

ORDINANCE NO. _____

1 AN ORDINANCE amending Chapter 27.72 of the Lincoln Municipal Code,
 2 Height and Lot Regulations, by amending Section 27.72.020 to reduce the required rear yard in
 3 the R-1 through R-4 zoning districts for single- and two-family dwellings as set forth in Table
 4 27.72.020(a); by amending Section 27.72.060 to modify the provisions regarding the projection
 5 of patios, terraces, uncovered decks, and ornamental features into a required yard; adding a new
 6 section numbered 27.72.190 granting the Planning Director authority to approve minor
 7 modifications to the rear yard setback under specified conditions; and repealing Sections
 8 27.72.020 and 27.72.060 of the Lincoln Municipal Code as hitherto existing.

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

10 Section 1. That Section 27.72.020 of the Lincoln Municipal Code be amended to
 11 read as follows:

12 **27.72.020 Height and Lot Regulations R-1 through R-8 Zoning Districts.**

13 The maximum height and minimum lot requirements within the R-1 through R-8 Districts
 14 shall be as follows:

15 (a) **R-1, R-2, R-3 and R-4 General Requirements.** See Table 27.72.020(a) below:

Table 27.72.020 (a)					
Maximum Height and Minimum Lot Requirements for the R-1 through R-4 Districts					
		R-1	R-2	R-3	R-4
Single-family Dwelling	Lot Area (sq. ft.)	9,000	6,000	6,000	5,000
	Avg. Lot Width	60'	50'	50'	50'
	Front Yard	30'	25'	20'	25'
	Side Yard	10'	5'	5'	5'
	Rear Yard	Smaller of 30' 20' or 20% of the lot depth			
	Height	35'	35'	35'	35'

Two-family Dwelling	Lot Area per Family (sq. ft.)	7,200	5,000	5,000	2,500
	Avg. Lot Width per Family	48'	40'	40'	25'
	Front Yard	30'	25'	20'	25'
	Side Yard (0' if party wall)	20'	10'	5'	5'
	Rear Yard	Smaller of 30'-20' or 20% of the lot depth			
	Height	35'	35'	35'	35'
Other Allowed Uses	Lot Area (sq. ft.)	9,000	6,000	6,000	5,000
	Avg. Lot Width	60'	50'	50'	50'
	Front Yard	30'	25'	20'	25'
	Side Yard	10'	5'	5'	5'
	Rear Yard	Smaller of 30' or 20% of the lot depth			
	Height	35'	35'	35'	35'

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(b) **R-5, R-6, R-7 and R-8 General Requirements.** See Table 27.72.020(b) below:

Table 27.72.020(b)						
Maximum Height and Minimum Lot Requirements for the R-5 through R-8 Districts						
		R-5	R-6	R-7	R-8	
Single-family Dwelling	Lot Area (sq. ft.)	5,000	4,000	4,000	4,000	
	Avg. Lot Width	50'	50'	50'	50'	
	Front Yard	20'	20'	20'	10'	
	Side Yard	5'	5'	5'	10'	
	Rear Yard	Smaller of 30' or 20% of the lot depth				20'
	Height	35'	35'	35'	35'	
Two-family Dwelling	Lot Area per Family (sq. ft.)	2,500	2,500	2,000	2,000	
	Avg. Lot Width per Family	25'	25'	25'	25'	
	Front Yard	20'	20'	20'	10'	
	Side Yard (0' if party wall)	5'	5'	5'	10'	
Townhouses	Lot Area per Family (sq. ft.)	2,500	2,500	2,000	2,000	
	Avg. Lot Width per Family	20'	20'	20'	20'	
	Front Yard	20'	20'	20'	10'	
	Side Yard (0' if party wall)	10'	5'	5'	10'	
	Rear Yard	Smaller of 30' or 20% of the lot depth				20'

Table 27.72.020(b)					
Maximum Height and Minimum Lot Requirements for the R-5 through R-8 Districts					
	Height	35'	35'	35'	35'
Multiple-Family Dwellings and Apartment Hotels	Lot Area per Unit (sq. ft.)	1,500	1,100	700	550
	Avg. Lot Width	50'	50'	50'	50'
	Front Yard	20'	20'	20'	10'
	Side Yard (0' if party wall)	7' or 10' if over 20' in ht.		Total 15'; minimum 7' per side *	10'***
	Rear Yard	Smaller of 30' or 20% of the lot depth *			20'
	Height	35'	35'	45'*	75'***
Other Allowed Uses	Lot Area (sq. ft.)	5,000	4,000	4,000	4,000
	Avg. Lot Width	50'	50'	50'	50'
	Front Yard	20'	20'	20'	10'
	Side Yard	5'	5'	5'	10'
	Rear Yard	Smaller of 30' or 20% of the lot depth			20'
	Height	35'	35'	35'	35'
* In the R-7 zoning district for a building exceeding 35' in height, add one foot to the required side and rear yards for each additional two feet of height.					
** In the R-8 zoning district for a building exceeding 45' in height, the sum total of the two required side yards shall not be less than 30', and neither side yard shall be less than 10'.					

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(c) Exceptions to the Minimum Lot Requirements Residential.

- (1) In the R-1 through R-4 zoning districts if a vacant lot or tract of land has less area or width or both less area and width than herein required and its boundary lines along their entire length abutted lands under other ownership on November 2, 1953, and have not since been changed, such lot or tract of land may be used for a single-family dwelling provided that:
 - (i) A side yard of at least five feet shall be provided when located in the R-1 district.
 - (ii) If the vacant lot or tract of land has less width than herein required and its boundary lines along their entire length abutted lands under other ownership on November 2, 1953, and have not since been changed, such lot or tract of land may be used for a two-family dwelling in the R-4 district.
- (2) In the R-5 through R-8 where a vacant lot or tract of land has less area or width or both less area and width than herein required and its boundary lines along their

1 entire length abutted lands under other ownership on November 2, 1953, and have
2 not since been changed, the lot or tract of land may be used for a single-family
3 dwelling, two-family dwelling, or for any nondwelling use permitted in this
4 chapter.

5 (3) If a vacant lot or tract of land under (c)(1) or (c)(2) above comes under common
6 ownership with an abutting lot or tract of land, such vacant lot or tract of land
7 may be used for a single-family dwelling provided said abutting lot or tract of
8 land was occupied by a dwelling on the date such contiguous properties came
9 under common ownership.

10 (4) If a vacant lot or tract of land under (c)(1) or (c)(2) above comes under common
11 ownership with an abutting vacant lot or tract of land which has less area or width
12 or both less area and width than herein required, such lots and tracts of land shall
13 be merged together and constitute a single premises.

14 (5) If an existing lot or tract of land in a residential zoning district lawfully occupied
15 by a single-family or two-family dwelling on the effective date of this title or on
16 the effective date of a change in district boundaries from another zoning district to
17 the existing residential district has less area or width or both less area and width
18 than herein required, such lot or tract of land shall not be considered nonstandard
19 due to this condition..

20 (6) In those locations in the R-1 and R-2 zoning districts where, on November 2,
21 1953, and continuing thereafter, forty percent or more of the frontage on the same
22 side of a street between two street intersections is lawfully occupied by two or
23 more buildings consisting of two-family dwellings or two-family and multiple-
24 family dwellings, two-family dwellings may be erected in conformance with the
25 height, minimum lot requirements, and parking regulations of the R-4 zoning
26 district.

27 (7) In those locations in R-4 zoning district where, on November 2, 1953, and
28 continuing thereafter, forty percent or more of the frontage on the same side of a
29 street between two street intersections is lawfully occupied by two or more
30 buildings consisting of multiple-family dwellings, three- and four-family
31 dwellings may be erected in conformance with the height, minimum lot
32 requirements, and parking regulations of the R-5 zoning district.

33 (8) If an existing lot or tract of land in the R-1 or R-2 zoning district is lawfully
34 occupied by a two-family dwelling which has a side yard setback of less than
35 twenty feet in the R-1 zoning district or ten feet in the R-2 zoning district and said
36 use becomes nonstandard through a change in district boundaries from another
37 zoning district to this district, the two-family dwelling may be enlarged, extended
38 or reconstructed as long as the greater of the existing side yard or a ten-foot side
39 yard for the R-1 and five foot side yard for the R-2, is provided.

40 (9) If two or more abutting lots in the R-2 zoning district existing on or before
41 November 2, 1953, have an aggregate width of at least 75 feet, such lots may be
42 used for a two-family dwelling, notwithstanding the R-2 district average lot width
43 requirements per family in Table 27.72.020(a).

1 Section 2. That Section 27.72.060 of the Lincoln Municipal Code be amended to
2 read as follows:

3 **27.72.060 Uses Permitted or Prohibited Within Required Yards.**

4 (a) Every part of any required yard shall be open to the sky, unobstructed by a building,
5 except:

6 (1) Eaves may project into a front or rear yard thirty-six inches, exclusive of gutters.

7 (2) Eaves may project into a side yard twenty-four inches, or two-fifths of the
8 required side yard, whichever projection is greater, exclusive of gutters.

9 (3) Ordinary projection of sills, belt courses, cornices, vertical solar screens, and
10 ornamental features may project twelve inches.

11 (4) In the R-4, R-5, R-6, R-7 and R-8 districts located in areas of the City annexed
12 prior to January 31, 1949, up to twenty-five percent of the length of the principal
13 street facade of a building may project up to two feet into the required front yard.
14 Notwithstanding the above, a porch may not project into a required front yard
15 beyond that otherwise allowed by subsection (d) below.

16 (b) **Outdoor Recreation Areas.** Outdoor recreation areas including but not limited to
17 outdoor uses such as playgrounds and walking paths associated with early childhood care
18 facilities, non-residential healthcare facilities, and residential healthcare facilities, may be
19 located in any yard provided all structures requiring building permits meet setback
20 requirements.

21 (c) **Landscaping.**

22 (1) In the R-T, O-2, O-3, B-2, B-5, H-4 and all I zoning districts, the entire front yard
23 shall be entirely landscaped in conformance with the landscape design standards
24 adopted by the City of Lincoln, except for necessary paving of walkways and
25 driveways to reach parking and loading areas, provided that any driveway in the
26 front yard shall be substantially perpendicular to the street and shall not be wider
27 than thirty feet;

28 (2) In all O, B, and H zoning districts, when a side and/or rear yard abuts a residential
29 district, it shall be screened in conformance with the landscape design standards
30 adopted by the City of Lincoln.

31 (3) In the R-T zoning district, the side and rear yard shall be devoted entirely to trees,
32 shrubs, and grasses, and secondary sidewalks in conjunction with landscaping,
33 unless the abutting property is occupied by a parking lot.

34 (4) In the I-2 zoning district, the required rear yard shall be entirely landscaped in
35 conformance with the landscape design standards adopted by the City of Lincoln
36 when the rear yard abuts a residential district.

37 (d) **Porches.** An open, unenclosed porch may project into a required front yard for a
38 distance not exceeding ten feet; provided, however, such porches on residences in the
39 R-1, R-2, R-3, R-4, R-5, R-6, R-7 and R-8 zoning districts which project into the required

1 front yard no closer than ten feet from the street line may be enclosed under the following
2 conditions:

- 3 (1) The enclosed porch shall not be served by a heating system, cooling system, or
4 plumbing;
- 5 (2) At least forty percent of the other residences on the same frontage in the same
6 zoning district extend into the required front yard a distance equal to or greater
7 than the applicant's porch (for the purpose of this section, extensions into the front
8 yard may be a porch, balcony, vestibule, or the main part of the building);
- 9 (3) The applicant's porch shall not be located within any building line district; and
- 10 (4) At least fifty percent of each exterior wall shall be transparent.

11 (e) **Balconies.**

- 12 (1) A balcony may project into a required front yard for a distance not exceeding six
13 feet.
- 14 (2) In the R-6, R-7 and R-8 zoning districts, a balcony is permitted in the required
15 side yard, but no closer than seven feet from the side lot line.

16 (f) **Patios, Terraces, ~~Uncovered~~ Decks and Ornamental Features.**

- 17 (1) Patios, terraces, uncovered decks and ornamental features in the B-1, B-3, B-4,
18 H-1, H-2 and H-3 zoning districts may project into a required front yard.

19
20 (2) In the O-3, B-2, B-5, H-4, I-1, I-2 and I-3 zoning districts, patios and terraces may
21 project into a required front yard for a distance not to exceed fifteen (15) feet.

22
23 (23) In all zoning districts, pPatios, terraces, uncovered decks and ornamental features
24 which do not extend more than three feet above or below the adjacent ground
25 level may project into a required side and/or rear yard, provided ~~these projections~~
26 be distant at least that the projection shall be no closer than two feet from the
27 adjacent side lot line and that the combined floor area of any patio, terrace, deck
28 and any accessory building located in the rear yard shall not occupy more than
29 forty percent (40%) of the rear yard.

30
31 (34) In all zoning districts, pPatios, terraces, ~~uncovered~~ decks and ornamental features
32 which ~~do not~~ extend more than three feet above or below the adjacent ground
33 level may project into a required rear yard, provided ~~these projections be distant at~~
34 least two feet from the adjacent rear lot line the combined floor area of any patio,
35 terrace, deck and any accessory building located in the rear yard does not occupy
36 more than 40% of the rear yard and that the patio, terrace, or deck:-

- 37 (i) is uncovered;
 - 38 (ii) projects off of the first story of the dwelling or below;
 - 39 (iii) is no closer than ten feet from the rear lot line;
 - 40 (iv) does not encroach into a required side yard;
 - 41 (v) is a projection off of a single- or two-family structure.
- 42

- 1 (g) **Vestibules.** An enclosed vestibule containing not more than forty square feet may
2 project into a required front yard for a distance not to exceed four feet.
- 3 (h) **Canopies.** In O-3, B-1, B-2, B-3, B-4, B-5, H-1, H-2, H-3, H-4, I-1, I-2 and I-3 zoning
4 districts, canopies may project into a required front yard; provided, that a five foot
5 setback shall be maintained from the property line, and such canopies shall not cover
6 more than six square feet of ground area per each foot of frontage, and no portion of the
7 canopy shall be lower than nine feet above grade.
- 8 (i) **Outdoor Dining.**
 - 9 (1) In the B-1, B-3, B-4, H-1, H-2 and H-3 zoning districts outdoor dining is
10 permitted in the required front yard.
 - 11 (2) In the O-3, B-2, B-5, H-4, I-1, I-2 and I-3 zoning districts, outdoor dining is
12 permitted in the required front yard; provided, that a five foot setback shall be
13 maintained from the property line.
- 14 (j) **Loading Facilities.**
 - 15 (1) In the I-2 zoning district no loading facilities shall be provided in any front or side
16 yard adjacent to any residential district.
 - 17 (2) In the I-3 zoning district no loading facility shall be located in any required yard.
- 18 (k) **Walkways.** In the O-1, B-1, B-2, B-3, H-1, H-2, H-3, and I-1 zoning districts, enclosed
19 walkways not more than one story in height nor eight feet in width are permitted in the
20 required rear yard within two feet of the rear lot line.
- 21 (l) **Accessory Buildings.** See Section 27.72.120
- 22 (m) **Air conditioners/heat pumps.**
 - 23 (1) In all zoning districts except the R-1, R-2, R-3, and R-4 zoning districts, air
24 conditioners or heat pumps, not to exceed five ton units or parts thereof, may pro-
25 ject into a required side yard, provided that such projection shall be distant at least
26 two feet from the adjacent lot line and shall not extend more than three feet from
27 the building. Such air conditioners may project into a required front yard but shall
28 not extend more than three feet from the building, and such air conditioner or heat
29 pump may extend into one side of a corner lot.
 - 30 (2) In R-1, R-2, R-3, or R-4 zoning districts, air conditioners or heat pumps not to
31 exceed five tons or parts thereof may project into front and side yards not more
32 than four feet from the building it serves, and in no event shall be closer than one
33 foot to the adjacent lot line, and such air conditioner or heat pump may extend
34 into one side of a corner lot.
- 35 (n) **Solar Collectors.** Solar collectors which are a part of the main building may extend into
36 a required rear yard for a distance not to exceed ten feet, and solar collectors may extend
37 into a required side yard, provided that they have a minimum seven foot clearance from
38 grade; and provided, further, that such extension shall be distant at least three feet from
39 the adjacent lot line and may project into a side yard forty-eight inches, or two-fifths of
40 the required side yard, whichever projection is greater.

1 (o) **Ornamental siding and wall sheathing material.** Ornamental siding and wall sheathing
2 material, not including brick veneer, may project a maximum of two inches into any
3 required yard.

4 (p) **Fire Escapes, Fireproof Outside Stairways, Balconies Opening upon Fire Towers,
5 Chimneys, and Flues and Fireplaces.**

6 (1) Open lattice enclosed fire escapes, fireproof outside stairways, and balconies
7 opening upon fire towers, and the ordinary projections of chimneys and flues into
8 the rear yard may be permitted by the building inspector for a distance of not
9 more than three and one-half feet and where the same are so placed as not to
10 obstruct light and ventilation of adjacent dwellings.

11 (2) Chimneys, flues, and fireplaces may be permitted by the director of building and
12 safety to project into any required yard for a distance of not more than two feet
13 where the same are so placed as not to obstruct light and ventilation.
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15 (q) **Light Wells and Egress Windows.** Any light well or egress window may be located in
16 any required front, side or rear yard, provided:

17 (1) No such light well or egress window may be placed within two feet of any
18 property line;

19 (2) Any light well or egress window located in any required yard must have a safety
20 railing that meets all requirements for safety railings of the International Building
21 Code as adopted by the Lincoln Municipal Code if it is within five feet of any
22 sidewalk, walkway, or driveway;

23 (3) The construction of the light wells or egress windows meets the requirements of
24 the International Building Code as adopted by the Lincoln Municipal Code;

25 (4) The well does not extend more than one foot above the finished grade.

26 The requirements of (2) above may be waived by the City Council.

27 (r) **Fences.** See Section 27.72.140.

28 (s) **Building Line District.** See Section 27.72.170.

29 (t) **Driveways and Vehicle Stacking.**

30 (1) A driveway shall be permitted within the required front and side yards only if the
31 driveway provides a connection to a parking space that is or will be located as
32 permitted in this title, provided that in the O-2, O-3, B-2, B-5, H-4, I-1, I-2, and
33 I-3 zoning districts the driveway shall be substantially perpendicular to the street
34 and shall not be wider than thirty feet.

35 (2) Vehicle stacking for drive-in/drive through facilities shall be permitted within the
36 required side yard if such side yard does not abut a residential district.

37 (u) **Yard Accessories in Required Yards.** Poles, posts, and other customary yard
38 accessories, ornaments, and furniture may be located in any yard subject to requirements
39 limiting obstruction of visibility and height limitations.

1 Section 3. That Chapter 27.72 of the Lincoln Municipal Code be amended by
2 adding a new section numbered 27.72.190 to read as follows:

3 **27.72.190 Minor Modifications.**

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5 The Planning Director is authorized to approve minor modifications to the rear yard
6 setback provided that a request for modification is filed with the Planning Director which sets
7 forth the specific modification requested, a statement of the reasons (practical difficulties), and
8 supporting documentation as to why the modification will not adversely affect existing or
9 reasonably anticipated future uses of land in the surrounding area.

10 Within thirty (30) days from the date of filing of the request for modification, the
11 Planning Director shall approve or deny the request and shall notify the applicant in writing of
12 the director's approval or denial. The request for minor modification shall be approved by the
13 Planning Director only upon a finding that:

- 14 (1) The premises is located in the AG, AGR, or R-1 through R-8 zoning
15 district;
16 (2) The premises is used for a single- or two-family dwelling;
17 (3) The requested modification is for no more than five (5) feet;
18 (4) The modification will have no significant adverse impact on existing or
19 reasonably anticipated future uses in the surrounding area;
20 (5) The modification shall keep with the intent and spirit of the Zoning Code;
21 and
22 (6) The modification is needed to address practical difficulties encountered by
23 the applicant. For the purpose of this section, practical difficulty shall
24 mean a difficulty which cannot be alleviated by an amendment to an
25 existing special permit, use permit, or Planned Unit Development;
26 compliance with the setback requirement is unnecessarily burdensome;
27 and which amounts to more than a mere inconvenience in the reasonable
28 use of the premises for a single- or two-family dwelling.

29 Any council member or aggrieved person may appeal any approval or denial of the
30 request for modification by the Planning Director in accordance with Section 27.81.021.

1 Section 4. That Sections 27.72.020 and 27.72.060 of the Lincoln Municipal
2 Code as hitherto existing be and the same are hereby repealed.

3 Section 5. That this ordinance shall take effect and be in force from and after
4 passage and publication in one issue of a daily or weekly newspaper of general circulation in the
5 City, according to law.

Introduced by:

Approved as to Form & Legality:

City Attorney

Approved this ____ day of _____, 2013:

Chris Beutler, Mayor