

ORDINANCE NO. _____

1 AN ORDINANCE amending Title 27 of the Lincoln Municipal Code to (1) correct
2 errors made in previous text amendments and to clarify existing language without changing the
3 intent of the language by amending Section 27.02.200 to clarify the definition of “story” to provide
4 for a more clear understanding of where the first story of a structure begins; amending Section
5 27.06.160 relating to the Major Entertainment and Event Use Group to provide guidance as to when
6 a venue should be classified as “major event entertainment,” e.g. 500 seats or more; amending
7 Section 27.06.170 by amending the Use Group Table to designate Cabinet Shops and Stores as a
8 conditional use in the H-2 zoning district; amending Sections 27.61.040 and 27.61.050 to add “or
9 this Chapter” as a reference to clarify what methods can be used to structurally alter, reconstruct,
10 or restore a nonconforming structure; amending Section 27.67.066 to update parking for H-3 uses
11 to reflect specific uses that were allocated a parking reduction prior to Use Groups approval;
12 amending Section 27.69.030 general provisions for signs to clarify that roof signs are permitted but
13 are regulated under Section 27.69.310, to require a certain spacing between the location of any sign
14 and an abutting residential premises located in a residential district, and to clarify that in all zoning
15 districts, except for the O-1, O-2, and R-T districts, more than one sign per architectural elevation
16 per building is allowed, provided that the total sign area of such wall signs shall not exceed 30% per
17 architectural elevation and no wall sign shall exceed 500 square feet in sign area; amending Section
18 27.69.240 to clarify that menu boards, although a type of freestanding sign, have their own
19 regulations; amending Section 27.69.290 to clarify that window signs are not counted toward the
20 allocated percentage of wall signage; amending Section 27.69.310 to insert language needed for
21 consistency between this section and Section 27.69.030; amending Section 27.72.180 to provide that

1 a commercial use abutting a residential district does not need to comply with the residential district
2 provisions if the adjacent land in the residential district may be used for a commercial use under a
3 PUD; and (2) to modify appeal procedures to consistently include any council member or mayor
4 among the listed persons who have the right to appeal the applicable order, approval, disapproval,
5 or other decision by amending Sections 27.56.140, 27.57.180, 27.62.150, 27.63.025, 27.64.010,
6 27.69.030, 27.72.190, and 27.81.021; and repealing Sections 27.02.200, 27.06.160, 27.06.170,
7 27.56.140, 27.57.180, 27.61.040, 27.61.050, 27.62.150, 27.63.025, 27.64.010, 27.67.066, 27.69.030,
8 27.69.240, 27.69.290, 27.69.310, 27.72.180, 27.72.190, and 27.81.021 of the Lincoln Municipal
9 Code as hitherto existing.

10 Section 1. That Section 27.02.200 of the Lincoln Municipal Code be amended to
11 read as follows:

12 **27.02.200 S.**

13 **Salvage Material.** See definition in Chapter 5.41.

14 **Salvage Operation and Salvage Material.** See definition in Chapter 5.41.

15 **Salvage Yard.** Salvage yard shall mean any salvage operation, recycling center, or recycling
16 processing center where any wrecking, dismantling, or holding of salvage material or recycling of
17 recyclables as defined in Chapter 5.41 is wholly or partially outside a building for more than 30
18 days.

19 **Satellite College.** Satellite college shall mean a post-secondary educational institution whose
20 main campus is located on another premises or in another city. Uses consist primarily of classrooms
21 and offices. Student housing is not considered customary or accessory.

22 **School.** School shall mean an institution where instruction is given and shall include the
23 following institutions: Academies, Private College, Private School, Satellite College, Vocational
24 Schools.

25 **Service and Repair Facility.** Service and/or Repair Facility shall mean a facility that
26 performs routine maintenance or repair work. Such facilities would include but not be limited to
27 repair and maintenance of home and office equipment, electrical appliances, radios, televisions, lawn
28 and garden equipment repair, appliance, bicycle, electrical, furnace shops, and rental equipment.
29 Service and repair facility does not include the service or repair of motorized vehicles.

1 **Sexually Oriented Live Entertainment Establishment.** Sexually oriented live entertain-
2 ment establishment shall mean any commercial establishment that as a substantial or significant
3 portion of its business features or provides any of the following:

- 4 (a) Persons who appear showing specified anatomical areas.
- 5 (b) Live performances that are distinguished or characterized by an emphasis on the expo-
6 sure, depiction, or description of specific anatomical areas or the conduct or simulation
7 of specified sexual activities.

8 Sexually oriented live entertainment establishment shall not include any theater, concert hall, art
9 center, museum, or similar establishment which is primarily devoted to the arts or theatrical
10 performances and in which any of the circumstances contained in this section were permitted or
11 allowed as part of such art exhibits or performances.

12 **Sign.** (See definition of Sign in 27.69.020).

13 **Small Batch Concrete Dispensing Unit.** Small batch concrete dispensing unit shall mean
14 a machine or device with a mixing chamber with a capacity no greater than one-fourth of a cubic
15 yard and mixing materials are totally enclosed.

16 **Social Hall.** Social hall shall mean a building or premises available for rent on a daily basis
17 to be used for social, educational, or civic gatherings, including, but not limited to, charitable fund
18 raising events, wedding receptions, family reunions, educational seminars, neighborhood meetings,
19 or similar events.

20 **Solar Screen.** Solar screen shall mean a device attached to a building to provide shading
21 for glazed areas thereof.

22 **Specified Anatomical Areas.** Specified Anatomical Areas shall mean:

- 23 (a) Less than completely and opaquely covered human genitals; pubic region; anus; or
24 female breast below a point immediately above the top of the areolae, but not including
25 any portion of the cleavage of the female breast exhibited by a dress, blouse, shirt,
26 leotard, bathing suit, or other wearing apparel, provided the areolae is not exposed.
- 27 (b) Human male genitals in a discernibly turgid state, even if completely and opaquely
28 covered, or any device covering that, when worn, simulates male genitals in a
29 discernibly turgid state.

30 **Specified Sexual Activities.** Specified Sexual Activities shall mean any of the following:

- 31 (a) Fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or
32 female breasts.
- 33 (b) Sex acts normal or perverted, actual or simulated, including intercourse, oral copula-
34 tion, or sodomy.
- 35 (c) Masturbation, actual or simulated.
- 36 (d) Human genitals in a state of sexual stimulations, arousal, or tumescence.
- 37 (e) Excretory functions as part of or in connection with any of the activities set forth in (a),
38 (b), (c) or (d) above.

1 **Story.** Story shall mean that portion of a building included between the upper surface of any
2 floor and the upper surface of the floor next above, except that the top-most story shall be that
3 portion of the building included between the upper surface of the topmost floor and the ceiling or
4 roof above. If the finished floor level directly above a basement, cellar, or unused under-floor space
5 is more than six feet above grade as defined herein for more than fifty percent of the total perimeter,
6 or is more than twelve feet above ~~grade~~ the ground elevation at any point, such basement, cellar, or
7 unused underfloor space shall be considered as a story.

8 **Street.** Street shall mean all property acquired or dedicated to the public and accepted by
9 the appropriate governmental agencies for street purposes, and property that has been commonly
10 used or dedicated to be used for street purposes prior to November 2, 1953.

11 **Street Centerline.** Street centerline shall mean a line midway between street lines except
12 under conditions specified in Section 27.72.170.

13 **Street Line.** Street line shall mean a dividing line between a lot, tract, or parcel of land and
14 a contiguous street.

15 **Structure.** Structure shall mean anything constructed or erected, the use of which requires
16 permanent location on the ground or attachment to something having a permanent location on the
17 ground. Poles used for the support of wires and appurtenant equipment for supplying public utility
18 services shall not be considered as buildings or structures under this title.

19 **Structural Alteration.** Structural alteration shall mean any change in the supporting
20 members of a building, such as bearing walls, columns, beams, or girders, or any complete
21 rebuilding of the roof or the exterior walls.

22 Section 2. That Section 27.06.160 of the Lincoln Municipal Code be amended to
23 read as follows:

24 **27.06.160 Major Entertainment and Event Use Group**

25 Characteristics: The Major ~~Event~~ Entertainment and Event Use Group is characterized by
26 activities and structures that draw large crowds of people, generally over 500 people, to specific
27 events or shows. These activities generally do not occur on a daily basis. They do involve activities
28 that may last late into the night and early morning. Such uses include but are not limited to

1 amphitheatres, animal racing tracks, arenas, auditoriums, convention center, exhibition and meeting
 2 facilities, recreational facilities for motorized vehicles, and stadiums.

3 Use Group Table:

| 4 Uses | AG | AGR | R1 | R2 | R3 | R4 | R5 | R6 | R7 | R8 | O1 | O2 | O3 | RT | B1 | B2 | B3 | B4 | B5 | H1 | H2 | H3 | H4 | I1 | I2 | I3 |
|--|----|-----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|
| 5 Places of public assembly | | | | | | | | | | | | | | | | | | P | P | | | | | P | P | P |
| 6 Race track for motorized 7 vehicles | S | | | | | | | | | | | | | | | | | | | | | | | S | | |
| 8 All other uses in this Use 9 Group | | | | | | | | | | | | | | | | | | P | | | | | | | | |

10 Section 3. That Section 27.06.170 of the Lincoln Municipal Code be amended to

11 read as follows:

12 **27.06.170 Heavy Commercial Services Use Group**

13 Characteristics: The Heavy Commercial Services Use Group is characterized by uses that
 14 are engaged in the repair or servicing of industrial, business, or consumer machinery, equipment,
 15 products, or by-products. Firms that service consumer goods do so by mainly providing centralized
 16 services for separate retail outlets. Contractors, building maintenance services, and similar uses
 17 perform the majority of their services off-site. Outdoor storage and activity and a fleet of service
 18 vehicles and machinery are common. Heavy equipment or truck idling may occur for long periods
 19 of time. Few customers, especially the general public, come to the site on a regular basis. Such uses
 20 include but are not limited to private landing strips, building and construction contractor services,
 21 tree services, truck stops, truck terminals, truck wash facilities, mini-warehouse and lumber yards.

22 Use Group Table:

| 23 Uses | AG | AGR | R1 | R2 | R3 | R4 | R5 | R6 | R7 | R8 | O1 | O2 | O3 | RT | B1 | B2 | B3 | B4 | B5 | H1 | H2 | H3 | H4 | I1 | I2 | I3 |
|--|----|-----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|
| 24 Contractor services | | | | | | | | | | | | | | | | | | C | P | P | | C | P | P | P | P |
| 25 Cabinet shops or stores | | | | | | | | | | | | | | | | | | C | P | P | | C | P | S | P | P |
| 26 Lumber yards | | | | | | | | | | | | | | | | | | P | P | | | P | P | P | P | P |
| 27 Mini-warehouses | | | | | | | | | | | | | | | | | | C | | | | P | P | P | P | P |
| 28 Private landing strips and 29 appurtenances | S | S | | | | | | | | | | | | | | | | | | | | | | | | |
| 30 Temporary storage of 31 construction equipment and 32 materials | S | | | | | | | | | | | | | | | | | P | | | | | | P | P | P |
| 33 Tree service | S | | | | | | | | | | | | | | | | | P | | | | | | P | P | |
| 34 Truck stops | | | | | | | | | | | | | | | | | | P | | P | | P | P | P | P | P |
| 35 Truck terminals | | | | | | | | | | | | | | | | | | P | | | | P | P | P | P | P |
| 36 Truck wash facilities | | | | | | | | | | | | | | | | | | C | | P | C | C | S | P | P | P |
| 37 All other uses in this Use 38 Group | | | | | | | | | | | | | | | | | | P | | | P | P | P | P | P | P |

1 Section 4. That Section 27.56.140 of the Lincoln Municipal Code be amended to
2 read as follows:

3 **27.56.140 Appeal.**

4 Any council member, the Mayor, or any person aggrieved by any order, approval,
5 disapproval, or other decision issued by the Nebraska Capitol Environs Commission or the Planning
6 Director may appeal such order, approval, disapproval, or other decision to the City Council by
7 filing a written appeal with the City Clerk within fourteen days of the date of such decision, except
8 that governmental units may opt to appeal actions of the Nebraska Capitol Environs Commission
9 or the Planning Director to the Nebraska Department of Administrative Services by so indicating
10 at the time of filing the appeal with the City Clerk and by giving notice of such intent to the Building
11 Division of the Nebraska Department of Administrative Services. Such appeal shall fully state the
12 order, approval, disapproval, or other decision appealed from, the date thereof, and the facts of the
13 matter.

14 Section 5. That Section 27.57.180 of the Lincoln Municipal Code be amended to
15 read as follows:

16 **27.57.180 Appeal.**

17 Any council member, the mayor, or any person aggrieved by any order, approval, disap-
18 proval, or other decision issued by the Preservation Commission, the Planning Director, or the
19 Planning Commission may appeal such order, approval, disapproval, or other decision to the City
20 Council by filing a written appeal with the City Clerk within thirty days of such order. Such appeal
21 shall fully state the order, approval, disapproval, or other decision appealed from, the date thereof,
22 and the facts of the matter.

1 The City Clerk shall refer the appeal to the City Council, which shall fix within thirty days
2 a reasonable time for the hearing. Notice of the time, place, and purpose of such hearing shall be
3 published in a daily newspaper having a general circulation in the City of Lincoln by the City Clerk
4 and shall be mailed by certified or registered mail to the appealing party not less than eight days
5 prior to the date of hearing. In exercising its appellate jurisdiction, the order approval, disapproval
6 or other decision appealed from shall be deemed advisory and the City Council may in conformance
7 with the provisions of this title make such decision as ought to be made. In making a determination,
8 the Council may request information and recommendations from any department of the City of
9 Lincoln.

10 Section 6. That Section 27.61.040 of the Lincoln Municipal Code be amended to
11 read as follows:

12 **27.61.040 Extension or Enlargement.**

13 Any nonconforming building or premises devoted to a use not permitted by this title in the
14 district in which the building or premises is located shall not be enlarged, extended, converted,
15 reconstructed, or structurally altered unless such use is changed to a use permitted in the district in
16 which the building or premises is located or unless authorized under the provisions of Section
17 27.63.280 [or this Chapter](#) or required to do so by law or order.

18 Section 7. That Section 27.61.050 of the Lincoln Municipal Code be amended to
19 read as follows:

20 **27.61.050 Restoration After Damage.**

21 When the use of a building is nonconforming as defined in this chapter and such a building
22 is damaged by a fire, explosion, act of God, or the public enemy to the extent of more than sixty
23 percent of its fair market value, it shall not be restored except in conformity with the regulations of
24 the district in which the building is located, or in conformance with the provisions of Chapter 27.75,
25 [or Section 27.63.280, or this Chapter.](#)

1 Section 8. That Section 27.62.150 of the Lincoln Municipal Code be amended to
2 read as follows:

3 **27.62.150 Manufacturing, Processing, Storage and Distribution Use Group.**

4 A building or premises may be used for the following use types as a permitted conditional
5 use in the designated zoning districts and in compliance with the conditions of approval applicable
6 for that use type.

- 7 (a) Assembly facilities, including but not limited to the assembly of equipment, instruments and
8 appliances such as computers and musical instruments are allowed in the H-2 and H-3
9 zoning districts under the following condition: All storage and display of merchandise shall
10 be screened from public view by a fence, walls, shrubs, or all such storage and display shall
11 be within the enclosure walls of a building.
- 12 (b) Liquefied petroleum gas and similar gas used for fuel stored above ground is allowed in the
13 I-2 and I-3 zoning districts under the following conditions:
 - 14 (1) Tanks may not exceed 30,000 gallon capacity;
 - 15 (2) The storage of gas shall be for use on the premises, and not for resale;
 - 16 (3) All other combustible material shall be stored in such a way as to permit free access
17 of fire-fighting equipment.
 - 18 (4) Open storage of any other material is allowed only in areas enclosed or otherwise
19 adequately screened from public view with an enclosure or screen at least six feet in
20 height.
 - 21 (5) In the I-2 zoning district tanks shall be adequately screened from public view by a
22 fire-resistant ventilated barrier which shall be at least six feet in height;
- 23 (c) Fuel oil storage tanks and all bulk storage of oils, petroleum and similar flammable liquids
24 and chemicals are allowed in the I-2 and I-3 zoning districts under the following conditions:
 - 25 (1) Such use shall be adequately screened from public view;
 - 26 (2) Storage of such materials shall be for use on the premises and not for resale, except
27 that resale of such stored material at retail only is allowed in conjunction with the
28 operation of a fuel sales facility or similar retail outlet.
- 29 (d) Outdoor motorized vehicle storage is allowed in the H-3, H-4 and I-2 zoning districts under
30 the following conditions:
 - 31 (1) The outdoor storage shall be screened in conformance with the requirements for
32 screening open storage in Chapter 3.50 of the City of Lincoln Design Standards.
 - 33 (2) There shall be no dismantling, wrecking, or disassembling of any vehicles.
 - 34 (3) Vehicles may not be stacked upon each other.
 - 35 (4) Parking shall be in conformance with Section 27.67.066(a).
- 36 (e) In the area of the B-4 zoning district from 150 feet east of 17th Street to the eastern edge of
37 the B-4 zoning district, warehouses are prohibited except that pre-existing warehouses in
38 said area may remain, regardless of time unoccupied, but must cease once the building is
39 demolished.

- 1 (f) Temporary paving plants used for the paving of federal or state highways or county roads
2 are allowed in any zoning district during the project construction period under the following
3 conditions:
- 4 (1) The plant shall be located outside the city limits on premises abutting the specific
5 construction project and having access to a paved road.
 - 6 (2) The boundaries of the property used for the plant shall be located no closer than 300
7 feet from an occupied dwelling or from any school, church, library, early childhood
8 care facility, hospital, motel, or park.
 - 9 (3) ~~The permittee~~ operator shall require its suppliers to use paved roads or other
10 designated truck routes approved by the County Engineer for the delivery of supplies
11 to the paving plant.
 - 12 (4) Paving material prepared at the plant shall not be transported to any location other
13 than the abutting project.
 - 14 (5) The plant shall be removed upon substantial completion of the construction project.
- 15 (g) Temporary concrete paving plants. Temporary concrete paving plants are permitted in any
16 zoning district by administrative permit issued by the Planning Director. The Planning
17 Director shall not issue a permit or renew a permit without written approval by the Director
18 of the Lincoln- Lancaster County Health Department and the Director of the Public Works
19 and Utilities Department.
- 20 (1) Applications for an administrative permit shall include:
 - 21 (i) A site plan showing the entire limits of the permit area including the plant
22 location, material storage areas, and the ingress/egress;
 - 23 (ii) A dust control and suppression plan including the plant operations and haul
24 roads to and from plant to project;
 - 25 (iii) A description or manufacturer's specification regarding particulate control
26 equipment;
 - 27 (iv) A copy of a signed contract or other verification that the applicant is under
28 contract to supply concrete for a city arterial street paving project;
 - 29 (v) A noise control plan that will allow the operation to comply with Chapter
30 8.24 of the Lincoln Municipal Code;
 - 31 (vi) A copy of a signed lease or other verification that the applicant has
32 permission of the owner of the land upon which the plant shall be located to
33 locate the plant thereon.
 - 34 (2) The administrative permit shall be issued under the following conditions:
 - 35 (i) The plant site shall be approved by the City Engineer or if outside the city
36 limits by the County Engineer and shall be located in the general vicinity of
37 the specific arterial street paving project or projects and have access to a
38 paved road;

- 1 (ii) The boundaries of the property used for the plant shall be located no closer
2 than 300 feet from an occupied dwelling or from any school, church, library,
3 early childhood care facility, hospital, motel, or park;
- 4 (iii) The permittee shall require its suppliers to use only paved roads approved by
5 the Director of Public Works or the County Engineer as the case may be, for
6 the delivery of supplies to the plant. The permittee shall further require that
7 the drivers of concrete trucks leaving the plant also use said paved roads.
8 EXCEPTION: The use of nonpaved roads may be approved on a case-by-
9 case basis by the Director of Public Works or the County Engineer;
- 10 (iv) The permit site shall be cleaned up and restored to its pre-permit condition
11 within thirty days following the completion of the project. Restoration
12 includes replanting of vegetation and maintenance of erosion and sediment
13 control until the site is reestablished. Any paved or unpaved road damaged
14 by the permittee's use of such road, including permittee's suppliers and
15 concrete trucks entering and/or leaving the plant, shall be repaired at
16 permittee's cost and expense;
- 17 (v) All concrete produced by this plant shall be used to complete the project. The
18 concrete shall not be provided for concrete work to be performed by persons
19 other than the permittee;
- 20 (vi) The anticipated set up and removal dates shall be identified on the
21 application. Amendments to these dates must be requested to the Planning
22 Director in writing;
- 23 (vii) The applicant shall submit a performance bond satisfactory to the City
24 Attorney in the minimum amount of \$5,000, or an amount determined by the
25 City to be sufficient, to guarantee performance and clean up of the permit site
26 and to pay for repairs to paved and unpaved roads damaged by permittee's
27 use of such roads.
- 28 (3) Permits issued pursuant to this section shall expire on the completion date of the
29 project as set forth in the permit application. The Planning Director may extend the
30 expiration date by administrative amendment upon a showing that the project
31 completion is delayed or that the permittee has contracted for another project in
32 conformance with subparagraph (a) above.
- 33 (h) Temporary concrete batch plants. Temporary concrete batch plants are permitted in any
34 zoning district by administrative permit issued by the Planning Director. The Planning
35 Director shall not issue a permit or renew a permit without written approval by the Director
36 of the Lincoln- Lancaster County Health Department.
- 37 (1) Applications for the administrative permit shall include:
- 38 (i) A site plan showing the entire limits of the permit area including the plant
39 location, material storage areas, and the ingress/egress;
- 40 (ii) A dust control and suppression plan including the plant operations and haul
41 roads to and from plant to project;

- 1 (iii) A statement indicating the typical hours of operation. The plant may operate
- 2 no more than fourteen hours per day, except on New Year Day, Memorial
- 3 Day, the 4th of July, Labor Day, Thanksgiving Day, and Christmas when the
- 4 operation shall not begin before noon;
- 5 (iv) A description or manufacturer’s specification regarding particulate control
- 6 equipment;
- 7 (v) A copy of a signed contract or other verification that the applicant is under
- 8 contract to supply concrete for a project requiring at least 3,000 yards of
- 9 concrete located within the same section or one mile of the permitted plant.
- 10 The contract or other verification shall include the commencement and
- 11 ending dates of the project. The Planning Director may increase the one- mile
- 12 distance limit to no more than two miles if necessary to avoid routing trucks
- 13 through local streets or inadequate county roads, or locations near occupied
- 14 dwellings, schools, libraries, churches, or other noise or dust sensitive uses;
- 15 and
- 16 (vi) A noise control plan that will allow the operation to comply with Chapter
- 17 8.24 of the Lincoln Municipal Code.
- 18 (vii) A copy of a signed lease or other verification that the applicant has
- 19 permission of the owner of the land upon which the plant shall be located to
- 20 locate the plant thereon.
- 21 (2) The administrative permit shall be issued under the following conditions:
- 22 (i) The plant shall be located on premises in the same section or within one mile
- 23 of the project identified on the application or as authorized under
- 24 subparagraph (d)(1)(v) above;
- 25 (ii) The silo, batch plant, and aggregate storage shall be located no closer than
- 26 300 feet from an occupied dwelling or from any school, church, library,
- 27 early childhood care facility, hospital, motel, or park;
- 28 (iii) The permittee shall require its suppliers to use only paved roads approved by
- 29 the Director of Public Works or the County Engineer as the case may be, for
- 30 the delivery of supplies to the concrete batch plant. The permittee shall
- 31 further require that the drivers of concrete trucks leaving the plant also use
- 32 said paved roads. EXCEPTION: The use of nonpaved roads may be approved
- 33 on a case-by-case basis by the Director of Public Works or County Engineer.
- 34 Additional bonding may be required to pay for repairs of damage to such
- 35 nonpaved roads;
- 36 (iv) The plant shall be removed upon completion of the project identified in the
- 37 application; or upon construction and occupancy resulting in a violation of
- 38 subparagraph (d)(2)(ii) above. The permit site shall be cleaned up and
- 39 restored to its pre-permit condition within thirty days following the
- 40 completion of the project;

- 1 (v) All concrete produced by this plant shall be used to complete the project,
- 2 except that the permittee may use the concrete product for sidewalks,
- 3 driveways, foundations, parking lots, and other small concrete work to be
- 4 performed by the permittee. The concrete shall not be provided for concrete
- 5 work to be performed by persons other than the permittee. The amount of
- 6 concrete produced for small concrete work shall not exceed fifty percent of
- 7 that produced for the project;
- 8 (vi) The plant shall be recalibrated to the satisfaction of the Public Works and
- 9 Utilities Department prior to construction of any public improvement using
- 10 concrete produced by this plant;
- 11 (vii) The anticipated set up and removal dates shall be identified on the
- 12 application. Amendments to these dates must be requested to the Planning
- 13 Director in writing;
- 14 (viii) The applicant shall submit a performance bond satisfactory to the City
- 15 Attorney in the amount of \$5,000 to guarantee performance and clean up of
- 16 the permit site.
- 17 (3) Permits issued pursuant to this section shall expire on December 31 of the year of
- 18 issuance or the completion date of the project as set forth in the permit application,
- 19 whichever is earlier. The Planning Director may extend the expiration date by an
- 20 administrative amendment upon a showing that the project completion date is
- 21 delayed by weather or other causes beyond control of the permittee, or that the
- 22 permittee has contracted for another project in conformance with subparagraph (a)
- 23 above; provided, however, no extension of the expiration date may extend the permit
- 24 beyond December 31 of the year of issuance. Renewal of a previously issued permit
- 25 shall be by application in the same form as the original permit.
- 26 (4) The Planning Director may revoke the temporary permit for any one or more of the
- 27 following violations:
- 28 (i) Failure to operate the facility in accordance with the provisions of this
- 29 section or with the approved application;
- 30 (ii) A violation of any city, county, state, or federal law;
- 31 (iii) Denial of access to the site to determine compliance with this section;
- 32 (iv) Unreasonable noise or disturbance to the surrounding neighborhood;
- 33 (i) ~~(5)~~ Appeal. The action of the Planning Director in approving, denying, refusing to
- 34 renew, or revoking an administrative permit for a temporary concrete paving plant
- 35 or temporary concrete batch plant pursuant to ~~this section~~ subsections (g) or (h)
- 36 above may be appealed. ~~Any by any council member, the Mayor or any~~ aggrieved
- 37 person ~~may appeal the action of the Planning Director~~ to the Planning Commission

1 by filing notice of appeal with the Planning Director within fourteen days following
2 the decision of the Planning Director. Final action by the Planning Commission may
3 be appealed to the City Council by any council member, the Mayor, or any aggrieved
4 person by filing notice of appeal with the City Clerk within fourteen days following
5 the action by the Planning Commission.

6 Section 9. That Section 27.63.025 of the Lincoln Municipal Code be amended to
7 read as follows:

8 **27.63.025 Appeal of Planning Commission Action.**

9 (a) Any council member, the Mayor, or any aggrieved person, ~~council member~~, or any
10 person or group officially designated to participate in the administration of this title may appeal any
11 action of the Planning Commission to the City Council by filing notice of appeal with the City Clerk
12 within fourteen days following the action of the Planning Commission.

13 (b) Upon receipt of the appeal by the City Council, the council shall hold a public
14 hearing thereon within thirty days from the date of appeal. Notice of the public hearing shall be
15 given as provided in Chapter 27.81.

16 (c) In exercising its appellate jurisdiction, the action appealed from shall be deemed
17 advisory and the City Council may, after public hearing, in conformity with the provisions of this
18 title make such decision as ought to be made.

19 Section 10. That Section 27.64.010 of the Lincoln Municipal Code be amended to
20 read as follows:

21 **27.64.010 Procedures and Requirements.**

22 (a) Application: Applications for a use permit under this chapter for development in the O-3,
23 R-T, B-2, B-5, and I-3 zoning districts shall be filed by the owner in writing with the
24 Planning Department on a form provided by the City. Upon filing the application, the City
25 Council shall refer the application to the Planning Commission for its consideration and final
26 action as provided in subsection (g) below.

27 (b) Preliminary plan: The Planning Director may require a preliminary plan that may include
28 the following information:

- 29 (1) Boundary survey and gross acreage;

- 1 (2) Contour lines at intervals not to exceed five feet based on NAVD 1988. Spot
- 2 elevations on 100-foot grid shall be required to fully indicate the topography on flat
- 3 land;
- 4 (3) Street right of way;
- 5 (4) Utility easements;
- 6 (5) Adjacent land use and zoning classifications;
- 7 (6) Location of structures on property to be removed;
- 8 (7) Vicinity map;
- 9 (8) Date prepared, scale and north point;
- 10 (9) Schematic and location of existing buildings;
- 11 (10) Parking areas and capacity;
- 12 (11) Open space for residential uses (except in the R-T District);
- 13 (12) Use of buildings, such as retail, service, restaurant, office, residential and other uses;
- 14 (13) Height of buildings;
- 15 (14) Location of existing trees and proposed landscape plan;
- 16 (15) Proposed vehicular and pedestrian circulation system including egress and ingress;
- 17 (16) Building and parking setback lines;
- 18 (17) Grading plan;
- 19 (18) On-site and off-site water and sanitary sewer improvements;
- 20 (19) On-site and off-site drainage and storm sewer improvements;
- 21 (20) Location of proposed free-standing signs;
- 22 (21) Cross-section for paving of parking lots and sidewalks;
- 23 (22) In the B-2 and B-5 districts, proposed name of the shopping center;
- 24 (23) Name, address, and telephone number of developer; certified record owner or owners
- 25 and addresses; and legal description of the proposed use permit area, including the
- 26 number of acres.
- 27 (c) Environmental performance standards: Any applicant for a use permit under the provisions
- 28 of this section shall comply with environmental performance standards relating to noise,
- 29 emission, dust, odor, glare, and heat as shall be from time to time established by various
- 30 municipal departments and approved by resolution of the City Council.
- 31 (d) Environmental impact statement and market analysis: If any application for a change of
- 32 zone to the B-5 Planned Regional Business District or for a use permit in the B-5 district
- 33 under the provisions of this section substantially deviates from the Comprehensive Plan in
- 34 terms of location or size, as determined by the Planning Director, the applicant shall submit
- 35 an environmental impact statement and a market analysis in accordance with Chapters 3.05
- 36 and 3.10 of the City of Lincoln Design Standards for Zoning Regulations which shall serve
- 37 as a guide to the Planning Commission for evaluation of such application in terms of need,
- 38 desirability, supportability, and its implications for the overall growth of the community.
- 39 (e) Planning Commission review: The Planning Commission shall hold a public hearing upon
- 40 such application and shall consider the effect of the proposed use upon the surrounding
- 41 neighborhood, the community as a whole, and other matters relating to public health, safety,
- 42 and general welfare.

1 (f) Planning Commission action: After holding at least one public hearing, the Planning
2 Commission shall proceed to give final consideration to the application. The Planning
3 Commission shall impose such conditions as are appropriate and necessary to ensure
4 compliance with the Comprehensive Plan and protect the health, safety, and general welfare
5 in the issuance of any such use permits. Such conditions may include an increase in the
6 minimum parking and yard requirements and decrease in the maximum height restrictions
7 set forth in this chapter. Lots fronting on private roadways may be permitted. Unless
8 expressly modified by the terms of the use permit, all regulations of the applicable R-T, O-3,
9 B-2, B-5, or I-3 District shall apply. The Planning Commission may require that certain
10 conditions be fulfilled by the applicant in conjunction with approval of the use permit
11 applied for which may include the requirement that applicant grant additional right of way
12 in accordance with the Comprehensive Plan. The Planning Commission may also require the
13 execution of a written agreement with the city relating to the installation of public
14 improvements by the applicant, together with the execution of performance bonds or
15 provision of other appropriate surety relating thereto. The installation of all public
16 improvements shall be accomplished in compliance with existing city standards as provided
17 by ordinance or by departmental publications approved by resolution of the City Council.
18 In the event the Planning Commission fails to act upon the application within ninety days
19 from the date of the Council's referral of the application to the Planning Commission, the
20 applicant may file a written request with the Planning Director requesting the Planning
21 Commission to take final action on the application. If the Planning Commission fails to take
22 such final action within thirty days following the Planning Director's receipt of the written
23 request, the Planning Director shall schedule the application on the City Council's agenda
24 for public hearing and final action.

25 (g) Appeal of Planning Commission action:

26 (1) Any council member, the Mayor, or any aggrieved person, or any person or group
27 officially designated to participate in the administration of this title may appeal any
28 action of the Planning Commission to the City Council by filing notice of appeal
29 with the City Clerk within fourteen days following the action of the Planning
30 Commission.

31 (2) Upon receipt of the appeal by the City Council, the council shall hold a public
32 hearing thereon within thirty days from the date of appeal. Notice of the public
33 hearing shall be given as provided in Chapter 27.81.

34 (3) In exercising its appellate jurisdiction, the action appealed from shall be deemed
35 advisory and the City Council may, after public hearing, in conformity with the
36 provisions of this title make such decision as ought to be made.

1 (h) Adjustment of minimum subdivision requirements and zoning sign, parking, height and lot
2 requirements and height restrictions: Upon request of the applicant, the City Council may,
3 after report and recommendation of the Planning Commission, adjust the minimum
4 subdivision requirements, minimum parking, height and lot requirements, and sign regula-
5 tions for location, height and area of a sign set forth in Title 26 and this chapter provided the
6 public welfare and interest of the City and surrounding area are protected and the general
7 interest and spirit of the regulations are preserved and provided further that in the R-T
8 district, the maximum height of a building shall not exceed the height of the tallest residence
9 on the same and facing block fronts. The Planning Commission shall hold a public hearing
10 upon the requested adjustment at the same time that it hears the application for the use
11 permit and shall make a report to the City Council regarding the effect the proposed use and
12 adjustment has upon the surrounding neighborhood, the community as a whole, and other
13 matters relating to public health, safety, and general welfare. Upon receiving a report from
14 the Planning Commission, the City Council shall take final action upon the use permit and
15 the adjustment.

16 (j) Amendment: The Planning Director is authorized to approve amendments to the use permit
17 provided that:

- 18 (1) A request for amendment is filed with the Planning Director and, if appropriate,
19 accompanied by a plot plan showing all pertinent information;
- 20 (2) Minor increases in the number of dwelling units or total floor area originally
21 authorized by the Planning Commission or City Council may be approved if such
22 increases will not cause a significant adverse impact on the public infrastructure,
23 existing development within the use permit and adjoining properties. Minor
24 increases shall not exceed more than fifteen percent (15%) cumulative additional
25 dwelling units or total floor area;
- 26 (3) Amendments shall preserve the intent and spirit of the approved development plan;
- 27 (4) Amendments shall not violate any regulation set forth in this title;
- 28 (5) No change is made to the applicable setback, yard, or height requirements for lots
29 along the perimeter of the use permit;
- 30 (6) Minor internal changes to the applicable setback, yard, or height requirements may
31 be made within the use permit if they conform to the intent of the approved use
32 permit and do not adversely impact existing development within the use permit;
- 33 (7) Any amendment not in conformance with this paragraph shall be submitted to the
34 Planning Commission in the same manner as a formal application for use permit.

35 (k) Building permits, certificates of occupancy, and certificates of compliance: Upon the
36 approval of a use permit as provided for under this section, building permits and certificates
37 of occupancy may be issued. Certificates of compliance shall not be issued until there has
38 been compliance with all conditions of a use permit and subsequent amendments within each
39 phase of development of a use permit.

- 1 (l) Preexisting uses: An existing use of a type permitted in this chapter which was lawfully
2 established in this district on the effective date of this title shall be deemed to have received
3 a use permit as herein required and shall be provided with such permit by the Director of
4 Building and Safety upon request, and it shall not be a nonconforming use; provided,
5 however, for any enlargement, extension, or relocation of such existing use, an application
6 in conformance with this section shall be required.
- 7 (m) If an application for a use permit located within a flood plain is granted approval by the city,
8 it shall not be necessary for the applicant to make an application for a special permit to be
9 approved by the City Council as required by Resolution Nos. A-55150, A-56382, and A-
10 57540. It shall be presumed that the applicant has received all such approvals as may be
11 required by the foregoing resolutions by virtue of the city granting approval to the use
12 permit.
- 13 (n) Expiration of Application. All applications for a use permit which have been placed on
14 pending by an applicant shall automatically expire and become null and void one year
15 thereafter. At least thirty days before the date of expiration, the Planning Director shall cause
16 notice of expiration to be sent to the applicant by regular United States mail, postage
17 prepaid. Said notice shall advise the applicant that the application shall automatically expire
18 unless prior to the expiration date, the Planning Director receives a request from the
19 applicant to remove the application from pending and reschedule the matter on the Planning
20 Commission or City Council agenda as appropriate.

21 Section 11. That Section 27.67.066 of the Lincoln Municipal Code be amended to
22 read as follows:

23 **27.67.066 Special Conditions: H-3 Zoning District**

24 The following special parking requirements shall apply to ~~permitted conditional~~ uses in the
25 H-3 zoning district.

- 26 (a) Vehicle body repair shops, truck and heavy equipment sales, farm machinery sales
27 establishments, motor truck terminals, mobile home sales, places of business of plumbing and
28 heating and air conditioning contractors and cabinet shops, automobile sales and repair, but not
29 including vehicle repair shops, and assembly facilities: One space per 500 square feet of floor area,
30 or one space per employee on the largest shift; however, if the number of spaces required by the
31 building ratio is greater than that required by the employee ratio, the additional parking spaces need
32 not be provided physically, but sufficient space shall be reserved for future physical development.
- 33 (b) All other parking requirements in the H-3 zoning district shall apply.

34 Section 12. That Section 27.69.030 of the Lincoln Municipal Code be amended to
35 read as follows:

1 **27.69.030 General Provisions.**

2 Except as otherwise provided in this chapter or in any other applicable ordinance or
3 regulation, no sign or part thereof shall be erected or maintained in any zoning district except in
4 conformance with these General Provisions. The General Provisions apply to both on-premises and
5 off-premises signs.

6 **(a) Location, Height, Area, and Other General Requirements.**

7 (1) No sign shall be erected or maintained in a required yard except as otherwise
8 provided in this chapter, or encroach upon or overhang any adjacent property or public right-of-way.

9 (2) No sign shall be erected upon or against a roof or on top of or above the parapet
10 of a building, [except for roof signs as permitted in Section 27.69.310.](#)

11 (3) No sign shall exceed the maximum height permitted for buildings in the zoning
12 district in which the sign is located.

13 (4) Every sign shall be permanently attached to the ground, or to a building or
14 structure which is permanently attached to the ground, except for mobile signs and temporary signs
15 as provided in this chapter and in Title 22 of the Lincoln Municipal Code.

16 (5) No sign shall be painted on or attached to rocks, trees, or any other natural object.

17 (6) No sign shall be erected, placed, or maintained in a location that violates the site
18 obstruction regulations of the Department of Public Works and Utilities for street intersections or
19 entrances or exits from private property.

20 (7) No sign or part thereof shall be erected in those zoning districts which are adjacent
21 to or within the area of the interstate and federal-aid primary road systems in contravention of the
22 advertising controls of the State of Nebraska.

23 (8) Every freestanding sign permitted on a "per frontage" basis shall be allocated to
24 and be located proximate to the specific frontage which would authorize such sign.

25 (9) The required space between the location of any sign and an abutting residential
26 [premises in a residential](#) district shall be as follows:

27 (i) 50 feet if non-illuminated,

28 (ii) 100 feet if illuminated;

29 (10) No sign shall move, rotate, revolve, or simulate animation by means of spinning,
30 fluttering, or reflective devices or lighting, except a sign may rotate or revolve at a rate not to exceed
31 six revolutions per minute.

32 (11) In the area of the B-4 zoning district beginning 150 feet east of 17th Street and
33 continuing to the western boundary of the B-4 District, on-premises signs may be animated, blink,
34 flash, or simulate animation.

35 (12) The sign regulations for location, height and area of a sign may be modified by
36 the City Council in connection with the granting of a special sign district, planned unit development,

1 use permit, special permit for a community unit plan, or special permit for a planned service
2 commercial development, provided such modification is in conformance with all other requirements
3 of Title 27.

4 (13) All freestanding signs must be spaced a minimum of 50 feet apart.

5 (14) No sign shall be erected, placed or maintained in any location in violation of the
6 zoning regulations of the City of Lincoln.

7 (15) No person shall permit the placement, construction, or erection of a swinging
8 sign.

9 (16) No person shall place, construct, or erect any sign which, by reason of its size,
10 location, movement, content, coloring, or manner of illumination, may be confused with or
11 construed as a traffic control sign, signal, or device, or the light of an emergency or road equipment
12 vehicle.

13 (17) No person shall place, construct or erect any sign which hides from view any
14 traffic control sign or signal or device.

15 (18) Minor reductions in the required setback and/or spacing requirements for a sign
16 not to exceed five feet may be approved upon a finding that (i) such reduction is the minimum
17 necessary to avoid interference with an existing utility line or to avoid a significant obstruction from
18 view by an existing building, sign, or landscape feature, and (ii) such reduction will have no
19 significant adverse effect on existing or reasonably anticipated future uses in the surrounding area.
20 Any requests for modifications from the setback and/or spacing requirements for a sign shall be filed
21 with the Planning Director. Such request shall set forth the specific modification requested and all
22 supporting reasons and documentation as to why the modification should be granted, how the public
23 welfare will be preserved, and why the modification will not detract from the intent and spirit of
24 these sign regulations. Within thirty days from the filing of the request for modification, the
25 Planning Director shall approve or deny the request and shall notify the applicant in writing of the
26 approval or denial of the request. Any council member, [the Mayor](#), or [any](#) aggrieved person may
27 appeal any approval or denial of the request for modification by the Planning Director in accordance
28 with the Request for Waiver Procedure found in Chapter 1.00, Sections 2.1.1 and 2.1.2 of the City
29 of Lincoln Design Standards.

1 (19) Frontage for every center sign permitted on a “per frontage” basis shall mean only
2 that frontage of the center adjacent to an arterial or collector street.

3 (20) Signs may be erected and maintained on an outlot.

4 **(b) Freestanding Signs.** See Section 27.69.040 (Tables 2 and 3).

5 **(c) Wall Signs.** Wall signs are allowed in the R-T and all O, B, H and I zoning districts,
6 subject to the following restrictions:

7 (1) In the O-1, O-2, and R-T zoning districts, one wall sign per architectural elevation
8 per building is allowed. The wall sign shall not exceed 25 square feet in sign area per architectural
9 elevation nor be located on the side of the building abutting a residential district or facing a local
10 or collector street when the land across the street is zoned residential.

11 (2) In all other allowed zoning districts, ~~the wall sign shall have a maximum sign area~~
12 ~~of 30% per architectural elevation or 500 square feet, which ever is less~~ more than one sign per
13 architectural elevation per building is allowed, provided that the total sign area of such wall signs
14 shall not exceed 30% per architectural elevation and no wall sign shall exceed 500 square feet in
15 sign area.

16 (3) No wall sign or wall sign structure shall project more than two and one-half inches
17 into a public alley when installed below a height of fourteen feet above grade of the public alley, nor
18 more than twenty-four inches into a public alley when installed at a height fourteen feet or greater
19 above grade of the public alley.

20 (4) No wall sign or wall sign structure shall project more than two and one-half inches
21 over any sidewalk or parking lot when installed below a height of seven feet six inches above grade.

22 (5) All other wall signs shall have a maximum projection over public property as set
23 forth in Section 27.69.030 Table (1).

24 (6) Wall signs shall comply with all applicable federal-aid project requirements
25 restricting signs on or over public right-of-way.

26 **27.69.030 Table (1) - Projection of Wall Signs**

| <i>Clearance</i> | <i>Maximum Projections</i> |
|----------------------------|----------------------------|
| Less than 7'6" above grade | 2 1/2 inches |
| Over 7'6" above grade | 24 inches |

30 **(d) Projecting Signs.** Projecting signs are allowed in the R-T and all O, B, H, and I
31 zoning districts, subject to the following restrictions:

32 (1) The projecting sign shall be in lieu of one freestanding sign.

33 (2) The projecting sign shall have a minimum ground clearance of eight feet above
34 the walk or grade below.

35 (3) The projecting sign shall not exceed 100 square feet in sign area.

36 (4) In the O-1, O-2, and R-T zoning districts, the projecting sign shall not exceed 25
37 square feet in sign area and such sign shall not be located on the side of the building abutting a
38 residential district or facing a local or collector street when the land across the street is zoned
39 residential.

40 (5) The projecting sign may project from a building a maximum of six feet six inches.
41 The projecting sign may project over the public right-of-way when the building is erected adjacent

to the front property line, but shall not project above the roof line or top of a cornice wall. Subject to the provisions of Title 10 and Title 22 of the Lincoln Municipal Code, the projecting sign may project over public property as set forth in 27.69.030 Table (2). The projecting sign shall comply with all applicable federal-aid project requirements restricting signs and structures on or over the public right-of-way. No projecting sign shall project within two feet of the curb line. No projecting sign or projecting sign structure shall project more than two and one-half inches into a public alley when installed below a height of fourteen feet above grade of the public alley, nor more than twenty-four inches when installed at a height of fourteen feet or greater above said grade.

27.69.030 Table (2) - Projection of Signs

| <i>Clearance</i> | <i>Maximum Projections</i> |
|---|----------------------------|
| Less than 8 feet above grade | NOT ALLOWED |
| Over 8 feet above grade | 6 feet 6 inches |
| Over 8 feet above grade and at 45 degrees to a corner | 9 feet |

(e) Marquee Signs. Marquee signs are allowed in all O, B, H and I zoning districts, except the O-1, O-2 and R-T zoning districts subject to the following restrictions:

- (1) The marquee sign shall be designed so that sign support braces are not visible from street level.
- (2) When a building is erected adjacent to the front property line, the marquee sign may be attached to the marquee extending into or over the right-of-way.
- (3) The marquee sign shall not exceed three feet in height or the height or vertical thickness of the marquee, whichever is greater.
- (4) The marquee sign shall have a minimum ground clearance of eight feet above the walk or grade below.
- (5) The sign area of a marquee sign shall be counted toward the total allowable wall sign area of the parallel face to which the marquee is attached. If the marquee sign is attached perpendicular to the wall, it shall be counted toward the allowed projecting sign area.

(f) Electronic Changeable Copy Signs.

(1) Electronic Changeable Copy (On-Premises). In all nonresidential zoning districts except in the O-1, O-2 and R-T zoning districts, on-premises electronic changeable copy signs are allowed subject to the following restrictions:

- (i) The sign area displaying electronic changeable messages shall not exceed 80 square feet of sign area and such sign area shall be included as a part of the total permitted signage for the premises on which it is located.
- (ii) No message on an electronic changeable copy sign shall be animated, except in the B-4 zoning district pursuant to Section 27.69.030(a)(11).
- (iii) Transition between messages are permitted but such transitions may only fade, scroll, travel, or reveal, and the transition shall not exceed a duration of one second.

(2) Electronic Changeable Copy (Off-Premises). In all nonresidential zoning districts, off-premises electronic changeable copy signs are allowed subject to the following restrictions:

- (i) If the off-premises sign area displaying electronic changeable messages is greater than 80 square feet, the message shall hold for at least ten seconds. If said sign area is 80 square feet or less, the message shall hold for at least one second.

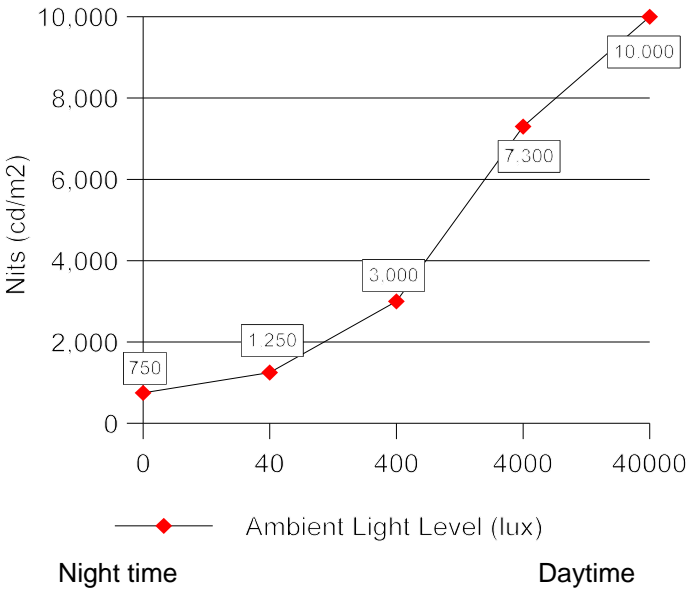
1 (ii) No message on an electronic changeable copy sign shall be animated.

2 (iii) Transition between messages are permitted but such transitions may only
3 fade, scroll, travel, or reveal, and the transition shall not exceed a duration of one second.

4 (3) Prior to the issuance of an electronic changeable copy sign permit, the applicant
5 shall provide written certification from the sign manufacturer that the light intensity has been preset
6 not to exceed the above illumination levels, and the preset intensity level is protected from end user
7 manipulation by password protected software or other method approved by the Director of Building
8 and Safety.

9 (4) Illuminated electronic changeable copy signs shall be equipped with a sensor
10 and/or timer or other device approved by the Director of Building and Safety to automatically adjust
11 the day/night light intensity levels in accordance with Figure 6 below.

12 Figure 6 - Maximum Sign Brightness with Varying Ambient Light



13

14 (g) **Illumination.**

15 (1) In all nonresidential districts, signs may be illuminated, except that the surface
16 illumination of any sign shall not exceed the levels shown in Figure 6 below for different conditions
17 of ambient light.

18 (2) In all residential districts, signs shall be non-illuminated and nonreflecting; except
19 in the R-8 district, uses other than dwellings may be illuminated as otherwise stated in this chapter.

20 (3) No sign shall blink or flash, display an animated message, nor be illuminated by
21 any device so as to appear to blink or flash or simulate animation, except for mobile signs and B-4
22 zoning district signs permitted by Section 27.69.030.(a)(11).

23 (4) Lighted vending machines are not permitted in view from off the premises in any
24 residential zoning district.

1 (5) Fraternities and sororities within one-half mile of an educational campus may have
2 illuminated signs but neon or gas tubing shall be used only as back lighting.

3 (h) **Mobile Signs.** Mobile signs identifying special sales and openings shall be permitted
4 on the premises of a commercial establishment for no more than sixty days in any calendar year in
5 all B, H, and I zoning districts where commercial establishments are permitted subject to the
6 following restrictions:

7 (1) The mobile sign shall not exceed sixty square feet of sign area.

8 (2) The mobile sign may be located one-half the distance into the required front yard.

9 (i) **Historic Preservation.** All signs for designated landmarks and signs located in
10 designated landmark districts must receive a certificate of appropriateness from the Historic
11 Preservation Commission.

12 (j) **Capitol View Corridor.** On-premises freestanding signs in the Capitol View Corridor
13 Overlay District shall be subject to the regulations of said district, notwithstanding the otherwise
14 applicable regulations of the underlying zoning district.

15 (k) **Variance for Pre-existing Signs.** All signs installed prior to the effective date of
16 Ordinance No. 18857 which do not qualify as a nonconforming use in subparagraph (m) below may
17 be continued for a period of ten years from the effective date of Ordinance No. 18857 provided that:

18 (1) The sign was installed pursuant to and in compliance with a permit issued by the
19 Department of Building and Safety; and

20 (2) The sign conforms with or is modified to conform with the illumination
21 requirements shown on Figure 6 of Section 27.69.030(h). Notwithstanding the above, such sign
22 shall be brought into compliance when one or more of the conditions listed in Section 27.69.320
23 occurs.

24 (l) **Nonconforming Signs.** Whenever the lawful use of a sign does not conform with the
25 provisions of any change in the zoning code or district boundaries, the use of such nonconforming
26 sign may be continued except as otherwise provided in Sections 27.69.035 and 27.69.320.

27 (m) **Directional Signs.** Directional signs are permitted in all districts subject to the
28 following restrictions:

29 (1) A directional sign located in the front yard shall not exceed a sign area of two
30 square feet.

31 (2) A directional sign located outside the front yard shall not exceed a sign area of six
32 square feet.

33 (n) **Noncommercial Signs.** Notwithstanding any other provision of this chapter, any off-
34 premises sign or on-premises sign permitted by this chapter may advertise, identify, attract attention
35 to, or convey information regarding any noncommercial message including, but not limited to,
36 political, religious, charitable, sociological, or ideological activities, issues or beliefs.

37 (o) **Banner Signs.** Banner signs may extend up to six inches into the public right-of-way
38 when located eight feet or more above grade of said right-of-way. Banners may extend over public
39 property and may extend across a public street only by permission of the Mayor, and shall be subject
40 to all related laws and ordinances. Such signs, when extended over a public street, shall maintain
41 a minimum clearance of twenty feet.

1 Section 13. That Section 27.69.240 of the Lincoln Municipal Code be amended to read
2 as follows:

3 **27.69.240 ~~Nonresidential;~~ Menu Boards.**

4 In any commercial district, in addition to any permitted freestanding sign, two on-premises
5 freestanding menu board signs each not to exceed forty-five square feet in sign area or one on-
6 premises freestanding menu board sign not to exceed fifty square feet in sign area ~~functioning as~~
7 ~~menu boards~~ are permitted in conjunction with an eating establishment utilizing ordering from the
8 vehicle; provided, any such menu board sign shall not exceed eight feet in height and shall not be
9 permitted in the required front or side yard of the district in which it is located.

10 Section 14. That Section 27.69.290 of the Lincoln Municipal Code be amended to read
11 as follows:

12 **27.69.290 ~~Nonresidential;~~ Permanent Window Signs.**

13 In all nonresidential zoning districts, permanent window signs shall be permitted; provided
14 that ~~such signing~~ the total sign cover of the window signs does not cover more than twenty-five
15 percent of the area of any window or door. Window signs are not wall signs and shall not count
16 toward wall sign allocations.

17 Section 15. That Section 27.69.310 of the Lincoln Municipal Code be amended to read
18 as follows:

19 **27.69.310 ~~Nonresidential;~~ Roof Signs.**

20 No sign shall be erected upon or against a roof or on top of or above the parapet of a
21 building, except fin all nonresidential zoning districts which allow freestanding signs, a roof sign
22 may be permitted on buildings with a roof pitch of 1/12 or greater as an alternative to either:

- 1 (a) the permitted freestanding sign, or
2 (b) the permitted wall signs in the same architectural elevation as the requested roof sign.
3 Said roof sign shall not exceed thirty percent coverage of the roof area (determined by the
4 area of the roof in elevation view), except that in no instance shall the permitted roof sign be larger
5 than the freestanding sign permitted in the district. The roof sign shall be a minimum of one foot
6 below the roof line.

7 Section 16. That Section 27.72.180 of the Lincoln Municipal Code be amended to read
8 as follows:

9 **27.72.180 Additional Exceptions to the General Requirements.**

- 10 (a) Dwellings existing in all O, B, R-T and all H and I zoning districts on the effective date of
11 this title which do not meet the requirements of this chapter shall be considered nonstandard
12 uses and may be continued in conformance with the provisions of Chapter 27.61.
13 (b) **Replacing Non-standard Accessory Building on Narrow Lot.** In the R-1, R-2, R-4, R-5,
14 R-6, R-7, and R-8 zoning districts, a new or replacement accessory building may be erected
15 on the site of an existing detached accessory building constructed on or before November
16 2, 1953, on a lot of record with an average lot width of less than fifty feet although the site
17 does not meet the required minimum setback from a side, rear, or side and rear lot line(s),
18 provided:
19 (1) Such new or replacement accessory building does not extend beyond the exterior
20 perimeter of the existing accessory building; and
21 (2) Such new or replacement accessory building shall otherwise comply with all applicable
22 city ordinances.
23 (c) **Minimum Separation Between Buildings and Pedestrian Way Easement.** The minimum
24 separation between a building and a pedestrian way easement shall be ten feet.
25 (d) **Premises That Do Not Meet the Minimum Acreage Requirement of the O-3, B-2, B-5,
26 or I-3 District.** A use permit may be granted upon a premises which does not meet the
27 minimum total acreage requirement for approval of a use permit in the O-3, B-2, B-5, or I-3
28 zoning district, provided that:
29 (1) The premises was legally created prior to January 1, 2000;
30 (2) The premises has remained under separate ownership from adjoining properties
31 formerly in the applicable district; and
32 (3) The zoning district in which the premises is located has been reduced in size by other
33 changes of zone isolating the premises from similarly zoned properties.
34 (e) [Abutting Planned Unit Developments in Commercial Use. When adjacent land is zoned](#)
35 [R-1 through R-8 Residential, but is permitted for commercial use by a Planned Unit](#)

1 [Development, the provisions regarding “residential” such as abutting residential or on the](#)
2 [same block face as residential do not apply.](#)

3 Section 17. That Section 27.72.190 of the Lincoln Municipal Code be amended to read
4 as follows:

5 **27.72.190 Minor Modifications.**

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

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

- 15 (1) The premises is located in the AG, AGR, or R-1 through R-8 zoning 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; and
- 21 (6) The modification is needed to address practical difficulties encountered by the
- 22 applicant. For the purpose of this section, practical difficulty shall mean a
- 23 difficulty which cannot be alleviated by an amendment to an existing special
- 24 permit, use permit, or Planned Unit Development; compliance with the setback
- 25 requirement is unnecessarily burdensome; and which amounts to more than a
- 26 mere inconvenience in the reasonable use of the premises for a single- or
- 27 two-family dwelling.

28 Any council member, [the Mayor](#), or [any](#) aggrieved person may appeal any approval or denial
29 of the request for modification by the Planning Director in accordance with Section 27.81.021.

30 Section 18. That Section 27.81.021 of the Lincoln Municipal Code be amended to read
31 as follows:

1 **27.81.021 Appeals of Administrative Approvals.**

2 Any council member, the Mayor, or any aggrieved person may appeal any approval or
3 denial of (i) an administrative permit and renewal thereof for personal wireless services; (ii) an
4 administrative amendment to a use permit, special permit, community unit plan, planned unit
5 development; or (iii) an alternate location for a replacement sign for a nonconforming off-premises
6 sign by the Planning Director to the Planning Commission by filing a notice of appeal within
7 fourteen days following the date the action being appealed was approved by the Planning Director.

8 Any council member, the Mayor, or any aggrieved person, or any person or group officially
9 designated to participate in the administration of this title ~~or any council member~~ may appeal any
10 action of the Planning Commission approving or denying (i) an administrative permit and renewal
11 thereof for personal wireless services; (ii) an administrative amendment to a use permit, special
12 permit, community unit plan, planned unit development; or (iii) an alternate location for a
13 replacement sign for a nonconforming off-premises sign to the City Council by filing a notice of
14 appeal with the City Clerk within fourteen days following the action of the Planning Commission.

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

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

21 If the Planning Commission approves the matter being appealed from and its action is not
22 further appealed to the City Council, the final plans shall be signed by the chairman of the
23 Commission. If the City Council approves the final plans after an appeal, the plans shall be returned
24 to the Planning Department for signing by the chairman of the Commission.

25 Section 19. That Sections 27.02.200, 27.06.160, 27.06.170, 27.56.140, 27.57.180,
26 27.61.040, 27.61.050, 27.62.150, 27.63.025, 27.64.010, 27.67.066, 27.69.030, 27.69.240, 27.69.290,

1 27.69.310, 27.72.180, 27.72.190, and 27.81.021 of the Lincoln Municipal Code as hitherto existing
2 be and the same are hereby repealed.

3 Section 20. Pursuant to Article VII, Section 7 of the City Charter, this ordinance shall
4 be posted on the official bulletin board of the City, located on the wall across from the City Clerk's
5 office at 555 S. 10th Street, in lieu of and in place of newspaper publication with notice of passage
6 and such posting to be given by publication one time in the official newspaper by the City Clerk.
7 This ordinance shall take effect and be in force from and after its passage and publication as herein
8 and in the City Charter provided.

Introduced by:

Approved as to Form & Legality:

City Attorney

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|--|
| Approved this ____ day of _____, 2014: _____ Mayor |
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