

CHAPTER 27.62

CONDITIONAL USES

Field Code Changed

Sections:

- 27.62.010 Purpose and Scope.**
- 27.62.020 Procedures.**
- 27.62.030 Agriculture Use Group.**
- 27.62.040 Household Living Use Group.**
- 27.62.050 Group Living Use Group.**
- 27.62.060 Utilities Use Group.**
- 27.62.070 Civic Services Use Group.**
- 27.62.080 Education and Instruction Use Group.**
- 27.62.090 Office Use Group.**
- 27.62.100 Retail Sales and Services Use Group.**
- 27.62.110 Food and Drink Establishments Use Group.**
- 27.62.120 Commercial Recreation and Entertainment Facilities Use Group.**
- 27.62.130 Major Entertainment and Event Use Group. (Reserved)**
- 27.62.140 Heavy Commercial Services Use Group.**
- 27.62.150 Manufacturing, Processing, Storage and Distribution Use Group.**
- 27.62.160 Waste Management and Extractive Services Use Group. (Reserved)**

27.62.010 Purpose and Scope.

This chapter identifies those use types which are allowed as a permitted conditional use in designated zoning districts in conformance with the specified conditions of approval. The use types are classified under Use Groups which are classified by use categories such as Agriculture, Residential, Commercial and Industrial uses. (Ord. 19733 §30; June 25, 2012).

27.62.020 Procedures.

The Building and Safety Department will determine if the conditions of approval for the applicable use type set forth below have been met prior to the issuance of a building permit or prior to issuance of an occupancy permit if a building permit for the use is not required. (Ord. 19733 §30; June 25, 2012).

27.62.030 Agriculture Use Group.

Upon issuance of a certificate of occupancy, a building or premises may be used for the following use types as a permitted conditional use in the designated zoning districts and in compliance with the conditions of approval applicable for that use type.

- (a) Agricultural Attraction is allowed in the AG zoning district under the following conditions:
 - (1) The premises is located outside the city limits, contains twenty acres or more of land, and the majority of the premises is in agriculture use for the purpose of raising and harvesting crops.

- (2) The attraction has received an Amusement License from the Lancaster County Board.
 - (b) Confined feeding facilities for livestock or poultry is allowed in the AG zoning district provided the confined feeding facility does not exceed a maximum area of 15,000 square feet. (NOTE: Facilities that exceed 15,000 square feet may be allowed upon approval of a special permit for said use pursuant to Chapter 27.63).
 - (c) Greenhouses are allowed in the AG and AGR zoning Districts under the following conditions:
 - (1) In the AG zoning district 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) In the AGR zoning district:
 - (i) The minimum lot area shall be two acres;
 - (ii) All materials shall be stored inside buildings;
 - (iii) Not more than twenty-five percent of the land may be devoted to such use;
 - (iv) Greenhouses shall comply with the same setback requirements as are applicable to main buildings;
 - (d) Pet cemeteries are allowed in the AG and AGR zoning districts provided that the use has a minimum lot area of five acres;
 - (e) Urban Gardens are permitted in all zoning districts except the AG and AGR under the following conditions:
 - (1) There is no commodity sold upon the premises;
 - (2) Approval has been granted by the Lincoln Lancaster County Health Department.
- (Ord. 19733 §30; June 25, 2012).

27.62.040 Household Living Use Group.

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

(a) Dwelling units are allowed in the O-2, B-1, B-2, B-3 and B-4 zoning districts under the following conditions:

(1) In the, O-2, B-1, B-2 and B-3 zoning districts ~~and in the B-4 zoning district from 150 feet east of 17th Street to the eastern edge of the B-4 zoning district;~~

~~(i) Dwellings shall only be permitted above or below the first story of a building;~~

(ii) The front 40 feet of the first story of the building adjacent to an arterial or collector street shall be used for a nondwelling use allowed in the district, ~~except that first floor dwellings shall be permitted in Dwellings in buildings~~ that were originally constructed for a residential use prior to November 1, 1997 shall be permitted.

(ii) The first floor nondwelling use shall not:
A. be an accessory use to the residential use;
B. be a parking lot or garage;

(iii) The first story of the building shall not have more than twenty percent of its height below grade.

~~(NOTE: If the above condition (a)(1) cannot be met, the use may be allowed upon approval of a special permit pursuant to Chapter 27.63);~~

~~(2) In the B-4 zoning district from 150 feet east of 17th Street to the eastern edge of the B-4 zoning district, single family and/or two family dwellings on the first floor or in the basement of a building are prohibited.~~

(Ord. 19733 §30; June 25, 2012).

27.62.050 Group Living Use Group

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

(a) Domestic shelters are allowed in the AG, AGR, R-T and all residential zoning districts under the following conditions:

(1) 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.

(2) The maximum number of residents occupying the shelter shall not exceed one person per:

Comment [CJE1]: This is a format change it moves (2) below up to (1) since the same rules are intended to apply (the need for this clarification was identified with the 21st and N mixed Use Project)

Comment [CJE2]: 1st floor dwellings are proposed to be allowed as long as they meet the conditions in (i) (ii) and (iii).

Comment [CJE3]: There is no special permit provision for first floor residential in these commercial zoning districts in the code today.

Comment [CJE4]: This is a clarification that was more effectively included in (a) (1) above. The Use Groups Chapter 27.06 was corrected to reflect this condition.

- (i) 3,000 square feet of lot area in the AG, AGR and R-1 zoning districts;
 - (ii) 2,000 square feet of lot area in the R-2, R-3 and R-T zoning districts;
 - (iii) 1,000 square feet of lot area in the R-4 zoning district;
 - (iv) 750 square feet of lot area in the R-5, R-6, R-7 and R-8 zoning districts.
- (b) Group homes are allowed in the AG, AGR, R-T and all residential zoning districts under the following conditions:
- (1) Such use shall be permitted only so long as the facility continues to be validly licensed by the State of Nebraska.
 - (2) The distance between the proposed use and any existing group home measured from lot line to lot line is not less than:
 - (i) One-half mile in the AG, AGR, R-1, R-2, R-3 and R-T zoning districts;
 - (ii) 1,200 feet in the R-4, R-5, R-6, R-7 and R-8 zoning districts.

(Ord. 19733 §30; June 25, 2012).

27.62.060 Utilities Use Group.

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

- (a) **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. 19733 §30; June 25, 2012).

27.62.070 Civic Services Use Group.

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

- (a) Cemeteries, including mausoleums are allowed in the AG and AGR zoning districts under the following conditions:

- (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 a minimum area of twenty acres or more.
- (b) Churches are allowed in the R-1 thru R-7 and I-1, I-2 and I-3 zoning districts under the following conditions:
- (1) In the R-1 thru R-7 residential districts, the required side and rear yards shall be fifteen feet or the same as the district the use is located in, whichever is greater.
 - (2) In I-1, I-2 and I-3 zoning districts:
 - (i) The church shall develop an emergency response plan to the satisfaction of the Health Department, both written and drawn, including a house-in-place scenario and an off-site evacuation. The Health Department may provide technical assistance in this matter.
 - (ii) The church shall, within 48 hours of becoming aware that quantities of hazardous materials requiring a permit under Section 19.03.100 of the Lincoln Municipal Code are being stored, transported, dispensed, used, or handled on property within 300 feet of the building area being used for the church, notify the Health Department of such condition. Following such notification, the church shall, in cooperation and consultation with the Health Department, attempt to work with the owner of property upon which such hazardous materials are being stored, transported, dispensed, used or handled to arrive at a means to assure the health, safety, and welfare of persons using the church's property. The church shall further cooperate with the Health Department in determining measures which may be taken on the church's property to protect the health safety, and welfare of persons using the church's property, including, but not limited to, establishment of training programs for employees to assure detection of hazardous materials and evacuation of the premises, installation of filtration systems in the HVAC system of the building, or other precautionary measures.
 - (iii) The electrical breaker switch of the church's heating, ventilation and air conditioning (HVAC) system shall be clearly marked and readily accessible at all times to the church's staff or the church shall equip the building with not more than two emergency shut-off switches so the HVAC system can be immediately shut down in the case of a hazardous chemical spill in the area to the satisfaction of the Health Department. The shut-off switch shall be located so that it is easily accessible at all times to the church's staff. The church's staff shall be trained on how to locate and operate the electrical breaker switch or the emergency shut-off switch.

(Ord. 19733 §30; June 25, 2012).

27.62.080 Education and Instruction Use Group.

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

- (a) Early childhood care facilities are allowed in the AG, AGR, R-1 thru R-8, O-1, O-2, O3, and R-T zoning districts under the following conditions:
 - (1) No more than a maximum of fifteen children shall be present in the facility at any time;
 - (2) In the AG, AGR, and R-1 thru R-8 zoning districts:
 - (i) Such facilities shall be used as the permanent residence of the licensed child care provider;
 - (ii) If the facility is located in a mobile home, the facility shall have a severe weather emergency action plan approved by the Health Department.

(NOTE: Early childhood care facilities with sixteen or more children and early childhood care facilities with fifteen or fewer children not meeting the specified conditions for the above permitted conditional use may be allowed upon approval of a special permit pursuant to Chapter 27.63).

- (b) Private elementary and high schools having a curriculum equivalent to a public elementary or public high school are allowed in the R-1 thru R-8, O-1, O-2, O-3, B-1, B-2, B-3, B-5, H-2 ~~and H-3~~ **and H-4** zoning districts, provided that no rooms shall be used regularly for housing or sleeping purposes.

(Ord. 19733 §30; June 25, 2012).

Comment [CJES]: This use was previously only allowed in the H-4 by the Planned Service Commercial Special Permit. Changing it to a Conditional Use is consistent with other commercial zoning districts.

27.62.090 Office Use Group.

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

- (a) Banks, savings and loan associations, credit unions and finance companies are allowed in the R-T zoning district and in that portion of the B-4 zoning district bounded by 10th Street, 150 feet north of "P" Street, 14th Street and N Street, provided that there are no drive-up or drive-thru facilities or automatic teller machines.

(Ord. 19733 §30; June 25, 2012).

27.62.100 Retail Sales and Services Use Group.

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

- (a) Hotels and motels are allowed in the I-3 zoning district under the following conditions:
- (1) 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.
 - (2) Accessory uses operated by a concessionaire or lessee of an employer may occupy no more than five percent (5%) of the total floor area of the hotel or motel.
- (b) Kennels and Veterinary Facilities are allowed in the: B-1, B-2, B-3, H-2, H-3 and H-4 zoning Districts under the following conditions:
- (1) Any associated outdoor area must be located no closer than 200 feet from any residential district.
 - (2) No more than 3 animals are permitted in the outdoor area at any one time.

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

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

- (1) In the ~~B-1 and~~ B-3 zoning districts:
 - (i) No facility shall be permitted to locate within 100 feet of any residential use or district;
 - (ii) Any facility located within 100 feet of any residential use or district which was lawfully established in the ~~B-1~~ or B-3 zoning district on the effective date of this ordinance, shall screen the facility from such residential use or district by the use of an opaque fence six feet in height, constructed of wood, or of a substitute material found acceptable to the Director of Building and Safety;
 - (iii) The locational or screening requirements of (i) and (ii) above shall not apply when said residential use or district is across a public street from the motorized vehicle sales and/or repair facility, but shall apply if said residential use or district is across an alley or private drive from said facility;
- (2) In the H-2 and H-3 zoning districts, the storage of vehicles for sale and resale is permitted in the front yard except for the front twelve feet under the following conditions:
 - (i) Parking barriers in accordance with parking lot design standards must be provided around the storage/display area to prevent the vehicles

Comment [CJE6]: All motorized vehicle uses including sales, wash, repair, service and fuel sales facilities (gas station) are being removed from the new B-1 Neighborhood Business zoning district.

stored/displayed for sale or resale from overhanging the front twelve feet of the front yard.

- (ii) No vehicle shall be stored/displayed for sale or resale in the front yard upon a raised concrete island or on a raised display structure.
- (iii) The hood or trunk or both of vehicles stored/displayed for sale or resale in the front yard shall not be open except when being inspected by a customer or for servicing.
- (iv) The front twelve feet of the front yard shall be devoted to shrubs and grasses.
- (v) The front twelve feet of the front yard not permitted to be used for the storage of vehicles for sale and resale shall be screened at least sixty percent from zero feet to two feet above the surface of the lot. The design and construction of the landscaping shall be in conformance with the Design Standards for Screening and Landscaping except that fences may not be used to meet the above screening requirements. If plant material is used, the density percentage is calculated using the design size found in the City of Lincoln's plant material list approved by the Planning Director. The landscape screen shall be located throughout the area but far enough from the barrier so as to be protected from the bumpers of overhanging vehicles. Entrance driveways shall be excluded from the required screen.
- (vi) No fence shall be erected in the front yard.
- (vii) Lighting in the front yard shall be in conformance with the Design Standards for Outdoor Lighting.
- (viii) Any existing motorized vehicle sales facility lawfully established on the effective date of this ordinance which does not comply with conditions (i) through (vii) above may be continued in accordance with the provisions of Chapter 27.61 for nonconforming uses.

(3) In the area of the B-4 zoning district from 150 feet east of 17th Street to the eastern edge of the B-4 zoning district, motorized vehicle sales and/or repair/service facilities are prohibited;

(d) Motor fuel sales facilities are allowed in the B-4 zoning district under the following condition: In the area of the B-4 zoning district from 150 feet east of 17th Street to the eastern edge of the B-4 zoning district, fuel sales facilities are prohibited;

(e) Motorized vehicle wash facilities are allowed in the ~~B-1~~, B-2, B-3, B-4, H-2, and H-3 zoning districts under the following conditions:

- (1) In the ~~B-1~~, B-2 and B-3 zoning districts, a self-service, coin-operated wash facility shall not exceed four wash bays.
 - (2) In the H-2 and H-3 zoning districts, a self-service, coin-operated wash facility shall not exceed six wash bays.
 - (3) In the B-2 and B-3 zoning districts, the stacking space shall not be located within the required front yard.
 - (4) In the area of the B-4 zoning district from 150 feet east of 17th Street to the eastern edge of the B-4 zoning district and in the area bounded by 10th Street, 150 feet north of "P" Street, 14th Street and "N" Street, motorized vehicle wash facilities are prohibited;
- (f) Outdoor seasonal sales, tents and other temporary structures are allowed in the AG and AGR zoning districts under the following conditions:
- (1) In the AG and AGR zoning districts, roadside stands for the temporary or seasonal sale of produce shall:
 - (i) Be located outside the city limits;
 - (ii) Be allowed in addition to any other main use, regardless of lot size;
 - (iii) Be allowed in a required yard, provided that such roadside stand shall be located no closer than thirty feet to the edge of a traveled roadway;
 - (iv) Not be operated for more than 180 days in any one calendar year.
- (g) Parking as a primary use is allowed in the O-2 and B-4 zoning districts under the following conditions:
- (1) In the O-2 zoning district provided that no part of the street frontage within the block face on which a parking lot is proposed to be located may be zoned residential.
 - (2) In the area of the B-4 zoning district bounded by 10th Street, 150 feet north of "P" Street, 14th Street, and "N" Street, parking as a primary use is prohibited;
- (NOTE: If the above conditions cannot be met, the use may be allowed upon approval of a special permit pursuant to Chapter 27.63).
- (h) Personal Services are allowed uses in the O-1, O-2, O-3, and R-T zoning district under the following conditions:
- (1) In the O-1 and O-3 zoning districts:

- (i) The services shall be located entirely within a building containing office or residential uses.
 - (ii) The services shall not exceed twenty percent of the total square feet of floor area in such building.
- (2) In the O-2, and R-T zoning districts, the floor area of said building shall not exceed 5,000 square feet.
- (i) Retail sales including mail order catalog sales are allowed in the O-1, O-3, H-3, H-4 and I-1 zoning districts under the following conditions:
- (1) In the O-1 and O-3 zoning districts:
 - (i) The retail sales shall be located entirely within a building containing office or residential uses.
 - (ii) Retail sales shall not exceed twenty percent of the total square feet of floor area in such building.
 - (iii) Retail sales shall occupy no more than 10,000 square feet of floor area per business.
 - (2) In the H-3 zoning district, retail sales shall occupy no more than 20,000 square feet of floor area per business.
 - ~~(3) In the H-4 zoning district, retail sales shall occupy no more than 30,000 square feet of floor area per business.~~
 - ~~(4)~~ In the I-1 zoning district, retail sales and service shall occupy no more than 20,000 square feet of floor area per business.
- (NOTE: If conditions (2), ~~and~~ (3) ~~and~~ ~~(4)~~ above cannot be met, the use may be allowed if a special permit is approved pursuant to Chapter 27.63).
- (j) Sale of alcoholic beverages for consumption off the premises is allowed in the B-2 and B-5 zoning districts under the following conditions:
- (1) Parking shall be in conformance with the provisions of Chapter 27.67; provided that in the B-5 zoning district no parking spaces shall be located in that portion of any required side yard or rear yard of the building containing the licensed premises that abuts a residential district.
 - (2) Any exterior door opening must meet the following conditions:

Comment [CJE7]: The H-4 zoning district is proposed to be a use permit district for commercial development and should no longer be limited to 30,000 square feet of retail uses.

- (i) Be located at least 100 feet (as measured by the shortest, most direct distance) from a day care facility, church, state mental health institution, park (excluding golf courses and hiker/biker trails), or a residential district; provided that, if there is an intervening exterior wall of the building containing the licensed premises between the exterior door opening and such day care facility, church, state mental health institution, park (excluding golf courses and hiker/biker trails), or residential district, then the 100 feet shall be measured from the exterior door opening, along the exterior base of the building wall(s) to the point where there is no intervening exterior building wall, and from that point the shortest, most direct distance to the day care facility, church, state mental health institution, park (excluding golf courses and hiker/biker trails), or residential district.
 - (ii) If the exterior door opening faces a residential district, then such opening shall be at least 150 feet from a residential district as measured by the shortest, most direct perpendicular distance. The exterior door shall not be kept or propped open during the hours of operation. For purposes of this section, “exterior door opening” shall mean (A) that portion of the exterior wall face of the building containing the licensed premises that contains a break to accommodate the exterior building door, door frame, door vestibule, or door entryway area; and (B) provides public or membership access to the licenses premises. “Exterior door opening” shall not apply to openings for emergency exit doors required by building or safety codes, loading doors or unloading doors that are not available for public or membership access in the ordinary course of business.
- (3) Vehicle stacking for a drive-through window used as any part of the permitted business operation shall not be located in any required building setback from a residential district.
 - (4) The use shall not have any amplified outside sound or noise source, including bells, buzzers, pagers, microphones, or speakers within 150 feet of any residential district. This shall not apply to sound sources audible only to the individual to whom they are directed, such as personal pagers, beepers, or telephones.
 - (5) Notwithstanding any contrary provision contained in Section 27.64.010(h), the yard requirements, the parking location requirements, and the exterior door opening location requirements in this section shall not be adjusted by the City Council.
 - (6) In addition, in the B-2 zoning district, all exterior door openings of the licensed premises shall be located more than 100 feet away from any parking spaces located in a side or rear yard adjacent to a residential district. For the purpose of this measurement, the side yard shall be 50 feet. In addition, if there is an intervening exterior wall of the building containing the licensed premises between the exterior door opening and such residential district, then the 100 feet shall be measured from the exterior door opening, along the exterior base of the building wall(s) to the point where there is no intervening exterior building wall, and from that point the shortest,

most direct distance to any parking spaces located in a side or rear yard adjacent to the residential district.

- (7) In addition, in the B-5 zoning district when the building containing the licensed premises abuts a residential district, the required yards shall be met.
- (k) Service and repair facilities are allowed in the R-T, B-1, B-3, and H-2 zoning districts under the following conditions:
 - (1) The floor area of said premises not devoted to sales or office space shall not exceed 5,000 square feet; and
 - (2) All displays and merchandise shall be within the enclosure walls of the buildings.
 - (3) In addition, in the B-3 zoning district, appliance service and repair shall comply with the following additional conditions:
 - (i) No appliance sales and repair facility shall be permitted to locate within 100 feet of any residential use or district;
 - (ii) Any appliance service and repair facility located within 100 feet of any residential use or district which was lawfully established in this district on the effective date of this ordinance, shall screen the facility from such residential use or district by the use of an opaque fence six feet in height, constructed of wood, or of a substitute material found acceptable to the Director of Building and Safety;
 - (iii) The locational or screening requirements of (i) and (ii) above shall not apply when said residential use or district is across a public street from the appliance sales and repair facility, but shall apply if said residential use or district is across an alley or private drive from the appliance sales and repair facility.

(Ord. 19827 §12; February 25, 2013: prior Ord. 19773 §33; September 10, 2012: Ord. 19733 §30; June 25, 2012).

27.62.110 Food and Drink Establishments Use Group

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

- (a) Restaurants are allowed in the O-1 zoning district under the following conditions:
 - (1) Such use shall be located entirely within a building containing office or residential uses.
 - (2) Such use shall not exceed twenty percent of the total square feet of floor area in such building.

- (b) Sale of alcoholic beverages for consumption on the premises is allowed in the B-2 and B-5 zoning districts under the following conditions:
- (1) Parking shall be in conformance with the provisions of Chapter 27.67, provided that in the B-5 zoning district no parking spaces shall be located in that portion of any required side yard or rear yard of the building containing the licensed premises that abuts a residential district.
 - (2) Any exterior door opening must meet the following conditions:
 - (i) Be located at least 100 feet (as measured by the shortest, most direct distance) from a day care facility, church, state mental health institution, park (excluding golf courses and hiker/biker trails), or a residential district; provided that, if there is an intervening exterior wall of the building containing the licensed premises between the exterior door opening and such day care facility, church, state mental health institution, park (excluding golf courses and hiker/biker trails), then the 100 feet shall be measured from the exterior door opening, along the exterior base of the building wall(s) to the point where there is no intervening exterior building wall, and from that point the shortest, most direct distance to the day care facility, church, state mental health institution, park (excluding golf courses and hiker/biker trails), or residential district.
 - (ii) If the exterior door opening faces a residential district, then such opening shall be at least 150 feet from a residential district as measured by the shortest, most direct perpendicular distance. The exterior door shall not be kept or propped open during the hours of operation. For purposes of this section, "exterior door opening" shall mean (A) that portion of the exterior wall face of the building containing the licensed premises that contains a break to accommodate the exterior building door, door frame, door vestibule, or door entryway area; and (B) provides public or membership access to the licenses premises. "Exterior door opening" shall not apply to openings for emergency exit doors required by building or safety codes, loading doors or unloading doors that are not available for public or membership access in the ordinary course of business.
 - (3) Vehicle stacking for a drive-through window used as any part of the permitted business operation shall not be located in any required building setback from a residential district.
 - (4) The use shall not have any amplified outside sound or noise source, including bells, buzzers, pagers, microphones, or speakers within 150 feet of any residential district. This shall not apply to sound sources audible only to the individual to whom they are directed, such as personal pagers, beepers, or telephones.

- (5) Notwithstanding any contrary provision contained in Section 27.64.010(h), the yard requirements, the parking location requirements, and the exterior door opening location requirements in this section shall not be adjusted by the City Council.
- (6) In addition, in the B-2 zoning district, all exterior door openings of the licensed premises shall be located more than 100 feet away from any parking spaces located in a side or rear yard adjacent to a residential district. For the purpose of this measurement, the side yard shall be 50 feet. In addition, if there is an intervening exterior wall of the building containing the licensed premises between the exterior door opening and such residential district, then the 100 feet shall be measured from the exterior door opening, along the exterior base of the building wall(s) to the point where there is no intervening exterior building wall, and from that point the shortest, most direct distance to any parking spaces located in a side or rear yard adjacent to the residential district.
- (7) In addition, in the B-5 zoning district when the building containing the licensed premises abuts a residential district, the required yards shall be met.

(Ord. 19733 §30; June 25, 2012).

27.62.120 Commercial Recreation and Entertainment Facilities Use Group.

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

- (a) Social halls are allowed in the ~~B-1~~, B-2, B-3, B-5, H-2, H-3 and H-4 under the following conditions:
 - (1) There shall be no amplified sound or noise source of any kind outside of the social hall;
 - (2) Except as provided in (ii) and (iii) below, any exterior door opening must meet the following conditions:
 - (i) Either be located at least 100 feet (as measured by the shortest, most direct distance) from a day care facility, church, state mental health institution, park (excluding golf courses and hiker/biker trails), or a residential district; provided that, if there is an intervening exterior wall of the building containing the social hall between the exterior door opening and such day care facility, church, state mental health institution, park (excluding golf courses and hiker/biker trails), then the 100 feet shall be measured from the exterior door opening, along the exterior base of the building wall(s) to the point where there is no intervening exterior building wall, and from that point the shortest, most direct distance to the day care facility, church, state mental health institution, park (excluding golf courses and hiker/biker trails), or residential district.

Comment [CJE8]: Social Halls are being removed from the new B-1 Neighborhood Business zoning district.

- (ii) If the exterior door opening is less than 100 feet from a residential district, it must face the opposite direction from that district.
- (iii) If the exterior door opening faces a residential district, then such opening shall be at least 150 feet from a residential district as measured by the shortest, most direct perpendicular distance. The exterior door shall not be kept or propped open during the hours of operation.

For purposes of this section, “exterior door opening” shall mean (a) that portion of the exterior wall face of the building containing the social hall that contains a break to accommodate the exterior building door, door frame, door vestibule, or door entryway area; and (b) provides access to the social hall. “Exterior door opening” shall not apply to openings for emergency exit doors required by building or safety codes, loading doors or unloading doors that are not available for access in the ordinary course of business. (Ord. 19733 §30; June 25, 2012).

27.62.130 Major Entertainment and Event Use Group. (Reserved)

27.62.140 Heavy Commercial Services Use Group.

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

- (a) Contractor services and cabinet shops are allowed in the B-3, ~~and H-2~~ and H-4 zoning districts under the following conditions:
 - (1) In the B-3 zoning district, the floor area of said premises not devoted to sales or office space shall not exceed 8,000 square feet;
 - (2) In the B-3 zoning district, not more than ten percent of the premises occupied by the establishment shall be used for open and unenclosed storage of material and equipment;
 - (3) In the B-3 and H-2 zoning districts, all outside storage of material and equipment shall be screened by an opaque six foot tall fence constructed of wood, or a substitute material found acceptable by the Director of Building and Safety.
 - (4) Cabinet shops are allowed in the H-4 zoning district, provided that the total floor area of the operation shall not exceed 5,000 square feet and all materials, both raw and finish, shall be stored inside the building.
- (b) Mini-warehouses in the area of the B-4 zoning district from 150 feet east of 17th Street to the eastern edge of the B-4 zoning district are prohibited;

Comment [CJE9]: Cabinet shops were an allowed conditional use in the H-4 only if the H-4 had a special permit for Planned Service Commercial.

Comment [CJE10]: These are the conditions that existed in the Planned Service Commercial. They are being carried over to the H-4 making cabinet shops a conditional use where they had previously been prohibited in the H-4 without a special permit for Planned Service Commercial.

(c) Truck wash facilities are allowed in the ~~H-2, H-4~~ H-3 and B-4 zoning districts under the following conditions:

- (1) Self-service, coin-operated wash facilities shall not exceed six wash bays.
- (2) Stacking space shall not be located within the required front yard.
- (3) In the area of the B-4 zoning district from 150 feet east of 17th Street to the eastern edge of the B-4 zoning district, truck wash facilities are prohibited.

(Ord. 19733 §30; June 25, 2012).

27.62.150 Manufacturing, Processing, Storage and Distribution Use Group.

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

- (a) Assembly facilities, including but not limited to the assembly of equipment, instruments and appliances such as computers and musical instruments are allowed in the H-2 and H-3 zoning districts under the following condition: All storage and display of merchandise shall be screened from public view by a fence, walls, shrubs, or all such storage and display shall be within the enclosure walls of a building.
- (b) Liquefied petroleum gas and similar gas used for fuel stored above ground is allowed in the I-2 and I-3 zoning districts under the following conditions:
 - (1) Tanks may not exceed 30,000 gallon capacity;
 - (2) The storage of gas shall be for use on the premises, and not for resale;
 - (3) All other combustible material shall be stored in such a way as to permit free access of fire-fighting equipment.
 - (4) Open storage of any other material is allowed only in areas enclosed or otherwise adequately screened from public view with an enclosure or screen at least six feet in height.
 - (5) In the I-2 zoning district tanks shall be adequately screened from public view by a fire-resistant ventilated barrier which shall be at least six feet in height;
- (c) Fuel oil storage tanks and all bulk storage of oils, petroleum and similar flammable liquids and chemicals are allowed in the I-2 and I-3 zoning districts under the following conditions:
 - (1) Such use shall be adequately screened from public view;

Comment [CJE11]: Truck wash facilities are being removed as a permitted conditional use from the H-2 which already prohibits Truck Stops and Truck Terminals.

Comment [CJE12]: Truck wash facilities are a conditional use today in the Planned Service Commercial. Since the Planned Service Commercial Special Permit the use becomes conditional.

- (2) Storage of such materials shall be for use on the premises and not for resale, except that resale of such stored material at retail only is allowed in conjunction with the operation of a fuel sales facility or similar retail outlet.
- (d) Outdoor motorized vehicle storage is allowed in the H-3, H-4 and I-2 zoning districts under the following conditions:
 - (1) The outdoor storage shall be screened in conformance with the requirements for screening open storage in Chapter 3.50 of the City of Lincoln Design Standards.
 - (2) There shall be no dismantling, wrecking, or disassembling of any vehicles.
 - (3) Vehicles may not be stacked upon each other.
 - (4) Parking shall be in conformance with Section 27.67.066(a).
- (e) In the area of the B-4 zoning district from 150 feet east of 17th Street to the eastern edge of the B-4 zoning district, warehouses are prohibited except that pre-existing warehouses in said area may remain, regardless of time unoccupied, but must cease once the building is demolished.
- (f) Temporary paving plants used for the paving of federal or state highways or county roads are allowed 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.
- (g) Temporary concrete paving plants. Temporary concrete paving 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 and the Director of the Public Works and Utilities Department.

- (1) Applications for an 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 description or manufacturer's specification regarding particulate control equipment;
 - (iv) A copy of a signed contract or other verification that the applicant is under contract to supply concrete for a city arterial street paving project;
 - (v) A noise control plan that will allow the operation to comply with Chapter 8.24 of the Lincoln Municipal Code;
 - (vi) 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 site shall be approved by the City Engineer or if outside the city limits by the County Engineer and shall be located in the general vicinity of the specific arterial street paving project or projects and have access to a paved road;
 - (ii) 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;
 - (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 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 the County Engineer;
 - (iv) The permit site shall be cleaned up and restored to its pre-permit condition within thirty days following the completion of the project. Restoration includes replanting of vegetation and maintenance of erosion and sediment control until the site is reestablished. Any paved or unpaved road damaged by the permittee's use of such road, including permittee's suppliers and concrete trucks entering and/or leaving the plant, shall be repaired at permittee's cost and expense;

- (v) All concrete produced by this plant shall be used to complete the project. The concrete shall not be provided for concrete work to be performed by persons other than the permittee;
 - (vi) 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;
 - (vii) The applicant shall submit a performance bond satisfactory to the City Attorney in the minimum amount of \$5,000, or an amount determined by the City to be sufficient, to guarantee performance and cleanup of the permit site and to pay for repairs to paved and unpaved roads damaged by permittee's use of such roads.
- (3) Permits issued pursuant to this section shall expire on the completion date of the project as set forth in the permit application. The Planning Director may extend the expiration date by administrative amendment upon a showing that the project completion is delayed or that the permittee has contracted for another project in conformance with subparagraph (a) above.
- (h) 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 (d)(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 (d)(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 cleanup of the permit site.
- (3) Permits issued pursuant to this section shall expire on December 31 of the year of issuance 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 date 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; provided, 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.

(i) Wholesale and distribution centers not exceeding 30,000 square feet in floor area per building are allowed in the H-4 district, 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.

(Ord. 19827 §13; February 25, 2013; prior Ord. 19733 §30; June 25, 2012).

27.62.160 Waste Management and Extractive Services Use Group. (Reserved)

Comment [CJE13]: These are the conditions that existed in the Planned Service Commercial. They are being carried over to the H-4 making wholesale and distribution centers a conditional use where they had previously been prohibited in the H-4.