

SUBSTITUTE
ORDINANCE NO. _____

1 AN ORDINANCE amending Chapter 14.80 of the Lincoln Municipal Code
2 relating to Sidewalk Construction by amending Section 14.80.010 to designate permitted uses
3 of the space between the lot line and curb (sidewalk space); amending Section 14.80.020 to
4 establish uses of the space between the sidewalk and curb that are allowed with or without
5 special permit; amending Section 14.92.040 to address gravel and rock mulch outside the
6 permitted area; and repealing Sections 14.80.010, 14.80.020, and 14.92.040 of the Lincoln
7 Municipal Code as hitherto existing.

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

9 Section 1. That Section 14.80.010 of the Lincoln Municipal Code be amended
10 to read as follows:

11 **14.80.010 Space Between Curb and Lot Lines; Designation.**

12 The space between the lot line and existing or projected curb line on each side of every
13 street in the city (hereafter known as the sidewalk space) shall be used only for the location
14 of sidewalks, ~~trees, grass, or shrubs except as otherwise~~ street trees and landscape plantings
15 authorized pursuant to Section 12.20.021 of this code, and non-organic mulch, decorative
16 stones, and surfacing materials authorized pursuant to Section 14.80.020.

17 Section 2. That Section 14.80.020 of the Lincoln Municipal Code be amended
18 to read as follows:

1 **14.80.020 Space Between Curb and Lot Line; Uses Allowed With or Without Special**
2 **Permit.**

3 (a) The owner of the abutting property may place the following in the sidewalk
4 space without a permit:

5 (1) non-organic mulch, including river rock, crushed rock, gravel, crushed
6 brick, lava rock, or decorative stones no less than three-eighths inch in diameter but less than
7 twelve inches in diameter, provided that such material must be securely placed so as not to
8 be dislodged or displaced onto the adjoining sidewalk or street. The owner of the property
9 abutting the sidewalk space shall be responsible for assuring that non-organic mulch does not
10 become dislodged or displaced onto the adjoining sidewalk or street as per Section 14.92.040.
11 Placement of non-organic mulch or decorative stones shall be subject to subsection (d) of this
12 section.

13 (2) laid brick on sand.

14 (a b) The Director of Public Works and Utilities may approve a permit for the
15 placement of any of the following surfacing materials in the sidewalk space:

16 (1) decorative concrete;

17 (2) exposed aggregate in concrete;

18 (3) asphalt;

19 ~~(4) — laid brick on sand;~~

20 (5 4) terrazzo;

21 ~~(6) — crushed rock and/or crushed brick securely set in concrete;~~

22 (7 5) securely fastened artificial surface.

23 In no event shall said sidewalk space be used for the parking of a motor vehicle.

1 (~~b c~~) Application procedure. A formal application shall be filed by the owner of the
2 abutting property, which ownership may also consist of a long-term lease or other long-term
3 interest in said property, with the Department of Public Works and Utilities on forms provided
4 by said department for that purpose, together with four copies of a plot plan showing the
5 sidewalk space and proposed uses drawn to an accurate scale and showing all pertinent
6 information, including the use of the abutting lot. A permit fee of fifty dollars shall accompany
7 the application. Upon receipt of said application, the Department of Public Works and
8 Utilities shall send copies of the application, together with the plot plan, to the Parks and
9 Recreation Department and the Department of Building and Safety for review and recommen-
10 dation.

11 (e d) Upon receipt of recommendation of approval from the reviewing departments,
12 the Director of Public Works may grant a permit for the placement of the requested surfacing
13 material, conditioned upon the following:

14 (1) In the event that it becomes necessary to construct, replace, or repair any
15 facilities within said sidewalk space, the removal and replacement of said allowed and
16 permitted uses shall be done at the expense of the abutting property owner ~~permittee~~, and by
17 the abutting property owner ~~permittee~~ within five days after written notice is given by the city,
18 except for emergencies. Emergency is defined as any condition existing in said utilities
19 necessitating immediate action.

20 (2) In the event that emergency maintenance or repairs must be made to any
21 curb and gutter, street right-of-way, or public or quasi-public utilities, or property of
22 franchisees, the appropriate city department or other utility or franchisee is authorized to

1 remove, destroy, or otherwise deface those materials authorized to be located in the sidewalk
2 space by permit, with no liability or responsibility for said removal, destruction, defacement,
3 or replacement falling on the City of Lincoln, its agents, franchisees, or employees.

4 (3) The maintenance of the uses ~~obtained by such permit~~ allowed or
5 permitted in this chapter shall solely and only be the responsibility of the abutting property
6 owner ~~permittee~~ and shall be performed at ~~his~~ the owner's cost and expense. ~~The m~~Material
7 authorized by permit shall at all times be maintained in good repair and in the form approved
8 by the permit. Should any of the material authorized by permit become loose, broken off, or
9 in any way spread into the traveled portion of the public right-of-way, the city may give notice
10 to the ~~permittee~~ abutting property owner to either repair or remove the same at ~~permittee's~~
11 the property owner's expense. If an emergency exists, the city may, without notice, remove
12 the material from the traveled portion of the public right-of-way and charge the cost of said
13 removal to the ~~permittee~~ abutting property owner.

14 (4) The ~~permittee~~ abutting property owner shall hold the city harmless from
15 any and all liability resulting from the construction of or maintenance of any of the allowed
16 or permitted items in said sidewalk space, except for the replacement of any permitted tree
17 or sod, by the city or other governmental entity, public utility, or quasi-public utility
18 performing work in said sidewalk space.

19 (5) The City of Lincoln is released from any and all liability and re-
20 sponsibility for any damage to ~~the~~ an allowed or permitted use which might occur during
21 maintenance or repair work performed by the City of Lincoln, its departments or utilities, or
22 another quasi-public utility, or franchisee of the City of Lincoln including, but not limited to,

1 street maintenance and repair, snow removal, street cleaning, sign replacement, maintenance
2 and repair, or any other maintenance, construction, or repair function of the City of Lincoln,
3 its departments, utilities, or quasi-public utilities, or its franchisees, or its successors or assigns.

4 (6) No existing tree or shrub may be removed or damaged in order to lay the
5 permitted surface materials, unless allowed as a condition of the granting of said permit.
6 Permitted surface materials must be kept a minimum distance of four feet from trees with
7 trunks up to six inches in diameter and at least six feet from trees with trunks that have a
8 diameter greater than six inches.

9 (7) All allowed and permitted improvements must conform to all applicable
10 city codes and ordinances.

11 (8) ~~For purposes of this section, the term "permittee" shall include the~~
12 ~~permittee, his successors, personal representatives, heirs, and assigns to the property abutting~~
13 ~~the sidewalk space for which the permit was issued and a~~All terms and conditions of the
14 permit shall be binding and obligatory on the abutting property owner ~~permittee~~ and such
15 owner's successors, personal representatives, heirs, and assigns.

16 (d e) Revocation of permit. The Director of Public Works and Utilities, after thirty
17 days notice, may revoke said permit for any of the following reasons:

18 (1) Any failure to maintain the material in the same form as specified in the
19 permit.

20 (2) If the permitted material interferes with or causes a hazard to pedestrian
21 movement on the sidewalk or with vehicular movement on the traveled portion of the public

1 right-of-way, or hampers or impedes the maintenance or repair of curb and gutter, streets, or
2 public or quasi-public utilities located under the sidewalk space.

3 (3) If the reserved space is or has been used as a parking space for motor
4 vehicles.

5 (4) If the permitted material interferes with existing public or quasi-public
6 utilities or would interfere with the proposed installation or maintenance of new public
7 utilities or interferes with curb and gutter repair or street maintenance.

8 (5) Following revocation of said permit, the ~~permittee~~ abutting property
9 owner will have thirty days to remove the permitted improvements at the ~~permittee's~~ owner's
10 cost and expense. In the event that ~~permittee~~ owner does not remove the improvements, the
11 city may remove the same and charge the cost of said removal to the ~~permittee~~ owner. Any
12 such revocation may be appealed to the City Council by filing with the City Clerk a notice of
13 appeal within seven days of receipt of notice of such revocation.

14 Section 3. That Section 14.92.040 of the Lincoln Municipal Code be amended
15 to read as follows:

16 **14.92.040 Snow, Ice, and Refuse Matter in Public Right-of-way.**

17 It shall be unlawful for any person to throw, cast, drop, place, deposit, or cause to be
18 thrown, cast, dropped, placed, or deposited on any sidewalk, street, alley, or other public way
19 any water, grass, leaves, branches, hay, straw, paper, parings, ashes, sand, non-organic mulch
20 as defined in Section 14.80.020, or other refuse or debris in any public way or place except
21 as provided in Section 14.80.140 or with permission from the Department of Public Works
22 and Utilities. Furthermore, no person shall stack, mound, or otherwise place snow or ice, or

1 cause snow or ice to be stacked, mounded, or otherwise placed in any street, highway, alley,
2 roadway, right-of-way, or sidewalk.

3 Section 4. That Sections 14.80.010, 14.80.020, and 14.92.040 of the Lincoln
4 Municipal Code as hitherto existing be and the same are hereby repealed.

5 Section 5. That this ordinance shall take effect and be in force from and after
6 its passage and publication according to law.

Introduced by:

Approved as to Form & Legality:

City Attorney

Approved this ___ day of _____, 2003:

Mayor