

ORDINANCE NO. _____

1 AN ORDINANCE amending the Zoning Ordinance, Title 27 of the Lincoln Municipal
2 Code, by repealing Section 27.26.090 regarding the location of buildings, structures, parking,
3 and access drives and the preservation of required open space in the O-2 Suburban Office
4 District whenever the O-2 district extends further from the street than any abutting B-1, B-3, B-4,
5 H-2, H-3, or I-1 district; amending Section 27.72.130 to delete an identical provision in
6 Subsection (e); and repealing Section 27.72.130 as hitherto existing.

7 NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Lincoln,
8 Nebraska:

9 Section 1. That Section 27.26.090 of the Lincoln Municipal Code be and the same is
10 hereby repealed:

11 ~~**27.26.090 — Extension Beyond Abutting Business or Industrial District; Open Space**~~

12 ~~**Requirement.**~~

13 ~~Whenever an O-2 zoning district extends further from the street than an abutting B-1, B-~~
14 ~~3, B-4, H-2, H-3, or I-1 district, then no building, structure, parking, nor access drive shall be~~
15 ~~permitted further from the street than the adjacent boundary line that is parallel to the street of~~
16 ~~the abutting B-1, B-3, B-4, H-2, H-3, or I-1 district. That portion of the O-2 district further from~~
17 ~~the street than the B-1, B-3, B-4, H-2, H-3, or I-1 districts shall be maintained as open space and~~
18 ~~have landscaping improvements, such as trees, shrubs, grasses, paths, fountains, or benches. If~~
19 ~~the B-1, B-3, B-4, H-2, H-3, or I-1 district is located on a corner and the O-2 district completely~~
20 ~~bounds the B-1, B-3, B-4, H-2, H-3, or I-1 district, the open space may be included as part of the~~
21 ~~required rear yard even though each owner of the open space may not have the required depth for~~
22 ~~the required rear yard; provided, there is joint agreement between the property owners, satis-~~

1 | ~~factory to the Director of Building and Safety, for the development and maintenance of the open~~
2 | ~~space.~~

3 | Section 2. That Section 27.72.130 of the Lincoln Municipal Code be amended to read as
4 | follows:

5 | **27.72.130 Open Space Requirements.**

6 | (a) In the R5, R-6, R-7, R-8, O-1, O-2, O-3, B-1, B-2, B-3, and B-5 zoning districts, a
7 | minimum amount of usable and accessible open space must be provided for each
8 | residential use. This requirement shall be as follows:

9 | 125 square feet for the first dwelling, except in the R-8 district ~~which~~
10 | ~~is~~ where the requirement is zero feet;

11 | In the R5, R-6, R-7, and R-8 districts: 80 square feet per unit for each
12 | additional dwelling ~~beyond one~~.

13 | In the O-1, O-2, O-3, B-1, B-2, B-3, and B-5 districts:

14 | 80 square feet per unit for the next four dwelling units;

15 | 25 square feet per unit for the next four dwelling units;

16 | 20 square feet per unit for each additional dwelling unit beyond nine.

17 | (b) This open space requirement may be met in the following manner:

18 | (1) In the R-5 zoning district, the required rear yard may be counted; however, the
19 | required front and side yards may not be counted toward the fulfillment of said
20 | open space requirement; except for ground level or first floor level porches,
21 | patios, and terraces as permitted in Section 27.72.060(f);

1 (2) In the R-6, R-7, and R-8 zoning districts, the required rear yard may be counted;
2 however, the required front and side yards may not be counted toward the
3 fulfillment of said open space requirement except as follows:

4 (i) Ground level or first floor porches, patios, and terraces located in front and
5 side yards as permitted in this chapter and in Section 27.72.060(f) may be
6 counted.

7 (ii) The required front yard and side yard may be counted where the distance
8 between the main building and said lot line exceeds the required yard by
9 more than seven feet.

10 (3) In the O-2, O-3, B-1, B-2, B-3, and B-5 zoning districts, the required rear yard
11 may be counted; however, the required front and side yards may not be counted
12 toward the fulfillment of said open space requirement except for porches, terraces,
13 and balconies as permitted in this Chapter.

14 (4) In the O-1, O-2, O-3, B-1, B-2, B-3, and B-5 zoning districts, required open space
15 may be provided either on a balcony four or more feet in depth or on a rooftop;
16 provided, the roof is designed and surfaced in such a manner that it may be
17 developed with areas of planting, open space, recreation, and other uses that are
18 consistent with similar uses in ground-level side and rear yards for dwellings.
19 Such rooftop areas may not be occupied by structures such as vents, exhaust
20 intakes, or other mechanical devices, except where they do not interfere with the
21 usable nature of the open space.

22 (c) In the R5, R-6, R-7, R-8, O-1, O-2, O-3, B-1, B-2, B-3, and B-5 zoning districts, parking
23 spaces, and land occupied by any building or structure may not be counted toward
24 fulfillment of this open space requirement.

1 (d) In the R5, R-6, R-7, R-8, O-1, O-2, O-3, B-1, B-2, B-3, and B-5 zoning districts, the
2 depth-to-width ratio of any area used to fulfill the open space requirement may not
3 exceed three to one, if the smallest dimension of the open space is twelve feet or less.

4 ~~(e) Whenever an O-2 zoning district extends further from the street than an abutting B-1, B-~~
5 ~~3, B-4, H-2, H-3, or I-1 district, then no building, structure, parking, nor access drive~~
6 ~~shall be permitted further from the street than the adjacent boundary line that is parallel to~~
7 ~~the street of the abutting B-1, B-3, B-4, H-2, H-3, or I-1 district. That portion of the O-2~~
8 ~~district further from the street than the B-1, B-3, B-4, H-2, H-3, or I-1 districts shall be~~
9 ~~maintained as open space and have landscaping improvements, such as trees, shrubs,~~
10 ~~grasses, paths, fountains, or benches. If the B-1, B-3, B-4, H-2, H-3, or I-1 district is lo-~~
11 ~~cated on a corner and the O-2 district completely bounds the B-1, B-3, B-4, H-2, H-3, or~~
12 ~~I-1 district, the open space may be included as part of the required rear yard even though~~
13 ~~each owner of the open space may not have the required depth for the required rear yard;~~
14 ~~provided, there is joint agreement between the property owners, satisfactory to the~~
15 ~~Director of Building and Safety, for the development and maintenance of the open space.~~

16 Section 3. That Section 27.72.130 of the Lincoln Municipal Code as hitherto existing be
17 and the same are hereby repealed.

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

Introduced by:

Approved as to Form & Legality:

City Attorney

Approved this ___ day of _____, 2017: _____ Mayor
