

Change of Zone 04062

ORDINANCE NO. _____

1 AN ORDINANCE amending Title 27 of the Lincoln Municipal Code relating to
 2 Zoning by adding a new section numbered 27.03.053 to provide a definition for “alternative to
 3 imprisonment facility”; by adding a new section numbered 27.03.153 to provide a definition for
 4 “children’s home”; by adding a new section numbered 27.03.165 to provide a definition for disability
 5 or handicap; amending Section 27.03.300 to revise the definition of “group home”; by amending
 6 Section 27.03.310 to revise the definition of “health care facility”; by amending Sections 27.09.040,
 7 27.11.040, 27.13.040, 27.15.040, 27.17.040, 27.19.040, 27.21.040, 27.23.040, and 27.24.040 to
 8 allow alternative to imprisonment facilities and children’s homes as permitted special uses in the
 9 AGR and R-1 through R-8 residential districts; by adding a new section numbered 27.63.750 to add
 10 alternative to imprisonment facility as a permitted special use; by adding a new section numbered
 11 27.63.760 to add children’s homes as a permitted special use; and repealing Sections 27.03.300,
 12 27.03.310, 27.09.040, 27.11.040, 27.13.040, 27.15.040, 27.17.040, 27.19.040, 27.21.040, 27.23.040,
 13 and 27.24.040 of the Lincoln Municipal Code as hitherto existing.

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

15 Section 1. That Chapter 27.03 of the Lincoln Municipal Code be amended by adding
 16 a new section numbered 27.03.053 to read as follows:

17 **27.03.043 Alternative to Imprisonment Facility.**

18 Alternative to imprisonment facility shall mean a facility in which more than three but less
 19 than sixteen persons who are unrelated by blood, marriage, or adoption reside under a supervised
 20 program of alternatives to imprisonment including, but not limited to, pre-release, work-release, and
 21 probationary programs. Such facilities shall be licensed or approved by the State of Nebraska or
 22 other appropriate agency if so required.

1 Section 2. That Chapter 27.03 of the Lincoln Municipal Code be amended by adding
2 a new section numbered 27.03.153 to read as follows:

3 **27.03.153 Children's Home.**

4 Children's home shall mean a facility engaged in the service of exercising 24-hour daily care,
5 supervision, custody, or control over sixteen or more children for compensation or hire in lieu of the
6 care or supervision normally exercised by parents in their own home.

7 Section 3. That Chapter 27.03 of the Lincoln Municipal Code be amended by adding
8 a new section numbered 27.03.165 to read as follows:

9 **27.03.165 Disability or Handicap.**

10 Disability or handicap shall mean, with respect to a person:

11 (1) A physical or mental impairment which substantially limits one or more of such
12 person's major life activities;

13 (2) A record of having such an impairment; or

14 (3) Being regarded as having such an impairment.

15 Disability shall not include current, illegal use of or addiction to a controlled substance as
16 defined by state law.

17 Section 4. That Section 27.03.300 of the Lincoln Municipal Code be amended to read
18 as follows:

19 **27.03.300 Group Home.**

20 Group home shall mean a building or structure licensed or approved by the State or an
21 appropriate agency, if required, used as any one of the following: ~~facility in which more than two~~
22 ~~but less than sixteen persons who are unrelated by blood, marriage, or adoption reside while~~
23 ~~receiving therapy or counseling, but not nursing care, for any of the purposes listed below. Such~~
24 ~~facility shall be licensed or approved by the State of Nebraska or other appropriate agency.~~

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

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

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

4 ~~—— (d) —— Supervision while under a program of alternatives to imprisonment, including but not~~
5 ~~limited to pre-release, work-release, and probationary programs.~~

6 (a) A facility in which more than three but less than sixteen disabled persons who are
7 unrelated by blood, marriage, or adoption reside while receiving therapy or counseling, but not
8 nursing care;

9 (b) A facility engaged in the service of exercising 24-hour daily care, supervision,
10 custody, or control over more than three but less than sixteen children, for compensation or hire in
11 lieu of the care or supervision normally exercised by parents in their own home.

12 Section 5. That Section 27.03.310 of the Lincoln Municipal Code be amended to read
13 as follows:

14 **27.03.310 Health Care Facilities.**

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

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

22 (b) Convalescent or nursing home;

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

25 (d) A facility for out-patient physical, occupational, or vocational therapy or reha-
26 bilitation;

- 1 (e) Public health clinics and facilities;
- 2 (f) Ambulatory surgical care center which does not allow for overnight stay by patients.
- 3 Ambulatory surgical center does not include an office or clinic used solely by a practitioner or group
- 4 of practitioners in the practice of medicine, dentistry, or podiatry.

5 Except as provided in (a) above, health care facilities does not include doctors' or dentists'

6 professional offices and private clinics.

7 Section 6. That Section 27.09.040 of the Lincoln Municipal Code be amended to read

8 as follows:

9 **27.09.040 Permitted Special Uses.**

10 A building or premises may be used for the following purposes in the AGR Agricultural

11 Residential District if a special permit for such use has been obtained in conformance with the re-

12 quirements of Chapter 27.63:

- 13 (a) Private schools;
- 14 (b) Recreational facilities;
- 15 (c) Dwellings for members of religious orders;
- 16 (d) Broadcast towers;
- 17 (e) Campgrounds;
- 18 (f) Veterinary facilities;
- 19 (g) Mining or extraction of minerals from any portion of the district, and the storage and
- 20 processing thereof;
- 21 (h) Garden centers;
- 22 (i) Facilities for the commercial storage or sale of fertilizer or toxic or flammable
- 23 agricultural chemicals;
- 24 (j) Church steeples, amateur radio antenna installations, towers, and ornamental spires
- 25 which exceed the maximum district height;

1 (k) Community unit plans shall be permitted in conformance with the provisions of
2 Chapter 27.65;

3 (l) Expansion of nonconforming uses;

4 (m) Historic preservation;

5 (n) Public utility purposes;

6 (o) Private landing strips and appurtenances;

7 (p) Early childhood care facilities with sixteen or more children, or with fifteen or fewer
8 children not meeting the specified conditions for a permitted conditional use under Section
9 27.09.030;

10 (q) Clubs;

11 (r) Dwelling units for domestic employees in accessory buildings;

12 (s) Alternative to imprisonment facilities;

13 (t) Children's homes.

14 Section 7. That Section 27.11.040 of the Lincoln Municipal Code be amended to read
15 as follows:

16 **27.11.040 Permitted Special Uses.**

17 A building or premises may be used for the following purposes in the R-1 Residential District
18 if a special permit for such use has been obtained in conformance with the requirements of Chapter
19 27.63:

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

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

22 (c) Health care facilities;

23 (d) Dwellings for members of religious orders;

24 (e) Mobile home courts;

25 (f) Recreational facilities;

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

3 (h) Broadcast towers;

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

5 (j) Elderly or retirement housing;

6 (k) Expansion of nonconforming uses;

7 (l) Historic preservation;

8 (m) Public utility purposes;

9 (n) Wind energy conversion systems;

10 (o) Mobile home subdivisions;

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

12 (q) Outdoor seasonal sales;

13 (r) Cemeteries;

14 (s) Domiciliary care facility;

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

16 (u) Early childhood care facilities with sixteen or more children, or with fifteen or fewer
17 children not meeting the specified conditions for a permitted conditional use under Section
18 27.11.030;

19 (v) Neighborhood support services;

20 (w) Clubs;

21 (x) Dwelling units for domestic employees in accessory buildings;

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

24 (z) Alternative to imprisonment facilities;

25 (aa) Children's homes.

26 Section 8. That Section 27.13.040 of the Lincoln Municipal Code be amended to read
27 as follows:

1 **27.13.040 Permitted Special Uses.**

2 A building or premises may be used for the following purposes in the R-2 Residential District
3 if a special permit for such use has been obtained in conformance with the requirements of Chapter
4 27.63:

- 5 (a) Community unit plans in conformance with Chapter 27.65;
- 6 (b) Private schools, other than those permitted under Section 27.13.020(e) above;
- 7 (c) Health care facilities;
- 8 (d) Dwellings for members of religious orders;
- 9 (e) Mobile home courts;
- 10 (f) Recreational facilities;
- 11 (g) Church steeples, amateur radio antenna installations, towers, and ornamental spires

12 which exceed the maximum district height;

- 13 (h) Broadcast towers;
- 14 (i) Certain parking lots as defined in Chapter 27.63;
- 15 (j) Elderly or retirement housing;
- 16 (k) Expansion of nonconforming uses;
- 17 (l) Historic preservation;
- 18 (m) Public utility purposes;
- 19 (n) Wind energy conversion systems;
- 20 (o) Mobile home subdivisions;
- 21 (p) Housing and related facilities for the physically handicapped;
- 22 (q) Outdoor seasonal sales;
- 23 (r) Cemeteries;
- 24 (s) Domiciliary care facility;
- 25 (t) Expansion of nonstandard single and two-family dwellings into required yards;

1 (u) Early childhood care facilities with sixteen or more children, or with fifteen or fewer
2 children not meeting the specified conditions for a permitted conditional use under Section
3 27.13.030.;

4 (v) Neighborhood support services;

5 (w) Clubs;

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

8 (y) Garden centers;

9 (z) Adult care centers;

10 (aa) Alternative to imprisonment facilities;

11 (bb) Children's homes.

12 Section 9. Section 27.15.040 of the Lincoln Municipal Code be amended to read as
13 follows:

14 **27.15.040 Permitted Special Uses.**

15 A building or premises may be used for the following purposes in the R-3 Residential District
16 if a special permit for such use has been obtained in conformance with the requirements of Chapter
17 27.63:

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

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

20 (2) All the requirements of Chapter 27.65.

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

22 (c) Health care facilities;

23 (d) Dwellings for members of religious orders;

24 (e) Mobile home courts;

25 (f) Recreational facilities;

- 1 (g) Church steeples, amateur radio antenna installations, towers, and ornamental spires
2 which exceed the maximum district height;
- 3 (h) Broadcast towers;
- 4 (i) Extracting sand, gravel, and soil;
- 5 (j) Certain parking lots as defined in Chapter 27.63;
- 6 (k) Elderly or retirement housing;
- 7 (l) Expansion of nonconforming uses;
- 8 (m) Historic preservation;
- 9 (n) Garden centers;
- 10 (o) Public utility purposes;
- 11 (p) Wind energy conversion systems;
- 12 (q) Mobile home subdivisions;
- 13 (r) Housing and related facilities for the physically handicapped;
- 14 (s) Greenhouses;
- 15 (t) Outdoor seasonal sales;
- 16 (u) Cemeteries;
- 17 (v) Domiciliary care facility;
- 18 (w) Expansion of nonstandard single and two-family dwellings into required yards;
- 19 (x) Early childhood care facilities with sixteen or more children, or with fifteen or fewer
20 children not meeting the specified conditions for a permitted conditional use under Section
21 27.15.030;
- 22 (y) Neighborhood support services;
- 23 (z) Clubs;
- 24 (aa) Connection of single-family dwelling to accessory building for the physically
25 handicapped;
- 26 (bb) Adult care centers;
- 27 (cc) Alternative to imprisonment facilities;

1 (dd) Children's homes.

2 Section 10. That Section 27.17.040 of the Lincoln Municipal Code be amended to
3 read as follows:

4 **27.17.040 Permitted Special Uses.**

5 A building or premises may be used for the following purposes in the R-4 Residential District
6 if a special permit for such use has been obtained in conformance with the requirements of Chapter
7 27.63:

- 8 (a) Community unit plans in conformance with Chapter 27.65;
- 9 (b) Private schools, other than those permitted under Section 27.17.020(e) above;
- 10 (c) Health care facilities;
- 11 (d) Dwellings for members of religious orders;
- 12 (e) Mobile home courts;
- 13 (f) Recreational facilities;
- 14 (g) Church steeples, amateur radio antenna installations, towers, and ornamental spires
15 which exceed the maximum district height;
- 16 (h) Broadcast towers;
- 17 (i) Certain parking lots as defined in Chapter 27.63;
- 18 (j) Clubs;
- 19 (k) Elderly or retirement housing;
- 20 (l) Expansion of nonconforming uses;
- 21 (m) Historic preservation;
- 22 (n) Public utility purposes;
- 23 (o) Wind energy conversion systems;
- 24 (p) Mobile home subdivisions;
- 25 (q) Housing and related facilities for the physically handicapped;
- 26 (r) Outdoor seasonal sales;

- 1 (s) Cemeteries;
- 2 (t) Domiciliary care facility;
- 3 (u) Expansion of nonstandard single and two-family dwellings into required yards;
- 4 (v) Early childhood care facilities with sixteen or more children, or with fifteen or fewer
- 5 children not meeting the specified conditions for a permitted conditional use under Section
- 6 27.17.030;
- 7 (w) Neighborhood support services;
- 8 (x) Connection of single-family dwelling to accessory building for the physically
- 9 handicapped;
- 10 (y) Adult care centers;
- 11 (z) Alternative to imprisonment facilities;
- 12 (aa) Children's homes.

13 Section 11. That Section 27.19.040 of the Lincoln Municipal Code be amended to
14 read as follows:

15 **27.19.040 Permitted Special Uses.**

16 A building or premises may be used for the following purposes in the R-5 Residential District
17 if a special permit for such use has been obtained in conformance with the requirements of Chapter
18 27.63:

- 19 (a) Private schools, other than those permitted under Section 27.19.020(g) above;
- 20 (b) Health care facilities;
- 21 (c) Dwellings for members of religious orders;
- 22 (d) Recreational facilities;
- 23 (e) Church steeples, amateur radio antenna installations, towers, and ornamental spires
- 24 which exceed the maximum district height;
- 25 (f) Broadcast towers;
- 26 (g) Certain parking lots as defined in Chapter 27.63;
- 27 (h) Clubs;

- 1 (i) Elderly or retirement housing;
- 2 (j) Community unit plans in conformance with Chapter 27.65;
- 3 (k) Expansion of nonconforming uses;
- 4 (l) Historic preservation;
- 5 (m) Public utility purposes;
- 6 (n) Wind energy conversion systems;
- 7 (o) Housing and related facilities for the physically handicapped;
- 8 (p) Outdoor seasonal sales;
- 9 (q) Cemeteries;
- 10 (r) Domiciliary care facility;
- 11 (s) Expansion of nonstandard single and two-family dwellings into required yards;
- 12 (t) Early childhood care facilities with sixteen or more children, or with fifteen or fewer
- 13 children not meeting the specified conditions for a permitted conditional use under Section
- 14 27.19.030;
- 15 (u) Neighborhood support services;
- 16 (v) Connection of single-family dwelling to accessory building for the physically
- 17 handicapped;
- 18 (w) Alternative to imprisonment facilities;
- 19 (x) Children's homes.

20 Section 12. That Section 27.21.040 of the Lincoln Municipal Code be amended to
21 read as follows:

22 **27.21.040 Permitted Special Uses.**

23 A building or premises may be used for the following purposes in the R-6 Residential District
24 if a special permit for such use has been obtained in conformance with the requirements of Chapter
25 27.63:

- 26 (a) Private schools, other than those permitted under Section 27.21.020(g) above;
- 27 (b) Health care facilities;

- 1 (c) Dwellings for members of religious orders;
- 2 (d) Recreational facilities;
- 3 (e) Church steeples, amateur radio antenna installations, towers, and ornamental spires
4 which exceed the maximum district height;
- 5 (f) Broadcast towers;
- 6 (g) Certain parking lots as defined in Chapter 27.63;
- 7 (h) Elderly or retirement housing;
- 8 (i) Community unit plans in conformance with Chapter 27.65;
- 9 (j) Expansion of nonconforming uses;
- 10 (k) Historic preservation;
- 11 (l) Public utility purposes;
- 12 (m) Wind energy conversion systems;
- 13 (n) Housing and related facilities for the physically handicapped;
- 14 (o) Outdoor seasonal sales;
- 15 (p) Cemeteries;
- 16 (q) Domiciliary care facility;
- 17 (r) Expansion of nonstandard single and two-family dwellings into required yards;
- 18 (s) Nonprofit religious, educational or philanthropic institutions;
- 19 (t) Early childhood care facilities with sixteen or more children, or with fifteen or fewer
20 children not meeting the specified conditions for a permitted conditional use under Section
21 27.21.030;
- 22 (u) Connection of single-family dwelling to accessory building for the physically
23 handicapped;
- 24 (v) Alternative to imprisonment facilities;
- 25 (w) Children's homes.

1 Section 13. That Section 27.23.040 of the Lincoln Municipal Code be amended to
2 read as follows:

3 **27.23.040 Permitted Special Uses.**

4 A building or premises may be used for the following purposes in the R-7 Residential District
5 if a special permit for such use has been obtained in conformance with the requirements of Chapter
6 27.63:

- 7 (a) Private schools, other than those permitted under Section 27.23.020(h) above;
- 8 (b) Health care facilities;
- 9 (c) Dwellings for members of religious orders;
- 10 (d) Recreational facilities;
- 11 (e) Church steeples, amateur radio antenna installations, towers, and ornamental spires
12 which exceed the maximum district height;
- 13 (f) Broadcast towers;
- 14 (g) Certain parking lots as defined in Chapter 27.63;
- 15 (h) Elderly or retirement housing;
- 16 (i) Expansion of nonconforming uses;
- 17 (j) Historic preservation;
- 18 (k) Public utility purposes;
- 19 (l) Wind energy conversion systems;
- 20 (m) Housing and related facilities for the handicapped;
- 21 (n) Outdoor seasonal sales;
- 22 (o) Cemeteries;
- 23 (p) Domiciliary care facility;
- 24 (q) Expansion of nonstandard single and two-family dwellings into required yards;
- 25 (r) Nonprofit religious, educational or philanthropic institutions;

1 (s) Early childhood care facilities with sixteen or more children, or with fifteen or fewer
2 children not meeting the specified conditions for a permitted conditional use under Section
3 27.23.030;

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

6 (u) Alternative to imprisonment facilities;

7 (v) Children's homes.

8 Section 14. That Section 27.24.040 of the Lincoln Municipal Code be amended to
9 read as follows:

10 **27.24.040 Permitted Special Uses.**

11 A building or premises may be used for the following purposes in the R-8 Residential District
12 if a special permit for such use has been obtained in conformance with the requirements of Chapter
13 27.63:

14 (a) Private schools, other than those permitted under Section 27.24.020(h) above;

15 (b) Health care facilities;

16 (c) Dwellings for members of religious orders;

17 (d) Recreational facilities;

18 (e) Broadcast towers;

19 (f) Certain parking lots as defined in Chapter 27.63;

20 (g) Elderly or retirement housing;

21 (h) Expansion of nonconforming uses;

22 (i) Historic preservation;

23 (j) Offices;

24 (k) Church steeples, amateur radio antenna installations, towers, and ornamental spires
25 which exceed the maximum height permitted in the district;

26 (l) Public utility purposes;

- 1 (m) Wind energy conversion systems;
- 2 (n) Housing and related facilities for the physically handicapped;
- 3 (o) Outdoor seasonal sales;
- 4 (p) Cemeteries;
- 5 (q) Domiciliary care facility;
- 6 (r) Expansion of nonstandard single and two-family dwellings into required yards;
- 7 (s) Nonprofit religious, educational or philanthropic institutions;
- 8 (t) Early childhood care facilities with sixteen or more children, or with fifteen or fewer
- 9 children not meeting the specified conditions for a permitted conditional use under Section
- 10 27.24.030;
- 11 (u) Connection of single-family dwelling to accessory building for the physically
- 12 handicapped;
- 13 (v) Alternative to imprisonment facilities;
- 14 (w) Children's homes.

15 Section 15. That Title 27 of the Lincoln Municipal Code be amended by adding a
16 new section numbered 27.63.750 to read as follows:

17 **27.63.750 Permitted Special Use: Alternative to Imprisonment Facility.**

18 Alternative to imprisonment facilities may be allowed by special permit in the AGR, R-1,
19 R-2, R-3, R-4, R-5, R-6, R-7, and R-8 zoning districts.

20 Section 16. That Title 27 of the Lincoln Municipal Code be amended by adding a
21 new section numbered 27.63.760 to read as follows:

22 **27.63.760 Permitted Special Use: Children's Home.**

23 Children's homes may be allowed by special permit in the AGR, R-1, R-2, R-3, R-4, R-5,
24 R-6, R-7, and R-8 zoning districts.

25 Section 17. That Sections 27.03.300, 27.03.310, 27.09.040, 27.11.040, 27.13.040,
26 27.15.040, 27.17.040, 27.19.040, 27.21.040, 27.23.040 and 27.24.040 of the Lincoln Municipal
27 Code as hitherto existing be and the same are hereby repealed.

1 Section 18. Pursuant to Article VII, Section 7 of the City Charter, this ordinance shall
2 be posted on the official bulletin board of the City in lieu of and in place of newspaper publication
3 with notice of passage and such posting to be given by publication one time in the official newspaper
4 by the City Clerk. This ordinance shall take effect and be in force from and after its passage and
5 publication as herein and in the City Charter provided.

Introduced by:

Approved as to Form & Legality:

City Attorney

Approved this ____ day of _____, 2005:
_____ Mayor