

**GENERAL PROVISIONS**

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**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;

(3) Except in conformance with the City of Lincoln Design Standards (but not including Appendix A) for Zoning Regulations adopted by resolution of the City Council.

(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) No person shall engage in construction activity in the Construction Site Discharges Overlay District without a permit in conformance with Chapter 28.01 setting forth the requirements of the design standards applicable to stormwater management, erosion and sedimentation control, including the preservation of minimum flood corridors; provided, however, that the requirement to preserve a minimum flood corridor will not apply to property within a subdivision approved prior to March 8, 2000. For the purpose of this section, the

Construction Site Discharges Overlay District is defined to mean the corporate limits of the City of Lincoln and the land outside the corporate limits designated as Tier I.

(d) On or after May 1, 2006, no permit for the erection or construction of any new building and no permit for the substantial enlargement of any existing building located in the O-2, O-3, R-T, B-1, B-2, B-3, B-5, H-1, H-2, H-3, H-4, I-1, I-2, and I-3 zoning district shall be issued before the applicant has submitted a Pedestrian Circulation Plan to the City for review and approval. In addition, on or after May 1, 2006, no permit for the erection or construction of any club or health care facility pursuant to Sections 27.63.200 and 27.63.080, respectively, and no permit for the substantial enlargement of any club or health care facility shall be issued before the permittee has submitted a Pedestrian Circulation Plan to the City for review and approval. The Pedestrian Circulation Plan shall conform to the City of Lincoln's Design Standards for Pedestrian Circulation in Commercial and Industrial Areas. An on-site sidewalk system shall be constructed for any new building and for any redevelopment of any existing building in accordance with the approved Pedestrian Circulation Plan prior to the issuance of a certificate of occupancy for the building. For the purpose of this section, substantial enlargement shall mean any addition to an existing building the cost of which equals or exceeds fifty percent of the County Assessor's assessed value of the property before the start of construction of the addition.

(e) 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 27.60, 27.63, 27.65, and 27.71.

(f) 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.

(g) 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. 19018 §2; November 5, 2007; prior Ord. 18948 §1; June 25, 2007; Ord. 18687 §31; March 20, 2006; Ord. 18362 §1; May 10, 2004; Ord. 18186 §1; June 2, 2003; Ord.17618 §28; February 22, 2000; 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).

**27.81.021 Appeals of Administrative Approvals.**

Any council member or aggrieved person may appeal any approval or denial of (i) an administrative permit and renewal thereof for personal wireless services; (ii) an administrative amendment to a use permit, special permit, community unit plan, planned unit development; ~~or~~ (iii) an alternate location for a replacement sign for a nonconforming off-premises sign; (iv) a modification of the minimum amount of required parking, or (v) a minor modification to the required rear yard setback by the Planning Director to the Planning Commission by filing a notice of appeal within fourteen days following the date the action being appealed was approved by the Planning Director.

Any aggrieved person or any person or group officially designated to participate in the administration of this title or any council member may appeal any action of the Planning Commission approving or denying (i) an administrative permit and renewal thereof for personal wireless services; (ii) an administrative amendment to a use permit, special permit, community unit plan, planned unit development; ~~or~~ (iii) an alternate location for a replacement sign for a nonconforming off-premises sign or; (iv) a modification of the minimum amount of required parking; or (v) a minor modification to the required rear yard setback to the City Council by filing a notice of appeal with the City Clerk within fourteen days following the action of the Planning Commission.

Upon receipt of an appeal as provided above, the Planning Commission or City Council, as appropriate, shall hold a public hearing thereon within thirty days from the date of the appeal. Notice of public hearing shall be given as provided in Section 27.81.050.

In exercising its appellate jurisdiction, the action appealed from shall be deemed advisory and the Planning Commission or City Council, as appropriate, shall take final action on the application.

If the Planning Commission approves the matter being appealed from and its action is not further appealed to the City Council, the final plans shall be signed by the chairman of the Commission. If the City Council approves the final plans after an appeal, the plans shall be returned to the Planning Department for signing by the chairman of the Commission. (Ord. 19319 §1; October 19, 2009).

**27.81.022 Notice of Administrative Approvals.**

The Planning Director's approval of any requested amendment shall be posted on the Planning Department's webpage. The Planning Director shall further submit a weekly report to the City Clerk of Administrative Permits and Administrative Amendments approved by the

**Comment [CJE1]:** 27.67.045 the Parking Chapter proposes to allow the Planning Director to make minor adjustments to Parking Requirements. This is the proposed appeal process for that new administrative approval. Putting this new language here provides consistency with other appeal processes for other administrative approvals. This change also adds the process for appeal for administrative approval of reduction in rear yards that was not added when that process was approved in December of 2013.

Planning Director to be placed on the City Council agenda under Report of City Officers. (Ord. 19319 §2; October 19, 2009).

**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.

All existing applications for a change of zone which have been placed on pending by an applicant shall automatically expire one year after the date this ordinance (Change of Zone No. 06062). All such applications which have been placed on pending by an applicant after the date of this ordinance (Change of Zone No. 06062) shall automatically expire and become null and void one year thereafter. At least thirty days before the date of expiration, the Planning Director shall cause notice of expiration to be sent to the applicant by regular United States mail, postage prepaid. Said notice shall advise the applicant that the application shall automatically expire unless prior to the expiration date, the Planning Director receives a request from the applicant to remove the application from pending and reschedule the matter on the Planning Commission or City Council agenda as appropriate.

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. 18898 §9; March 12, 2007; prior Ord. 16044 §1; February 3, 1992; 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).