

## Chapter 1.00

### REQUEST FOR WAIVER, PROCEDURE

#### Section 1. PURPOSE

The following design standards are adopted for the purpose of establishing the technical specifications, engineering requirements, and similar matters which property owners, subdividers, and permittees must meet when constructing or installing public and private improvements authorized or required by the various provisions of Chapter 14.75, Chapter 24.38, Title 26, and Title 27 of the Lincoln Municipal Code. All such improvements shall substantially conform to design standards, as determined by the appropriate department, except that the City may approve a deviation from any of the standards as set forth herein upon a satisfactory showing that such deviation will not materially and adversely affect the public welfare and that the general intent and spirit of these design standards are preserved. (*Resolution A-83782, 3-20-06; Resolution A-81230, 11-16-01*)

#### Section 2. PROCEDURE

##### 2.1 General

Any request for a deviation from the City of Lincoln Design Standards except as otherwise provided in these regulations shall be filed with the Planning Director. Such request shall set forth the specific modification requested and all supporting reasons and documentation as to why the modification should be granted, how the public welfare will be preserved, and why the modification will not detract from the intent and spirit of these design standards. The Planning Director shall distribute a copy of the requested modification and the applicant's statement and accompanying data to the director of the department designated as primarily responsible for the design standards from which the modification is sought. Such director shall, within fifteen days from receipt of a copy of the requested modification, file with the Planning Director notice of his recommended approval of the requested modification or a report stating why the modification should not be granted. Within thirty days from the filing of the request for modification, the Planning Director shall approve or deny the request in accordance with such director's recommendation and shall notify the applicant in writing of the approval or denial of the request. (*Resolution A-83782, 3-20-06; Resolution A-82320, 9-15-03*).

**2.1.1 Appeal to Planning Commission.** Any council member or aggrieved person may appeal any approval or denial of the request for modification by the Planning Director to the Planning Commission by filing notice of appeal with the Planning Director within fourteen days following such action by the Planning Director. Upon receipt of the appeal by the Planning Director, the Planning Commission shall hold a public hearing thereon within forty-five days from the date of appeal. In exercising its appellate jurisdiction, the Planning Director's action shall be deemed advisory and the Planning Commission may make such decision as ought to be made. Notwithstanding the above, if the appeal is associated with an application to be heard by the Planning Commission, the appeal shall be scheduled on the Planning Commission

agenda for public hearing and action on the same date as the associated application is scheduled for public hearing and action. (*Resolution A-83782, 3-20-06*).

**2.1.2 Appeal to City Council.** Any council member or aggrieved person may appeal the action of the Planning Commission on the request for modification to the City Council by filing a notice of appeal with the City Clerk within fourteen days following the action of the Planning Commission. Upon receipt of the appeal by the City Council, the Council shall hold a public hearing thereon within thirty days from the date of appeal. In exercising its appellate jurisdiction, the Planning Commission's action shall be deemed advisory and the City Council may, after public hearing in conformity with the provisions of this title, make such decision as ought to be made.

For public hearings required to be held under this section, notice shall be given as provided in Lincoln Municipal Code Section 27.81.050, subsections (a), (b) and (c), provided that no decision shall be void or invalidated or effected in any way for any irregularity, defect, error or failure on the part of the City Clerk to cause notice to be given as required in subsection (c). The minimum improvements set forth in Chapter 26.27 of the Lincoln Municipal Code shall be required unless specifically and individually waived by the Planning Commission or City Council as provided above. (*Resolution A-83782, 3-20-06; Resolution A-82320, 9-15-03*).

**2.2 Capitol Environs and Neighborhood Design Standards**

Notwithstanding the above, any request for a deviation of the Capitol Environs Design Standards may be approved by the Nebraska Capitol Environs Commission as provided in said design standards and any request for deviation of the Neighborhood Design Standards may be approved by the Planning Director or the Urban Design Committee as provided in said design standards. (*Resolution A-83782, 3-20-06; Resolution A-83068, 11-1-04; Resolution A-82320, 9-15-03*).

**2.3 Design Standards for Driveways Under Chapter 14.75 of the Lincoln Municipal Code**

Any request for a deviation from the Driveway Design Standards shall be submitted to the Director of Building and Safety (residential) or the Director of Public Works and Utilities (commercial). The appropriate Director shall within 15 days, file a written report on the requested deviation from design standards with the City Clerk setting forth the design standard deviation being requested and the reasons recommended for granting or denying such deviation. Upon receipt of the report, the City Clerk shall schedule said request for a deviation and report on the next reasonably available City Council agenda and the City Council, after holding a public hearing on the request for deviation, shall either approve or deny the request.

**2.4 Design Standards for On-Site Wastewater Treatment Systems Under Chapter 24.38 of the Lincoln Municipal Code**

Any request for a deviation from the Design Standards for On-Site Wastewater Treatment Systems shall be submitted to the Health Director as set forth in Chapter 4.10, "Design Standards for On-Site Wastewater Treatment Systems," Section 3, Variance. (*Resolution A-81230; 11-16-01*)

## **2.5 Lincoln Downtown Design Standards**

Notwithstanding the above, any request for a deviation of the Lincoln Downtown Design Standards may be approved by the Planning Director, the Appeals Board, or the City Council as provided in said design standards.

*(Resolution A-85010; 9-8-08)*