

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

1           AN ORDINANCE amending Chapter 27.65 of the Lincoln Municipal Code relating  
2 to community unit plans by amending Section 27.65.020 to amend the general requirements to grant  
3 the Planning Commission to approve the special permit and to allow the plan to propose  
4 modifications to the height and area regulations of the district in which the community unit plan is  
5 located; by amending Section 27.65.030 to eliminate references to City Council approval of  
6 community unit plans, establishing standards for the Planning Commission to follow in approving  
7 or denying an application for a community unit plan, and providing for an appeal from the Planning  
8 Commission's decision to the City Council by an aggrieved party; by repealing Section 27.65.040  
9 to eliminate City Council final action on the application; by amending Section 27.65.050 to revise  
10 provisions regarding development of the community unit plan after its approval; by amending  
11 Section 27.65.060 to grant the Planning Director limited authority to approve minor increases in the  
12 number of dwelling units and to approve minor internal changes to the applicable setback, yard or  
13 height requirements within a community unit plan; by amending Section 27.65.070 to delete the need  
14 for the City Clerk to sign a certificate showing approval or disapproval by the City Council; by  
15 amending Section 27.65.090 to allow the Planning Commission to modify parking requirements  
16 under specified conditions; and repealing Sections 27.65.020, 27.65.030, 27.65.050, 27.65.060,  
17 27.65.070, and 27.65.090 of the Lincoln Municipal Code as hitherto existing.

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

1                   Section 1. That Section 27.65.020 of the Lincoln Municipal Code be amended to read  
2 as follows:

3                   **27.65.020     General Requirements.**

4                   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  
5 district which is one acre or more in area; in the AG zoning district which is seventy-five acres or  
6 more in area; or in the AGR zoning district which is ten acres or more in area, including and up to  
7 the centerline of existing public rights-of-way abutting the tract of land may submit to the City  
8 Council a plan for the use and development thereof for residential purposes or for the repair and  
9 alteration of any existing residential development, ~~provided, however, that the City Council shall~~  
10 ~~apply the standards contained in this chapter and in Chapter 27.63 in considering all applications for~~  
11 ~~community unit plans. The plan may propose a modification of height and area regulations of the~~  
12 ~~district in which the community unit plan is located.~~

13                   (a)     A community unit plan may be permitted on a tract of land which is less than ten  
14 acres but more than five acres in area. The maximum permitted density on such a tract shall be  
15 calculated as provided in Section 27.65.080, and this maximum will be reduced by ten percent to  
16 accommodate the small size of the tract.

17                   (b)     A community unit plan may be permitted on a tract of land which is not more than  
18 five acres but more than one acre in area. The maximum permitted density shall be calculated as  
19 provided in Section 27.65.080, and this maximum will be reduced by twenty percent to  
20 accommodate the small size of the tract.

21                   (c)     A community unit plan may be permitted on a tract of land which is less than ten  
22 acres but more than one acre in area where such tract is bounded on at least two sides by one or more

1 existing community unit plans. The maximum density of such a tract shall be calculated as in  
2 Section 27.65.080.

3 (d) A community unit plan may be permitted on a tract of land which is ten or more acres  
4 in area. The maximum permitted density of such a tract shall be calculated as in Section 27.65.080.

5 (e) Notwithstanding the provisions of (a) through (d) above, where permitted in the AG  
6 Agriculture District, any community unit plan shall contain a minimum area of seventy-five acres,  
7 and in the AGR Agricultural Residential District, a minimum area of ten acres.

8 (f) A community unit plan which complies with the energy conservation standards  
9 adopted by the City Council and on file with the City Clerk may receive a dwelling unit bonus in  
10 accordance with the standards adopted by resolution of the City Council.

11 (g) Additional dwelling units may be granted ~~by the City Council~~ for each dwelling unit  
12 subsidized by the state or federal government for low-income families or as a dwelling unit bonus  
13 for the provision of barrier-free units; however, the number of additional dwelling units shall not ex-  
14 ceed those provided in the standards adopted by resolution of the City Council.

15 (h) A community unit plan located in the AG or AGR zoning districts which will  
16 substantially protect an open space area as designated on the future land use plans included in the  
17 Lincoln City-Lancaster County Comprehensive Plan may receive a dwelling unit bonus provided  
18 that:

19 (1) The request for a dwelling unit bonus shall be accompanied by a showing of  
20 the need for protection of the open space, a description of the proposed use of the open space and  
21 any limitations there on, and the proposed method of protecting the open space which may include,  
22 but is not necessarily limited to, protective covenants, conservation or preservation easements, or  
23 similar restrictions of record.

1           (2)     The proposed method of protecting the open space shall expressly (i) prohibit  
2 the construction or installation of any structures or other improvements in the open space for a period  
3 of 99 years, except minimal above ground structures or improvements reasonably necessary and  
4 incidental to the proposed use of the open space; and (ii) prohibit such uses as shooting ranges,  
5 basketball courts, baseball fields, football and soccer fields, racetracks, or other stadium uses,  
6 facilities for spectator sports, and any activities that would unreasonably disturb the residents of the  
7 community unit plan or the surrounding neighborhoods.

8           (3)     The open space shall be accessible to, and available for use by, the residents  
9 of the community unit plan;

10           For the purposes of this subsection, "open space" shall mean land or water which is  
11 undeveloped or which is set aside for public or private outdoor recreational uses, such as parks, trail  
12 systems, golf courses, or bodies of water for swimming, fishing, or boating.

13           (i)     A community unit plan located in the AG or AGR zoning district which will protect  
14 natural environmentally sensitive areas, whether or not shown in the Lincoln City-Lancaster County  
15 Comprehensive Plan, may receive a dwelling unit bonus provided that:

16           (1)     The request for dwelling unit bonus shall be accompanied by a showing of the  
17 need for the protection of the natural environmentally sensitive area including documents supporting  
18 the quality or value of the area to the community or ecosystem, the use proposed for the area and any  
19 limitations thereon, and the proposed method of protecting the area which may include, but is not  
20 necessarily limited to, protective covenants, conservation or preservation easements, or other  
21 restrictions of record which insure that such areas shall remain undeveloped and preserved and which  
22 expressly prohibit any structures or other improvements or change in use of the area for a period of  
23 at least 99 years; and

1           (2)     The density bonus, if granted, will not cause any degradation of the natural  
2 environmentally sensitive area. Appropriate buffers shall be provided to insure that such degradation  
3 does not occur; and

4           (3)     The natural environmentally sensitive area shall be accessible to residents of  
5 the community unit plan, and may also be accessible to the public, for very low passive recreation  
6 uses. Only those improvements specifically related to the use and enjoyment of such natural  
7 environmentally sensitive area, such as walkways and trails, which have been shown by the applicant  
8 to have no detrimental effect on said area shall be permitted.

9           For purposes of this subsection, "natural environmentally sensitive areas" shall mean areas  
10 such as wetlands, bodies of water, native prairie, woodlands, floodplains, or other wildlife habitats,  
11 or greenway corridors which are of substantial quality or value to the community and the ecosystem  
12 and which may include such natural buffers as are necessary and of sufficient quality to protect the  
13 integrity of the natural environmentally sensitive area.

14           In addition, natural environmentally sensitive areas may also include degraded natural areas  
15 that the applicant proposes to fully restore provided that:

16           (1)     The applicant shows that there is a high likelihood for successful restoration  
17 of such area;

18           (2)     The applicant demonstrates that he or she will dedicate sufficient resources  
19 to fully restore and maintain such area; and

20           (3)     The applicant will commence restoration of such area no later than the time  
21 at which the construction of those dwelling units which require the dwelling unit bonus commences.

22           (j)     A community unit plan in the AG zoning district where cultivated land and pasture  
23 land is preserved for agricultural use and no new public roads are created may receive a dwelling unit

1 bonus provided that such land shall remain undeveloped and preserved and that protective covenants,  
2 conservation or preservation easements, or other similar restrictions of record are in place to  
3 expressly prohibit any change in use for a period of at least 99 years.

4 (k) A community unit plan located in the R-1, R-2, R-3, R-4, R-5, R-6, AG or AGR  
5 zoning districts which will substantially protect floodplain or floodprone areas may receive a  
6 dwelling unit bonus if a permanent conservation easement or permanent deed restriction is dedicated  
7 to preserve the floodplain or floodprone area. The bonus allotment will be proportionally equal to  
8 the amount of floodplain preserved on the site and the size of the lot as in conformance with the  
9 design standards.

10 (l) The dwelling unit bonuses permitted under this section shall not exceed a total of  
11 twenty percent in any community unit plan.

12 Section 2. That Section 27.65.030 of the Lincoln Municipal Code be amended to read  
13 as follows:

14 **27.65.030 Procedures.**

15 An application and plot plan and plans for development of a community unit plan under this  
16 chapter shall be filed in writing with the department of building and safety. Upon the filing of an  
17 application, together with all information required by this chapter, the City Council will refer the  
18 application to the Planning Commission. The Planning Commission shall hold a public hearing  
19 upon such application and ~~make a report to the City Council regarding~~ shall consider the effect of  
20 the proposed use upon the surrounding neighborhood, the Comprehensive Plan of the City of  
21 Lincoln, the community as a whole, and other matters relating to the public health, safety, and  
22 general welfare. ~~The City Council shall take no final action upon any application for a community~~  
23 ~~unit plan filed under this chapter until a report from the Planning Commission has been filed with~~

1 ~~the City Clerk; provided, that in the event there is a delay in excess of sixty days from the date of~~  
2 ~~referral on the part of the Planning Commission in reporting its recommendations to the City~~  
3 ~~Council, the applicant may appeal to the City Council requesting final action. If the City Council~~  
4 ~~determines that the delay of the Planning Commission is unjustified, it shall direct the commission~~  
5 ~~to submit a report no later than immediately after the commission's next regularly scheduled meeting.~~

6 ~~The report of the Planning Commission to the City Council shall include reasons for~~  
7 ~~recommending approval or denial of any application and if approval is recommended, shall further~~  
8 ~~include~~ The Planning Commission shall approve the application upon receipt of specific evidence  
9 and facts showing that the proposed community unit plan meets the following conditions:

10 (a) That the land surrounding the tracts for the proposed community unit plan will not  
11 be adversely affected;

12 (b) That the proposed community unit plan is consistent with the intent and purpose of  
13 this title to promote the public health, safety, and general welfare;

14 (c) That the buildings and land in the proposed community unit plan shall be used only  
15 for single-family dwellings, two-family dwellings, townhouses, multiple dwellings, or dwellings for  
16 non-related persons and accessory uses and any other uses permitted in the zoning district in which  
17 the land is located;

18 (d) That the average lot area per family within the proposed community unit plan will not  
19 be less than the lot area per family required in the zoning district or districts in which the tracts of  
20 the proposed community unit plan is located, except as otherwise provided in this chapter. The lot  
21 area per dwelling for non-related persons shall not be less than the lot area required under Section  
22 27.70.020 for the zoning district in which the use is proposed to be located.

1           ~~(e) — If an application for the community unit plan located within a floodplain is granted~~  
2 ~~approval by the city, it shall not be necessary for the applicant to make an application for a special~~  
3 ~~permit to be approved by the City Council as required by Resolution Nos. A-55150, A-56382, and~~  
4 ~~A-57540. It shall be presumed that the applicant has received all such approvals as may be required~~  
5 ~~by the foregoing resolutions by virtue of the city granting approval to the community unit plan.~~

6           If after public hearing the Planning Commission finds that the proposed community unit plan  
7 does not meet the above requirements for approval, the Planning Commission may deny the  
8 application or approve the application upon condition that the applicant make specific changes in  
9 the proposed community unit plan which will remove the objection. Approval of a community unit  
10 plan shall be by special permit in conformance with Chapter 27.63. In the event the Planning  
11 Commission fails to act upon the application within sixty days from the date the application is  
12 referred to the Planning Commission, the applicant may appeal to the City Council requesting final  
13 action. If the City Council determines that the delay of the Planning Commission is unjustified, it  
14 shall direct the commission to act no later than the commission's next regularly scheduled meeting.

15           Section 3. That Section 27.65.040 of the Lincoln Municipal Code be and the same  
16 is hereby repealed:

17 ~~**27.65.040 — Council Consideration of Final Action.**~~

18 ~~— Upon receipt of a report from the Planning Commission, the City Council shall proceed to~~  
19 ~~give final consideration to the application and require that certain conditions be fulfilled by the~~  
20 ~~applicant in conjunction with the approval of the community unit plan applied for. Approval of a~~  
21 ~~community unit plan shall be by a special permit in conformance with Chapter 27.63.~~

22           Section 4. That Section 27.65.050 of the Lincoln Municipal Code be amended to read  
23 as follows:



1     **27.65.050     Requirements After Approval.**

2             Upon approval of the community unit plan by the ~~City Council~~ Planning Commission, the  
3     developer shall cause to be prepared and submitted to the Planning Department a revised and  
4     reproducible final plot plan with all required amendments and revisions. Thereafter, building  
5     permits and certificates of occupancy shall be issued only upon ~~strict~~ substantial compliance with  
6     the community unit plan as approved, or as amended, regardless of any regulations to the contrary  
7     with regard to the height and location of buildings, yard requirements, open space requirements, type  
8     of dwelling unit, accessory uses and the fronting of lots upon public streets set forth elsewhere in this  
9     title and applying to the zoning district or districts in which the community unit plan is located.

10            Section 5. That Section 27.65.060 of the Lincoln Municipal Code be amended to read  
11     as follows:

12     **27.65.060     Community Unit Plan Amendments.**

13            After the ~~City Council~~ Planning Commission has approved a community unit plan, including  
14     the specific plot plan, the Planning Director is authorized to approve amendments in the community  
15     unit plan provided that:

16            (a)     A request for amendment is filed with the Planning Director, and, if appropriate,  
17     accompanied by a plot plan drawn to an accurate scale and showing all pertinent information;

18            (b)     ~~There is no increase in the number of dwelling units~~ Minor increases in the number  
19     of dwelling units originally authorized may be approved if such increases do not exceed the  
20     maximum density allowed and such increases will not cause a significant adverse impact on existing  
21     development within the community unit plan and adjoining properties. Minor increases shall not  
22     exceed more than fifteen percent (15%) cumulative additional dwelling units;

23            (c)     No public land will be accepted as a result of the amendment;

1 (d) The amendment shall not be contrary to the general purposes of this chapter as set  
2 forth in Section 27.65.010;

3 (e) Such amendment shall not violate any regulations set forth in this title;

4 (f) No reduction is made to the applicable setback, ~~or yard, or height~~ requirements for  
5 lots along the perimeter of the community unit plan. Minor internal changes to the applicable  
6 setback yard or height requirements may be made within the community unit plan if they conform  
7 to the intent of the approved plan and do not adversely impact existing development within the  
8 community unit plan;

9 (g) Any amendment not in conformance with this paragraph shall be submitted to the  
10 ~~City Council~~ Planning Commission in the same manner as an original community unit plan.

11 Section 6. That Section 27.65.070 of the Lincoln Municipal Code be amended to read  
12 as follows:

13 **27.65.070 Form of Community Unit Plan.**

14 A plot plan shall be accurately, clearly, and legibly drawn on tracing cloth or mylar in a  
15 sufficient size and scale to show the details of the plan clearly and shall contain the following  
16 information:

17 (a) A surveyor's certificate certifying to the accuracy of the boundary survey shown  
18 thereon, and a certificate for showing the Planning Commission's approval or disapproval, ~~and a~~  
19 ~~certificate for the City Clerk to show the approval or disapproval by City Council~~, including the date  
20 and resolution number;

21 (b) Date prepared, north point, scale of plot plan, and location of section lines and section  
22 corners;

1 (c) Contour lines at intervals not to exceed five feet based on NAVD 1988. Spot  
2 elevations on a 100-foot grid shall be required to fully indicate the topography on flat land;

3 (d) Locations, name, tangent lengths, centerline radius of each curve and its interior angle  
4 and width of all proposed and existing streets, highways, private roadways, and other public ways  
5 within and adjacent to the development;

6 (e) Locations and widths of all existing and proposed easements for drainage, sewers,  
7 and other public utilities and, if appropriate, access easements;

8 (f) Location, width, and direction of flow of all watercourses in and adjacent to the  
9 community unit plan, including the limits of the floodplain and floodway as defined in Chapters  
10 27.52 and 27.53;

11 (g) The location and size of all existing and proposed sanitary and storm sewers, culverts,  
12 water mains, fire hydrants, and existing power lines and other underground structures or cables  
13 within the tract of land and adjacent streets;

14 (h) All lot lines, building setback lines for all lots, dimensions of all lot lines and building  
15 envelope lines. Chord distances shall be shown for lot lines abutting curvilinear streets;

16 (i) Lot numbers shall begin with the number (1) and shall continue consecutively through  
17 a block with no omission or duplication. Blocks shall be numbered in the same manner. Letters  
18 shall be used to designate outlots in alphabetical order;

19 (j) Proposed areas for parks and playgrounds. Any parcels other than streets which are  
20 to be dedicated or reserved for public use shall be clearly shown and said parcels shall be designated  
21 as outlots and assigned an alphabetical designation;

22 (k) The location of all proposed and existing sidewalks, walkways, and other pedestrian  
23 ways;

1 (l) Location, height, and use of proposed and existing buildings with an indication as to  
2 whether an existing building is to be removed or to remain, and signs, if any, in accordance with the  
3 provisions of Chapter 27.69;

4 (m) A certified accurate boundary survey showing sufficient linear, angular, and curve  
5 data to determine the bearing and length of all boundary lines of the community unit plan. Where  
6 the tract of land abuts on an existing plat, the distances, angles, and bearing of any common lines  
7 shall be shown and any differences in measurement noted. The total calculated acres within the  
8 boundaries of the community unit plan shall be shown;

9 (n) The following data shall be shown on each sheet of the community unit plan:

10 (1) The name of the community unit plan;

11 (2) The name, address, and telephone number of the person or company  
12 responsible for preparation of the community unit plan;

13 (3) North arrow, scale, date;

14 (4) Sheet number and the total number of sheets comprising the community unit  
15 plan.

16 (o) Accompanying the community unit plan, the following information shall be submitted  
17 to the Planning Department with the number of copies requested by the Planning Director:

18 (1) Name, address, and telephone number of developer;

19 (2) Certified record owner or owners and their address;

20 (3) Legal description of the proposed community unit plan, including the number  
21 of acres;

22 (4) Statement of present zoning and proposed use or uses of the property;

1           (5)     Profiles along the centerline of the proposed streets and private roadways  
2 which show the existing ground surface elevations and the proposed street grades including the  
3 length of vertical curves between changes in grade with the profiles for stub streets ending at the  
4 boundary of the community unit plan to be extended 300 feet beyond the limits of the community  
5 unit plan into subdivided and unsubdivided land;

6           (6)     The proposed method of providing sanitary sewer service to the area;

7           (i)     If a public wastewater works or community wastewater works is  
8 established, the size and location of all proposed sanitary sewers, the proposed manhole locations,  
9 any necessary extension to the existing public system or to the proposed community wastewater  
10 works, and the location of the proposed community wastewater works;

11          (ii)    If the use of an on-site wastewater treatment system is permitted,  
12 pursuant to Section 26.27.040 of the Lincoln Municipal Code, plans for the proposed disposal system  
13 and its location on each lot must be shown. If a septic tank system is proposed, soil and percolation  
14 data and plans which show the location of one main subsurface disposal field for each lot which is  
15 proposed to be served by a septic tank system shall be shown.

16          (7)     The proposed method of providing an adequate potable water supply;

17          (i)     If a public, or community water system, or rural water district is used,  
18 the location and size of all proposed water mains, the proposed hydrant locations, and any necessary  
19 extension of the proposed system to existing water mains or to a proposed community well, the loca-  
20 tion of the proposed community well, and the type of water treatment to be used;

21          (ii)    If a community water system other than a rural water district is  
22 proposed, data on the quantity and quality of the water shall be obtained from a test well within the  
23 immediate vicinity of the proposed water supply well. If an individual water well system for each

1 lot is proposed, data on the quantity and quality of the water shall be obtained from test wells which  
2 shall be drilled on the ratio of one to each ten acres on a grid system. The results of these preliminary  
3 tests shall in no way be construed to guarantee the quantity or quality of water to individual lots in  
4 the proposed community unit plan and the data obtained from these tests shall not be used to imply  
5 that an adequate quantity or acceptable quality of water is available in the proposed community unit  
6 plan.

7 (8) A drainage study prepared in accordance with the current storm sewer design  
8 standards of the city on file with the City Clerk. The following items must be included in the  
9 drainage study:

10 (i) A map showing the drainage area and resulting runoff from any land  
11 lying outside the limits of the community unit plan which discharges storm water runoff into or  
12 through the community unit plan;

13 (ii) A map showing all internal drainage areas and resulting runoff;

14 (iii) Proposals as to how the computed quantities of runoff will be handled;

15 (iv) A copy of the drainage computations.

16 (9) A map or an aerial photograph showing the proposed streets, private  
17 roadways, driveways, parking areas, buildings and lots which includes the location, and identifies,  
18 by common name, all existing trees within the area of the community unit plan. Single trees which  
19 are three inches in caliper or larger measured five feet above the ground must be shown. However,  
20 if five or more trees are located so that each is within approximately ten feet of the edge of another  
21 tree, they will be considered a tree mass and the outline of the tree mass may be shown with a list  
22 of the common names of the trees which are within the tree mass. If the above-stated procedure is  
23 followed, the individual location of each tree within the tree mass is not necessary. An indication

1 shall be made on the map showing which trees or tree masses are to remain and which trees or tree  
2 masses are to be removed;

3 (10) A vicinity sketch showing the general location of the community unit plan in  
4 relation to existing streets, section lines, and city limits;

5 (11) Site grading plan showing existing and proposed contour lines with intervals  
6 at no greater distance than five feet, and if necessary, spot elevations showing complete proposed  
7 grading of the community unit plan. Also, cross-sections may be required showing existing and pro-  
8 posed ground lines and buildings. Information as to where fill will be obtained and the amount of  
9 the fill shall be included if all or part of the property is located within the floodplain as defined in  
10 Chapters 27.52 and 27.53. If the proposed location from which said fill is obtained is later to be  
11 changed, the developer shall inform the Public Works and Utilities Department of the location of the  
12 proposed new borrow area and obtain approval thereof from the Director of Public Works and  
13 Utilities;

14 (12) All deviations from the provisions of this chapter shall be fully set forth and  
15 reasons given for said deviations;

16 (13) In the event that said real property is located within a floodplain, the developer  
17 shall comply with all requirements pertaining to floodplains contained in the Lincoln Municipal  
18 Code and applicable state statutes.

19 Section 7. That Section 27.65.090 of the Lincoln Municipal Code be amended to read  
20 as follows:

1     **27.65.090     Parking.**

2             All parking within the community unit plan shall be regulated in conformance with the  
3     provisions of Chapter 27.67; however, the ~~City Council~~ Planning Commission may modify the  
4     parking regulations for multi-family dwellings to allow a percentage of parking spaces located on  
5     a driveway behind a garage attached to a dwelling unit to be considered as required parking stalls  
6     for creative designs otherwise meeting the purpose and intent of this chapter, provided the minimum  
7     depth of the parking spaces is 22 feet.

8             Section 8. That Sections 27.65.020, 27.65.030, 27.65.050, 27.65.060, 27.65.070, and  
9     27.65.090 of the Lincoln Municipal Code as hitherto existing be and the same are hereby repealed.

10            Section 9. That this ordinance shall take effect and be in force from and after its  
11     passage and publication according to law.

Introduced by:

\_\_\_\_\_

Approved as to Form & Legality:

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

<p>Approved this ___ day of _____, 2004:</p> <p>_____</p> <p>Mayor</p>
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