

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

1 AN ORDINANCE amending Title 14 of the Lincoln Municipal Code relating to  
2 Public Property and Public Ways by adding a new Chapter 14.42 to provide for the application of  
3 painted art on local streets within the public right-of-way in residential zoning districts.

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

5 Section 1. That Title 14 of the Lincoln Municipal Code be amended by adding a new  
6 section numbered 14.42.010 to read as follows:

7 **14.42.010 Local Street Defined.**

8 Local street shall mean a street used for local traffic only as determined by the Director of  
9 Public Works and Utilities as defined in Lincoln Municipal Code Section 14.10.050.

10 Section 2. That Title 14 of the Lincoln Municipal Code be amended by adding a new  
11 section numbered 14.42.020 to read as follows:

12 **14.42.020 Purpose and Criteria for Regulations.**

13 The purpose of this ordinance is to promote the public health, safety and welfare through the  
14 regulation of the placement, appearance and maintenance of painted designs on city property in local  
15 street rights-of-way so as to:

16 (a) Make residentially zoned districts attractive environments;

17 (b) Encourage and support neighborhoods to work cooperatively to beautify neighbor-  
18 hoods;

19 (c) Promote traffic safety for neighborhood residents and children in particular by  
20 calming vehicular traffic; and

1 (d) Encourage well designed, creative and aesthetically pleasing local street paintings.

2 Section 3. That Title 14 of the Lincoln Municipal Code be amended by adding a new  
3 section numbered 14.42.030 to read as follows:

4 **14.42.030 Painting of Local Streets Permitted.**

5 Notwithstanding any provisions of the Lincoln Municipal Code to the contrary and subject  
6 to the provisions of this chapter, painting of local streets shall be allowed upon the public property  
7 and within the public right-of-way adjacent to all residential zoning districts upon the issuance of  
8 a permit by the Director of Public Works and Utilities.

9 Section 4. That Title 14 of the Lincoln Municipal Code be amended by adding a new  
10 section numbered 14.42.040 to read as follows:

11 **14.42.040 Application for Permit.**

12 An application for permit shall be filed with the Director of Public Works and Utilities upon  
13 a form provided by the Director for that purpose, and shall include the following information:

14 (a) The name, address, and telephone number of the applicant;

15 (b) The name, address, and telephone number of a responsible person whom the city may  
16 notify or contact at any time concerning the applicant's proposed design for the painting of local  
17 streets;

18 (c) A detailed description of the design proposed to be painted which shall include a  
19 diagram, photograph or sketch of the design proposed to be painted.

20 (d) A description of the measures to be taken by the applicant to prevent paint materials  
21 from entering the city's storm drain system during the painting and cleanup activities, including  
22 appropriate measures to protect each storm drain inlet to which the local street drains for such period

1 of time to allow the paint to dry and a description of the plan for the removal of the protective  
2 measures within 48 hours after the completion of the paint application:

3 (e) A statement that the applicant will, in consideration of being issued a permit for the  
4 painting of a local street, agree to release the City and the officers and employees of the City for any  
5 loss or damage to the painted design and further agree to hold harmless the City of Lincoln and the  
6 officers and employees of the City for any loss or damage arising out of the use of the local street  
7 space, or the discontinuance of such use; that the applicant understands that the use of the city street  
8 is to be temporary; that the applicant shall not acquire any right, title, or interest in the local street  
9 space; that the applicant may be required by the City at any time to remove the painted design placed  
10 upon the local street by such applicant, or to reimburse the City for the cost of removing such  
11 painted design; and that the applicant shall have no recourse against either the City or its officers  
12 or agents for any loss or damage occasioned by the applicant being required to remove the painted  
13 design from the local street which the applicant has been granted permission to use;

14 (f) Any additional information that the Director deems appropriate.

15 Section 5. That Title 14 of the Lincoln Municipal Code be amended by adding a new  
16 section numbered 14.42.050 to read as follows:

17 **14.42.050 Review and Recommendations.**

18 Upon receipt of an application as described in Section 14.42.040, the Director of Public  
19 Works and Utilities shall refer the application to the Department of Urban Development, the Urban  
20 Design Committee, and, where applicable, to the Health Department, the Historic Preservation  
21 Commission or Capitol Environs Commission. Such application shall be reviewed by the  
22 Departments or Commissions for the appropriateness of the design and a determination that the  
23 proposed design will not pose a hazard to traffic safety or the safety of individuals in the vicinity of

1 the local street. The Department of Public Works and Utilities shall review the application for a  
2 determination of whether the materials to be applied to the local street are appropriate for such  
3 purpose and the Health Department will review the application for a determination of whether the  
4 materials to be applied contain any materials toxic in nature which would cause environmental harm  
5 through their placement on the local street.

6 Section 6. That Title 14 of the Lincoln Municipal Code be amended by adding a new  
7 section numbered 14.42.060 to read as follows:

8 **14.42.060 Permit Conditions.**

9 A permit to paint a design on a local street shall be subject to the following conditions:

10 (a) That painted designs may only be placed on local streets and only in accordance with  
11 the design specified on the permit.

12 (b) That the placement of the painted design is temporary in nature and that the applicant  
13 acquires no right, title or interest in the local street to be used.

14 (c) That the applicant provide a petition of support for the proposed local street painting,  
15 which petition must bear the signatures from each of the owners of property adjacent to the area to  
16 be painted and at least sixty percent (60%) of the remaining owners of property along the local street  
17 frontage(s) within either 300 feet or the distance to the nearest intersection, whichever is less, in  
18 each direction from the area to be painted. The Director of Public Works and Utilities may modify  
19 the petition boundaries when deemed appropriate and shall also certify the accuracy of the petition.

20 (d) That the applicant is not authorized to do any excavation as a part of the local street  
21 painting.

1           (e)     That the Director of Public Works and Utilities may require the removal of the  
2 painted design upon demand and that the use of the local street be discontinued without recourse  
3 against the City for any loss or damage occasioned by any such requirement.

4           (f)     That if the painted design is not removed in response to the Director's requirement  
5 by the time specified, the City may remove the painted design from the local street at the risk and  
6 expense of the applicant.

7           (g)     That the applicant shall notify all households and businesses within such distance  
8 from the project as determined by the Director of Public Works and Utilities at least 14 days prior  
9 to any painting of the street.

10          (h)     That the permit issued pursuant to this section is a personal privilege and may not be  
11 transferred or alienated voluntarily or involuntarily. Such permit shall expire upon completion of  
12 the project. A new permit will be required to repaint, alter or remove the previously applied painted  
13 design.

14          (i)     That the applicant shall obtain permission from the Director of Public Works and  
15 Utilities as a part of the permit process to close a local street for one block or a distance to be  
16 determined by the Director of Public Works and Utilities as appropriate in order to accomplish the  
17 street painting. The applicant shall use Type III barricades and street closed signs as provided in  
18 the Manual on Uniform Traffic Control Devices. Any necessary barricades or signs shall be  
19 provided, delivered, and picked up by the Department of Public Works and Utilities at no additional  
20 cost to the applicant. Street(s) may be blocked for such periods of time as specifically allowed by  
21 the Director of Public Works and Utilities.

22          (j)     The local street painting is for a neighborhood purpose and is not for the purpose of  
23 advertising any product, goods, or event and is not done for private profit.

1           (k)    The local street painting shall be located only in the exact location described in the  
2 approved application.

3           (l)    The permittee shall be responsible for any costs of repair of public property caused  
4 by the application of the painted design upon the local street.

5           (m)   The permittee shall be responsible for all costs associated with the painting of the  
6 local street including, but not limited to, costs of labor, paint, other materials, and cleanup of the  
7 local street area upon completion of the painting. The local street painting shall be under the  
8 supervision of the Director of Public Works and Utilities who shall determine the appropriate paint  
9 material to be used and method of placement of the painted design within the local street.

10          (n)    The permittee shall maintain at no cost to the City all aspects of the project during  
11 the term of the permit.

12          (o)    The permittee assumes all risk in placing the painted design on the local street  
13 including any damages, vandalism and/or destruction of the painted design.

14                   Section 7. That Title 14 of the Lincoln Municipal Code be amended by adding a new  
15 section numbered 14.42.070 to read as follows:

16    **14.42.070    Suspension or Revocation of Permit.**

17                   Any permit issued pursuant to this chapter may be suspended or revoked by the Director of  
18 Public Works and Utilities after notice for any of the following causes:

- 19           (a)    Fraud, misrepresentation, false statement contained in the application for the permit;
- 20           (b)    Violation of this chapter or any of the provisions of the Lincoln Municipal Code;
- 21           (c)    Upon demand of the City.

22                   Section 8. That Title 14 of the Lincoln Municipal Code be amended by adding a new  
23 section numbered 14.42.080 to read as follows:

1 **14.42.080** **Application Fee.**

2 Any person or sponsoring agency or organization requesting a permit under this chapter shall  
3 pay to the City an application fee of \$50.00 for each permit.

4 Section 9. That Sections 1 through 8 of this ordinance shall be codified in the  
5 Lincoln Municipal Code as Chapter 14.42 entitled "Painted Art on Local Streets."

6 Section 10. That this ordinance shall take effect and be in force from and after its  
7 passage and publication in one issue of a daily or weekly newspaper of general circulation in the  
8 City according to law.

Introduced by:

\_\_\_\_\_

Approved as to Form & Legality:

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

Approved this \_\_\_ day of \_\_\_\_\_, 2010:

\_\_\_\_\_  
Mayor