

ORDINANCE NO. \_\_\_\_\_

1 AN ORDINANCE amending Title 27 of the Lincoln Municipal Code (the  
2 “Zoning Ordinance”) by amending Section 27.02.240 to revise the definition for Warehouse by  
3 including wholesale and distribution centers in said definition; by amending the Manufacturing,  
4 Processing, Storage and Distribution Use Group described in Section 27.06.180 to allow  
5 warehouses as a conditional use in the H3 and H4 zoning districts and to strike the Wholesale  
6 and Distribution Centers as a use; by amending Section 27.62.150 relating to Manufacturing,  
7 Processing, Storage and Distribution Use Group to describe the conditions required for  
8 warehouses located in the H3 and H4 zoning districts; by repealing paragraph (4) of Section  
9 27.63.470 relating to wholesale and distribution centers; and repealing Sections 27.02.240,  
10 27.06.180, 27.62.150, and 27.63.470 as hitherto existing.

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

12 Section 1. That Section 27.02.240 of the Lincoln Municipal Code be amended to  
13 read as follows:

14 **27.02.240 W.**

15 **Warehouses.** Warehouses shall include the storage, wholesale and distribution,  
16 and dispatching of tangible products within an enclosed structure and may include incidental  
17 outside storage. Such use of buildings, portions of buildings, or accessory uses to such buildings  
18 shall not be deemed a warehouse when direct retail sales to the public is the primary use or  
19 where less than 50% of the floor area is for storing tangible products for distribution to retailers,  
20 industrial, commercial, institutional, or other businesses, or to other wholesalers.

21 ~~mean any commercial use of a building, or a portion of a building, that devotes at least 50% of~~  
22 ~~the floor area for storing goods or materials or for distributing goods or materials to local or long~~

~~distance carriers for transportation or delivery purposes. Floor area devoted to storing goods or materials or distributing goods or materials may be combined to calculate the required floor area. Such use of buildings, portions of buildings, or accessory uses to such buildings shall not be deemed a warehouse when direct retail sales to the public is the primary use.~~

**Wind Energy Conversion System (WECS).** Wind energy conversion system shall mean any device, such as a wind charger, windmill, or wind turbine, which converts wind energy to a form of usable energy.

Section 2. That Section 27.06.180 of the Lincoln Municipal Code be amended to read as follows:

**27.06.180 Manufacturing, Processing, Storage, and Distribution Use Group.**

Characteristics: The Manufacturing, Processing, Storage, and Distribution Use Group is characterized by uses that are involved in the manufacturing, processing, fabrication, packaging, assembly of goods, and/or storage or movement of goods. Goods are generally not displayed or sold on site, but if so, they are a subordinate part of sales. Relatively few customers come to the site. Goods are generally delivered to other firms or the final consumer, except for some will-call pickups. Activities commonly use trains or heavy trucks to ship and receive goods. Access to or near a highway is preferred. There is little on-site sales activity with the customer present. Such uses include but are not limited to assembly facilities, concrete dispensing units, salvage yards, grain elevators and mills, warehouses, and outdoor motorized vehicle storage.

Use Group Table:

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
Assembly Facilities																		P			C	C	C	P	P	P
Bag cleaning works																								S	P	
Bakeries (wholesale)																		P			P	P		P	P	P
Blast furnaces, coke ovens, smelting, or ore reduction works																								S	P	
Boiler works or forge																								S	P	
Bottling works																		P			P	P		P	P	P
Brewery (over 20,000 barrels)																								S	P	





1 and H-4 zoning districts under the following condition: All storage and display of  
2 merchandise, and any parts used in the assembly process, shall be screened from public  
3 view by a fence, walls, shrubs, or all such storage and display shall be within the  
4 enclosure walls of a building.

5 (b) Liquefied petroleum gas and similar gas used for fuel stored above ground is allowed in  
6 the I-2 and I-3 zoning districts under the following conditions:

7 (1) Tanks may not exceed 30,000 gallon capacity;

8 (2) The storage of gas shall be for use on the premises, and not for resale;

9 (3) All other combustible material shall be stored in such a way as to permit free access  
10 of fire-fighting equipment.

11 (4) Open storage of any other material is allowed only in areas enclosed or otherwise  
12 adequately screened from public view with an enclosure or screen at least six feet in  
13 height.

14 (5) In the I-2 zoning district tanks shall be adequately screened from public view by a  
15 fire-resistant ventilated barrier which shall be at least six feet in height;

16 | (c) Fuel oil storage tanks and all bulk storage of oils, petroleum, and similar flammable  
17 | liquids and chemicals are allowed in the I-2 and I-3 zoning districts under the following  
18 | conditions:

19 (1) Such use shall be adequately screened from public view;

20 (2) Storage of such materials shall be for use on the premises and not for resale, except  
21 | that resale of such stored material at retail ~~only~~ is allowed in conjunction with the  
22 | operation of a fuel sales facility or similar retail outlet.

23 | (d) Outdoor motorized vehicle storage is allowed in the H-3, H-4, and I-2 zoning districts  
24 | under the following conditions:

1 (1) The outdoor storage shall be screened in conformance with the requirements for  
2 screening open storage in Chapter 3.50 of the City of Lincoln Design Standards.

3 (2) There shall be no dismantling, wrecking, or disassembling of any vehicles.

4 (3) Vehicles may not be stacked upon each other.

5 (4) Parking shall be in conformance with Section 27.67.066(a).

6 (e) (1) In the area of the B-4 zoning district from 150 feet east of 17th Street to the eastern  
7 edge of the B-4 zoning district, warehouses are prohibited except that pre-existing  
8 warehouses in said area may remain, regardless of time unoccupied, but must cease  
9 once the building is demolished.

10 (2) In the H3 and H4 zoning districts, warehouses are permitted provided outside  
11 storage is enclosed with an opaque fence or wall, that gates in said fence or wall are  
12 opaque and no less than six feet in height, and the stored materials are less than the  
13 height of the fence, wall, and gates enclosing the outside storage area. Outside  
14 storage areas associated with pre-existing warehouses which are not enclosed may  
15 remain until such time the building is demolished.

16 (f) Temporary paving plants used for the paving of federal or state highways or county roads  
17 are allowed in any zoning district during the project construction period under the  
18 following conditions:

19 (1) The plant shall be located outside the city limits on premises abutting the specific  
20 construction project and having access to a paved road.

21 (2) The boundaries of the property used for the plant shall be located no closer than 300  
22 feet from an occupied dwelling or from any school, place of religious assembly,  
23 library, early childhood care facility, hospital, motel, or park.

1 (3) The operator shall require its suppliers to use paved roads or other designated truck  
2 routes approved by the County Engineer for the delivery of supplies to the paving  
3 plant.

4 (4) Paving material prepared at the plant shall not be transported to any location other  
5 than the abutting project.

6 (5) The plant shall be removed upon substantial completion of the construction project.

7 (g) Temporary concrete paving plants. Temporary concrete paving plants are permitted in  
8 any zoning district by administrative permit issued by the Planning Director. The  
9 Planning Director shall not issue a permit or renew a permit without written approval by  
10 the Director of the Lincoln- Lancaster County Health Department and the Director of the  
11 Public Works and Utilities Department.

12 (1) Applications for an administrative permit shall include:

13 (i) A site plan showing the entire limits of the permit area including the plant  
14 location, material storage areas, and the ingress/egress;

15 (i) A dust control and suppression plan including the plant operations and haul  
16 roads to and from plant to project;

17 (iii) A description or manufacturer's specification regarding particulate control  
18 equipment;

19 (iv) A copy of a signed contract or other verification that the applicant is under  
20 contract to supply concrete for a city arterial street paving project;

21 (v) A noise control plan that will allow the operation to comply with Chapter 8.24  
22 of the Lincoln Municipal Code;

1 (vi) A copy of a signed lease or other verification that the applicant has permission  
2 of the owner of the land upon which the plant shall be located to locate the  
3 plant thereon.

4 (2) The administrative permit shall be issued under the following conditions:

5 (i) The plant site shall be approved by the City Engineer or, if outside the city  
6 limits, by the County Engineer and shall be located in the general vicinity of  
7 the specific arterial street paving project or projects and have access to a  
8 paved road;

9 (ii) The boundaries of the property used for the plant shall be located no closer  
10 than 300 feet from an occupied dwelling or from any school, place of religious  
11 assembly, library, early childhood care facility, hospital, motel, or park;

12 (iii) The permittee shall require its suppliers to use only paved roads approved by  
13 the Director of Public Works or the County Engineer as the case may be, for  
14 the delivery of supplies to the plant. The permittee shall further require that  
15 the drivers of concrete trucks leaving the plant also use said paved roads.  
16 EXCEPTION: The use of nonpaved roads may be approved on a case-by-case  
17 basis by the Director of Public Works or the County Engineer;

18 (iv) The permit site shall be cleaned up and restored to its pre-permit condition  
19 within thirty days following the completion of the project. Restoration  
20 includes replanting of vegetation and maintenance of erosion and sediment  
21 control until the site is reestablished. Any paved or unpaved road damaged by  
22 the permittee's use of such road, including permittee's suppliers and concrete  
23 trucks entering and/or leaving the plant, shall be repaired at permittee's cost  
24 and expense;



1 (v) All concrete produced by this plant shall be used to complete the project. The  
2 concrete shall not be provided for concrete work to be performed by persons  
3 other than the permittee;

4 (vi) The anticipated set up and removal dates shall be identified on the application.  
5 Amendments to these dates must be requested to the Planning Director in  
6 writing;

7 (vii) The applicant shall submit a performance bond satisfactory to the City  
8 Attorney in the minimum amount of \$5,000, or an amount determined by the  
9 City to be sufficient, to guarantee performance and clean up of the permit site  
10 and to pay for repairs to paved and unpaved roads damaged by permittee's use  
11 of such roads.

12 (3) Permits issued pursuant to this section shall expire on the completion date of the  
13 project as set forth in the permit application. The Planning Director may extend the  
14 expiration date by administrative amendment upon a showing that the project  
15 completion is delayed or that the permittee has contracted for another project in  
16 conformance with subparagraph (a) above.

17 (h) Temporary concrete batch plants. Temporary concrete batch plants are permitted in any  
18 zoning district by administrative permit issued by the Planning Director. The Planning  
19 Director shall not issue a permit or renew a permit without written approval by the  
20 Director of the Lincoln- Lancaster County Health Department.

21 (1) Applications for the administrative permit shall include:

22 (i) A site plan showing the entire limits of the permit area including the plant  
23 location, material storage areas, and the ingress/egress;

- 1           (ii) A dust control and suppression plan including the plant operations and haul  
2                   roads to and from plant to project;
- 3           (iii) A statement indicating the typical hours of operation. The plant may operate  
4                   no more than fourteen hours per day, except on New Year Day, Memorial  
5                   Day, the 4th of July, Labor Day, Thanksgiving Day, and Christmas when the  
6                   operation shall not begin before noon;
- 7           (iv) A description or manufacturer's specification regarding particulate control  
8                   equipment;
- 9           (v) A copy of a signed contract or other verification that the applicant is under  
10                   contract to supply concrete for a project requiring at least 3,000 yards of  
11                   concrete located within the same section or one mile of the permitted plant.  
12                   The contract or other verification shall include the commencement and ending  
13                   dates of the project. The Planning Director may increase the one-mile  
14                   distance limit to no more than two miles if necessary to avoid routing trucks  
15                   through local streets or inadequate county roads, or locations near occupied  
16                   dwellings, schools, libraries, places of religious assembly, or other noise or  
17                   dust sensitive uses; and
- 18           (vi) A noise control plan that will allow the operation to comply with Chapter 8.24  
19                   of the Lincoln Municipal Code.
- 20           (vii) A copy of a signed lease or other verification that the applicant has permission  
21                   of the owner of the land upon which the plant shall be located to locate the  
22                   plant thereon.
- 23           (2) The administrative permit shall be issued under the following conditions:

- 1 (i) The plant shall be located on premises in the same section or within one mile  
2 of the project identified on the application or as authorized under  
3 subparagraph (d)(1)(v) above;
- 4 (ii) The silo, batch plant, and aggregate storage shall be located no closer than 300  
5 feet from an occupied dwelling or from any school, place of religious  
6 assembly, library, early childhood care facility, hospital, motel, or park;
- 7 (iii) The permittee shall require its suppliers to use only paved roads approved by  
8 the Director of Public Works or the County Engineer as the case may be, for  
9 the delivery of supplies to the concrete batch plant. The permittee shall further  
10 require that the drivers of concrete trucks leaving the plant also use said paved  
11 roads. EXCEPTION: The use of nonpaved roads may be approved on a case-  
12 by-case basis by the Director of Public Works or County Engineer. Additional  
13 bonding may be required to pay for repairs of damage to such nonpaved  
14 roads;
- 15 (iv) The plant shall be removed upon completion of the project identified in the  
16 application; or upon construction and occupancy resulting in a violation of  
17 subparagraph (d)(2)(ii) above. The permit site shall be cleaned up and restored  
18 to its pre-permit condition within thirty days following the completion of the  
19 project;
- 20 (v) All concrete produced by this plant shall be used to complete the project,  
21 except that the permittee may use the concrete product for sidewalks,  
22 driveways, foundations, parking lots, and other small concrete work to be  
23 performed by the permittee. The concrete shall not be provided for concrete  
24 work to be performed by persons other than the permittee. The amount of

1 concrete produced for small concrete work shall not exceed fifty percent of  
2 that produced for the project;

3 (vi) The plant shall be recalibrated to the satisfaction of the Public Works and  
4 Utilities Department prior to construction of any public improvement using  
5 concrete produced by this plant;

6 (vii) The anticipated set up and removal dates shall be identified on the application.  
7 Amendments to these dates must be requested to the Planning Director in  
8 writing;

9 (viii) The applicant shall submit a performance bond satisfactory to the City  
10 Attorney in the amount of \$5,000 to guarantee performance and clean up of  
11 the permit site.

12 (3) Permits issued pursuant to this section shall expire on December 31 of the year of  
13 issuance or the completion date of the project as set forth in the permit application,  
14 whichever is earlier. The Planning Director may extend the expiration date by an  
15 administrative amendment upon a showing that the project completion date is  
16 delayed by weather or other causes beyond control of the permittee, or that the  
17 permittee has contracted for another project in conformance with subparagraph (a)  
18 above; provided, however, no extension of the expiration date may extend the permit  
19 beyond December 31 of the year of issuance. Renewal of a previously issued permit  
20 shall be by application in the same form as the original permit.

21 (4) The Planning Director may revoke the temporary permit for any one or more of the  
22 following violations:

23 (i) Failure to operate the facility in accordance with the provisions of this section  
24 or with the approved application;

- (ii) A violation of any city, county, state, or federal law;
- (iii) Denial of access to the site to determine compliance with this section;
- (iv) Unreasonable noise or disturbance to the surrounding neighborhood;

(i) Appeal. The action of the Planning Director in approving, denying, refusing to renew, or revoking an administrative permit for a temporary concrete paving plant or temporary concrete batch plant pursuant to subsections (g) or (h) above may be appealed by any council member, the Mayor, or any aggrieved person to the Planning Commission by filing notice of appeal with the Planning Director within fourteen days following the decision of the Planning Director. Final action by the Planning Commission may be appealed to the City Council by any council member, the Mayor, or any aggrieved person by filing notice of appeal with the City Clerk within fourteen days following the action by the Planning Commission.

Section 4. That Section 27.63.470 of the Lincoln Municipal Code be amended to read as follows:

**27.63.470 Planned Service Commercial.**

Planned service commercial development may be allowed by special permit in the H-4 General Commercial District under the following conditions:

(a) The uses approved within a planned service commercial development shall be limited to:

- (1) Motor vehicle sales;
- (2) Warehouses;
- (3) Mini-warehouses;
- ~~(4) Wholesale and distribution centers not exceeding 30,000 square feet in floor area per building, provided outside storage is permitted only when the storage area is enclosed with a solid fence, wall, and gates eight feet in height and the~~

1 ~~stored material and equipment is less than the height of the fence, wall, and~~  
2 ~~gates enclosing the storage area. The fence, wall, and gates shall be located~~  
3 ~~where buildings are permitted;~~

4 (45) Service centers for the repair of household appliances and lawn and garden  
5 equipment, provided outdoor storage of items to be repaired are permitted only  
6 when the storage area is enclosed with a solid fence, wall, and gates eight feet  
7 in height and the items to be repaired are less than the height of the fence, wall,  
8 and gates enclosing the storage area and no salvage or scrap processing  
9 operation shall be permitted. The fence, wall, and gates shall be located where  
10 buildings are permitted;

11 (56) Dwellings for caretakers employed and required to reside on the premises;

12 (67) Ambulance services;

13 (78) Veterinary facilities;

14 (89) Contractors' services, provided outdoor storage of equipment and materials  
15 shall be permitted only when the storage area is enclosed with a solid fence,  
16 wall, and gates eight feet in height and the stored equipment and material are  
17 less than the height of the fence, wall, and gates enclosing the storage area.

18 The fence, wall, and gates shall be located where buildings are permitted;

19 (9+0) Restaurants;

20 (10+) Motor fuel service facilities;

21 (112) Stores or shops for retail sales and services not exceeding 30,000 square feet in  
22 floor area per building; provided, there is at least four and one-half square feet  
23 of land area excluding other uses and their accessory uses within the approved  
24 special permit area per one square foot of floor area;

- 1 | (123) Food storage lockers;
- 2 | (134) Clubs, provided the activities are located no less than 150 feet from an abutting  
3 | residential district;
- 4 | (145) Outdoor and enclosed commercial recreational facilities; provided that outdoor  
5 | recreational facilities are no less than 150 feet from an abutting residential  
6 | district;
- 7 | (156) Offices not exceeding 15,000 square feet of floor area per building; provided  
8 | that there is at least four and one-half square feet of land area excluding other  
9 | uses and their accessory uses within the approved special permit area per one  
10 | square foot of floor area;
- 11 | (167) Early childhood care facilities, provided that such facilities shall be fenced and  
12 | have play areas that comply with the design standards for early childhood care  
13 | facilities. In addition, such facilities shall comply with all applicable state and  
14 | local early childhood care requirements and all applicable building and life  
15 | safety code requirements;
- 16 | (178) Cabinet shops and stores; provided that the total floor area of the operation  
17 | does not exceed 5,000 square feet and that all materials, both raw and finished,  
18 | be stored inside;
- 19 | (189) Places of Religious Assembly;
- 20 | (1920) Motor vehicle repair, including vehicle body repair shops, provided that all  
21 | disabled vehicles and all new and used parts are stored inside the building only;
- 22 | (201) Academies;
- 23 | (212) Banks, savings and loan associations, credit unions, and finance companies;
- 24 | (223) Broadcast towers;

1 | (234) Indoor kennels;

2 | (245) Outdoor exercise area associated with an indoor animal hospital or indoor  
3 | kennel; provided that such facilities comply with the requirements of Section  
4 | 27.63.780.

5 | (256) Motor vehicle and/or truck wash facility:

6 | (i) Automatic, conveyor-operated: The length and location of vehicle  
7 | stacking lane or lanes for the approach side or sides and the exit side or  
8 | sides of the wash operation shall be in conformance with the Guidelines  
9 | and Regulations for Driveway Design and Location as adopted by the  
10 | City of Lincoln.

11 | (ii) Self-service, coin-operated: The length and location of vehicle stacking  
12 | lane or lanes for the approach side or sides and the exit side or sides of  
13 | the wash operation shall be in conformance with the Guidelines and  
14 | Regulations for Driveway Design and Location as adopted by the City of  
15 | Lincoln.

16 | (267) Public elementary and high schools, or private schools having a curriculum  
17 | equivalent to a public elementary or public high school, and having no rooms  
18 | regularly used for housing or sleeping purposes.

19 | (278) Motels and hotels.

20 | (289) Sale of alcohol for uses that meet the conditions of Sections 27.63.680 and  
21 | 27.63.685.

22 | (2930) Non-residential healthcare facilities per the conditions of Section  
23 | 27.63.080.



1 | (30+) Assembly facilities; provided that such facilities comply with the conditions of  
2 | Section 27.62.150(a).

3 | (b) An applicant for a special permit under the provisions of this section shall comply  
4 | with environmental performance standards relating to noise, emission, dust, odor, glare, and heat  
5 | as shall be from time to time established for those districts requiring use permits.

6 | (c) Each application for a special permit under this section shall include a landscape  
7 | plan which shall show proposed plantings in conformance with city standards in all required yard  
8 | areas, open space areas, malls, parking areas, and around proposed buildings. The applicable  
9 | standards shall be those adopted by resolution of the City Council for those districts requiring  
10 | use permits.

11 | (d) The City Council may increase or decrease the height and area regulations and the  
12 | floor area to land area ratios otherwise applicable in the H-4 General Commercial District,  
13 | consistent with adequate protection of the environments of adjacent land uses;

14 | (e) That the land surrounding the tracts for the proposed planned service commercial  
15 | development will not be adversely affected;

16 | (f) That upon approval of a planned service commercial development, the land pro-  
17 | posed to be included within such development shall not be developed for or devoted to any other  
18 | permitted use or specially permitted use of the H-4 General Commercial District, except those  
19 | specifically approved in the special permit authorizing the planned service commercial  
20 | development, unless an amendment thereto has been approved in accordance with the procedures  
21 | set forth for approving special permits generally.

22 | Section 5. That Sections 27.02.240, 27.06.180, 27.62.150, and 27.63.470 of the  
23 | Lincoln Municipal Code as hitherto existing be and the same are hereby repealed.

1                   Section 6. This ordinance shall be published, within fifteen days after the passage  
2 hereof, in one issue of a daily or weekly newspaper of general circulation in the City, or posted  
3 on the official bulletin board of the City, located on the wall across from the City Clerk's office  
4 at 555 S. 10<sup>th</sup> Street, in lieu and in place of the foregoing newspaper publication with notice of  
5 passage and such posting to be given by publication one time in the official newspaper by the  
6 City Clerk. This ordinance shall take effect and be in force from and after its passage and  
7 publication or after its posting and notice of such posting given by publication as herein and in  
8 the City Charter provided.

Introduced by:

\_\_\_\_\_

Approved as to Form & Legality:

\_\_\_\_\_  
City Attorney

Approved this \_\_\_ day of \_\_\_\_\_, 2017:

\_\_\_\_\_  
Mayor