

ORDINANCE NO. _____

1 AN ORDINANCE amending Title 27 of the Lincoln Municipal Code, the Zoning
2 Code, by adding a new section numbered 27.03.417 to provide the definition of “market garden”;
3 amending Sections 27.07.040 and 27.09.040 to add market gardens as a permitted special use in the
4 AG and AGR zoning districts, respectively; amending Section 27.63.680 to add market gardens as
5 an exception to a licensed premises 100-foot spacing requirement from a residential district; adding
6 a new section numbered 27.63.820 to provide conditions for approval for market gardens as a
7 permitted special use and to allow certain accessory uses to market gardens, including the sale of
8 alcoholic beverages for consumption on the premises; amending Section 27.67.040 to provide
9 parking requirements for farm wineries and market gardens; and repealing Sections 27.07.040,
10 27.09.040, 27.63.680 and 27.67.040 of the Lincoln Municipal Code as hitherto existing.

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

12 Section 1. That Chapter 27.03 of the Lincoln Municipal Code be amended by adding
13 a new section numbered 27.03.417 to read as follows:

14 **27.03.417 Market Garden.**

15 Market garden shall mean a relatively small scale farming operation (20 to 40 acres in size)
16 where the production of a diversity of fruits, vegetables, herbs and flowers is grown for sales
17 primarily for direct human consumption rather than as feed for animals or for major processing
18 before consumption. Market gardens are distinguished from other types of farming by the inclusion
19 of accessory uses not typically found on farms. These accessory uses may include restaurants,
20 agricultural education and training centers, agricultural tourism, or sales of agricultural products not
21 grown on site.

22 Section 2. That Section 27.07.040 of the Lincoln Municipal Code be amended to read
23 as follows:

1 **27.07.040 Permitted Special Uses.**

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

- 5 (a) Private schools;
- 6 (b) Recreational facilities;
- 7 (c) Dwellings for members of religious orders;
- 8 (d) Broadcast towers and stations;
- 9 (e) Campgrounds;
- 10 (f) Veterinary facilities;
- 11 (g) Confined feeding facilities for livestock or poultry in excess of 15,000 square feet in
12 area; in those parts of the AG Agriculture District designated "agricultural" on the future county land
13 use map (Fig. 17) of the Lincoln-Lancaster County Comprehensive Plan (which for this purpose
14 only is hereby incorporated herein by reference);
- 15 (h) Excavation and stone milling;
- 16 (i) Sale barns;
- 17 (j) Garden centers;
- 18 (k) Facilities for the commercial storage or sale of fertilizer or toxic or flammable
19 agricultural chemicals;
- 20 (l) Church steeples, amateur radio antenna installations, towers, and ornamental spires
21 which exceed the maximum district height;
- 22 (m) Expansion of nonconforming use;
- 23 (n) Historic preservation;
- 24 (o) Community unit plans shall be permitted in conformance with provisions of Chapter
25 27.65;
- 26 (p) Public utility purposes;
- 27 (q) Private landing strips and appurtenances;
- 28 (r) Limited landfills;
- 29 (s) Race tracks for motorized vehicles;
- 30 (t) Temporary storage of construction equipment and materials;
- 31 (u) Early childhood care facilities with sixteen or more children, or with fifteen or fewer
32 children not meeting the specified conditions for a permitted conditional use under Section
33 27.07.030;
- 34 (v) Clubs;
- 35 (w) Dwelling units for domestic employees in accessory buildings;
- 36 (x) Heritage centers;
- 37 (y) Community halls;
- 38 (z) Tree service;

- 1 (aa) Commercial Wind Energy Conversion System/Turbine (CWECS);
- 2 (bb) Farm wineries;
- 3 (cc) Market gardens.

4 Section 3. That Section 27.09.040 of the Lincoln Municipal Code be amended to read
5 as follows:

6 **27.09.040 Permitted Special Uses.**

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

- 10 (a) Private schools;
- 11 (b) Recreational facilities;
- 12 (c) Dwellings for members of religious orders;
- 13 (d) Broadcast towers;
- 14 (e) Campgrounds;
- 15 (f) Veterinary facilities;
- 16 (g) Excavation and stone milling;
- 17 (h) Garden centers;
- 18 (i) Facilities for the commercial storage or sale of fertilizer or toxic or flammable
19 agricultural chemicals;
- 20 (j) Church steeples, amateur radio antenna installations, towers, and ornamental spires
21 which exceed the maximum district height;
- 22 (k) Community unit plans shall be permitted in conformance with the provisions of
23 Chapter 27.65;
- 24 (l) Expansion of nonconforming uses;
- 25 (m) Historic preservation;
- 26 (n) Public utility purposes;
- 27 (o) Private landing strips and appurtenances;
- 28 (p) Early childhood care facilities with sixteen or more children, or with fifteen or fewer
29 children not meeting the specified conditions for a permitted conditional use under Section
30 27.09.030;
- 31 (q) Clubs;
- 32 (r) Dwelling units for domestic employees in accessory buildings;
- 33 (s) Alternative to imprisonment facilities;
- 34 (t) Children's homes;
- 35 (u) Market gardens.

1 Section 4. That Section 27.63.680 of the Lincoln Municipal Code be amended to read
2 as follows:

3 **27.63.680 Permitted Special Use: Sale of Alcoholic Beverages for Consumption**
4 **On the Premises.**

5 (a) The sale of alcoholic beverages for consumption on the premises may be allowed in
6 the B-1, B-3, H-1, H-2, H-3, H-4, I-1, I-2, and I-3 zoning districts and on the premises of a restaurant
7 in the O-3 district upon the approval of a special permit subject to the requirements of the respective
8 districts, all applicable ordinances, and the following conditions:

9 (1) Parking shall be in conformance with Chapter 27.67.

10 (2) The sale of alcoholic beverages for consumption off the premises shall not be
11 permitted without issuance of a separate special permit under Section 27.63.685 of this code.

12 (3) The designated area specified in a license issued under the Nebraska Liquor
13 Control Act of any building approved for such activity must be located no closer than (i) 100 feet
14 from the property line of a premises used in whole or in part for a first-floor residential use, day care
15 facility, park, church, or state mental health institution, or (ii) 100 feet from a residential district
16 (except where such use is accessory to a golf course, country club, ~~or~~ farm winery, or market
17 garden).

18 (4) Any lighting on the property shall be designed and erected in accordance with
19 all applicable lighting regulations and requirements.

20 (5) Vehicle stacking for a drive-through window used as any part of the permitted
21 business operation shall not be located in any required building setback from a residential district.

22 (6) The use shall not have any amplified outside sound or noise source, including
23 bells, buzzers, pagers, microphones, or speakers within 150 feet of any residential district. This shall
24 not apply to sound sources audible only to the individual to whom they are directed, such as personal
25 pagers, beepers, or telephones.

26 (7) No access door to the business, including loading or unloading doors, shall face
27 any residential district if such doors are within 150 feet of the residential district. This shall not
28 apply to emergency exit doors required by building or safety codes. No door facing a residential
29 district shall be kept open during the operation of the establishment.

30 (8) Vehicular ingress and egress to and from the property shall be designed to avoid,
31 to the fullest extent possible, disruption of any residential district. Particular attention shall be given

1 to avoiding designs that encourage use of residential streets for access to the site instead of major
2 streets.

3 (9) All other regulatory requirements for liquor sale shall apply, including licensing
4 by the state.

5 (b) In addition, a special permit may be granted to allow alcoholic beverages to be sold for
6 consumption on the premises of a restaurant in the B-1, B-3, H-1, H-2, H-3, H-4, I-1, I-2, and I-3
7 districts subject to the requirements of the respective districts, all applicable ordinances, and the
8 following conditions:

9 (1) The Permittee as the holder of any liquor license issued on the premises pursuant
10 to a special permit for the sale of alcoholic beverages for consumption on the premises of a
11 restaurant shall agree in writing to voluntarily surrender and consent to the cancelling of the liquor
12 license in the event the special permit is revoked by the City. If the Permittee is not the holder of
13 the liquor license, the Permittee shall require such holder to agree in writing to voluntarily surrender
14 and consent to the cancelling of the liquor license in the event the special permit is revoked by the
15 City. In addition, the City shall request that the Nebraska Liquor Control Commission issue the
16 liquor license contingent upon the premises having such special permit.

17 (2) The restaurant shall be located at least 25 feet away from a residential zoning
18 district.

19 (3) Gross sales from the sale of alcoholic beverages shall not exceed forty percent
20 (40%) of the gross sales of food and beverages. Upon request of the City, the license holder/
21 operator shall provide sales receipts for the past six (6) months for the purpose of demonstrating that
22 no more than 40% of the restaurant's gross sales are derived from the sale of alcohol

23 (4) The restaurant shall serve full-course meals as defined by *Neb. Rev. Stat.*
24 § 53-123.04(c)(3) during the hours of operation.

25 (5) Hours of operation must not commence prior to 8:00 a.m. and shall end no later
26 than 11:00 p.m.

27 (6) Hours of outdoor operation must not commence prior to 8:00 a.m. and shall end
28 no later than 10:00 p.m.

29 (7) The restaurant shall not have any gaming devices or self-serve vending. Gaming
30 devices include pool tables, dart boards, keno. Self-serve vending includes candy machines and
31 drink machines that use electricity.

32 (8) No drive-through windows shall be allowed.

33 (9) The sale of alcoholic beverages for consumption off the premises shall not be
34 permitted without issuance of a separate special permit under Section 27.63.685 of this code.

35 For the purposes of this subsection (b), restaurant shall mean any place (i) which is kept,
36 used, maintained, advertised, and held out to the public as a place where meals are served and where
37 meals are actually and regularly served; (ii) which has no sleeping area; and (iii) which has adequate

1 and sanitary kitchen and dining room equipment and capacity and a sufficient number and kind of
2 employees to prepare, cook, and serve suitable food for its guests.

3 (c) Alcoholic beverages may also be sold for consumption on the premises as an accessory
4 use to a golf course or country club as part of a separate special permit under Section 27.63.130
5 approving the golf course or country club in any district where recreational facilities are allowed as
6 a permitted use, permitted conditional use, or permitted special use.

7 (d) The City Council may consider any of the following as cause to revoke the special
8 permit approved under these regulations:

9 (1) Revocation or cancellation of the liquor license for the specially permitted
10 premises;

11 (2) Repeated violations related to the operation of the permittee's business; or

12 (3) Repeated or continuing failure to take reasonable steps to prevent unreasonable
13 disturbances and anti-social behavior on the premises related to the operation of the permittee's
14 business including, but not limited to, violence on site, drunkenness, vandalism, solicitation, or litter.

15 Notwithstanding the above, no special permit or amendment thereto shall be required for
16 interior expansions of existing licensed liquor premises.

17 Section 5. That Chapter 27.63 of the Lincoln Municipal Code be amended by adding
18 a new section numbered 27.63.820 to read as follows:

19 **27.63.820 Permitted Special Use: Market Garden.**

20 Market gardens may be allowed by special permit in the AG and AGR zoning districts under
21 the following conditions:

22 (a) The market garden shall have one or more of the following accessory uses associated
23 with the market garden: restaurants, agricultural education and training centers, agricultural tourism,
24 or sales of agricultural products not grown on site. The accessory uses must be located on the same
25 premises as the market garden, and the products of the market garden must be a major feature of the
26 use that is accessory to it;

27 (b) The total area for the market garden and its accessory uses must be at least 20 acres
28 but not more than 40 acres. Areas used for grazing or growing of crops for the feeding of animals
29 on site may be excluded in calculating the total area for the market garden.

1 (c) The combined total area of all market garden accessory uses shall not exceed ten
2 percent of the total area for the market garden. A single family dwelling located on the same
3 premises as the market garden shall not be considered an accessory use to the market garden and
4 shall not be counted toward the combined maximum total area of all the market garden’s accessory
5 uses. The applicant shall provide a site plan showing the location, outdoor area, and building floor
6 area of all accessory uses, their setbacks and intended use;

7 (d) The Planning Commission may limit the maximum square footage of buildings
8 associated with the market garden accessory use;

9 (e) Direct access to a paved road may be required by the Planning Commission based upon
10 the anticipated traffic generated by the use. The applicant shall include an estimate of all traffic
11 generated based on the accessory uses on site in order to address the impact on the adjacent streets;

12 (f) Unless waived by the City Council, parking shall be in conformance with Chapter
13 27.67;

14 (g) Notwithstanding any provision to the contrary in Section 27.63.680, the Planning
15 Commission may permit the sale of alcoholic beverages for consumption on the premises as part of
16 a market garden accessory use.

17 Section 5. That Section 27.67.040 of the Lincoln Municipal Code be amended to read
18 as follows:

19 **27.67.040 Parking Requirements; Special Conditions.**

20 An alphabetical list of uses with special parking requirements for this title are set out in
21 Figure 27.67.040 at the end of this chapter. The following special parking requirements shall apply
22 to the listed uses in place of the general parking requirements found in Section 27.67.020:

23 (a) Fraternity, sorority, and rooming and boarding houses:

24 (1) In the R-6 District:

25 (i) Fraternities: One space/400 sq. ft. livable floor area, within 600 feet of the
26 building;

1 (ii) Sorority, rooming or boarding house: One space/700 sq. ft. livable floor area
2 within 600 feet of the building.

3 (2) In the R-7 and R-8 Districts:

4 (i) Fraternities: One space/700 sq. ft. livable floor area, within 1,200 feet of the
5 building.

6 (ii) Sorority, rooming or boarding house: One space/1,100 sq. ft. livable floor
7 area within 1,200 feet of the building.

8 (b) Group homes: One space per three client or employee residents, plus two spaces per
9 three nonresident employees on the largest shift; provided, however, that no spaces shall be required
10 for client residents who will not possess motor vehicle operator's licenses. Appropriate documenta-
11 tion from the group home licensing agency shall be provided evidencing the non-possession of
12 motor vehicle operator's licenses by clients.

13 (c) Adult care centers: One space/employee on the largest shift, plus off-street
14 loading/unloading area for one automobile per ten care receivers. Joint parking with another use is
15 acceptable if the adult care center and the other use have nonconcurrent parking demands.

16 (d) Nursing homes: One space/3 beds.

17 (e) Elderly or retirement housing: One space/dwelling unit.

18 (f) Mini-warehouses:

19 (1) Two spaces for manager's quarters;

20 (2) One space for every 200 storage cubicles to be located at the project office for
21 the use of clients; provided access lanes and roads to the storage area are twenty feet in width to
22 allow vehicles to unload and pass. If access lanes and roads are less than twenty feet in width,
23 parking at a rate of one space per ten storage cubicles shall be provided equally throughout the
24 storage area.

25 (g) Doctors' and dentists' offices: One space/225 sq. ft. of floor area.

26 (h) Drive-in restaurants: One space/40 sq. ft. of floor area.

27 (i) Bowling alleys: 4 spaces/lane (plus required parking for affiliated uses.)

28 (j) Auditoriums, theaters, grandstands, stadia, amphitheaters, and other places of public
29 assembly: One space/50 sq. ft. of seating area plus parking for affiliated uses within 300 ft. of the
30 main use.

31 (k) Recreational uses:

32 (1) Racquetball and other court games: Four spaces/court (plus required spaces for
33 affiliated uses);

34 (2) Swimming pools: One space/100 sq. ft. of water surface (plus parking for
35 affiliated uses) as determined by the city;

36 (3) Golf courses: Two spaces/hole of course, plus parking for affiliated uses.

37 (l) Hospitals: One space/2.5 beds, plus one space/employee on the largest shift.

1 (m) Churches, chapels, public schools, private schools having a curriculum equivalent to
2 a public elementary or public high school, and private business or commercial schools: One space/50
3 sq. ft. in largest assembly hall as determined by the City.

4 (n) Gymnastic, karate, judo, dance, music, and other similar academies: One space for
5 every three students allowed per class session plus one space for every employee. In those instances
6 where two sessions of classes occur one after another, without at least one-half hour separation
7 between sessions, the maximum number of students allowed at both sessions shall be combined in
8 determining the amount of required parking per class session.

9 (o) Housing for the physically handicapped: (see also Section 27.63.215) One space/
10 dwelling unit.

11 (p) Domestic shelters: One space for every four residents based on the maximum
12 occupancy allowed by the lot area and two spaces for every three employees on the largest shift.

13 (q) Scrap processing operation or salvage yard: Six spaces, two spaces/acre of lot area or
14 one space/1,000 square feet of floor area, whichever is greater.

15 (r) Dwellings for members of a religious order: one space for every three residents.

16 (s) Warehouses:

17 (1) Warehouses with a floor area of 50,000 square feet or less: one space per every
18 1,000 square feet of floor area or a minimum of one space per employee on the largest shift. The
19 floor area shall be calculated based on the total floor area of all structures on the lot.

20 (2) Warehouses with a floor area of more than 50,000 square feet: one space per
21 every 1,000 square feet of floor area for the first 50,000 square feet of floor area and one additional
22 space per 2,000 square feet of floor area in excess of 50,000 square feet, or a minimum of one space
23 per employee on the largest shift. The floor area shall be calculated based on the total floor area of
24 all structures on the lot.

25 (3) If the number of spaces required by the building ratio is greater than required by
26 the employee ratio in (1) or (2) above, the additional parking spaces need not be provided physically,
27 but sufficient areas shall be reserved for to accommodate construction of the additional spaces. If
28 the Building Official finds at any time that the character of the use of the warehouse is such as to
29 require the full provision of parking facilities to be constructed, the Building Official shall report
30 this fact to the City Council which may, after holding a hearing of which the owner shall be notified,
31 require such additional parking to be installed.

32 (t) Hotels and motels: one space per room and one space per 100 square feet of accessory
33 uses.

34 (u) Restaurants and Social Halls: one space per 100 square feet.

35 (v) Dwellings for caretakers employed and residing on the premises: one space per
36 dwelling unit.

37 (w) Early childhood care facilities: One space/ employee on the largest shift, plus off-street
38 loading/unloading area for one automobile per ten care receivers. Joint parking with another use is

1 acceptable if the early childhood care facility and the other use have nonconcurrent parking
2 demands.

3 (x) Domiciliary Care Facilities: One space for every four residents based on the maximum
4 occupancy allowed by the lot area and two spaces for every three employees on the largest shift.

5 (y) Sale of alcoholic beverages for consumption on the premises: Provide on site one space
6 per 100 square feet of gross floor area.

7 (z) Greenhouses located in the AG or AGR zoning districts: One parking space shall be
8 provided for each employee on the maximum shift.

9 (aa) Heritage Centers and Agricultural Attractions located in the AG zoning district: One
10 space shall be provided for every 200 square feet of floor area devoted to permanent retail and
11 service use. In addition, an overflow parking area shall be provided with three stalls for every acre
12 included within the special permit area. Parking may be provided on unpaved areas, except for ADA
13 accessible stalls.

14 (bb) Community Halls, Farm Wineries, and Market Gardens, located in the AG and AGR
15 zoning districts: There shall be adequate parking for vehicles compatible with the number of people
16 using the facility.

17 (cc) Off-street Freight Loading Requirements. At the time of construction, alteration, or
18 enlargement of any commercial or industrial building having a floor area of 10,000 square feet or
19 more, and containing a use or uses which requires off-street freight loading, off-street freight loading
20 areas shall be provided on the premises to serve the use and maintained as follows:

21 (1) Six hundred square feet for the first 10,000 square feet of floor area;

22 (2) An additional 600 square feet for each additional 20,000 square feet of floor area.

23 (dd) Joint Parking. Uses that have nonconcurrent parking demand may join their parking
24 facilities so as to reduce aggregate parking requirements as follows:

25 (1) B-5 District. The uses shall be located in the B-5 District and may include
26 adjacent churches or chapels located outside the B-5 District. Uses that have nonconcurrent parking
27 demand may join their parking facilities; however, the use having the largest floor area shall provide
28 4.5 parking spaces for every 1,000 square feet of floor area, and all other uses included in the joint
29 parking arrangement shall provide two parking spaces per 1,000 square feet of their floor area;
30 provided, however, that the number of additional spaces that would be required in the absence of
31 this paragraph need not be provided physically, but sufficient land shall be reserved in the event that
32 future uses may not have nonconcurrent parking demand. For the purpose of determining the
33 adequacy of the joint parking arrangement, all such joint parking use shall be authorized by a written
34 agreement between the city and all parties to such use.

35 (2) O-3, B-1, B-2, B-3, B-4, H-2, H-3, and H-4 Zoning Districts. The uses shall be
36 located in the following zoning districts: O-3, B-1, B-2, B-3, B-4, H-2, H-3, and H-4, and may
37 include uses in adjacent O-2 districts and adjacent churches and chapels outside the above districts.
38 The aggregate parking requirement shall be computed on the basis of providing the parking required
39 for that use or those uses having concurrent parking demand that have the largest parking demands
40 as determined by the parking matrix (Section 27.67.020) and any additional conditions in this

1 chapter; provided, however, that the number of additional spaces that would be required in the
2 absence of this paragraph need not be provided physically, but sufficient land shall be reserved in
3 the event that future uses may not have nonconcurrent parking demand. For the purpose of
4 determining the adequacy of the joint parking arrangement, all such joint parking use shall be
5 authorized by a written agreement between the city and all parties to such use.

6 (3) O-1 District. The uses shall be located in the O-1 District and may include
7 adjacent churches or chapels located outside the O-1 District. Uses that have nonconcurrent parking
8 demand may join their parking facilities. The aggregate parking requirement shall be computed on
9 the basis of providing the parking required for that use or those uses having concurrent parking
10 demands that have the largest parking demands as determined by the parking matrix and any
11 additional conditions in this chapter; provided, however, that the number of additional spaces that
12 would be required in the absence of this paragraph need not be provided physically, but sufficient
13 land shall be reserved in the event the future uses may not have nonconcurrent parking demand. For
14 the purpose of determining the adequacy of the joint parking arrangement, all such joint parking use
15 shall be authorized by a written agreement between the city and all parties to such use.

16 (ee) Data Center: Two (2) spaces per three (3) employees on largest shift, plus land shall
17 be reserved to provide required parking for office uses in the underlying zoning districts in the event
18 the Data Center is changed to another office use.

19 Section 6. That Sections 27.07.040, 27.09.040, 27.63.680 and 27.67.040 of the Lincoln
20 Municipal Code as hitherto existing be and the same are hereby repealed.

21 Section 7. That this ordinance shall take effect and be in force from and after passage
22 and publication in one issue of a daily or weekly newspaper of general circulation in the City,
23 according to law.

Introduced by:

Approved as to Form & Legality:

City Attorney

Approved this ____ day of _____, 2012:

Mayor