, or plaster of paris;
  - (5) Disinfectants;
  - (6) Dyestuffs;
  - (7) Fertilizer;
  - (8) Glue, sizing, or gelatin;
  - (9) Oilcloth, linoleum, or oiled rubber goods;
  - (10) Paint, shellac, turpentine, or oils;
  - (11) Rubber, gutta-percha, balata, creosote, or products treated therewith;
  - (12) Shoe polish;
- (b) The operation of:
  - (1) Bag cleaning works;
  - (2) Blast furnaces, coke ovens, smelting or ore reduction works;
  - (3) Boiler works;
  - (4) Forge;
  - (5) Rock crusher, stone mill, or quarry;
  - (6) Rolling mill;
  - (7) Yeast plant;
- (c) Production, manufacture, distribution, and storage of toxic, radioactive, flammable, or explosive materials, including chemicals and gases, fireworks, and explosives, except that any of the above referenced uses, except fireworks, may be stored or used in connection with a permitted commercial, business, or industrial purpose as allowed by Section 27.47.020(b) as incidental to the referenced permitted use without the requirement of obtaining a special permit;
- (d) Tanning, curing, or storage of raw hides or skins; stockyards or slaughter of animals or fowl; rendering fat; distillation of bones, coal or wood;
- (e) Dumping or reduction of garbage, offal, or dead animals;
- (f) Scrap processing operation, salvage yard, or enclosed disassembly operation in conformance with Section 27.63.500;
- (g) Refining or bulk storage of petroleum or natural gas, or their products;

(h) The manufacture of acetylene, the transfer of the gas from one container to another, or the storage of the gas in containers having a capacity greater than the equivalent of 1,000 cubic feet at standard temperature and pressure;

(i) Stores and shops for retail sales and service exceeding 20,000 square feet in floor area;

(j) Any permitted use which exceeds the maximum height permitted in the district;

(k) Broadcast towers;

(l) Outdoor theaters;

(m) Extraction of sand, gravel, and soil;

(n) Expansion of nonconforming uses;

(o) Historic preservation;

(p) Technical training centers;

(q) Wind energy conversion systems;

(r) Temporary shelter for the homeless;

(s) Health care facilities;

(t) Early childhood care facilities;

(u) Limited landfills;

(v) Race tracks for motorized vehicles;

(w) Mixed use redevelopment project;

(x) Sale of alcoholic beverages for consumption on the premises;

(y) Sale of alcoholic beverages for consumption off the premises;

(z) Private schools in conformance with Section 27.63.075. (Ord. 16909 §2; December 18, 1995; prior Ord. 16884 §1; October 23, 1995; Ord. 16854 §39; August 14, 1995; Ord. 16593 §9; April 11, 1994; Ord. 15368 §15; December 18, 1989; Ord. 15165 §2; May 1, 1989; Ord. 14953 §2; August 22, 1988; Ord. 14905 §2; June 13, 1988; Ord. 14780 §18; November 2, 1987; Ord. 14728 §2; August 10, 1987; Ord. 14185 §14; September 3, 1985; Ord. 14035 §2; January 21, 1985; Ord. 13853 §5; May 21, 1984; Ord. 13588 §18; May 9, 1983; Ord. 12978 §23; August 25, 1980; Ord. 12657 §10; August 6, 1979; Ord. 12571 §238; May 8, 1979).

**27.47.035 Permitted Conditional Uses.**

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

(a) Recycling center, authorized by Chapter 5.41 of the Lincoln Municipal Code:

(1) The building area of such center shall not exceed 8,000 square feet;

(2) Adequate traffic stacking shall be provided on site as determined by the city;

(3) All required parking shall be provided on site;

(4) The facility shall not be designed to receive nor shall it accept shipments by semi-trailer trucks;

(5) Construction and operation of such center shall comply with all applicable health and fire codes.

(b) Vehicle body repair shop:

(1) All salvage material including vehicles being salvaged shall be kept inside a building;

(2) All vehicles stored outside a building shall be repaired to an operating state within thirty days;

(3) All vehicles stored outside a building waiting repair shall be screened in accordance with the screening requirements for salvage and scrap processing operations;

(4) Construction and operation of such shop shall comply with all applicable health and fire codes;

(5) Vehicle body repair shops lawfully existing on the effective date of this ordinance shall have until January 1, 1987 to be brought into compliance with conditions (1), (2), (3), and (4) above. (Ord. 16822 §2; July 10, 1995; prior Ord. 14185 §15; September 3, 1985; Ord. 13700 §3; September 26, 1983).

**27.47.040 Accessory Uses.**

Accessory uses permitted in the I-1 Industrial District are accessory buildings and uses customarily incident to the permitted uses. (Ord. 12571 §239; May 8, 1979).

**27.47.050 Parking Regulations.**

All parking within the I-1 Industrial District shall be regulated in conformance with the provisions of Chapter 27.67. (Ord. 12571 §240; May 8, 1979).

**27.47.060 Sign Regulations.**

Signs within the I-1 Industrial District shall be regulated in conformance with the provisions of Chapter 27.69. (Ord. 12571 §241; May 8, 1979).

**27.47.065 Grading and Land Disturbance Regulations.**

Grading and land disturbance within the I-1 Industrial District shall be regulated in conformance with the provisions of Chapter 27.81. (Ord. 17618 §25; February 22, 2000.)

**27.47.070 Height and Area Regulations.**

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

(a) The required front yard shall be fifteen feet except that on lots developed with buildings on the effective date of this title, the front yard shall be none except where the frontage on one side of a street between two intersecting streets is located partly in the I-1 Industrial District and partly in a district that requires a front yard, in which case the front yard requirements of the adjacent district shall apply to the I-1 Industrial District from the place where it abuts the other district to the next intersecting street, or for 300 feet, whichever is less.

(b) There shall be no required side and rear yards except when a side or rear yard abuts a residential district, in which case there shall be a required yard of twenty feet or ten percent of the lot width, whichever is less, provided the yard shall not be reduced to less than five feet, and it shall be screened in conformance with the landscape design standards of the City of Lincoln.

(c) The maximum height in the district shall be seventy-five feet.

(d) Accessory buildings shall not extend into any required yard.

(e) Dwellings existing in this district on the effective date of this title shall be considered nonstandard uses in conformance with the provisions of Chapter 27.61.

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

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

(h) The required front yard shall be entirely devoted to landscaped area except for necessary paving of walkways and driveways to reach parking and loading areas in the side or rear yards, and provided, further, that any driveways which intersect the front yard shall not be wider than thirty feet. (Ord. 12571 §242; May 8, 1979).



## Chapter 27.49

### I-2 INDUSTRIAL PARK DISTRICT

#### Sections:

- 27.49.010 Scope of Regulations.
- 27.49.020 Use Regulations.
- 27.49.030 Permitted Conditional Uses.
- 27.49.040 Permitted Special Uses.
- 27.49.050 Accessory Uses.
- 27.49.060 Parking Regulations.
- 27.49.070 Sign Regulations.
- 27.49.075 Grading and Land Disturbance Regulations.
- 27.49.080 Height and Area Regulations.

This district is for a developing area intended for manufacturing and industrial uses in an open and environmentally attractive atmosphere.

#### 27.49.010 Scope of Regulations.

The regulations set forth in this chapter, or set forth elsewhere in this title when referred to in this chapter, are the regulations in the I-2 Industrial Park District. (Ord. 12571 §243; May 8, 1979).

#### 27.49.020 Use Regulations.

##### (a) General regulations.

(1) No building shall be erected, converted, reconstructed, or structurally altered for church, library, school, except industrial trade school, hospital, theater, or residential purposes, except for motels, or for resident foremen, caretakers, or supervisory personnel employed and residing on the premises:

(2) No raw galvanized or other raw metal sheeting shall be used for the exterior construction of any building.

(3) Scrap processing operations and salvage yards shall not be permitted.

(4) Storage of explosives shall be prohibited.

(5) No floor area which is used for the retail sale of goods, excluding eating facilities, shall be permitted except at the rate of twelve and one-half square feet per acre of I-2 Industrial Park zoned land located within any single I-2 Industrial Park District at the time the required acreage is at least fifty percent occupied for permitted industrial uses.

(6) Those special and conditional uses permitted in Sections 27.49.030 and 27.49.040 below shall be limited by the restrictions placed thereon.

(b) Permitted uses. Subject to the general regulations of Section 27.49.020(a) above, any commercial or industrial use is permitted in the I-2 Industrial Park District in compliance with all applicable ordinances and regulations including but not limited to the environmental performance standards relating to noise, emission, dust, odor, glare, and heat approved by resolution of City Council. (Ord. 15368 §16; December 18, 1989; prior Ord. 14185, as amended by Ord. 14192 §1; September 3, 1985; Ord. 13745 §6; January 3, 1984; Ord. 12571 §244; May 8, 1979).

#### 27.49.030 Permitted Conditional Uses.

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

(a) Fuel oil storage tanks and all bulk storage of oils, petroleum and similar flammable liquids and chemicals:

(1) Shall be adequately screened from public view;

(2) Shall be for storage of such materials for use on the premises and not for resale, except that resale of such stored material at retail only shall be permitted in conjunction with the operation of a service station or similar retail outlet;

(3) Shall be located, constructed, maintained, and operated in compliance with all codes and regulations of the City of Lincoln.

(b) Liquified petroleum gas and similar gas used for fuel stored above ground:

(1) Tanks may not exceed 30,000 gallon capacity;

(2) Such gas shall be for use on the premises, and not for resale;

(3) Such tanks shall be adequately screened from public view by a fire-resistant ventilated barrier which shall be at least six feet in height;

(4) Must be in full compliance with all codes and regulations of the City of Lincoln;

(c) All other combustible material: To be stored in such a way as to permit free access of fire-fighting equipment.

(d) Open storage of any other material: Only in areas enclosed or otherwise adequately screened from public view with an enclosure or screen at least six feet in height.

(e) Neighborhood recycling center:

(1) Building area of such center shall not exceed 8,000 square feet;

(2) There shall be no outdoor storage of materials or equipment;

(3) The operation of such center shall not include dismantling or disassembling of vehicles or major appliances;

(4) No hazardous or explosive materials shall be accepted at such center;

(5) Adequate traffic stacking shall be provided on site as determined by the city;

(6) All required parking shall be provided on site;

(7) There shall be no processing of materials by heat, including, but not limited to, melting, smelting, or burning;

(8) The facility shall not be designed to receive nor shall it accept shipments by semi-trailer trucks;

(9) Construction and operation of such center shall comply with all applicable health and fire codes.

(f) Vehicle body repair shop:

(1) All salvage material, including vehicles being salvaged, shall be inside a building;

(2) All vehicles stored outside shall be repaired to an operating state within thirty days;

(3) All vehicles stored outside waiting repair shall be screened in accordance with the screening requirements for salvage and scrap processing operations;

(4) Construction and operation of such shop shall comply with all applicable health and fire codes;

(5) Vehicle body repair shops lawfully existing on the effective date of this ordinance shall have until January 1, 1987 to be brought into compliance with conditions (1), (2), (3), and (4) above. (Ord. 16501 §1; October 25, 1993: prior Ord. 15614 §1; July 9, 1990: Ord. 14185 §17; September 3, 1985: Ord. 13700 §4; September 26, 1983: Ord. 12571 §245; May 8, 1979).

**27.49.040 Permitted Special Uses.**

A building or premises may be used for the following purposes in the I-2 Industrial Park District

if a special permit for such use has been obtained in conformance with the requirements of Chapter 27.63:

(a) Mining, quarrying, and stone mills;

(b) Broadcast towers;

(c) Early childhood care facilities;

(d) Expansion of nonconforming use;

(e) Historic preservation;

(f) Wind energy conversion systems;

(g) Enclosed disassembly operation in conformance with Section 27.63.500;

(h) Sale of alcoholic beverages for consumption on the premises;

(i) Any permitted use which exceeds the maximum height permitted in the district;

(j) Storage of vehicles for sale and resale on any portion of the lot where parking is permitted. (Ord. 17265 §5; October 20, 1997: prior Ord. 16854 §40; August 14, 1995: Ord. 16844 §1; August 7, 1995: Ord. 16593 §10; April 11, 1994: Ord. 15368 §17; December 18, 1989: Ord. 14780 §19; November 2, 1987: Ord. 14185, as amended by Ord. 14192 §2; September 3, 1985: Ord. 13588 §19; May 9, 1983: Ord. 12978 §24; August 25, 1980: Ord. 12571 §246; May 8, 1979).

**27.49.050 Accessory Uses.**

Accessory uses permitted in the I-2 Industrial Park District are accessory buildings and uses customarily incident to the permitted uses. (Ord. 12571 §247; May 8, 1979).

**27.49.060 Parking Regulations.**

All parking within the I-2 Industrial Park District shall be regulated in conformance with the provisions of Chapter 27.67. (Ord. 12571 §248; May 8, 1979).

**27.49.070 Sign Regulations.**

Signs within the I-2 Industrial Park District shall be regulated in conformance with the provisions of Chapter 27.69. (Ord. 12571 §249; May 8, 1979).

**27.49.075 Grading and Land Disturbance Regulations.**

Grading and land disturbance within the I-2 Industrial Park District shall be regulated in conformance with the provisions of Chapter 27.81. (Ord. 17618 §26; February 22, 2000.)

**27.49.080 Height and Area Regulations.**

The maximum height and minimum lot requirements within the I-2 Industrial Park District shall be as follows:

(a) General requirements:

*(See Table 27.49.080(a) below)*

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

(c) There shall be a required front yard on each street side of a corner lot; provided, however, that the buildable width of a lot of record on November 6, 1961, need not be reduced to less than twenty-eight feet except where necessary to provide a required side yard of not less than five feet in place of one of the required front yards.

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

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

(e) The required front yard shall be entirely devoted to landscaped area, except for guest parking which is permitted in an area not to exceed thirty percent of the required front yard and necessary paving of walkways and driveways to reach parking and loading areas in the side or rear yards, and provided, further, that any driveways which intersect the front yard shall not be wider than thirty feet. The required side and rear yards shall be entirely devoted to landscaped area when they abut a residential district.

(f) No loading facilities shall be provided in the front yard nor in any side yard adjacent to any residential district. Loading facilities located within 150 feet of any street shall be visually screened. (Ord. 16844 §2; August 7, 1995: prior Ord. 12751 § 22; November 5, 1979: Ord. 12571 §250; May 8, 1979).

**Table 27.49.080(a)**

	Lot Area	Avg. Lot Width	Req'd Front Yard	Req'd Side Yard	Req'd Rear Yard	Height
All permitted uses	1 acre	150'	50'	20'; 50'* when abutting residential district	20'; 50'* when abutting residential district	55'
* When a side or rear yard abuts a residential district, it shall be screened in conformance with the landscape design standards adopted by the City of Lincoln.						



## Chapter 27.51

### I-3 Employment Center District

#### Sections:

- 27.51.010 Scope of Regulations.
- 27.51.020 General Purpose.
- 27.51.030 Use Regulations.
- 27.51.040 Permitted Conditional Uses.
- 27.51.050 Permitted Special Uses.
- 27.51.060 Accessory Uses.
- 27.51.070 Parking Regulations.
- 27.51.080 Sign Regulations.
- 27.51.085 Grading and Land Disturbance Regulations.
- 27.51.090 Height and Area Regulations.
- 27.51.100 Use Permit Section.

#### 27.51.010 Scope of Regulations.

The regulations set forth in this chapter, or set forth elsewhere in this title when referred to in this chapter, are the district regulations in the I-3 Employment Center District. (Ord. 17232 § 1; August 18, 1997).

#### 27.51.020 General Purpose.

The regulations for the I-3 Employment Center District set forth in this chapter are established to permit the development of attractive office and light industrial facilities as employment centers for location of plant facilities or headquarters of major employers. The I-3 Employment Center District is also intended to provide such employment centers with the surrounding support uses, including complementary office and retail use complementing the general land use pattern of the community and assisting the implementation of the adopted goals and policies of the community. (Ord. 17232 § 2; August 18, 1997).

#### 27.51.030 Use Regulations.

(a) General Regulations. Any development, including building and open land uses, except farming and the sale of farm products, shall be prohibited in the I-3 Employment Center District prior to the approval of a use permit in conformance with the requirements of this chapter. I-3 Employment Center District zoning shall not be permitted or granted upon

any property having a total area of less than seventy-five (75) acres, nor in any location not designated as an Employment Center in the Comprehensive Plan.

#### (b) Specific Regulations.

(1) The aggregate retail use permitted in subsection (c) below shall not exceed twenty percent (20%) of the buildable square footage of the land included within the boundaries of the use permit assuming a floor-to-area ratio of one to four. Similarly, the aggregate office use permitted in subsection (c) below shall not exceed thirty percent (30%) of the buildable square footage of the land included within the boundaries of the use permit assuming a floor-to-area ratio of one to four.

(2) The total of all retail, office, post-secondary education facilities, nonprofit religious, educational, and philanthropic institutions permitted in subsection (c) below and early childhood care facilities specially permitted in Section 27.51.050 below shall not in the aggregate exceed fifty percent (50%) of the buildable square footage of the land included within the boundaries of the use permit assuming a floor-to-area ratio of one to four.

(3) Notwithstanding (1) and (2) above, 75,000 square feet or more of floor area used by a single user shall not be subject to the thirty percent (30%) and fifty percent (50%) limitations.

(4) Those conditional and special uses permitted in Sections 27.51.040 and 27.51.050 below shall be limited by the restrictions placed thereon.

(5) All uses shall comply with all applicable ordinances and regulations including such environmental performance standards relating to noise, emission, dust, odor, glare, and heat as may be approved by resolution of the City Council.

(6) No galvanized or other raw metal sheeting shall be used for the exterior construction of any building. No painted galvanized or other painted metal sheeting shall be used for more than seventy percent (70%) of the exterior construction of a building on any side of such building which is visible from an abutting public street.

(c) Permitted Uses. Subject to the general and specific regulations above, a building or premises may be used for the following purposes in the I-3 Employment Center District:

- (1) Retail use;
- (2) Office buildings;
- (3) Production, manufacturing, assembly, processing, warehousing, storage, distribution, or transportation of goods and materials, except:

(i) The refining, distillation, or manufacture of:

- A. Acids or alcohols;
- B. Ammonia, bleach, or chlorine;
- C. Asphalt, tar, or products made therewith, including roofing or waterproofing;
- D. Cement, lime, gypsum, or plaster of paris;
- E. Disinfectants;
- F. Dyestuffs;
- G. Fertilizer;
- H. Glue, sizing, or gelatin;
- I. Oilcloth, linoleum, oiled rubber goods;
- J. Paint, shellac, turpentine, or oils;
- K. Rubber, gutta-percha, balata, creosote, or products treated therewith;
- L. Shoe polish;

(ii) The operation of:

- A. Bag cleaning works;
- B. Blast furnaces, coke ovens, smelting or ore reduction works;
- C. Boiler works;
- D. Forges;
- E. Rolling mills;
- F. Yeast plants;

(iii) Production, manufacture, processing, distribution, and storage, warehousing, or transportation of toxic, radioactive, flammable, or explosive materials, except that any of the above referenced materials may be stored or used in connection with a permitted use as allowed by any ordinances or regulations of the City of Lincoln as incidental to the permitted use;

(iv) Tanning, curing, or storage of raw hides or skins; stockyards or slaughter of animals or fowl; rendering fat; distillation of bones, coals or wood;

(v) Dumping or reduction of garbage, offal, or dead animals;

(vi) The manufacture of acetylene, or the transfer of the gas from one container to another, or the storage of the gas in containers having a capacity greater than the equivalent of 1,000 cubic feet at standard temperature and pressure;

(vii) Mining, quarrying, stone milling, or rock crushing;

(viii) Extraction of sand, gravel, or soil;

(ix) The milling, processing, refining, or distillation of agricultural crops.

(4) Community colleges, colleges, or other post-secondary education facilities;

(5) Private schools;

(6) Nonprofit religious, educational and philanthropic institutions;

(7) Farming and the sale of farm produce. (Ord. 17232 § 3; August 18, 1997).

#### **27.51.040 Permitted Conditional Uses.**

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

(a) Fuel oil storage tanks and all bulk storage of oils, petroleum and similar flammable liquids and chemicals. Such use shall:

(1) Be adequately screened from public view;

(2) Be for storage of such materials for use on the premises and not for resale, except that resale of such stored material at retail only shall be permitted in conjunction with the operation of a service station or similar retail outlet pursuant to Section 27.51.070;

(3) Be located, constructed, maintained, and operated in compliance with all codes and regulations of the City of Lincoln;

(b) Liquified petroleum, gas and similar gas used for fuel stored in tanks above ground, provided:

(1) Such tanks may not exceed 30,000 gallon capacity;

(2) Such gas shall be used for use on the premises, and not for resale;

(3) Such tanks shall be adequately screened from public view by a fire-resistant ventilated barrier which shall be at least six feet in height;

(4) Such use must be in full compliance with all codes and regulations of the City of Lincoln;

(c) All other combustible materials:

(1) Combustible materials shall be stored in such a way as to permit free access of fire-fighting equipment;

(2) Such use must be in full compliance with all codes and regulations of the City of Lincoln;

(d) Motels and hotels, provided that the total square footage of such use shall not exceed ten percent (10%) of the buildable square footage of the

tract of land included within the boundaries of the use permit assuming a floor-to-area ratio of one to four.

Accessory uses operated by a concessionaire or lessee of an employer may occupy no more than five percent (5%) of the floor area of the permitted use. (Ord. 17232 § 4; August 18, 1997).

#### **27.51.050 Permitted Special Uses.**

A building or premises may be used for the following purposes in the I-3 Employment Center District if a special permit for such use has been obtained in conformance with the requirements of this chapter and Chapter 27.63:

- (a) Broadcast tower;
- (b) Sale of alcoholic beverages for consumption on the premises, provided the locational requirements of Section 27.63.680 have been met;
- (c) Sale of alcoholic beverages for consumption off the premises, provided the locational requirements of Section 27.63.685 have been met;
- (d) Early childhood care facilities;
- (e) Public elementary and high schools or private schools having a curriculum equivalent to a public elementary or public high school. (Ord. 17232 § 5; August 18, 1997).

#### **27.51.060 Accessory Uses.**

Accessory uses permitted in the I-3 Employment Center District are accessory buildings and uses customarily incident to the permitted uses. Accessory uses involving the open storage of materials or other articles shall only be allowed in areas enclosed or otherwise adequately screened from public view with an enclosure or screen at least six feet in height. (Ord. 17232 § 6; August 18, 1997).

#### **27.51.070 Parking Regulations.**

All parking within the I-3 Employment Center District shall be regulated in conformance with the provisions of Chapter 27.67. (Ord. 17232 § 7; August 18, 1997).

#### **27.51.080 Sign Regulations.**

Signs within the I-3 Employment Center District shall be regulated in conformance with the provisions of Chapter 27.69. (Ord. 17232 § 8; August 18, 1997).

#### **27.51.085 Grading and Land Disturbance Regulations.**

Grading and land disturbance within the I-3 Employment Center District shall be regulated in

conformance with the provisions of Chapter 27.81. (Ord. 17618 §27; February 22, 2000.)

#### **27.51.090 Height and Area Regulations.**

Minimum area for the establishment of the I-3 Employment Center District is seventy-five acres. The maximum height and minimum lot requirements within the I-3 Employment Center District shall be as follows:

- (a) General Requirements:  
(See Table 27.51.090(a) at the end of this chapter)
- (b) There shall be a required front yard on each street side of a double-frontage lot.
- (c) There shall be a required front yard on each street side of a corner lot.
- (d) Accessory buildings shall comply with the height, and front, side, and rear yard requirements of the main structure.
- (e) All required yards shall be entirely devoted to landscaping, except for necessary paving of walkways and driveways to reach parking and loading areas from a public or private street, and provided, further, that any driveways which intersect the front yard shall not be wider than thirty feet.
- (f) No loading facilities shall be located in any required yard. Loading facilities located within 150 feet of any street shall be visually screened. (Ord. 17232 § 9; August 18, 1997).

#### **27.51.100 Use Permit Section.**

(a) Minimum Requirements. No use permit shall be granted upon any property having a total area of less than seventy-five acres, nor for any plan unless it is in conformance with all applicable city standards and with all regulations of the applicable sections of this chapter. The Planning Commission shall impose such conditions as are appropriate and necessary to ensure compliance with the comprehensive plan and protect the health, safety, and general welfare in the issuance of any use permits. Such conditions may include an increase in the minimum yard requirements and decrease in the maximum height restrictions set forth in this chapter. Lots fronting on private roadways may be permitted. Unless expressly modified by the terms of the use permit, all regulations of the I-3 Employment Center District shall apply.

(b) Environmental Performance Standards. Any applicant for a use permit under the provisions of this section shall comply with environmental performance standards relating to noise, emission, dust, odor, glare, and heat as shall be approved by resolution of the City Council.

(c) Landscape Plan. Before building permit approval, each application for a use permit under this section shall include a landscape plan which shall show proposed plantings in conformance with city standards in all required yard areas, open space areas, parking areas, and around proposed buildings. The Planning Director shall develop appropriate written standards for such landscape plans, which standards shall be approved by resolution of the City Council.

(d) Application Requirements. Applications for a use permit under this section shall be filed in writing on a form provided by the city with the Planning Department. A preliminary plan shall accompany each application and shall include the following information:

- (1) Boundary survey and gross acreage;
- (2) Contour lines at intervals not to exceed five feet based on city data. Spot elevations on one hundred foot grid shall be required to fully indicate the topography of flat land.
- (3) Street right-of-way;
- (4) Utility easements;
- (5) Adjacent land use and zoning classifications;
- (6) The amount of traffic to be generated and the street facilities required to accommodate said traffic;
- (7) Location of building envelopes within which structures may be located;
- (8) Vicinity map;
- (9) Date prepared, scale and north point;
- (10) Location of parking envelopes within which parking lots shall be located and stating the required number of parking stalls;
- (11) Proposed use and total square feet of buildings to be located within the proposed I-3 employment center in accordance with Section 27.51.030(b);
- (12) Acreage and percentage of total developed building area, parking lot, open space, and similar uses;
- (13) Location of existing tree masses;
- (14) Identify vehicular ingress and egress points;
- (15) Building and parking set-back lines;

(16) Generalized grading plan;

(17) On-site and off-site water and sanitary sewer improvements;

(18) On-site and off-site drainage and storm sewer improvements;

(19) Proposed name of the project;

(20) Name, address, and telephone number of developer, certified record owner or owners, and their addresses; and legal description of the proposed use permit area including the number of acres.

(e) Planning Commission Review. Upon the filing of an application together with all maps, data, and information required by this section, the City Council shall refer the application to the Planning Commission. The Planning Commission shall hold a public hearing upon such application and shall consider the effect of the proposed use upon the surrounding neighborhood, the community as a whole, and other matters relating to public health, safety, and general welfare.

(f) Planning Commission Action. After holding at least one public hearing, the Planning Commission shall proceed to give final consideration to the application and may require that certain conditions be fulfilled by the applicant in conjunction with approval of the use permit applied for, and may include the requirement that applicant grant additional right of way in accordance with the Comprehensive Plan. The Planning Commission may require the execution of a written agreement with the city relating to the installation of public improvements by the applicant, together with the execution of performance bonds or provision of other appropriate surety relating thereto. The installation of all public improvements shall be accomplished in compliance with existing city standards as provided by ordinance or by departmental publications approved by resolution of the City Council. In the event the Planning Commission fails to act upon the application within sixty days from the date of referral, the applicant may appeal to the City Council requesting final action. If the City Council determines that the delay of the Planning Commission is unjustified, it shall direct the commission to act upon the application no later than the commission's next regularly scheduled meeting.

(g) Appeal of Planning Commission Action.

(1) Any aggrieved person or any person or group officially designated to participate in the administration of this title may appeal any action of the Planning Commission to the City Council by filing notice of appeal with the City Clerk within

fourteen days following the action of the Planning Commission.

(2) Upon receipt of the appeal by the City Council, the council shall hold a public hearing thereon within thirty days from the date of appeal. Notice of the public hearing shall be given as provided in Chapter 27.81.

(3) The City Council may, after public hearing, in conformity with the provisions of this title reverse or affirm, wholly or partially, or may modify the action of the Planning Commission appealed from.

(h) Adjustment of Yard Requirements and Height Restrictions. Upon request of the applicant, the City Council may, after report and recommendation of the Planning Commission, decrease the minimum yard requirements and increase the maximum height restrictions and may adjust the requirements relative to the location of buildings and required parking spaces and lot frontage set forth in this chapter consistent with adequate protection of the environment of adjacent land uses. The Planning Commission shall hold a public hearing upon the requested adjustment at the same time that it hears the application for the use permit and shall make a report to the City Council regarding the effect the proposed use and adjustment has upon the surrounding neighborhood, the community as a whole, and other matters relating to public health, safety, and general welfare. Upon receiving a report from the Planning Commission, the City Council shall take final action upon the application for the use permit and the requested adjustment.

(i) Amendment. The Planning Director is authorized to approve amendments to any use permit granted under this section, including square footage of floor area and storage space in phases of development; provided that:

(1) A request for amendment is filed with the Planning Director, together with any of the information specified in paragraph (d) above which is pertinent to the proposed amendment;

(2) Such amendment shall not violate any regulations set forth in this title;

(3) Such amendment may provide for up to ten percent (10%) increase in total floor area of the project over the total floor area originally permitted;

(4) No reduction is made to the applicable setback or yard requirements;

(5) No public land is accepted;

(6) Such amendment shall not be contrary to the general purposes of this chapter as set forth in paragraph (a) above;

(7) Any amendment not in conformance with this paragraph shall be submitted to the Planning Commission in the same manner as an original use permit.

(j) Building Permits, Certificates of Occupancy, and Certificates of Compliance. Upon the approval of a use permit as provided for under this section, building permits and certificates of occupancy may be issued. Certificates of compliance shall not be issued until there has been compliance with all conditions of a use permit and subsequent amendments within each phase of development of a use permit.

(k) Preexisting uses.

(1) An existing use of a type permitted in this chapter which was lawfully established in this district on the effective date of this chapter shall be deemed to have received a use permit as herein required and shall be provided with such permit by the Director of Building and Safety upon request, and it shall not be a nonconforming use; provided, however, for any enlargement, extension, or relocation of such existing use, an application in conformance with this section shall be required.

(2) If an application for a use permit located within a flood plain is granted approval by the city, it shall not be necessary for the applicant to make an application for a special permit to be approved by the City Council as required by Resolution Nos. A-55150, A-56382, and A-57540. It shall be presumed that the applicant has received all such approvals as may be required by the foregoing resolutions by virtue of the city granting approval to the use permit. (Ord. 17232 § 10; August 18, 1997).

Table 27.51.090(a)

	Lot Area (Sq. ft.)	Frontage	Req'd Front Yard	Req'd Side Yard	Req'd Rear Yard	Height
27.51.030(c)(3)						
Uses	0	150'	50'	20'*	20'*	55'***
Retail	0	50'	50'	20'*	20'*	45'***
Office	0	50'	50'	20'*	20'*	45'***
Other	0	50'	50'	20'*	20'*	35'
<p>* When a side or rear yard abuts a residential district, required yard shall be 50 feet and screened in conformance with the landscape design standards adopted by the City of Lincoln.</p> <p>** When a side or rear yard of an Employment Center or an office/retail use abuts a residential district, the maximum height of any improvement located within 150 feet of the residential district shall be 35 feet.</p>						

**Chapter 27.53**

**RESERVED\***

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\*Editor's note—Ordinance No. 17232, § 23, adopted August 18, 1997, repealed chapter 27.53 in its entirety. Formerly, such chapter pertained to I-4 planned industrial reserve district and derived from Ord. No. 12571, §§ 258—267, 5-8-79; Ord. No. 12701, § 7, 10-1-79; Ord. No. 12978, § 25, 8-25-80; Ord. No. 13528, § 4, 1-3-83; Ord. No. 13745, § 7, 1-3-84; Ord. No. 14138, § 4, 7-1-85; Ord. No. 14185, § 19, 9-3-85; Ord. No. 15239, § 4, 8-7-89; Ord. No. 16284, § 4, 12-14-92; Ord. No. 16854, § 41, 8-14-95.

**Chapter 27.54****P PUBLIC USE DISTRICT****Sections:**

- 27.54.010 Scope of Regulations.**
- 27.54.020 Permitted Uses.**
- 27.54.030 Area Regulations.**

This district is intended to provide a district essentially for mapping purposes which will identify real property of one acre or more presently owned and used by any governmental entity, including local, state, or federal governmental units, and put to some form of public use. This district is not intended to be applied to land that is used by governmental entities on an easement or leased basis if title to the land is in private ownership. (Ord. 12571 § 267a; May 8, 1979).

**27.54.010 Scope of Regulations.**

The regulations set forth in this chapter, or set forth elsewhere in this title when referred to in this

chapter, are the regulations in the P Public Use District. (Ord. 12571 § 267a; May 8, 1979).

**27.54.020 Permitted Uses.**

A building or premises owned by any governmental entity, including local, county, state, federal governmental units and their subdivisions, and in some form of public use, shall be permitted to be located in the P Public Use District. The provisions of this chapter shall not apply to land in private ownership, even if leased to or the subject of an easement to a governmental entity, or to describe the future location of such public uses. (Ord. 12571 § 267a; May 8, 1979).

**27.54.030 Area Regulations.**

The P Public Use District shall have a minimum district size of one acre. (Ord. 12571 § 267a; May 8, 1979).

## Chapter 27.55

## FLOOD PLAIN DISTRICT

## Sections:

27.55.010	Scope of Regulations.
27.55.020	Definitions.
27.55.030	Standards.
27.55.040	Administration.
27.55.050	Permit Procedures.
27.55.060	Special Permits.
27.55.070	Pre-existing Uses.
27.55.080	Penalties for Violation.
27.55.090	Amendments.

**27.55.010 Scope of Regulations.**

The regulations set forth in this chapter, or set forth elsewhere in this title when referred to in this chapter, are known as the flood plain ordinance. The ordinance shall apply to all lands in the flood plain within the zoning jurisdiction of the City of Lincoln that are subject to a one percent or greater chance of flooding in any given year, as designated by the federal emergency management agency (FEMA). The official flood insurance rate map (FIRM) and flood boundary and floodway map (FBFM) and any revision thereto are hereby adopted by reference and declared to be a part of this ordinance. (Ord. 14314 §1; February 3, 1986; prior Ord. 12571 §268; May 8, 1979).

**27.55.020 Definitions.**

For the purpose of this chapter, the following words shall have the following meanings:

**Base Flood** shall mean the flood having a one percent chance of being equaled or exceeded in any given year.

**Basement** shall mean any enclosed area having its floor below grade level on all sides.

**Development** shall mean any man-made change to improved or unimproved real estate, including but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.

**Existing manufactured home park or subdivision** shall mean a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete

pads) is completed before the effective date of this ordinance.

**Expansion to an existing manufactured home park or subdivision** shall mean the preparation of additional sites by the construction of facilities for serving the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

**Flood insurance rate map (FIRM)** shall mean an official map of a community, on which FEMA has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

**Flood boundary and floodway map (FBFM)** shall mean an official map of a community, on which FEMA has delineated the areas of 100-year flood and regulatory floodways. The map provides a technical basis for regulatory purposes.

**Flood plain** shall mean those lands which are subject to a one percent or greater chance of flooding in any given year. The designated flood plain for this chapter shall be based on the areas of 100-year flood, or areas of special flood hazards, as shown on the official flood insurance rate map or flood boundary and floodway map issued by FEMA and shall include zone A, zones A-1 through A-30, and floodway.

**Floodproofing** shall mean any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

**Floodway** shall mean the channel of a river or other watercourses and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

**Lowest floor** shall mean the lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles or building access, in an area other than a basement area is not considered a building's lowest floor; provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.

**Manufactured home** shall mean, for purposes of this chapter, a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" shall not include a "recreational vehicle."

**Manufactured home park or subdivision** shall mean a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

**NAVD** shall mean the North American Vertical Datum of 1988.

**New construction** shall mean structures for which the start of construction commenced on or after the effective date of this ordinance and shall include any subsequent improvements to such structures.

**New manufactured home park or subdivision** shall mean a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of this ordinance.

**Qualified engineer** shall mean a registered professional engineer who, by reason of training and experience, is considered knowledgeable in hydrology and hydraulics and their application to the flood insurance study and has demonstrated competence to the satisfaction of the Director of Building and Safety.

**Recreational vehicle** shall mean a vehicle which is:

- (1) built on a single chassis;
- (2) 400 square feet or less when measured at the largest horizontal projections;
- (3) designed to be self-propelled or permanently towable by a light duty truck; and
- (4) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

**Riverine** shall mean relating to, formed by, or resembling a river (including tributaries, streams, brooks, etc.).

**Start of construction** shall mean either the first placement of permanent construction of a structure on a site, such as the pouring of slabs or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation, or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not as part of the main structure. For a

substantial improvement, the actual start of construction shall mean the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimension of the building.

**Structure** shall mean, for flood plain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

**Substantial damage** shall mean damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal to or exceed fifty percent of the market value of the structure before the damage occurred.

**Substantial improvement** shall mean any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds fifty percent of the market value of the structure before the start of construction of the improvement. Substantial improvement shall include structures which have incurred substantial damage, regardless of the actual repair work performed. The term shall not, however, include either (i) any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or (ii) any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation of a historic structure. (Ord. 17583 § 1; December 20, 1999: prior Ord. 15841 §1; March 18, 1991: Ord. 15544 §1; May 14, 1990: Ord. 14642 §2; April 6, 1987: prior Ord. 14314 §2; February 3, 1986: Ord. 12571 §269; May 8, 1979).

#### 27.55.030 Standards.

The following shall be the standards to be followed in connection with the Floodplain District:

##### (a) General Standards:

(1) Until a floodway has been designated, no development or substantial improvement may be permitted within the floodplain unless the applicant has demonstrated that the proposed development or substantial improvement, when combined with all other existing and reasonably anticipated developments or substantial improvements, will not increase the water surface elevation of the 100-year flood more than one foot at any location.

(2) Roadway bridges, and other drainage facilities, may have their superstructure submerged or partially submerged below the base flood level,

provided that the facility has been designed to resist the hydrostatic and hydrodynamic loads as well as the effects of the buoyancy as certified by a registered professional engineer.

(3) Within the designated floodplain, all new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure; constructed with materials and utility equipment resistant to flood damage; and constructed by methods and practices that minimize flood damage. Electrical, heating, ventilation, plumbing, and air-conditioning equipment and other service facilities shall be elevated at least one foot above the base flood elevation or designed so as to prevent water from entering or accumulating within the components during conditions of flooding. A registered professional engineer or architect shall certify that these provisions are satisfied;

(4) The location, grade, and floodproofing of all new and replacement water and sanitary sewer systems which are to be extended into or through any portion of the floodplain to serve the proposed development shall first be approved by the city prior to the extension of such utilities into the floodplain area;

(5) New and replacement community sewage systems and individual sewage disposal systems shall be designed in accordance with the standards set forth in Chapter 24.38 of the Lincoln Municipal Code in order to minimize impairment to them or contamination from them during flooding;

(6) Onsite waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding;

(7) The storage or processing of materials that are in time of flooding buoyant, flammable, explosive, or could be injurious to human, animal, or plant life is prohibited;

(8) Storage of other material or equipment may be allowed if not subject to major damage by floods and firmly anchored to prevent flotation or if readily removable from the area within the time available after the issuance of flood warning by appropriate authorities;

(9) Filling, grading, and excavation may be allowed in the designated floodplain under the following conditions:

(i) Fill shall be protected against erosion and sediment by such measures as riprap, vegetative

cover, bulkheading, or sedimentation basins as approved by the Director of Building and Safety;

(ii) Any fill to be deposited in the floodplain must be shown by the applicant not to be a detriment to the general public as well as the surrounding land owners;

(iii) Fill materials shall be of a selected type, preferably clean dirt, gravel, or rock no greater than two inches in diameter. The use of decomposing materials, such as wood and other degradables, shall be prohibited. Fill shall be placed in six-inch compacted layers. Fill selection and placement shall recognize the effects of saturation from floodwaters on slope stability, uniform and differential settlement, and scour potentials;

(iv) Prior to placement of any fill or embankment materials, the area upon which fill is to be placed shall be cleared of debris, snags, stumps, brush, down timber, logs, and other objects. All materials and debris from this clearing shall be removed from the proposed fill and disposed of at approved locations outside the floodplain;

(v) Fill slopes for granular materials shall be no steeper than one vertical on two horizontal unless substantiating data justifying steeper slopes are submitted to the Director of Building and Safety and approved;

(vi) Excavation in the floodplain shall be done so that the land surface is maintained in such a manner that surface waters do not collect and pond unless specifically approved by the Director of Building and Safety;

(b) Residential Construction. All new construction and substantial improvements of residential structures within the designated floodplain shall have the lowest floor, including basement, elevated at least one foot above the base flood level. Garages and storage buildings used exclusively for the storage of motor vehicles, and storage of other items readily removable in the event of a flood warning may have their lowest floor below flood elevation, provided the building structure is capable of withstanding hydrostatic and hydrodynamic forces caused by the 100-year flood and, further, provided that no utilities are installed in the building except elevated or floodproofed electrical fixtures. If the building is converted to another use, it must be brought into full compliance with the requirements of this title governing such uses;

(c) Nonresidential Construction. All new construction and substantial improvements of commercial, industrial, and other nonresidential structures within the

designated floodplain shall either have the lowest floor, including basement, elevated at least one foot above the base flood level or, together with attendant utility and sanitary facilities, be floodproofed so that below the base flood level plus one foot the structure is watertight in accordance with the performance standards set forth in the city's building code. A registered professional engineer or architect shall develop or review structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction meet the watertight performance standards. The certification shall be provided to the city as set forth in Section 27.55.040 of this chapter;

(d) For all new construction and substantial improvements, fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:

(1) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided;

(2) The bottom of all openings shall be no higher than one foot above grade; and

(3) Openings may be equipped with screens, louvers, or other coverings or devices; provided, that they permit the automatic entry and exit of floodwaters;

(e) Manufactured Home Parks and Subdivisions. All manufactured homes shall be located in a manufactured home park or a manufactured home subdivision in accordance with Sections 27.63.120 and 27.63.125 of this title. No manufactured home shall be located in a manufactured home park or subdivision within the designated floodplain unless the following conditions are met:

(1) New Manufactured Home Parks and Subdivisions; Expansions; Substantial Damage. Manufactured homes placed (i) on individual lots in new manufactured home parks or subdivisions, (ii) on individual lots within an expanded area of an existing manufactured home park or subdivision, or (iii) in an existing manufactured home park or subdivision in which a manufactured home has incurred substantial damage as the result of a flood, shall be elevated on a permanent foundation such that their

lowest floor is at least one foot above the base flood elevation and be securely anchored to an adequately anchored foundation system in accordance with the standards to resist floatation, collapse, and lateral movement set forth in subsection (f) below;

(2) Existing Manufactured Home Parks and Subdivisions. Manufactured homes to be placed or substantially improved on individual lots in existing manufactured home parks or subdivisions, shall either (i) be elevated on a permanent foundation such that their lowest floor is at least one foot above the base flood elevation, or (ii) be supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than three feet in height above grade and be securely anchored to an adequately anchored foundation system in accordance with the standards to resist floatation, collapse, and lateral movement set forth in subsection (f) below.

If the option provided by (ii) above is exercised, the current owner and occupant, and any future buyer, renter, or occupier shall jointly acknowledge in writing that the option of piers as an alternative to placement of the manufactured home one foot above the base flood elevation has been exercised and, therefore, may be subject to flooding. Such acknowledgement shall be filed with the Director of Building and Safety prior to the issuance of hook-up permits to the subject home;

(3) Adequate surface drainage and access for a hauler are provided;

(4) Where manufactured homes are elevated on pilings, lots shall be large enough to permit steps, piling foundations shall be placed in stable soil no more than ten feet apart, and reinforcement shall be provided for pilings more than six feet above the ground level; and

(5) The grade of land for manufactured home parks or subdivisions which are situated within the designated floodplain shall be raised at least one foot above the base flood elevation.

(f) Manufactured Homes Located Outside of a Manufactured Home Park or Subdivision. Manufactured homes located outside of a manufactured home park or subdivision shall be elevated at least one foot above the base flood elevation or anchored to the elevated foundation to resist floatation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top and frame ties to ground anchors;

(1) If over-the-top ties are used, such ties shall be provided at each of the four corners of the manufactured home, with two additional ties per side at intermediate locations except that manufactured homes less than fifty feet in length may provide only one additional tie per side;

(2) Frame ties shall be provided at each corner of the manufactured home with five additional ties per side at intermediate points except that manufactured homes less than fifty feet in length may provide only four additional ties per side;

(3) All components of the anchoring system shall be capable of carrying a force of 4,800 pounds; and

(4) Any additions to the manufactured home shall be similarly anchored.

(g) Recreational vehicles:

(1) Shall be on the site for fewer than 180 consecutive days;

(2) Shall be fully licensed and ready for highway use (on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions); and

(3) Meet the requirements for manufactured homes.

(h) Floodways.

(1) Encroachments into the floodway are prohibited, including fill, new construction, substantial improvements, and other development within the

floodway unless certification by a qualified engineer is provided, demonstrating that the proposed encroachment will not result in any increase in flood levels during occurrence of the base flood discharge.

An exception to the above shall be permitted provided the applicant has acquired by land rights purchase, flowage easement, or other legal arrangement the right to increase the flood levels on all affected lands, and provided that before any permit is issued the applicant submits a Federal Emergency Management Agency (FEMA) approved Conditional Letter of Map Revision to the Director of Building and Safety. When such encroachment is completed, a FEMA-approved Letter of Map Revision must also be provided by the applicant.

(2) If the above provision is satisfied, all new construction and substantial improvements shall comply with all other applicable provisions contained in Section 27.55.030.

(3) The placement of any manufactured home parks and manufactured home subdivisions and the construction of new structures for human habitation within the floodway is prohibited.

(Ord. 16294 § 1; January 25, 1993: Ord. 15849 § 1; March 25, 1991: prior Ord. 15544 § 2; May 14, 1990: Ord. 14900 § 1; June 6, 1988: Ord. 14837 § 27 (part); February 29, 1988: Ord. 14526, as amended by Ord. 14642 § 3; April 6, 1987: Ord. 14314 § 3; February 3, 1986: Ord. 13738 § 1;

December 19, 1983: Ord. 12701 §7; October 2, 1979: Ord. 12571 §270; May 8, 1979).

#### **27.55.040 Administration.**

A development permit shall be required in conformance with the provisions of this chapter. All new construction of residential and nonresidential structures or land within the designated flood plain shall hereafter be in full compliance with the terms of this chapter and other applicable regulations. All existing residential and nonresidential structures that are not in compliance with the terms of this chapter shall be required to conform to these terms before substantial improvements can be made. It shall be the duty of the Director of Building and Safety to enforce this chapter. His duties shall include, but not be limited to:

(a) Review all development permits to assure that the permit requirements for this chapter have been satisfied;

(b) Review proposed development to assure that all necessary permits have been obtained from those agencies from which prior approval is required by federal or state law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334;

(c) Notify affected adjacent communities and the Nebraska Natural Resources Commission in riverine situations prior to any alteration or relocation of a watercourse, and submit copies of such notifications to FEMA, and assure that the flood-carrying capacity within the altered or relocated portion of any watercourse is maintained;

(d) Require a registered professional engineer or surveyor to verify the actual elevation in NAVD 1988 of the lowest floor, including basement, of all new or substantially improved structures and to which the new or substantially improved structures have been floodproofed. The certification of the lowest floor shall be submitted to the Director of Building and Safety at the point of construction when the lowest floor elevation may be established and prior to the erection of the walls of any buildings. Such information shall be recorded and maintained by the Director of Building and Safety. Notwithstanding the above, documents submitted before March 1, 2000 may be submitted in either city datum or NAVD 1988;

(e) Where floodproofing is utilized for a particular structure, obtain certification from a registered professional engineer or architect that the

floodproofing methods are adequate in accordance with appropriate provisions of the city's building code;

(f) Where interpretation is needed as to the exact location of boundaries of the designated flood plain; for example, where there appears to be a conflict between a mapped boundary and actual field conditions, obtain the necessary interpretation from appropriate city engineering staff of the Department of Public Works and Utilities;

(g) When base flood elevation data have not been provided on the official map, obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal, state, or other source, as criteria for requiring that new construction, substantial improvements, or other developments in the flood plain meet the standards of this chapter. (Ord. 17602 §1; February 7, 2000: prior Ord. 16949 §1; March 11, 1996: Ord. 14642 §4; April 6, 1987: Ord. 14314 §4; February 3, 1986: Ord. 12701 §8; October 1, 1979: Ord. 12571 §271; May 8, 1979).

#### **27.55.050 Permit Procedures.**

Application for a development permit shall be made to the Director of Building and Safety on forms furnished by him and may include, but not be limited to, the plans drawn to scale showing the nature, location, dimensions, and elevations of the area in question, existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing. Specifically, the following information is required:

(a) Elevation of the lowest floor, including basement, of all structures. All elevations shall be submitted in NAVD 1988. When utilizing National Geographic Vertical Datum of 1929 (NGVD 1929) based flood elevations from FEMA floodplain maps, 0.50 feet shall be added to NGVD 1929 to obtain NAVD 1988, unless a more accurate conversion factor using an established conversion program is demonstrated to the satisfaction of the Director of Building and Safety. Notwithstanding the above, documents submitted before March 1, 2000 may be submitted in either city datum or NAVD 1988.

(b) Elevation to which any nonresidential structure has been floodproofed. All elevations shall be submitted in NAVD 1988. When utilizing NGVD 1929 based flood elevations from FEMA floodplain maps, 0.50 feet shall be added to NGVD 1929 to obtain NAVD 1988, unless a more accurate conversion factor using an established conversion

program is demonstrated to the satisfaction of the Director of Building and Safety. Notwithstanding the above, documents submitted before March 1, 2000 may be submitted in either city datum or NAVD 1988.

(c) Provide a certificate from a registered professional engineer or architect that the non-residential floodproofed structure meets the flood-proofing specifications set forth in the city's building code.

(d) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development. (Ord. 17583 § 2; December 20, 1999; prior Ord. 14642 §5; April 6, 1987: Ord. 12571 §272; May 8, 1979).

#### **27.55.060 Special Permits.**

The City Council of the City of Lincoln may, by special permit, in accordance with provisions set forth in Chapter 27.63 of this title:

(a) Grant variances from the requirements of this chapter which permit construction in a manner otherwise prohibited by this chapter where specific enforcement would result in unnecessary hardship. However, variances shall not be issued by the city within the selected floodway if any increase in flood levels during the base flood discharge would result.

(b) Grant requests for substantial improvements of existing residential and nonresidential structures that are not in conformity with the provisions of this chapter.

(c) Attach certain conditions to the special permit as it deems necessary to further the purposes of this chapter.

In passing upon such special permits, the city council shall consider that permits shall only be issued upon a determination that (i) they are the minimum necessary, considering the flood hazard, to afford relief; (ii) the granting will not result in increased flood heights, additional threats to public safety, extraordinary public expenses, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances; and (iii) the decision is based upon a showing of good and sufficient cause and a reasonable use of land involved.

Any applicant to whom a special permit is granted shall be given a written notice that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation. The Director of Building and Safety shall

maintain all the records of special permits issued by the city council and report them to FEMA upon request. (Ord. 14314 §5; February 3, 1986: prior Ord. 12571 §273; May 8, 1979).

#### **27.55.070 Pre-existing Uses.**

The following pre-existing uses will be allowed in the flood plain district:

(a) Continuation of pre-existing uses. The lawful use of a building and premises existing prior to the effective date of this ordinance may be continued although such use does not conform to the provisions hereof; provided, that no expansion, enlargement, change, or alteration shall be made except in conformance with Section 27.55.070(b) below.

(b) Substantial improvements of preexisting uses. No existing building and premises which is not in conformity with the provisions of this chapter shall be substantially improved unless it is done in conformity with the provisions of this chapter. A request for the substantial improvement of a pre-existing use which does not conform to the provisions of this chapter shall be processed through special permit procedures set forth in Section 27.55.060 of this chapter. (Ord. 14314 §6; February 3, 1986: prior Ord. 12571 §274; May 8, 1979).

#### **27.55.080 Penalties for Violation.**

Violation of the provisions of this chapter or failure to comply with any of its requirements shall be punished in accordance with Chapter 27.81. (Ord. 12571 §275; May 8, 1979).

#### **27.55.090 Amendments.**

The regulations, restrictions, and boundaries set forth in this chapter may from time to time be amended, supplemented, changed, or appealed to reflect any and all changes in the National Flood Disaster Protection Act of 1973, in accordance with the procedures set forth in Chapter 27.81. The regulations of this chapter are in compliance with the National Flood Insurance Program regulations, as amended, and the 1983 Nebraska Flood Plains Regulations Act. (Ord. 14314 §7; February 3, 1986: prior Ord. 12571 §276; May 8, 1979).

## Chapter 27.56

### CAPITOL ENVIRONS DISTRICT

#### Sections:

- 27.56.010 Scope of Regulations.
- 27.56.015 Purpose.
- 27.56.017 Definitions.
- 27.56.020 Boundaries of District Map.
- 27.56.025 Capitol View Corridor Overlay District; Boundaries; Map.
- 27.56.030 Height of Buildings in Capitol Environs Area.
- 27.56.035 Regulation of Signs in Capitol View Corridor Overlay District.
- 27.56.040 Nebraska Capitol Environs Commission Created.
- 27.56.050 Membership.
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#### 27.56.010 Scope of Regulations.

The regulations set forth in this chapter, or set forth elsewhere in this title when referred to in this chapter, are the regulations in the Capitol Environs District. (Ord. 12935 § 1; June 9, 1980; prior Ord. 12571 § 277; May 8, 1979).

#### 27.56.015 Purpose.

The purpose of this chapter is to maintain and enhance the aesthetic quality, historic value, spiritual dignity, and physical dominance of the capitol over the cityscape; to foster pride in the beauty of the capitol and its environs by studying and publicizing their essential aspects; to provide a fit setting for the capitol by encouraging appropriate public improvements and private development, especially in the Capitol Environs District, and the mainte-

nance of those improvements; and to protect views to the capitol by proposing regulations and guidelines for designated view corridors.

The Capitol Environs District and the view corridors are intended to be zoning overlay districts. (Ord. 14949 § 1; August 15, 1988).

#### 27.56.017 Definitions.

For the purpose of this chapter, certain terms and words are hereby defined, as follows:

(a) Capitol Square shall mean the state capitol and its four square block site, bounded by "K" Street on the north, "H" Street on the south, 14th Street on the west, and 16th Street on the east.

(b) Capitol Environs District shall mean the area indicated on the City of Lincoln Capitol Environs District Height Regulations Map.

(c) Capitol View Corridors shall mean those areas described in the 1977 Urban Design Plan for the Nebraska Capitol Environs as "Area 9: City View Corridors"; and "Area 10: Country View Corridors." (Ord. 14949 § 2; August 15, 1988).

#### 27.56.020 Boundaries of District Map.

The boundaries of the Capitol Environs District are shown upon a map which is made a part hereof by reference, and said map is designated the "City of Lincoln Capitol Environs District Height Regulations Map". That part of the map designating the different districts and their boundaries and that part of the legend designating the symbol title shall have the same force and effect as if they were all fully set forth herein. Other notations and references are for information only. (Ord. 12935 § 2; June 9, 1980; prior Ord. 12571 § 278; May 8, 1979).

#### 27.56.025 Capitol View Corridor Overlay District; Boundaries; Map.

The boundaries of the Capitol View Corridor Overlay District are shown upon a map which is made a part hereof by reference, and said map is designated the "Capitol View Corridor Overlay Map." That part of the map designating the different districts and their boundaries and that part of the legend designating the symbol title shall have the same force and effect as if they were all fully set forth herein. Other notations and references are for information only. (Ord. 15442 § 1; February 20, 1990).

**27.56.030 Height of Buildings in Capitol Environs Area.**

Notwithstanding the zoning on the property or the other rules and regulations of this title, there shall be established the following maximum heights for buildings and structures located in the shaded area on the Capitol Environs District Height Regulations Map.

(a) No building located within this district shall exceed the building height limit as shown on the Capitol Environs District Height Regulations Map, or the maximum building height permitted in the underlying zoning district, whichever is less.

(b) Any of the appurtenances listed in Section 27.71.020 of this title may not exceed twenty feet in height above the maximum permitted in subsection (a) hereof. In addition, all of said appurtenances must be set back a minimum of fifteen feet from all faces of a building when said faces are adjacent to a street. (Ord. 12935 § 3; June 9, 1980; prior Ord. 12571 § 279; May 8, 1979).

**27.56.035 Regulation of Signs in Capitol View Corridor Overlay District.**

Notwithstanding the underlying zoning or other rules and regulations of this title, there is hereby established the following regulations for off-premise signs and on-premise pole signs for properties located in the districts indicated on the Capitol View Corridor Overlay Map.

(a) No off-premise signs shall be permitted in the area designated District A.

(b) No off-premise signs or on-premise pole signs shall be permitted in the area designated District B.

(c) No off-premise signs shall be permitted in the area designated District C. On-premise pole signs shall be permitted in District C provided that the maximum height of such signs shall not exceed the height of the roadway surface of Capitol Parkway West. (The height of the roadway surface of Capitol Parkway West shall be calculated from the point on the roadway which is at a ninety degree angle from the roadway to the sign.) (Ord. 15442 § 2; February 20, 1990).

**27.56.040 Nebraska Capitol Environs Commission Created.**

There is hereby created the Nebraska Capitol Environs Commission. The Nebraska Capitol Environs

Commission shall consist of seven voting members and three ex officio, nonvoting members. (Ord. 14949 § 3; August 15, 1988).

**27.56.050 Membership.**

The Nebraska Capitol Environs Commission membership shall be appointed by the Mayor with confirmation by the majority of the City Council and shall include five members with due consideration given to appointment of an architect, landscape architect, an urban planner, a real estate developer and a member of the public at large. The Nebraska Capitol Environs Commission membership shall also include two members to be appointed by the Governor of the State of Nebraska, at least one of whom shall be a resident of the City of Lincoln, Nebraska. The three ex officio (nonvoting) members of the commission shall be City of Lincoln Planning Director or his designee, the City of Lincoln Director of Parks and Recreation or his designee, and the Director of the Nebraska Department of Administrative services or his designee. Members are to be appointed for terms of three years, provided that of the members first taking office, one of the governor's appointees shall be appointed for a two-year term and the other shall be appointed for a three-year term; and one of the Mayor's appointees shall be appointed for a one-year term, two shall be appointed for two-year terms, and two shall be appointed for three-year terms. Members may serve for more than one term and each member shall serve until the appointment of a successor. In the event of a vacancy, an appointment shall be made to fill the vacancy in the same manner as if at the beginning of the term, and the person appointed to fill the vacancy shall hold such office for the unexpired term. (Ord. 14949 § 4; August 15, 1988).

**27.56.060 Organization.**

The Nebraska Capitol Environs Commission shall elect from among its own members a chairman and such other officers as it may deem necessary. The commission shall make such rules and regulations as it may deem advisable and necessary for the conduct of its affairs, for the purpose of carrying out the intent of this chapter, which are not inconsistent with the laws of the city and the state. Four voting members shall constitute a quorum for the transaction of business and four affirmative votes shall be required for final action on any matter acted upon by the Nebraska Capitol Environs Commission. Mem-

bers shall serve without compensation. The Nebraska Capitol Environs Commission shall meet a least quarterly, with more frequent meetings as called by the chairman or as required elsewhere in this chapter. (Ord. 14949 § 5; August 15, 1988).

#### **27.56.070 Secretary and Staff.**

The Planning Director or his designee shall act as the nonvoting secretary to the Nebraska Capitol Environs Commission. The city, through the Planning Department, shall provide the commission with adequate staff to perform the duties prescribed under this chapter. (Ord. 14949 § 6; August 15, 1988).

#### **27.56.080 Attorney; Duties.**

The City Attorney shall be the ex officio attorney for the commission and shall advise the commission and represent it in any and all legal disputes or court or administrative action. (Ord. 14949 § 7; August 15, 1988).

#### **27.56.090 Powers and Duties.**

The powers and duties of the Nebraska Capitol Environs Commission shall be as follows:

(a) Study and describe the essential vistas, landscape features, buildings, landmarks, and other aspects that contribute to or detract from the capitol, the Capitol Environs District, and the Capitol View Corridors, drawing upon past studies, especially the Urban Design Plan for the Nebraska Capitol Environs of 1977;

(b) Consult with and consider the ideas and recommendations of groups including neighborhood and business organizations, public agencies, property owners, and other citizens interested in the capitol and the Capitol Environs District;

(c) Review and advise on any city or state plans, budgets, or procedures affecting the capitol, the Capitol Environs District, and Capitol View Corridors;

(d) Promote restoration and maintenance of the capitol grounds in accordance with the original design by Ernst Herminghaus, as described in "Landscape Restoration Master Plan — Nebraska State Capitol Grounds" of January 1985;

(e) Develop and propose guidelines and review procedures for private and public improvements and maintenance on the twelve blocks adjacent to Capitol Square (bounded by "G" Street on the south, "L" Street on the north, 17th Street on the east, and 13th Street on the west), incorporating high stan-

dards of architecture, landscape architecture, urban design, historic preservation, and maintenance, as befits their location;

(f) Develop and propose specific guidelines and review procedures for each of the four axes of the Capitol Environs District, mindful of the existing character and future potential of each area and consistent with the Lincoln-Lancaster County Comprehensive Plan, addressing both public and private improvements, and providing incentives for high quality private development;

(g) Develop and propose guidelines to protect and enhance the Capitol View Corridors;

(h) Promote intergovernmental agreements among the state, City of Lincoln, Lancaster County, and Seward County to protect and enhance the Capitol View Corridors;

(i) Upon enactment of guidelines and procedures by the City Council, review private and public projects for conformance with the guidelines;

(j) Disseminate information to the public, city government, and state government concerning the special qualities of the capitol, the Capitol Environs District, and the capitol view corridors, and on the goals and decisions of the Nebraska Capitol Environs Commission;

(k) Prepare and deliver an annual report of the Nebraska Capitol Environs Commission's past actions and future goals to the Mayor and City Council of the City of Lincoln, the Governor of the State of Nebraska, and the Nebraska State Legislature;

(l) Study and offer proposals on other public and private plans and actions affecting the capitol, the Capitol Environs District, and the Capitol View Corridors, and do other acts as are mandated by this chapter. (Ord. 14949 § 8; August 15, 1988).

#### **27.56.100 Guidelines and Procedures for Review of Projects.**

(a) Design Standards. The Nebraska Capitol Environs Commission shall draft Capitol Environs District Design Standards to be adopted by resolution of the City Council after review and recommendation of the Planning Commission.

Such guidelines shall include procedures for design review. Prior to submitting the guidelines, incentives and procedures to the planning commission, the Nebraska Capitol Environs Commission shall hold at least one public hearing on the pro-

posed guidelines, notice of which shall be as specified for public hearings required under Chapters 27.57 and 27.81 of the Lincoln Municipal Code.

(b) **Work Subject to Design Review.** No person (including representatives of state government or any units of local government) shall carry out or cause to be carried out in the Capitol Environs District ("the District") any change in the appearance of the District for which a building permit or demolition permit is required, as specified in the Lincoln Building Code for the City, or any change regulated by the Capitol Environs Design Standards ("the Standards"), without a certificate issued by the Nebraska Capitol Environs Commission or the Commission Chair as described in Section 27.56.110. Ordinary maintenance and repair not otherwise subject to a building permit regulation or restricted by the Design Standards may be carried out without such a certificate. (Ord. 16698 § 1; November 14, 1994; prior Ord. 14949 § 9; August 15, 1988).

#### 27.56.110 Procedure for Certificate.

The application for such certificate shall be filed with the Department of Building and Safety and shall be accompanied by plans for the proposed work to be done and such other information as the Director of Building and Safety shall require. The Department of Building and Safety shall review the application and plans for compliance with the existing building and zoning codes, ordinances and regulations. The application and plans shall be referred to the Planning Department.

The Planning Director may recommend and the Chair of the Nebraska Capitol Environs Commission may issue a certificate of "no material effect" if the application is for minor work which is not restricted by the Standards, which has no material effect on architectural or landscape features of the District, and which is in harmony with the purposes of this ordinance. Construction of new principal buildings facing the malls or Capitol Square always has "material effect" on significant features of the District and therefore shall not be eligible for a certificate of no material effect. When a certificate of no material effect is issued, a copy of that certificate shall be transmitted to the Commission at its next public meeting.

Other applications shall be transmitted by the Planning Department to the Nebraska Capitol Environs Commission along with any recommendations of the Department of Building and Safety and

the Planning Department. Within forty-five days of receipt of the application by the Department of Building and Safety, the Commission shall hold a public hearing on the application. Notice of the time, place, and purpose of such hearing shall be published by the Planning Department in a daily newspaper having general circulation in the City of Lincoln and shall be mailed to the certificate applicant not less than eight days prior to the date of hearing. The Nebraska Capitol Environs Commission may also give such other notice as may be deemed necessary and desirable, including posting of the property affected. During the public hearing, the Commission shall receive testimony and other information on the application, and shall review the application and plans in light of the Standards. (Ord. 16698 § 2; November 14, 1994).

#### 27.56.120 Certificate; Approval or Denial.

Within thirty days of the hearing, the Nebraska Capitol Environs Commission shall approve or deny the application. The Commission may:

(a) Issue a certificate of "appropriateness" after adopting a finding that the proposed work meets the Standards and would not unduly hinder the protection, enhancement, perpetuation, and use of the Capitol Environs District;

(b) Issue a certificate of "exception on grounds of hardship" after adopting a finding that refusal to issue the certificate would create an extreme hardship on the applicant, and that the plight of the applicant is due to unique circumstances, and that the potential hardship is the result of the application of the ordinance and is not the result of any act or omission by the applicant;

(c) Refuse to issue a certificate, after adopting a finding that the application is not consistent with the purpose of this ordinance and of the Standards, and does not meet any of the above criteria.

The Nebraska Capitol Environs Commission's decision must be accompanied by written findings of fact. No change shall be made in the application for any building permit or in plans for other regulated work after issuance of a certificate by the Commission or the Commission Chair without resubmittal of the application and approval in the same manner as provided above. (Ord. 16698 § 3; November 14, 1994).

**27.56.130 Hazardous Structures.**

The Planning Director shall issue a certificate of "allowance on grounds of hazardous conditions" for razing a structure or other work if the Department of Building and Safety has determined that failure to carry out said work poses an immediate hazard to human health and safety. However, no owner shall by deliberate acts or deliberate neglect allow a property in the Capitol Environs District to become hazardous to human health and safety with the intent of then obtaining such certificate. When a certificate of "allowance on grounds of hazardous conditions" is issued, a copy of that certificate shall be transmitted to the Nebraska Capitol Environs Commission at its next public meeting. (Ord. 16698 § 4; November 14, 1994).

**27.56.140 Appeal.**

Any person aggrieved by any order, approval, disapproval, or other decision issued by the Nebraska Capitol Environs Commission or the Planning Director may appeal such order, approval, disapproval, or other decision to the City Council by filing a written appeal with the City Clerk within fourteen days of the date of such decision, except that governmental units may opt to appeal actions of the Nebraska Capitol Environs Commission or the Planning Director to the Nebraska Department of Administrative Services by so indicating at the time of filing the appeal with the City Clerk and by giving notice of such intent to the Building Division of the Nebraska Department of Administrative Services. Such appeal shall fully state the order, approval, disapproval, or other decision appealed from, the date thereof, and the facts of the matter. (Ord. 16698 § 5; November 14, 1994).

**27.56.150 Jurisdiction of the Commission Relative to Other Boards.**

Applications for changes of zone, special permit, and other applications under the zoning code for property within the Capitol Environs District shall be reviewed by the Nebraska Capitol Environs Commission relative to the conformance of the application to the protection, enhancement, perpetuation, and use of the Capitol Environs District; then forwarded to the Planning Commission with a written report of the findings of the Nebraska Capitol Environs Commission. Applications reviewed by the Commission shall not be subject to review by the Historic Preservation Commission or the Urban De-

sign Committee. However, the Nebraska Capitol Environs Commission shall defer review of applications pertaining to landmarks designated under Lincoln Municipal Code § 27.57.120 to the Historic Preservation Commission and shall accept "Certificates of Appropriateness" and "Certificates of Exception" approved by the Historic Preservation Commission as equivalent to certificates issued by the Nebraska Capitol Environs Commission. However, the "Certificate of Allowance" procedure outlined in Lincoln Municipal Code § 27.57.160 shall not pertain within the Capitol Environs District. (Ord. 16698 § 6; November 14, 1994).

**27.56.160 Additional Height and Area Requirements.**

(a) In that portion of the Capitol Environs District south of H Street, the required front yard adjacent to South 15th Street shall be eight feet. This shall be a "build-to" line. The South 15th Street facade of buildings in that portion of the District shall be located on a line parallel to the property line on South 15th Street, and eight feet behind that property line.

(b) For new buildings constructed on property with frontage on "Capitol Square" (properties on South 14th, "K", South 16th, and "H" Streets opposite the Capitol grounds), a minimum of four stories are required, with a maximum height of fifty-seven feet.

(c) For new buildings constructed on property in the Capitol Environs District not facing Capitol Square, but facing one of the malls, an eave or cornice line at least thirty feet in height is required.

(d) For townhouses in the Capitol Environs District south of "H" Street zoned R-6 Residential District, the minimum required lot area shall be 2,000 square feet per family. (Ord. 16698 § 7; November 14, 1994).

## Chapter 27.57

### HISTORIC PRESERVATION DISTRICT

#### Sections:

- 27.57.010 Name and Citation of Title.
- 27.57.020 Purpose.
- 27.57.030 Definitions; General Provisions.
- 27.57.040 Landmark.
- 27.57.050 Landmark District.
- 27.57.060 Historic Preservation Commission Created.
- 27.57.070 Membership.
- 27.57.080 Organization.
- 27.57.090 Secretary and Staff of Preservation Commission.
- 27.57.100 Attorney; Duties.
- 27.57.110 Powers and Duties.
- 27.57.120 Designation of Landmarks and Landmark Districts.
- 27.57.130 Requirement of Certificate for Certain Work.
- 27.57.140 Procedure for Certificate.
- 27.57.150 Certificate Approval or Denial.
- 27.57.160 Procedure Following Certificate Denial.
- 27.57.170 Hazardous Structures.
- 27.57.180 Appeal.

#### 27.57.010 Name and Citation of Title.

This title shall be known, referred to, and cited as "Historic Preservation District" of the City of Lincoln. (Ord. 12910 § 1; April 28, 1980).

#### 27.57.020 Purpose.

This title is to designate, preserve, protect, enhance, and perpetuate those structures and districts which are elements of the city's historical, cultural, archaeological, or architectural heritage; to stabilize and improve property values in such districts; to foster civic pride in the beauty and accomplishments of the past; to protect and enhance the city's attractions to tourists and visitors and the support and stimulus to business and industry thereby provided; to strengthen the economy of the city; to promote the use of historic districts and landmarks for the education, pleasure, and welfare of the people of the city; and to promote and encourage continued private ownership and utilization of such buildings and other structures now so owned and

used so that the objectives listed above can be attained while the owner can receive a reasonable economic return on the property. The historic landmarks and landmark districts are intended to be zoning overlay districts. (Ord. 12910 § 2; April 28, 1980).

#### 27.57.030 Definitions; General Provisions.

For the purpose of this title, certain terms and words are hereby defined. Words used in the present tense shall include the future; the singular number shall include the plural and the plural the singular; the word "shall" is mandatory. (Ord. 12910 § 3; April 28, 1980).

#### 27.57.040 Landmark.

Landmark shall mean an individual structure, or an integrated group of structures on a single lot or site, or a site having special historical, cultural, architectural, or archeological interest or value. (Ord. 12910 § 4; April 28, 1980).

#### 27.57.050 Landmark District.

Landmark district shall mean an area containing a number of structures having special historical, cultural, architectural, or archaeological interest or value constituting a distinct section of the city. The landmark district shall have a minimum area of 45,000 square feet. (Ord. 12910 § 5; April 28, 1980).

#### 27.57.060 Historic Preservation Commission Created.

There is hereby created the historic preservation commission (hereinafter, the "Preservation Commission"). The Preservation Commission shall consist of seven members appointed by the Mayor with confirmation by a majority of the City Council. (Ord. 12910 § 6; April 28, 1980).

#### 27.57.070 Membership.

The Preservation Commission membership shall include at least two registered architects, one historian qualified in the field of American history, one registered landscape architect, if available; one licensed realtor; and two citizens at large. Members are to be appointed for terms of three years, provided that of those members first taking office, two shall be appointed for one year, two for two years, and three for three years. Members may serve for more than one term and each member shall serve until the appointment of a successor. In the event of a vacancy, an appointment shall be made to fill the vacancy in the same manner as if at the beginning of the term, and the person appointed to fill the vacancy shall hold such office for the unexpired term. (Ord. 12910 § 7; April 28, 1980).

**27.57.080 Organization.**

The Preservation Commission shall elect from among its own members a chairman and such other officers as it may deem necessary. The Preservation Commission shall make such rules and regulations as it may deem advisable and necessary for the conduct of its affairs, for the purpose of carrying out the intent of this chapter, which are not inconsistent with the laws of the city and the state. Four members shall constitute a quorum for the transaction of business and four affirmative votes shall be required for final action on any matter acted upon by the Preservation Commission. Members of the Preservation Commission shall serve without compensation. The Preservation Commission shall meet monthly. (Ord. 13727 § 1; November 7, 1983; prior Ord. 12910 § 8; April 28, 1980).

**27.57.090 Secretary and Staff of Preservation Commission.**

The Planning Director shall act as the nonvoting Secretary to the Preservation Commission. The city, through the Planning Department, shall provide the Preservation Commission with adequate staff to perform the duties prescribed under this chapter. (Ord. 12910 § 9; April 28, 1980).

**27.57.100 Attorney; Duties.**

The City Attorney shall be ex officio the Attorney for the Preservation Commission, and shall advise the Preservation Commission, and represent it in any and all legal disputes or court or administrative actions. (Ord. 12910 § 10; April 28, 1980).

**27.57.110 Powers and Duties.**

The powers and duties of the Preservation Commission shall be as follows:

- (a) Initiate and maintain an inventory of all sites, structures, and districts potentially eligible for designation as landmarks or landmark districts, pursuant to the standards in Section 27.57.120;
- (b) Consult with and consider the ideas and recommendations of civic groups including neighborhood and business organizations, public agencies, and citizens interested in historical preservation;
- (c) Inspect and investigate structures, sites, and areas which are believed worthy of preservation;
- (d) Disseminate information to the public concerning those structures, sites, and areas deemed worthy of preservation and encourage and advise property owners in the protection, enhancement, perpetuation, and use of landmarks and property of interest;

- (e) Prepare National Register nominations and, after consultation with Planning Commission, City Council, and Mayor, forward them to the State Historic Preservation Office, for all such sites, structures, and districts the Preservation Commission deems eligible for inclusion on the National Register of Historic Places;

- (f) Solicit gifts and contributions to be made to the city and assist in the preparation of applications for grant funds to be made to the city for the purpose of preservation;

- (g) For every building or district designated for preservation, prepare a guideline for preservation of the property;

- (h) Upon request of the property owner, render advice and guidance with respect to any proposed work on a landmark or in a landmark district;

- (i) Prepare and deliver an annual report of the Preservation Commission's past actions and future goals to the City Council;

- (j) Make recommendations and do such other acts as are mandated by this chapter. (Ord. 12910 § 11; April 28, 1980).

**27.57.120 Designation of Landmarks and Landmark Districts.**

A site, structure, or area may be designated as a landmark or landmark district if it is of historical, cultural, architectural, or archeological importance as evidenced by meeting one or more of the following standards for designation:

- (a) Associated with events, person, or persons who have made a significant contribution to the history, heritage, or culture of the City of Lincoln, the County of Lancaster, the State of Nebraska, or the United States;

- (b) Represents a distinctive architectural style or innovation, or is the work of a craftsman whose individual work is significant in the development of the City of Lincoln, the County of Lancaster, the State of Nebraska, or the United States; or

- (c) Represents archeological value in that it yields or may be likely to yield information pertaining to prehistory or history.

Any person, group of persons, or association may request the designation of a landmark or landmark district by submitting a petition for such designation to the Planning Department upon a form furnished by the Planning Department. The Preservation Commission, in addition, may on its own motion submit a petition for

designation. The Planning Director shall transmit all petitions to the Preservation Commission.

Each petition forwarded to the Preservation Commission by the Planning Director shall be considered by the Preservation Commission at a public hearing with a public record kept. Notice of the time, place, and purpose of such public hearing shall be published by the Planning Department in a daily newspaper having general circulation in the City of Lincoln and shall be mailed to the owners of all property included in the proposed designation not less than eight days prior to the date of the hearing, using for this purpose the name and addresses of the last known owners as indicated by the real property tax records of Lancaster County. The Preservation Commission may also give such other notice as may be deemed desirable and practicable.

Whenever possible, the Preservation Commission shall secure the written consent of the owner or owners before proceeding to secure designation as a landmark. The Preservation Commission shall apply the "standards for designation" in its decision.

Within ninety days of the receipt of the petition by the Planning Department, the Preservation Commission shall approve, disapprove, or modify the petition and shall notify the petitioner of its action. Petitions which are approved or approved as modified shall then be transmitted to the Planning Commission. Along with the petition, the Preservation Commission shall include a justification for the designation as a landmark or landmark district and its recommendations for guidelines for preservation of the landmark or landmark district.

The Planning Commission shall consider the petition at a public hearing with a public record kept. Notice of the hearing including posting of property shall be made according to Lincoln Municipal Code Section 27.81.050.

Such posting shall include the property contained in the original petition and the modified petition, if any, unless the applicant and the Preservation Commission agree otherwise.

The Planning Commission shall consider the petition in light of the "standards for designation" and the degree of conformity with the city's comprehensive plan. Within sixty days, the Planning Commission shall recommend approval, disapproval, modification, or continuance of the petition and shall notify the petitioner of its actions. All petitions except for those held for continued consideration shall then be transmitted to the City Council.

Upon receipt of a petition, the City Council may designate a landmark or landmark district by ordinance. The City Council shall consider the "standards for designation" as well as the recommendations of the Planning Director, the Preservation Commission, and Planning Commission, and shall further give consideration to the economic consequences to the city and to the affected owners. The designation shall be by majority vote, except that if any owner of property to be designated as a landmark does not consent to such designation, the vote shall be by two-thirds of the council members. A landmark district shall not be designated if written protests are made by owners of at least fifty-one percent of the included property, excluding public right-of-way, at or prior to public hearing on the designating ordinance. The sufficiency of such protests shall be determined by the City Council.

Each designating ordinance shall include a description and statement of the significance of the landmark or landmark district to justify its designation and a description of the particular features that should be preserved, a guideline for preservation of the landmark or landmark district including particular restrictions as to construction, alteration, repair, or demolition of the landmark or property within the landmark district, and the legal description of the landmark or landmark district.

Within ten days after the effective date of the ordinance designating property as a landmark or a landmark district, the Planning Director shall send to the owner of record of such property so designated or each property within the designated landmark district, by registered or certified mail, a copy of the designating ordinance and a letter outlining the basis for such designation and the obligations and restrictions which result from such designation. Immediately after the effective date of the ordinance designating property as a landmark or landmark district, the City Clerk shall file certified copies of the designating ordinance with the Register of Deeds and with the Department of Building and Safety. (Ord. 13219 § 1; October 12, 1981; prior Ord. 12910 § 12; April 28, 1980).

#### **27.57.130 Requirement of Certificate for Certain Work.**

No person shall carry out or cause to be carried out on a landmark or in a landmark district any change in the appearance of a landmark or landmark district for which a building permit or demolition permit is required, as specified in the Lincoln Building Code for the city, or any change restricted by the particular

designating ordinance without a certificate issued by the Preservation Commission or the Planning Director as described below. Ordinary maintenance and repair not otherwise subject to a building permit regulation or restricted by the designating ordinance may be carried out without a certificate issued by the Preservation Commission. (Ord. 13468 § 1; September 27, 1982; prior Ord. 12910 § 13; April 28, 1980).

#### 27.57.140 Procedure for Certificate.

The application for such certificate shall be filed with the Department of Building and Safety and shall be accompanied by plans for the proposed work to be done and such other information as the Director of Building and Safety shall require. The Department of Building and Safety shall review the application and plans for compliance with the existing building code ordinances and regulations. The application and plans shall be referred to the Planning Department.

The Planning Director may issue a certificate of "no material effect" if the application is for work which is not restricted by the designating ordinance and if the work contemplated in the application will have no effect on any architectural features of the landmark or landmark district as detailed in the particular designating ordinance and will be in harmony therewith.

Other applications shall be transmitted by the Planning Department to the Preservation Commission along with any recommendations by the Department of Building and Safety and the Planning Department. Within sixty days of receipt of the application by the Department of Building and Safety, the Preservation Commission shall hold a public hearing on the applications received by the Preservation Commission. Notice of the time, place, and purpose of such hearing shall be published by the Planning Department in a daily newspaper having a general circulation in the City of Lincoln and shall be mailed to the certificate applicant not less than eight days prior to the date of hearing. The Preservation Commission may also give such other notice as may be deemed desirable and necessary, including posting of the property affected.

During the public hearing, the Preservation Commission shall review the application and plans in light of the guideline for preservation of the property contained in the particular preservation designation ordinance for that landmark or landmark district. (Ord. 14837 § 27 (part); February 29, 1988; Ord. 12910 § 14; April 28, 1980).

#### 27.57.150 Certificate Approval or Denial.

Within thirty days of the hearing, the Preservation Commission shall approve or deny the application for the certificate for certain work on the landmark or in a landmark district.

The Preservation Commission:

(a) May issue a certificate of "appropriateness" if, after focusing upon aesthetic, historical, and architectural values, it finds that the proposed work would not unduly hinder the protection, enhancement, perpetuation, and use of the landmark or landmark district;

(b) May issue a certificate of "exception on the ground of insufficient return or hardship" if it finds that the landmark or property within the landmark district cannot yield a reasonable return if the proposed work is not permitted, that the plight of the applicant is due to unique circumstances, and that the hardship is the result of the application of the ordinance and is not the result of any act or omission by the applicant; or

(c) May refuse to issue a certificate, if it finds that the application does not meet any of the above criteria.

The Preservation Commission's decision must be accompanied by written findings of fact. No change shall be made in the application for any building permit after issuance of a certificate by the Preservation Commission or the Planning Director without resubmittal to the Preservation Commission or the Planning Director and approval in the same manner as provided above. (Ord. 14082 § 1; April 15, 1985; prior Ord. 12910 § 15; April 28, 1980).

#### 27.57.160 Procedure Following Certificate Denial.

If no certificate is issued, the applicant and the Preservation Commission shall enter into negotiations to develop a plan whereby modifications in the application would enable the Preservation Commission to issue a certificate under the criteria listed above and compatible with the guideline for preservation in the particular designation ordinance. If the proposed work involves demolition of all or a significant portion of a landmark or property within a landmark district or involves construction upon open areas of a landmark or within a landmark district and no acceptable plan is negotiated and approved by the applicant within three months of the Preservation Commission's decision not to issue a certificate, the city may proceed by eminent domain proceedings to acquire the landmark or the affected property within the landmark district, but if the city does not initiate proceedings within ninety days, the Planning Director shall issue a certificate of

"allowance," permitting the applicant to proceed with the work as proposed in the application. If the proposed work on a landmark or in a landmark district is other than the above and no acceptable plan is negotiated and approved by the applicant within three months of the Preservation Commission's decision not to issue a certificate, the Planning Director shall issue a certificate of "allowance," permitting the applicant to proceed with the work as proposed in the application. (Ord. 14082 § 2; April 15, 1985; prior Ord. 12910 § 16; April 28, 1980).

City of Lincoln. Every decision by the City Council shall be accompanied by a written finding of fact based on testimony and other evidence, specifying the reason for granting or denying the appeal. (Ord. 12910 § 18; April 28, 1980).

#### **27.57.170 Hazardous Structures.**

The Planning Director shall issue a certificate of "allowance on the ground of hazardous conditions" for razing a structure or other work if the Department of Building and Safety has determined that the landmark or structure within the landmark district poses an immediate hazard to human health and safety. However, no owner shall by deliberate acts or deliberate neglect allow a landmark or property within a landmark district to become hazardous to human health and safety with the intent of then obtaining such permit. (Ord. 14837 § 27 (part); February 29, 1988; Ord. 14082 § 3; April 15, 1985; prior Ord. 12910 § 17; April 28, 1980).

#### **27.57.180 Appeal.**

Any person aggrieved by any order, approval, disapproval, or other decision issued by the Preservation Commission, the Planning Director, or the Planning Commission may appeal such order, approval, disapproval, or other decision to the City Council by filing a written appeal with the City Clerk within thirty days of such order. Such appeal shall fully state the order, approval, disapproval, or other decision appealed from, the date thereof, and the facts of the matter.

The City Clerk shall refer the appeal to the City Council, which shall fix within thirty days a reasonable time for the hearing. Notice of the time, place, and purpose of such hearing shall be published in a daily newspaper having a general circulation in the City of Lincoln by the City Clerk and shall be mailed by certified or registered mail to the appealing party not less than eight days prior to the date of hearing. The City Council shall review the appeal and may in conformance with the provisions of this title reverse or affirm, wholly or partially, or may modify the order, approval, disapproval or other decision appealed from. In making a determination, the Council may request information and recommendations from any department of the

## Chapter 27.58

## AIRPORT ENVIRONS DISTRICT

## Sections:

27.58.010	Scope of Regulations.
27.58.020	Definitions.
27.58.030	Use Regulations.
27.58.040	Prohibited Uses; Airport Environs District 1.
27.58.050	Permitted Uses in Relation to Noise Exposure Levels.
27.58.060	Conditional Residential Uses.
27.58.070	Prohibited Uses, Airport Environs District 2.
27.58.080	Avigation and Noise Easements; Covenant, Notice and Acknowledgment.
27.58.090	Preexisting Uses.
27.58.100	Enforcement and Exemption.

## 27.58.010 Scope of Regulations.

The regulations set forth in this chapter, or set forth elsewhere in this title when referred to in this chapter, are regulations in the Airport Environs District. The regulations shall apply to the area in the vicinity of the Lincoln Municipal Airport as described in Sections 27.58.020(b) and (c). References to specific Ldn lines shall mean those Ldns as shown on the "Lincoln Municipal Airport Composite Noise Contours Map" shown as Figure 21 in the Lincoln-Lancaster County Comprehensive Plan. (Ord. 14431 § 3: July 14, 1986; prior Ord. 13414 § 1; June 14, 1982).

## 27.58.020 Definitions.

For the purpose of this chapter, certain terms and words are hereby defined:

**Airborne noise** shall mean noise radiated initially into and transmitted through air.

**Airport Environs District 1** shall mean an area established on the "Lincoln Zoning District Map" based on the "Lincoln Municipal Airport Composite Noise Contours Map" shown as Figure 21 of the Lincoln-Lancaster County Comprehensive Plan, and more particularly described as follows:

Beginning at a point located on Southwest 12th Street at the southeast corner of the northern half of Section 9, Township 9 North, Range 6 East, heading north approximately 8,100 feet along Southwest 12th Street, the eastern borders of Section 9, Township 9 north, Range 6 east, and 4, Township 9 North, Range

6 East, and Section 33, Township 10 North, Range 6 East to the tracks of the Burlington Northern Railroad; heading then northeast approximately 2,000 feet along the railroad tracks; then heading north approximately 8,200 feet through the western half of Section 34, Township 10 North, Range 6 East, along Southwest 9th Street and the western half of Section 27, Township 10 North, Range 6 East to the tracks of the Burlington Northern Railroad, 500 feet south of West "O" Street; following the railroad tracks northeast to the eastern border of Section 22, Township 10 North, Range 6 East; following the tracks of the Union Pacific Railroad northwesterly to Northwest 12th Street; heading then north along Northwest 12th Street to the southeast corner of Section 28, Township 11 North, Range 6 East; heading then east approximately one mile to North 1st Street; heading then north along North 1st Street to the city's three-mile zoning jurisdiction line; heading then west along the city's three-mile zoning jurisdiction line, to Northwest 40th Street; heading then south to the southwest corner of Section 10, Township 11 North, Range 6 East; heading then west on McKelvie Road to the north west corner of Section 25, Township 11 North, Range 5 East; heading then south on Northwest 70th Street to Fletcher Avenue; heading then east along Fletcher Avenue to Northwest 56th Street; heading then south on Northwest 56th Street approximately 19,400 feet to Interstate 80; heading then west along Interstate 80 to the western border of Section 24, Township 10 North, Range 5 East; heading then south along the western borders of Sections 24, Township 10 North, Range 5 East and 25, Township 10 North, Range 5 East to West "A" Street; heading then east along West "A" Street to the southwest corner of Section 30, Township 10 North, Range 6 East; heading then south along the western border of Section 31, Township 10 North, Range 6 East to Van Dorn Street; heading then east on Van Dorn Street to Southwest 40th Street; heading then south on Southwest 40th Street to West Claire Avenue; and then heading east along West Claire Avenue to its termination at Coddington Avenue and then further east approximately 2,700 feet to a point located at Southwest 12th Street at the southeast corner of the northern half of Section 9, Township 9 North, Range 6 East.

**Airport Environs District 2** shall consist of three rectangular areas located within Airport Environs District 1 shown as runway protection and special use zones on Figure 21 of the Lincoln-Lancaster County Comprehensive Plan. Said Figure 21 is incorporated herein by this reference. The said runway protection

and special use zones are more particularly described as follows:

(1) A rectangular area bounded on the north by the southern end of runway 17R/35L of the Lincoln Municipal Airport and on the south by the northern boundary of the State Reformatory, and extending 1,250 feet laterally to both east and west sides as measured from the extended central line of runway 17R/35L;

(2) A rectangular area bounded on the southeast by the northwestern end of runway 14/32 of the Lincoln Municipal Airport and extending northwesterly a distance of 5,200 feet and extending 1,250 feet laterally to both northeast and southwest sides as measured from the extended central line of runway 14/32;

(3) A rectangular area bounded on the south by the northern end of runway 17R/35L of the Lincoln Municipal Airport and extending north a distance of 5,200 feet and extending 1,250 feet laterally to both east and west sides as measured from the extended central line of runway 17R/35L.

**Day-night average sound level (Ldn)** shall mean the sum of noise emission equivalent of A-weighted sound level during a twenty-four-hour day typifying annual average conditions after addition of ten decibels to sound levels in the night before 7 a.m. and after 10 p.m.

**Exterior door** shall mean all exit doors of a building that are located between conditioned and unconditioned space. A basement, crawl space, or garage is considered unconditioned space unless it is provided with a positive heat supply to maintain a minimum temperature of fifty degrees F.

**Habitable space** shall mean space or room in a structure for living, sleeping, eating, or cooking. Bathrooms, toilet compartments, closets, halls, storage or utility space, and similar areas are not considered habitable space.

**Noise-sensitive manufacturing and noise-sensitive communication facilities** shall include, but not be limited to, the manufacture and assembly of microelectronics, technical and scientific instruments, photographic and optical goods, and other manufacturing sensitive to speech interference or vibration, and radio and television broadcasting studios. (Ord. 14431 § 4; July 14, 1986; prior Ord. 13414 § 3; June 14, 1982).

#### 27.58.030 Use Regulations.

Any use permitted in the underlying zoning district in which the proposed use is located shall be allowed in the Airport Environs District 1 and Airport Environs

District 2 except as prohibited within the provisions of this chapter and, provided that additional requirements set forth in this chapter are met. References to allowable uses as provided within this chapter are conditioned upon the said use being in compliance with allowable uses within the underlying zoning district. (Ord. 13414 § 4; June 14, 1982).

#### 27.58.040 Prohibited Uses; Airport Environs District 1.

Within the Airport Environs District 1 at Ldn 65 line and above, no building shall be erected, converted, reconstructed, or structurally altered for use as a church, library, school, health care facility, housing for the elderly, mobile home court, auditorium, concert hall, and music shell. (Ord. 13414 § 5; June 14, 1982).

#### 27.58.050 Permitted Uses in Relation to Noise Exposure Levels.

A use of a building or premises for the following purposes may be allowed in the Airport Environs District 1 if it lies within the specified noise exposure levels shown below, but outside of Airport Environs District 2, conditioned upon compliance with Section 27.58.080 of this chapter:

(a) Mobile home courts, schools, libraries, churches, health care facilities, auditoriums, concert halls, housing for the elderly, and music shells, not to exceed Ldn 65 line;

(b) Residential uses which comply with Section 27.58.060, hotels and motels, playgrounds, neighborhood parks, noise-sensitive manufacturing, and noise-sensitive communication facilities, not to exceed Ldn 70 line;

(c) Cemeteries, mausoleums and undertaking establishments, riding, watersports, tennis courts, skating rinks, bowling alleys and other recreational facilities, theatres, spectator sports, and veterinary facilities and kennels, not to exceed Ldn 75 line;

(d) Office buildings, personal business, governmental services, communication facilities, extensive natural recreational areas, financial institutions, retail trade, restaurants, bars, amusements, sports arenas, golf courses and related support facilities, wholesale, manufacturing, construction services, repair services, livestock farming, animal breeding, utilities, agriculture, mining, fishing, forestry, warehouses, storage facilities, historical preservation, wind energy conversion systems, transportation facilities, no noise-related restrictions.

Where property is undeveloped, only such portion of it as is actually within the Ldn lines shall be considered at or within that Ldn line. However, at such time as said property shall be subdivided or platted, any platted buildable lots intersected by an Ldn line shall be deemed to be wholly within the highest Ldn line. (Ord. 13414 § 6; June 14, 1982).

#### 27.58.060 Conditional Residential Uses.

A building or premises may be used for residential purposes except mobile home courts, health care facilities, and housing for the elderly, in areas between Ldn 65 line and Ldn 70 line, except within Airport Environs District 2, in conformance with the requirements of § 27.58.080 of this title and the conditions prescribed herein:

(a) Prior to applying for a building permit, an applicant shall prepare and submit to the Planning Director for his review and approval a site plan for the proposed building or buildings which shall be designed to minimize the impact of noise. This may include, but need not be limited to:

- (1) Placing as much distance as possible between the noise source and noise-sensitive activities;
- (2) Placing noise-compatible activities, such as parking lots and open space, between the noise source and the sensitive activities;
- (3) Using buildings as noise barriers;
- (4) Orienting buildings so that nonhabitable space, such as utility rooms, laundry rooms and garages, are located between the noise source and the habitable space;
- (5) Utilizing the site's natural shape and contours or constructing noise barriers between noise sources and noise-sensitive areas. Such noise barriers may include but need not be limited to berms made of sloping mounds of earth, walls and fences constructed of a variety of material, dense plantings of trees and shrubs, e.g., 100-foot depth, and any of these combinations.

(b) The site plan submitted to the Planning Director shall be accompanied by the following information:

- (1) An accurately drawn plan showing location of existing and proposed structures on the property, open space, parking areas, location of existing trees, proposed landscape plans, sidewalks, floor plan identifying bedrooms, kitchens, living rooms, garages, etc., lot lines and building setback lines;

(2) Contour lines at intervals not to exceed five feet based on city data, if the site has not been platted;

(3) Location of site with relation to specific Ldn lines;

(4) Grading plan, if any;

(5) Discussion of additional steps to minimize the noise impact, if any;

(6) Date prepared, scale, and north point;

(7) Name, address and telephone number of applicant;

(8) Other relevant information, if any, relating to noise attenuation.

(c) Within twenty days from the receipt of a site plan with the required information, the Planning Director shall notify the applicant and the Director of Building and Safety whether or not the site plan has been approved or disapproved. If the site plan is disapproved, the Planning Director shall specify the reasons for such disapproval. A site plan shall be approved if it reflects a reasonably effective method of minimizing the impact of the noise to which the proposed building or buildings would be subjected.

(d) If the site plan is approved by the Planning Director, a building permit may be issued by the Director of Building and Safety provided that the building plan shows a design that incorporates acoustical features described below in addition to all other applicable requirements of the Lincoln Building Code as now existing or hereinafter amended:

(1) All exterior doors shall be either:

- (i) solid-core or metal-clad construction of at least 1 3/4 inches thick, or
- (ii) separately equipped with wood or metal storm door.

(2) Storm or multiple-glazed windows shall be provided for all habitable space.

(3) Through-the-wall/door mailboxes, window or dome skylights, jalousie windows, or other direct openings from the interior to the exterior of the building shall be prohibited.

(4) Mechanical ventilation shall be provided of a type and design to provide adequate environmental comfort with all doors and windows closed during all seasons. Window and through-the-wall ventilation units shall not be used.

(5) Workmanship on doors and windows must be such that they are as close-fitting as possible or weather-stripping seals shall be incorporated on all edges to eliminate gaps.

(e) In the event that the Planning Director disapproves the site plan, the applicant may, within ten days after notification of such disapproval, appeal the decision of the Planning Director to the City Council. The City Council shall, by resolution, affirm, reverse, or modify the decision of the Planning Director. (Ord. 14837 § 2(part); February 29, 1988; prior Ord. 13414 § 7; June 14, 1982).

**27.58.070 Prohibited Uses, Airport Environs District 2.**

All residential use is prohibited within Airport Environs District 2, except for resident security guards, caretakers or supervisory personnel employed and residing on the premises, and pre-existing uses as provided in § 27.58.090. All regulations contained herein with regard to uses within Airport Environs District 1 shall be applicable to Airport Environs District 2. (Ord. 16811 § 1; June 19, 1995; prior Ord. 13414 § 8; June 14, 1982).

**27.58.080 Avigation and Noise Easements; Covenant, Notice and Acknowledgment.**

(a) All uses allowed within Airport Environs District 2 except as provided in § 27.58.090 shall be conditioned upon an acknowledgment by the property owner of the airport noise and overflight impact by the grant of an avigation and noise easement to the airport authority of the City of Lincoln, Nebraska, providing for disclosure of the impact to future purchasers, as a condition of subdivision, community unit plan, use permit, or building permit. Avigation easements submitted pursuant to the terms of this chapter shall conform to the provisions contained in the model avigation and noise easement, a copy of which shall remain on file in the office of the Executive Director of the Lincoln Airport Authority and the City Clerk of the City of Lincoln.

(b) All uses allowed within Airport Environs District 1, except as provided in § 27.58.090 shall be conditioned upon the grant by the property owner of a covenant, notice, and acknowledgment that the property is located in Airport Environs District 1, providing for the disclosure of the airport noise and overflight impact to future purchasers, as a condition of subdivision, community unit plan, special permit, use permit, or building permit. Covenant, notice, and acknowledgment that property is located in Airport Environs District 1 to be submitted

pursuant to the terms of this chapter shall conform to the provisions contained in the model covenant, a copy of which shall remain on file in the office of the Executive Director of the Lincoln Airport Authority and the City Clerk of the City of Lincoln. (Ord. 13414 § 9; June 14, 1982).

**27.58.090 Pre-existing Uses.**

Any existing use which was lawfully established at the time of the effective date of this chapter may be continued although such use does not conform to the provisions hereof. However, the requirements set forth in this chapter shall be applicable to the portion of the use subject to enlargement, extension, conversion, reconstruction, or structural alteration, and not be retroactive to the entire existing structure. Nothing shall prohibit the reconstruction of a building legally in use at the time of the adoption of this chapter. A request for enlargement, extension, conversion, reconstruction, or structural alteration of a pre-existing use which does not conform to the provisions of this chapter shall be processed through special permit procedures set forth in Chapter 27.63. No person applying for a special permit to enlarge, extend, convert, reconstruct, or alter a structure lawfully in existence at the time of the enactment of this chapter shall be required to submit an avigation and noise easement or covenant, notice and acknowledgment as a condition for approval thereof. (Ord. 13414 § 10; June 14, 1982).

**27.58.100 Enforcement and Exemption.**

(a) Prior to the issuance of a building permit or other certificate, the Director of Building and Safety shall receive either the executed avigation and noise easement for property in Airport Environs District 2 or the executed covenant, notice, and acknowledgment for property in Airport Environs District 1 which shall then be forwarded to the Airport Authority or shall have received evidence that the executed easement or covenant was previously furnished to the Airport Authority. All easements and covenants shall be forwarded to the Airport Authority, which shall then be filed with the Register of Deeds at Authority's expense.

(b) Uses in connection with the operation of the Lincoln municipal airport, and properties owned or leased by the City of Lincoln, the Airport Authority of the City of Lincoln, military units, or other governmental agencies are hereby declared compatible and shall be exempted from the requirements of this chapter. (Ord. 13414 § 11; June 14, 1982).

## Chapter 27.59

## AIRPORT ZONING REGULATIONS

## Sections:

27.59.010	Definitions.
27.59.020	Location and Boundaries.
27.59.030	Zone Descriptions.
27.59.040	Height Restrictions.
27.59.050	Airport Zoning Map.
27.59.060	Permit Required; Procedure.
27.59.070	Airport Hazards.
27.59.080	Nonconforming Height.
27.59.090	Administration.
27.59.100	Board of Zoning Appeals.
27.59.110	Powers of the Board of Zoning Appeals.
27.59.120	Airport Zoning Commission.
27.59.130	Use of Land.
27.59.140	Appeal From Board of Zoning Appeals.
27.59.150	Penalty for Violations.

**27.59.010 Definitions.**

As used in this chapter unless the context otherwise requires:

**Airport** shall mean the Lincoln Municipal Airport, located as provided in Section 27.59.020, below.

**Airport hazard** shall mean any structure or use of land which obstructs the airspace required for the flight of aircraft in landing or taking off at the airport or is otherwise hazardous to such landing or taking off of aircraft.

**Nonconforming use** shall mean any structure or use of land which does not conform to a requirement of this chapter or an amendment thereto, as of the effective date of this chapter.

**Person** shall mean any individual, firm, association, corporation, or body politic and includes any receiver, assignee, or similar representative thereof.

**Structure** shall mean any object constructed or installed by man.

**Runway** shall mean a portion of the airport, having a surface especially developed and maintained for the landing and takeoff of aircraft.

**City** shall mean the City of Lincoln, Nebraska.

**Lessee** shall mean any person, other than the owner, in possession of land. (Ord. 12571 § 280; May 8, 1979).

**27.59.020 Location and Boundaries.**

The vicinity of the airport, located in Sections 4, 5, 6, 7, 8, 9, 17 and 18, Township 10 north, and Sections 31 and 32, Township 11 north, Range 6 east of the sixth principal meridian, Lancaster County, Nebraska, specifically being the area lying within the outer limits of a series of points forming a line which is a horizontal distance of three miles from the airport boundary or the corporate limits of the city, whichever is the lesser distance from the airport boundary line, as shown on the attached airport zoning map, is hereby declared an airport hazard area and is hereby zoned as follows:

The hazard area consists of approach zones, turning zones, and transition zones.

(a) The outer boundary of the hazard area is composed of a series of connected tangents and simple curves which also constitute the outer boundaries of the approach and turning zones.

(b) The inner boundary of the hazard area is a boundary line consisting of a series of intersecting tangents, 500 feet from and parallel to the centerlines of the runways and connecting the inner boundaries of adjacent approach zones at the ends of the runways. (Ord. 12571 § 281; May 8, 1979).

**27.59.030 Zone Descriptions.**

(a) An approach zone is located at each end of each existing or proposed runway for the landing or taking off of airplanes. Such approach zones begin 200 feet beyond the ends of the respective runways, and at such beginning are 1,000 feet in width, 500 feet on each side of the respective centerline, and extend and expand uniformly centered along the extended centerline of the respective runways to the outer boundary of the approach and turning zones at a rate of thirty feet of width for each 100 feet of horizontal length for each runway.

The inner area of each approach zone is that portion of the approach zone beginning 200 feet beyond the end of the respective or proposed runway and extending to the intersection of the controlling glide angle with a plane 150 feet above the highest elevations of the ends of the respective runways, at a rate of one foot vertically for each fifty feet horizontally.

The outer area of each approach zone is the area between the inner area of the approach zone and the outer limit of the approach and turning zones.

(b) The transition zones are the areas bounded by the inner boundary of the hazard area, the sides of contiguous inner areas of approach zones and the outer limits of the transition zones; said outer limits of the

transition zones being the intersections, at elevations of 150 feet above the highest elevation at the ends or edges of the closest runway, or proposed runway, of a series of contiguous planes originating from bases established by the inner boundary of the hazard area and the edges of adjacent inner areas of approach zones; the planes rising from their respective bases at the rate of one foot vertically to seven feet horizontally to the lines of intersection previously referred to.

(c) The turning zones comprise all portions of the zoned area not contained in the approach zones and transition zones. The outer limits of the turning zones are a series of points forming a line which is a horizontal distance of three statute miles from the airport boundary line or the corporate limits of the city, whichever is the lesser distance from the airport, as shown on the attached airport zoning map. (Ord. 12571 § 282; May 8, 1979).

#### 27.59.040 Height Restrictions.

No building or structure, smokestack, chimney, tower, or other structure or appurtenance thereto of any kind or character shall hereafter be erected, constructed, repaired, or established except as otherwise provided in Section 27.59.090:

(a) In inner areas of approach zones to a height above the planes forming the inner area of the approach zones;

(b) In the outer area of approach zones and in turning zones to a height in excess of 150 feet above the elevation at the closest point on the nearest runway, or to a height in excess of seventy-five feet above the elevation of the natural ground at the location of the structure; except a maximum height of 275 feet shall be permitted in the following described area:

Beginning at a point 142 feet west of the west line of Tenth Street and 150 feet south of the south line of "R" Street; thence south to the centerline of "Q" Street; thence east along the centerline of "Q" Street to its intersection with the centerline of the north-south alley between 9th and 10th and "P" and "Q" Streets; thence south along said line to the centerline of the east-west alley between 9th and 10th and "P" and "Q" Streets; thence west along said line to a point 100 feet west of the west line of 9th Street; thence south to the centerline of "P" Street; thence west along the centerline of "P" Street to its intersection with the centerline of the north-south alley between 8th and 9th and "O" and "P" Streets; thence south along said line to the centerline of "O" Street; thence west along the centerline of

"O" Street to a point 150 feet west of the west line of 9th Street; thence south to the centerline of the east-west alley between 8th and 9th and "N" and "O" Streets; thence east along said line to the centerline of the north-south alley between 9th and 10th and "N" and "O" Streets; thence south along said line to the centerline of "K" Street; thence east along the centerline of "K" Street to its intersection with the centerline of the north-south alley between 10th and 11th and "J" and "K" Streets; thence south along said line to a point 150 feet south of the south line of "K" Street; thence east to the centerline of 11th Street; thence north along the centerline of 11th Street to the centerline of "K" Street; thence east along the centerline of "K" Street to the centerline of 12th Street; thence north along the centerline of 12th Street to the centerline of "L" Street; thence east along the centerline of "L" Street to the centerline of 13th Street; thence north along the centerline of 13th Street to the centerline of "M" Street; thence east along the centerline of "M" Street to the centerline of 14th Street; thence north along the centerline of 14th Street to the centerline of "N" Street; thence east along the centerline of "N" Street to the centerline of 15th Street; thence north along the centerline of 15th Street to the centerline of "O" Street; thence east along the centerline of "O" Street to a point 150 feet east of the east line of 15th Street; thence north to the centerline of the east-west alley between 15th and 16th and "Q" and "R" Streets; thence west along said line to a point 150 feet west of the west line of 15th Street; thence north to a point ninety-five (95) feet south of the south line of "R" Street; thence west to the centerline of 14th Street; thence south along the centerline of the east-west alley between 13th and 14th and "Q" and "R" Streets; thence west along the said line to the point of beginning, and more specifically set forth upon a map which is attached hereto and made a part of this title, which map is designated as the airport zoning map;

(c) In the transition zones to a height above the planes forming the transition slopes;

(d) Within the inner boundary of the hazard area and in the existing or proposed runways to a height above the existing or proposed finished grade of said runways. All grades of said runways are hereby established by and referenced to the plans of said airport on file in the office of the City Clerk, which plans are made a part of this chapter by reference. (Ord. 12571 § 283; May 8, 1979).

**27.59.050 Airport Zoning Map.**

The boundaries, approach zones, transition zones, and turning zones and all areas thereof are as indicated on the location sketch and airport zoning map which accompanies and is hereby made a part of this ordinance, a copy of which shall at all times be on file in the office of the City Clerk. (Ord. 12571 § 284; May 8, 1979).

**27.59.060 Permit Required; Procedure.**

(a) It is hereafter unlawful to erect, construct, reconstruct, repair, or establish any building, tower, smokestack, chimney, or other structure or appurtenances thereto of any kind or character within the boundary of the zoned hazard area of said airport without first obtaining a height permit from the Building Official.

(b) In the outer area of approach zones and within the turning zones, no height permit shall be required generally for construction which is no higher than seventy-five feet above the elevation of the natural ground at the point of construction, except in specifically "shaded" areas indicated on the airport zoning map. Structures or buildings proposed to be constructed within or in close proximity to such "shaded" areas on said map shall require certification as to elevation if in the opinion of the Building Official such structure or building may exceed the allowable height of that particular "shaded" portion of the map.

(c) Application for a height permit as required under the provisions of this chapter shall be made upon a form which is available in the office of the Building Official. The application shall indicate the location, ground elevation with reference to the elevation at the closest point on a runway, and the height of the proposed structure. Said elevation shall be certified to by a land surveyor, registered by the State of Nebraska, which certificate must accompany said application. (Ord. 12571 § 285; May 8, 1979).

**27.59.070 Airport Hazards.**

(a) The Building Official shall examine or cause to be examined any transmission line, pole, tree, wires, or other structures or natural growth, not included in Section 27.59.060, reported to him as an airport hazard within the hazard area, and if such is found to be an airport hazard as defined in Section 27.59.010, it shall be the duty of the Building Official to give the owner of the property where such hazard exists written notice thereof, and to take such measures as are necessary and authorized by law to eliminate or alleviate said hazard.

For the purpose of aiding the Building Official to determine whether the existence of any such reported transmission line, pole, tree, wires, or other structures or natural growth constitute an airport hazard, the Building Official may in each case request a written report from the State Department of Aeronautics under the provisions of Neb. Rev. Stat. §§ 3-108 and 3-113 (Reiss. 1973) to advise whether or not an airport hazard, as defined in this chapter, exists.

(b) Notwithstanding any other provisions of this title, no use may be made of land within any zone established by this ordinance in such a manner as to create electrical interference with radio communication between the airport and aircraft, make it difficult for fliers to distinguish between airport lights and others, result in glare in the eyes of fliers using the airport, impair visibility in the vicinity of the airport, or otherwise endanger the landing, takeoff, or maneuvering of aircraft. (Ord. 12571 § 286; May 8, 1979).

**27.59.080 Nonconforming Height.**

Within the zoned hazard area as hereinbefore defined, the lawful height of a building, structure, or premises existing at the time of the effective date of this chapter may be continued although such height does not conform to the provisions hereof. Within the zoned area no nonconforming building, structure, smokestack, chimney, or appurtenance thereof of any kind or character shall hereafter be replaced, substantially reconstructed, repaired, or altered to a height which constitutes a greater hazard to air navigation than existed before the effective date of this chapter, nor above the heights permitted by this chapter if such structures are torn down, destroyed, burned, deteriorated, or decayed to an extent of sixty percent or more, or abandoned for a period of twelve months or more. (Ord. 12571 § 287; May 8, 1979).

**27.59.090 Administration.**

It is the duty of the Building Official who is the Director of Building and Safety of the City of Lincoln, to administer and enforce this chapter, and said officer is hereby appointed the "administrative agency" provided for in Neb. Rev. Stat. § 3-319 (Reiss. 1943, as amended), and shall have all the powers and perform all the duties of the administrative agency as provided by the Airport Zoning Act, until or unless otherwise ordered by the Mayor. Applications for permits and variances shall be made to the Building Official upon a form furnished by said official. Applications which are by this chapter to be decided by the Building Official

shall be promptly considered and granted or denied. Applications for action by the Board of Zoning Appeals shall be forthwith transmitted by the Building Official to the Board for hearing and decision. (Ord. 12571 § 288; May 8, 1979).

#### 27.59.100 Board of Zoning Appeals.

(a) The Board of Zoning Appeals is the "Board of Adjustment" with respect to this chapter, to have and exercise the powers conferred by Section 27.59.120 and such other powers and duties as are conferred and imposed by law. Any person aggrieved or affected by any decision or action of the Building Official made in the administration of this chapter may appeal such decision or action to the Board of Zoning Appeals.

(b) Any appeal taken pursuant to this section shall be by the procedure established by Section 27.75.030. (Ord. 12571 § 289; May 8, 1979).

#### 27.59.110 Powers of the Board of Zoning Appeals.

The Board of Zoning Appeals has the following powers:

(a) To hear and decide appeals from any order, requirement, or decision made by the Building Official in the enforcement of this chapter;

(b) To hear and decide any special exceptions to the terms of this chapter which such Board may be required to pass upon under this chapter; and

(c) To hear and decide specific variances to the extent necessary, where there are peculiar, exceptional, and unusual circumstances in connection with a specific situation where the relief granted would not be contrary to the public interest but would do substantial justice and be in accordance with the spirit of this chapter. Provided, that any variance may be allowed subject to any reasonable conditions that the Board of Zoning Appeals may deem necessary to effectuate the purpose of this chapter. (Ord. 12571 § 290; May 8, 1979).

#### 27.59.120 Airport Zoning Commission.

The Lincoln City-Lancaster County Planning Commission is hereby appointed the "Airport Zoning Commission," referred to in Neb. Rev. Stat. § 3-308, (Reiss. 1943), to have and exercise the powers conferred by Neb. Rev. Stat. § 3-308, (Reiss. 1943), and such other powers and duties as are conferred and imposed by law. (Ord. 12571 § 291; May 8, 1979).

#### 27.59.130 Use of Land.

No use of land which is prohibited by Title 27 of this code is permitted within the airport hazard area. (Ord. 12571 § 292; May 8, 1979).

#### 27.59.140 Appeal From Board of Zoning Appeals.

Any person aggrieved or taxpayer affected by any decision of the Board of Zoning Appeals or governing body of a political subdivision which is of the opinion that a decision of the Board of Zoning Appeals is illegal, may appeal to the district court of Lancaster County in the manner provided in Neb. Rev. Stat. §§ 3-324 et seq. (Reiss. 1973). (Ord. 12571 § 293; May 8, 1979).

#### 27.59.150 Penalty for Violations.

(a) Each violation of any provision of this chapter shall constitute a misdemeanor and shall be punishable by a fine of not less than fifty dollars nor more than \$300.00, or imprisonment for not less than five nor more than thirty days, or both such fine and imprisonment.

Each day a violation continues to exist shall constitute a separate offense.

(b) In any case where use of land is made in violation of this chapter or where any building or structure is erected, constructed, reconstructed, altered, repaired, or converted in violation of this chapter, the City Attorney, in addition to other remedies, is hereby authorized to institute on behalf of the city, injunction, mandamus, or any other appropriate action or proceeding to prevent such unlawful use, erection, construction, reconstruction, alteration, or conversion, or to correct or abate such violation. (Ord. 12571 § 294; May 8, 1979).

## Chapter 27.60

### PLANNED UNIT DEVELOPMENT DISTRICT

#### Sections:

- 27.60.010 General Purpose.
- 27.60.020 Use Regulations.
- 27.60.030 Pre-application; Procedures and Requirements.
- 27.60.035 Preliminary Plan; Form.
- 27.60.040 Preliminary Plan; Procedure.
- 27.60.055 Final Plan; Form.
- 27.60.056 Final Plan; Procedure.
- 27.60.060 Planned Unit Development; Amendments.
- 27.60.070 Abandonment or Failure to Proceed.

(The PUD planned unit development district is intended to permit private or public development or redevelopment of areas throughout the city which shall be substantially in accordance with goals and objectives of the comprehensive plan for the City of Lincoln. The proposed development shall provide a desirable environment and shall be harmonious with the general surrounding uses while permitting flexibility in overall development.)

#### 27.60.010 General Purpose.

The purpose of this chapter is to provide a mechanism for the approval of planned developments so as to permit private and public development or redevelopment of areas throughout the city in the form of an overlay zone intended to be used in combination with one or more of the city's existing zoning districts. Planned unit development districts are intended to promote the public convenience and necessity; protect the health, safety, and welfare, and are to be used when it is necessary or appropriate to:

- (a) Permit flexibility in the regulation of land development;
- (b) Encourage innovation in land use and variety in design, layout, and type of structures constructed;
- (c) Achieve economy and efficiency in the use of land, natural resources, energy, and the provision of public services and utilities;
- (d) Encourage the preservation and provision of useful open space;

(e) Provide improved housing, employment, or shopping opportunities particularly suited to the needs of an area. (Ord. 13896 § 1; July 23, 1984).

#### 27.60.020 Use Regulations.

(a) General Planned Unit Development. The owner or owners of any tract of land which meets the minimum acreage requirements set forth in subsection 27.60.020(a)(1) below may apply for a general planned unit development designation in any zoning district except the AG Agriculture, the AGR Agricultural Residential, or the I-3 Employment Center Districts. Use regulations of the zoning district within which the general planned unit development is proposed shall apply except as specifically modified by the approval of different or additional uses by the City Council through the adoption of a development plan as hereinafter set forth. The development plan may propose, and the City Council may approve, any permitted, conditional, or special use permitted in the R-1 Residential District through the R-8 Residential District, or the B-1 Local Business District, or any permitted use, but not any permitted special use, permitted in the I-1 Industrial District, and, unless specifically modified by the city council as hereinafter set forth, the height and area, parking, and accessory use regulations applicable to such uses shall be those district regulations for districts within which such uses are permitted. If the planned unit development is located in a residential zoning district or districts, the average lot area per family within the general planned unit development shall not be less than the average lot area per family required for a community unit plan in such residential zoning district or districts. If the planned unit development is located in other than a residential zoning district, the average lot area per family shall not be less than that provided for in subsections 27.60.020(a)(2)(ii) and (a)(2)(iii). The maximum residential density of a planned unit development shall be determined in accordance with the community unit plan design standards adopted by resolution of the City Council. Planned unit developments which comply with housing for the handicapped, housing for the low income, and energy efficient housing standards adopted by resolution of the City Council may receive dwelling bonuses not to exceed a total of twenty percent (20%). Those uses which may be approved as a part of a general planned unit development that would

not otherwise be permitted shall be compatible with adjacent land uses. The following conditions shall apply to a general planned unit development.

(1) Minimum District Size. Three acres.

(2) Use Regulations. For those land uses not otherwise permitted in the zoning districts for which the general planned unit development is proposed, the following shall apply:

(i) In residential districts:

A. In planned unit developments with a total land area of less than 160 acres, not more than ten percent (10%) of the total land area in a proposed development shall be devoted to commercial uses, and not more than ten percent (10%) of the total land area in the proposed development shall be devoted to industrial land uses; provided that in no case shall the combination of such nonresidential land uses exceed fifteen percent (15%) of the total land area within the proposed development. No one commercial use shall occupy more than 5,000 square feet of floor area.

B. In planned unit developments with a total land area of 160 acres or more, the maximum commercial floor area shall be one square foot of commercial floor area for every 50 square feet of total land area within the proposed development. The actual land area devoted to commercial uses may be increased to not more than fifteen percent (15%) of the total land area within the development so long as the maximum commercial floor area as determined above is not exceeded. Alternately, the actual land area devoted to commercial uses may be reduced to less than ten percent (10%) of the total land area within the development without reducing the maximum commercial floor area so long as the ratio of commercial floor area to commercial land area is not greater than one to four.

A single commercial use may occupy up to 15,000 square feet of floor area, so long as the aggregate amount of floor area exceeding 5,000 square feet for such commercial use shall not exceed twenty percent (20%) of the maximum commercial floor area.

Not more than ten percent (10%) of the total land area in the proposed development shall be devoted to industrial land uses; provided, that in no case

shall the combination of nonresidential land uses exceed fifteen percent (15%) of the total land area within the proposed development.

C. For purposes of this subsection, "total land area" shall include existing public rights-of-way which abut the land included within the proposed development, up to the center lines thereof. Land area "devoted to" a use not otherwise permitted in the underlying zoning district shall include the actual building site, accessory parking, open space, and other land directly serving or related to such a use.

(ii) In commercial districts, not more than forty percent (40%) of the total land area (as defined above) in the proposed district shall be utilized for residential or industrial land uses that would not otherwise be permitted. The maximum density at which residential development may take place shall not exceed that which would be allowed for an equal area developed as a community unit plan in an R-5 Residential District.

(iii) In industrial districts, not more than ten percent (10%) of the land area may be used for residential or commercial land uses that would not otherwise be permitted. The maximum density at which residential development may take place shall not exceed that which would be allowed for an equal area developed as a community unit plan in an R-5 Residential District.

(iv) The City Council shall require such landscaping, screening, traffic access, and setbacks as are necessary to protect and enhance neighboring areas within or adjacent to the planned unit development.

(v) Transfer of Zoning. Where there is more than one underlying zoning district within the boundaries of a tract proposed as a general planned unit development, the council may approve the transfer of permitted uses of the underlying zoning, in equal proportion of total land area, to any part of the proposed tract where such transfer will promote the intent and purpose of this section.

(vi) Area, Height, and Parking Requirements. The development plan shall specify parking, area, and height restrictions for the project as a whole or for subareas or components of the project as appropriate. The devel-

opment plan shall specifically identify development proposals which are not in conformity with applicable standards and provide evidence supporting deviations from such standards. The City Council may impose alternate or additional standards or restrictions to achieve the intent of this ordinance. In making its determination regarding such standards or restrictions, the City Council may consider the character and scale of the proposed development as it relates to other uses and structures both within the district and outside the district, the general character and scale of similar development within the area of the proposal, and consistency with other adopted plans or standards.

(b) Corporate Office Park Planned Unit Development. The owner or owners of any tract of land within the "future urban area" boundary as designated in the comprehensive plan and within two miles of any community or regional multi-use center, may submit to the City Council a plan for the use and development of the land for a corporate office park planned unit development. In addition to the conditions contained in other chapters of this title, the following conditions shall apply to the corporate office park planned unit development:

(1) The distance between corporate office park planned unit developments, measured from lot line to lot line, shall be not less than 1,000 feet.

(2) Minimum Size. Ten acres.

(3) Maximum Total Building Floor Area Ratio (FAR). The maximum total building floor area ratio for all uses in the corporate office park planned unit development shall not exceed twenty-eight percent (28%) of the total land area included in the corporate office park planned unit development.

(4) Maximum Total Building Floor Area. No corporate office park planned unit development shall contain more than 200,000 square feet of the 600,000 square feet of office space allocated to corporate office parks in the Comprehensive Plan. The City Council may approve, on a one-to-one ratio, the transfer of all or part of the unused office space from one approved B-5 Community Multi-use Center to a corporate office park planned unit development located within two miles of said community multi-use center. The request to transfer the unused office space from the B-5 Community Multi-use Center shall

be accompanied by a request from the owner of the affected B-5 Community Multi-use center to amend the comprehensive plan to transfer unused designated office space from the B-5 Community Multi-use Center to the corporate office park planned unit development. The ordinance approving the transfer of such unused office space to the corporate office park planned unit development shall be conditioned upon approval of the comprehensive plan amendment. If applicable, the ordinance shall also be conditioned upon the owner of the B-5 Community Multi-use Center submitting a request to the Planning Director to amend an existing use permit for the affected B-5 Community Multi-use Center to reduce the amount of approved office space to the amount designated in the comprehensive plan as amended.

(5) Minimum Tenant Space. Except for buildings whose total floor area is one hundred percent (100%) occupied by recreational facilities, motels and hotels, and child care centers, at least fifty percent (50%) of the total floor area of any building constructed within a corporate office park planned unit development shall at a minimum be occupied by the administrative offices of a single association, corporation, or similar organization. The balance of space in each building may be occupied by accessory uses or other permitted uses.

(6) Permitted Uses. The corporate office park planned unit development shall be used for the administrative offices of associations, corporations, or other similar organizations, general purpose office uses not frequently or regularly used or visited by the general public or offices for manufacturer's agents, provided no manufacturing, handling, shipping, or exterior display of merchandise shall be permitted. No other uses shall be permitted.

(7) Accessory Uses. Permitted accessory uses shall be incidental to the permitted uses and shall be limited to:

(i) Parks, playgrounds, and community buildings, owned and operated by a public agency;

(ii) Banks, savings and loan associations, credit unions, and finance companies;

(iii) Barber shops, beauty parlors, and shoeshine shops;

(iv) Child care centers;

- (v) Restaurants;
- (vi) Motels and hotels; and
- (vii) Recreational facilities.

Except for motels and hotels and child care centers, accessory uses shall not exceed fifteen percent (15%) of the total building floor area contained within the corporate office park planned unit development.

Except for recreational facilities, motels and hotels, and child care centers, the total area occupied by an accessory use shall be located within a building whose total floor area is at least fifty percent (50%) occupied by the administrative offices of a single association, corporation, or similar organization.

(8) Design Standards. The corporate office park planned unit development shall comply with design standards for corporate office park planned unit developments established by resolution of the City Council.

(9) Parking. The corporate office park planned unit development shall provide one parking space for every 300 square feet of floor area. Parking is prohibited within the setback required by subsection 27.60.020(b)(11) below. Parking lots shall be constructed in accordance with Section 27.67.100 of the Lincoln Municipal Code.

(10) Street Trees. Street trees shall be provided on private property and shall comply with the design standards for street tree plantings as established by resolution of the City Council.

(11) Height and Area Regulations. The corporate office park planned unit development shall have a required setback of fifty feet along the entire length of the perimeter of the park. The maximum building height shall be eighty feet. However, if the building exceeds thirty feet in height, the minimum setback for the building only from any property line which abuts a residentially zoned property shall be increased by two feet for each one foot of building height over thirty feet. A property line which abuts an arterial street shall not be considered to abut residentially zoned property for purposes of this section.

(c) Public Facilities. The development plan for general and corporate office park planned unit developments shall specify the standards and installation schedule of necessary public facilities as required. The development plan shall address the impact and needs of the proposed development on

existing and proposed street and utility systems. The City Council may impose conditions, restrictions, or standards as appropriate to achieve the intent of this ordinance, dedication of necessary rights-of-way, or easements. In making its determination regarding such conditions, restrictions, or standards, the council may consider the adequacy of existing or adjacent facilities, the timely provision of adequate facilities, the impact of the proposed development on existing and/or planned facilities, and the overall cost to the community.

(d) Signs.

(1) General planned unit developments shall be governed by Section 27.69.340 of the Lincoln Municipal Code.

(2) Corporate office park planned unit developments shall be governed by Section 27.69.085 of the Lincoln Municipal Code.

(e) Perimeter Treatment. Where any portion of the total land area of a land use is proposed to be adjacent to the perimeter and such land use is not permitted in the adjacent district, then the applicant must demonstrate how the proposal will mitigate any negative impacts. The City Council shall impose such other standards and requirements for perimeter treatment to protect adjoining properties from adverse effects and to achieve an appropriate transition of land uses and densities. (Ord. 17232 § 11; August 18, 1997: prior Ord. 15795 § 1; December 17, 1990: Ord. 15753 § 1; October 15, 1990: Ord. 15672 § 1; July 23, 1990: Ord. 15164 § 4; May 8, 1989: Ord. 15154 § 1; April 17, 1989: Ord. 14676 § 1; June 1, 1987: Ord. 13896, as amended by Ord. 14020 § 1; January 7, 1985).

#### **27.60.030 Pre-application; Procedures and Requirements.**

(a) The owner or owners of any tract of land proposed to be developed as a general or corporate office park planned unit development shall file a pre-application for such planned unit development designation with the Planning Director. The pre-application shall be in writing and shall include:

(1) A letter of intent generally describing in narrative form the proposed development and its location, a brief discussion of the consistency or inconsistency of the proposed development with the comprehensive plan, and how the development will potentially impact the land surrounding the tracts for the proposed development and the community generally;

(2) Sketch plans and land use arrangements showing proposed building types, uses and densities, traffic, and pedestrian circulation and access;

(3) Preliminary proposals regarding water supply, sewerage, surface drainage, and street improvements;

(4) For proposed corporate office park developments, a calculation of the building floor area ratio and calculation of the landscaped open space ratio. For purposes of this chapter, land-

scaped open space ratio shall mean the percent of an area devoted to and maintained for the growing of trees, shrubbery, lawns, and other plant materials, and lakes, streams, and other natural features. Said calculations to be made in conformance with the design standards for corporate office park planned unit developments.

(5) A request to waive the preliminary plan and reasons supporting the waiver should the developer desire to proceed directly to the final plan. The

Planning Director shall distribute copies of the application and all accompanying materials to other city departments and governmental agencies which are directly concerned or potentially affected by the proposed planned unit development. Within fifteen days from the filing of the preapplication, the Planning Director and representatives of those city departments and governmental agencies described above shall meet to review with the applicant the proposed planned unit development and make recommendations thereon. Within fifteen days after such meeting, the city departments and governmental agencies described above shall provide written recommendations to the Planning Director who shall, within fifteen days thereafter, prepare a written report to the applicant. Such report shall specify the Planning Director's recommendations regarding the conformity of the proposal to the comprehensive plan and shall recommend either approval, approval with revisions, or denial, as the case may be, and approval or denial of the request to waive the preliminary plan review.

(b) The Planning Director is authorized to approve a waiver of the preliminary plan provided the proposal is found to meet the following criteria:

- (1) The proposal is in substantial conformance to the comprehensive plan;
- (2) The existing or planned utilities and streets are adequate to serve the proposed development;
- (3) The proposal is in substantial conformance with the adopted design standards of the City of Lincoln.

In addition to finding that the proposal meets the above criteria, the Planning Director shall consider the following in reviewing a request for a waiver of the preliminary plan:

- (4) The size and phasing of the project;
- (5) The impact of the proposal on the surrounding neighborhood;
- (6) The degree of deviation from the allowed uses in the underlying zoning districts.

(c) Upon receipt of the Planning Director's report, an applicant shall thereafter have one year within which to:

- (1) File a preliminary plan for approval of a planned unit development, or
- (2) File a final plan if the Planning Director has granted a waiver of the preliminary plan.

(Ord. 15164 § 5; May 8, 1989; prior Ord. 14584 § 1; January 20, 1987; Ord. 13896 § 3; July 23, 1984).

#### **27.60.035 Preliminary Plan; Form.**

The preliminary plan for a general or corporate office park planned unit development shall be in the following form and contain the following information:

(a) A statement in narrative form generally describing the proposed development and its location, statement of the present zoning of the property and the zoning of the property surrounding the tract to be included within the planned unit development, a brief discussion of the consistency or inconsistency of the proposed development with the comprehensive plan, how the development will potentially impact the land surrounding the tracts included in the proposed development and the community generally; a discussion of adverse environmental effects of the project and proposed steps to minimize these effects and indicate where any portion of the proposal differs from regulatory or design requirements; and statements in support of deviations from regulations otherwise applicable to uses proposed within the development;

(b) A plot plan which shall be accurately, clearly, and legibly drawn in sufficient size and scale to show the details of the plan clearly, and which shall contain the following:

(1) A certificate for showing the Planning Commission's approval or disapproval, and a certificate for the City Clerk to show the approval by City Council;

(2) Existing and proposed contour lines at intervals not to exceed five feet based on city data. Spot elevations on a 100-foot grid shall be required to fully indicate the topography on flat land;

(3) Location, name, tangent length, centerline radius of each curve and its interior angle and right-of-way and pavement width of all proposed and existing streets, highways, private roadways, and other public ways within and adjacent to the development;

(4) Location and width of all existing and proposed easements for drainage, sewers, and other public utilities and, if appropriate, pedestrian and vehicular access easements;

(5) Location, width, and direction of flow of all watercourses in and adjacent to the planned unit development, including the limits of the floodplain and floodway as defined in Chapter 27.55;

(6) Location and size of all existing and proposed sanitary and storm sewers, culverts, watermains, fire hydrants, and existing power lines and other underground structures or cables within the tract of land and adjacent streets;

(7) All lot lines, building setback lines and dimensions of all lot lines, setbacks, and building envelope lines. Chord distances shall be shown for lot lines abutting curvilinear streets;

(8) Lot numbers shall begin with the number one and shall continue consecutively through a block with no omission or duplication. Blocks shall be numbered in the same manner. Letters shall be used to designate outlots in alphabetical order;

(9) Proposed areas for parks and playgrounds. Any parcels other than streets which are dedicated or reserved for public use shall be clearly shown, and said parcels shall be designated as outlots and assigned an alphabetical designation;

(10) The location of all proposed and existing sidewalks, walkways, and other pedestrian ways;

(11) The location, floor area, number of dwelling units, and height of proposed and existing buildings with an indication as to whether an existing building is to be removed or to be retained;

(12) Vicinity map;

(13) Parking areas and capacity;

(14) Open space for residential uses and for required landscaping and screening;

(15) Use of buildings, such as retail, service, restaurant, office, residential, industrial, and other uses;

(16) Conceptual landscape plan;

(17) Location of proposed freestanding signs;

(c) The following data shall be shown on each sheet of the planned unit development plot plan:

(1) The name of the planned unit development;

(2) The name, address, and telephone number of the person or company responsible for preparation of the plan;

(3) North arrow, scale, date prepared, and location of section lines and section corners;

(4) Sheet number and the total number of sheets comprising the planned unit development plot plan;

(d) Accompanying the plans, the following information shall be submitted to the Planning Department:

(1) Name, address, and telephone number of developer;

(2) Certified record owner or owners and their address;

(3) Legal description of the proposed planned unit development, including the number of acres;

(e) Profiles along the centerline of the proposed streets and private roadways which show the existing ground surface elevations and the proposed street grades, including the length of vertical curves between

changes in grade with the profiles for stub streets ending at the boundary of the planned unit development to be extended 300 feet beyond the limits of the planned unit development;

(f) A drainage study prepared in accordance with the current storm sewer design standards of the city on file with the City Clerk. The following items must be included in the drainage study:

(1) A map showing the drainage area and resulting runoff from any land lying outside the limits of the planned unit development which discharges stormwater runoff to or through the planned unit development;

(2) A map showing all internal drainage areas and resulting runoff;

(3) Proposals as to how the computed quantities of runoff will be handled;

(4) A copy of the drainage computations;

(g) A map or an aerial photograph showing the proposed streets, private roadways, driveways, parking areas, buildings, and lots which includes the location and identifies, by common name, all existing trees within the area of the planned unit development. Single trees which are three inches in caliper or larger measured five feet above the ground must be shown. However, if five or more trees are located so that each is within ten feet of the edge of another tree, they will be considered a tree mass and the outline of the tree mass may be shown, with a list of the common names of the trees which are within the tree mass. If the above-stated procedure is followed, the individual location of each tree within the tree mass is not necessary. An indication shall be made on the map showing which trees or tree masses are to remain and which trees or tree masses are to be removed;

(h) Environmental impact statement and market analysis. If any application for a planned unit development under the provisions of this chapter substantially deviates from the comprehensive plan in terms of location or size, as determined by the Planning Director, the applicant shall submit an environmental impact statement and a market analysis, which shall serve as a guide to the City Council and Planning Commission for evaluation of such application in terms of need, desirability, supportability, and its implications for the overall growth of the community;

(i) All deviations shall be fully set forth and reasons given for said deviations;

(j) Phased development plans. Each application for a planned unit development district shall include a phasing plan. Phasing is the development time

schedule which specifies the order and timing of improvements and construction for specific portions of the project and the project as a whole.

Where an application proposes uses which are not contained in the use regulations of the underlying zoning district, the planned unit development shall contain phasing which ensures compatibility of the development with surrounding properties by constructing uses permitted in the underlying zoning district in not less than equal proportion to those uses not otherwise permitted;

(k) Additional information for corporate office park planned unit developments. Each application for a corporate office park planned unit development shall include in addition to the above required information:

(1) A recreational plan for corporate office park planned unit developments in conformance with city design standards;

(2) A site plan traffic impact analysis identifying any deficiencies in the existing street network that will arise from the proposed development;

(3) Calculation of the building floor area ratio in conformance with city design standards;

(4) Calculation of the landscaped open space ratio.

(Ord. 15164 § 6; May 8, 1989; prior Ord. 14584 § 3; January 20, 1987).

#### **27.60.040 Preliminary Plan; Procedure.**

Unless the preliminary plan review is waived, a preliminary plan shall be filed within one year of the Planning Director's letter. Upon filing of a preliminary plan, together with all maps, data, and information required, the application shall be presented to the Planning Commission. The Planning Commission shall hold a public hearing on such application and provide notice thereof in accordance with Section 27.81.050 of this code, and shall thereafter make a report to the City Council regarding the effect of the proposed planned unit development upon the surrounding neighborhood, the community as a whole, and other matters relating to public health, safety, and general welfare. The report of the Planning Commission to the City Council shall include reasons for recommending approval or denial of any application, and, if approval is recommended, shall find that the proposed planned unit development meets the following conditions:

(a) That the land surrounding the tracts for the proposed planned unit development will not be adversely affected;

(b) That the proposed planned unit development is

consistent with the intent and purpose of this title to promote the public health, safety, and general welfare;

(c) That the buildings and land in the proposed planned unit development shall be used only for those purposes permitted by Section 27.60.020 of this chapter.

The City Council shall take no final action upon any application for a planned unit development under this preliminary plan until a report from the Planning Commission has been filed with the City Clerk; provided, that in the event that there is a delay of more than 120 days from the Planning Commission's initial public hearing date on the part of the Planning Commission in reporting its recommendation to the City Council, the applicant may appeal to the City Council requesting final action. If the City Council determines that the delay of the Planning Commission is unjustified, it shall direct the Commission to submit a report no later than immediately after the Commission's next regularly scheduled meeting.

Upon receipt of a report from the Planning Commission, the City Council shall proceed to give final consideration to the preliminary plan and require that certain conditions be fulfilled by the applicant in conjunction with approval of the planned unit development.

Approval of a preliminary plan shall be by resolution after public hearing, in accordance with the requirements of Section 27.81.050 of this code. (Ord. 14584 § 4, January 20, 1987; prior Ord. 13896 § 4; July 23, 1984).

#### **27.60.055 Final Plan; Form.**

The final plan application for a general or corporate office park planned unit development shall be in the same form as a preliminary plan, including the following:

(a) A certified, accurate boundary survey with sufficient linear, angular, and curve data to determine the bearing and length of all boundary lines of the planned unit development. Where the tract of land abuts on an existing plat, the distances, angles, and bearing of any common lot shall be shown, and any differences in measurement noted. The total calculated acres within the boundaries of the planned unit development shall be shown;

(b) Buildings to be included in first phase construction shall include tenant occupancy, where known. A clear demonstration shall be made that proposed residential uses will be protected from adverse effects, such as traffic, air pollution, noise, and glare;

(c) Cross-section for paving of parking lots, sidewalks, streets, private roadways, and driveways;

(d) A landscape plan in conformance with city standards in all required yard areas, open space areas, malls, parking areas, and around proposed buildings. (Ord. 15164 § 7; May 8, 1989; prior Ord. 14584 § 6; January 20, 1987).

#### 27.60.056 Final Plan; Procedure.

(a) Upon the City Council's approval of a preliminary plan or waiver of the preliminary plan by the Planning Director, an applicant shall have one year within which to file an application for a final plan. Any change of the underlying zoning district shall accompany the application. Should the applicant choose to subdivide the land in the planned unit development, a preliminary plat and the final plan for a planned unit development may be submitted at the same time and reviewed together.

Upon the filing of a final plan, together with all maps, data, and information required, the City Council shall refer the application to the Planning Commission. The Planning Commission shall hold a public hearing on such application and provide notice thereof in accordance with Section 27.81.050 of this code, and shall thereafter make a report to the City Council regarding compliance with the approved preliminary plan.

The City Council shall take no final action upon any application for a planned unit development under this chapter until a report from the Planning Commission has been filed with the City Clerk; provided, that in the event there is a delay of more than 120 days from the date of referral on the part of the Planning Commission in reporting its recommendation to the City Council, the applicant may appeal to the City Council requesting final action. If the City Council determines that the delay of the Planning Commission is unjustified, it shall direct the Commission to submit a report no later than immediately after the Commission's next regularly scheduled meeting.

Upon receipt of a report from the Planning Commission, the City Council shall proceed to give final consideration to the final plan and require that certain conditions be fulfilled by the applicant in conjunction with approval of the planned unit development, and may include the requirement that applicant grant additional right-of-way in accordance with the comprehensive plan. The Council may require the execu-

tion of a written agreement with the city relating to the installation of public improvements by the applicant, together with the execution of performance bonds or provision of other appropriate surety. The installation of all public improvements shall be accomplished in compliance with existing city ordinances and design standards approved by resolution.

Should the final plan conform to the approved preliminary plan, the City Council shall approve the final plan. Approval of a planned unit development shall be by ordinance after public hearing, in accordance with the requirements of Section 27.81.050 of this code.

Following the City Council's approval, the final planned unit development shall be drawn on tracing cloth or mylar and submitted to the Planning Department. The Planning Director shall certify the plan as approved by the City Council. The Planning Director shall assemble three packets including the approved drawings, the developer's narrative description, and the ordinance approving the planned unit development. One copy shall be kept on file in the offices of the City Clerk, Department of Building and Safety, and Planning Department. Should the City Council find the final plan does not substantially comply with the preliminary plan, the applicant shall submit a revised preliminary plan as required in Section 26.60.040.

(b) Ninety percent of the development time schedule of the initial phase of development shall be completed prior to issuance of building permits for future phases, and phasing shall not be permitted out of the sequence as approved by the City Council. No building permit or certificates of occupancy or compliance shall be issued for construction of buildings in conflict with the approved development schedule or phasing requirements. The approved development schedule of the planned unit development may be extended for no more than two years by the City Council without a hearing before the Planning Commission.

(c) If an application for a planned unit development located within a floodplain is granted approval by the city, it shall not be necessary for the applicant to make application for a special permit to be approved by the City Council, as required by Resolution Nos. A-55150, A-56382, and A-57540. It shall be presumed that the applicant has received all such approval as may be required by the foregoing resolutions by virtue of the city granting approval to the planned unit development. (Ord. 14584 § 7; January 20, 1987).

**27.60.060 Planned Unit Development; Amendments.**

After the City Council has approved a planned unit development, including the specific plot plan, the Planning Director is authorized to approve amendments in the planned unit development provided that:

(a) A request for amendment is filed with the Planning Director and, if appropriate, accompanied by a plot plan drawn to an accurate scale and showing all pertinent information;

(b) There is no increase in the number of structures authorized or in the number of dwelling units nor shall it provide for any increase in total floor area and storage space originally authorized by the City Council;

(c) No public land will be accepted as a result of amendment;

(d) The amendment shall not be contrary to the general purposes of this chapter as set forth in Section 27.60.010;

(e) Such amendment shall not violate any regulation set forth in this title;

(f) No reduction is to be made to the applicable setback or yard requirements;

(g) Any amendment not in conformance with this paragraph shall be submitted to the City Council in the same manner as a formal application for a planned unit development. (Ord. 13896 § 6; July 23, 1984).

**27.60.070 Abandonment or Failure to Proceed.**

(a) If the owner intends to abandon an approved planned unit development prior to commencement of construction thereunder, said owner shall so notify the Planning Director and the City Council in writing. Upon receipt of such notice of an intention of abandonment by the owner, the Planning Commission shall consider the impact and appropriateness of repealing the planned unit development designation and shall forward its recommendations thereon to the City Council which may, by ordinance, repeal the planned unit development designation, which repeal shall have the effect of causing the area of the planned unit development to revert to the zoning district classification or

classifications which existed immediately prior to the approval of the planned unit development. In the event that construction or other improvements have been commenced prior to receipt of the intention of abandonment, the City Council, upon a recommendation of the Planning Commission, shall attach such conditions to the repeal of the planned unit development designation as may be deemed necessary or appropriate to ensure that such construction or improvements are removed or, alternatively, are completed in such a manner as to be compatible with the uses permitted within the underlying zoning district or districts of the area.

(b) If Building Official finds at any time that the owner has failed to complete the planned unit development or any phase thereof within the time limits as specified in the approved plans, or in the absence of such time limits, within three years following the approval of a planned unit development, or if the owner has failed to substantially commence construction of the planned unit development within two years of the approval of the district and has not applied for and received an extension to the above time limits from the City Council, or has failed to comply with any of the terms, conditions, and requirements of the planned unit development approval, the Building Official shall request the Planning Director to set a date for a hearing before the Planning Commission, of which the owner shall be notified in writing, for the owner to show cause why the approval of the planned unit development should not be repealed or other appropriate action taken. If the Planning Commission determines that no good cause has been shown why the planned unit development approval should not be repealed or other appropriate action taken, it shall forward its recommendation to the City Council which may, after public hearing in accordance with the provisions of Section 27.81.050 of the Lincoln Municipal Code, repeal the ordinance which approved such planned unit development, or take such other action as may be deemed necessary to obtain compliance. (Ord. 13896 § 7; July 23, 1984).

## Chapter 27.61

NONCONFORMING AND NONSTANDARD  
USES

## Sections:

- 27.61.010 Continuation of Nonconforming Use.
- 27.61.020 Use Becoming Nonconforming by Change in Law or Boundaries.
- 27.61.030 Discontinuance of Nonconforming Use.
- 27.61.040 Extension or Enlargement.
- 27.61.050 Restoration After Damage.
- 27.61.060 Sign Regulations.
- 27.61.070 Open Storage.
- 27.61.080 Effect on Use Which Is Illegal Under Prior Law.
- 27.61.090 Continuation of Nonstandard Uses.

**27.61.010 Continuation of Nonconforming Use.**

Subject to the provisions of this chapter, the lawful use of a building or premises existing immediately prior to the effective date of this title may be continued although such use does not conform to the provisions hereof. If no structural alterations are made, a nonconforming use may be changed to another nonconforming use of the same or of a more restrictive category. For the purposes of this chapter, each of the following categories of use shall be considered to be "more restrictive" than those it precedes:

- (a) Single- and two-family residential;
- (b) Multiple-family residential;
- (c) Office buildings;
- (d) Retail sales and service;
- (e) General commercial;
- (f) Light industrial;
- (g) Heavy industrial;
- (h) Uses only by special permit in the I-1 Industrial District.

Whenever a nonconforming use has been changed to a more restrictive use or to a conforming use, such use shall not thereafter be changed to a less restrictive use.

Subject to the requirements of Sections 27.61.040 and 27.61.080, below, a nonconforming use not involving a building may be continued even though such use does not conform to the provisions hereof if no changes are made in regard to size or location of water lines, sewer lines or private roads. (Ord. 12571 § 295; May 8, 1979).

**27.61.020 Use Becoming Nonconforming by Change in Law or Boundaries.**

Whenever the use of a building or premises becomes a nonconforming use through a change in the zoning ordinance or district boundaries, such use may be continued and if no structural alterations are made, it may be changed to another nonconforming use of the same or of a more restrictive category, subject to the provisions of this chapter. Whenever a nonconforming use has been changed to a more restrictive use or to a conforming use, such use shall not thereafter be changed to a less restrictive nonconforming use. (Ord. 12571 § 296; May 8, 1979).

**27.61.030 Discontinuance of Nonconforming Use.**

In the event that a nonconforming use of any building or premises is discontinued or its normal operation stopped for a period of two years, the use of the same shall thereafter conform to the uses permitted in the district in which it is located. (Ord. 12571 § 297; May 8, 1979).

**27.61.040 Extension or Enlargement.**

Any nonconforming building or premises devoted to a use not permitted by this title in the district in which the building or premises is located shall not be enlarged, extended, converted, reconstructed, or structurally altered unless such use is changed to a use permitted in the district in which the building or premises is located or unless authorized under the provisions of Section 27.63.280 or required to do so by law or order. (Ord. 12571 § 298; May 8, 1979).

**27.61.050 Restoration After Damage.**

When the use of a building is nonconforming as defined in this chapter and such a building is damaged by a fire, explosion, act of God, or the public enemy to the extent of more than sixty percent of its fair market value, it shall not be restored except in conformity with the regulations of the district in which the building is located, or in conformance with the provisions of Chapter 27.75 or Section 27.63.280. (Ord. 12571 § 299; May 8, 1979).

**27.61.060 Sign Regulations.**

Signs for nonconforming uses and nonconforming signs shall be regulated in conformance with the provisions of Chapter 27.69. (Ord. 12571 § 300; May 8, 1979).

**27.61.070 Open Storage.**

Where land within the R-1, R-2, R-3, and R-4 districts contain no main buildings as distinguished from accessory buildings and fences, and where said land was used solely for open storage immediately prior to the effective date of this title, use of such land for open storage shall be discontinued within two years.

Where land is used for a nonconforming or nonstandard use in conformance with the provisions of this chapter and where such land contains a main building or structure in addition to open storage, said open storage shall be brought in conformance with the area, front yard, side yard, rear yard, height, unobstructed open space, and parking requirements for the district in which it is located within the period of one year from the effective date of this title. (Ord. 12571 § 301; May 8, 1979).

**27.61.080 Effect on Use Which is Illegal Under Prior Law.**

Nothing in this title shall be interpreted as authorization for, or approval of, the continuance of the use of a building or premises in violation of zoning regulations in effect immediately prior to the effective date of this title. (Ord. 12571 § 302; May 8, 1979).

**27.61.090. Continuation of Nonstandard Uses.**

Nonstandard uses existing immediately prior to the effective date of this title and uses becoming nonstandard through a change in the zoning ordinance or district boundaries may be continued, although such uses do not conform to the provisions hereof.

Nonstandard structures and buildings may be enlarged, extended, or reconstructed, as follows:

(a) Enlargements, extensions, or reconstructions may be made as required by law or ordinance or ordered by the Director of Building and Safety to secure the safety of the structure;

(b) Enlargement, extension, or reconstruction of buildings or structures may otherwise be made if such changes comply with the minimum requirements as to front yard, side yard, rear yard, height, and unobstructed open space for the district in which they are located. (Ord. 16798 § 2; June 5, 1995; prior Ord. 12894 § 23; April 7, 1980; Ord. 12571 § 303; May 8, 1979).

Chapter 27.63

SPECIAL PERMITS

Sections:

- 27.63.010 Procedures.
- 27.63.020 Action of Planning Commission.
- 27.63.025 Appeal of Planning Commission Action.
- 27.63.030 Amendments.
- 27.63.040 Pre-existing Uses.
- 27.63.050 Parking Regulations.
- 27.63.060 Sign Regulations.
- 27.63.070 Permitted Special Use: Early Childhood Care Facilities.
- 27.63.075 Permitted Special Use: Private Schools.
- 27.63.080 Permitted Special Use: Health Care Facilities.
- 27.63.090 Permitted Special Use: Dwellings For Members of a Religious Order.
- 27.63.100 Permitted Special Use: Farm Chemicals.
- 27.63.110 Permitted Special Use: Garden Centers.
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- 27.63.300 Permitted Special Use: Bulk Storage of Petroleum Products.
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- 27.63.530 Permitted Special Use: Domiciliary Care Facilities.
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- 27.63.570 Permitted Special Use: Race Tracks For Motorized Vehicles.
- 27.63.580 Permitted Special Use: Nonprofit Religious, Educational and Philanthropic Institutions; R-6, R-7 and R-8 Districts.
- 27.63.590 Permitted Special Use: Temporary Storage of Construction Equipment and Materials.
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- 27.63.630 Permitted Special Use: Theaters.
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- 27.63.650 Permitted Special Use: Mail Order Catalog Sales; O-2, O-3, and B-2 Districts.
- 27.63.660 Permitted Special Use: Heritage Centers; AG District.
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- 27.63.680 Permitted Special Use: Sale of Alcoholic Beverages for Consumption On the Premises.
- 27.63.685 Permitted Special Use: Sale of Alcoholic Beverages for Consumption Off the Premises.
- 27.63.690 Permitted Special Use: Community Halls; AG District.
- 27.63.700 Permitted Special Use: Storage of Vehicles for Sale Where Parking is Permitted.
- 27.63.710 Permitted Special Use: Off-Premises Signs.
- 27.63.720 Permitted Special Use: Personal Wireless Services Facilities.
- 27.63.010 Procedures.

Certain development or uses of land by their nature tend to be incompatible with other land uses in the same zoning district, but may be found acceptable in certain circumstances when conditioned in a manner to protect abutting land uses and to protect the character of the area. Special uses listed in this chapter may be authorized by the Planning Commission except in those instances where City Council authorization is specifically required.

Applications for a special permit under this chapter shall be filed by the owner in writing with the Planning Department on a form provided by the City. Upon filing of the application, the City Council shall refer the application to the Planning Commission. The Planning Commission may authorize, by special permit after public hearing, any of the following buildings or uses designated in this chapter as permitted special uses. Such permitted special uses shall be restricted to the particular district or districts listed under the applicable provisions below. Said special permit shall require conformance with all regulations of the applicable sections of this chapter. The Planning Commission shall impose such conditions as are appropriate and necessary to ensure compliance with the comprehensive plan and protect the health, safety, and general welfare in the issuance of any such special

permits. Where specifically authorized under the applicable provisions below for any of the buildings or uses designated in this chapter as permitted special uses, the City Council may decrease the minimum regulations of the district in which the permitted special use is located or modify the specific conditions for approval of the special permit provided the public welfare and interest of the city and surrounding area are protected and the general interest and spirit of these regulations are preserved. Unless expressly modified by the terms of the special permit, all regulations of the district in which the permitted special use is located shall apply. Copies of a plot plan of the lot and proposed uses drawn to an accurate scale and showing all pertinent information shall accompany a request for a special permit. (Ord. 16766 § 6; April 10, 1995; prior 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. (Ord. 15239 § 6; August 7, 1989; prior Ord. 12571 § 305; May 8, 1979).

#### **27.63.025 Appeal of Planning Commission Action.**

(a) 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) The City Council may, after public hearing, in conformity with the provisions of this title reverse or affirm, wholly or partially, or may modify the action of the Planning Commission appealed from. (Ord. 15239 § 7; August 7, 1989).

#### **27.63.030 Amendments.**

After the application for a special permit has been approved, including the specific plot plan required under Section 27.63.010, the Planning Director is authorized to approve amendments to the special permit, provided that:

(a) A request for amendment is filed with the Planning Director, together with all information pertinent to the proposed amendment;

(b) Such amendment shall not violate any regulations set forth in this title;

(c) Such amendment may provide for minor increases in total floor area and storage space originally permitted;

(d) There is no increase in the number of dwelling units;

(e) No reduction is made to the applicable setback or yard requirements;

(f) No public land is accepted;

(g) Such amendment shall not be contrary to the general purposes of this chapter;

(h) Any amendment not in conformance with this paragraph shall be submitted to the Planning Commission in the same manner as an original

special permit. (Ord. 15239 § 8; August 7, 1989; prior Ord. 13528 § 5; January 3, 1983; Ord. 12571 § 306; May 8, 1979).

#### **27.63.040 Pre-existing Uses.**

An existing use of the type listed in this chapter which was lawfully established on the effective date of this title shall be deemed to have received a special permit as herein required and shall be provided with such permit by the city upon request, and it shall not be a nonconforming use; provided, however, for any enlargement, extension, or relocation of such existing use an application in conformance with Section 27.63.010 shall be required. (Ord. 12571 § 307; May 8, 1979).

#### **27.63.050 Parking Regulations.**

Minimum parking requirements, where applicable, for special permit uses shall be regulated in conformance with the provisions of Chapter 27.67. (Ord. 12571 § 308; May 8, 1979).

#### **27.63.060 Sign Regulations.**

Signs for special permit uses shall be regulated in conformance with the provisions of Chapter 27.69. (Ord. 12571 § 309; May 8, 1979).

#### **27.63.070 Permitted Special Use: Early Childhood Care Facilities.**

Early childhood care facilities may be allowed by special permit in the AG, AGR, R-1, R-2, R-3, R-4, R-5, R-6, R-7, R-8, O-1, O-2, O-3, R-T, H-4, I-1, I-2, or I-3 zoning districts under the following conditions:

(a) The application shall be accompanied by the following information:

(1) The number of children and number of staff members on the largest shift;

(2) A physical description of the facility and a site plan drawn to scale that includes, but is not limited to, the location and arrangement of parking spaces, the traffic circulation pattern, loading and unloading areas, fencing, play area, and entrances/exits to such facility.

(3) If the proposed facility is for twenty-one or more children and is located in a residential district, the application must also include a conversion plan which complies with the design standards for early childhood care facilities.

(b) Prior to occupancy, such facilities shall comply with all applicable state and local early childhood care and building requirements.

(c) Facilities with twenty-one to thirty children shall be located on collector or arterial streets. Facilities with thirty-one or more children shall be located on an arterial street. The location of such facilities on such streets shall comply with the design standards for early childhood care facilities.

(d) The site plan and play area for such facilities shall comply with the design standards for early childhood care facilities.

(e) The parking and loading/unloading area for such facilities shall comply with the provisions of Chapter 27.67 of the Lincoln Municipal Code. In residential districts, such parking and loading/unloading area shall comply with the design standards for early childhood care facilities.

(f) If the proposed facility is located in an industrial district, the applicant shall submit to the Health Department, for its review and recommendation, information on the storage and use of hazardous chemicals in the vicinity, evacuation plans and internal air quality control.

(g) The City Council may modify these conditions, except for condition (b). (Ord. 17232 § 12; August 18, 1997; prior Ord. 16894 § 2; November 2, 1995; Ord. 16854 § 42; August 14, 1995; Ord. 16606 § 3; May 9, 1994; Ord. 15368 § 18; December 18, 1989; Ord. 14728 § 3; August 10, 1987; Ord. 14576 § 1; January 5, 1987; Ord. 14192 § 3; September 3, 1985; Ord. 14023 § 1; January 14, 1985; Ord. 12571 § 310; May 8, 1979).

#### **27.63.075 Permitted Special Use: Private Schools.**

(a) Private schools, including but not limited to business or commercial schools, dance or music academies; gymnastic or martial arts schools; and special schools, when not otherwise permitted in the district, may be allowed by special permit in the AG, AGR, R-1, R-2, R-3, R-4, R-5, R-6, R-7, R-8, R-T, O-1, O-2, O-3, or I-1 zoning districts. Private schools shall not include:

(1) Early childhood care facilities; or

(2) Public or private schools that meet the State of Nebraska requirements for elementary or secondary education.

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

(1) Number of children, time separation between classes, number of staff members on the

largest shift, and limitations on hours and classes to minimize the number of persons on site at any one time.

(2) A physical description of the facility and a site plan drawn to scale that includes, but is not limited to, the location and arrangement of parking spaces, the traffic circulation pattern, loading and unloading area, and entrances/exits to such facility. The parking and the loading and unloading area for such facility must comply with the provisions of Chapter 27.67 of the Lincoln Municipal Code.

(c) If the proposed facility is located in an industrial district, the applicant shall submit 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. 16909 § 3; December 18, 1995; prior Ord. 16854 § 43; August 14, 1995; Ord. 15368 § 19; December 18, 1989).

**27.63.080 Permitted Special Use: Health Care Facilities.**

Health care facilities may be allowed by special permit in the R-1, R-2, R-3, R-4, R-5, R-6, R-7, R-8, O-1, O-3, B-1, B-2, B-3, H-3, or I-1 zoning districts under the following conditions:

(a) **Parking.** Parking shall be in conformance with Chapter 27.67; additional parking requirements may be imposed. Traffic may be required to be discharged into a major street as designated in the Comprehensive Plan, or into a classified collector. No parking shall be permitted in required front or side yards; all parking shall be screened.

(b) **Yard and area regulations.**

(1) Buildings shall not occupy over thirty-five percent of the total land area covered by the special permit.

(2) Yards abutting a nonresidential district shall be the same as those required in said abutting district.

(3) Any yard abutting a residential district or located wholly or partially in a residential district shall be the greater of ten feet or that required in the said abutting district, plus an additional one foot setback for each one foot of height shall be provided between the yard line and the wall nearest the yard line for that portion of the building exceeding twenty feet in height.

(4) Required front and side yards shall be landscaped.

(5) The City Council may increase or decrease these requirements with consideration given to both facilities and adjacent environment.

(c) The proposed health care facility shall conform to all applicable state and federal requirements.

(d) The location of health care facilities shall be readily accessible to the area served. Such facilities should be located on major streets near the center of the area to be served. (Ord. 15491 § 1; March 19, 1990; prior Ord. 14035 § 2; January 21, 1985; Ord. 13768 § 3; February 21, 1984; Ord. 13053 § 1; November 24, 1980; Ord. 12571 § 311; May 8, 1979).

#### **27.63.090 Permitted Special Use: Dwellings For Members of a Religious Order.**

Dwellings for members of a religious order may be allowed by special permit in the AG, AGR, R-1 R-2, R-3, R-4, R-5, R-6, R-7 and R-8 zoning districts under the following conditions:

(a) The dwelling be a single housekeeping unit;

(b) Parking shall be in conformance with Chapter 27.67; and

(c) The maximum number of members occupying such a facility shall not exceed the following ratios between the resident and the lot area:

(1) AG and AGR, 1 resident/5,000 square feet;

(2) R-1, 1 resident/3,000 square feet;

(3) R-2 and R-3, 1 resident/2,000 square feet;

(4) R-4, 1 resident/1,000 square feet;

(5) R-5, R-6, R-7, and R-8 1 resident/750 square feet.

(Ord. 14276 § 1; November 25, 1985; prior Ord. 12571 § 312; May 8, 1979).

#### **27.63.100 Permitted Special Use: Farm Chemicals.**

Facilities for the commercial storage and sale of fertilizer and toxic or flammable agricultural chemicals such as herbicides, insecticides, and fungicides may be allowed in the AG, AGR, and H-4 zoning districts. (Ord. 12571 § 313; May 8, 1979).

#### **27.63.110 Permitted Special Use: Garden Centers.**

Garden centers may be allowed by special permit in the AG, AGR, R-2, and R-3 zoning districts under the following conditions:

(a) In the R-2 and R-3 zoning districts, the land shall be adjacent to the boundary of one of the following districts: B-1, B-3, B-4, B-5, H-2, H-3, or I-1;

(b) 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 the approved Design Standards for Zoning for "Adjacent Land Uses and Zoning Districts of Substantially Different Character; B-1, B-2, B-3, H-2, H-3, H-4, B-5, B-2, I-1, Abutting Residential Districts";

(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. 17482 § 3; March 29, 1999; prior Ord. 12571 § 314; May 8, 1979).

#### **27.63.120 Permitted Special Use: Mobile Home Courts.**

Mobile home courts may be allowed by special permit in the R-1, R-2, R-3, and R-4 zoning districts under the following conditions:

(a) The mobile home court has a minimum site area of ten acres.

(b) The average lot per family within the court shall not be less than the lot area per family required in the district or districts in which the mobile home court is located.

(c) Twenty-five feet shall be maintained between mobile homes, and between mobile homes and buildings, in all horizontal directions, except as otherwise provided under Section 21.56.070 of the Lincoln Municipal Code.

(d) No mobile home shall be located closer than fifty feet to any exterior property line, except when the mobile home is located adjacent to a trailer court or another mobile home court. Land within said fifty-foot exterior open space shall be permanently landscaped in accordance with the landscape design standards adopted by the City of Lincoln, except for the necessary paving of roadways and walkways to reach the mobile home area; provided, however, such landscaping shall not create a traffic hazard by impairing visibility at street and roadway intersections.

(e) Mobile homes within the mobile home court shall be required to have a setback of at least twenty feet from the pavement of private roadways.

(f) The design and construction or installation of roadways, walkways, parking spaces, utilities, drainage facilities, storage facilities, recreational facilities, landscaping, and other improvements shall comply with the written design standards established by resolution of the City Council. Said design standards shall be filed with the City Clerk and made available upon request.

(g) No mobile home court shall be occupied or otherwise used until the appropriate city official has found the same is in compliance with the resolution adopted by the City Council 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 adopted by the City Council approving said special permit and all other applicable laws, regulations, and requirements.

(i) The City Council 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 City Council 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. 16145 § 1; July 6, 1992; prior Ord. 13443, as amended by Ord. 13534 § 1; January 24, 1983; Ord. 12571 § 315; May 8, 1979).

#### **27.63.125 Permitted Special Use: Mobile Home Subdivisions.**

Mobile home subdivisions may be allowed by special permit in the R-1, R-2, R-3, and R-4 zoning districts under the following conditions:

(a) The mobile home subdivision shall have a minimum site area of ten acres.

(b) The created mobile home lots and yards shall comply with all the applicable height and area regulations of the underlying district in which such subdivision is to be located, except that the minimum horizontal distance between mobile homes and the exterior property lines of the mobile home subdivision shall be fifty feet.

(c) The mobile home lot area shall not include streets and private roadways.

(d) Parking shall comply with the requirements of the underlying district.

(e) The mobile home subdivision shall comply with Title 26 of the Lincoln Municipal Code, Land Subdivision.

(f) The streets, private roadways, walkways, parking spaces, utilities, drainage facilities, recreational facilities, landscaping, and other improvements shall be designed, constructed, and installed to comply with the written design standards adopted by the City Council.

(g) Permanent and continuous maintenance of the common facilities by the lot owners shall be incorporated in covenants and restrictions governing the subdivided property and shall receive the approval of the City Attorney before recordation with the County Register of Deeds.

(h) Each mobile home to be located within a mobile home subdivision shall have:

- (1) No less than an 800 square foot floor area;
- (2) No less than an eighteen foot exterior width;
- (3) A two and one-half inch in twelve inch pitched roof or steeper;
- (4) A nonreflective exterior siding material which is or simulates wood, stucco, or masonry;
- (5) A nonreflective roof material which is or simulates asphalt or wood shingles, tile, or rock;
- (6) Permanent connections to permanently located utilities complying with the Lincoln Plumbing Code and the Lincoln Electrical Code; and
- (7) A certificate stating the mobile home's construction complies with the Federal Department of Housing, and Urban Development's mobile home construction and safety standards.

(i) The longest exterior dimension of the mobile home shall be less than three times the most narrow exterior dimension.

(j) The towing bar and hitch of the mobile home, wheels and tires, and axles shall be removed.

(k) Each mobile home shall be securely and permanently attached to a permanent foundation complying with the Lincoln Building Code.

(l) The exterior siding of the mobile home shall extend to the ground and shall be supported to withstand wind loads as set forth in the Lincoln Building Code, or the foundation shall form a complete enclosure under the exterior walls. The space beneath the mobile home shall be properly ventilated.

(m) The placement of the mobile home shall be inspected and shall comply with all applicable codes, ordinances, and design standards and, in particular, Title 5 of the Lincoln Municipal Code, before the mobile home is occupied. Single-family dwellings and two-family dwellings complying with the Lincoln Building Code and the underlying zoning regulations may be permitted within the mobile home subdivision special permit area. (Ord. 13655 § 1; August 8, 1983; prior Ord. 13535 § 5; January 24, 1983).

#### **27.63.130 Permitted Special Use: Recreational Facilities.**

Recreational facilities may be allowed by special permit in the AG, AGR, R-1, R-2, R-3, R-4, R-5, R-6, R-7, R-8, O-1, O-3, B-1, B-2, and B-3 zoning districts, in conformance with the following conditions:

(a) The application for such special permit shall provide the following information:

(1) A statement describing all proposed accessory uses and accessory buildings to be included as part of the recreational facility.

(2) A site plan showing the location, height, and use of all structures on the parcel.

(b) Yard requirements in excess of those required in the district may be imposed. In the AG district, the City Council may decrease the yard requirements with consideration given to both the recreational facilities and the adjacent environment.

(c) Parking shall be in conformance with Chapter 27.67; additional parking requirements may be imposed; no parking shall be permitted in any required yard. The application shall include the applicant's estimate of parking needed for the proposed facility.

(d) Outdoor lighting of the recreational facility may be permitted in conformance with the requirements for lighting of parking lots in Chapter 27.67 and any standards adopted by resolution of the City Council.

(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 City Council may authorize temporary structures which exceed the maximum height requirements of the district in which they are located upon a finding by the City Council 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. (Ord. 16751 § 1; March 20, 1995; prior Ord. 15143 § 1; April 10, 1989; Ord. 12571 § 316; May 8, 1979).

**27.63.140 Permitted Special Use: Outdoor Lighting For Recreational Facilities.**

Outdoor lighting for recreational facilities may be allowed by special permit in the H-2 and H-3 zoning districts. (Ord. 12571 § 317; May 8, 1979).

**27.63.150 Permitted Special Use: Broadcast Towers.**

Broadcast towers may be allowed by special permit in the AG, AGR, R-1, R-2, R-3, R-4, R-5, R-6, R-7, R-8, O-2, O-3, B-1, B-2, B-3, H-2, H-3, H-4, I-1, I-2, and I-4 zoning districts in conformance with the following conditions:

(a) The tower shall comply with all applicable governmental regulations and standards.

(b) In those districts where office buildings are permitted and in the AG zoning district, offices, studios, and similar facilities are permitted to adjoin the broadcast tower, and need not be included in the special permit; in all other districts, only equipment and facilities necessary to the operation of the broadcast tower shall be permitted, and only if such facilities are expressly permitted by the terms of the special permit.

(c) Broadcast towers may exceed the maximum height for the district in which they are located.

(d) The application shall be accompanied by a site plan showing site boundary, locations of the proposed tower, guy wire anchors, and nearby structures, tower design and building materials, equipment to be attached to the tower (e.g., antennas, microwave dishes, and coaxial cables, 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;

(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 antenna, avoidance of artificial light and coloring provisions;

(iii) If the tower is to be located within one-half mile of an existing tower, the applicant shall

demonstrate that the existing tower cannot accommodate the communication equipment planned for the proposed tower.

(e) With the exception of those towers to be mounted on existing structures, the following requirements shall be met:

(1) In the AG and AGR districts, the tower shall be set back from public streets abutting the tower site by a distance equal to or greater than the tower height. The distance between the tower and site boundary shall be equal to or greater than fifty percent of the tower height. The distance between the anchors of the tower 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.

(2) The tower shall have a galvanized 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

surrounding area. (Ord. 16751 §1; March 20, 1995: prior Ord. 15143 §1; April 10, 1989: Ord. 12571 § 316; May 8, 1979).

**27.63.140 Permitted Special Use: Outdoor Lighting For Recreational Facilities.**

Outdoor lighting for recreational facilities may be allowed by special permit in the H-2 and H-3 zoning districts. (Ord. 12571 §317; May 8, 1979).

**27.63.150 Permitted Special Use: Broadcast Towers.**

Broadcast towers may be allowed by special permit in the AG, AGR, R-1, R-2, R-3, R-4, R-5, R-6, R-7, R-8, O-2, O-3, R-T, B-1, B-2, B-3, B-4, B-5, H-1, H-2, H-3, H-4, I-1, I-2, and I-3 zoning districts. The proposed broadcast tower shall be reviewed under the guidelines established in Chapter 27.68, "Personal Wireless Facilities." (Ord. 17589 §2; January 18, 2000: prior Ord. 17232 §13; August 18, 1997: Ord. 17070 §4; October 7, 1996: Ord. 15348 §1; November 13, 1989: Ord. 14123 §3; June 3, 1985: Ord. 12571 §318; May 8, 1979).

**27.63.160 Permitted Special Use: Extraction of Sand, Gravel, and Soil.**

Extraction of sand, gravel, and soil may be allowed by special permit in the R-3, B-2, H-2, H-3, H-4, and I-1 zoning districts under the following conditions:

(a) The application shall include a grading map showing existing contours, proposed excavation contours, and proposed final grade contours;

(b) The application shall identify the effect of the extraction on the groundwater table of the adjoining properties;

(c) The application shall identify proposed vehicle and equipment storage areas;

(d) Erosion controls, including retention and sediment basins shall be provided during extraction in conformance with standards adopted by resolution of City Council to prevent a change in the character of runoff onto adjacent land;

(e) 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 of Lincoln;

(f) Topsoil shall be collected and stored for redistribution on the site at the termination of the operation;

(g) Excavation shall be conducted in such a way as not to constitute a hazard to any persons, nor to the adjoining property. All cuts shall be returned to a slope of less than three to one as soon as possible. Safety screening shall be required at the outer boundary of the site; visual screening will also be required where said boundary is adjacent to residential or park land;

(h) Within nine months after the completion of extraction on any portion of the site, 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. (Ord. 12571 §319; May 8, 1979).

**27.63.170 Permitted Special Use: Parking Lots.**

(a) Parking lots may be allowed by special permit in the R-1, R-2, R-3, R-4, R-5, R-6, R-7, R-8, and O-2 zoning districts in conformance with the provisions of Chapter 27.67 and under one of the following conditions:

(1) A. The premises upon which the parking lot is located shall not be located more than 300 feet from the boundary of one of the following districts: O-1, B-1, B-3, B-4, H-2, H-3, or I-1 and the following conditions shall be met:

(i) The parking lot shall not use a local residential street for access, unless access cannot be gained to the proposed parking lot from a non-residential street. If access is proposed from a local residential street, such access must be gained at a location that does not negatively impact adjacent residential zoned property.

(ii) Any adjacent alley serving the parking lot shall be paved.

(iii) Any lighting facility shall be orientated to eliminate light trespass on adjacent residentially zoned properties in accordance with adopted design standards.

B. In addition to the above conditions, the City Council, 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 City Council upon a determination that there is a sufficient cause for such an adjustment and that there will be no significant impact on adjacent residential uses, or

(2) The land shall not be located more than 360 feet from property occupied by a college, university, or church; provided that the parking lots are used primarily in connection with the said college, university, or church.

(b) Parking areas consisting of less than six parking spaces may be allowed by special permit in the same zoning districts in conformance with the same provisions and under the same conditions applicable to parking lots as contained in paragraph (a) of this section. (Ord. 15981 §1; September 30, 1991; prior Ord. 15522 §3; April 16, 1990; Ord. 15103 §1; February 13, 1989; Ord. 13353 §1; April 5, 1982; Ord. 12571 §320; May 8, 1979).

**27.63.175 Permitted Special Use: Parking Garages in O-1 District.**

Parking garages may be allowed by special permit under the following conditions:

(a) Such parking garages shall not abut Lincoln Mall, Centennial Mall, or the Capitol Square as defined in Section 27.56.017;

(b) Such parking garages shall be reviewed by the Nebraska State Capitol Environs Commission if the proposed site for a parking garage is located in the twelve blocks adjacent to Capitol Square (bounded by "G" Street on the south, "L" Street on the north, 17th Street on the east, and 13th Street on the west). (Ord. 15835 §3; March 4, 1991).

**27.63.180 Permitted Special Use: B-4 District.**

(a) Parking lots, storage garages, and other off-street parking facilities may be allowed by special

permit in that portion of the B-4 zoning district bounded by 10th Street, "P" Street, 14th Street, and "N" Street, in conformance with the provisions of Chapter 27.67.

(b) Gas stations or car washes 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:

(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;

(3) 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 or gas station shall be in conformance with the "Guidelines and Regulations for Driveway Design and Location" as adopted by the City of Lincoln.

(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. The length and location of vehicle stacking lane or lanes for the approach side or sides and the exit side or sides of the drive-in teller window shall be in conformance with the "Guidelines and Regulations for Driveway Design and Location" as adopted by the City of Lincoln. (Ord. 13334 §6; March 29, 1982; prior Ord. 12698 §2; September 24, 1979; Ord. 12571 §321; May 8, 1979).

**27.63.190 Permitted Special Use: Temporary Parking Lots.**

Parking lots may be allowed by special permit in the R-1, R-2, R-3, R-4, R-5, R-6, R-7, and R-8 zoning districts under the following conditions:

(a) The land shall not be located more than 600 feet from the boundary of one of the following districts: O-1, B-1, B-2, B-3, B-4, H-2, H-3, H-4, or I-1;

(b) Use of such temporary parking lot shall be for a period not to exceed twenty-four months;

(c) Such use is made necessary by reason of construction activity that makes existing parking inaccessible. (Ord. 12571 §322; May 8, 1979).

**27.63.195 Permitted Special Use: Temporary Commercial Parking.**

Temporary commercial parking lots or temporary commercial storage garages may be allowed by special permit in the R-2 and R-3 zoning districts under the following conditions:

(a) The land subject to the special permit shall be at least 300 feet distant from the nearest dwelling, except dwellings located on the subject land;

(b) Such use shall be for a period not to exceed twenty-four months;

(c) Such lots or garages shall comply with all height and area regulations of the district and other applicable codes and standards. (Ord. 13577 §1; April 25, 1983).

**27.63.200 Permitted Special Use: Clubs.**

Clubs may be allowed by special permit in the AG, AGR, R-1, R-2, R-3, R-4, R-5, O-1, and O-3 zoning districts under the following conditions:

(a) The application shall include the following information: Type of activity, expected peak use and building capacity, anticipated time of peak activity, and expected expansion of facilities.

(b) Clubs with an off-street parking demand of twenty spaces or more as determined by the city shall be located on major streets. Clubs with an off-street parking demand of less than twenty spaces as determined by the city may be located on any street.

(c) Parking requirements shall as a minimum be in conformance with the provisions of Chapter 27.67. Additional parking regulations, parking ingress and egress, location control, and buffering may be imposed.



No parking shall be permitted in any required yard. The application shall include applicant's estimate of the parking needs of the proposed club.

(d) Height and area requirements shall as a minimum be in conformance with requirements of the district in which the use is located; additional requirements may be imposed. In the R-4, R-5, O-1, and O-3 districts, the buildings shall not cover over thirty-five percent of the total area of the lot. In the AG, AGR, R-1, R-2, and R-3 districts, the buildings shall not cover over fifteen percent of the total area of the lot; provided, however, the Planning Commission may adjust the percent of lot coverage to permit a club in an existing building. Except where abutting a nonresidential district, buildings shall be set back from all yard lines a distance of not less than one foot for each one foot of building height; provided, however, the Planning Commission may adjust this requirement for existing buildings. Visual screening shall be required in any yard that abuts a residential district. (Ord. 16570 § 1; March 7, 1994; prior Ord. 15763 § 6; October 29, 1990; Ord. 13162 § 1; June 29, 1981; Ord. 12657 § 11; August 6, 1979; Ord. 12571 § 323; May 8, 1979).

#### **27.63.210 Permitted Special Use: Elderly or Retirement Housing.**

Housing and related facilities for the elderly, either individually or in groups including accessory uses, shall be allowed by special permit in the R-1, R-2, R-3, R-4, R-5, R-6, R-7, and R-8 zoning districts under the following conditions:

(a) The height and yard requirements of the district in which the proposed use is located may be adjusted to provide flexibility in the placement of buildings and to provide compatibility with surrounding uses except that solar access to adjacent buildings or potential buildings on lands under other ownership shall not be reduced by such adjustment.

(b) The minimum lot area of the district, or density requirement, shall not apply; provided, however, that the maximum number of units allowed shall be the greater of those permitted in the underlying zoning district or the community unit plan without bonuses, unless modified by subsection (h) below.

(c) Parking areas or buildings that are of a substantially different character or size than those normally found in that district or neighborhood

shall be landscaped and screened in conformance with the standards adopted by resolution of the City Council, and the requirements of Chapter 27.67.

(d) The proposed use shall not have any adverse or detrimental effect upon the values of the surrounding real property.

(e) One dwelling unit in an elderly housing project may be designated as a caretaker unit and the occupants thereof shall not be subject to the age requirements otherwise applicable to occupants of such a project.

(f) Ten percent of the dwelling units in an elderly or retirement housing project may be designated as units for handicapped persons and the occupants thereof shall not be subject to the age requirements otherwise applicable to occupants of such a project. All of the units designated as units for handicapped persons shall comply with the "Design Standards for Density Bonuses" relating to housing for the handicapped as adopted by the City Council.

(g) Any individual under sixty years of age who resides with an elderly person sixty years of age or more in an elderly or retirement housing project dwelling unit may continue to reside in that dwelling unit after such elderly person has died or due to health reasons has been relocated to a different residence.

(h) The City Council may grant, dependent upon the character of the development and effect on adjacent land uses, a dwelling unit bonus. Such bonus shall be a percentage of units allowed in (b) above.

(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.A (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.A (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.B (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.A (general standards) and section 2.B (individual unit standards) of the "Design Standards for Density Bonuses" as adopted by the City Council. This bonus may be granted, dependent upon the character of the development and effect on adjacent land uses, when the dwelling unit bonuses provided for in subsections (1) and (2) above are not granted 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 compliance with § 27.67.040(d)(2) unless modified under § 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. 14644 § 11; April 13, 1987; prior 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 Permitted Special Use: Housing Facilities for the Physically Handicapped.**

Housing and related facilities for the physically handicapped, either individually or in groups, including accessory uses, shall be allowed by special permit in the R-1, R-2, R-3, R-4, R-5, R-6, R-7 and R-8 zoning districts under the following conditions:

(a) Parking shall be in conformance with § 27.67.040(d)(12) unless modified under § 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 the "Design Standards for Housing for the Handicapped" adopted in Resolution A-66456, as amended, 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 the "Design Standards for Housing for the Handicapped" adopted in Resolution A-66456, as amended. The units for live-in aides shall be subject to the terms and conditions of the special permit. (Ord. 15296 § 1; September 11, 1989; prior Ord. 13546 § 10; February 28, 1983).

**27.63.216 Permitted Special Use: Connection of Single-Family Dwelling to Accessory Building for the Physically Handicapped.**

Connection of an existing single-family dwelling to an existing accessory building for the purpose of

providing enclosed access from the main building to the accessory building may be allowed by special permit in the R-1, R-2, R-3, R-4, R-5, R-6, R-7, and R-8 zoning districts under the following conditions:

(a) Both the existing dwelling and the existing accessory building comply with the yard requirements of the zoning district in which they are located; and

(b) The enclosed area of the structure attaching the two buildings shall not exceed the greater of 200 square feet or ten percent of the floor area of the main floor of the dwelling and shall not be served by a heating system, cooling system, or plumbing; and

(c) The enclosure shall be constructed in accordance with all applicable building and life safety codes; and

(d) The height and yard requirements of the district in which the single-family dwelling is located shall apply; however, the provisions of sections 27.11.080, 27.13.080, 27.15.080, 27.17.080, 27.19.080, 27.21.080, 27.23.080 and 27.24.080 which require accessory buildings to comply with the yard requirements of the main building shall not apply. The use of the accessory portion of the structure must remain as an accessory use; and

(e) The single-family dwelling shall be occupied by at least one person who is physically handicapped as defined within Section 27.03.335. The permittee shall certify such occupancy annually to the Department of Building and Safety; and

(f) Any permit issued pursuant to this section shall be conditioned upon the removal of the enclosed access structure within sixty days of the date on which the dwelling is no longer occupied by at least one person who is physically handicapped. (Ord. 16820 § 9; July 10, 1995).

**27.63.220 Permitted Special Use: Church Steeples, Towers, and Ornamental Spires.**

Church steeples, towers, and ornamental spires exceeding the maximum height permitted in the district may be allowed by special permit in the AG, AGR, R-1, R-2, R-3, R-4, R-5, R-6, R-7, R-8, O-1, O-3, B-1, B-2, B-3, H-2, and H-3 zoning districts. (Ord. 12571 §325; May 8, 1979).

**27.63.225 Permitted Special Use: Public Utility and Cable Television Purposes.**

In the AG, AGR, R-1, R-2, R-3, R-4, R-5, R-6, R-7, R-8, O-1, O-2, O-3, B-1, B-2, B-3, B-5, H-1, H-2, H-3, and H-4 districts, a special use permit may be granted to permit the erection and use of a building or the use of premises for a public service corporation for public utility purposes or for a cable communications system for cable television purposes which the Planning Commission deems reasonably necessary for the public convenience or welfare; provided that:

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

(b) The minimum lot area, or density requirement, shall not apply; however, the building shall not occupy more than thirty-five percent of the total area of land subject to the special permit unless specifically adjusted by the City Council in approving the special use;

(c) Parking areas and buildings that are of a substantially different character or size than those found in the district or neighborhood shall be landscaped and screened in conformance with the standards adopted by resolution of the City Council and the requirements of Chapter 27.67;

(d) The proposed use shall not have any adverse or detrimental effect upon the values of the surrounding real properties. (Ord. 17561 § 1; October 18, 1999; prior Ord. 12928 §1; June 9, 1980: Ord. 12894 §24; April 7, 1980).

**27.63.230 Permitted Special Use: Outdoor Theaters.**

Outdoor theaters may be allowed by special permit in the H-2 and I-1 zoning districts. (Ord. 13745 §8; January 3, 1984; prior Ord. 12571 §326; May 8, 1979).

**27.63.240 Permitted Special Use: Retail Sales and Service.**

Stores and shops for retail sales and service of over 30,000 square feet and less than 100,000 square feet may be allowed by special permit in the H-4 zoning district. Stores and shops for retail sales and service exceeding 20,000 square feet in area may be allowed by special permit in the H-3 zoning district. (Ord. 12657 §12; August 6, 1979; prior Ord. 12571 §327; May 8, 1979).

**27.63.250 Permitted Special Use: Permitted Use Exceeding the Maximum Height Permitted in District.**

A permitted use exceeding the maximum height permitted in the district may be allowed by special permit in the O-1, B-4, H-4, I-1, and I-2 zoning districts in conformance with the restrictions, if any, of the zoning district. (Ord. 16844 §1; August 7, 1995; prior Ord. 12571 §328; May 8, 1979).

**27.63.260 Permitted Special Use: Confined Feeding Facilities.**

Confined feeding facilities for livestock and poultry in excess of 15,000 square feet in area shall be allowed by special permit in those parts of the AG zoning district designated "agricultural" on the future county land use map (Figure 17) 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. 16812 §1; June 19, 1995; prior Ord. 14431 §5; July 14, 1986; Ord. 12571 §329; May 8, 1979).

**27.63.270 Permitted Special Use: Campgrounds.**

Campgrounds for tents, tent-trailers, and recreational vehicles may be allowed by special permit in the AG and AGR zoning districts under the following conditions:

(a) Each campsite shall contain at least 2,500 square feet. The campsite shall be so designed that the required 2,500 square feet can be enclosed within a rectangle of which one side shall not exceed three times any other side.

(b) The campground shall be supplied with a water supply and sewage disposal facilities, including washing, toilets, and similar facilities, all of which meet all applicable city codes and regulations.

(c) A side yard of fifty feet and a front yard of 100 feet shall be maintained on the campground; provided, however, that the 100-foot front yard requirement may be waived if the front yard abuts on a public street which has a right-of-way width of 200 feet or more.

(d) The access to public roads and highways shall be paved or surfaced in a similar manner to the

adjacent public roads, and shall be approved by the city.

(e) Access roads shall be provided to each campsite and all access roads shall have a minimum unobstructed width of fourteen feet for all one-way roads, and twenty feet for all two-way roads.

(f) No campground may be occupied by the same person or persons more than thirty days in any one calendar year.

(g) No mobile homes shall be located in any campground, except as provided for in Section 27.81.010(d)(5).

(h) All special permits issued under this section are temporary and valid only during the period that the campground and associated facilities comply with the provisions of this title and all other applicable ordinances and regulations.

(i) All campground operators shall keep accurate records as to the length of time a person stays in the campground, and shall make said records available to any city official upon request. (Ord. 14469 §1; August 18, 1986; prior Ord. 12571 §330; May 8, 1979).

**27.63.280 Special Permits: Expansion of Nonconforming Uses.**

In all zoning districts, except the B-5 zoning district, a special permit may be granted to authorize 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 consideration of applications for such 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 City Council 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. 16814 §1; June 26, 1995: prior Ord. 14532 §1; October 13, 1986: Ord. 12571 §331; May 8, 1979).

**27.63.290 Permitted Special Use: I-1 District.**

The uses listed in Section 27.47.030 may be allowed by special permit in the I-1 zoning district. (Ord. 16909 §4; December 18, 1995: prior Ord 16884 §2; October 23, 1995: Ord. 16070 § 3; March 9, 1992: Ord. 14905 §3; June 13, 1988: Ord. 14185 §20; September 3, 1985: Ord. 14035 §1; January 21, 1985: Ord. 13853 §2; May 21, 1984: Ord. 12657 §13; August 6, 1979: Ord. 12571 §332; May 8, 1979).

**27.63.300 Permitted Special Use: Bulk Storage of Petroleum Products.**

Bulk storage of petroleum products may be allowed by special permit in the H-3 or H-4 zoning districts. (Ord. 12571 §333; May 8, 1979).

**27.63.310 Permitted Special Use: Mining, Quarrying, and Stone Mill.**

A stone mill, quarry, and mining operations may be allowed by special permit in the I-2 zoning district in conformance with the standards of Section 27.63.160, as applicable. (Ord. 17232 §14; August 18, 1997: prior Ord. 12571 §334; May 8, 1979).

**27.63.320 Permitted Special Use: Community Unit Plans.**

Community unit plans may be allowed by special permit in the AG, AGR, R-1, R-2, R-3, R-4, R-5, and R-6 zoning districts in conformance with the provisions of Chapter 27.65. (Ord. 12571 §335; May 8, 1979).

**27.63.330 Permitted Special Use: Veterinary Facilities.**

Veterinary facilities may be allowed by special permit in the AG and AGR zoning districts. (Ord. 12571 §336; May 8, 1979).



**27.63.340 Permitted Special Use: Office for Professional Services.**

Offices for professional services provided by physicians, surgeons, chiropractors, osteopaths, physical therapists, dentists, architects, engineers, lawyers, and accountants 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. 14785 § 2; November 9, 1987; prior Ord. 12571 § 337; May 8, 1979).

**27.63.350 Permitted Special Use: Sale Barns.**

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

**27.63.360 Permitted Special Use: Mining.**

Mining or extraction of minerals from any portion of the AG and AGR Zoning Districts, and the storage and processing thereof, may be allowed by special permit in conformance with the standards of Section 27.63.160, as applicable. (Ord. 12571 § 339; May 8, 1979).

**27.63.370 Permitted Special Use: Banks.**

Banks, savings and loan associations, credit unions, and finance companies may be allowed by special permit in the O-1 Zoning District. (Ord. 12571 § 340; May 8, 1979).

**27.63.380 Permitted Special Use: Floodplain Construction.**

Certain construction may be allowed by special permit within the floodplain in conformance with Chapter 27.55. (Ord. 12571 § 341; May 8, 1979).

**27.63.390 Permitted Special Use: Restaurants, Medical Testing Laboratories, Motels, and Hotels.**

Restaurants and medical testing laboratories may be allowed by special permit in the O-3 Zoning District. Motels and hotels may be permitted under the following conditions:

(a) The number of hotel or motel units shall not

exceed the number obtained by dividing the total square foot area of the site by 1,500;

(b) Each hotel or motel unit shall have a minimum enclosed floor area of 500 square feet; and

(c) Each hotel or motel unit shall be a single habitable unit with facilities which are used or intended to be used for living, sleeping, cooking, and eating. (Ord. 13901 § 2; July 30, 1984; prior Ord. 12571 § 341a; May 8, 1979).

**27.63.400 Permitted Special Use: Historic Preservation.**

In any zoning district a special permit may be granted to allow the preservation of a historic structure or site and the reuse thereof. This permit shall be limited to structures or sites designated as landmarks under Chapter 27.57.

(a) The City Council 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 benefited 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 Historic Preservation Commission shall review the proposal for reuse for the structure or site, 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; and after such hearing, the Planning Commission shall forward its recommendations and those of the Preservation Commission to the City Council. Upon approval of the special permit by the City Council, 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.

(d) 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.

(e) 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 City Council 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. 15823 § 1; February 11, 1991: prior Ord. 14475 § 9; August 18, 1986: Ord. 13529 § 1; January 3, 1983: Ord. 13053 § 2; November 24, 1980: Ord. 12571 § 343; May 8, 1979).

**27.63.405 Permitted Special Use: Windows on Side Lot Lines for Any Use in a Historic Preservation District in B-1, B-3 and B-4 Districts.**

In historic districts designated in accordance with the Lincoln Municipal Code, windows may be permitted in walls of existing buildings in B-1, B-3 and B-4 Districts which do not provide the required side yard under the following conditions:

- (a) The proposed windows shall be in buildings existing before November 2, 1953;
- (b) The proposed windows shall be separated from any other building or structure by an open space of at least ten feet;
- (c) The application shall be accompanied by building plans and specifications, approved by the Building Official, indicating the construction would meet all applicable codes and regulations, if the special permit is issued;

(d) The permittee agrees, by acceptance of the special permit, to protect the permitted windows in accordance with the Building Code within sixty days of receipt of notification from the Building Official of development upon the adjacent property which in any manner reduces the required separation to less than ten feet and to block said windows if the separation is reduced to less than five feet.

(e) The Historic Preservation Commission shall have approved a Certificate of Appropriateness before Planning Commission approval. (Ord. 16287 § 1; December 21, 1992).

**27.63.410 Permitted Special Use: Dwellings Above First Story in B-1, B-3, and B-4.**

Dwellings above the first story of a building which cannot provide the required yard adjacent to the wall of such building which contains windows for such dwellings may be allowed by special permit in the B-1, B-3, and B-4 Zoning Districts under the following conditions:

- (a) The proposed residential units shall be in buildings existing before January 1, 1990;
- (b) The required windows for the dwellings shall be separated from any other building or structure by an open space of at least five feet;
- (c) The application shall be accompanied by building plans and specifications, approved by the Building Official, indicating the construction would meet all applicable codes and regulations, if the special permit is issued;

(d) The permittee agrees, by acceptance of the special permit, to vacate the dwellings authorized by such special permit within sixty days of receipt of notification from the Building Official of development upon the adjacent property which in any manner reduces the required separation to less than five feet. (Ord. 15782 § 6; November 26, 1990).

**27.63.420 Permitted Special Use: Wind Energy Conversion Systems (WECS).**

In any zoning district, except the AG and AGR, a special permit may be granted to allow wind energy conversion systems (WECS). For purposes of this section, a wind energy conversion system is defined as any device, such as a wind charger, windmill, or wind turbine, which converts wind energy to a form of usable energy. A special permit may be granted by the City Council subject to the following conditions:

(a) The distance from all lot lines to any tower support base of the WECS shall be determined according to the following WECS setback table. Intermediate rotor size distances shall be interpolated. The City Council may grant a reduction in the specific setback table distance when it finds that such reduction shall not adversely affect surrounding property and is consistent with the intent of this title to promote the public health, safety, and general welfare.

#### WECS SETBACK TABLE

Rotor Diameter in Feet	Setback Distance
5	100
10	165
15	220
20	270
25	310
30	340
35	365
40	385

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

(e) Data pertaining to the machine's safety and stability shall be filed with the application. Such data shall include safety results from tests conducted by the Rocky Flats testing facility or other testing facilities.

(f) The applicant shall provide covenants, easements, or similar documentation from the abutting owners providing access to wind sufficient for its adequate operation, unless adequate accessibility to the wind is provided on the site.

(g) 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. 13487 § 5; November 1, 1982; prior Ord. 12978 § 26; August 25, 1980).

#### **27.63.430 Permitted Special Use: Greenhouses.**

Greenhouses are intended to be located in areas of special consideration such as designated flood plains and noise hazard districts or in urban fringe or large lot developments where such use will not have an adverse impact on surrounding residential uses. Greenhouses shall be allowed by special permit in the R-3 district under the following conditions:

- (a) The minimum lot area is at least two acres;
- (b) No retail sales shall be conducted on the premises;
- (c) The greenhouse is an accessory use to a main residential use;
- (d) All materials are stored inside buildings;
- (e) Not more than twenty-five percent of the lot area may be devoted to such use;
- (f) The proposed use shall not have any adverse or detrimental effect upon the values of the surrounding land uses;
- (g) In order to assure such use is compatible with surrounding uses, the City Council may im-

pose such height, area, parking, and sign requirements as may be necessary. (Ord. 13724; 3; October 31, 1983).

#### **27.63.440 Permitted Special Use: Outdoor Seasonal Sales.**

In any residential (R-) or office (O-) district, a special permit may be granted to allow temporary or seasonal sales subject to the requirements of the respective districts, all applicable ordinances, and the following conditions:

- (a) The sale is sponsored and operated by a nonprofit organization or is directly associated with an approved special permit for a recreational facility;
- (b) If the land is located within 300 feet from the boundary of a B-1, B-3, B-4, H-2, H-3, or I-1 zoning district, the minimum lot area is one-half acre;
- (c) If the land is located at a distance greater than 300 feet from a B-1, B-3, B-4, H-2, H-3, or I-1 zoning district, the minimum lot area is one acre;
- (d) The sale does not operate for more than forty-five days within any one year period;
- (e) Adequate off-street parking is provided which complies with the City of Lincoln Design Standards;
- (f) One sign may be permitted which conforms to the limitations for signs for nonconforming uses contained in Chapter 27.69. (Ord. 15971 § 1; September 16, 1991; prior Ord. 13980 § 12; October 29, 1984).

#### **27.63.460 Permitted Special Use: Airport Environs District.**

Enlargement, extension, conversion, reconstruction, or structural alteration of a pre-existing use which does not conform to the provisions of Chapter 27.58 may be allowed by special permit. In considering applications for such special permits, the following criteria shall be given specific consideration:

- (a) The granting will not adversely affect the health, safety, and general welfare of property users in the airport vicinity as well as the community as a whole; and
- (b) The granting will not adversely affect the operations of the airport. (Ord. 13414 § 13; June 14, 1982).

**27.63.470 Permitted Special Use: Planned Service Commercial.**

Planned service commercial development may be allowed by special permit in the H-4 General Commercial District under the following conditions:

(a) The uses approved within a planned service commercial development shall be limited to:

(1) Automobile, motorcycle, and four-wheel truck sales;

(2) Warehouses;

(3) Mini-warehouses;

(4) Wholesale and distribution centers not exceeding 30,000 square feet in floor area per building, provided outside storage is permitted only when the storage area is enclosed with a solid fence, wall, and gates eight feet in height and the stored material and equipment is less than the height of the fence, wall, and gates enclosing the storage area. The fence, wall, and gates shall be located where buildings are permitted;

(5) Service centers for the repair of household appliances and lawn and garden equipment, provided outdoor storage of items to be repaired are permitted only when the storage area is enclosed with a solid fence, wall, and gates eight feet in height and the items to be repaired are less than the height of the fence, wall, and gates enclosing the storage area and no salvage or scrap processing operation shall be permitted. The fence, wall, and gates shall be located where buildings are permitted;

(6) Dwellings for caretakers employed and required to reside on the premises;

(7) Ambulance services;

(8) Hospitals and clinics for animals but not open kennels;

(9) Contractors' office and storage, including electrical, plumbing, heating, and air-conditioning contractors, provided outdoor storage of equipment and materials shall be permitted only when the storage area is enclosed with a solid fence, wall, and gates eight feet in height and the stored equipment and material are less than the height of the fence, wall, and gates enclosing the storage area. The fence, wall, and gates shall be located where buildings are permitted;

(10) Restaurants;

(11) Service stations;

(12) Stores or shops for retail sales and services not exceeding 30,000 square feet in floor

area per building; provided, there is at least four and one-half square feet of land area excluding other uses and their accessory uses within the approved special permit area per one square foot of floor area;

(13) Food storage lockers;

(14) Clubs, provided the activities are located no less than 150 feet from an abutting residential district;

(15) Private recreational facilities; provided they are located within the building and no less than 150 feet from an abutting residential district;

(16) Offices not exceeding 15,000 square feet of floor area per building; provided that there is at least four and one-half square feet of land area excluding other uses and their accessory uses within the approved special permit area per one square foot of floor area;

(17) Early childhood care facilities, provided that such facilities shall be fenced and have play areas that comply with the design standards for early childhood care facilities. In addition, such facilities shall comply with all applicable state and local early childhood care requirements and all applicable building and life safety code requirements;

(18) Cabinet shops and stores; provided that the total floor area of the operation does not exceed 5,000 square feet and that all materials, both raw and finished, be stored inside;

(19) Churches;

(20) Automobile repair, including vehicle body repair shops, provided that all disabled vehicles and all new and used parts are stored inside the building only;

(21) Private schools;

(22) Banks, savings and loan associations, credit unions, and finance companies;

(23) Broadcast towers.

(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 by the City Council in accordance with the procedures set forth for approving special permits generally. (Ord. 16854 §44; August 14, 1995: prior Ord. 16394 §1; June 21, 1993: Ord. 16128 §2; June 8, 1992: Ord. 15868 §1; April 29, 1991: Ord. 15798 §1; December 17, 1990: Ord. 15738 §1; October 1, 1990: Ord. 15692 §1; August 20, 1990: Ord. 15594 §1; June 25, 1990: Ord. 14987 §1; September 19, 1988: Ord. 14672 §1; May 26, 1987: Ord. 14185 §21; September 3, 1985: Ord. 13565 §1; April 4, 1983: Ord. 13510 §2; December 13, 1982).

#### **27.63.490 Permitted Special Use: Small Batch Concrete Dispensing Units.**

Small batch concrete dispensing units may be allowed by special permit in the H-3 and H-4 zoning districts under the following conditions:

(a) The mixing chamber shall not have a mixing capacity of greater than one-fourth cubic yard and materials to be mixed shall be totally enclosed;

(b) The units shall be used only in conjunction with a permitted use in this district;

(c) Environmental performance standards. Such use shall comply with the environmental performance standards relating to noise, emission, dust, odor, glare, and heat as shall be from time to time established by various municipal departments and approved by resolution of the City Council;

(d) Outdoor storage of sand, gravel, or cement used in the concrete shall be screened from all adjoining properties and public rights-of-way. (Ord. 13865 §3; June 18, 1984).

#### **27.63.500 Permitted Special Use: Scrap Processing Operations, Salvage Yards, and Enclosed Disassembly Operations.**

Scrap processing operations and salvage yards may be allowed by special permit in the I-1 zoning district and enclosed disassembly operations may be allowed by special permit in the I-1 and I-2 zoning districts under the following conditions:

(a) Construction and operation shall comply with Chapters 5.41 and 8.26 of the Lincoln Municipal Code and any other applicable codes or requirements;

(b) Receiving areas for salvage material shall be designed to avoid the depositing of salvage material outside a building or outside screened storage areas;

(c) Scrap processing operations and salvage yards shall contain a minimum of two acres, except that the site may be as small as 20,000 square feet where the site abuts one or more existing scrap processing or salvage yards that exceed two acres in total, or where the site is located no closer than 100 feet to the boundary of the I-1 zoning district except where said boundaries are common with H-3 zoning district;

(d) Salvage material kept outside a building or buildings shall not be located closer than 500 feet from any of the following entrance corridors, except where existing land forms completely obstruct the view by the traveling public of the salvage material:

- (1) Interstate 80 and 180;
- (2) West Bypass and "K" and "L" extension;
- (3) U.S. 77 north of Morton Street;
- (4) U.S. 77 and Nebraska Highway 2 south of High Street;
- (5) Nebraska Highway 2 east of South 14th Street;
- (6) U.S. 6 east of a point one-fourth mile west of 70th Street;
- (7) U.S. 6 west of Salt Creek;
- (8) Cornhusker Highway west of Interstate 180;
- (9) North 27th Street north of Leighton Street;
- (10) West "O" Street and "O" Street west of 9th Street.

(e) Salvage material kept outside a building or buildings shall not be located in the required front yard;

(f) Salvage material kept outside a building or buildings shall be located at least 100 feet from the boundaries of the I-1 or I-2 zoning district except where said boundaries are common with the H-3 zoning district and shall be at least 500 feet from any residential zoning district;

(g) Salvage materials may be stored in enclosed semi-trailers provided that the semi-trailers are properly licensed and are operable to be drawn by a motor vehicle upon the streets and highways of the City of Lincoln and the State of Nebraska and the semi-trailer shall not be located in the required front yard. Where the side yard or rear yard of the salvage yard abuts a residential district, the semi-trailers shall be located at least twenty feet from the respective side lot line or rear lot line and the openings to the trailer shall not face the residential district.

(h) The City Council may decrease the setback requirements in (c) and (f) above upon finding that there is sufficient justification for such modification and that there will be no significant adverse effect on the adjacent property. (Ord. 17217 §1; July 14, 1997; prior Ord. 16822 §3; July 10, 1995; Ord. 14801 §1; December 7, 1987; Ord. 14185 §22; September 3, 1985).

#### **27.63.510 Permitted Special Use: Cemeteries.**

Cemeteries may be allowed by special permit in any residential district (R-1 through R-8), any highway district (H-1 through H-4), and the B-1, B-2, and B-3 districts. All required setbacks shall be maintained as landscaped or open space areas. Additional setback or screen requirements may be required to minimize impacts on adjacent properties. (Ord. 14378 §16; May 5, 1986).

#### **27.63.520 Permitted Special Use: Churches; Increased Lot Coverage.**

In the R-1 through R-7 residential zoning districts, a special permit may be granted to permit the expansion of an existing church in excess of the maximum permitted lot coverage for churches in said districts under the following conditions:

(a) A church use shall have been located on the premises for which the special permit is requested for at least ten years;

(b) An expansion or expansions shall not exceed more than five percent cumulative additional lot coverage over existing lot coverage on the date the first expansion was approved. Once the expansion or expansions have reached the maximum five percent cumulative additional lot coverage over said existing lot coverage, no further expansion shall be permitted for a period of ten years;

(c) The applicant must show to the satisfaction of the city that no additional adjacent lands are reasonably available for acquisition to otherwise support the proposed expansion and that the applicant has acquired all such adjacent lands as are reasonably available;

(d) The proposed expansion shall not reduce the available parking below the required minimum for the church use, including the proposed expansion. (Ord.

17439 §1; November 23, 1998; prior Ord. 14510 §8; September 8, 1986).

#### **27.63.530 Permitted Special Use: Domiciliary Care Facilities.**

Facilities to provide domiciliary care may be allowed in the R-1, R-2, R-3, R-4, R-5, R-6, R-7, and R-8 zoning districts under the following conditions:

(a) Parking shall be in conformance with Section 27.67.040(d)(13) unless modified under the condition of the special permit, provided that no parking shall be permitted in the required front or side yards.

(b) Domiciliary care facilities shall be licensed to comply with all state requirements for domiciliaries and/or residential care facilities.

(c) The total number of client or employee residents shall not exceed the lot area ratio below except as provided for in this section, and provided that all facilities may have up to four individuals sixty years of age or older and one family acting as the residential caretaker:

(i) R-1 zoning district: One person per 3,000 square feet of lot area;

(ii) R-2 zoning district: One person per 2,000 square feet of lot area;

(iii) R-3 zoning district: One person per 2,000 square feet of lot area;

(iv) R-4 zoning district: One person per 1,000 square feet of lot area;

(v) R-5 zoning district: One person per 750 square feet of lot area;

(vi) R-6 zoning district: One person per 750 square feet of lot area;

(vii) R-7 zoning district: One person per 750 square feet of lot area;

(viii) R-8 zoning district: One person per 750 square feet of lot area.

(d) Depending on the character of the development and impacts on adjacent land uses, the City Council may grant an increase in the number of residents allowed in (d) above where the site plan and building plans comply with the barrier-free standards in the design standards as adopted by the City Council. Such increase shall not exceed fifty percent.

(e) The height and yard requirements of the district in which the proposed use is located shall apply provided, however, that if the area of the lot is one acre or more, the height requirement of the district may be adjusted to provide flexibility in the design of buildings and to provide compatibility with surrounding uses except that solar access to adjacent buildings or potential buildings on land under other ownership shall not be reduced by such adjustment. (Ord. 17513 § 1; June 1, 1999; prior Ord. 16687 §2; Oct. 17, 1994; Ord. 14562 §10; Dec. 8, 1986).

**27.63.540 Permitted Special Use:  
Expansion of Nonstandard  
Single and Two-family Dwellings  
Into Required Yards.**

In the R-1, R-2, R-3, R-4, R-5, R-6, R-7, and R-8 districts, a special permit may be granted to permit the expansion of a nonstandard single-family or two-family dwelling into a required yard under the following conditions:

(1) The proposed building expansion shall not extend further into any required yard than the furthest extension of the existing single- or two-family dwelling.

(2) The proposed building expansion shall comply with all other height and area regulations of the zoning district in which the building is located.

(3) The use of the building shall remain a single- or two-family dwelling. (Ord. 14767 § 10; October 12, 1987).

**27.63.550 Permitted Special Use: Private  
Landing Strips and  
Appurtenances.**

Private landing strips and appurtenances may be allowed by special permit in AG and AGR districts under the following conditions:

(a) The application shall be accompanied by the following information:

(1) A plot plan showing location of landing strips, taxiways, approach and clear zones as well as plans and elevations illustrating the airspace requirements of the landing area, and proposed accessory structures and uses.

(2) The type and use of aircraft for which the facility is intended.

(3) Number of aircraft to be stationed on the site.

(4) Frequency of flights and hours of operations.

(5) Diagram of flight patterns to be used in and out of the landing area.

(6) Drainage and grading plan of the site.

(7) Length, width, surface and lighting facilities of landing strips.

(8) Heights of any vegetation, buildings, pole lines, etc. that are adjacent to the landing area or within the approach and clear zones.

(9) The distance and differences in elevation between the ends of landing strips and any road, railroads, or highways that are adjacent to the landing strips.

(b) The site shall be located at least one mile away from any residential district (R-1 through R-8) and existing schools, hospitals, theaters, and nursing homes.

(c) The operation shall not result in air pollution and noise generation exceeding the city, state and federal standards.

(d) No structures shall be located within approach and clear zones if such structures encroach upon the airspace required for the safe operation of aircraft for which the landing strips are intended. It shall be the duty and at the sole expense of the applicant to remove such structures.

(e) No use of the landing strip permitted shall create electrical interference with aerial navigational signals or radio communication, of aircraft overflying the landing strip, result in glare in the eyes of pilots using or overflying the landing strip, or otherwise in any way endanger or interfere with landing, takeoff, or maneuvering of aircraft using or flying in the vicinity of the landing strip.

(f) Buffer areas may be required to mitigate adverse impacts associated with the operations. Uses within such buffer areas shall be under the control of the applicant through restrictive easements or ownership of the property.

(g) Lighting devices such as flood lights and spot lights shall be so designed or shielded as not to cast illumination in an upward direction above an imaginary line extended from a light source parallel to the ground.

(h) No landing strip permit shall be granted under airspace designated as an approach or clear zone to any public airport.

(i) The design and operations of the landing strips shall be subject to the requirements of appropriate state and federal regulations. (Ord. 14773 § 3; October 19, 1987).

**27.63.560 Permitted Special Use: Limited  
Landfills.**

A limited landfill, in which only building rubbish and demolition debris are disposed of, may be allowed by special permit in the I-1, H-3, and AG districts.

Construction and operation of the limited landfill shall comply with Chapter 8.32 of the Lincoln Municipal Code and any other federal, state, and local regulations and design standards which apply.

The application for said permit shall contain the following:

- (a) A site plan showing the location of the fill area, circulation, equipment storage, and an operation plan showing existing and proposed final elevations, topography, drainage, vegetation and cover depth.
- (b) Type and estimated volume of the building rubbish and demolition debris to be placed in the landfill.
- (c) A statement of whether it will be a private limited landfill used exclusively by the applicant or a public limited landfill, operated by the applicant and receiving materials from others; including the proposed days and hours of the week the landfill will be in operation; and the estimated traffic volume to the site.
- (d) A certified copy of the names and addresses of the last known owners of the property and occupied buildings within 300 feet of the location for which a permit is requested. (Ord. 16941 §2; February 26, 1996; prior Ord. 14905 §4; June 13, 1988).

**27.63.570 Permitted Special Use: Race Tracks For Motorized Vehicles.**

Race tracks for motorized vehicles may be allowed by special permit in the AG and I-1 zoning districts in conformance with the following conditions:

- (a) The application shall be accompanied by the following information:
  - (1) A plot plan drawn to an accurate scale showing the layout of the entire site including the track, seating area, restrooms, parking lot, concession stands, lighting facilities, and other pertinent information.
  - (2) Proposed water and sewer systems.
  - (3) Drainage and grading plan.
  - (4) Description of racing program including the type, number and average speed of motorized vehicles and time and frequency of operations.
  - (5) Landscaping and screening plan.
  - (6) Proposed measures to mitigate potential adverse environmental impacts, such as air quality, noise and glare.
- (b) For sites located within the 65dB Ldn contour north of U.S. Highway 34 and any areas within the 70dB and 75dB Ldn contours of the Airport Environs District as shown on the Lincoln Municipal Airport Composite Noise Contours Map shown on Figure 21 in the Lincoln-Lancaster County Comprehensive Plan, 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 District. To determine any noise level, a laboratory certified noise level meter meeting ANSI standards shall be used.
- (e) The site shall not be located within the inner areas of approach zones to the runways at the Lincoln Municipal Airport as defined in Section 27.59.030 of this title.
- (f) The site shall not be located in prime agricultural land and areas designated for residential use, rural use, parks and open space, and the major ecological and environmental protection areas in accordance with the Comprehensive Plan.
- (g) The center of the race track shall be located at least one mile away from existing hospitals and churches, and residential areas, rural use areas, and parks and open space as designated by the Comprehensive Plan, provided that the City Council may adjust such distance criteria if the race track is located within the 65 dB Ldn contour in the Airport Environs District. Such an adjustment shall be granted only upon a determination by the City Council 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. 16949 § 2; March 11, 1996; prior Ord. 14953 § 3; August 22, 1988).

**27.63.580 Permitted Special Use: Nonprofit Religious, Educational and Philanthropic Institutions; R-6, R-7 and R-8 Districts.**

Nonprofit religious, educational and philanthropic institutions may be allowed by special permit in the R-6, R-7 and R-8 zoning districts under the following conditions:

(a) The amount of parking required shall be equal to the amount which would otherwise be required for the use as set forth in Chapter 27.67 which is most analogous to the use proposed in connection with such religious, educational or philanthropic institution as determined by the Planning Director. All required parking shall be located on the lot unless otherwise specifically approved by the City Council, but in no event shall required parking be located more than 300 feet from the lot upon which the use is located.

(b) No such use shall 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.

(c) All signage shall be in conformance with the district regulations as set forth in Chapter 27.69 of this code. (Ord. 15159 § 7; April 24, 1989).

**27.63.590 Permitted Special Use: Temporary Storage of Construction Equipment and Materials.**

Temporary storage of construction equipment and materials may be allowed by special permit in the AG zoning district under the following conditions:

(a) The site shall be located in or within one mile of the future urban area as designated in the Comprehensive Plan.

(b) Such use shall comply with the height, and area regulations of the AG district; except that the City Council may reduce the minimum lot area to ten acres.

(c) The combined area of indoor and outdoor storage on the site shall not exceed two acres and such area shall be fenced.

(d) The building and outdoor storage area shall be screened in accordance with city design standards.

(e) Such use shall be permitted for a period which shall be determined by the City Council with reference to the anticipated urbanization of the surrounding area in accordance with the Comprehensive Plan and the Capitol Improvements Plan provided such period shall not exceed ten years. The permittee may request an administrative amendment for an extension of the use in one year increments. (Ord. 15133 § 2; March 27, 1989).

**27.63.600 Permitted Special Use: Mixed Use Redevelopment Project.**

A mixed use redevelopment project involving the rehabilitation, renovation or restoration of or addition to a building more than fifty years old may be allowed by special permit in the I-1 district under the following conditions:

(a) The site shall abut a residential district or P Public Use district. If abutting a P Public Use district, the site shall be located within one-half mile of existing fraternities, sororities, dormitories or public housing.

(b) Residential uses shall be permitted.

(c) Parking shall be in conformance with Chapter 27.67. However, the City Council may modify the parking requirements provided that the applicant provides justifications for such modification. (Ord. 16362 § 1; May 10, 1993; prior Ord. 16279 § 1; December 7, 1992; prior Ord. 15165 § 3; May 1, 1989).

**27.63.610 Permitted Special Use: Neighborhood Support Services.**

Neighborhood support services are those human, social, educational, counseling, health, and other support services provided primarily for the support of persons residing in adjacent residential areas, which occur frequently and so require facilities in relative proximity to places of residence. Neighbor-

hood support services may be allowed by special permit in the R-1, R-2, R-3, R-4, and R-5 zoning districts under the following conditions:

(a) The use shall be operated by a nonprofit religious, educational, or philanthropic institution and shall be strictly restricted to administrative offices and assembly associated with such neighborhood support services.

(b) The site upon which the use is located shall be an existing structure adjacent, contiguous, or separated by an alley or street to a park, school, church, or neighborhood center.

(c) The use shall be restricted to the operation and administration of those neighborhood support services designed to primarily serve the local neighborhood and adjacent areas and not the entire city.

(d) The amount of parking required shall be equal to the amount which would otherwise be required for the use as set forth in Chapter 27.67 which is most analogous to the use proposed in connection with such neighborhood support services as determined by the Planning Director. All required parking shall be located on the lot unless otherwise specifically approved by the City Council, but in no event shall required parking be located more than 300 feet from the lot upon which the use is located.

(e) No such use shall render a service which is customarily carried on as a business nor shall any such use be approved which involves printing, publishing, manufacturing, or other industrial uses on the premises.

(f) All signage shall be in conformance with the requirements set forth in Chapter 27.69 of this code. (Ord. 15371 § 6; December 18, 1989).

**27.63.620 Permitted Special Use:  
Temporary Shelter for the  
Homeless.**

A temporary shelter for the homeless shall be allowed in the B-4 and I-1 zoning districts upon the issuance of a special permit. Such special permit shall be issued upon satisfaction of conditions imposed under this section.

(a) Parking shall be in conformance with Chapter 27.67. Parking requirements may be increased or decreased consistent with the hours of operation, anticipated staff requirements, and ancillary uses of the property;

(b) The distance between the proposed temporary shelter for the homeless and any existing group home or domestic shelter shall be at least 1,000 feet, measured from lot line to lot line;

(c) The hours of operation of the temporary shelter for the homeless may be restricted, and overnight lodging may be prohibited;

(d) Additional conditions may be imposed for the protection of abutting land uses and the height and area regulations of the underlying zoning district may be increased or decreased, consistent with the protection of the public health, safety, and general welfare. (Ord. 16070 § 4; March 9, 1992).

**27.63.630 Permitted Special Use: Theaters.**

Theaters may be allowed in the B-5 District by special permit under the following conditions:

(a) A use permit for 400,000 square feet or more of commercial floor area has been issued;

(b) A Certificate of Occupancy has been issued for 300,000 square feet or more of commercial floor area; provided, however, that the City Council may decrease or waive this requirement upon a finding that the proposed theaters will have no significant adverse impact upon the property values and existing uses in the B-4 Lincoln Center Business District, with particular emphasis upon the effect of such proposed theaters on the entertainment and cultural uses in the B-4 Lincoln Center Business District; and

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

**27.63.640 Permitted Special Use: Dwelling  
Units for Domestic Employees in  
Accessory Buildings.**

(a) Dwelling units for domestic employees may be permitted in accessory buildings in the AG, AGR, and R-1 zoning districts under the following conditions:

(1) The premises for which a special permit is requested shall be a buildable lot for single-family use.

(2) No more than one dwelling unit for domestic employees shall be permitted.

(3) Parking shall be in conformance with Chapter 27.67, but additional parking requirements may be imposed.

(4) The number of domestic employees residing on the premise shall be limited to two.

(b) The application for such special permit shall provide the following information:

(1) A site plan showing the boundaries with dimensions and bearings of the parcel along with the location, height, and use of all structures on the parcel.

(2) The location of all driveways, garages, and parking spaces.

(3) The setback lines.

(c) For the purpose of this section, "domestic employee" shall mean an employee such as a household servant, gardener, caretaker, or chauffeur whose work is usually necessary or desirable for the maintenance and enjoyment of his or her employer's home. (Ord. 16088 § 5; March 23, 1992).

**27.63.650 Permitted Special Use: Mail Order Catalog Sales; O-2, O-3, and B-2 Districts.**

Mail order catalog sales may be allowed in the O-2, O-3, and B-2 districts by special permit under the following conditions:

(a) The granting of the special permit will not result in an adverse impact greater than that of permitted uses in the district.

(b) Parking shall be in conformance with Chapter 27.67, except the City Council may reduce the parking requirements to those contained in the I-1 Industrial District provided that the applicant provides justifications for such modifications.

(c) The City Council may decrease the rear yard requirements with consideration given to the adjacent environment. (Ord. 16144 § 10; July 6, 1992).

**27.63.660 Permitted Special Use: Heritage Centers; AG District.**

In the AG District, a special permit may be granted to allow a heritage center subject to the following conditions:

(a) More than one main building may be located on a lot in conformance with the district regulations; provided, however, buildings shall not cover more than five percent of the lot area.

(b) Mechanical rides shall be limited to hayrack rides and sightseeing vehicles. Rides designed primarily for use by children under four feet tall must comply with applicable state laws and regulations.

(c) Parking: One space shall be provided for every 200 square feet of floor area devoted to

permanent retail and service use. In addition, an overflow parking area shall be provided with three stalls for every acre included within the special permit area.

(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. 16413 § 3; July 12, 1993).

**27.63.670 Permitted Special Use: Amateur Radio Antenna Installation.**

(a) Amateur radio antenna installations exceeding sixty-five feet in height may be allowed by special permit in the AG, AGR, R-1, R-2, R-3, R-4, R-5, R-6, R-7, and R-8 zoning districts in conformance with the following conditions:

(1) The amateur radio antenna installation shall comply with all applicable governmental regulations and standards;

(2) The site for the amateur radio antenna installation shall be on the same premises as the main residence of the amateur radio operator;

(3) The site for the amateur radio antenna installation shall be licensed by the Federal Communications Commission as an amateur radio station for amateur radio communications;

(4) The amateur radio antenna installation may exceed the maximum height for the district in which they are located.

(5) Only equipment and facilities necessary to the operation of the amateur radio antenna installation shall be permitted and only if such facilities are expressly permitted by the terms of the special permit.

(6) The application shall be accompanied by a site plan showing site boundary, locations of the proposed antenna installation, guy wire anchors, and nearby structures, tower design and building materials, equipment to be attached to the tower (e.g., antennas, mast, and rotor, etc.), and setbacks from the site boundary. It shall also be accompanied by the following:

(i) A landscape plan in accordance with the city's design standards for broadcast towers;

(ii) A statement indicating proposed measures designed to minimize potentially adverse visual effects on adjacent properties with consideration given to its design,

nobtrusiveness, minimum height necessary to accommodate the radio service communications, avoidance of artificial light and coloring provisions;

(7) With the exception of those antenna installations to be mounted on existing structures, the following requirements shall be met:

(i) In the AG and AGR districts, the antenna installation shall be set back from public streets abutting the antenna installation site by a distance equal to or greater than the antenna installation height. The distance between the antenna installation and site boundary shall be equal to or greater than fifty percent of the antenna installation height. The distance between the anchors of the antenna installation and site boundaries shall be equal to or greater than the setback requirements established in the underlying zoning district. The City Council may grant a reduction in the required setbacks when it finds that such reduction shall not adversely affect adjacent properties and is consistent with the intent of this title to promote the public health, safety, and general welfare;

(ii) The tower shall have a galvanized finish or other rust inhibiting finish but can be painted green below treetop level. It shall not be painted in alternate bands of distinctive orange and white colors or equipped with lights unless specifically required for safety reasons by a governmental agency having jurisdiction thereof. If so required, such lights shall not exceed the minimum standards therefor.

(iii) To prevent vandalism or injuries, adequate security measures shall be provided around the antenna installation base (such as security fence with a locking portal) or other device designed to prevent unauthorized access to the antenna.

(b) In consideration of applications for such special permits, the following criteria shall be given specific consideration:

(i) Adverse effects on adjacent property including, but not limited to:

a. Whether the proposed antenna installation will visually and aesthetically degrade the neighborhood.

b. Whether the proposed antenna installation has the potential to reduce property values.

(ii) The Federal Communications Commission declaratory ruling entitled PRB-1 recognizing the federal objectives in amateur radio operations and requiring that any zoning regulations which involve placement, screening, or height of antennas based upon legitimate health, safety or aesthetic considerations must be crafted to reasonably accommodate amateur communications and to represent the minimum practical regulation necessary to accomplish those purposes.

(iii) Potential alternatives to a blanket denial of the proposed antenna installation which could be approved. (Ord. 16673 § 13; September 26, 1994).

#### **27.63.680 Permitted Special Use: Sale of Alcoholic Beverages for Consumption On the Premises.**

Alcoholic beverages may be sold for consumption on the premises in the B-1, B-3, H-1, H-2, H-3, H-4, I-1, I-2, 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, unless waived by the City Council, the following conditions:

(a) Parking shall be provided on-site at the ratio of one space per 100 square feet of gross floor area.

(b) The sale of alcoholic beverages for consumption off the premises shall not be permitted without issuance of a permit under Section 27.63.685 of this code.

(c) The licensed premises of any building approved for such activity must be located no closer than 100 feet from a day care facility, a residential district or residential use, or, if a lesser distance, must mitigate any adverse effects of the reduction in distance through landscaping, screening, or other methods approved by the Planning Director.

(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,

paggers, 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 paggers, 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 as determined by the City Council, 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;

(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.

Planning Commission review and City Council authorization is required for this use; provided, however, that no special permit or amendment thereto shall be required for interior expansions of existing licensed liquor premises. (Ord. 17232 § 15; August 18, 1997: prior Ord. 16899 § 1; November 20, 1995: Ord. 16743 § 1; February 27, 1995: Ord. 16627 § 1; July 5, 1994: Ord. 16593 § 12; April 11, 1994).

**27.63.685 Permitted Special Use: Sale of Alcoholic Beverages for Consumption Off the Premises.**

Alcoholic beverages may be sold for consumption off the premises in the B-1, B-3, H-1, H-2, H-3, H-4,

I-1, and I-3 zoning districts upon the approval of a special permit. A special permit for such use may be granted subject to the requirements of the respective districts, all applicable ordinances, and, unless waived by the City Council, the following conditions:

(a) Parking shall be in accordance with Section 27.67.020 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 100 feet from a day care facility, a residential district or residential use, or, if a lesser distance, must mitigate any adverse effects of the reduction in distance through landscaping, screening, or other methods approved by the Planning Director.

(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, paggers, 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 paggers, 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 as determined by the City Council, 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.

Planning Commission review and City Council approval is required for this use; provided, however, that no special permit or amendment thereto shall be required for interior expansions of existing licensed liquor premises. (Ord. 17232 § 16; August 18, 1997; prior Ord. 17229 § 2; August 11, 1997; Ord. 17153 § 1; March 10, 1997; Ord. 16899 § 2; November 20, 1995; Ord. 16743 § 2; February 27, 1995; Ord. 16627 § 2; July 5, 1994; Ord. 16593 § 13; April 11, 1994).

**27.63.690 Permitted Special Use:  
Community Halls; AG District.**

In the AG Agriculture District, a special permit may be granted to allow a community hall, subject to the following conditions:

(a) Rides shall be limited to hayrack rides.

(b) There shall be adequate parking for vehicles compatible with the number of people using the facility.

(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. 17119 § 1; December 16, 1996).

paggers, 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 paggers, 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 as determined by the City Council, 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;

(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.

Planning Commission review and City Council authorization is required for this use; provided, however, that no special permit or amendment thereto shall be required for interior expansions of existing licensed liquor premises. (Ord. 17232 §15; August 18, 1997; prior Ord. 16899 §1; November 20, 1995; Ord. 16743 §1; February 27, 1995; Ord. 16627 §1; July 5, 1994; Ord. 16593 §12; April 11, 1994).

**27.63.685 Permitted Special Use: Sale of Alcoholic Beverages for Consumption Off the Premises.**

Alcoholic beverages may be sold for consumption off the premises in the B-1, B-3, H-1, H-2, H-3, H-4, I-1, and I-3 zoning districts upon the approval of a special permit. A special permit for such use may

be granted subject to the requirements of the respective districts, all applicable ordinances, and, unless waived by the City Council, the following conditions:

(a) Parking shall be in accordance with Section 27.67.020 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 100 feet from a day care facility, a residential district or residential use, or, if a lesser distance, must mitigate any adverse effects of the reduction in distance through landscaping, screening, or other methods approved by the Planning Director.

(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, paggers, 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 paggers, 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 as determined by the City Council, 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.

Planning Commission review and City Council approval is required for this use; provided, however, that no special permit or amendment thereto shall be required for interior expansions of existing licensed liquor premises. (Ord. 17232 §16; August 18, 1997; prior Ord. 17229 §2; August 11, 1997; Ord. 17153 §1; March 10, 1997; Ord. 16899 §2; November 20, 1995; Ord. 16743 §2; February 27, 1995; Ord. 16627 §2; July 5, 1994; Ord. 16593 §13; April 11, 1994).

**27.63.690 Permitted Special Use: Community Halls; AG District.**

In the AG Agriculture District, a special permit may be granted to allow a community hall, subject to the following conditions:

(a) Rides shall be limited to hayrack rides.

(b) There shall be adequate parking for vehicles compatible with the number of people using the facility.

(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. 17119 §1; December 16, 1996).

**27.63.700 Permitted Special Use: Storage of Vehicles for Sale Where Parking is Permitted.**

The storage of vehicles for sale and resale in the B-3, H-2, H-3, and I-2 zoning districts may be permitted upon any portion of the lot where parking is permitted. Any area in a required front yard used for such storage of vehicles must conform to the parking lot design standards unless specifically adjusted or waived by the City Council. (Ord. 17265 §1; October 20, 1997).

**27.63.710 Permitted Special Use: Off-Premises Signs.**

Off-premises signs which do not meet the siting limitations of Section 27.69.035(b)(2), (6), and (7) may be allowed by special permit upon a finding that the character of the protected area shall be preserved and upon a finding that approval of the special permit provides a public benefit to the community. (Ord. 17585 § 1; January 10, 2000).

**27.63.720 Permitted Special Use: Personal Wireless Services Facilities.**

Personal wireless services facilities may be allowed by administrative or special permit in any zoning district in conformance with the provisions of Chapter 27.68. (Ord. 17588 §15; January 18, 2000).

## Chapter 27.65

### COMMUNITY UNIT PLAN

#### Sections:

- 27.65.010 General Purpose.**
- 27.65.020 General Requirements.**
- 27.65.025 Permitted Density; Not Transferable to AG or AGR Zoning Districts.**
- 27.65.030 Procedures.**
- 27.65.040 Council Consideration of Final Action.**
- 27.65.050 Requirements After Approval.**
- 27.65.060 Community Unit Plan Amendments.**
- 27.65.070 Form of Community Unit Plan.**
- 27.65.080 Design Standards; Density.**
- 27.65.090 Parking.**

#### **27.65.010 General Purpose.**

The purpose of this chapter is to permit and to encourage the creative design of new living areas, as distinguished from subdivisions of standard lot sizes and standard street systems, and in order to permit such creative design in buildings, open space, and their interrelationship while protecting the health, safety, and general welfare of existing and future residents of surrounding neighborhoods. (Ord. 12571 § 344; May 8, 1979).

#### **27.65.020 General Requirements.**

The owner or owners of any tract of land in the R-1, R-2, R-3, R-4, R-5, or R-6 zoning district which is one acre or more in area; in the AG zoning district which is seventy-five acres or more in area; or in the AGR zoning district which is ten acres or more in area, including and up to the centerline of existing public rights-of-way abutting the tract of land may submit to the City Council a plan for the use and development thereof for residential purposes or for the repair and alteration of any existing residential development; provided, however, that the City Council shall apply the standards contained in this chapter and in Chapter 27.63 in considering all applications for community unit plans.

(a) A community unit plan may be permitted on a tract of land which is less than ten acres but more than five acres in area. The maximum permitted density on such a tract shall be calculated as provided in Section 27.65.080, and this maximum will be reduced by ten percent to accommodate the small size of the tract.

(b) A community unit plan may be permitted on a tract of land which is not more than five acres but more

than one acre in area. The maximum permitted density shall be calculated as provided in Section 27.65.080, and this maximum will be reduced by twenty percent to accommodate the small size of the tract.

(c) A community unit plan may be permitted on a tract of land which is less than ten acres but more than one acre in area where such tract is bounded on at least two sides by one or more existing community unit plans. The maximum density of such a tract shall be calculated as in Section 27.65.080.

(d) A community unit plan may be permitted on a tract of land which is ten or more acres in area. The maximum permitted density of such a tract shall be calculated as in Section 27.65.080.

(e) Notwithstanding the provisions of (a) through (d) above, where permitted in the AG Agriculture District, any community unit plan shall contain a minimum area of seventy-five acres, and in the AGR Agricultural Residential District, a minimum area of ten acres.

(f) A community unit plan which complies with the energy conservation standards adopted by the City Council and on file with the City Clerk may receive a dwelling unit bonus in accordance with the standards adopted by resolution of the City Council.

(g) Additional dwelling units may be granted by the City Council for each dwelling unit subsidized by the state or federal government for low-income families or as a dwelling unit bonus for the provision of barrier-free units; however, the number of additional dwelling units shall not exceed those provided in the standards adopted by resolution of the City Council.

(h) A community unit plan located in the AG or AGR zoning districts which will substantially protect an open space area as designated on the future land use plans included in the Lincoln City-Lancaster County Comprehensive Plan may receive a dwelling unit bonus provided that:

(1) The request for a dwelling unit bonus shall be accompanied by a showing of the need for protection of the open space, a description of the proposed use of the open space and any limitations there on, and the proposed method of protecting the open space which may include, but is not necessarily limited to, protective covenants, conservation or preservation easements, or similar restrictions of record.

(2) The proposed method of protecting the open space shall expressly (i) prohibit the construction or installation of any structures or other improvements in the open space for a period of 99 years, except minimal above ground structures or improvements reasonably necessary and incidental to the proposed

use of the open space; and (ii) prohibit such uses as shooting ranges, basketball courts, baseball fields, football and soccer fields, racetracks, or other stadium uses, facilities for spectator sports, and any activities that would unreasonably disturb the residents of the community unit plan or the surrounding neighborhoods.

(3) The open space shall be accessible to, and available for use by, the residents of the community unit plan;

For the purposes of this subsection, "open space" shall mean land or water which is undeveloped or which is set aside for public or private outdoor recreational uses, such as parks, trail systems, golf courses, or bodies of water for swimming, fishing, or boating.

(i) A community unit plan located in the AG or AGR zoning district which will protect natural environmentally sensitive areas, whether or not shown in the Lincoln City-Lancaster County Comprehensive Plan, may receive a dwelling unit bonus provided that:

(1) The request for dwelling unit bonus shall be accompanied by a showing of the need for the protection of the natural environmentally sensitive area including documents supporting the quality or value of the area to the community or ecosystem, the use proposed for the area and any limitations thereon, and the proposed method of protecting the area which may include, but is not necessarily limited to, protective covenants, conservation or preservation easements, or other restrictions of record which insure that such areas shall remain undeveloped and preserved and which expressly prohibit any structures or other improvements or change in use of the area for a period of at least 99 years; and

(2) The density bonus, if granted, will not cause any degradation of the natural environmentally sensitive area. Appropriate buffers shall be provided to insure that such degradation does not occur; and

(3) The natural environmentally sensitive area shall be accessible to residents of the community unit plan, and may also be accessible to the public, for very low passive recreation uses. Only those improvements specifically related to the use and enjoyment of such natural environmentally sensitive area, such as walkways and trails, which have been shown by the applicant to have no detrimental effect on said area shall be permitted.

For purposes of this subsection, "natural environmentally sensitive areas" shall mean areas such as wetlands, bodies of water, native prairie, woodlands, floodplains, or other wildlife habitats, or greenway corridors which

are of substantial quality or value to the community and the ecosystem and which may include such natural buffers as are necessary and of sufficient quality to protect the integrity of the natural environmentally sensitive area.

In addition, natural environmentally sensitive areas may also include degraded natural areas that the applicant proposes to fully restore provided that:

(1) The applicant shows that there is a high likelihood for successful restoration of such area;

(2) The applicant demonstrates that he or she will dedicate sufficient resources to fully restore and maintain such area; and

(3) The applicant will commence restoration of such area no later than the time at which the construction of those dwelling units which require the dwelling unit bonus commences.

(j) A community unit plan in the AG zoning district where cultivated land and pasture land is preserved for agricultural use and no new public roads are created may receive a dwelling unit bonus provided that such land shall remain undeveloped and preserved and that protective covenants, conservation or preservation easements, or other similar restrictions of record are in place to expressly prohibit any change in use for a period of at least 99 years.

(k) The dwelling unit bonuses permitted under this section shall not exceed a total of twenty percent in any community unit plan. (Ord. 17285 § 1; January 20, 1998; prior Ord. 16428 § 1; July 19, 1993; Ord. 15781 § 1; November 26, 1990; Ord. 12571 § 345; May 8, 1979).

#### **27.65.025 Permitted Density; Not Transferrable to AG or AGR Zoning Districts.**

The permitted dwelling unit densities of land zoned R-1, R-2, R-3, R-4, R-5, R-6, R-7, R-8, O-1, O-2, O-3, B-1, B-2, B-3, B-4, and B-5 shall not be transferred for the purpose of construction and occupancy of dwelling units to land located in the AG or AGR zoning districts. (Ord. 12768 § 1; November 19, 1979).

#### **27.65.030 Procedures.**

An application and plot plan and plans for development of a community unit plan under this chapter shall be filed in writing with the department of building and safety. Upon the filing of an application, together with all information required by this chapter, the City Council will refer the application to the Planning Commission. The Planning Commission shall hold a public hearing upon such application and make a report to the City Council regarding the effect of the proposed use upon the

surrounding neighborhood, the community as a whole, and other matters relating to the public health, safety, and general welfare. The City Council shall take no final action upon any application for a community unit plan filed under this chapter until a report from the Planning Commission has been filed with the City Clerk; provided, that in the event there is a delay in excess of sixty days from the date of referral on the part of the Planning Commission in reporting its recommendations to the City Council, the applicant may appeal to the City Council requesting final action. If the City Council determines that the delay of the Planning Commission is unjustified, it shall direct the commission to submit a report no later than immediately after the commission's next regularly scheduled meeting.

The report of the Planning Commission to the City Council shall include reasons for recommending approval or denial of any application and if approval is recommended, shall further include specific evidence and facts showing that the proposed community unit plan meets the following conditions:

(a) That the land surrounding the tracts for the proposed community unit plan will not be adversely affected;

(b) That the proposed community unit plan is consistent with the intent and purpose of this title to promote the public health, safety, and general welfare;

(c) That the buildings and land in the proposed community unit plan shall be used only for single-family dwellings, two-family dwellings, townhouses, or multiple dwellings and accessory uses and any other uses permitted in the zoning district in which the land is located;

(d) That the average lot area per family within the proposed community unit plan will not be less than the lot area per family required in the zoning district or districts in which the tracts of the proposed community unit plan is located, except as otherwise provided in this chapter.

(e) If an application for the community unit plan located within a flood plain is granted approval by the city, it shall not be necessary for the applicant to make an application for a special permit to be approved by the City Council as required by Resolution Nos. A-55150, A-56382, and A-57540. It shall be presumed that the applicant has received all such approvals as may be required by the foregoing resolutions by virtue of the city granting approval to the community unit plan. (Ord. 13079 § 1; January 12, 1981; prior Ord. 12571 § 346; May 8, 1979).

**27.65.040 Council Consideration of Final Action.**

Upon receipt of a report from the Planning Commission, the City Council shall proceed to give final consideration to the application and require

that certain conditions be fulfilled by the applicant in conjunction with the approval of the community unit plan applied for. Approval of a community unit plan shall be by a special permit in conformance with Chapter 27.63. (Ord. 12571 § 347; May 8, 1979).

#### 27.65.050 Requirements After Approval.

Upon approval of the community unit plan by the City Council, the developer shall cause to be prepared and submitted to the Planning Department a revised and reproducible final plot plan with all required amendments and revisions. Thereafter, building permits and certificates of occupancy shall be issued only upon strict compliance with the community unit plan as approved, or as amended, regardless of any regulations to the contrary with regard to the height and location of buildings, yard requirements, open space requirements, type of dwelling unit, accessory uses and the fronting of lots upon public streets set forth elsewhere in this title and applying to the zoning district or districts in which the community unit plan is located. (Ord. 12571 § 348; May 8, 1979).

#### 27.65.060 Community Unit Plan Amendments.

After the City Council has approved a community unit plan, including the specific plot plan, the Planning Director is authorized to approve amendments in the community unit plan provided that:

(a) A request for amendment is filed with the Planning Director, and, if appropriate, accompanied by a plot plan drawn to an accurate scale and showing all pertinent information;

(b) There is no increase in the number of dwelling units;

(c) No public land will be accepted as a result of the amendment;

(d) The amendment shall not be contrary to the general purposes of this chapter as set forth in Section 27.65.010;

(e) Such amendment shall not violate any regulations set forth in this title;

(f) No reduction is made to the applicable setback or yard requirements;

(g) Any amendment not in conformance with this paragraph shall be submitted to the City Council in the same manner as an original com-

munity unit plan. (Ord. 13528 § 6; January 3, 1983; prior Ord. 12571 § 349; May 8, 1979).

#### 27.65.070 Form of Community Unit Plan.

A plot plan shall be accurately, clearly, and legibly drawn on tracing cloth or mylar in a sufficient size and scale to show the details of the plan clearly and shall contain the following information:

(a) A surveyor's certificate certifying to the accuracy of the boundary survey shown thereon, and a certificate for showing the Planning Commission's approval or disapproval, and a certificate for the City Clerk to show the approval or disapproval by City Council, including the date and resolution number;

(b) Date prepared, north point, scale of plot plan, and location of section lines and section corners;

(c) Contour lines at intervals not to exceed five feet based on city data. Spot elevations on a 100-foot grid shall be required to fully indicate the topography on flat land;

(d) Locations, name, tangent lengths, center-line radius of each curve and its interior angle and width of all proposed and existing streets, highways, private roadways, and other public ways within and adjacent to the development;

(e) Locations and widths of all existing and proposed easements for drainage, sewers, and other public utilities and, if appropriate, access easements;

(f) Location, width, and direction of flow of all watercourses in and adjacent to the community unit plan, including the limits of the flood plain and floodway as defined in Chapter 27.55;

(g) The location and size of all existing and proposed sanitary and storm sewers, culverts, water-mains, fire hydrants, and existing power lines and other underground structures or cables within the tract of land and adjacent streets;

(h) All lot lines, building setback lines for all lots, dimensions of all lot lines and building envelope lines. Chord distances shall be shown for lot lines abutting curvilinear streets;

(i) Lot numbers shall begin with the number (1) and shall continue consecutively through a block with no omission or duplication. Blocks shall be numbered in the same manner. Letters shall be used to designate outlots in alphabetical order;

(j) Proposed areas for parks and playgrounds. Any parcels other than streets which are to be

dedicated or reserved for public use shall be clearly shown and said parcels shall be designated as outlots and assigned an alphabetical designation;

(k) The location of all proposed and existing sidewalks, walkways, and other pedestrian ways;

(l) Location, height, and use of proposed and existing buildings with an indication as to whether an existing building is to be removed or to remain, and signs, if any, in accordance with the provisions of Chapter 27.69;

(m) A certified accurate boundary survey showing sufficient linear, angular, and curve data to determine the bearing and length of all boundary lines of the community unit plan. Where the tract of land abuts on an existing plat, the distances, angles, and bearing of any common lines shall be shown and any differences in measurement noted. The total calculated acres within the boundaries of the community unit plan shall be shown;

(n) The following data shall be shown on each sheet of the community unit plan:

(1) The name of the community unit plan;

(2) The name, address, and telephone number of the person or company responsible for preparation of the community unit plan;

(3) North arrow, scale, date;

(4) Sheet number and the total number of sheets comprising the community unit plan.

(o) Accompanying the community unit plan, the following information shall be submitted to the Planning Department with the number of copies requested by the Planning Director:

(1) Name, address, and telephone number of developer;

(2) Certified record owner or owners and their address;

(3) Legal description of the proposed community unit plan, including the number of acres;

(4) Statement of present zoning and proposed use or uses of the property;

(5) Profiles along the centerline of the proposed streets and private roadways which show the existing ground surface elevations and the proposed street grades including the length of vertical curves between changes in grade with the profiles for stub streets ending at the boundary of the community unit plan to be extended 300 feet beyond the limits of the community unit plan into subdivided and unsubdivided land;

(6) The proposed method of providing sanitary sewer service to the area;

(i) If a public or community sewage system is established, the size and location of all proposed sanitary sewers, the proposed manhole locations, any necessary extension to the existing public system or to the proposed community sewage treatment facility, and the location of the proposed community sewage treatment facility;

(ii) If the use of individual sewage disposal systems is permitted, pursuant to Section 26.27.040 of the Lincoln Municipal Code, plans for the proposed disposal system and its location on each lot must be shown. If a septic tank system is proposed, soil and percolation data and plans which show the location of one main subsurface disposal field for each lot which is proposed to be served by a septic tank system shall be shown.

(7) The proposed method of providing an adequate potable water supply;

(i) If a public, or community water system, or rural water district is used, the location and size of all proposed water mains, the proposed hydrant locations, and any necessary extension of the proposed system to existing water mains or to a proposed community well, the location of the proposed community well, and the type of water treatment to be used;

(ii) If a community water system other than a rural water district is proposed, data on the quantity and quality of the water shall be obtained from a test well within the immediate vicinity of the proposed water supply well. If an individual water well system for each lot is proposed, data on the quantity and quality of the water shall be obtained from test wells which shall be drilled on the ratio of one to each ten acres on a grid system. The results of these preliminary tests shall in no way be construed to guarantee the quantity or quality of water to individual lots in the proposed community unit plan and the data obtained from these tests shall not be used to imply that an adequate quantity or acceptable quality of water is available in the proposed community unit plan.

(8) A drainage study prepared in accordance with the current storm sewer design standards of the city on file with the City Clerk. The fol-

lowing items must be included in the drainage study:

(i) A map showing the drainage area and resulting runoff from any land lying outside the limits of the community unit plan which discharges storm water runoff into or through the community unit plan;

(ii) A map showing all internal drainage areas and resulting runoff;

(iii) Proposals as to how the computed quantities of runoff will be handled;

(iv) A copy of the drainage computations.

(9) A map or an aerial photograph showing the proposed streets, private roadways, driveways, parking areas, buildings and lots which includes the location, and identifies, by common name, all existing trees within the area of the community unit plan. Single trees which are three inches in caliper or larger measured five feet above the ground must be shown. However, if five or more trees are located so that each is within approximately ten feet of the edge of another tree, they will be considered a tree mass and the outline of the tree mass may be shown with a list of the common names of the trees which are within the tree mass. If the above-stated procedure is followed, the individual location of each tree within the tree mass is not necessary. An indication shall be made on the map showing which trees or tree masses are to remain and which trees or tree masses are to be removed;

(10) A vicinity sketch showing the general location of the community unit plan in relation to existing streets, section lines, and city limits;

(11) Site grading plan showing existing and proposed contour lines with intervals at no greater distance than five feet, and if necessary, spot elevations showing complete proposed grading of the community unit plan. Also, cross-sections may be required showing existing and proposed ground lines and buildings. Information as to where fill will be obtained and the amount of the fill shall be included if all or part of the property is located within the flood plain as defined in Chapter 27.55. If the proposed location from which said fill is obtained is later to be changed, the developer shall inform the Public Works and Utilities Department of the location of the proposed new borrow area and obtain approval thereof from the Director of Public Works and Utilities;

(12) All deviations from the provisions of this chapter shall be fully set forth and reasons given for said deviations;

(13) In the event that said real property is located within a flood plain, the developer shall comply with all requirements pertaining to flood plains contained in the Lincoln Municipal Code and applicable state statutes.

(Ord. 16949 § 3; March 11, 1996; prior Ord. 12571 § 350; May 8, 1979).

#### **27.65.080 Design Standards; Density.**

The density of a community unit plan, the shape, size, and location of buildings, required open space buffers, recreational facilities, and utilities shall be constructed in conformance with the design standards adopted by resolution of the City Council. (Ord. 12571 § 351; May 8, 1979).

#### **27.65.090 Parking.**

All parking within the community unit plan shall be regulated in conformance with the provisions of Chapter 27.67. (Ord. 12571 § 352; May 8, 1979).

## Chapter 27.67

## PARKING

## Sections:

- 27.67.010 Scope of Regulations.
- 27.67.020 Parking Matrix.
- 27.67.030 General Conditions.
- 27.67.040 Parking Requirements; Special Conditions.
- 27.67.050 Special Conditions; B-4 Zoning District.
- 27.67.060 Special Conditions; B-5 Zoning District.
- 27.67.065 Special Conditions; Community Unit Plan and O-3 Zoning District.
- 27.67.066 Special Conditions: H-3 Zoning District
- 27.67.070 Special Conditions; R-6, R-7, and R-8 Zoning Districts.
- 27.67.075 Special Conditions; Capitol Environs District.
- 27.67.080 Special Conditions; Personal Vehicles.
- 27.67.090 Special Conditions; Nonconforming Uses.
- 27.67.100 Special Conditions; Parking Lots.

**27.67.010 Scope of Regulations.**

Parking regulations for this title are as shown on the parking matrix and also as required in the additional conditions of this chapter. Any additional conditions imposed by any other ordinances or regulations also apply. If there is a conflict, the most restrictive ordinance, regulation, or other requirement shall apply. (Ord. 12571 § 353; May 8, 1979).

**27.67.020 Parking Matrix.**

Parking requirements for this title are set out in Figure 27.67.020 at the end of this chapter. (Ord. 17418 § 2; October 5, 1998: prior Ord. 17232 § 17; August 18, 1997: prior Ord. 16958 § 1; March 25, 1996: Ord. 16837 § 1; July 31, 1995: Ord. 15784 § 1; November 26, 1990: Ord. 15317 § 10; October 16, 1989: Ord. 15165 § 4; May 1, 1989: Ord. 15010 § 1; October 10, 1988: Ord. 14696 § 2; July 6, 1987: Ord. 13481, as amended by Ord. 13555 § 1; March 7, 1983: Ord. 13234 § 1; October 19, 1981: Ord. 13150 § 1; June 15, 1981: Ord. 12657 § 14; August 6, 1979: Ord. 12571 § 354; May 8, 1979).

**27.67.030 General Conditions.**

The following general conditions shall apply, except as otherwise modified in this title:

(a) No parking space is permitted in the required front yard in any district except as follows:

(1) Parking in the front yard is permitted in the B-1, H-1, H-2, and H-3 zoning districts, and

(2) Parking in the front yard is permitted in the B-3, R-1, R-2, R-3, and R-4 zoning districts for passenger cars, pickup trucks, or vans outside of an enclosed structure on a concrete driveway or its equivalent under the following conditions:

(i) The width of such parking area shall not exceed thirty-five percent of the width of the front yard;

(ii) The parking area shall be not less than two feet from and parallel to the side lot line and not less than two feet from the front property line.

(iii) Except in B-3 zoning districts, the property shall be used for one- and two-family dwellings;

(3) Parking in the front yard may be permitted in the I-2 zoning district under the following conditions:

(i) Such parking shall be allowed only within the rear twenty-five feet of the front yard.

(ii) The front yard to be used for parking shall abut a private road ending in a cul-de-sac.

(iii) Such parking shall be in lieu of guest parking permitted in the front yard under Section 27.49.080(e).

(iv) The front yard landscaping requirements shall be doubled.

(b) No parking space is permitted in the required side yard in any district except as otherwise provided in this chapter.

(c) Parking spaces are permitted in any required rear yard.

(d) All required parking spaces shall be provided on the same lot as the use for which they are required.

(e) Any parking requirement resulting in a partial parking space shall be rounded up to the next whole number.

(f) Where additional parking is required by this chapter due to a change in use and provision for such additional parking is not made, a special review and approval shall be required by the City Council.

(g) For single-family dwellings and two-family dwellings in the R-1, R-2, R-3 and R-4 zoning districts, the required parking spaces may be stacked front-to-back, one vehicle deep. (Ord. 16958 § 2; March 25, 1996: prior Ord. 15910 § 1; June 24, 1991: Ord. 14215 § 2; September 9, 1985: Ord. 12571 § 355; May 8, 1979).

### 27.67.040 Parking Requirements; Special Conditions.

The following special conditions shall apply to the listed uses in place of the parking requirements found in Section 27.67.020:

(a) Fraternity, sorority, and rooming and boarding houses:

(1) In the R-6 District:

(i) Fraternities: One space/400 sq. ft. livable floor area, within 600 feet of the building;

(ii) Sorority, rooming or boarding house: One space/700 sq. ft. livable floor area within 600 feet of the building.

(2) In the R-7 District:

(i) Fraternities: One space/700 sq. ft. livable floor area, within 1,200 feet of the building.

(ii) Sorority, rooming or boarding house: One space/1,100 sq. ft. livable floor area within 1,200 feet of the building.

(b) Group homes: One space per three client or employee residents, plus two spaces per three nonresident employees on the largest shift; provided, however, that no spaces shall be required for client residents who will not possess motor vehicle operator's licenses. Appropriate documentation from the group home licensing agency shall be provided evidencing the nonpossession of motor vehicle operator's licenses by clients.

(c) Adult foster care home: 2 spaces.

(d) The following uses have special parking demands or high traffic generation, and are required to provide minimum parking as follows:

(1) Nursing care facilities: One space/3 beds.

(2) Housing for the elderly: One space/living unit.

(3) Miniwarehousing:

(i) One space for each ten storage cubicles, equally distributed throughout the storage area. This parking requirement can be accomplished with the parking lanes as set forth in (iv) below;

(ii) Two spaces for manager's quarters;

(iii) One space for every twenty-five storage cubicles to be located at the project office for the use of clients;

(iv) Storage area parking may be provided by having access lanes and roads of such width to allow vehicles to unload and pass.

(4) Doctors' and dentists' offices: One space/225 sq. ft. of floor area.

(5) Drive-in restaurants: One space/40 sq. ft. of floor area.

(6) Bowling alleys: 4 spaces/lane (plus required parking for affiliated uses.)

(7) Auditoriums, theaters, grandstands, stadia, amphitheatres, and other places of assembly: One space/50 sq. ft. of seating area plus parking for affiliated uses within 300 ft. of the main use.

(8) Recreational:

(i) Racquetball and other court games: Four spaces/court (plus required spaces for affiliated uses);

(ii) Swimming pools: One space/100 sq. ft. of water surface (plus parking for affiliated uses) as determined by the city;

(iii) Golf courses: Two spaces/hole of course, plus parking for affiliated uses.

(9) Hospitals: One space/2.5 beds, plus one space/employee on the largest shift.

(10) Churches and chapels and schools and private schools having a curriculum equivalent to a public elementary or public high school and private business or commercial schools: One space/50 sq. ft. in largest assembly hall as determined by city.

(11) Other private schools:

(i) Adult and early childhood care facilities: One space/employee on the largest shift, plus off-street loading/unloading area for one automobile per ten care receivers. Joint parking with another facility is acceptable if the adult or early childhood care facility and that facility have nonconcurrent parking demands.

(ii) Gymnastic, karate, judo, dance, music, and other similar academies: One space for every three students allowed per class session plus one space for every employee. In those instances where two sessions of classes occur one after another, without at least one-half hour separation between sessions, the maximum number of students allowed at both sessions shall be combined in determining the amount of required parking per class session.

(12) Housing for the physically handicapped: (see also Section 27.63.215) One space/living unit.

(13) Domestic shelters: One space for every four residents based on the maximum occupancy allowed by the lot area and two spaces for every three employees on the largest shift.

(14) Scrap processing operation or salvage yard: Six spaces, two spaces/acre of lot area or one space/1,000 square feet of floor area, whichever is greater.

(15) Dwellings for members of a religious order: one space for every three residents.

(16) Warehouses:

(i) Warehouses with a floor area of 50,000 square feet or less: one space per every 1,000

square feet of floor area or a minimum of one space per employee on the largest shift. The floor area shall be calculated based on the total floor area of all structures on the lot.

(ii) Warehouses with a floor area of more than 50,000 square feet: one space per every 1,000 square feet of floor area for the first 50,000 square feet of floor area and one additional space per 2,000 square feet of floor area in excess of 50,000 square feet, or a minimum of one space per employee on the largest shift. The floor area shall be calculated based on the total floor area of all structures on the lot.

(iii) If the number of spaces required by the building ratio is greater than required by the employee ratio in (i) or (ii) above, the additional parking spaces need not be provided physically, but sufficient areas shall be reserved for to accommodate construction of the additional spaces.

If the Building Official finds at any time that the character of the use of the warehouse is such as to require the full provision of parking facilities to be constructed, the Building Official shall report this fact to the City Council which may, after holding a hearing of which the owner shall be notified, require such additional parking to be installed.

(e) Off-street Freight Loading Requirements. At the time of construction, alteration, or enlargement of any commercial or industrial building having a floor area of 10,000 square feet or more, and containing a use or uses which requires off-street freight loading, off-street freight loading areas shall be provided on the premises to serve the use and maintained as follows:

(1) Six hundred square feet for the first 10,000 square feet of floor area;

(2) An additional 600 square feet for each additional 20,000 square feet of floor area.

(f) Joint Parking. Uses that have nonconcurrent parking demand may join their parking facilities so as to reduce aggregate parking requirements as follows:

(1) B-5 District. The uses shall be located in the B-5 District and may include adjacent churches or chapels located outside the B-5 District. Uses that have nonconcurrent parking demand may join their parking facilities; however, the use having the largest floor area shall provide 4.5 parking spaces for every 1,000 square feet of floor area, and all other uses included in the joint parking arrangement shall provide two parking spaces per 1,000 square feet of their floor area; provided, however, that the number of additional spaces that would be required in the ab-

sence of this paragraph need not be provided physically, but sufficient land shall be reserved in the event that future uses may not have nonconcurrent parking demand. For the purpose of determining the adequacy of the joint parking arrangement, all such joint parking use shall be authorized by a written agreement between the city and all parties to such use.

(2) O-3, B-1, B-2, B-3, B-4, H-2, H-3, and H-4 Zoning Districts. The uses shall be located in the following zoning districts: O-3, B-1, B-2, B-3, B-4, H-2, H-3, and H-4, and may include uses in adjacent O-2 districts and adjacent churches and chapels outside the above districts. The aggregate parking requirement shall be computed on the basis of providing the parking required for that use or those uses having concurrent parking demand that have the largest parking demands as determined by the parking matrix (§ 27.67.020) and any additional conditions in this chapter; provided, however, that the number of additional spaces that would be required in the absence of this paragraph need not be provided physically, but sufficient land shall be reserved in the event that future uses may not have nonconcurrent parking demand. For the purpose of determining the adequacy of the joint parking arrangement, all such joint parking use shall be authorized by a written agreement between the city and all parties to such use.

(3) O-1 District. The uses shall be located in the O-1 District and may include adjacent churches or chapels located outside the O-1 District. Uses that have nonconcurrent parking demand may join their parking facilities. The aggregate parking requirement shall be computed on the basis of providing the parking required for that use or those uses having concurrent parking demands that have the largest parking demands as determined by the parking matrix and any additional conditions in this chapter; provided, however, that the number of additional spaces that would be required in the absence of this paragraph need not be provided physically, but sufficient land shall be reserved in the event the future uses may not have nonconcurrent parking demand. For the purpose of determining the adequacy of the joint parking arrangement, all such joint parking use shall be authorized by a written agreement between the city and all parties to such use. (Ord. 17418 § 3; October 5, 1998; prior Ord. 16854 § 45; August 14, 1995; prior Ord. 16253 § 3; October 26, 1992; Ord. 15861 § 1; April 15, 1991; Ord. 14185, as amended by Ord. 14276, November 25, 1985; Ord. 13610 § 1; June 6, 1983; Ord. 13546 § 11; February 28, 1983; Ord.

13302 § 9; February 1, 1982: Ord. 13291 § 1; January 4, 1982: Ord. 12751 § 24; November 5, 1979: Ord. 12679 § 5; September 4, 1979: Ord. 12571 § 356; May 8, 1979).

**27.67.050 Special Conditions; B-4 Zoning District.**

The following special parking requirements shall apply to the B-4 zoning district:

(a) In the area located from 150 feet east of 17th Street to the western boundary of the B-4 District, there will be no parking requirements. There will also be no parking requirements in the area located between the centerline of "N" Street and the centerline of "P" Street from 150 feet east of 17th Street to the eastern boundary of B-4 District.

(b) In the area 150 feet east of 17th Street which is in the B-4 District, not specifically excepted in section (a) above:

(1) Industrial and manufacturing uses: Two spaces per three employees on the largest shift, or one space per 1,000 square feet of floor area; provided, however, that if the number of spaces required by the building ratio is greater than that required by the employee ratio, the additional parking spaces need not be provided physically, but sufficient space shall be reserved for future physical development.

(2) Restaurants: One parking space per 300 square feet of floor area;

(3) Other business and office uses: One parking space per 600 square feet;

(4) Residential uses: One parking space per dwelling unit. (Ord. 13442 § 1; September 7, 1982: prior Ord. 12571 § 357; May 8, 1979).

**27.67.060 Special Conditions; B-5 Zoning District.**

For residential use in the B-5 zoning district, the following parking requirements shall apply:

(a) Two-family dwellings: Two parking spaces per unit;

(b) Multiple family dwelling: Two parking spaces per multiple family dwelling;

(c) All other parking requirements in the district shall apply. (Ord. 12878 § 2; March 31, 1980: prior Ord. 12571 § 358; May 8, 1979).

**27.67.065 Special Conditions; Community Unit Plan and O-3 Zoning District.**

In a community unit plan and in the O-3 zoning district, the following parking regulations shall apply:

(a) Two parking spaces per dwelling unit, however, the City Council may reduce the community unit plan parking requirement to no less than one and one-half parking spaces per dwelling unit when the application includes information justifying the reduction;

(b) The location of required parking as set forth elsewhere in this chapter may be adjusted by the City Council;

(c) All other parking requirements in the O-3 zoning district or in the district or districts in which a community unit plan is located shall apply. (Ord. 16958 § 3; March 25, 1996: prior Ord. 13526 § 1; January 3, 1983: Ord. 12878 § 3; March 31, 1980).

**27.67.066 Special Conditions; H-3 Zoning District.**

The following special parking requirements shall apply to permitted conditional uses in the H-3 zoning district.

(a) Vehicle body repair shops, truck and heavy equipment sales, farm machinery sales establishments, motor truck terminals, mobile home sales, places of business of plumbing and heating and air conditioning contractors and cabinet shops, automobile sales and repair, but not including vehicle repair shops, and assembly facilities: One space per 500 square feet of floor area, or one space per employee on the largest shift; however, if the number of spaces required by the building ratio is greater than that required by the employee ratio, the additional parking spaces need not be provided physically, but sufficient space shall be reserved for future physical development.

(b) All other parking requirements in the H-3 zoning district shall apply. (Ord. 17311 § 3; March 23, 1998).

**27.67.070 Special Conditions; R-6, R-7, and R-8 Zoning Districts.**

In the R-6, R-7, and R-8 zoning districts, parking is permitted in the required side yard, provided that there shall be no parking within seven feet of any side lot line and parking is permitted in the area behind all buildings within the required side yard up to any side lot line. (Ord. 12657 § 15; August 6, 1979: prior Ord. 12571 § 359; May 8, 1979).

**27.67.075 Special Conditions; Capitol Environs District.**

In the Capitol Environs District, two parking spaces per dwelling unit are required; however, upon application, the City Council may reduce the parking require-

ment to no less than one parking space per dwelling unit when the application includes information justifying the reduction. (Ord. 16958 § 4; March 25, 1996).

**27.67.080 Special Conditions; Personal Vehicles.**

In the R-1, R-2, R-3 or R-4 residential districts, parking, in addition to, not in lieu of, the required parking space(s) in the zoning district shall be permitted under the following conditions:

(a) A personal vehicle, including a passenger car, recreational vehicle, trailer, boat, van, or pickup truck, may be parked inside of an enclosed structure when the structure conforms to the zoning requirements of the particular district in which it is located;

(b) A personal vehicle, including a passenger car, recreational vehicle, trailer, boat, van, or pickup truck, may be parked outside of an enclosed structure in the side yard or rear yard but not within two feet of a property line;

(c) A recreational vehicle, trailer, or boat may be parked outside of an enclosed structure in the required front yard on a concrete driveway or its equivalent under the following conditions:

(1) Space is unavailable in the rear yard or outside the side yard and there is no reasonable access to either the rear yard or side yards. A corner lot is always deemed to have reasonable access to the rear yard; a fence is not deemed to prevent reasonable access.

(2) Enclosed parking is not possible in conformance with the requirements of the district; such enclosure is not a requirement for parking a recreational vehicle, trailer, or boat;

(3) The recreational vehicle, trailer, or boat is parked perpendicular to the front curb;

(4) The recreational vehicle, trailer, or boat may be parked not less than two feet from the front property line, and not less than two feet from the side lot line.

(5) No part of the recreational vehicle, trailer, or boat may extend over the public sidewalk or the public right-of-way.

(6) Parking is permitted only for storage and any recreational vehicle, trailer, or boat shall not be:

(i) used for dwelling purposes for more than fourteen days in any calendar year; cooking is not permitted at any time;

(ii) permanently connected to sewer lines, water lines, or electricity. A recreational vehicle may be connected to electricity temporarily for charging batteries;

(iii) used for storage of goods, materials, or equipment other than those items considered to be a part of the unit or essential for its immediate use.

(7) Notwithstanding the provisions of this section, the recreational vehicle, trailer, or boat may be parked anywhere on the premises during loading or unloading, and the use of electricity or water is permitted when necessary to prepare a recreational vehicle for use.

(8) The recreational vehicle, trailer, or boat shall be owned by the resident on the property where the recreational vehicle, trailer, or boat is parked for storage. (Ord. 14215 § 2; September 9, 1985; prior Ord. 12571 § 360; May 8, 1979).

#### **27.67.090 Special Conditions; Nonconforming Uses.**

If a nonconforming use is changed to a more restrictive nonconforming use or to a conforming use, it shall comply with all of the parking requirements of this chapter for such use.

A residential use which is nonstandard as to parking as of March 27, 1996 shall be allowed to continue.

A residential use which is nonstandard as to parking may not be converted to a use which would make it more nonstandard as to parking.

A residential use which is nonstandard as to parking may be converted to a use that would make it less nonstandard as to parking. (Ord. 16958 § 5; March 25, 1996; prior Ord. 12571 § 361; May 8, 1979).

#### **27.67.100 Special Conditions; Parking Lots.**

(a) Parking lots consisting of six or more parking spaces located in any zoning district except for nonpermanent lots that are allowed for no more than a period of two years, and lots for the purpose of sale, resale, or servicing of vehicles shall be constructed in accordance with the following requirements:

(1) Design standards: The City of Lincoln shall adopt design standards to be approved by resolution of the City Council for surfacing, drainage, barriers, screening, lighting, landscaping, and layout of the parking lots and place the same on file with the City Clerk. All parking lots authorized by this chapter shall be constructed pursuant to and in conformance with the design standards adopted by the city and on file with the City Clerk.

(2) Barriers: An adequate barrier shall be provided along the outer edge of the parking lot as required by Section 10.32.240 and Section 10.32.250 of the Lincoln Municipal Code. Barriers shall be located to prevent the parking of vehicles in the required front yard when prohibited by this title, and to provide protection to any landscaping or screen planting. Barriers shall be in conformance with Chapter 14.44 of the Lincoln Municipal Code and any applicable standards adopted by resolution of the City Council.

(3) Entrances and exits: The location and design of all entrances and exits shall be subject to the approval of the city.

(4) Lighting: If lighting is used to illuminate parking lots, it shall be so arranged as to reflect lighting away from the adjacent properties and public street. Direct rays of light from the light source shall be shielded from an adjacent residential district or residential land use. Lighting in parking lots shall be in conformance with the lighting standards adopted by the city. Lincoln municipal airport parking lots shall be excluded from the provisions of this paragraph.

(5) Signs: Only one sign, not to exceed three square feet in area and not located on public right-of-way, is permitted at each entrance and/or exit designating that entrance or exit and may state conditions of use of the parking lot. No other signs except as otherwise permitted in the zoning district shall be permitted except (i) one-way driveway signs which shall be the same size and located in the same manner as entrance or exit signs; and (ii) signs for parking spaces for the handicapped conforming to adopted design standards.

(b) Nonconforming parking lots: All parking lots lawfully existing on the effective date of this ordinance may be continued, although such parking lots do not conform to the provisions hereof. Such lots shall be maintained in conformance with Title 8 of the Lincoln Municipal Code. Such nonconforming parking lot may not be enlarged or extended, except as provided herein. In the event that such parking lots are discontinued or the normal operation thereof is stopped for a period of two years, any resumption of the use of said parking lot shall thereafter conform to all of the requirements of this ordinance.

(c) Waiver of surfacing requirement: Upon application to the City Council, the owner of a parking lot may be relieved of the surfacing requirement of this section if the council finds that:

(1) The parking lot is (i) to be used in conjunction with a nonprofit, religious, educational, or philanthropic institution; (ii) in excess of the parking required by the provisions of this title and not pay parking; or (iii) used for employee parking and located wholly within an industrial district; and

(2) Alternate materials or techniques shall be utilized which provide reasonable control of dust, runoffs, and safe circulation; and

(3) (i) The location of the parking lot is a sufficient distance from surrounding uses that it will not adversely affect the surrounding uses; or

(ii) The frequency of use of the parking lot is so low that compliance with the surfacing requirement of this section would cause undue economic hardship upon the owner as compared with minimal impact upon surrounding land uses.

Notwithstanding that a waiver is granted, if it is later found that dust or noise, created by the use of a parking lot exceeds the maximum levels set forth in Title 8 of the Lincoln Municipal Code, then such waiver may, after notice and hearing by the City Council, be revoked. Thereafter, the use of such parking lot shall cease unless surfaced in accordance with the adopted design standards.

(d) The following provisions shall apply to extension and enlargement of nonconforming parking lots:

(1) If an existing nonconforming parking lot having less than twenty spaces is expanded fifty percent or more in area, the extension shall be surfaced in conformance with the appropriate design standards.

(2) If an existing nonconforming parking lot with twenty spaces or more is expanded twenty-five percent or more in area, the extension shall be surfaced in conformance with the appropriate design standards.

(e) In the event that the main use of a lot for a nonstandard or nonconforming parking lot is changed in whole or in part to another use, any continued use or resumption of the use of said lot for parking shall thereafter conform to all the requirements of this ordinance. (Ord. 14254 § 1; October 21, 1985; prior Ord. 14084 § 1; April 15, 1985; Ord. 14007 § 1; December 10, 1984; Ord. 12848 § 1; February 19, 1980; Ord. 12571 § 362; May 8, 1979).

Figure 27.67.020  
PARKING MATRIX

Parking Spaces	Zoning Districts																								
	AGR	R-1	R-2	R-3	R-4	R-5	R-6	R-7	R-8	R.T.	O-1	O-2	O-3	B-1	B-2	B-3	B-5	H-1	H-2	H-3	H-4	I-1	I-2	I-3	
1 space/dwelling unit								*	*	*		*	*	*	*	* within 300'	* elderly units	* Caretaker employed and residing on premises							
1.75 spaces/dwelling unit																									
2 spaces/dwelling unit	*	*	*	*	*																				
1 space/2 dwelling unit											*														
1/1200 sq. ft.											within 900'														
1/600 sq. ft.																* within 300'									
1/500 sq. ft.																									
1/300 sq. ft.												*	*		within 300'									* office retail	
1/225 sq. ft. See note 5																									
1/200 sq. ft.																									
1/150 sq. ft.																					within 300'				
1/100 sq. ft.															restaurants			restaurants				* see note 2		restaurants	
1/room + 1/100 sq. ft. of accessory uses																								* hotel motel	
4.5 spaces/1000 sq. ft.																									
2 spaces/3 persons on maximum shift or 1/1000 sq. ft. See note 5																									
1 space/1,000 sq. ft. for first 50,000 sq. ft. and 1 space/2,000 sq. ft. in excess of 50,000 sq. ft. or 1 space/employee on maximum shift. SEE NOTE 5.																								* within 300'	
AG District: None except schools, churches & similar uses. B-4 District: As per additional conditions	Notes: 1. Garages and service stations 2. Bowling alleys and restaurants 3. Except hotels, motels and restaurants 4. Construction of the required parking spaces may be deferred to 1 space/300 sq. ft. until the building is being used for doctor's and dentist's offices.										5. If the number of spaces required by the building ratio is greater than required by the employee ratio, an additional parking-area shall be reserved to accommodate the construction of the additional spaces.														

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27.67.100

## Chapter 27.68

### Personal Wireless Facilities

#### Sections:

- 27.68.010 Purpose.
- 27.68.020 Definitions.
- 27.68.030 Permits Required.
- 27.68.040 Term of Permit.
- 27.68.050 Renewal Applications.
- 27.68.060 Renewal Determinations.
- 27.68.070 Obligation to Cure As a Condition of Renewal.
- 27.68.080 Location Preferences.
- 27.68.090 Application Requirements.
- 27.68.100 Standards for Evaluation.
- 27.68.110 Design Criteria for Personal Wireless Service Facilities.
- 27.68.120 General Requirements.
- 27.68.130 Non-use; Abandonment.
- 27.68.140 Zoning Districts Allowed.

#### 27.68.010 Purpose.

These regulations are adopted to protect the public health, safety and welfare, and to minimize visual impact, while furthering the development of enhanced telecommunications services in the City. These regulations are designed to comply with the Telecommunications Act of 1996 and any other applicable laws. The provisions of this chapter are not intended to and shall not be interpreted to prohibit or to have the effect of prohibiting personal wireless services. This chapter shall not be applied in such a manner as to unreasonably discriminate between providers of functionally equivalent personal wireless services. (Ord. 17588 §1; January 18, 2000).

#### 27.68.020 Definitions.

For the purpose of this chapter, the following terms shall have the meaning ascribed to them below:

**Abandonment**, in the case of a non co-located facility, shall mean: (a) failure to start operations within 90 days of completion of the structure, or (b) to cease operation for a period of 90 or more consecutive days. In the case of a co-located facility, abandonment shall mean: (a) failure to start operations within 180 days of completion of the structure, or (b) to cease operation for a period of 180 or more consecutive days. In the event that factors beyond a

provider's control postpone the start of or cause the temporary cessation of operations of a co-located or non-co-located facility, the time limitations specified herein shall be extended for such period of delay.

**Administrative permit** shall mean a process and approval by the Planning Director as described in this chapter.

**Antenna** shall mean any exterior apparatus designed for telephonic, radio, data, Internet, or video communications through the sending and/or receiving of electromagnetic waves, and includes equipment attached to a tower or building for the purpose of providing personal wireless services, including unlicensed wireless telecommunications services, wireless telecommunications services utilizing frequencies authorized by the Federal Communications Commission for "cellular", "enhanced specialized mobile radio", "specialized mobile radio" and "personal communications services", telecommunications services, and its attendant base station.

**Antenna support structure** shall mean any pole, telescoping mast, tower, tripod, or other structure which supports a device used in the transmitting or receiving of radio frequency signals.

**Array** shall mean a set of antennas for one carrier or service that are placed on a structure at a given height and spaced so as to avoid interference.

**Camouflage** describes a personal wireless service facility that is disguised, hidden, or integrated with an existing structure or a personal wireless service facility that is placed within an existing or proposed structure so as to be effectively hidden from view.

**Co-location** shall mean the location of antenna or an array of antennas on a personal wireless facility or antenna support structure by more than one personal wireless service provider.

**Design** shall mean the appearance of personal wireless service facilities, including such features as their materials, colors, texture, scale, and shape.

**EIA** shall mean the Electronics Industry Association.

**Equipment enclosure** shall mean a structure, shelter, cabinet, or vault used to house and protect the electronic equipment necessary for processing wireless communication signals and associated equipment. Associated equipment may include air conditioning, backup power supplies and emergency generators.

**FAA** shall mean the Federal Aviation Administration.

**FCC** shall mean the Federal Communications Commission.

**Fall zone** shall mean the area on the ground within a prescribed radius from the base of a personal wireless service facility within which there is a potential hazard from falling debris or collapsing material.

**Governing authority** shall mean the City Council of the City of Lincoln.

**Height** shall mean the vertical distance above grade to the highest point of the antenna support structure, including the lightning rod and antenna.

**Modification** shall mean the changing of any portion of a personal wireless service facility from its description in a previously approved permit. Examples include, but are not limited to, changes in design, height, number or location of antennas.

**Mount** shall mean the structure or surface upon which personal wireless service facilities are mounted. There are three types of mounts: (i) Building mounted - a personal wireless service facility affixed to the roof or side of a building; (ii) Ground mounted - a personal wireless service facility fixed to the ground such as a tower; and (iii) Structure mounted - a personal wireless service facility fixed to a structure other than a building, such as light standards, utility poles, and bridges.

**Personal wireless service, personal wireless service facilities, personal wireless facilities and facilities** used in this chapter shall be defined in the same manner as in Title 47, United States Code, Section 332 (c)(7)(C), as they may be amended now or in the future and includes facilities for the transmission and reception of radio or microwave signals used for communication, cellular phone, personal communications services, enhanced specialized mobile radio, and any other wireless services licensed by the FCC and unlicensed wireless services.

**Provider** shall mean every corporation, company, association, joint stock company, firm, partnership, limited liability company, other entity and individual which provides personal wireless service over personal wireless service facilities.

**Screening** shall mean materials which effectively hide personal wireless facilities from view, or landscaping in accordance with the requirements of the "Design Standards for Zoning."

**Security barrier** shall mean a wall, fence, or berm that has the purpose of sealing a personal wireless service facility from unauthorized entry or trespass.

**Site** shall mean a tract or parcel of land that contains personal wireless service facilities including any antenna, support structure, building, accessory buildings, and parking and may include other uses associated with and ancillary to personal wireless services.

**Special permit** shall mean a process and approval as currently described in Chapter 27.63 of the Zoning Ordinance, or as otherwise set forth in City ordinances or regulations.

**Tower** shall mean any structure that is designed, constructed or used for the primary purpose of supporting one or more antennas, including self-supporting lattice towers, guyed towers, or monopole towers. The term encompasses personal wireless service facilities including microwave towers, common-carrier towers, cellular telephone towers or personal communications services towers, alternative tower structures, and the like.

**Unlicensed wireless services** shall mean commercial mobile services that operate on public frequencies and do not need a FCC license. (Ord. 17588 §2; January 18, 2000).

#### **27.68.030 Permits Required.**

(a) No person shall locate an antenna or tower for personal wireless services or alter an existing personal wireless services facility upon any lot or parcel except as provided in this chapter.

(b) Maintenance or repair of a personal wireless service facility and related equipment, excluding structural work or changes in height, dimensions or number of antenna, towers, or buildings, is excluded from the requirement to obtain an administrative or special permit. However, building permits may still be required.

(c) Installation of personal wireless service facilities requires either an administrative permit issued by the Planning Director or approval of a special permit by the Planning Commission.

(1) Administrative Permit: In any zoning district, the Planning Director may issue an administrative permit approving an application to replace an existing tower or to co-locate additional antennas on a camouflaged facility or rooftop facility, or facility subject to an existing special permit, if the application

does not exceed the permitted height in the district or the height as allowed by special permit, and will have minimal adverse effect on the surrounding property, entryway corridors to the City, Capitol Environs District, Capitol View Corridors as described in Section 27.56.017, landmarks or landmark districts designated in accordance with Chapter 27.57, or properties listed or eligible to be listed on the National Register of Historic Places.

Within 45 days of receiving a complete application, the Planning Director shall act on the request for an administrative permit, or shall refer the application to the Historic Preservation Commission, Nebraska Capitol Environs Commission, and/or Planning Commission for public hearing as may required under Chapter 27.56, Chapter 27.57, or Chapter 27.63 of the Lincoln Municipal Code, or the other requirements of this Code.

If a request for an administrative permit is not acted upon within 45 days, or is denied, or the conditions imposed thereon are unacceptable to the applicant, then the applicant may, by written notice to the Planning Director, convert the request for an administrative permit to an application for a special permit. Moreover, an applicant may, in lieu of and without first seeking an administrative permit hereunder, request a special permit for its proposed facility.

(2) Special Permit: All towers and additions to existing facilities not issued or eligible for an administrative permit and all requests for a special permit shall be reviewed and evaluated, according to the procedure established in Chapter 27.63 of the Lincoln Municipal Code. In the event that the proposed special permit is denied by the Planning Commission, no new request shall be made for the same or substantially similar administrative or special permit within a period of three months after denial thereof.

Any decision to deny a special permit under this chapter shall be made in writing and shall state the specific reasons for the denial. Any denial by the Planning Commission may be appealed to the City Council. Any denial by the City Council shall be deemed a final administrative decision, subject to judicial review and appeal. (Ord. 17588 §3; January 18, 2000).

#### **27.68.040 Term of Permit.**

An administrative or special permit granted hereunder shall be in effect for a term of fifteen years

unless it is sooner terminated due to abandonment or failure to comply with this Code. (Ord. 17588 §4; January 18, 2000).

#### **27.68.050 Renewal Applications.**

A permittee that desires to renew its administrative or special permit hereunder shall, not more than 365 days nor less than 90 days before expiration of the current permit, file an application with the City for renewal of its permit which shall include the applicable information required pursuant to the permit application. (Ord. 17588 §5; January 18, 2000).

#### **27.68.060 Renewal Determinations.**

After receiving a complete application hereunder, the Planning Director in the case of an administrative permit and the Planning Commission in the case of a special permit, shall make a determination granting or denying the renewal application in whole or in part. If the renewal application is denied, the determination shall include the reasons for non-renewal. The standards enumerated in this Code shall apply when determining to grant or deny the application, plus a determination of the applicant's compliance with the requirements of this Code. (Ord. 17588 §6; January 18, 2000).

#### **27.68.070 Obligation to Cure As a Condition of Renewal.**

No permit shall be renewed until any ongoing violations or defaults in the permittee's performance of the requirements of this Code, and all applicable laws, statutes, codes, ordinances, rules and regulations have been cured, or a plan detailing the corrective action to be taken by the permittee has been approved by the City. (Ord. 17588 §7; January 18, 2000).

#### **27.68.080 Location Preferences.**

Personal wireless facilities shall be located and designed to minimize any significant adverse effect on the abutting property. Sites shall be placed in locations where the existing topography, vegetation, buildings, or other structures provide the greatest amount of screening. The locational preferences for siting new personal wireless service facilities are listed below:

##### **(a) Preferred Location Sites:**

(1) Publicly owned sites on which personal wireless facilities can be unobtrusively located with due regard to visibility, aesthetic issues, traffic flow, public safety, health and welfare. Such sites

may include locating on existing buildings, co-locating on existing towers, screened roof-top mounts, water towers, billboards, electric substations, or other camouflaged sites, but shall not include new towers.

(2) Privately owned sites on which personal wireless facilities can be unobtrusively located with due regard to visibility, aesthetic issues, traffic flow, public safety, health and welfare. Such sites may include locating on existing buildings, co-locating on existing towers, screened roof-top mounts, water towers, billboards, electric substations, or other camouflaged sites, but shall not include new towers.

(3) Publicly owned sites in which the facility is minimally obtrusive, has a minimal impact on the surrounding area, is an appropriate distance from residential land uses, has minimal impact on residential uses, with due regard being given to the scale of the facility and the surrounding area and the impact on the location.

(4) Sites in commercially or industrially zoned districts in which the facility is minimally obtrusive, has a minimal impact on the surrounding area, is an appropriate distance from residential land uses, has minimal impact on residential uses, with due regard being given to the scale of the facility and the surrounding area and the impact on the location.

(b) Limited Preference Sites:

(1) Sites on other public property.

(2) Sites on other commercially or industrially zoned property.

(c) Sensitive Location Sites. Sites located in areas with predominantly residential uses, environmentally sensitive areas, Capitol View Corridors, the Capitol Environs District, entryway corridors, landmarks or landmark districts, properties listed or eligible to be listed on the National Register of Historic Places, the Airport Environs, and other sensitive areas. (Ord. 17588 §8; January 18, 2000).

**27.68.090 Application Requirements.**

(a) Pre-Application Conference and Fees. Prior to the acceptance of an application by the City, applicants shall participate in a pre-application conference for the purposes of discussing application requirements, specifics of the site, plans for current and future facilities, and establishing the application fee. The purpose of establishing the application fee is to ensure the recovery of City costs and expenses associated with the review of the application including, but not limited to, actual costs of City staff time and resources as well as any outside consultation

expenses which the City reasonably determines are necessary to adequately review and analyze the application.

In lieu of the requirements of Section 27.80.060, the application fee shall be a minimum of \$1,000. The City shall apply such fee against all costs associated with its evaluation of any pending application. In the event that total costs are in excess of the fee, the applicant shall, upon notice from the City, pay such costs. In the event that total costs are less than the fee, the City shall refund a portion of the fee to the applicant.

(b) Applications for either an administrative permit or a special permit for a personal wireless facility shall be filed with the Planning Director and shall include the following:

(1) A plot plan of the lot and the proposed uses drawn to an accurate scale and showing all pertinent information. The application material shall provide sufficient information, as determined by the Planning Director, to allow a complete review of the proposal. The application material shall also include sufficient detail to indicate compliance with design standards. Failure to provide adequate information may result in the rejection of the application.

(2) A statement identifying which location preference, identified in Section 27.68.080, the proposed facility is meeting. If the proposed location is not a preferred location site, describe:

(i) Whether any preferred location sites are located within the service area of the proposed personal wireless service facility;

(ii) What good faith efforts and measures were taken to investigate each of these preferred location sites and why such efforts were unsuccessful;

(iii) Why the use of a preferred location site is not technologically, legally or economically feasible;

(iv) How and why the proposed site is required to meet service demands for the proposed facility and citywide network; and

(v) The distance between the proposed facility and the nearest residential unit and residentially zoned properties.

(3) A description of the security barrier surrounding the base of the tower and accessory equipment. The description should include the method of fencing, finished color and, if applicable, the method of camouflage and illumination. Access shall be through a locked gate. The tower shall either have

no climbing devices attached to the lower twenty feet of the tower or shall be fitted with anti-climbing devices.

(4) A statement indicating proposed measures designed to minimize potentially adverse visual effects on adjacent properties with consideration given to design, unobtrusiveness, minimum height necessary to accommodate antenna, avoidance of artificial light and coloring provisions;

(5) Provide a description of the anticipated maintenance and monitoring program for the antennae and back up equipment, including frequency of maintenance services.

(6) Provide copies of any environmental documents required by any federal agency. (Ord. 17588 §9; January 18, 2000).

#### **27.68.100 Standards for Evaluation.**

(a) The Planning Commission may approve, by special permit, a personal wireless facility in any zoning district after review and consideration of all of the following:

(1) Conformity with Comprehensive Plan.

(2) Preference of site location in accordance with Section 27.68.080.

(3) Compatibility with abutting property and surrounding land uses.

(4) Adverse impacts such as the visual, environmental or noise impacts;

(5) Screening potential of existing vegetation, structures and topographic features, and screening potential of proposed facilities, ground level equipment, buildings and tower base.

(6) Scale of facility in relation to surrounding land uses.

(7) Compatibility with surrounding uses.

(8) Impact on views/vistas.

(9) Impact on landmark structures/districts, historically significant structures/districts, architecturally significant structures, landmark vistas or scenery and view corridors from visually obtrusive antennas and back-up equipment.

(10) Impact on natural resources, open spaces, recreational trails, and other recreational resources.

(11) Color and finish.

(12) Ability to co-locate.

(13) Availability of suitable existing structures for antenna mounting.

(b) An application to construct new towers may be denied if the applicant has not shown by substantial evidence that it has made a good faith effort to mount the facilities on an existing structure and/or tower.

(c) Locations in sensitive location sites shall be considered only if the applicant:

(1) Provides evidence showing what good faith efforts and measures were taken to secure a preferred location site or limited preference site within one-half mile of the proposed facility; and

(2) Demonstrates with engineering evidence why each such preferred location site or limited preference site was not technologically, legally or economically feasible.

(d) Personal wireless facilities approved by special permit may be allowed to exceed the height of the district in which they are located. (Ord. 17588 §10; January 18, 2000).

#### **27.68.110 Design Criteria for Personal Wireless Service Facilities.**

(a) Equipment enclosures used primarily for personal wireless service facilities: Ground level equipment, buildings, and the tower base shall be screened from public view. The standards for the equipment buildings are as follows:

(1) The maximum floor area is 450 square feet and the maximum height is twelve feet. The Planning Commission may increase the maximum area to accommodate co-location.

(2) Ground level buildings shall be screened from view by landscape plantings, fencing, or other appropriate means, as specified herein or in the Design Standards for Zoning.

(3) Equipment buildings mounted on a roof shall have a color, and texture similar to the exterior building walls.

(4) Equipment buildings which are located in residential zones shall be designed so as to conform in appearance with residential structures.

(5) Equipment buildings, antenna, and related equipment shall occupy no more than twenty-five percent (25%) of the total roof area of a building, which may vary in the City's sole discretion if co-location and an adequate penthouse type structure are used.

(6) All base equipment and structures shall be located no closer to the property line than the minimum setback for the zone in which it is located.

(b) Security Fencing: A well-constructed fence not less than six feet in height from the finished grade shall be provided around each tower and equipment enclosure. Access to the tower shall be through a locked gate. Screening shall be in conformance with design standards.

(c) Color\Finish\Lights: The tower shall have a galvanized finish. It shall not be painted in alternate bands of distinctive orange and white colors or equipped with lights unless specifically required for safety reasons by a governmental agency having jurisdiction thereof. If so required, such lights shall not exceed the necessary minimum standards therefor. The color, finish and lighting of the facility shall be specified at the time of application review. No signals, lights, or signs shall be permitted on towers unless required by the FCC or the FAA. Options on lighting shall be indicated on the application.

(d) Antenna Accommodations. In order to reduce the number of antenna support structures needed in the City in the future, any new proposed support structure shall be designed to accommodate antenna for at least one additional provider. Area shall be reserved for other providers' equipment near the base of the applicant's tower, unless co-location is shown to be infeasible. The site plan for towers in excess of 100 feet in height must propose space for two comparable providers, while the site plan for towers of 100 feet or less in height must propose space for one comparable provider, unless co-location is shown to be infeasible.

(e) Antenna Criteria: Antenna on or above a structure shall be subject to the following:

(1) The proposal shall demonstrate that the antenna and support structure are safe and the surrounding areas will not be negatively affected by support structure failure, falling ice, or other debris. All support structures shall be fitted with anticlimbing devices as required in Section 27.68.090(b)(3).

(2) Antenna attached to the wall of an existing building shall be mounted in a configuration as flush to the wall as technically possible and should not project above the wall on which it is attached, unless adequately screened.

(3) The antenna shall be architecturally compatible with the building and /or wall on which it is mounted, and designed and located so as to minimize any adverse aesthetic impact. The antenna shall be constructed, painted, or fully screened to match as closely as possible the color and texture of the building and wall on which it is mounted.

(4) The antenna may be attached to an existing conforming mechanical equipment enclosure which projects above the roof of the building, but may not project any higher than that allowed in the applicable zoning district.

(5) If an accessory equipment shelter is present, it must blend with the surrounding buildings in architectural character and color.

(6) Roof mounted antenna and related base stations shall be completely screened from view by materials that are consistent and compatible with the design, color, and materials of the building.

(7) Rooftop mounts and related base stations shall be screened and integrated with the design of the building.

(8) Antenna attached to the roof of a building, an existing tower, a water tank, or a similar structure must be either:

(i) Omnidirectional or whip antenna no more than seven inches in diameter; or

(ii) Panel antenna no more than two feet wide and eight feet long.

(9) Antenna, antenna arrays, and support structures shall not extend more than the permitted height in the applicable zoning district. The antenna, antenna array, and their support structure shall be mounted so as to blend with the structure to which the antenna is attached. The antenna and its support structure shall be designed to withstand a wind force of 100 miles per hour without the use of supporting guy wires. The antenna, antenna array, and their support structure shall be a color that blends with the structure on which they are mounted.

(f) Free-standing roof-top antenna support structures: The roof-top structure must be architecturally and visually (color, size, bulk) compatible with surrounding existing buildings, structures, vegetation, and/or uses. Such facilities will be considered architecturally and visually compatible if they are camouflaged to disguise the facility.

Site location and development shall preserve the pre-existing character of the site as much as possible. Existing vegetation should be preserved or improved, and disturbance of the existing topography of the site should be minimized, unless such disturbance would result in less visual impact of the site on the surrounding area. The effectiveness of visual mitigation techniques must be evaluated by the City, in the City's sole discretion.

(g) Fall Zone. Towers and other camouflaged support structures shall be set back a distance no less

than one half than the height of the structure. The Planning Commission may grant a reduction in the required fall zone when it finds that such reduction will not adversely impact adjacent properties, and is consistent with the intent of this title to promote the public health, safety and welfare. However in no instance shall the setback be less than that required by the underlying zoning district. (Ord. 17588 §11; January 18, 2000).

#### **27.68.120 General Requirements.**

The personal wireless service provider shall comply at all times with the current applicable FCC and FAA standards and regulations, and any of those of other agencies of the federal government with authority to regulate towers and antennas.

(a) Building Codes; Safety Standards. To ensure the structural integrity of towers, the owner of a tower shall ensure that it is maintained in compliance with standards contained in applicable City building codes and the applicable standards for towers that are published by the Electronic Industries Association ("EIA"), as amended from time to time. If, upon inspection, the City concludes that a tower fails to comply with such codes and standards, then upon notice being provided to the owner of the tower, the owner shall have thirty (30) days to bring the tower into compliance with such standards. If the owner fails to bring its tower into compliance within thirty (30) days, the City may remove the tower at the owner's expense.

(b) Structural Design. Towers shall be constructed to the EIA Standards, which may be amended from time to time, and all applicable construction/building codes. Further, any improvements and/or additions to existing towers shall comply with the requirements of this chapter and shall require submission of site plans sealed and verified by a professional engineer which demonstrate compliance with the EIA Standards and all other good industry practices. The plans shall be submitted and reviewed at the time building permits are requested.

(c) Required Parking. Parking shall be required as per Chapter 27.67 of the Zoning Code.

(d) Tower Separation. An applicant will be required to demonstrate why it is necessary from a technical standpoint to have a tower within one-half (1/2) mile of a tower whether it is owned or utilized by applicant or another provider.

#### **(e) Surety and Indemnity Requirements.**

(1) Prior to issuance of a building permit, the applicant shall post a surety, approved by the City Attorney, with the City in the minimum amount necessary, as determined by the City, to guarantee the future removal of the facilities. The surety may not be revoked or terminated during the term of the permit. The City may use the surety for any expenses it incurs in removing any of the provider's facilities.

(2) A provider shall at its sole cost and expense, indemnify and hold harmless the City, its officers, officials, boards, commissions, agents, representatives, and employees against any and all claims, suits, losses, expenses, causes of actions, proceedings, and judgments for damage arising out of, resulting from, or alleged to arise out of or resulting from the construction, operation, repair, maintenance or removal of the provider's facilities. Indemnified expenses shall include, but not be limited to, all out-of-pocket expenses, such as costs of suit and defense and reasonable attorney fees, and shall also include the reasonable value of any services rendered by the City Attorney's office and any employees of the City and any consultants retained by the City.

(f) Safety Inspection Requirements. The facility operator shall conduct safety inspections in accordance with the EIA and FCC Standards and within 60 days of the inspection, file a report with the Department of Building and Safety. (Ord. 17588 §12; January 18, 2000).

#### **27.68.130 Non-use; Abandonment.**

In addition to the definition of abandonment provided in Section 27.68.020, facilities shall be considered abandoned ninety (90) days after the expiration of an administrative permit or special permit and partially abandoned in the event that a portion of the antenna support structure is no longer used.

(a) Abandonment: No less than thirty (30) days prior to the date that a personal wireless service provider plans to abandon, partially abandon or discontinue operation of a facility, the provider must notify the City by certified U.S. mail of the proposed date of abandonment, partial abandonment or discontinuation of operation. In the event that a provider fails to give notice, the facility shall be considered abandoned upon the City's discovery of

discontinuation of operation for more than 90 and 180 days, as the case may be, on all or part of such facility. Upon such abandonment, the provider shall have sixty (60) days or such additional period of time determined in the reasonable discretion of the City within which to:

(1) Reactivate the use of the facility or transfer the facility to another provider who makes actual use of the facility; or

(2) Dismantle and remove facility. If the facility or portion thereof is not removed within the sixty (60) days time period or additional period of time allowed by the City, the City may remove such tower or portion thereof or antenna at the provider's expense. If there are two or more providers co-locating on a facility, then this provision shall not become effective until all providers cease using the facility or until a portion of the antenna support structure is no longer used.

At the earlier of sixty (60) days from the date of abandonment without reactivation or upon completion of dismantling and removal, City approval for the facility or a portion thereof shall automatically expire.

(b) If ownership of a facility is transferred from one provider to another, the previous provider and the new provider shall be required to notify the City of the change of ownership or transfer within thirty days of the change of ownership or transfer of the facility. The new provider shall be required to make amendments to the application that is on file with the City, in order to provide current information. The new provider shall also provide a surety in accordance with Section 27.68.120. (Ord. 17588 §13; January 18, 2000).

**27.68.140 Zoning Districts Allowed.**

Personal wireless services facilities may be allowed by administrative or special permit in any zoning district. (Ord. 17588 §14; January 18, 2000).

Chapter 27.69

SIGNS

Sections:

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**27.69.010 Scope of Regulations.**

The sign regulations for this title are as set forth in this chapter. Any additional conditions imposed by Title 22 of the Lincoln Municipal Code, the State of Nebraska, or federal government, and other applicable ordinances or regulations also apply. In the event of any conflict, the most restrictive ordinance, regulation, or other requirement shall apply. (Ord. 12571 §363; May 8, 1979).

**27.69.020 Definitions.**

For the purpose of this chapter, certain terms and words are hereby defined.

**Area of Sign** shall mean the area of the largest single face of the sign within a perimeter which forms the outside shape including any frame which forms an integral part of the display, but excluding necessary supports or uprights on which the sign may be placed. If the sign consists of more than one section or module, all areas will be totalled. Signs mounted or painted on a wall shall be calculated by using up to a simple eight-sided geometric figure around the advertising message and shall include any framing or border. Pylon signs shall have area measured from the bottom of the copy area.

**Building Official** shall mean the Director of Building and Safety of the City who is charged with the administration and enforcement of this code, or his or her duly authorized deputy.

**Changeable Copy Sign** shall mean any sign on which message copy can be changed through the use of attachable letters and numerals or by electronic switching of lamps or illuminated tubes. This includes public message displays or any sign which features automatic switching such as time and temperature signs.

**Directional Sign** shall mean any sign which serves primarily to designate the location or direction of any area or place. This definition shall also include any sign approved by the Director of Public Works and Utilities in connection with major street construction projects. A business name and/or logo is acceptable on a directional sign.

**Electric Sign** shall mean any sign containing electrical wiring which is attached or intended to be attached to an electrical energy source, but not including signs illuminated by an exterior light source not an integral part of the sign.

**Electronic Changeable Copy Sign** shall mean a sign containing a computer generated message or other automated method of changing copy such as a public service time, temperature and date sign, message center or reader board, where different copy changes of a public service or commercial nature are shown on the same lamp bank or message facility.

**Erected** shall mean attached, altered, built, constructed, reconstructed, enlarged, or moved and shall include the painting of wall signs.

**Facade** shall mean that portion of any exterior elevation of a building extending vertically from the grade to the top parapet wall or eaves and horizontally across the building in one plane of elevation. A facade may extend above the roof line.

**Flag** shall mean a sign constructed of a nonrigid piece of fabric attached to a pole structure on one vertical side only.

**Flashing Sign** shall mean the interior or exterior of a sign which contains flashing lights or exhibits noticeable changes in light intensity with a basic on-off of the same light or display pattern or which includes the illusion of intermittent or flashing light by means of animation, or an externally-mounted intermittent light source.

**Ground Sign** shall mean a sign, other than a pole sign, in which the entire bottom of the sign is in contact with or is close to the ground and is independent of any other structure, and the top edge of the sign is ten feet or less above grade.

**Height of a Sign** shall mean the distance between the lowest grade level within two feet of either side of a sign, and the highest part of the sign or its support; except that if the property was lower than the adjacent roadway, then the height of the sign is to be calculated from the street grade at a ninety degree angle from the sign.

**Illuminated Sign** shall mean any sign which is directly lighted by any electrical light source, internal or external. This definition shall not include signs which are illuminated by street lights or other light sources owned by any public agency or light sources which are specifically operated for the purpose of lighting the area in which the sign is located rather than the sign itself.

**Marquee (Canopy or Awning)** shall mean a protective shelter or overhang which projects more than twenty-four inches from the face of a building that is otherwise permitted by code or ordinance.

**Marquee Sign** shall mean a sign attached to the face or on top or below a marquee. The area of marquee signs shall be counted toward the total allowable wall sign area of the parallel face to which the marquee is attached; if attached perpendicular to the wall, it shall be counted toward the allowed projecting sign area.

**Mobile Sign** shall mean a sign designed and constructed to be transported by its own wheels. When placed, a mobile sign must be supported by at least four integral metal supports which raise the wheels off the ground. Such sign shall not exceed ten feet in height.

**Nonstructural Trim** shall mean the molding, battens, caps, nailing strips, latticing, cutouts, or ladders and walkways which are attached to the sign structure.

**Off-premises Sign** shall mean any sign which serves to advertise a product, service, or activity not conducted on the premises on which the sign is located or within 300 lineal feet thereof.

**On-premises Sign** shall mean any sign which serves to advertise and/or identify a product, service, or activity conducted on the premise on which the sign is located, or identifies said premises or a use thereof.

**Pedestrian Marquee Sign** shall mean a marquee sign oriented to the view of pedestrians which is attached to or constructed under the marquee or on the end of the marquee perpendicular to the parallel face to which the marquee is attached, but shall not project above the marquee.

**Person** shall mean and include any person, firm, partnership, association, corporation, company, or organization of any kind.

**Pole Sign** shall mean a sign that is mounted on a freestanding pole or other support so that the bottom edge of the sign face is ten feet or more above grade. A pylon sign shall also be considered as a pole sign.

**Projecting Sign** shall mean a sign other than a wall sign which is attached to and projects at an angle of not less than forty-five degrees from a structure or building face.

**Projection** shall mean the distance by which a sign extends beyond a building or structure.

**Pylon Sign** shall mean a pole sign greater than ten feet in height with a design incorporating a pole cover structure of greater than twenty-four inches in width in contact with the ground.

**Real Estate Sign** shall mean any sign which identifies an offer of the sale, rental, or lease of the premises on which it is located.

**Roof Line** shall mean the uppermost exterior surface of the roof of a building.

**Roof Sign** shall mean a sign mounted on the main roof portion of a building or on the top most edge of a parapet wall of a building; and when is wholly or partially supported by such building. For the purpose of this chapter, signs mounted on mansard facades, penthouse eaves, facades and architectural projections such as canopies or marquees shall not be considered to be roof signs. Signs mounted on an ornamental attachment not used for shelter or protection of persons or property, such as cupolas, shall be considered roof signs.

**Rotating Sign** shall mean any sign or portion of a sign which moves in a revolving or similar manner, but not including multi-prism indexing signs.

**Seasonal or Holiday Signs** shall mean signs used for special occasions, such as religious and national holidays, and installed for a limited period of time not to exceed sixty days.

**Sign** shall mean any structure, fixture, graphics, illustration, statue, or other device visible from off the premises designed or intended to advertise, to identify, to attract attention to, or to convey information regarding any goods, product, service, business, location, institution, activity, person, solicitation, issue, or campaign, with the exception of merchandise window displays, national, state or other Nebraska governmental subdivision flags, and sculpture. For purposes of removal, sign shall also include any sign structure.

**Sign Structure** shall mean any structure which is designed or used to support any sign as defined in this chapter. A sign structure may be a single pole and may or may not be an integral part of the building.

**Temporary Sign** shall mean any outdoor sign or device including but not limited to banners, pennants, flags, or advertising display constructed of cloth, canvas, light fabric, cardboard, or other light materials, with or without frames, intended to be displayed for a limited period of time only not to exceed sixty days in a calendar year and not permanently affixed; provided, that temporary signs shall not include mobile signs.

**Wall Sign** shall mean any sign painted on or attached to the wall or facade of a building with the display surface parallel to or at an angle to which it is

attached, and which projects no more than twenty-four inches from the wall surface. No wall sign shall extend vertically or horizontally beyond the building facade from which the sign is attached. A wall sign may project into a right-of-way. A wall sign may be located at any height on a parapet or facade. A wall sign may be mounted on a mansard facade or penthouse facade.

**Window Sign** shall mean a sign installed inside a window which can be viewed from outside the premises and is six feet or less from the window or is located within a window display area formed by walls or doors that block the view into the main building. (Ord. 16949 §4; March 11, 1996: prior Ord. 16735 §1; February 13, 1995: Ord. 16180 §1; August 3, 1992: Ord. 16109 §1; May 11, 1992: Ord. 15308 §1; October 2, 1989: Ord. 15223 §1; July 24, 1989: Ord. 14539, as amended by Ord. 14613 §1; March 9, 1987: Ord. 13668, as amended by Ord. 13790 §1; March 26, 1984: Ord. 12571 §364; May 8, 1979).

#### 27.69.030 General Provisions.

No sign or part thereof shall be erected or maintained in any zoning district except in conformance with the provisions of this chapter. Unless otherwise provided in this chapter:

(a) Signs may be illuminated, except as otherwise provided in residential districts; provided, however, that the illumination of any sign shall not exceed 300 foot lamberts as measured at any point on the property line upon which the sign is located.

(b) No sign shall blink or flash, nor be illuminated by any device so as to appear to blink or flash, except for mobile signs.

(c) No sign shall move, rotate, revolve, or simulate movement by means of spinning, fluttering, or reflective devices or lighting, except a sign may rotate or revolve at a rate not to exceed six revolutions per minute.

(d) No sign shall be erected or maintained in a required yard, encroach upon or overhang any adjacent property, or any other land or public right-of-way.

(e) No sign shall be erected upon or against a roof or on top of or above the parapet of a building.

(f) No sign shall exceed the maximum height permitted for buildings in the zoning district in which it is located.

(g) Every sign shall be permanently attached to the ground, or to a building or structure which is

permanently attached to the ground, except for mobile signs as provided in this chapter and in Title 22 of the Lincoln Municipal Code.

(h) The area of a double-faced sign or two-sided or three-sided V-type sign not exceeding an angle of sixty degrees is calculated on one face of the sign only. A four-sided sign is to be calculated as two signs, and a triangular, three-sided sign is to be calculated on its largest face.

(i) No sign shall be painted on or attached to rocks, trees, or any other natural object.

(j) No sign shall be erected, placed, or maintained that violates the site obstruction regulations of the Department of Public Works and Utilities. Location of signs within sight distance limitations of street intersections or entrance or exits from private property shall be in accordance with and may be modified by regulations established by the Department of Public Works and Utilities.

(k) No sign or part thereof shall be erected in those zoning districts which are adjacent to or within the area of the interstate and federal-aid primary road systems in contravention of the advertising controls of the State of Nebraska.

(l) Signs for designated landmarks or in designated landmark districts must receive a certificate of appropriateness from the Historic Preservation Commission.

(m) Marquee signs shall be designed so that sign support braces are not visible from street level. When a building is erected adjacent to the front property line, the marquee sign may be attached to the marquee extending into or over the right-of-way. Pedestrian marquee signs shall not project beyond the edge of the marquee, and shall have a minimum clearance of eight feet above the walk or grade below.

(n) On-premises pole signs in the Capitol View Corridor Overlay District shall be subject to the regulations of said district, notwithstanding the otherwise applicable regulations of the underlying zoning district.

(o) A pole sign or ground sign permitted on a "per frontage" basis shall be allocated to and be located proximate to the specific frontage which would authorize such sign.

(p) The allowable wall sign area for a business within a multiple tenant building shall not exceed thirty percent of the wall area per building facade which abuts the business. (Ord. 17585 §2; January 10, 2000: prior Ord. 16949 §5; March 11, 1996: Ord.

16735 §2; February 13, 1995: Ord. 15507 §1; April 2, 1990: Ord. 15442 §3; February 20, 1990: Ord. 14725 §1; August 3, 1987: Ord. 14613 §2; March 9, 1987: Ord. 13611 §1; June 6, 1983: Ord. 12571 §365; May 8, 1979).

### 27.69.035 Off-Premises Signs.

(a) Administrative Permits. Off-premises signs are permitted in the B-1, B-3, B-4, H-1, H-2, H-3, H-4, and I-1 zoning districts by administrative permit issued by the Director of Building and Safety. The administrative permits shall automatically expire ten years from their date of issuance. The permittee may make application for renewal of the administrative permit.

(1) Applications for administrative permits and renewals thereof shall include:

(i) The legal description of the land upon which an off-premises sign is to be located.

(ii) A copy of a signed lease or other verification that the applicant has permission of the owner of the land upon which the off-premises sign shall be located to locate the off-premises sign thereon.

(iii) The area of the proposed off-premises sign.

(iv) The description and location of a nonconforming off-premises sign or signs encompassing equal or greater total face area (rather than area of sign) to be removed or previously removed and registered with the Department of Building and Safety following the effective date of this ordinance and not replaced; except that this provision shall not be applicable for applications for renewal of an administrative permit. For the purpose of this section, a nonconforming off-premises sign shall mean any off-premises sign which was lawfully installed on the effective date of this ordinance and for which an administrative permit has not been issued.

(2) The administrative permit and any renewals thereof shall be issued under the following conditions:

(i) The off-premises sign shall be subject to the provisions of this section, notwithstanding any other applicable regulation of the zoning district in which the off-premises sign is located.

(ii) The nonconforming off-premises sign or signs identified in the application for removal shall be removed prior to application for the permit or

within 30 days of the date of the issuance of the permit.

(iii) The off-premises sign shall be removed within 30 days following the expiration of the permit.

(b) Siting Limitations.

(1) The minimum distance between an off-premises sign and an existing off-premises sign or nonconforming off-premises sign shall be 600 feet measured in all directions regardless of the zoning jurisdiction in which the existing off-premises sign or nonconforming off-premises sign is located.

(2) The minimum distance between an off-premises sign and a public elementary or public high school, private school having a curriculum equivalent to a public elementary or public high school, college or university, park, or cemetery shall be 600 feet measured in all directions regardless of the zoning jurisdiction in which the public elementary or high school, private school having a curriculum equivalent to a public elementary or public high school, university, park, or cemetery is located.

(3) No off-premises sign shall be permitted in the areas designated as District A, District B, or District C of the Capitol View Corridor Overlay District.

(4) No off-premises sign shall be permitted within the B-4 zoning district area bounded by 10th Street, 14th Street, N Street, and P Street.

(5) Within one-fourth mile on either side of the corporate limits of the City, the minimum distance between an off-premises sign and any of the below listed entrance corridors to the City shall be 800 feet measured in all directions.

(i) Interstate 80 and 180;

(ii) West Bypass and "K" and "L" Extension;

(iii) U.S. 77 north of Morton Street;

(iv) Nebraska Highway 2;

(v) U.S. 6;

(vi) Cornhusker Highway;

(vii) North 27th Street;

(viii) "O" Street.

(6) Off-premises signs shall be located a minimum of 150 feet or one-half of the depth of the zoning district in which the off-premises sign shall be located, whichever is greater, measured in all directions from all residential zoning districts.

(7) No off-premises signs shall be located within 600 feet measured in all directions from a

sensitivity zone. For the purpose of this section, a sensitivity zone shall mean an historic district, historic landmark, and Capitol environs.

(c) **Lighting.** Illumination of off-premises signs shall not be allowed from midnight to 5:00 a.m. If off-premises signs are illuminated, the lighting shall be provided by downlighting methods, until such time as sign illumination standards are adopted by resolution of the City Council and thereafter it shall in accordance with design standards. The lighting shall be controlled by an automatic timing device.

(d) **Abandoned Signs.** In addition to all other applicable regulations, off-premises sign structures and existing nonconforming off-premises sign structures which contain no sign copy on all faces for a continuous period of six months shall be considered an abandoned sign and shall be removed. This removal shall take place within ten days of the date of the abandonment.

(e) **Removal of Existing Nonconforming Off-Premises Signs.** For each new off-premises sign of a given total face area (rather than area of sign) to be erected within the zoning jurisdiction of the City in conformance with this section, an existing nonconforming off-premises sign or signs encompassing equal or greater total face area shall be removed.

(f) Notwithstanding (e) above, upon request of the applicant, the City Council may, after report and recommendation of the Planning Commission, grant the applicant a bonus of one additional off-premises sign of equal square footage to the nonconforming off-premises sign to be removed upon a finding that the nonconforming off-premises sign to be removed is located in an area of special aesthetic value to the community and that removal of the nonconforming off-premises sign in question is a special desire of the community. (Ord. 17585 §3; January 10, 2000: prior Ord. 17526 § 1; July 12, 1999).

#### **27.69.040 Permitted Signs.**

The specific regulations for signs and their supporting structures in the various zoning districts are as set out in this chapter. Provisions for other permitted signs are found in Section 27.69.090, and in other applicable ordinances and regulations. In the event of any conflict, the most restrictive governing provision shall apply. (Ord. 12679 §6; September 4, 1979).

#### **27.69.041 Permitted Signs; AG and AGR Zoning Districts.**

In the AG and AGR zoning districts, the specific regulations are as follows:

(a) **Residential premises:** One on-premises wall sign not to exceed two square feet of sign area, non-illuminated and non-reflecting, used to identify home occupations, block parents, name of the premises or occupants thereof, or to provide similar information;

(b) **Nonresidential premises:** One on-premises ground sign or wall sign per frontage not exceeding seventy square feet in area announcing the business or activity being conducted on the premises. Ground signs shall be spaced a minimum of 150 feet apart along any street frontage. No ground sign shall be located in a required front yard nor exceed eight feet in height. (Ord. 16735 §3; February 13, 1995: prior Ord. 14613 §3; March 9, 1987: Ord. 13582 §1; May 2, 1983: Ord. 12697 §7; September 4, 1979).

#### **27.69.042 Permitted Signs; R-1, R-2, R-3, and R-4 Zoning Districts.**

In the R-1, R-2, R-3, and R-4 zoning districts, the specific regulations are as follows:

One on-premises wall sign, not to exceed two square feet of sign area, nonilluminated and non-reflecting, used to identify home occupations, transitional lot uses, block parents, the name of the premises or occupants thereof, or to provide similar information. Lighted vending machines are not permitted in view from off the premises. (Ord. 16735 §4; February 13, 1995: prior Ord. 14613 §4; March 9, 1987: Ord. 12679 §8; September 4, 1979).

#### **27.69.043 Permitted Signs; R-5, R-6, R-7, and R-8 Zoning Districts.**

In the R-5, R-6, R-7, and R-8 zoning districts, the specific regulations are as follows:

(a) **All uses:** One on-premises wall sign, not to exceed two square feet of sign area, nonilluminated and non-reflecting, used to identify home occupations, block parents, the name of the premises or occupants thereof, or to provide similar information.

(b) **For multiple-family dwellings:**

(i) One on-premises wall sign or ground sign, not to exceed six square feet of sign area, non-illuminated and non-reflecting, identifying the name and use of the building;

(ii) One on-premises wall sign or ground sign, not to exceed one square foot in sign area, non-illuminated and non-reflecting, identifying the quarters of an on-premises building manager or custodian.

(c) Uses, other than dwellings, permitted in the district: One on-premises wall sign, not to exceed thirty-two square feet of sign area per building facade or, in the R-8 zoning district, one on-premises ground sign not exceeding thirty-two square feet in area for each main building limited to identifying the building or activity being conducted on the premises. Such signs may be illuminated.

(d) For fraternities and sororities within one-half mile of an educational campus: One on-premises wall sign not exceeding twenty square feet of sign area which may be illuminated. Neon or gas tubing shall be used only as backlighting.

(e) Lighted vending machines are not permitted in view from off the premises.

(f) Ground signs in this section shall not exceed six feet in height. (Ord. 16735 §5; February 13, 1995: prior Ord. 14527, as amended by Ord. 14613 §5; March 9, 1987: Ord. 13566 §1; April 4, 1983: Ord. 13039 §1; November 17, 1980: Ord. 12679 §9; September 4, 1979).

#### **27.69.044 Permitted Signs; O-1, O-2, and O-3 Zoning Districts.**

In the O-1 and O-2 zoning districts, the specific regulations are as follows:

(a) For each main building:

(1) (i) Two on-premises wall or projecting signs not exceeding twenty-five square feet each, or

(ii) One on-premises wall or projecting sign not exceeding twenty-five square feet and one ground sign not exceeding thirty-two square feet and eight feet in height.

(iii) In addition to (i) and (ii) above, one ground sign not exceeding fifteen square feet in area and five feet in height shall be permitted at each building entrance.

(2) In the O-2 zoning district, the ground sign may be located up to fifteen feet from the front property line, provided it does not exceed twenty square feet in area and six feet in height.

(3) The projecting sign may project from a building a maximum of six feet six inches and may project into a required front yard, but it shall not

project above the roof line or top of cornice wall. Such sign shall have a minimum clearance of eight feet above the walk or grade below and may project over the public right-of-way when the building is erected adjacent to the front property line.

(b) In the O-3 zoning district:

(1) On-premises wall signs and on-premises projecting signs are permitted. The total sign area of such signs per building facade shall not exceed an area equivalent to ten percent coverage of the wall face or a total of 250 square feet, whichever is lesser. The projecting sign may project from a building a maximum of six feet six inches and may project into a required front yard, but it shall not project above a roofline or top of cornice wall. Such sign shall have a minimum clearance of eight feet above a walk or grade below and may project over the public right-of-way when the building is erected adjacent to the front property line. The maximum area of any individual projecting sign shall not exceed twenty-five square feet.

(2) One ground sign per vehicular entrance into the office park, not to exceed thirty-two square feet and eight feet in height, identifying the name of the office park and tenants(s) is permitted. The ground sign may be located in the required front yard with a minimum spacing of fifty feet from any other ground or pole sign.

(3) One internal direction sign per entrance not exceeding fifty square feet and eight feet in height located adjacent and parallel to the private street is permitted.

(4) In addition to (2) and (3) above, one ground sign not exceeding fifteen square feet in area and five feet in height shall be permitted at each building entrance.

(c) Signs must be located from an abutting residential district as follows:

(1) Sign perpendicular to street:

(i) 50 feet if non-illuminated,

(ii) 100 feet if internally illuminated;

(2) Sign parallel to street:

(i) 50 feet if internally illuminated or non-illuminated.

(d) The sign regulations in subsection (b), paragraphs (2), (3), and (4), may be modified by the City Council in connection with the granting of a use permit in conformance with all other requirements of Chapter 27.27. (Ord. 17650 §1; April 17, 2000: prior Ord. 17076 §1; October 21, 1996: Ord. 16781 §1; May

1, 1995: Ord. 16735 §6; February 13, 1995: Ord. 16127 §1; June 8, 1992: Ord. 14725 §2; August 3, 1987: Ord. 14613 §6; March 9, 1987: Ord. 14073 §1; April 1, 1985: Ord. 13233 §1; October 19, 1981: Ord. 13120 §1; March 30, 1981: Ord. 12679 §10; September 4, 1979).

**27.69.045 Permitted Signs: B-1 Zoning District.**

In the B-1 zoning district, the specific regulations are as follows:

(a) On-premises wall signs are permitted. The sign area of such wall signs per building facade shall not exceed thirty percent coverage of the wall face or a total of 400 square feet, whichever is lesser. Any marquee sign shall not exceed three feet in height or the height or vertical thickness of the marquee, whichever is greater. One pedestrian marquee sign per entrance not exceeding one foot in height, six square feet in area is permitted.

(b) One on-premises pole sign or one on-premises ground sign per business per frontage is permitted. Such signs shall be spaced a minimum of fifty feet apart along any street frontage. In those instances where only a single business is conducted on the premises and the premises has a frontage along any one street of 150 feet or more, the business may have a maximum of two ground or pole signs as otherwise permitted in this section on any such frontage with a minimum spacing of 100 feet. If such sign is located in a required front yard, it shall not exceed fifty square feet of area, and a pole sign shall have a maximum height of twenty-five feet, and a ground sign shall have a maximum height of eight feet. If such sign is located outside the required front yard, it may have a maximum area of 100 square feet and a maximum height of thirty feet. If such sign is a combination of the two permitted signs of over 150 feet frontage, it may be increased to 150 square feet in area and thirty-five feet in height; provided it is fifty feet from other premises.

(c) In lieu of the sign permitted in paragraph (b) above, one on-premises projecting sign is permitted. Said projecting sign may project from a building a maximum of six feet six inches and may project into a required front yard, but it shall not project above the roof line or top of a cornice wall. Such sign shall have a minimum ground clearance of eight feet above the walk or grade below and may project over the public right-of-way when the building is erected adjacent to

the front property line. The maximum area of such sign shall be 100 square feet.

(d) Where more than one business is located on the lot, the on-premises signs permitted in the required front yard pursuant to (b) above may be combined. If the combined sign is located in a required front yard, it shall not exceed fifty square feet in area. If the combined sign is a pole sign, it shall have a maximum height of twenty-five feet, and if the combined sign is a ground sign, it shall have a maximum height of eight feet. If the combined sign is located outside the required front yard, it may have a maximum area of 150 square feet. If the combined sign is a pole sign, it shall be spaced a minimum of seventy-five feet from any other premise.

(e) Within seventy-five feet of any residential zoning district, no sign shall face directly toward such district, except where the adjacent lot is used primarily for a nonresidential use. One sign, designating an accessory entrance, not exceeding twenty square feet of area and non-illuminated and non-reflecting, is permitted.

(f) Off-premises signs not exceeding 300 square feet in area and thirty-five feet in height are permitted, subject to the provisions of Section 27.69.035.

(g) In lieu of the signs in subsection (b):

One fifty square foot on-premises ground sign per entrance to a shopping center identifying the shopping center or commercial area; or

One pole sign per frontage, 100 square feet in area, identifying the shopping center or commercial area. If the shopping center has more than 150 feet of frontage on any one street, the pole sign may be 150 square feet in area. Such pole signs shall be spaced a minimum of seventy-five feet from any other premises. (Ord. 17585 §4; January 10, 2000: prior Ord. 16823 §1; July 10, 1995: Ord. 16735 §7; February 13, 1995: Ord. 16180 §1; August 3, 1992: Ord. 16012 §1; November 18, 1991: Ord. 14725 §3; August 3, 1987: Ord. 14613, as amended by Ord. 14677 §1; June 1, 1987: Ord. 12751 §25; November 5, 1979: Ord. 12679 §11; September 4, 1979: Ord. 12571 §366 (part); May 8, 1979).

**27.69.046 Permitted Signs; B-2 Zoning District.**

(a) On-premises wall signs and on-premises projecting signs are permitted. The total sign area of such signs shall not exceed an area equivalent to thirty percent of the wall face, or a total of 500 square feet, whichever is lesser. The projecting sign may project

from a building a maximum of six feet six inches and may project into a required front yard, but it shall not project above the roof line or top of cornice wall. Such sign shall have a maximum clearance of eight feet above the walk or grade below and may project over the public right-of-way when the building is erected adjacent to the front property line. The maximum area of any individual projecting sign shall not exceed twenty-five feet. Any marquee sign shall not exceed three feet in height or the height or vertical thickness of the marquee, whichever is greater.

(b) One pedestrian marquee sign per entrance not exceeding one foot in height and six square feet in area is allowed. Any other marquee sign shall not exceed three feet in height or the height or vertical thickness of the marquee, whichever is greater.

(c) One on-premises pole sign or one on-premises ground sign shall be permitted. Such sign shall not exceed 100 square feet in area and shall be permitted adjacent to each public street abutting the perimeter of any B-2 district; provided that said street frontage extends for at least 300 feet. Said signs shall be permitted in the required front yard, and a pole sign shall have a maximum height of twenty-five feet, and a ground sign shall have a maximum height of eight feet.

(d) One on-premises ground sign for each free-standing pad site building is allowed. Such sign shall not exceed fifty square feet in area and eight feet in height and shall be located within thirty feet of the pad site building unless modified as provided by subsection (e).

(e) The sign regulations in subsections (c) and (d) may be modified by the City Council in connection with the granting of a use permit in conformance with all other requirements of Chapter 27.31. (Ord. 16781 §2; May 1, 1995; prior Ord. 16735 §8; February 13, 1995; Ord. 16180 §3; August 3, 1992; Ord. 16012 §2; November 18, 1991; Ord. 14725 §4; August 3, 1987; Ord. 14613 §8; March 9, 1987; Ord. 13685 §1; September 6, 1983; Ord. 12679 §12; September 4, 1979; Ord. 12571 §366 (part); May 8, 1979).

#### **27.69.047 Permitted Signs; H-1 and H-4 Zoning Districts.**

In the H-1 and H-4 zoning districts, the specific regulations are as follows:

(a) One on-premises pole sign or ground sign per business. If such sign is in the required front yard,

it shall not exceed fifty square feet of sign area; if it is outside the required front yard, it shall not exceed 100 square feet of sign area.

(b) In lieu of (a) above, one on-premises pole sign or one on-premises ground sign identifying the name of the H-4 commercial area or primary activity conducted within the district shall be permitted. Such sign shall not exceed 100 square feet in area and shall not exceed thirty-five feet in height and shall be permitted adjacent to each public street abutting the perimeter of any H-4 district; provided, that said street frontage extends for at least 300 feet.

One additional ground sign identifying individual businesses shall be permitted in the H-4 district for each 500 feet of combined frontage along a single street. Such ground sign shall not exceed fifty square feet in area and shall not exceed eight feet in height. All such ground signs shall be spaced a minimum of 150 feet apart along any street frontage, and shall be permitted in the required front yard at a minimum distance of twenty-five feet from the front lot line.

For the H-4 zoning district, the sign regulations in this paragraph may be modified by the City Council in connection with the granting of a special permit for a planned service commercial district in conformance with all other requirements of Chapter 27.45.

(c) On-premises wall signs are permitted. The total sign area of such wall signs shall not exceed thirty percent coverage of the wall face, or 500 square feet, whichever is lesser. Any marquee sign shall not exceed three feet in height or the height or vertical thickness of the marquee, whichever is greater. One pedestrian marquee sign per entrance not exceeding one foot in height and six square feet in area is permitted.

(d) Signs are permitted in the required front yard and may not exceed fifty feet in height.

(e) In addition to the foregoing, within 660 feet of a designated interstate one additional on-premises pole sign is allowed. The pole sign may be eighty feet in height and 300 square feet in area, and the on-premises ground sign may be 300 square feet in area when said sign is within fifty feet radius of the main building; or when over fifty feet and not more than 150 feet from the main building, said ground sign shall be limited to 150 square feet in area.

(f) Off-premises signs not exceeding 300 square feet in area and thirty-five feet in height are permitted, subject to the provisions of Section 27.69.035.

(g) In lieu of the sign permitted in subsection (a) above, one on-premises projecting sign is permitted. Said projecting sign may project from a building a maximum of six feet six inches and may project into a required front yard, but it shall not extend above the roof line or top of a cornice wall. Such sign shall have a minimum ground clearance of eight feet above the walk or grade below and may project over the public right-of-way when the building is erected adjacent to the front property line. The maximum area of such sign shall be 100 square feet. (Ord. 17585 § 5; January 10, 2000: prior Ord. 16735 §9; February 13, 1995: Ord. 16291 §1; January 11, 1993: Ord. 16180 §4; August 3, 1992: Ord. 16012 §3; November 18, 1991: Ord. 14613 §9; March 9, 1987: Ord. 13685 §2; September 6, 1983: Ord. 12679 §13; September 4, 1979).

#### **27.69.048 Permitted Signs; H-2 Zoning District.**

In the H-2 zoning district, the specific regulations are as follows:

(a) One on-premises pole sign or one on-premises ground sign per business per frontage is permitted. Such signs shall be spaced a minimum of fifty feet apart along any street frontage. In those instances where only a single business is conducted on the premises and the premises has a frontage along any one street of 150 feet or more, it may have a maximum of two ground or pole signs as otherwise permitted in this section on any such frontage with a minimum spacing of 100 feet. If such sign is located in a required front yard, it shall not exceed fifty square feet of area and a pole sign shall have a maximum height of twenty-five feet and a ground sign shall have a maximum height of eight feet. If such sign is located outside the required front yard, it may have a maximum area of 100 square feet and a maximum height of thirty-five feet. If such sign is a combination of two signs of over 150 feet frontage, it may be increased to 150 square feet in area and thirty-five feet in height; provided, it is fifty feet from other premises.

(b) On-premises wall signs are permitted. The sign area of such wall signs per building facade shall not exceed thirty percent coverage of the wall face or a total of 400 square feet, whichever is lesser. Any marquee sign shall not exceed three feet in height or the height or vertical thickness of the marquee, whichever is greater. One pedestrian marquee sign per entrance, one foot in height and six feet in area is permitted.

(c) Where more than one business is located on the lot, the on-premises signs permitted in the required front yard pursuant to (a) above may be combined. The resultant sign shall not exceed 150 square feet in area. Such pole signs shall be spaced a minimum of seventy-five feet apart along any street frontage.

(d) Off-premises signs not exceeding 700 square feet in area and thirty-five feet in height shall be permitted, subject to the provisions of Section 27.69.035. In addition, such signs shall be located 33 feet inside the front property line.

(e) In lieu of the sign permitted in subsection (a) above, one on-premises projecting sign is permitted. Said projecting sign may project from a building a maximum of six feet six inches and may project into a required front yard, but it shall not extend above the roof line or top of a cornice wall. Such sign shall have a minimum ground clearance of eight feet above the walk or grade below and may project over the public right-of-way when the building is erected adjacent to the front property line. The maximum area of such sign shall be 100 square feet. (Ord. 17585 § 6; January 10, 2000: prior Ord. 16823 §2; July 10, 1995: Ord. 16735 §10; February 13, 1995: Ord. 16180 §5; August 3, 1992: Ord. 16012 §4; November 18, 1991: Ord. 14725 §5; August 3, 1987: Ord. 14613 §10; March 9, 1987: Ord. 12751 §26; November 5, 1979: Ord. 12679 §14; September 4, 1979).

#### **27.69.049 Permitted Signs; H-3 Zoning District.**

In the H-3 zoning district, the specific regulations are as follows:

(a) One on-premises pole sign or one on-premises ground sign per business per frontage is permitted. Such signs shall be spaced a minimum of fifty feet apart along any street frontage. In those instances where only a single business is conducted on the premises and the premises has a frontage along any one street of 150 feet or more, it may have a maximum of two ground or pole signs as otherwise permitted in this section on any such frontage with a minimum spacing of 100 feet. If such sign is located in a required front yard, it shall not exceed fifty square feet of area, and a pole sign shall have a maximum height of twenty-five feet, and a ground sign shall have a maximum height of eight feet. If such sign is located outside the required front yard, it may have a maximum area of 100 square feet and a maximum height of fifty feet. If such sign is a combination of the two signs of over 150 feet frontage, it may be

increased to 150 square feet in area and forty-five feet in height; provided it is fifty feet from other premises.

(b) On-premises wall signs are permitted. The sign area of such wall signs per building facade shall not exceed thirty percent coverage of the wall face, or a total of 500 square feet, whichever is lesser. Any marquee sign shall not exceed three feet in height or the height or vertical thickness of the marquee, whichever is greater. One pedestrian marquee sign per entrance not exceeding one foot in height and six square feet in area is permitted.

(c) Where more than one business is located on the lot, the on-premises signs permitted in the required front yard, pursuant to (a) above may be combined. If the combined sign is located in a required front yard, it shall not exceed fifty square feet in area. If the combined sign is a pole sign, it shall have a maximum height of twenty-five feet, and if the combined sign is a ground sign, it shall have a maximum height of eight feet. If the combined sign is located outside the required front yard, it may have a maximum area of 150 square feet. If the combined sign is a pole sign, it shall be spaced a minimum of seventy-five feet from an adjoining premise.

(d) In addition to the foregoing, within 660 feet of the designated interstate, the on-premises pole sign may be eighty feet in height and 360 square feet in area is permitted when such sign is within fifty feet radius of main buildings.

(e) One off-premises sign not exceeding 700 square feet in area and forty-five feet in height is permitted subject to the provisions of Section 27.690.035.

(f) In lieu of the sign permitted in subsection (a) above, one on-premises projecting sign is permitted. Said projecting sign may project from a building a maximum of six feet six inches and may project into a required front yard, but it shall not extend above the roof line or top of a cornice wall. Such sign shall have a minimum ground clearance of eight feet above the walk or grade below and may project over the public right-of-way when the building is erected adjacent to the front property line. The maximum area of such sign shall be 100 square feet. (Ord. 17585 § 7; January 10, 2000; prior Ord. 16823 §3; July 10, 1995: Ord. 16735 §11; February 13, 1995: Ord. 16180 §6; August 3, 1992: Ord. 16012 §5; November 18, 1991: Ord. 14613 §11; March 9, 1987: Ord. 13677 §1; August 29, 1983: Ord. 12751 §27; November 5, 1979: Ord. 12679 §15; September 4, 1979).

#### **27.69.050 Permitted Signs; B-3 Zoning District.**

In the B-3 zoning district, the specific regulations are as follows:

(a) On-premises wall signs are permitted. The sign area of such wall signs per building facade shall not exceed thirty percent coverage of the wall face or a total of 400 square feet, whichever is lesser. Any marquee sign shall not exceed three feet in height or the height or vertical thickness of the marquee, whichever is greater. One pedestrian marquee sign per entrance not exceeding one foot in height and six square feet in area is allowed.

(b) One on-premises pole sign or one on-premises ground sign per business per frontage is permitted. Such signs shall be spaced a minimum of fifty feet apart along any street frontage. In those instances where only a single business is conducted on the premises and the premises has a frontage along any one street of 150 feet or more, the business may have a maximum of two ground or pole signs as otherwise permitted in this section on any such frontage with a minimum spacing of 100 feet. If such sign is located in a required front yard, it shall not exceed fifty square feet of area and a pole sign shall have a maximum height of twenty-five feet and a ground sign shall have a maximum height of eight feet. If such sign is located outside the required front yard, it may have a maximum area of 100 square feet and a maximum height of thirty-five feet. If such sign is a combination of two signs of over 150 feet frontage, it may be increased to 150 square feet in area and thirty-five feet in height; provided it is fifty feet from other premises.

(c) In lieu of the sign permitted in paragraph (b) above, one on-premises projecting sign for each business may project from the building a maximum of six feet six inches and shall not project above the roof line or top of a cornice wall. Such sign may project over the public right-of-way when the building is erected adjacent to the front property line. Such sign shall have a minimum clearance of eight feet above the walk or grade below, and a maximum area of 100 square feet.

(d) Where more than one business is located on the lot, the on-premises signs permitted in the required front yard pursuant to (b) above may be combined. If the combined sign is located in a required front yard, it shall not exceed fifty square feet in area. If the combined sign is a pole sign, it shall have a maximum height of twenty-five feet, and if the combined sign is

a ground sign, it shall have a maximum height of eight feet. If the combined sign is located outside the required front yard, it may have a maximum area of 150 square feet. If the combined sign is a pole sign, it shall be spaced a minimum of fifty feet from any other pole sign along any street frontage and seventy-five feet from an adjoining premise.

(e) Within seventy-five feet of any residential zoning district, no sign shall face directly toward such district, except where the adjacent lot is used primarily for a nonresidential use. One sign designating an accessory entrance not exceeding twenty square feet in sign area and non-illuminated and non-reflecting is permitted.

(f) In any B-3 zoning district which is twelve acres or more in area, including public right-of-way located therein, off-premises signs not exceeding 400 square feet in area and thirty-five feet in height are permitted, subject to the provisions of Section 27.69.035. (Ord. 17585 §8; January 10, 2000: prior Ord. 16823 §4; July 10, 1995: Ord. 16735 §12; February 13, 1995: Ord. 16361 §1; May 10, 1993: Ord. 16180 §7; August 3, 1992: Ord. 16012 §6; November 18, 1991: Ord. 14725 §6; August 3, 1987: Ord. 14613 §12; March 9, 1987: Ord. 12751 §28; November 5, 1979: Ord. 12679 §16; September 4, 1979).

#### **27.69.060 Permitted Signs; B-5 Zoning District.**

In the B-5 zoning district, the specific regulations are as follows:

(a) Portals, service bays, loading docks, entrances, and similar wall penetrations may have a sign identifying the entrance or directory information for services provided by said entrance and shall not exceed ten square feet of sign area.

(b) The total sign area of wall signs per building facade shall not exceed thirty percent coverage of the wall surface. Any marquee sign shall not exceed three feet in height or the height or vertical thickness of the marquee, whichever is greater. One pedestrian marquee sign per entrance not exceeding one foot in height and six square feet in area is allowed.

(c) One on-premises pole or ground sign or other graphic identification identifying the entire commercial area within a B-5 zoning district and not exceeding 100 square feet in area may be permitted on each public street abutting the perimeter of such district, provided that such frontage shall extend for a contiguous distance of no less than 300 feet. In

addition, any distinct commercial area within the entire B-5 district which has an area of twenty acres or more and is designed as a distinct shopping complex shall be permitted one on-premises pole or ground sign, not exceeding 100 square feet in area on each public or private street abutting the perimeter of said area; provided, that such frontage shall extend for a contiguous distance.

(d) One on-premises ground sign for each free-standing pad site building in the B-5 zoning district shall be permitted. Such sign shall not exceed fifty square feet of sign area and eight feet in height.

(e) The sign regulations in subparagraphs (c) and (d) may be modified by the City Council in connection with the granting of a use permit in conformance with all other requirements of Chapter 27.37. (Ord. 16735 §13; February 13, 1995: prior Ord. 16012 §7; November 18, 1991: Ord. 14613 §13; March 9, 1987: Ord. 14050 §3; February 11, 1985: Ord. 12751 §28; November 5, 1979: Ord. 12679 §17; September 4, 1979: Ord. 12571 §366 (part) May 8, 1979).

#### **27.69.070 Permitted Signs; B-4 Zoning District.**

In the B-4 zoning district, the specific regulations are as follows:

(a) One on-premises pole sign or one on-premises ground sign per business per frontage is permitted. Such signs shall be spaced a minimum of fifty feet apart along any street frontage. In those instances where only a single business is conducted on the premises and the premises has a frontage along any one street of 150 feet or more, the business may have a maximum of two ground or pole signs as otherwise permitted in this section on any such frontage with a minimum spacing of 100 feet. If such sign is located in a required front yard, it shall not exceed fifty square feet of area, and a pole sign shall have a maximum height of twenty-five feet, and a ground sign shall have a maximum height of eight feet. If such sign is located outside the required front yard, it may have a maximum area of 100 square feet and a maximum height of thirty-five feet. If such sign is a combination of the two permitted signs of over 150 feet frontage, it may be increased to 150 square feet in area and thirty-five feet in height; provided it is fifty feet from other premises;

(b) Where more than one business is located on the premises, the on-premises signs permitted in the required front yard, pursuant to (a) above, may be

combined. The resultant sign shall not exceed 150 square feet in area. Such pole signs shall be spaced a minimum of seventy-five feet from an adjoining premises;

(c) On-premises wall signs on building facades, attached to the face of the building, marquee, or mansard roof or substantially parallel thereto and not extending beyond or above the roof or the top of the cornice wall, are permitted. The sign area of such wall signs per building facade shall not exceed thirty percent coverage of the wall face, or a total of 500 square feet, whichever is lesser. Any marquee sign shall not exceed three feet in height or the height or vertical thickness of the marquee, whichever is greater. One pedestrian marquee sign per entrance not exceeding one foot in height and six square feet in area is permitted;

(d) In lieu of the signs permitted in subparagraph (a) above, projecting signs may be substituted. Such projecting signs may project from the building a maximum of six feet six inches and shall not extend above the roof line or top of a cornice wall. Such sign may project over the public right-of-way when the building is erected adjacent to the front property line. Such sign shall have a minimum clearance of eight feet above the walk or grade below and a maximum area of 150 square feet;

(e) On-premises wall signs on building facades, attached to the face of the building, marquee, or mansard roof or substantially parallel thereto and not extending above or beyond the roof or top of the cornice wall, are permitted. The sign area of such wall signs per building facade shall not exceed thirty percent coverage of the wall face or a total of 500 square feet, whichever is lesser. Marquee signs shall not exceed three feet in height or the height or vertical thickness of the marquee, whichever is greater, except marquee signs for theaters, which may be up to four feet in height or the height or vertical thickness of the marquee, whichever is greater. Those signs extending above or below the marquee shall be erected at a ninety degree angle to the building and shall project no more than six feet six inches with a minimum clearance of eight feet above the walk or grade below and shall not project above the cornice wall or roof of the building. All such marquee signs below the marquee shall not exceed twelve square feet in area;

(f) Within the area designated as an "entertainment district" in the Lincoln Center Plan (a subarea plan of the Comprehensive Plan) which area, for

purposes of this subsection, includes that portion of the B-4 Lincoln Center District bounded by 11th Street, "R" Street, 13th Street, and "Q" Street, and that portion of the B-4 Lincoln Center District bounded on the north by "Q" Street and extending to mid-block between "O" Street and "P" Street on the south, to mid-block between 10th Street and 11th Street on the west, and mid-block between 14th Street and 15th Street on the east, on-premises signs are permitted to extend up to twenty-five feet above the roof line or cornice wall of theaters;

(g) Off-premises signs not exceeding 700 square feet in area and forty-five feet in height are permitted, subject to the provisions of Section 27.69.035.

(h) In the area of the B-4 zoning district beginning 150 feet east of 17th Street and continuing to the western boundary of the B-4 District, signs may blink or flash. Flags of any organization, party, or individual are permitted, including flags mounted above or on roofs. The total sign area for all signs, including flags, shall not exceed that allowed in Section 27.69.070(a) through (e). No single flag shall exceed 150 square feet. Signs having electronically changing sign area shall not exceed the provisions of Section 27.69.270. (Ord. 17585 §9; January 10, 2000: prior Ord. 16735 §14; February 13, 1995: Ord. 16180 §8; August 3, 1992: Ord. 16012 §8; November 18, 1991: Ord. 15990 §1; October 14, 1991: Ord. 15803 §1; January 7, 1991: Ord. 15691 §1; August 20, 1990: Ord. 15308 §2; October 2, 1989: Ord. 14725 §7; August 3, 1987: Ords. 14377 and 14395, as amended by Ord. 14613 §14; March 9, 1987: Ord. 13611 §3; June 6, 1983: Ord. 12751 §30; November 5, 1979: Ord. 12679 §18; September 4, 1979: Ord. 12571 §366; May 8, 1979).

#### **27.69.075 Permitted Signs; I-1 Zoning District.**

In the I-1 zoning district, the specific regulations are as follows:

(a) One on-premises pole sign or one on-premises ground sign per business per frontage is permitted. Such signs shall be spaced a minimum of fifty feet apart along any street frontage. In those instances where only a single business is conducted on the premises and the premises has a frontage along any one street of 150 feet or more, the business may have a maximum of two ground or pole signs as otherwise permitted in this section on any such frontage with a minimum spacing of 100 feet. If such sign is located in a required front yard, it shall not

exceed fifty square feet of area, and a pole sign shall have a maximum height of twenty-five feet. If such sign is located outside the required front yard, it may have a maximum area of 100 square feet and a maximum height of fifty feet. If such sign is a combination of the two signs of over 150 feet frontage, it may be increased to 150 square feet in area and forty-five feet in height; provided it is fifty feet from other premises; a ground sign shall have a maximum height of eight feet.

(b) On-premises wall signs on building facades, attached to the face of the building, marquee, or mansard roof or substantially parallel thereto and not extending beyond or above the roof or the top of the cornice wall, are permitted. The sign area of such wall signs per building facade shall not exceed thirty percent coverage of the wall face, or a total of 500 square feet, whichever is lesser. Any marquee sign shall not exceed three feet in height or the height or vertical thickness of the marquee, whichever is greater. One pedestrian marquee sign per entrance not exceeding one foot in height and six square feet in area is permitted.

(c) Where more than one business is located on the premises, the on-premises signs permitted in the required front yard, pursuant to (a) above, may be combined. The resultant sign shall not exceed 150 square feet in area. Such pole signs shall be spaced a minimum of seventy-five feet from an adjoining premises.

(d) In lieu of the signs permitted in subparagraph (a) above, projecting signs may be substituted. Such projecting signs may project from the building a maximum of six feet six inches and shall not extend above the roof line or top of a cornice wall. Such sign may project over the public right-of-way when the building is erected adjacent to the front property line. Such sign shall have a minimum clearance of eight feet above the walk or grade below and a maximum area of 100 square feet.

(e) Off-premises signs not exceeding 700 square feet in area and forty-five feet in height are permitted, subject to the provisions of Section 27.69.035.

(f) In the I-1 zoning district, the following signs shall be permitted to identify a distinct industrial area of twenty or more acres, under common ownership or constituting a single subdivision, and containing three or more separate industries:

(i) Two ground signs, not exceeding eight feet in height and 100 square feet in area, at each main entrance to such industrial area from a major street.

(ii) One ground sign, not exceeding eight feet in height and 100 square feet in area, at each minor or secondary entrance to such industrial area, or at each entrance from a collector or local street.

Such signs shall be spaced a minimum of 600 feet along any street frontage and may be illuminated.

Before receiving any sign permits for signs authorized under this subsection, a sign plan for all entrances to such industrial area, conforming to the above specified requirements, shall be submitted to the Planning Director. (Ord. 17585 §10; January 11, 2000; prior Ord. 16735 §15; February 13, 1995).

#### **27.69.080 Permitted Signs; I-2 Zoning District.**

In the I-2 zoning district, the specific regulations are as follows:

(a) On-premises wall signs are permitted. The sign area of such wall signs per building facade shall not exceed thirty percent (30%) coverage of the wall face or a total of 500 square feet, whichever is lesser. Any wall sign attached to the face of a marquee shall not exceed three feet in height or the thickness of the marquee, whichever is greater. One pedestrian marquee sign per entrance not exceeding one foot in height and six square feet in area is allowed.

(b) There may be one ground sign per frontage not exceeding 100 square feet in area or eight feet in height, not located in the required side or rear yards. If located in the required front yard, such ground sign shall not be located more than one-half of the distance into said required front yard.

(c) In the I-2 district, when a building is more than 300 feet from major street frontage, the permitted wall sign may exceed the five hundred square feet limit if the resulting larger sign does not exceed ten percent (10%) of the area of the wall in elevation view or 700 square feet. (Ord. 17232 §18; August 18, 1997; prior Ord. 16735 §16; February 13, 1995; Ord. 16180 §9; August 3, 1992; Ord. 16109 §2; May 11, 1992; Ord. 16053 §1; February 18, 1992; Ord. 16012 §9; November 18, 1991; Ord. 15411 §1; January 22, 1990; Ord. 15076 §1; December 19, 1988; Ord. 14613 §15; March 9, 1987; Ord. 12679 §19; September 4, 1979; Ord. 12571 §366; May 8, 1979).

**27.69.081 Permitted Signs; I-3 Employment Center District.**

In the I-3 zoning district, the specific regulations are as follows:

(a) On-premises wall signs and on-premises projecting signs are permitted. The total sign area of such signs shall not exceed an area equivalent to thirty percent of the wall face, or a total of 500 square feet, whichever is less. The projecting sign may project from a building a maximum of six feet six inches and may project into a required front yard, but it shall not project above the roof line or top of the cornice wall. Such sign shall have a maximum clearance of eight feet above the walk or grade below and may project over the public right-of-way when the building is erected adjacent to the front property line. Any marquee sign shall not exceed three feet in height or the height or vertical thickness of the marquee, whichever is greater.

(b) One pedestrian marquee sign per entrance not exceeding one foot in height and six square feet in area is allowed. Any other marquee sign shall not exceed three feet in height or the height or vertical thickness of the marquee, whichever is greater.

(c) The district is permitted two on-premises entrance ground signs. Such sign shall not exceed 300 square feet in area and shall be permitted (i) adjacent to a public street abutting the perimeter of any I-3 district; provided that said street frontage extends for a least 300 feet or (ii) at the entrance point of a public street at the perimeter of any I-3 district. Said signs shall be permitted in the required front yard and have a maximum height of ten feet. If located in the required front yard, such ground sign shall not be located more than one-half of the distance into said required front yard.

(d) One on-premises ground sign for each free standing pad site building is allowed. Such sign shall not exceed fifty square feet in area and eight feet in height and shall be located within thirty feet of the pad site building.

(e) When a building is more than 300 feet from major street frontage, the permitted wall sign may exceed the five hundred square feet limit if the resulting larger sign does not exceed ten percent of the area of the wall in elevation view or 700 square feet, whichever is lesser.

(f) The sign regulations in subsections (c) and (d) may be modified by the City Council. (Ord. 17232 §19; August 18, 1997).

**27.69.083 Permitted Signs; R-T Residential Transition District.**

In the R-T zoning district, the specific regulations are as follows:

(a) The following signs only identifying or describing the name of the building and the business or services offered on the premises shall be permitted:

(1) One wall sign per building is permitted. The wall sign shall not be located on the side of the building abutting a residential district or abutting a local or collector street, as defined in the "Land Subdivision Ordinance," when the land across such street is zoned residential;

(2) One ground sign shall be permitted in each development or center. To the extent feasible, the ground sign shall be located near the entrance driveway and separated from the abutting residential districts by such entrance driveway;

(b) No sign shall exceed twenty square feet of sign area;

(c) No sign shall be located in any required yard;

(d) The ground sign shall not be more than eight feet in height;

(e) The location, size, and illumination of all signs, if any, shall be shown on the use permit application and shall be specifically approved as a part of said application;

(f) All signs shall be in keeping with the character of the area in which they are located.

Notwithstanding the above, for specially permitted uses of historic structures or sites approved under the provisions of Section 27.63.400 of this title, two signs per entrance may be permitted, provided that the Historic Preservation Commission has deemed those signs appropriate. (Ord. 16735 §17; February 13, 1995; prior Ord. 16649 §1; August 1, 1994; Ord. 15317 §11; October 16, 1989).

**27.69.085 Permitted Signs; Corporate Office Park Planned Unit Development.**

In the R-3 district where a corporate office park planned unit development is applied, the specific regulations are as follows:

(a) Pole and roof signs. No pole or roof signs are allowed.

(b) Ground signs. One on-premises building identification ground sign shall be permitted per building per street frontage. Said sign shall not exceed seventy-five square feet in area, and shall have a

maximum height of eight feet. Said sign shall include the building address.

(c) Wall signs.

(1) One on-premises building identification wall sign shall be permitted per building. The sign area of such wall sign shall not exceed ten percent of the building's largest facade, or 100 square feet, whichever is lesser.

(2) In addition to the above, each tenant shall be allowed one on-premises entrance wall sign not to exceed ten square feet of sign area, provided that the total sign area of all tenant wall signs shall not exceed thirty-two square feet per facade. Tenant wall signs shall be located no further than fifty feet from a building entrance door.

(d) Other signs.

(1) Office park area sign; signs for major entrances. One on-premises multiple-sided ground sign, not to exceed 100 square feet in area per side or 200 square feet total area, whichever is less; or, two on-premises single-sided ground signs, not to exceed 100 square feet in area per sign shall be permitted at each major entrance to the corporate office park planned unit development. Said ground signs shall have a maximum height of eight feet. Said ground signs may be located in a required yard if approved as part of the landscape plan and sign plan.

(2) Office park area sign; signs for minor entrances. One on-premises multiple-sided ground sign, not to exceed forty square feet in area per side or eighty square feet total area, whichever is less; or, two on-premises single-sided ground signs, not to exceed forty square feet in area shall be permitted at each minor entrance to the corporate office park planned unit development. Said signs shall have a maximum height of six feet. Said signs may be located in a required yard if approved as part of the landscape plan and sign plan.

(3) Internal directory ground signs. One on-premises internal directory sign shall be permitted at each major entrance to the corporate office park planned unit development. Said signs shall not exceed fifty square feet in area and six feet in height.

(e) Temporary identification signs.

(1) Real estate signs allowed under Section 27.69.100 shall not exceed twenty square feet in area and eight feet in height in the corporate office park planned unit development.

(2) Construction signs allowed under Section 27.69.130 shall meet the following provisions: One temporary sign per corporate office park planned unit development shall be permitted at the construction site upon commencement of construction to identify the nature of the construction and those persons or firms associated with it, including contractors, architects, finance companies, and owners. Such sign shall be permitted until such time as a final inspection of the building(s) designates said structure(s) fit for occupancy, or the tenant is occupying such building(s), whichever occurs first. Such sign shall not exceed thirty-two square feet of area and eight feet in height. Such sign may be added to the future tenant identification sign.

(3) Future tenant identification sign. One temporary sign per corporate office park planned unit development shall be permitted at the construction site to identify the name of the future tenant. Such sign shall be permitted until such time as a final inspection of the building(s) designates said structure(s) fit for occupancy, or the tenant is occupying such building(s), whichever occurs first. Such sign shall not exceed thirty-two square feet of area and eight feet in height.

(f) General conditions for corporate office park planned unit development signs.

(1) All signs ten square feet in area and over shall be shown as part of the sign plan approved as a part of the development. Said sign plan shall include covenants of sign design for the entire development.

(2) Signage in corporate office park planned unit developments shall provide for a system of signs with features that make an orderly and pleasant visual impact on the total development and area immediately adjacent to the park.

(3) Supporting and ancillary structures shall not be more than two times the allowed sign area.

(4) No off-premises signs are allowed. (Ord. 15164 §8; May 8, 1989).

**27.69.090 Other Permitted Signs; Churches and Schools.**

In any zoning district, churches and schools are permitted one on-premises internally illuminated

ground sign on each street frontage, not exceeding fifty square feet of area or six feet in height, for each bulletin board or sign and its supporting structure, and one on-premises wall sign on each building facade, not exceeding twenty square feet in sign area. When a school or church is located a minimum of 200 feet from any street frontage and is located in an AG or AGR district, said wall sign shall be a maximum of 100 square feet in area. A permitted ground sign may be located in the required front yard if it meets the following conditions and requirements:

(a) Signs may contain a maximum of fifty square feet in sign area if non-illuminated. If illuminated, such sign shall contain a maximum of thirty-two square feet in sign area, and shall be internally illuminated only;

(b) Has a setback from the front lot line at least one-half the distance of the required front yard;

(c) Has a setback from the side lot line at least 100 feet if abutting residential lots; and

(d) One temporary sign of up to thirty-two square feet may be allowed on premises for up to ten days. (Ord. 16735 § 18; February 13, 1995: prior Ord. 16000 § 1; November 12, 1991: Ords. 14278, 14297, and 14539, as amended by Ord. 14613 § 16; March 9, 1987: and Ords. 13734, 13668, 13611, 13790, 13418, 13582, 13133, 13054, 12923, 12893, 12751, 12679, 12657, and 12571).

#### **27.69.100 Other Permitted Signs; Real Estate Signs.**

In any zoning district, one on-premises real estate sign may be erected on each street frontage of a premises, identifying an offer for the sale or lease of all or part of the premises on which it is located. Any such sign may be located in a required yard but shall not be located within any street or other public right-of-way. Such sign shall be removed within one week after closing the sale or lease of the property.

(a) In any residential district, such real estate sign shall not exceed ten square feet of area and shall not be illuminated.

(b) In any other zoning district, such real estate sign shall not exceed forty square feet of area. (Ord. 16076 § 1; March 16, 1992: prior Ord. 15693 § 1; August 20, 1990: Ord. 14613 § 17; March 9, 1987).

#### **27.69.110 Other Permitted Signs; Official Signs, Plaques, Flags, Street Numbers.**

In any zoning district, the following signs shall be allowed:

(a) Official signs authorized by a government or subdivision thereof, including traffic, directional, and warning signs, public notices, and proclamations;

(b) Flags of any government or subdivision thereof, or of any educational, charitable, religious, or political organization;

(c) Historical or commemorative plaques or tablets;

(d) Memorial plaques, building cornerstones, or building names, when cut or carved into a masonry surface, or when made of noncombustible material and made an integral part of the building or structure it identifies;

(e) Street numbers and street identification signs;

(f) Reflectors and other safety signs or devices used to mark driveways, towers, airport approaches, and other potentially dangerous structures or situations;

(g) Directional signs authorized pursuant to rules and regulations established by the Director of Public Works and Utilities for business areas affected by major street construction projects;

(h) One non-illuminated, non-reflecting wall sign not exceeding two square feet in area. (Ord. 16949 § 6; March 11, 1996: prior Ord. 16735 § 19; February 13, 1995: Ord. 14613 § 18; March 9, 1987).

#### **27.69.120 Other Permitted Signs; Holiday Decorations.**

In all zoning districts, seasonal or holiday signs or decorations for religious or national holidays are permitted. Such decorations may blink, flash, or move and may be located in a required yard; provided, however, that no such holiday decoration shall interfere with traffic or present any other hazard to the safety or welfare of the public. (Ord. 14613 § 19; March 9, 1987).

#### **27.69.130 Other Permitted Signs; Construction Sites.**

In any zoning district, temporary signs shall be permitted at a construction site to identify the nature of the construction and those persons or firms associated with it, including contractors, architects, finance companies, and owners. Such signs shall not exceed sixteen square feet of area when located in residential districts. In any other zoning districts, such signs shall not exceed 100 square feet

of combined area per street frontage. (Ord. 16735 § 20; February 13, 1995; prior Ord. 14613 § 20; March 9, 1987).

**27.69.140 Other Permitted Signs;  
Commercial Districts; Special  
Sales.**

(a) In the B, H, and I zoning districts where commercial establishments are permitted, temporary signs or mobile signs identifying special sales and openings shall be permitted on the premises of a commercial establishment for no more than sixty days in any calendar year. No temporary sign shall exceed 100 square feet in area. One temporary sign is permitted on each building elevation. Mobile signs shall not exceed sixty square feet of area and may be located one-half the distance into the required front yard.

(b) In lieu of the signs permitted in (a) above, a temporary sign which is more than sixty square feet, but less than 300 square feet, in area, shall be permitted on no more than two occasions and for no more than a combined total of ten days in any calendar year. Such a temporary sign shall be constructed or inflated in the three dimensional form of a person, animal, or object directly relating to the company or product which is the subject of the special sale or opening. The temporary sign shall be secured to the ground per the requirements of Chapter 22.05 of the Lincoln Municipal Code and shall not be permitted to float or become airborne. (Ord. 16735 § 21; February 13, 1995; prior Ord. 14863 § 1; April 25, 1988; prior Ord. 14613 § 21; March 9, 1987).

**27.69.150 Other Permitted Signs;  
Nonconforming Use.**

In all residential zoning districts, no more than two on-premises signs not exceeding thirty-two square feet in area shall be permitted on a building if the building is a nonconforming use. If the lot on which the nonconforming use is located is contiguous to or across an alley from a zoning district in which said nonconforming use would be a permitted use, the signs may be illuminated. (Ord. 16735 § 22; February 13, 1995; prior Ord. 14613 § 22; March 9, 1987).

**27.69.160 Other Permitted Signs; Special  
Permitted Uses.**

In all residential zoning districts, special permitted uses may have the greater of the district signs or

a sign identifying or describing the name of the building and the business or services offered on the premises. One sign only per special use shall be permitted if it meets the following conditions and requirements:

(a) The sign shall not be more than twenty square feet in area;

(b) The sign shall not be located in any required yard;

(c) The sign shall not be more than eight feet in height if it is not a wall sign;

(d) The location, size, and illumination of the sign, if any, shall be shown on the special permit application and shall be specifically approved as a part of said application;

(e) The sign shall be in keeping with the character of the area in which it is located.

Notwithstanding the above, for specially permitted commercial uses of historic structures or sites approved under the provisions of Section 27.63.400 of this title, two signs per entrance may be permitted, one of which, limited to five feet in height, may be located in a required front yard, provided that the Historic Preservation Commission has deemed those signs appropriate. (Ord. 16735, § 23; February 13, 1995; Ord. 15823 § 2; February 11, 1991; prior Ord. 14613 § 23; March 9, 1987).

**27.69.170 Other Allowed Signs; Temporary  
Signs.**

In all zoning districts, temporary signs in connection with political campaigns, nonprofit civic activities, and other noncommercial activities shall be allowed. These signs require no permit. These signs may not be erected earlier than thirty days before the campaign, civic activity, or other noncommercial activity to which they relate and shall be removed within ten days following conclusion of such campaign or activity, provided that this restriction shall not apply to noncommercial signs located upon a person's own residence.

If such sign is located in a residential area, it shall not exceed ten square feet in area. If such sign is located in a commercial, business, or industrial area, it may have a maximum area of forty square feet and a maximum height of six feet. (Ord. 16735 § 24; February 13, 1995; prior Ord. 14613 § 24; March 9, 1987).

### 27.69.180 Other Permitted Signs; Service Station Signs.

In those zoning districts where service stations are permitted, the following signs are permitted on the premises used as service stations in addition to those signs otherwise permitted in the zoning district in which such service station is located:

(a) Gasoline Price Sign: One gasoline price sign per frontage, not to exceed thirty-two square feet of area. Said gasoline price sign shall be attached to the permitted pole or ground sign structure.

(b) Canopy/Fascia Sign: Two canopy/fascia signs per canopy face; not to exceed a combined total of fifty square feet of area for an emblem, logo, and/or business name. Stripes and graphics may be allowed on the remaining area of the canopy fascia.

(c) Pump Island Signs: Each pump island may have one pump island sign per pump cabinet not to exceed twenty square feet of sign area.

(d) Full- and self-service island identification, air, restroom, garbage cans, and dispenser identification will not be counted as signs. (Ord. 16735 §25; February 13, 1995; prior Ord. 15895 §1; May 20, 1991; prior Ord. 14613 §25; March 9, 1987).

### 27.69.190 Other Permitted Signs; Murals.

In all zoning districts, murals, exclusive of any sign area, painted on walls of a building, fence, or similar structure shall be permitted; provided that a permit therefor is obtained from the Department of Building and Safety, and that such mural shall not interfere with traffic or present any other hazard or detriment to the public health, safety, or general welfare. (Ord. 16735 §26; February 13, 1995; prior Ord. 14613 §26; March 9, 1987).

### 27.69.200 Other Permitted Signs; Historically Significant Signs.

In all zoning districts, historically significant signs may be exempted from the provisions of this chapter by resolution of the City Council, or by being in conformance with any historic preservation ordinance adopted by the city. (Ord. 14613 §27; March 9, 1987).

### 27.69.210 Other Permitted Signs; Directional Signs; Parking Lots.

(a) In all zoning districts, signs directing motorists shall be permitted within parking lots;

provided that no such sign shall exceed six square feet of area nor six feet in height.

(b) In all nonresidential districts, directional signs not exceeding three square feet in area and six feet in height above grade are permitted. Such signs may be located in the required yard. (Ord. 16735 §27; February 13, 1995; prior Ord. 14613 §28; March 9, 1987).

### 27.69.220 Other Permitted Signs; Complex or Subdivision Area Signs.

(a) In all residential zoning districts, on-premises ground signs not exceeding thirty-two square feet in area or five feet in height shall be permitted to identify a multiple-dwelling complex or a subdivision area.

(b) When part of a landscape screen approved by the Planning Director, the following ground signs, not exceeding twenty square feet in area or six feet in height and identifying a multiple-dwelling complex or subdivision area, may be located in the required front yard or building line district:

(1) Up to two signs may be located at each entrance to the multiple-dwelling complex or subdivision area.

(2) If the multiple-dwelling complex or subdivision area abuts an intersection with an arterial street, one sign per arterial frontage may be located at the corner of the intersection with the arterial street.

Such signs may be illuminated by a ground light. Any sign located in the building line district shall be moved at the sole cost of the owner when necessary for public use. (Ord. 16959 §1; March 25, 1996; prior Ord. 16735 §28; February 13, 1995; Ord. 14613 §29; March 9, 1987).

### 27.69.230 Other Permitted Signs; Subdivision Promotion Signs.

In any zoning district, a subdivision promotion sign for the original sale of lots shall be permitted under the following conditions:

There shall be permitted on an original tract of ten acres or less only one sign, which sign shall not exceed 100 square feet; on an original tract of more than ten acres, no more than two signs, which signs shall not exceed a composite size of 150 square feet and no one sign shall exceed 100 square feet. Such sign shall be nonilluminated. (Ord. 16735 §29; February 13, 1995; prior Ord. 14613 §30; March 9, 1987).

**27.69.240 Other Permitted Signs;  
Nonresidential; Menu Boards.**

In any commercial district, two on-premises ground signs each not to exceed forty-five square feet in area or one on-premises ground sign not to exceed fifty square feet in area functioning as menu boards are permitted in conjunction with an eating establishment utilizing ordering from the vehicle; provided, any sign shall not exceed eight feet in height and shall not be permitted in the required front or side yard of the district in which it is located. (Ord. 17576 § 1; November 15, 1999; prior Ord. 16735 §30; February 13, 1995; Ord. 14613 §31; March 9, 1987).

**27.69.250 Other Permitted Signs; Non-residential; Flags.**

In any commercial or industrial district, a flag, in addition to the flags permitted under Section 27.69.110(b) above, is permitted in lieu of a permitted pole sign. No single flag shall exceed 150 square feet or the size of the replaced pole sign, whichever is smaller. This section shall not limit the provisions of Section 27.69.070(g) relating to flags in the B-4 zoning district. (Ord. 14613 §32; March 9, 1987).

**27.69.260 Other Permitted Signs; Health Care Facilities and Post Secondary Schools.**

Campuses of health care facilities and private post secondary schools having more than one building and two acres of land, may have a campus signing plan approved under the provisions of Section 27.63.080 to provide for public safety and to accommodate the unique requirements for services, provided:

- (a) The signing plan shall be designed to minimize adverse impact on surrounding properties;
- (b) Any signs proposed in required yards shall be approved as part of the landscaping plan;
- (c) No pole signs shall be allowed;
- (d) No ground signs shall exceed eight feet in height or fifty square feet in area if on a major street and six feet in height and thirty-two square feet on any other street;
- (e) Sign shall have no exposed illumination, except one 'emergency' sign may have direct lighting;
- (f) All wall signs over fifty square feet shall be approved in the permit.

Said campus signing plan may be approved by administrative amendment as provided in Section 27.63.030 if a special permit is existent for the health care facility or secondary school and plot plan.

The campus signing plan regulations in subparagraphs (c), (d), (e), and (f) above may be modified by the City Council in connection with the granting of a special permit in conformance with the requirements of Chapter 27.63. (Ord. 16181 §1; August 3, 1992; Ord. 15616 §1; July 9, 1990; Ord. 14613 §33; March 9, 1987).

**27.69.270 Other Permitted Signs;  
Nonresidential; Public Service Information.**

In any nonresidential district, electronic changeable copy signs displaying the time, temperature, weather, or similar public service information shall be permitted. The sign area displaying such information may change, blink, flash, or have the appearance of movement; provided that the changing sign area shall not exceed eighty square feet of sign area. Such area shall be included as a part of the permitted signage for the premises on which it is located. (Ord. 16735 §31; February 13, 1995; prior Ord. 14613 §34; March 9, 1987).

**27.69.280 Other Permitted Signs; Non-residential; Directional Signs.**

(Repealed by Ord. 16735 §32; February 13, 1995; prior Ord. 14613 §35; March 9, 1987).

**27.69.290 Other Permitted Signs; Non-residential; Permanent Window Signs.**

In all nonresidential zoning districts, permanent window signs shall be permitted; provided that such signing does not cover more than twenty-five percent of the area of any window or door. (Ord. 14613 §36; March 9, 1987).

**27.69.300 Other Permitted Signs; Non-residential; Special Sign District.**

(a) In any nonresidential district, occupants of sixty percent or more of the street frontage of any block face may petition the City Council for the formation of a special sign district for the purpose of defining an area of particular historical, ethnic, cultural, or entertainment atmosphere; or for defining

an area with a special or unique theme. Said merchants shall present proposed sign criteria to the City Council according to the procedure established for a zoning amendment. Such petition shall include specific sign regulations for the district which may be more or less restrictive than the underlying district.

(b) In any nonresidential district designated by the City Council as a landmark district in accordance with Section 27.57.120, the Planning Director may petition the City Council to create a special sign district. Such petition shall include specific sign regulations for the district which may be more or less restrictive than the underlying zoning district. A special sign district shall not be designated if written protests are made by the record owners of over fifty percent of the included properties, excluding public right-of-way, at or prior to the public hearing by the City Council on the designation.

Before designating an area within a nonresidential landmark district as a special sign district and adopting specific sign regulations for such district, the City Council shall refer the petition to the Historic Preservation Commission. The Historic Preservation Commission shall hold a public hearing on such petition, and thereafter shall make its recommendation regarding approval, disapproval, or modification of the petition, and the proposed sign regulations. The petition shall then be transmitted to the Planning Commission. The Planning Commission shall consider the petition at a public hearing and thereafter shall make a report to the City Council recommending approval, disapproval, or modification of the petition and the proposed sign regulations.

After receiving the recommendation and report of the Historic Preservation Commission and the Planning Commission, the City Council shall proceed to give final consideration to the petition and the proposed sign regulations. (Ord. 16735 § 33; February 13, 1995; Ord. 15722 § 1; September 17, 1990; prior Ord. 14613 § 37; March 9, 1987).

#### **27.69.310 Other Permitted Signs; Nonresidential; Roof Signs.**

Buildings with a roof pitch of 2/12 or greater.

(a) In all nonresidential zoning districts which allow pole signs, a roof sign may be permitted as an alternative to either:

- (1) the permitted pole sign, or

- (2) the permitted wall signs in the same architectural elevation as the requested roof sign.

(b) Said roof sign shall not exceed thirty percent coverage of the roof area (determined by the area of the roof in elevation view), except that in no instance shall the permitted roof sign be larger than the pole sign permitted in the district. The roof sign shall be a minimum of one foot below the roof line. (Ord. 16735 § 34; February 13, 1995; prior Ord. 16180 § 10; August 3, 1992; Ord. 15934 § 1; August 5, 1991; Ord. 14613 § 38; March 9, 1987).

#### **27.69.320 Nonconforming Signs.**

All nonconforming signs shall be brought into compliance when one or more of the following occurs:

- (a) When a sign is damaged by accident or act of God or when any part is damaged in excess of fifty percent of its replacement value at the time such damage occurs.

- (b) When a change or replacement of part of the sign structure occurs.

- (c) When the sign is required to be moved because of a local, state, or federal project.

- (d) When a painted wall sign is repainted.

Face changes will be allowed to a nonconforming sign. (Ord. 16735 § 35; February 13, 1995; prior Ord. 14613 § 39; March 9, 1987).

#### **27.69.330 Other Permitted Signs; Cemetery Grounds.**

Cemeteries may have a cemetery grounds signing plan approved under the provisions of Section 27.63.510 to provide public information and to accommodate the unique requirements for services, provided:

- (a) The signing plan shall be designed to minimize adverse impact on surrounding properties;

- (b) Any sign proposed to be located in a required yard shall be approved as part of a landscaping plan;

- (c) No pole signs shall be allowed;

- (d) No ground signs shall exceed eight feet in height or fifty square feet in area if located along a major street and six feet in height and thirty-two square feet if located along any other street;

- (e) Signs shall have no exposed illumination;

- (f) All wall signs over fifty square feet in area shall be approved in the permit;

- (g) Signs located along a major street shall be spaced a minimum of 500 feet apart from each other.

Such cemetery grounds signing plan may be approved by administrative amendment as provided in Section 27.63.030 if a special permit has been issued for the cemetery.

The cemetery grounds signing plan regulations in subparagraphs (c), (d), (e) and (f) above may be modified by the City Council in connection with the granting of a special permit for a cemetery. (Ord. 15146 § 1; April 10, 1989).

**27.69.340 Permitted Signs for General  
Planned Unit Developments.**

In any zoning district where a general planned unit development has been approved, the specific regulations are as follows:

(a) For nonresidential uses:

(1) Where a use is not otherwise permitted in the underlying district or by reason of a zoning transfer authorized by Section 27.60.020(a)(2)(v): One illuminated wall sign per business is permitted. If the floor area is 2,000 square feet or less, the sign shall be a maximum of twenty square feet. For a business with a floor area of over 2,000 square feet, one square foot of sign area per 100 square feet of floor area (maximum of fifty square feet) is permitted. One illuminated ground sign per building not exceeding fifty square feet in area and six feet in height is permitted. Such sign shall be located from the front lot line at least one-half of the required setback distance.

(2) In all other instances, signs for commercial uses shall be governed by Sections 27.69.044 (O-2 signs) for office uses, and 27.69.045 (B-1 signs) for business uses. The height of the permitted pole sign shall not exceed the height of the nearest building or twenty-five feet, whichever is less. When illuminated, signs must be located at least 100 feet from the side lot line if abutting a residential lot.

(b) The sign regulations in this section may be modified by the City Council. (Ord. 16735 § 36; February 13, 1995; prior Ord. 16575 § 1; March 14, 1994; Ord. 16487 § 1; September 27, 1993; Ord. 15795 § 2; December 17, 1990).

## Chapter 27.70

### ADDITIONAL USE REGULATIONS

#### Sections:

- 27.70.010 Home Occupations.
- 27.70.020 Dwellings for Nonrelated Persons.
- 27.70.030 Subdivision Promotion Activity.
- 27.70.040 Lots Fronting Upon Private Roadways.
- 27.70.050 Requirements After Approval.

#### 27.70.010 Home Occupations.

A home occupation may be carried on within a dwelling unit or accessory building under the following conditions:

(a) There is no sign other than one nonanimated, nonilluminated, nonreflecting nameplate not more than two square feet in area, which nameplate designates the home occupation carried on within, in letters not to exceed two inches in height and attached to the building wherein the home occupation is conducted.

(b) There is no commodity sold upon the premises except that which is prepared on the premises in connection with such occupation or activity or which is sold in relation and incidental to such occupation or activity. This section shall not prohibit the sale of restored antique articles on premises for which a second-hand dealer's permit has been issued by the city and which permit was in force and effect on May 30, 1981; provided, however, that the discontinuance of such sales for a continuous period of six months or the failure to pay the required occupation tax and maintain a current permit shall constitute a termination of the rights granted under this exception and thereafter any home occupation conducted upon such premises shall strictly conform to the conditions applicable to home occupations generally. Welding, vehicle body repair, mechanical repair, or rebuilding or dismantling of vehicles are not permitted as a home occupation.

(c) There is no person engaged in the home occupation employed on the premises other than a member of the family residing on the premises; provided, that the building official may approve one nonresident employee upon application by the owner showing:

(1) Certification by the appropriate state or federal agency that the owner is physically disabled;

(2) Certification of an attending physician that the owner cannot perform the tasks required by the home occupation without assistance; and

(3) There are no other employees either resident or nonresident engaged in the home occupation on the premises.

(d) Any activities carried on outdoors in connection with the home occupation is screened and there is no outdoor storage of any equipment, machinery, parts, or other articles of any nature used in connection with such home occupation, except that day care centers may have permanent play equipment such as slides and swing sets located in the required side or rear yards. The placement of play equipment in the required front yard of a day care center shall be permitted only by resolution of the City Council.

(e) There is no chemical, mechanical, or electrical equipment used which will cause noise or odors disturbing to the residents of surrounding property or interference with television or radio reception.

(f) The maximum allowable area that may be utilized in conducting such home occupation shall be equal to twenty percent of the floor area of the dwelling unit. (Ord. 14887 § 1; May 31, 1988; prior Ord. 14537 § 1; October 27, 1986; Ord. 13228 § 1; October 12, 1981; Ord. 12571 § 369; May 8, 1979).

#### 27.70.020 Dwellings for Nonrelated Persons.

Dwellings for four to six persons not immediately related by blood, marriage, or adoption and living as a single housekeeping unit on lots of one acre or more in area shall be permitted, provided that one off-street parking space is supplied for each person in the housekeeping unit. (Ord. 12571 § 370; May 8, 1979).

#### 27.70.030 Subdivision Promotion Activity.

In areas of new construction or lot development, a subdivision promotion activity may be established in a residential zoning district for the purpose of selling lots or homes in the area under the following conditions:

(a) The purpose of the subdivision promotion activity shall be to promote the sales of lots or homes in the subdivision or area in which the subdivision promotion activity is located or where similar homes are being constructed;

(b) Any office or similar premises used in connection with the subdivision promotion activity shall be located within a subdivision display home and no

exterior reconstruction or any permanent alteration of the said display home shall be permitted in establishing said office;

(c) There shall be no sign on the premises other than those permitted in Chapter 27.69;

(d) The subdivision promotion activity may continue for a period of one year from the issuance of the first occupancy permit to each builder, contractor, or subdivider within a subdivision or lot development area. At the expiration of one year, a permit shall be obtained from the Department of Building and Safety to allow continuation of the subdivision promotion activity. This permit may be granted after an evaluation of the location or proposed location of the subdivision promotion activity by the Department of Building and Safety with consideration given to the type of development in the immediate area of the promotion activity, and the effect of the promotion activity on the adjacent area;

(e) Subdivision display homes which do not contain any subdivision promotion activities, including offices or continuing sales activities or continuing displays, shall not be governed by these provisions. (Ord. 12571 § 371; May 8, 1979).

#### **27.70.040 Lots Fronting Upon Private Roadways.**

Lots located in the AG, AGR, R-1, R-2, R-3, R-4, R-5, and R-6 zoning districts may front upon and take access to a private roadway if said lots are located within an approved community unit plan under Chapter 27.65 of this title. Lots located in other zoning districts may front upon and take access to a private roadway if said private roadway has been approved either in connection with a use permit under the provisions of this title or with a subdivision of property in conformance with all of the requirements of Title 26 of the Lincoln Municipal Code. All such lots shall also comply with all of the requirements of this title as applicable. (Ord. 12571 § 372; May 8, 1979).

#### **27.70.050 Requirements After Approval.**

Upon approval of a use permit pursuant to Chapters 27.27, 27.28, 27.31, 27.37, or 27.51, the developer shall cause to be prepared and submitted to the Planning Department a revised and reproducible final plot plan with all required amendments and revisions. Thereafter, building permits, certificates of occupancy and subdivisions of the property shall be issued or approved only upon strict compliance

with the plot plan as approved, or as amended, regardless of any regulations to the contrary with regard to the height and location of buildings, yard requirements, open space requirements, type of dwelling unit, accessory uses, lot frontage requirements, and the location of required parking set forth elsewhere in this title and applying to the zoning district or districts in which the use permit is located.

The final plot plan shall contain the following information:

(a) A certified boundary survey and legal description showing sufficient linear, angular, and curve data to determine the bearing and length of all boundary lines of the use permit, location of section lines and section corners, and gross acreage. If the use permit abuts an existing plat, the distances, angles, and bearing of any common lines shall be shown and any differences in measurement shown.

(b) A certificate for showing the final action of the Planning Commission or City Council including the date and resolution number.

(c) Locations, name, tangent lengths, centerline radius of each curve and its interior angle, and width of all proposed and existing streets, highways, private roadways, and other public ways within and adjacent to the development;

(d) Location, width, and direction of flow of all water courses in and adjacent to the use permit area, including the limits of the flood plain and floodway as defined in Chapter 27.55;

(e) The location and size of all existing and proposed sanitary and storm sewers, drainage ways, culverts, watermains, fire hydrants, and existing power lines and other underground structures, cables, or other public utilities within the tract of land and adjacent streets, together with the location and width of existing and proposed easements, and, if appropriate, access easements;

(f) All lot lines, building setback lines for all lots, dimensions of all lot lines and building envelope lines. Chord distances shall be shown for lot lines abutting curvilinear streets;

(g) Lot numbers shall begin with the number (1) and shall continue consecutively through a block with no omission or duplication. Blocks shall be numbered in the same manner. Letters shall be used to designate outlots in alphabetical order;

(h) Proposed areas for parks and playgrounds. Any parcels other than streets which are to be

dedicated or reserved for public use shall be clearly shown and said parcels shall be designated as outlots and assigned an alphabetical designation;

(i) The location of all proposed and existing sidewalks, walkways, and other pedestrian ways;

(j) Location, height, and use of proposed and existing buildings and structures with an indication as to whether an existing building or structure is to be removed or to remain, and free standing signs, if any, in accordance with the provisions of Chapter 27.69;

(k) The following data shall be shown on each sheet of the plot plan:

(1) The name, address, and telephone number of the person or company responsible for preparation of the plot plan;

(2) North arrow, scale, date;

(3) Sheet number and the total number of sheets comprising the plot plan;

(l) The following information shall accompany the plot plan:

(1) Name, address, and telephone number of developer;

(2) Certified record owner or owners and their address;

(3) Statement of present zoning and proposed use or uses of the property;

(4) Profiles along the centerline of the proposed streets and private roadways which show the existing ground surface elevations and the proposed street grades including the length of vertical curves between changes in grade with the profiles for stub streets ending at the boundary of the use permit to be extended 300 feet beyond the limits of the use permit into subdivided and unsubdivided land;

(5) The approved method of providing sanitary sewer service to the area;

(6) The approved method of providing an adequate potable water supply;

(7) The approved drainage study;

(8) A map or an aerial photograph showing the proposed streets, private roadways, driveways, parking areas, buildings and lots which includes the locating, and identifies, by common name, all existing trees within the area of the use permit. Single trees which are three inches in caliper or larger measured five feet above the ground must be shown. However, if five or more trees are located so that each is within approximately ten feet of the edge of another tree, they will be considered a tree mass and the outline of the tree mass may be shown with a list of the common names of the trees which are within the tree mass. If the above-stated procedure is followed, the individual location of each tree within the tree mass is not necessary. An indication shall be made on the map showing which trees or tree masses are to remain and which trees or tree masses are to be removed;

(9) A vicinity sketch showing the general location of the use permit in relation to existing streets, section lines, and city limits;

(10) The approved site grading plan showing existing and proposed contour lines with intervals at no greater distance than five feet based on city data, and if necessary, spot elevations showing complete proposed grading of the use permit, including any cross-sections required as conditions of approval showing existing and proposed ground lines and buildings. Information as to where fill will be obtained and the amount of the fill shall be included if all or part of the property is located within the flood plain as defined in Chapter 27.55. If the proposed location from which said fill is obtained is later to be changed, the developer shall inform the Public Works and Utilities Department of the location of the proposed new borrow area and obtain approval thereof from the Director of Public Works and Utilities;

(11) The approved landscape plan. (Ord. 17232 § 20; August 18, 1997; prior Ord. 16949 § 7; March 11, 1996; prior Ord. 16284 § 5; December 14, 1992).

## Chapter 27.71

**ADDITIONAL HEIGHT AND AREA  
REGULATIONS**

## Sections:

- 27.71.010 Scope of Regulations.
- 27.71.020 Necessary Mechanical Appurtenances.
- 27.71.025 Chimneys, Antenna Installations, Towers, and Grain Elevators.
- 27.71.030 Front and Side Yards; Driveways.
- 27.71.035 Front Yards; Gasoline Pumps Permitted.
- 27.71.040 Construction and Use of Accessory Buildings.
- 27.71.050 Projections From Buildings.
- 27.71.060 Walkways in the Rear Yard.
- 27.71.070 Occupancy of Basements and Cellars.
- 27.71.080 Fences.
- 27.71.090 Fire Escapes and Chimneys; Projection Into Yards.
- 27.71.095 Light Wells and Egress Windows; Projection into Required Yards.
- 27.71.100 Porches, Balconies, Patios, and Terraces in Front Yards.
- 27.71.110 Projection of Terraces, Patios, Decks, and Ornamental Features.
- 27.71.115 Canopies in Front Yard.
- 27.71.120 Temporary Buildings and Fences; Temporary Paving Plants; Temporary Concrete Batch Plants.
- 27.71.130 More Than One Main Building on Business, Commercial, or Industrial Tract.
- 27.71.140 Two or More Buildings For Two-Family Dwellings, Multiple-Family, Institutional, or Hotel Purposes.
- 27.71.150 Multiple Dwelling Considered as One Building.
- 27.71.155 Projection of Building Facades into the Required Front Yard in the R-4, R-5, R-6, R-7, and R-8 Districts in Areas of the City Annexed Prior to January 31, 1449.
- 27.71.160 Public Utilities.
- 27.71.170 Adjustment of Front Yard Requirements.
- 27.71.175 Adjustment of Yard and Lot Area Requirements to Allow the Subdivision of a Lot.
- 27.71.180 Side and Rear Yard Requirements.
- 27.71.190 Building Line District.
- 27.71.200 Uses Within Building Line Districts; Adjustments.
- 27.71.210 Enlargement and Alteration of Lots.
- 27.71.220 Replacing Nonstandard Accessory Building on Narrow Lot.
- 27.71.230 Minimum Separation Between Buildings and Pedestrian Way Easement.
- 27.71.240 Yard Accessories in Required Yards.
- 27.71.250 Buildings, Churches, Height of.
- 27.71.260 Premises That Do Not Meet the Minimum Acreage Requirement of the O-3, B-2, B-5, or I-3 District.
- 27.71.010 Scope of Regulations.
- The district regulations hereinafter set forth in this chapter qualify or supplement, as the case may be, the district regulations appearing elsewhere in this title. (Ord. 12571 §373; May 8, 1979).
- 27.71.020 Necessary Mechanical Appurtenances.
- All necessary mechanical appurtenances located on top of a building are exempt from the height regulations contained in this title as follows:
- (a) No such appurtenances may exceed twenty feet in height above the maximum permitted in the district in which they are located;
- (b) All of said appurtenances must be set back a minimum of fifteen feet from all faces of a building when said faces are adjacent to a street. (Ord. 12571 §374; May 8, 1979).
- 27.71.025 Chimneys, Antenna Towers, and Grain Elevators.
- Chimneys, cooling towers, elevator bulkheads, grain elevators, fire towers, stage towers or scenery lofts, amateur radio antenna installations not exceeding sixty-five feet in height (which includes a tower not exceeding fifty feet in height), non-commercial radio towers not exceeding fifty feet in height, wind energy conversion systems authorized by

conditional use or special permit, or water towers are exempt from the height regulations as contained herein. (Ord. 16673 §14; September 26, 1994; prior Ord. 13487 §6; November 1, 1982; Ord. 13004 §2; September 29, 1980; Ord. 12978 §27; August 25, 1980; Ord. 12657 §17; August 6, 1979).

#### **27.71.030 Front and Side Yards; Driveways.**

A driveway shall be permitted within the required front and side yards only if the driveway provides a connection to a parking space that is or will be located as permitted in this title, or if the driveway provides access to gasoline pump islands, or if the driveway is located in the B-1, H-1, H-2, or H-3 zoning district and the driveway provides an exit from a drive-in or drive-through facility. Vehicle stacking for drive-in facilities shall be permitted within the required side yard if such side yard does not abut a residential district. (Ord. 16481 §1; September 20, 1993; prior Ord. 15307 §1; October 2, 1989; Ord. 14466 §1; August 18, 1986; Ord. 13469 §1; September 27, 1982; Ord. 12571 §375; May 8, 1979).

#### **27.71.035 Front Yards; Gasoline Pumps Permitted.**

Gasoline pumps and gasoline pump islands may be located in a required front yard when located more than twelve feet from the front lot line, except that in the B-2 and B-5 zoning districts, gasoline pumps and gasoline pump islands may only be located in a required front yard when such location is approved as part of the use permit. (Ord. 14466, as amended by Ord. 14581 §1; January 12, 1987).

#### **27.71.040 Construction and Use of Accessory Buildings.**

No accessory buildings shall be constructed upon a lot until the construction of the main building has been commenced, and no accessory buildings shall be used for dwelling purposes, except that in the AG, AGR, and R-1 zoning districts, an accessory building may be used for dwelling purposes by not more than two domestic employees employed entirely on the premises if a special permit for such use has been obtained in conformance with the requirements of Chapter 27.63. (Ord. 16088 §4; March 23, 1992; prior Ord. 12571 §376; May 8, 1979).

#### **27.71.050 Projections From Buildings.**

Every part of any required yard shall be open to the sky, unobstructed by a building, except:

(a) Eaves may project into a front or rear yard thirty-six inches, exclusive of gutters.

(b) Eaves may project into a side yard twenty-four inches, or two-fifths of the required side yard, whichever projection is greater, exclusive of gutters.

(c) Ordinary projection of sills, belt courses, cornices, vertical solar screens, and ornamental features which may project twelve inches.

(d) In the R-1, R-2, R-3, and R-4 districts, air conditioners or heat pumps, not to exceed five ton units or parts thereof, may project into a required side yard, provided that such projection shall be distant at least two feet from the adjacent lot line and shall not extend more than three feet from the building. Such air conditioners may project into a required front yard but shall not extend more than three feet from the building, and such air conditioner or heat pump may extend into one side of a corner lot. In R-1, R-2, R-3, or R-4 districts, air conditioners or heat pumps not to exceed five tons or parts thereof may project into such yards not more than four feet from the building it serves, and in no event shall be closer than one foot to the adjacent lot line, and such air conditioner or heat pump may extend into one side of a corner lot.

(e) Solar collectors which are a part of the main building may extend into a required rear yard for a distance not to exceed ten feet, and solar collectors may extend into a required side yard, provided that they have a minimum seven foot clearance from grade; and provided, further, that such extension shall be distant at least three feet from the adjacent lot line and may project into a side yard forty-eight inches, or two-fifths of the required side yard, whichever projection is greater.

(f) Ornamental siding and wall sheathing material, not including brick veneer, may project a maximum of two inches into any required yard.

(g) As otherwise provided in this title. (Ord. 15819 §1; February 4, 1991; prior Ord. 13728 §1; November 7, 1983; Ord. 13522 §1; December 27, 1982; Ord. 13211 §1; September 21, 1981; Ord. 13067 §5; January 5, 1981; Ord. 12899 §1; April 14, 1980; Ord. 12571 §377; May 8, 1979).

#### **27.71.060 Walkways in the Rear Yard.**

In the required rear yards of the O-1, B-1, B-2, B-3, H-1, H-2, H-3, and I-1 districts, enclosed walkways not more than one story in height nor eight feet in width are permitted within two feet of the rear lot line. (Ord. 12571 §378; May 8, 1979).

**27.71.070 Occupancy of Basements and Cellars.**

No basement or cellar shall be occupied for residential purposes until the remainder of the building has been substantially completed. (Ord. 12571 § 379; May 8, 1979).

**27.71.080 Fences.**

Notwithstanding the area regulations of this title with the requirements for open space for front yard, side yard, and rear yard, fences may be erected to a height not to exceed seventy-six inches on any part of a lot or premises, provided, that fences may be erected to a height not to exceed ninety-six inches in the required front yard abutting a major street if the following conditions are met:

(a) The lot or premises has double street frontage and abuts a major street;

(b) Vehicular access to the lot or premises is not from the major street; and

(c) The fence shall be parallel to the major street.

However, no fence shall be erected within the triangular area required for sight distance of vehicles entering or exiting the property or entering an adjacent intersection, in conformance with the design standards of the city and the "guidelines and regulations for driveway design and approach." The height of a fence shall be determined by a measurement from the ground beneath the fence. Swales and other earth depressions up to six feet wide shall not be used when measuring the fence's height. Man-made earth berms, terraces, and retaining walls that elevate the fence shall be considered a part of the fence. Notwithstanding the above, if a lot or premises is lower than an adjacent major street, as defined in Section 26.07.190 of the Land Subdivision Ordinance, then the height of the fence shall be determined by a measurement from the street grade at a ninety degree angle from the fence; provided, however, the total vertical measurement from the ground beneath the fence to the top of the fence shall not exceed twelve feet.

The height limitation herein provided for fences permitted on any part of a lot or premises, notwithstanding the area regulation of this title with the requirements for open space from front yard, side yard, and rear yard, shall not apply to fences required by the city for uses permitted by the city. It is not intended that any structure other than a fence is permitted on any part of a lot or premises by this section, and all other structures must comply with area and use regulations of this title. (Ord. 15896 §1;

May 20, 1991; prior Ord. 13521 §1; December 27, 1982; Ord. 13215 §1; October 5, 1981; Ord. 12571 §380; May 8, 1979).

**27.71.090 Fire Escapes and Chimneys; Projection Into Yards.**

Open lattice enclosed fire escapes, fireproof outside stairways, and balconies opening upon fire towers, and the ordinary projections of chimneys and flues into the rear yard may be permitted by the building inspector for a distance of not more than three and one-half feet and where the same are so placed as not to obstruct light and ventilation of adjacent dwellings.

Chimneys, flues, and fireplaces may be permitted by the director of building and safety to project into any required yard for a distance of not more than two feet where the same are so placed as not to obstruct light and ventilation. (Ord. 12571 § 381; May 8, 1979).

**27.71.095 Light Wells and Egress Windows; Projection into Required Yards.**

Any light well or egress window may be located in any required front, side or rear yard, provided:

(a) No such light well or egress window may be placed within two feet of any property line;

(b) Any light well or egress window located in any required yard must have a safety railing that meets all requirements for safety railings of the Uniform Building Code as adopted by the Lincoln Municipal Code if it is within five feet of any sidewalk, walkway, or driveway;

(c) The construction of the light wells or egress windows meets the requirements of the Uniform Building Code as adopted by the Lincoln Municipal Code;

(d) The well does not extend more than one foot above the finished grade.

The requirements of (b) above may be waived by the City Council. (Ord. 17634 §1; March 13, 2000).

**27.71.100 Porches, Balconies, Patios, and Terraces in Front Yards.**

An open, unenclosed porch may project into a required front yard for a distance not exceeding ten feet; provided, however, such porches on residences in the R-1, R-2, R-3, R-4, R-5, R-6, R-7 and R-8 zoning districts which project into the required front yard no closer than ten feet from the street line may be enclosed under the following conditions:

(a) The enclosed porch shall not be served by a heating system, cooling system, or plumbing;

(b) At least forty percent of the other residences on the same frontage in the same zoning district extend into the required front yard a distance equal to or greater than the applicant's porch (for the purpose of this section, extensions into the front yard may be a porch, balcony, vestibule, or the main part of the building);

(c) The applicant's porch shall not be located within any building line district; and

(d) At least fifty percent of each exterior wall shall be transparent.

Balconies, patios, and paved terraces may project into a required front yard for a distance not exceeding six feet. An enclosed vestibule containing not more than forty square feet may project into a required front yard for a distance not to exceed four feet. This section shall not be interpreted as establishing a different required front yard in that district, nor shall this section be used to adjust front yard setbacks under Section 27.71.170 of this ordinance. (Ord. 14780 §21; November 2, 1987; prior Ord. 13532 §1; January 17, 1983; Ord. 13067 §6; January 5, 1981; Ord. 12571 §382; May 8, 1979).

**27.71.110 Projection of Terraces, Patios, Decks, and Ornamental Features.**

Terraces, patios, uncovered decks, and ornamental features which do not extend more than three feet above or below the adjacent ground level may project into a required side or rear yard, provided these projections be distant at least two feet from the adjacent side lot line. (Ord. 13067 §7; January 5, 1981; prior Ord. 12571 §383; May 8, 1979).

**27.71.115 Canopies in Front Yard.**

In B-1, H-1, H-2, H-3, B-3 and I-1 zoning districts, canopies may project into a required front yard; provided, that a five foot setback shall be maintained from the property line, and such canopies shall not cover more than six square feet of ground area per each foot of frontage, and no portion of the canopy shall be lower than nine feet above grade.

In B-2 zoning districts, canopies may only project into the required front yard when the size and location of such canopies are approved as part of the use permit. (Ord. 16054 §1; February 18, 1992; prior Ord. 14581 §2; January 12, 1987; Ord. 14225 §1; September 30, 1985; Ord. 12571 §383a; May 8, 1979).

**27.71.120 Temporary Buildings and Fences; Temporary Paving Plants; Temporary Concrete Batch Plants.**

(a) Temporary buildings that are used in conjunction with construction work only may be permitted in any district during the period that the building is being constructed, but such temporary building shall be removed upon completion of the construction work. Temporary fences used in conjunction with construction work only are permitted under the following conditions:

(1) Not to exceed ninety-six inches in height;

(2) Only permitted to protect construction work and materials;

(3) May be permitted on any part of a lot but not encompassing any greater area than necessary to provide protection to the construction work or materials and encompassing only that part of a lot necessary to allow construction activity and access around the structures;

(4) Shall be removed upon completion of the construction work or the availability of other protection within the lot. On lots or areas in which more than one building will be under construction, the area enclosed by the fence shall be reduced as construction proceeds.

(5) Such temporary fence shall not obstruct the visibility of the construction site nor prevent access to the site by emergency vehicles.

(6) No fence shall be erected within that triangular area required for sight distance of vehicles entering or exiting the property or entering an adjacent intersection in conformance with the "design standards" and "guidelines and regulations for driveway design" of the city.

(b) Temporary paving plants used for the paving of federal or state highways or county roads are permitted in any zoning district during the project construction period under the following conditions:

(1) The plant shall be located outside the city limits on premises abutting the specific construction project and having access to a paved road.

(2) The boundaries of the property used for the plant shall be located no closer than 300 feet from an occupied dwelling or from any school, church, library, early childhood care facility, hospital, motel, or park.

(3) The permittee shall require its suppliers to use paved roads or other designated truck routes approved by the County Engineer for the delivery of supplies to the paving plant.

(4) Paving material prepared at the plant shall not be transported to any location other than the abutting project.

(5) The plant shall be removed upon substantial completion of the construction project.

(c) Temporary concrete batch plants. Temporary concrete batch plants are permitted in any zoning district by administrative permit issued by the Planning Director. The Planning Director shall not issue a permit or renew a permit without written approval by the Director of the Lincoln-Lancaster County Health Department.

(1) Applications for the administrative permit shall include:

(i) A site plan showing the entire limits of the permit area including the plant location, material storage areas, and the ingress/egress;

(ii) A dust control and suppression plan including the plant operations and haul roads to and from plant to project;

(iii) A statement indicating the typical hours of operation. The plant may operate no more than fourteen hours per day, except on New Year Day, Memorial Day, the 4th of July, Labor Day, Thanksgiving Day, and Christmas when the operation shall not begin before noon;

(iv) A description or manufacturer's specification regarding particulate control equipment;

(v) A copy of a signed contract or other verification that the applicant is under contract to supply concrete for a project requiring at least 3,000 yards of concrete located within the same section or one mile of the permitted plant. The contract or other verification shall include the commencement and ending dates of the project. The Planning Director may increase the one-mile distance limit to no more than two miles if necessary to avoid routing trucks through local streets or inadequate county roads, or locations near occupied dwellings, schools, libraries, churches, or other noise or dust sensitive uses; and

(vi) A noise control plan that will allow the operation to comply with Chapter 8.24 of the Lincoln Municipal Code.

(vii) A copy of a signed lease or other verification that the applicant has permission of the owner of the land upon which the plant shall be located to locate the plant thereon.

(2) The administrative permit shall be issued under the following conditions:

(i) The plant shall be located on premises in the same section or within one mile of the

project identified on the application or as authorized under subparagraph (c)(1)(v) above;

(ii) The silo, batch plant, and aggregate storage shall be located no closer than 300 feet from an occupied dwelling or from any school, church, library, early childhood care facility, hospital, motel, or park;

(iii) The permittee shall require its suppliers to use only paved roads approved by the Director of Public Works or the County Engineer as the case may be, for the delivery of supplies to the concrete batch plant. The permittee shall further require that the drivers of concrete trucks leaving the plant also use said paved roads. EXCEPTION: The use of nonpaved roads may be approved on a case-by-case basis by the Director of Public Works or County Engineer. Additional bonding may be required to pay for repairs of damage to such nonpaved roads;

(iv) The plant shall be removed upon completion of the project identified in the application; or upon construction and occupancy resulting in a violation of subparagraph (c)(2)(ii) above. The permit site shall be cleaned up and restored to its pre-permit condition within thirty days following the completion of the project;

(v) All concrete produced by this plant shall be used to complete the project, except that the permittee may use the concrete product for sidewalks, driveways, foundations, parking lots, and other small concrete work to be performed by the permittee. The concrete shall not be provided for concrete work to be performed by persons other than the permittee. The amount of concrete produced for small concrete work shall not exceed fifty percent of that produced for the project;

(vi) The plant shall be recalibrated to the satisfaction of the Public Works and Utilities Department prior to construction of any public improvement using concrete produced by this plant;

(vii) The anticipated set up and removal dates shall be identified on the application. Amendments to these dates must be requested to the Planning Director in writing;

(viii) The applicant shall submit a performance bond satisfactory to the City Attorney in the amount of \$5,000 to guarantee performance and clean up of the permit site.

(3) Permits issued pursuant to this section shall expire on December 31 of each year or the completion date of the project as set forth in the permit application, whichever is earlier. The

Planning Director may extend the expiration date by an administrative amendment upon a showing that the project completion is delayed by weather or other causes beyond control of the permittee, or that the permittee has contracted for another project in conformance with subparagraph (a) above; however, no extension of the expiration date may extend the permit beyond December 31 of the year of issuance.

Renewal of a previously issued permit shall be by application in the same form as the original permit.

(4) The Planning Director may revoke the temporary permit for any one or more of the following violations:

(i) Failure to operate the facility in accordance with the provisions of this section or with the approved application;

(ii) A violation of any city, county, state, or federal law;

(iii) Denial of access to the site to determine compliance with this section;

(iv) Unreasonable noise or disturbance to the surrounding neighborhood;

(5) The action of the Planning Director in approving, denying, refusing to renew or revoking a permit pursuant to this section may be appealed. Any aggrieved person may appeal the action of the Planning Director to the Planning Commission by filing notice of appeal with the Planning Director within fourteen days following the decision of the Planning Director. Final action by the Planning Commission may be appealed to the City Council by any aggrieved person by filing notice of appeal with the City Clerk within fourteen days following the action by the Planning Commission. (Ord. 17501 § 1; May 3, 1999; prior Ord. 17214 §1; July 14, 1997; Ord. 13221 §1; October 12, 1981; Ord. 12571 §384; May 8, 1979).

**27.71.130 More Than One Main Building on Business, Commercial, or Industrial Tract.**

Where a lot or tract is used for a business, commercial, or industrial purpose, more than one main building may be located upon the lot or tract; but only when such buildings conform to all open space requirements around the lot for the district in which the lot or tract is located. (Ord. 12571 §385; May 8, 1979).

**27.71.140 Two or More Buildings for Two-family Dwellings, Multiple-family, Institutional or Hotel Purposes.**

In the event that a lot is to be occupied by a group of two or more buildings to be used as a unit for any combination of two-family dwellings, multiple-family dwelling, institutional, or hotel purposes, there may be more than one main building on the lot; provided, however, that the open space between buildings shall have a minimum dimension of twenty feet for one-story buildings, thirty feet for two-story buildings, and forty feet for three-story buildings. (Ord. 13326 §1; March 1, 1982; prior Ord. 12571 §386; May 8, 1979).

**27.71.150 Multiple Dwelling Considered as One Building.**

For the purpose of the side yard regulations, a two-family dwelling or a multiple dwelling shall be considered as one building occupying one lot. (Ord. 12571 §387; May 8, 1979).

**27.71.155 Projection of Building Facades into the Required Front Yard in the R-4, R-5, R-6, R-7, and R-8 Districts in Areas of the City Annexed Prior to January 31, 1949.**

The following provisions shall apply to the R-4, R-5, R-6, R-7 and R-8 districts in areas of the City annexed prior to January 31, 1949. In order to encourage variation of the front elevation, up to twenty-five percent of the length of the principal street facade of a building may project up to two feet into the required front yard. Notwithstanding the above, a porch may not project into a required front yard beyond that otherwise allowed by Section 27.71.100 or Section 27.71.110. (Ord. 17664 §11; May 1, 2000).

**27.71.160 Public Utilities.**

Notwithstanding the regulations of the various districts, public utilities structures may be erected where necessary in any district on any lot of one acre or more in area. Poles and towers used for the support of wires and appurtenant equipment for supplying public utility services shall not be considered as structures or buildings under this title. When located adjacent to any residential district, such structures shall be screened in conformance with the standards adopted by resolution of the City Council. (Ord. 12571 §389; May 8, 1979).

### **27.71.170 Adjustment of Front Yard Requirements.**

The front yards located within the same zoning district may be adjusted in the hereinafter-stated circumstances. This section shall not apply to the R-3, O-3, B-2, B-5, H-4, and I-3 zoning districts.

(a) Where any forty percent (40%) or more of the frontage in the same zoning district is developed with two or more main buildings that have (with a variation of five feet or less) a front yard greater in depth than herein required, new buildings shall not be erected closer to the street than the greater of the front yards established by the existing main building nearest the street line.

(b) Where any forty percent (40%) or more of the frontage in the same zoning district is developed with two or more buildings that have a front yard of less depth than herein required, then:

(1) Where a building is to be erected on a parcel of land that is within 100 feet of existing main buildings on both sides, the minimum front yard shall be a line drawn between the two closest front corners of the adjacent main building on each side; or

(2) Where a building is to be erected on a parcel of land that is within 100 feet of an existing main building on one side only, such building may be erected as close to the street as the existing adjacent main building. (Ord. 17232 §21; August 18, 1997; prior Ord. 13588 §21; May 9, 1983; Ord. 13363 §1; 1982; Ord. 13084 §1; January 26, 1981; Ord. 12979 §1; August 25, 1980; Ord. 12571 §390; May 8, 1979).

### **27.71.175 Adjustment of Yard and Lot Area Requirements to Allow the Subdivision of a Lot.**

(a) Subdivision of a Two-Family Dwelling on a Corner Lot. In the R-1, R-2, R-3, R-4, R-5, R-6, R-7, and R-8 zoning districts, the Planning Director may adjust the required side yard, rear yard, or lot area for a single-family dwelling to permit the subdivision of a corner lot occupied by a two-family dwelling constructed as two attached single-family dwellings within a single structure into two lots each occupied by one of the two single-family dwellings; provided, however, the two-family dwelling must have conformed to the required lot area and yard regulations prior to the subdivision.

(b) Subdivision of a Two-Family Dwelling on an Interior Lot. In the R-1, R-2, R-3, R-4, R-5, R-6, R-7, and R-8 zoning districts, the Planning Director may adjust the lot area, lot width, or both, for a

single-family dwelling to permit the subdivision of an interior lot occupied by or to be occupied by a two-family dwelling constructed as two attached single-family dwellings within a single structure into separate lots each occupied by one of the single-family dwellings within said two-family dwelling; provided, the lot to be subdivided conforms to the required lot area regulations for the two-family dwelling prior to the subdivision.

(c) Subdivision of a Townhouse on an Interior Lot. In the R-5, R-6, R-7, and R-8 zoning districts, the Planning Director may adjust the lot area, lot width, or both, for a single-family dwelling to permit the subdivision of an interior lot occupied by or to be occupied by a townhouse into two or more separate lots each occupied by one of the single-family dwellings within said townhouse; provided, the lot to be subdivided conforms to the required lot area regulations for the townhouse prior to the subdivision. (Ord. 17290 §1; February 9, 1998; prior Ord. 16971 §6; April 22, 1996).

### **27.71.180 Side and Rear Yard Requirements.**

The requirements of side or rear yards on lots that are required to provide three or more front yards or their equivalent may be modified in the following circumstances:

(a) A lot in a dwelling district need provide only a side yard on an interior lot line when the required yard on the adjacent property is also a side yard. A rear yard shall be required on an interior lot line when the required yard on adjacent property is a rear yard.

(b) A lot in a business, commercial, or industrial district need provide only a side yard on an interior lot line unless the lot is occupied by a dwelling other than a hotel or motel, or the adjacent property is in a dwelling district, in which case the rules of subsection (a) of this section shall apply. (Ord. 12571 §391; May 8, 1979).

### **27.71.190 Building Line District.**

On those streets and highways shown on the "Lincoln Building Line District Map," dated November 1, 1985, which is adopted as a part hereof and incorporated by reference herein, and as the same may be from time to time amended, no structure, sign, parking, or required vehicle stacking shall be located, constructed, or erected within an area designated as a building line district, except as permitted under Section 27.71.200. At intersections

that are designated as being within a building line district, the district shall extend for a distance of 650 feet from the centerline of the intersecting street or to the next lot line beyond 650 feet, but not to exceed 700 feet. The street centerlines referred to in this section and on the "Lincoln Building Line District Map" refer to the street centerlines as they existed on the effective date of this title. (Ord. 15129 §1; March 20, 1989; prior Ord. 14386 §1; May 19, 1986: Ord. 13556 §1; March 7, 1983: Ord. 12947 §3; June 30, 1980: Ord. 12571 §392; May 8, 1979).

**27.71.200 Uses Within Building Line Districts; Adjustments.**

(a) The City Council may authorize by resolution the location or placement of accessory buildings and structures, not including main buildings or accessory buildings which are part of a main building, within a building line district; provided that such location or placement otherwise meets the requirements of all applicable ordinances, codes, and design standards. Where such uses are not otherwise permitted in the required yard by the applicable district regulations, such uses may not be located within a building line district but the city council, by resolution, may allow such uses to encroach into the required yard, measured from the yard line, a distance equal to the width of the building line district, but in no event beyond the required yard. The applicant for such building or structure shall agree in writing that it shall be moved at the sole cost of the applicant whenever necessary for public use.

(b) Parking spaces, other than required parking, and signs may be located within a building line district and shall not require authorization by the City Council if the applicable district regulations otherwise permit the location of such uses in the required yard. Where such uses are not otherwise permitted in the required yard by the applicable district regulations, such uses may not be located within a building line district but may encroach into the required yard, measured from the yard line, a distance equal to the width of the building line district, but in no event beyond the required yard. Such parking spaces or signs shall comply with all other applicable ordinances, codes, and design standards relating thereto. Signs authorized by this section shall be removed at the sole cost of the property owner whenever necessary for public use. In the case of parking authorized by this section, the property owner shall agree to reimburse the city for the costs of re-

moval of the parking which exceed the costs the city would normally incur in the widening of such street without the existence of such parking spaces.

(c) The City Council may modify the building line district along the frontage in a block to permit reasonable use of individual property; provided, however, that such a modification shall be granted only when the City Council finds that the modification will not interfere with reasonably anticipated future right-of-way requirements. Any such modification shall first be submitted to the Planning Commission for its recommendation and report and, prior to action by the Planning Commission, all property owners of the frontage in the block for which the modification is requested shall be notified of such request by United States mail. This notice shall be in addition to, and not in lieu of, the notice requirements of Chapter 27.81 of this code.

(d) For purposes of this section, the yard line and the required yard shall be measured from the building line district line rather than the lot line or property line. (Ord. 15129 §2; March 20, 1989; prior Ord. 14386 §2; May 19, 1986: Ord. 14253 §1; October 21, 1985: Ord. 13556 §2; March 7, 1983: Ord. 12720 §1; October 22, 1979: Ord. 12571 §393; May 8, 1979).

**27.71.210 Enlargement and Alteration of Lots.**

(a) Any lot or premises which does not meet the area, width, or frontage requirements, or any combination thereof, of the district in which it is situated, may be enlarged without affecting the purposes for which it may be used; provided, that such enlargement does not result in the creation of an additional lot which does not conform to the applicable requirements of this code.

(b) In the AG or AGR zoning district, the common lot lines of two or more adjoining lots, both or all of which do not meet the area, width, or frontage requirements, or any combination thereof, of the district in which such lots are situated, may be altered without affecting the purposes for which such lots may be used, provided:

(1) That such alteration does not result in the creation of a lot which does not meet the minimum standards for water and sanitary sewage disposal systems as required by applicable state, county, and city regulations; and

(2) That such alteration meets all requirements of the city land subdivision ordinance.

(c) In those instances where a governmental agency acquires land for the purposes of road right-of-way from lots which were legally existing on the effective date of this title, or lots which were lawfully created after the effective date of this section, the acquisition of said right-of-way shall not affect the status of said lot as a buildable lot with respect to minimum lot area, width, or frontage requirements of this title provided:

(1) That all new construction, enlargements, extensions, or conversions of any buildings, structures, or uses including open land uses shall comply with all applicable provisions of this title.

(2) That such lots located in AG and AGR districts contain a minimum of one acre and have an average lot width of not less than 150 feet.

(3) That such lots located in an "R" residential district contain a lot area of not less than 4,000 square feet and an average lot width of not less than forty feet. (Ord. 16409 §1; July 6, 1993; prior Ord. 15615 §1; July 9, 1990; Ord. 13324 §1; March 1, 1982; Ord. 13100 §1; March 2, 1981).

#### **27.71.220 Replacing Non-standard Accessory Building on Narrow Lot.**

In the R-1, R-2, R-4, R-5, R-6, R-7, and R-8 zoning districts, a new or replacement accessory building may be erected on the site of an existing detached accessory building constructed on or before November 2, 1953, on a lot of record with an average lot width of less than fifty feet although the site does not meet the required minimum setback from a side, rear, or side and rear lot line(s), provided:

(a) Such new or replacement accessory building does not extend beyond the exterior perimeter of the existing accessory building; and

(b) Such new or replacement accessory building shall otherwise comply with all applicable city ordinances. (Ord. 13527 §1; January 3, 1983).

#### **27.71.230 Minimum Separation Between Buildings and Pedestrian Way Easement.**

The minimum separation between a building and a pedestrian way easement shall be ten feet. (Ord. 13957 §1; September 17, 1984).

#### **27.71.240 Yard Accessories in Required Yards.**

Poles, posts, and other customary yard accessories, ornaments, and furniture may be located in any yard subject to requirements limiting obstruction of visibility and height limitations. (Ord. 14448 §1; July 28, 1986).

#### **27.71.250 Buildings, Churches, Height of.**

In all districts where churches are allowed, the main church building including church steeples, towers, and ornamental spires, used for the conduct of worship or religious services, may exceed the district height limit by the addition of one foot for each foot that such building is set back from all required yards. (Ord. 17105 §1; December 2, 1996).

#### **27.71.260 Premises That Do Not Meet the Minimum Acreage Requirement of the O-3, B-2, B-5, or I-3 District.**

A use permit may be granted upon a premises which does not meet the minimum total acreage requirement for approval of a use permit in the O-3, B-2, B-5, or I-3 zoning district, provided that:

(a) The premises was legally created prior to January 1, 2000;

(b) The premises has remained under separate ownership from adjoining properties formerly in the applicable district; and

(c) The zoning district in which the premises is located has been reduced in size by other changes of zone isolating the premises from similarly zoned properties. (Ord. 17668 §1; May 15, 2000).



## Chapter 27.75

### BOARD OF ZONING APPEALS

#### Sections:

- 27.75.010 Creation; Membership.
- 27.75.020 Meetings.
- 27.75.030 Appeal Procedure.
- 27.75.040 Jurisdiction.
- 27.75.050 Decisions of Board; Scope and Factors Considered.
- 27.75.060 Decision of Board Transmitted to City Clerk.

#### 27.75.010 Creation; Membership.

The Board of Zoning Appeals is hereby continued, and members of the board on the effective date of this title shall continue to serve for the remainder of their appointed terms. The members of said board shall be appointed by the Mayor with the consent of the City Council, and such members must be approved by the County Board of Commissioners before the board may be the City-county Board. There shall be five members of the board, and not less than one nor more than two shall be members of the Planning Commission. Two members of the board shall have experience in the fields of real estate, law, planning, or related fields. Appointments shall be made for a term of five years, and one term shall expire each year. Vacancies shall be filled by appointment for the unexpired term only. Members may be removed by the affirmative vote of four members of the City Council after being given a written statement of the charges, and a hearing, which shall be a public hearing if the member so requests. (Ord. 12571 § 394; May 8, 1979).

#### 27.75.020 Meetings.

The members of the Board of Zoning Appeals shall meet at least once each month at such time and place as they may fix by resolution. They shall select one of their number as chairman, who shall serve one year and until a successor has been selected. Special meetings may be called at any time by the chairman. A majority of the board shall constitute a quorum for the transaction of business, and three affirmative votes shall be required for final action on any matter acted upon by the board. The board shall cause a proper record to be kept of its proceedings. (Ord. 12571 § 395; May 8, 1979).

#### 27.75.030 Appeal Procedure.

(a) Appeals to the Board of Zoning Appeals may be taken by any person aggrieved or by any office, department or bureau of the City of Lincoln affected by any decision of the director of building and safety. The decision of the director of building and safety shall be made in writing and the appeal shall be taken within sixty days from such written decision by filing with the director of building and safety a notice of appeal specifying the grounds thereof. The Director of Building and Safety shall forthwith transmit to the Board of Zoning Appeals all the papers constituting the record upon which the action appealed from is taken.

(b) Upon receipt of the appeal by the board, the board shall fix a reasonable time for the hearing thereon within thirty days. Notice shall be given as provided in Chapter 27.81.

(c) If, due to the absence of one or more of the members of the board, any proposition put to a vote shall fail to receive three or more votes either for or against, said proposition shall be deemed to have received neither approval nor disapproval. (Ord. 12571 § 396; May 8, 1979).

#### 27.75.040 Jurisdiction.

The jurisdiction of the Board of Zoning Appeals shall be limited to the following:

(a) Powers relative to errors. To hear appeals where it is alleged there is an error in any order, decision, or determination made by an administrative official in the enforcement of this title;

(b) Powers relative to variances. To hear and decide upon petitions for variances and, subject to such standards, principles, and procedures provided in this title, to vary the strict application of the height, area, parking, density or sign requirements to the extent necessary to permit the owner a reasonable use of the land in those specified instances where there are peculiar, exceptional and unusual circumstances in connection with a specific parcel of land, which circumstances are not generally found within the locality or neighborhood concerned.

(c) Powers relative to exceptions. Upon petition, the board is hereby empowered to make the following zoning exceptions:

- (1) To permit the reconstruction of a nonconforming building which has been destroyed, or partially destroyed by fire or act of God where the board shall find some compelling public necessity

requiring the continuance of the nonconforming use;

(2) To interpret the provisions of the title where the street layout actually on the ground varies from street layout as shown on the map fixing the several districts, which map is attached to and made a part of the title;

(3) To reduce the parking requirements in the commercial, business or industrial districts whenever the character of the use of building is such as to make unnecessary the full provisions of parking facilities as required. In permitting a reduction, the board may restrict the use of the building to uses requiring a similar reduced number of parking facilities. The granting of a reduction in parking requirements shall not serve as a convenience to the petitioner but shall recognize the varying demands for off-street parking by different uses that cannot reasonably be determined in detail in the zoning ordinance.

(d) Powers relative to airport zoning. The board shall have the power designated to it by Sections 27.59.110 and 27.59.120. (Ord. 14649 §1; April 20, 1987; prior Ord. 13440 §1; September 7, 1982; Ord. 12571 §397; May 8, 1979).

Annot.: Use variances are customarily concerned with "hardship" while area variances are customarily concerned with "practical difficulty." Alumni Control Board v. City of Lincoln, 179 Neb. 194, 137 N.W.2d 800 (1965).

Proper criteria on review of application for variance include:

(1) Whether strict compliance would preclude a permitted use of property;

(2) Whether grant of variance would do substantial justice to both property owner and neighbors;

(3) Whether relief can be granted in such a fashion that the spirit of the ordinance will be observed and the public safety and welfare secured. Id.

University of Nebraska housing code and economic realities applying to fraternity house operation are not practical difficulties sufficient to sustain an application for a variance.

#### 27.75.050 Decisions of Board; Scope and Factors Considered.

In exercising the above-mentioned jurisdiction, the board may in conformity with the provisions of this title reverse or affirm, wholly or partially, or may modify the order, requirement, decision, or determination appealed from and may make such decision as ought to be made. In considering all appeals and petitions within its jurisdiction under this title, the board shall, before making any finding in a specific case, first determine that the proposed change will not constitute a change in the district map and will not impair an adequate supply of light and air to adjacent property, or increase the congestion in public streets, or increase the public danger of fire and safety, or materially diminish or impair established property values within the surrounding area, or in any other respect impair the public health, safety, comfort, morals, and welfare of the City of Lincoln. In making a determination, the board may request information and recommendations from any department of the City of Lincoln. Every decision by the board shall be accompanied by a written finding of fact based on testimony and other evidence, specifying the reason for granting or denying the variation. In the event that the proposed variance or exception is denied by the Board of Zoning Appeals, no new request shall be made for the same or a substantially similar variance or exception within one year of said denial thereof. (Ord. 12571 §398; May 8, 1979).

27.75.060 Decision of Board Transmitted to City Clerk.

Decisions of the Board of Zoning Appeals, accompanied by the written findings of fact, shall be transmitted to the City Clerk by the board within one week after such actions have been taken. Any decision approving an appeal shall be by resolution of the board, a certified copy of which shall be filed with the Register of Deeds by the petitioner at the expense of the petitioner within sixty days after such approval, or such approval shall be null and void. (Ord. 12571 §399; May 8, 1979).

## Chapter 27.77

### CERTIFICATES OF OCCUPANCY AND CERTIFICATES OF COMPLIANCE

#### Sections:

27.77.010	Required for Changed or New Occupancy.
27.77.020	Certificate of Occupancy; Required for Building Permit.
27.77.030	Certificate of Occupancy; Required for Nonconforming Uses.
27.77.040	Record of Certificates of Occupancy to be Kept.
27.77.050	Special Permits; Certificate of Compliance.

#### **27.77.010 Required for Changed or New Occupancy.**

Subsequent to the effective date of this title, no change in the use or occupancy of land, nor any change of use, occupancy, or occupancy classification under the building code of any existing building or portion thereof shall be made, nor shall any new building be used or occupied, except as hereinafter specifically provided, until a certificate of occupancy has been issued by the building official. Every certificate of occupancy shall state that the new use, occupancy, or occupancy classification complies:

- (a) With the provisions of this title or with the terms, conditions, and requirements of the special permit authorizing such building or use, as the case may be; and
- (b) With the provisions of the building code.

Such certificate shall include, where applicable:

- (1) The building permit number;
- (2) Address and legal description;
- (3) The name of the owner;
- (4) A description of the building or portion thereof, or of the premises or portion thereof for which the certificate is issued;
- (5) The name of the building official issuing the same. (Ord. 12571 §400; May 8, 1979).

#### **27.77.020 Certificate of Occupancy; Required for Building Permit.**

No permit for the erection, structural alteration, conversion, enlargement or reconstruction of any building or use of land shall be issued before the application has been submitted, reviewed and a finding made that the proposed uses will meet the requirements of the zoning ordinance for a certificate of occupancy; and no building or premises shall be used or occupied until such certificate is issued. (Ord. 12571 §401; May 8, 1979).

#### **27.77.030 Certificate of Occupancy; Required for Nonconforming Uses.**

A certificate of occupancy shall be required of all lawful nonconforming uses of land or buildings created by adoption of or amendment to this title. Application for such certificates of occupancy for nonconforming uses shall be filed with the building official by the owner or lessees of the land or building occupied by such nonconforming use within two years from the date that such nonconforming use is created. It shall be the duty of the building official to issue a certificate of occupancy for a lawful nonconforming use. Failure of the building official to issue such certificate of occupancy for nonconforming use may be considered evidence that such nonconforming use did not lawfully exist at the effective date of this title or any amendment thereto creating such a nonconforming use. (Ord. 12571 §402; May 8, 1979).

**27.77.040 Record of Certificates of Occupancy to be Kept.**

A record of all certificates of occupancy shall be kept on file in the office of the building official, and copies shall be furnished on request to any person having a proprietary or tenancy interest in land or buildings affected by such certificate of occupancy. (Ord. 12571 §400; May 8, 1979).

**27.77.050 Special Permits; Certificate of Compliance.**

Upon completion of construction of any improvements as authorized or required by the City Council for any buildings or uses for which a special permit was granted, the permittee may apply for inspection and partial certification, and upon completion of construction of all such improvements, the permittee shall apply to the building official for a certificate of compliance, which certificate shall not be issued until the building official has inspected the premises covered by the special permit and has found that all terms, conditions, and requirements of the special permit have been complied with.

If the building official finds at any time that the terms, conditions, and requirements of a special permit have not been complied with, or that any phase thereof has not been completed within the time required under said special permit or any administrative amendment thereto, the building official shall report this fact to the City Council which may, after a hearing of which the permittee shall be notified, revoke such special permit for failure to comply with such terms, conditions, and requirements, or take such other action as it may deem necessary to obtain compliance.

Any amendment to a special permit approved subsequent to the issuance of a certificate of compliance for such special permit shall require application by the permittee for a new certificate of compliance which shall not be issued until the building official has ascertained that any terms, conditions, and requirements of the amendment to the special permit have been complied with.

For purposes of this section, the term "special permit" shall include authorizations under Chapters 27.31, 27.37, 27.53, 27.65, 27.63, and 27.69. (Ord. 12571 §404; May 8, 1979).

**Chapter 27.79**

**PLOT PLAN**

**Section:**

**27.79.010 Plot Plan to Accompany Application for Building Permit.**

**27.79.010 Plot Plan to Accompany Application for Building Permit.**

Each application for a building permit shall be accompanied by a plot plan showing the actual dimensions of the lot to be built upon, the size, shape, and location of the building to be erected, and such other information as may be necessary to provide for the enforcement of this title. A record of applications and plot plans shall be kept in the office of the Director of Building and Safety. (Ord. 12571 §405; May 8, 1979).

**Chapter 27.80****FEES****Sections:**

27.80.010	<b>General Regulations.</b>
27.80.020	<b>Change of Zone.</b>
27.80.025	<b>Planned Unit Development.</b>
27.80.030	<b>Use Permits.</b>
27.80.040	<b>Community Unit Plan.</b>
27.80.050	<b>Mobile Home Courts and Mobile Home Subdivisions.</b>
27.80.060	<b>Special Permit.</b>
27.80.070	<b>Administrative Amendments.</b>
27.80.080	<b>Board of Zoning Appeals.</b>
27.80.090	<b>Airport Zoning.</b>
27.80.100	<b>Parking.</b>
27.80.105	<b>Flood Plain Development Permits.</b>
27.80.110	<b>Changes in Text.</b>
27.80.120	<b>Subdivision Promotion Activity Permits.</b>
27.80.130	<b>General Fees.</b>
27.80.140	<b>Exemption for City Filing on Its Own Behalf.</b>

**27.80.010 General Regulations.**

The fees set forth in this chapter shall apply to this title. Under no condition shall any fee required hereunder be refunded for failure of said application to be granted by the City Council or other appropriate authority. (Ord. 12571 §406; May 8, 1979).

**27.80.020 Change of Zone.**

The following fees shall be charged at the time of filing an application for a change of zone:

(a) For the filing of an application for a change of zone to the AG, AGR, R-1, R-2, R-3, and R-4 zoning districts:

(1) Where the area for which the change of zone is requested is one acre or less, the application fee shall be \$195.00;

(2) Where the area for which the change of zone is requested is in excess of one acre, the application fee shall be \$290.00;

(b) For the filing of an application for a change of zone to all other zoning districts:

(1) Where the area for which the change of zone is requested is one acre or less, the fee shall be \$290.00;

(2) Where the area for which the change of zone is requested is in excess of one acre, the fee shall be \$585.00. (Ord. 17548 § 1; September 7, 1999; prior Ord. 15214 §1; July 10, 1989; Ord. 12571 §407; May 8, 1979).

**27.80.025 Planned Unit Development.**

The filing fees for an application for a planned unit development shall be as follows:

(a) For the filing of a pre-application, \$100.00.

(b) For the filing of a preliminary plan, \$400.00.

(c) For the filing of a final plan, \$400.00. (Ord. 17548 § 2; September 7, 1999; prior Ord. 15214 §2; July 10, 1989).

**27.80.030 Use Permits.**

(a) The application fee shall be \$585.00 for filing an application for a use permit in the B-2, B-5, O-3, R-T, and I-3 zoning districts.

(b) The application fee for a combined use permit and permitted special use shall be \$975.00. (Ord. 17548 § 3; September 7, 1999; prior Ord. 17232 §22; August 18, 1997; Ord. 16789 §1; May 8, 1995; Ord. 15214 §3; July 10, 1989; Ord. 14138 §5; July 1, 1985; Ord. 12751 §33; November 5, 1970; Ord. 12571 §408; May 8, 1979).

**27.80.040 Community Unit Plan.**

The application fee for filing an application for a special permit for a community unit plan as required in Chapter 27.65 shall be a filing fee of \$195.00, plus a unit fee of \$20.00 per dwelling unit to a maximum unit fee of \$2,000.00. Credit shall be given for any lot fees paid in connection with subdivision of the community unit plan. (Ord. 17548 §4; September 7, 1999; prior Ord. 15214 §4; July 10, 1989; Ord. 12571 §409; May 8, 1979).

**27.80.050 Mobile Home Courts and Mobile Home Subdivisions.**

The fee for an application for a special permit for a mobile home court or a mobile home subdivision under Sections 27.63.120 and 27.63.125 shall be a filing fee of \$195.00, plus a unit fee of \$40.00 per mobile home shown on the application to a maximum

unit fee of \$2,000.00. Credit shall be given for any lot fees paid in connection with subdivision of the mobile home subdivision. (Ord. 17548 § 5; September 7, 1999; prior Ord. 15214 §5; July 10, 1989; Ord. 12657 §18; August 6, 1979; Ord. 12571 §410; May 8, 1979).

**27.80.060 Special Permit.**

The filing fee for an application for a special permit under Chapter 27.63, other than mobile home courts, mobile home subdivisions, and community unit plans, shall be as follows:

(a) If the area for which the special permit is requested is one acre or less, the fee shall be \$195.00;

(b) If the area for which the special permit is requested is in excess of one acre, the fee shall be \$585.00;

(c) The fee for a special permit requested as part of a use permit application shall be that specified in Section 27.80.030(b). (Ord. 17548 § 6; September 7, 1999; prior Ord. 15214 §6; July 10, 1989; Ord. 14138 §6; July 1, 1985; Ord. 12571 §411; May 8, 1979).

**27.80.070 Administrative Amendments.**

The filing fee for an application for an administrative amendment to a special permit, to a use permit, or to a planned unit development shall be \$100.00. (Ord. 17548 § 7; September 7, 1999; prior Ord. 15214 §7; July 10, 1989; Ord. 12571 §412; May 8, 1979).

**27.80.080 Board of Zoning Appeals.**

The filing fee for an application for an appeal to the Board of Zoning Appeals shall be \$195.00. (Ord. 17548 § 8; September 7, 1999; Ord. 15214 §8; July 10, 1989; Ord. 12571 §413; May 8, 1979).

**27.80.090 Airport Zoning.**

The filing fee for an application for a height permit in connection with the airport zoning district, Chapter 27.59, shall be \$195.00. (Ord. 17548 § 9, September 7, 1999; prior Ord. 15214 §9; July 10, 1989; Ord. 12571 §414; May 8, 1979).

**27.80.100 Parking.**

The filing fee for an application for a reduction in required parking as provided in Section 27.67.030 shall be \$195.00. (Ord. 17548 § 10; September 7, 1999; prior Ord. 15214 §10; July 10, 1989; Ord. 12571 §415; May 8, 1979).

**27.80.105 Flood Plain Development Permits.**

The filing fee for an application for a flood plain development permit under Chapter 27.55 shall be as set forth in the Lincoln Building Code. (Ord. 17063 §1; September 23, 1996).

**27.80.110 Changes in Text.**

The filing fee for an application for a change of text in Title 27 of the Lincoln Municipal Code shall be \$195.00. (Ord. 17548 § 11; September 7, 1999; prior Ord. 15214 §11; July 10, 1989; Ord. 12571 §416; May 8, 1979).

**27.80.120 Subdivision Promotion Activity Permits.**

The filing fee for a subdivision promotion activity permit, as provided in Section 27.70.030, shall be \$20.00. (Ord. 17548 § 12; September 7, 1999; prior Ord. 15214 §12; July 10, 1989; Ord. 12571 §417; May 8, 1979).

**27.80.130 General Fees.**

The filing fee for an application in connection with Title 27 of the Lincoln Municipal Code not otherwise covered by this chapter shall be \$195.00. (Ord. 17548 § 13; September 7, 1999; prior Ord. 15214 §13; July 10, 1989; Ord. 12571 §418; May 8, 1979).

**27.80.140 Exemption for City Filing on Its Own Behalf.**

No fee shall be required when any action is recommended by the City Council on its own motion or by any person or group officially designated to participate in the administration of this title. (Ord. 12571 §419; May 8, 1979).

## Chapter 27.81

### GENERAL PROVISIONS

#### Sections:

- 27.81.010 General Regulations.
- 27.81.020 Interpretation, Purpose, and Conflict.
- 27.81.025 Publication in Pamphlet Form.
- 27.81.030 Purpose of Catch-heads, Introductory Statements, and Illustrations.
- 27.81.040 Amendments.
- 27.81.050 Notice of Public Hearings.
- 27.81.060 Enforcement.
- 27.81.070 Violation and Penalty.
- 27.81.080 Severability.
- 27.81.090 Conflicts.
- 27.81.100 Savings Clause.
- 27.81.110 When Effective.

#### 27.81.010 General Regulations.

The following general regulations shall apply to all zoning districts:

(a) Except as otherwise provided in this title, no building shall be erected, converted, enlarged, reconstructed, or structurally altered, nor shall any structure or land be used:

(1) Except for a purpose permitted in the district in which the structure or land is located;

(2) Except in conformance with the height and minimum lot requirements, and the parking and sign regulations, and any other applicable requirements of the district in which the structure or land is located.

(b) The minimum yards and other open spaces, including lot area per family, required by this title for each and every building at the time of passage of this title or for any building hereafter erected shall not be encroached upon or considered as yard or open space requirements for any other buildings, nor shall any lot area be reduced beyond the district requirements of this title.

(c) There shall be no grading or disturbance of any land greater than two acres in size, except for tilling, cultivation, or agriculturally related conserva-

tion practices without first submitting a drainage and grading plan to the Director of Public Works and Utilities setting forth the requirements of the design standards applicable to stormwater management, erosion, sedimentation control, and flood corridors, and obtaining approval of said plan; provided, however, that the requirement to preserve a minimum flood corridor will not apply to property within a subdivision approved prior to the effective date of this ordinance. The required grading and drainage plan may be waived by the Director of Public Works and Utilities upon submittal of a written request for such waiver stating that the grading or land disturbance is conducted as part of agricultural operations, that the land will remain in agricultural use for a period not less than three years, and that grading or land disturbance for any other purposes shall not be conducted prior to submitting and obtaining approval of a grading and drainage plan as required by this section.

(d) Every building hereafter erected or structurally altered shall be located on a lot as herein defined and in no case shall there be more than one main building on one lot except as otherwise provided in Chapters 27.65 and 27.71.

(e) All inhabited or occupied mobile homes shall conform to one of the following:

(1) Used as a dwelling and located in a mobile home court or mobile home subdivision operating under a valid special permit in conformance with Chapter 27.63;

(2) Used as a dwelling associated with a farm;

(3) Used as a temporary office or shelter incidental to construction or development on the premises on which the mobile home is located; or

(4) One mobile home may be used as an office in any mobile home court or mobile home subdivision operating under a valid special permit in conformance with Chapter 27.63; provided, the mobile home used as an office is located on an approved mobile home space or lot and such office is used only for conducting the business of the mobile home court or subdivision in which the office is located. Said mobile home may also be used as a dwelling.

(5) One mobile home may be used as an office in any campground operating under a valid

special permit in conformance with Chapter 27.63; provided, the mobile home is used only for conducting the business of the campground. Said mobile home may also be used as a dwelling for the campground manager.

A mobile home not in conformance with one of the above shall not be occupied or inhabited; nor shall it be connected to utilities, except when being displayed for sale by a dealer or manufacturer.

(f) If a single building or lot is located in two or more zoning districts, each part of the building or lot shall comply with the regulations of the district in which it is located, except as provided in Chapter 27.05 or Chapter 27.75. (Ord. 17618 §28; February 22, 2000; prior Ord. 14469 §2; August 18, 1986: Ord. 14348 §1; March 31, 1986: Ord. 13535 §6; January 24, 1983: Ord. 12571 §420; May 8, 1979).

#### **27.81.020 Interpretation, Purpose, and Conflict.**

In interpreting and applying the provisions of this title, they shall be held to be the minimum requirements for the promotion of the public safety, health, convenience, comfort, prosperity and general welfare. It is not intended by this title to interfere with or abrogate or annul any easements, covenants, or other agreements between parties, except that if this title imposes a greater restriction, this title shall control. (Ord. 12571 §421; May 8, 1979).

#### **27.81.025 Publication in Pamphlet Form.**

This title may be published in pamphlet form for distribution in the city. (Ord. 12571 §421; May 8, 1979).

#### **27.81.030 Purpose of Catch-heads, Introductory Statements, and Illustrations.**

The catch-heads appearing in connection with the sections of this title are inserted simply for convenience to serve the purpose of an index. The introductory statements found at the beginning of each zoning district are to serve as general references only. The illustrative examples of zoning terms found at the end of Chapter 27.03 and at the end of Section 27.71.190 are inserted simply for convenience and clarification. The catch-heads, introductory statements, and illustrative examples of zoning terms shall be wholly disregarded by any person, officer, court,

or other tribunal in construing the terms and provisions of this title. (Ord. 14386 §3; May 19, 1986: prior Ord. 12571 §422; May 8, 1979).

#### **27.81.040 Amendments.**

The City Council may from time to time on its own motion, or on petition, amend, supplement, or otherwise modify this title. Any such proposed amendment, supplement, or modification shall first be submitted to the Planning Commission for its recommendations and report. Said report shall contain the findings of the commission regarding the effect of the proposed amendment, supplement, or modification upon adjacent property and upon the Comprehensive Plan of the City of Lincoln. After the recommendations and report of the Planning Commission have been filed, the City Council shall, before enacting any proposed amendment, supplement, or modification hold a public hearing in relation thereto, giving notice of the time and place of such hearing as provided in Section 27.81.050 hereafter. The applicant may withdraw a request for amendment at any time before notice of the public hearing before the City Council is given. After notice of public hearing has been given, the application may only be withdrawn with the approval of the City Council.

In the event that the proposed amendment or change is denied by the City Council, no new request shall be made for the same or substantially similar amendment or change within one year of said denial thereof. (Ord. 16044 §1; February 3, 1992: prior Ord. 12571 §423; May 8, 1979).

#### **27.81.050 Notice of Public Hearings.**

Public hearings required to be held by the City Council, Planning Commission, Historic Preservation Commission, or Board of Zoning Appeals under this title shall not be held until notice thereof has been given in compliance with the following provisions:

(a) A notice shall be posted in a conspicuous place on or near the property upon which action is pending. The notice shall be posted upon or as near to the subject premises as possible so that it is easily visible from the street, and such notice shall be so posted for at least eight consecutive days before the date of such hearing. It shall be unlawful for any person to remove, mutilate, destroy, or change the posted notice prior to the hearing.

(b) At least eight days before the date of hearing, the City Clerk shall have published in a daily newspaper having a general circulation in the City of Lincoln a notice of the time, place, and subject matter of the public hearing.

(c) For public hearings required to be held by the Historic Preservation Commission for an application for a designation as a landmark or landmark district or for a special permit, and for public hearings required to be held by the Planning Commission and the Board of Zoning Appeals, additional notice shall be given as follows: At least ten days before the date of hearing, the Planning Director shall cause notice of the requested item to be sent (i) to the record owner or owners of the property upon which action is pending when the petitioner for such request is other than the owner or any person or group officially designated to participate in the administration of this title and (ii) to the record owners of property located within 200 feet of the property upon which action is pending when such owners' property is located within the corporate limits of the city and to the record owners of property located within one-fourth mile of the property upon which action is pending when such owners' property is located outside the corporate limits of the city; provided, however, that subsections (i) and (ii) shall not apply when the petitioner for such request is any person or group officially designated to participate in the administration of this title. Such notice shall be sent by regular United States mail, postage prepaid, to each owner's address as it appears on the last equalized assessment roll of the county or as known to the Planning Director.

(d) No decision or recommendation which the Historic Preservation Commission, the Planning Commission, or the Board of Zoning Appeals is required to make under this title shall be void or invalidated or affected in any way, for any irregularity, defect, error, or failure on the part of the Planning Director to cause notice to be given as required in subsection (c) above.

(e) It shall not be necessary to give further notice of adjourned or continued public hearing.

(f) Other notice, as may be deemed appropriate by the public body conducting the hearing, may be given in advance of public hearings. Such notice is not mandatory or required as a condition precedent to any such public hearing. (Ord. 15764 §1; October 29,

1990: prior Ord. 15214 §14; July 10, 1989: Ord. 15212 §1; July 3, 1989: Ord. 13219 §2; October 12, 1981: Ord. 12571 §424; May 8, 1979).

#### **27.81.060 Enforcement.**

It shall be the duty of the Director of Building and Safety of the City of Lincoln to enforce this title. Appeals from a decision of the Director of Building and Safety may be made to the Board of Zoning Appeals as provided in Chapter 27.75. (Ord. 12571 §425; May 8, 1979).

#### **27.81.070 Violation and Penalty.**

The owner or agent of a building or premises in or upon which a violation of any provision of this title has been committed or shall exist, or the lessee or tenant of an entire building or entire premises in or upon which violation has been committed or shall exist, or the agent, architect, building contractor or any other person who commits, takes part, or assists in any violation or who maintains any building or premises in or upon which such violation shall exist, shall be guilty of a misdemeanor and shall be punished by a fine not to exceed \$100.00. Each and every day that such violation continues after notification may constitute a separate offense.

In case any building or structure is in the course of being erected, constructed, reconstructed, altered, or repaired, or any excavation, filling, or grading of land is being performed in violation of this title, the building official may order such unlawful erection, construction, reconstruction, alteration, excavation, filling, or grading stopped by written notice served on any persons engaged in such activity, and any such persons shall forthwith stop such activity until authorized to proceed by the building official. Any person who continues such activity without authorization shall be deemed in violation of this section and be subject to the penalties provided hereunder.

In addition to other remedies, in case any building or structure is in the course of being, or has been, erected, constructed, reconstructed, altered, repaired, converted, or maintained or any building, structure, or land is used in violation of this title, the City Attorney may institute injunction, mandamus, or other appropriate action or proceeding to prevent such unlawful erection, construction, reconstruction, alteration, conversion, maintenance, or use or to correct or

abate such violation or to prevent the occupancy of said building, structure, or land. (Ord. 14900 §2; June 6, 1988; prior Ord. 12571 §426; May 8, 1979).

**27.81.080 Severability.**

If any section, subsection, sentence, clause, or phrase of this title is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of this title. (Ord. 12571 §427; May 8, 1979).

**27.81.090 Conflicts.**

Should any provision of this title be interpreted to conflict with any other ordinance of the City of Lincoln, or with any applicable state or federal statute, the more restrictive regulation shall apply. (Ord. 12571 §428; May 8, 1979).

**27.81.100 Savings Clause.**

This title shall in no manner affect pending actions, either civil or criminal, founded on or growing out of any ordinance, or part of any ordinance hereby repealed; this title shall in no manner affect rights or causes of action, either civil or criminal, not in suit that may have already accrued or grown out of any ordinance or part of any ordinance hereby repealed. (Ord. 12571 §429; May 8, 1979).

**27.81.110 When Effective.**

This title shall be in full force and effect from and after its passage and publication as provided by law. (Ord. 12571 §430; May 8, 1979).

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