

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

1 AN ORDINANCE amending Title 27 of the Lincoln Municipal Code by adding a new  
2 Chapter 27.52, Flood Regulations for Existing Urban Area.

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

4 Section 1. That Title 27 of the Lincoln Municipal Code be amended by adding a new  
5 section numbered 27.52.010 to read as follows:

6 **27.52.010 Scope of Regulations.**

7 The regulations set forth in this chapter, or set forth elsewhere in this title when referred to  
8 in this chapter, are known as the Flood Regulations for Existing Urban Area. The regulations shall  
9 apply to all lands within the Existing Urban Area in the floodplain within the zoning jurisdiction of  
10 the City of Lincoln that are subject to a one percent or greater chance of flooding in any given year.  
11 The September 21, 2001 official Flood Insurance Rate Map (FIRM) and Flood Insurance Study (FIS)  
12 for Lancaster County, Nebraska and Incorporated Areas and any revisions thereto are hereby adopted  
13 by reference and declared to be a part of this Chapter. A copy of the FIRM and FIS are on file in the  
14 Department of Building and Safety.

15 The degree of flood protection required by this Chapter is considered reasonable for  
16 regulatory purposes and is based on engineering and scientific methods of study. Larger floods may  
17 occur on rare occasions or the flood height may be increased by man-made or natural causes, such  
18 as ice jams and bridge openings restricted by debris. Compliance with these regulations does not  
19 imply that lands outside a floodplain or floodprone areas or uses within such areas will be free from  
20 flooding or flood damage. This Chapter shall not create liability on the part of the City of Lincoln

1 or any officer or employee thereof for any flood damages that may result from reliance on this  
2 Chapter or any administrative decision lawfully made thereunder

3 Section 2. That Title 27 of the Lincoln Municipal Code be amended by adding a new  
4 section numbered 27.52.020 to read as follows:

5 **27.52.020 Definitions.**

6 For the purpose of this chapter, certain terms and words are hereby defined:

7 **100-Year Flood** shall mean the flood having a one percent chance of being equaled or  
8 exceeded in any given year.

9 **Base Flood** shall mean the flood having a one percent chance of being equaled or exceeded  
10 in any given year.

11 **Basement** shall mean any enclosed area having its floor below grade level on all sides.

12 **Development** shall mean any man-made change to improved or unimproved real estate,  
13 including but not limited to, buildings or other structures, mining, dredging, filling, grading, paving,  
14 excavation or drilling operations, or storage of equipment or materials.

15 **Existing manufactured home park or subdivision** shall mean a manufactured home park  
16 or subdivision for which the construction of facilities for servicing the lots on which the  
17 manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the  
18 construction of streets, and either final site grading or the pouring of concrete pads) is completed  
19 before the effective date of this ordinance.

20 **Existing Urban Area** shall mean those areas inside the corporate limits of the City of  
21 Lincoln, as well as those areas outside the corporate limits having a zoning designation other than  
22 AG Agriculture and AGR Agricultural Residential, on the effective date of this ordinance.

1           Expansion to an existing manufactured home park or subdivision shall mean the  
2 preparation of additional sites by the construction of facilities for serving the lots on which the  
3 manufactured homes are to be affixed (including the installation of utilities, the construction of  
4 streets, and either final site grading or the pouring of concrete pads).

5           FEMA shall mean the Federal Emergency Management Agency.

6           Flood Insurance Rate Map (FIRM) shall mean the September 21, 2001 Flood Insurance  
7 Rate Map and any revisions thereto, on which FEMA has delineated both the areas of special flood  
8 hazards and the risk premium zones applicable to the community.

9           Flood Insurance Study (FIS) shall mean the Flood Insurance Study for Lancaster County,  
10 Nebraska and Incorporated Areas published by FEMA in conjunction with the FIRM and containing  
11 background data such as base flood discharges and water surface elevations used to prepare the  
12 FIRM.

13           Floodplain shall mean those lands which are subject to a one percent or greater chance of  
14 flooding in any given year, as shown on the Flood Insurance Rate Map issued by FEMA for  
15 Lancaster County, Nebraska and incorporated areas, as amended. Copies of the said maps shall be  
16 on file in the Department of Building and Safety.

17           Floodproofing shall mean any combination of structural and nonstructural additions,  
18 changes, or adjustments to structures which reduce or eliminate flood damage to real estate or  
19 improved real property, water and sanitary facilities, structures and their contents.

20           Floodway shall mean the channel of a river or other watercourses and the adjacent land areas  
21 that must be reserved in order to discharge the base flood without cumulatively increasing the water  
22 surface elevation more than one foot.

1           **Historic structure** shall mean any structure that is: (a) listed individually in the National  
2 Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily  
3 determined by the Secretary of the Interior as meeting the requirements for individual listing on the  
4 National Register; (b) certified or preliminarily determined by the City of Lincoln, a Certified Local  
5 Government (CLG), in consultation with the Nebraska State Historic Preservation Officer (SHPO),  
6 as contributing to the historical significance of a locally or nationally designated historic district; (c)  
7 individually designated as a Landmark by the City of Lincoln, a CLG, under the provisions of  
8 Chapter 27.57 of the Lincoln Municipal Code.

9           **Letter of Map Change (LOMC)** shall mean a determination document issued by FEMA  
10 that officially revises the FIRM based on updated information, whether improved data or topography  
11 changes created by fill placement. Includes Letter of Map Amendment (LOMA), Letter of Map  
12 Revision (LOMR), and Letter of Map Revision based on Fill (LOMR-f).

13           **Lowest floor** shall mean the lowest floor of the lowest enclosed area (including basement).  
14 An unfinished or flood-resistant enclosure, usable solely for parking of vehicles or building access,  
15 in an area other than a basement area is not considered a building's lowest floor; provided that such  
16 enclosure is not built so as to render the structure in violation of the applicable non-elevation design  
17 requirements of this ordinance.

18           **Manufactured home** shall mean, for purposes of this chapter, a structure, transportable in  
19 one or more sections, which is built on a permanent chassis and is designed for use with or without  
20 a permanent foundation when attached to the required utilities. The term "manufactured home" shall  
21 not include a "recreational vehicle."

22           **Manufactured home park or subdivision** shall mean a parcel (or contiguous parcels) of  
23 land divided into two or more manufactured home lots for rent or sale.

1            NAVD shall mean the North American Vertical Datum of 1988.

2            New construction shall mean structures for which the start of construction commenced on  
3 or after the effective date of this ordinance and shall include any subsequent improvements to such  
4 structures.

5            New manufactured home park or subdivision shall mean a manufactured home park or  
6 subdivision for which the construction of facilities for servicing the lots on which the manufactured  
7 homes are to be affixed (including at a minimum, the installation of utilities, the construction of  
8 streets, and either final site grading or the pouring of concrete pads) is completed on or after the  
9 effective date of this ordinance.

10           Non - substantial improvement shall mean any improvement that does not meet the  
11 definition of substantial improvement, as defined in this section.

12           Qualified engineer shall mean a registered professional engineer who, by reason of training  
13 and experience, is considered knowledgeable in hydrology and hydraulics and their application to  
14 the flood insurance study and has demonstrated competence to the satisfaction of the Director of  
15 Building and Safety.

16           Recreational vehicle shall mean a vehicle which is:

17            (1)    built on a single chassis;

18            (2)    400 square feet or less when measured at the largest horizontal projections;

19            (3)    designed to be self-propelled or permanently towable by a light duty truck;

20           and

21            (4)    designed primarily not for use as a permanent dwelling but as temporary living  
22 quarters for recreational, camping, travel, or seasonal use.

1 Riverine shall mean relating to, formed by, or resembling a river (including tributaries,  
2 streams, brooks, etc.).

3 Special Flood Hazard Area shall mean the land in the floodplain subject to a one percent  
4 or greater chance of flooding in any given year.

5 Start of construction shall mean either the first placement of permanent construction of a  
6 structure on a site, such as the pouring of slabs or footings, the installation of piles, the construction  
7 of columns, or any work beyond the stage of excavation, or the placement of a manufactured home  
8 on a foundation. Permanent construction does not include land preparation, such as clearing,  
9 grading, and filling; nor does it include the installation of streets and/or walkways; nor does it  
10 include excavation for a basement, footings, piers or foundations or the erection of temporary forms;  
11 nor does it include the installation on the property of accessory buildings, such as garages or sheds  
12 not occupied as dwelling units or not as part of the main structure. For a substantial improvement,  
13 the actual start of construction shall mean the first alteration of any wall, ceiling, floor, or other  
14 structural part of a building, whether or not that alteration affects the external dimension of the  
15 building.

16 Structure shall mean, for floodplain management purposes, a walled and roofed building,  
17 including a gas or liquid storage tank, that is principally above ground, as well as a manufactured  
18 home.

19 Substantial damage shall mean damage of any origin sustained by a structure whereby the  
20 cost of restoring the structure to its before damaged condition would equal to or exceed fifty percent  
21 of the market value of the structure before the damage occurred.

1           **Substantial improvement** shall mean any reconstruction, rehabilitation, addition, or other  
2 improvement of a structure, the cost of which equals or exceeds fifty percent of the market value of  
3 the structure before the start of construction of the improvement. Substantial improvement shall  
4 include structures which have incurred substantial damage, regardless of the actual repair work  
5 performed. The term shall not, however, include either (i) any project for improvement of a structure  
6 to correct existing violations of state or local health, sanitary, or safety code specifications which  
7 have been identified by the local code enforcement official and which are the minimum necessary  
8 to assure safe living conditions, or (ii) any alteration of a historic structure, provided that the  
9 alteration will not preclude the structure's continued designation of a historic structure.

10           **Variance** shall mean a grant of relief from the terms of a floodplain management regulation,  
11 this shall be done by Special Permit in accordance with Section 27.52.060 of this chapter.

12           **Violation** shall mean the failure of a structure or other development to be fully compliant  
13 with the floodplain management regulations as set forth in this chapter. A structure or other  
14 development without the elevation certificate, other certifications, or other evidence of compliance  
15 as required is presumed to be in violation until such time as that documentation is provided.

16           Section 3. That Title 27 of the Lincoln Municipal Code be amended by adding a new  
17 section numbered 27.52.030 to read as follows:

18           **27.52.030     Standards.**

19           The following shall be the standards to be followed in connection with the Flood Regulations  
20 for the Existing Urban Area:

21           (a)     General Standards:

22           (1)     Until a floodway has been designated, no development or substantial  
23 improvement may be permitted within the floodplain unless the applicant has demonstrated that the

1 proposed development or substantial improvement, when combined with all other existing and  
2 reasonably anticipated developments or substantial improvements, will not increase the water surface  
3 elevation of the 100-year flood more than one foot at any location.

4 An exception to the above shall be permitted provided the applicant has acquired by  
5 land rights purchase, flowage easement, or other legal arrangement the right to increase the flood  
6 levels on all affected lands greater than one foot (1.0'), and provided that before any permit is issued  
7 the applicant submits a Federal Emergency Management Agency (FEMA) approved Conditional  
8 Letter of Map Revision to the Director of Building and Safety. When such encroachment is  
9 completed, a FEMA approved Letter of Map Revision must also be provided by the applicant.

10 (2) Roadway bridges, and other drainage facilities, may have their superstructure  
11 submerged or partially submerged below the base flood level, provided that the facility has been  
12 designed to resist the hydrostatic and hydrodynamic loads as well as the effects of the buoyancy as  
13 certified by a registered professional engineer.

14 (3) Within the floodplain, all new construction and substantial improvements  
15 shall be anchored to prevent flotation, collapse, or lateral movement of the structure resulting from  
16 hydrodynamic and hydrostatic loads including the effects of buoyancy; constructed with materials  
17 and utility equipment resistant to flood damage; and constructed by methods and practices that mini-  
18 mize flood damage. Electrical, heating, ventilation, plumbing, and air-conditioning equipment and  
19 other service facilities shall be elevated at least one foot above the base flood elevation or designed  
20 so as to prevent water from entering or accumulating within the components during conditions of  
21 flooding. A registered professional engineer or architect shall certify that these provisions are  
22 satisfied.

1           (4)    The location, grade, and floodproofing of all new and replacement water and  
2 sanitary sewer systems which are to be extended into or through any portion of the floodplain to  
3 serve the proposed development shall first be approved by the city prior to the extension of such  
4 utilities into the floodplain.

5           (5)    New or replacement water supply systems and sanitary sewage systems shall  
6 be designed to minimize or eliminate infiltration of flood waters into said systems and discharges  
7 from said systems into flood waters. Individual disposal systems shall be designed in accordance  
8 with the standards set forth in Chapter 24.38 of the Lincoln Municipal Code in order to minimize  
9 impairment to them or contamination from them during flooding.

10          (6)    On-site waste disposal systems shall be located to avoid impairment to the  
11 system or contamination from such systems during flooding.

12          (7)    The storage or processing of materials that are in time of flooding buoyant,  
13 flammable, explosive, or could be injurious to human, animal, or plant life is prohibited.

14          (8)    Storage of other material or equipment may be allowed if not subject to major  
15 damage by floods and firmly anchored to prevent flotation or if readily removable from the area  
16 within the time available after the issuance of flood warning by appropriate authorities.

17          (9)    Filling, grading, and excavation may be allowed in the floodplain under the  
18 following conditions:

19               (i) Fill shall be protected against erosion and sediment by such measures as  
20 rip-rap, vegetative cover, bulkheading, or sedimentation basins as approved by the Director of  
21 Building and Safety.

22               (ii) Any fill to be deposited in the floodplain must be shown by the applicant  
23 not to be a detriment to the general public as well as the surrounding land owners.

1                   (iii) Fill materials shall be of a selected type, preferably clean dirt, gravel, or  
2 rock no greater than two inches in diameter. The use of decomposing materials, such as wood and  
3 other degradables, shall be prohibited. Fill shall be placed in six inch compacted layers. Fill selec-  
4 tion and placement shall recognize the effects of saturation from flood waters on slope stability,  
5 uniform and differential settlement, and scour potentials.

6                   (iv) Prior to placement of any fill or embankment materials, the land upon  
7 which fill is to be placed shall be cleared of debris, snags, stumps, brush, down timber, logs, and  
8 other objects. All materials and debris from this clearing shall be removed from the proposed fill  
9 and disposed of at approved locations outside the floodplain.

10                  (v) Fill slopes for granular materials shall be no steeper than one vertical  
11 on two horizontal unless substantiating data justifying steeper slopes are submitted to the Director  
12 of Building and Safety and approved.

13                  (vi) Excavation in the floodplain shall be done so that the land surface is  
14 maintained in such a manner that surface waters do not collect and pond unless specifically approved  
15 by the Director of Building and Safety.

16                  (b) Residential Construction. All new construction and substantial improvements of  
17 residential structures within the floodplain shall have the lowest floor, including basement, elevated  
18 at least one foot above the base flood level. Garages and storage buildings used exclusively for the  
19 storage of motor vehicles, and storage of other items readily removable in the event of a flood  
20 warning may have their lowest floor below flood elevation, provided the building structure is capable  
21 of withstanding hydrostatic and hydrodynamic forces caused by the 100-year flood and, further,  
22 provided that no utilities are installed in the building except elevated or floodproofed electrical

1 fixtures. If the building is converted to another use, it must be brought into full compliance with the  
2 requirements of this title governing such uses.

3 (c) Nonresidential Construction. All new construction and substantial improvements of  
4 commercial, industrial, and other nonresidential structures within the floodplain shall either have the  
5 lowest floor, including basement, elevated at least one foot above the base flood level or, together  
6 with attendant utility and sanitary facilities, be floodproofed so that below the base flood level plus  
7 one foot the structure is watertight in accordance with the performance standards set forth in the  
8 city's building code. A registered professional engineer or architect shall develop or review  
9 structural design, specifications, and plans for the construction, and shall certify that the design and  
10 methods of construction meet the watertight performance standards. The certification shall be  
11 provided to the city as set forth in Section 27.52.040 of this chapter.

12 (d) For all new construction and substantial improvements, fully enclosed areas below  
13 the lowest floor that are usable solely for parking of vehicles, building access or storage in an area  
14 other than a basement and which are subject to flooding shall be designed to automatically equalize  
15 hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs  
16 for meeting this requirement must either be certified by a registered professional engineer or architect  
17 or must meet or exceed the following minimum criteria:

18 (1) A minimum of two openings having a total net area of not less than one square  
19 inch for every square foot of enclosed area subject to flooding shall be provided;

20 (2) The bottom of all openings shall be no higher than one foot above grade; and

21 (3) Openings may be equipped with screens, louvers, or other coverings or  
22 devices; provided, that they permit the automatic entry and exit of floodwaters.

1           (e)    Manufactured Home Parks and Subdivisions. All manufactured homes shall be  
2 located in a manufactured home park or a manufactured home subdivision in accordance with  
3 Sections 27.63.120 and 27.63.125 of this title. No manufactured home shall be located in a  
4 manufactured home park or subdivision within the floodplain unless the following conditions are  
5 met:

6           (1)    New manufactured home parks and subdivisions; expansions; substantial  
7 damage. Manufactured homes placed (i) on individual lots within or outside of new manufactured  
8 home parks or subdivisions, (ii) on individual lots within an expanded area of an existing  
9 manufactured home park or subdivision, or (iii) in an existing manufactured home park or  
10 subdivision in which a manufactured home has incurred substantial damage as the result of a flood,  
11 shall be elevated on a permanent foundation such that their lowest floor is at least one foot above the  
12 base flood elevation and be securely anchored to an adequately anchored foundation system in accor-  
13 dance with the standards to resist floatation, collapse, and lateral movement set forth in subsection  
14 (f) below;

15           (2)    Existing manufactured home parks and subdivisions. Manufactured homes  
16 to be placed or substantially improved on individual lots in existing manufactured home parks or  
17 subdivisions, shall either (i) be elevated on a permanent foundation such that their lowest floor is at  
18 least one foot above the base flood elevation or (ii) be supported by reinforced piers or other  
19 foundation elements of at least equivalent strength that are no less than three feet in height above  
20 grade and be securely anchored to an adequately anchored foundation system in accordance with the  
21 standards to resist floatation, collapse, and lateral movement set forth in subsection (f) below.

22                   If the option provided by (ii) above is exercised, the current owner and  
23 occupant, and any future buyer, renter, or occupier shall jointly acknowledge in writing that the

1 option of piers as an alternative to placement of the manufactured home one foot above the base  
2 flood elevation has been exercised and, therefore, may be subject to flooding. Such acknowledgment  
3 shall be filed with the Director of Building and Safety prior to the issuance of hook-up permits to  
4 the subject home.

5 (3) Adequate surface drainage and access for a hauler are provided;

6 (4) Where manufactured homes are elevated on pilings, lots shall be large enough  
7 to permit steps, piling foundations shall be placed in stable soil no more than ten feet apart, and  
8 reinforcement shall be provided for pilings more than six feet above the ground level; and

9 (5) The grade of land for manufactured home parks or subdivisions which are  
10 situated within the floodplain shall be raised at least one foot above the base flood elevation.

11 (f) Manufactured Homes Located Outside of a Manufactured Home Park or Subdivision.  
12 Manufactured homes located outside of a manufactured home park or subdivision shall be elevated  
13 at least one foot above the base flood elevation or anchored to the elevated foundation to resist flota-  
14 tion, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use  
15 of over-the-top and frame ties to ground anchors;

16 (1) If over-the-top ties are used, such ties shall be provided at each of the four cor-  
17 ners of the manufactured home, with two additional ties per side at intermediate locations except that  
18 manufactured homes less than fifty feet in length may provide only one additional tie per side;

19 (2) Frame ties shall be provided at each corner of the manufactured home with  
20 five additional ties per side at intermediate points except that manufactured homes less than fifty feet  
21 in length may provide only four additional ties per side;

22 (3) All components of the anchoring system shall be capable of carrying a force  
23 of 4,800 pounds; and

1                   (4)    Any additions to the manufactured home shall be similarly anchored.

2           (g)    Recreational Vehicles:

3                   (1)    Shall be on the site for fewer than 180 consecutive days;

4                   (2)    Shall be fully licensed and ready for highway use (on its wheels or jacking  
5 system, is attached to the site only by quick disconnect type utilities and security devices, and has  
6 no permanently attached additions); or

7                   (3)    Meet the requirements for manufactured homes.

8           (h)    Floodways.

9                   (1)    Encroachments into the floodway are prohibited, including fill, new  
10 construction, substantial improvements, and other development within the floodway unless  
11 certification by a qualified engineer is provided, demonstrating that the proposed encroachment will  
12 not result in any increase in flood levels during occurrence of the base flood discharge.

13                   (2)    If the above provision is satisfied, all new construction and substantial  
14 improvements shall comply with all other applicable provisions contained in Section 27.52.030.

15                   (3)    The placement of any manufactured home parks and manufactured home sub-  
16 divisions and the construction of new structures for human habitation within the floodway is  
17 prohibited.

18           (i)    AO Zones. Designated AO zones within the floodplain have special flood hazards  
19 associated with base flood depths of one to three feet where a clearly defined channel does not exist  
20 and where the path of flooding is unpredictable and indeterminate; therefore, the following  
21 provisions apply within AO zones:

22                   (1)    All new construction and substantial improvements of residential structures  
23 shall have the lowest floor (including basement) elevated above the highest adjacent grade at least

1 as high as one foot above the depth number specified in feet on the FIRM (at least two feet if no  
2 depth number is specified).

3 (2) All new construction and substantial improvements of non-residential  
4 structures shall:

5 (i) Have the lowest floor elevated above the highest adjacent grade at least  
6 as high as one foot above the depth number specified in feet on the community's FIRM (at least two  
7 feet if no depth number is specified), or

8 (ii) Together with attendant utility and sanitary facilities be completely  
9 floodproofed to or above that level so that any space below that level is watertight with walls  
10 substantially impermeable to the passage of water and with structural components having the  
11 capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. Such  
12 certification shall be provided to the official as set forth in Section 27.52.040(d).

13 (3) Adequate drainage paths around structures on slopes shall be required in order  
14 to guide floodwaters around and away from proposed structures.

15 Section 4. That Title 27 of the Lincoln Municipal Code be amended by adding a new  
16 section numbered 27.52.040 to read as follows:

17 **27.52.040 Administration.**

18 A development permit shall be required in conformance with the provisions of this chapter.  
19 All new construction of residential and nonresidential structures or other development, including the  
20 placement of manufactured homes, within the floodplain shall hereafter be in full compliance with  
21 the terms of this chapter and other applicable regulations. All existing residential and nonresidential  
22 structures that are not in compliance with the terms of this chapter shall be required to conform to

1 these terms before substantial improvements can be made. It shall be the duty of the Director of  
2 Building and Safety to enforce this chapter. His duties shall include, but not be limited to:

3 (a) Review all development permits to assure that the permit requirements for this  
4 chapter have been satisfied;

5 (b) Review proposed development to assure that all necessary permits have been obtained  
6 from those agencies from which prior approval is required by federal, state or local law, including  
7 Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334;

8 (c) Notify affected adjacent communities and the Nebraska Department of Natural  
9 Resources in riverine situations prior to any alteration or relocation of a watercourse, and submit  
10 copies of such notifications to FEMA, and assure that the flood-carrying capacity within the altered  
11 or relocated portion of any watercourse is maintained;

12 (d) Require a registered professional engineer or registered professional land surveyor  
13 to verify the actual elevation in NAVD 1988 of the lowest floor, including basement, of all new or  
14 substantially improved structures and to which the new or substantially improved structures have  
15 been floodproofed. The certification of the lowest floor shall be submitted to the Director of  
16 Building and Safety at the point of construction when the lowest floor elevation may be established  
17 and prior to the erection of the walls of any buildings. Such information shall be recorded and  
18 maintained by the Director of Building and Safety;

19 (e) Where floodproofing is utilized for a particular structure, obtain certification from  
20 a registered professional engineer or architect that the floodproofing methods are adequate in  
21 accordance with appropriate provisions of the city's building code;

22 (f) Where interpretation is needed as to the exact location of boundaries of the  
23 floodplain; for example, where there appears to be a conflict between a mapped boundary and actual

1 field conditions, obtain the necessary interpretation from appropriate city engineering staff of the  
2 Department of Public Works and Utilities;

3 (g) In Zone A (no base flood elevations determined), require that proposed developments  
4 (including proposals for manufactured home parks and subdivisions) greater than either five acres  
5 or fifty lots include within such proposals detailed base flood elevation data based on an engineering  
6 study performed by a qualified engineer in accordance with FEMA approved methods for generating  
7 detailed base flood elevations. This provision shall not apply where the use of the property is not  
8 being changed and where there are no physical changes on the site which have the potential to  
9 increase the flood hazard.

10 (h) When base flood elevation data have not been provided on the FEMA Flood  
11 Insurance Rate Map, through the provisions in Section 27.52.040(g) above, or in other studies  
12 already completed or accepted by the City, obtain, review, and reasonably utilize any base flood  
13 elevation and floodway data available from a federal, state, or other source, as criteria for requiring  
14 that new construction, substantial improvements, or other developments in the floodplain meet the  
15 standards of this chapter.

16 Section 5. That Title 27 of the Lincoln Municipal Code be amended by adding a new  
17 section numbered 27.52.050 to read as follows:

18 **27.52.050 Permit Procedures.**

19 Application for a development permit shall be made to the Director of Building and Safety  
20 on forms furnished by him and may include, but not be limited to, the plans drawn to scale showing  
21 the nature, location, dimensions, and elevations of the area in question, existing or proposed  
22 structures, fill, storage of materials, drainage facilities, and the location of the foregoing.  
23 Specifically, the following information is required:

1           (a)     Base flood elevation in NAVD 1988 datum. When utilizing National Geodetic  
2 Vertical Datum of 1929 (NGVD 1929) base flood elevations from FEMA floodplain maps, 0.50 feet  
3 shall be added to NGVD 1929 to obtain NAVD 1988, unless a more accurate conversion factor using  
4 an established conversion program is demonstrated to the satisfaction of the Director of Building and  
5 Safety.

6           (b)     Elevation of the lowest floor, including basement, of all structures. All elevations  
7 shall be submitted in NAVD 1988.

8           (c)     Elevation to which any nonresidential structure has been floodproofed. All elevations  
9 shall be submitted in NAVD 1988.

10          (d)     Documentation and certification from a registered professional engineer or architect  
11 that the nonresidential floodproofed structure meets the floodproofing specifications set forth in the  
12 city's building code.

13          (e)     Documentation and certification from a registered professional engineer that if the  
14 development is in the floodway, that the development will cause no rise in the 100-year flood  
15 elevation.

16          (f)     Description of the extent to which any watercourse will be altered or relocated as a  
17 result of proposed development.

18          (g)     Limits of floodway and floodplain.

19          (h)     If the permit is for fill or the development of multiple structures, the following  
20 additional information is required to be shown on a grading and drainage plan:

21               (1)     A grading plan showing existing and proposed grades, location of channel and  
22 hydraulic cross-sections and profiles, with elevations in NAVD 1988 datum.

23               (2)     Hydrologic and hydraulic summary report.

1           (3)     The type and extent of the proposed use or development of the land which is  
2 located within the floodplain, along with such information as is necessary to determine the effect  
3 flood waters will have on such development and use and the effect such development and use may  
4 have upon the flood waters. All such information shall show the location of the proposed use, areas  
5 of habitation and employment, including the location, size, and floor elevation of any structures, the  
6 location and elevation of all parking areas, and the use, location, and elevations of all open land  
7 areas.

8           (4)     The amount of fill material brought into the floodplain from outside the  
9 floodplain.

10           Section 6. That Title 27 of the Lincoln Municipal Code be amended by adding a new  
11 section numbered 27.52.055 to read as follows:

12     **27.52.055     Permit Expiration.**

13           Every floodplain permit shall expire and become null and void two years following the date  
14 of issuance, regardless of the status of the permitted work. Before such work can be recommenced,  
15 a new permit shall be first obtained to do so.

16           Any permittee holding an unexpired permit may apply for an extension of the time within  
17 which work must be completed. The Director of Building and Safety may extend the time for  
18 completion of the work for a period not exceeding one year upon the permittee showing that  
19 circumstances beyond the control of the permittee have prevented action from being taken to  
20 complete the work. No permit shall be extended more than once.

21           Any permit issued prior to the effective date of this ordinance shall expire and become null  
22 and void two years following the effective date of this ordinance, regardless of the status of the

1 permitted work, and may not be extended by the Director of Building and Safety. Before such work  
2 can be recommenced, a new permit shall be first obtained to do so.

3 Section 7. That Title 27 of the Lincoln Municipal Code be amended by adding a new  
4 section numbered 27.52.060 to read as follows:

5 **27.52.060 Special Permits.**

6 The City Council of the City of Lincoln may, by special permit, in accordance with  
7 provisions set forth in Chapter 27.63 of this title:

8 (a) Grant variances from the requirements of this chapter which permit construction in  
9 a manner otherwise prohibited by this chapter where specific enforcement would result in  
10 unnecessary hardship. However, variances shall not be issued by the city within the selected  
11 floodway if any increase in flood levels during the base flood discharge would result.

12 (b) Grant requests for substantial improvements of existing residential and nonresidential  
13 structures that are not in conformity with the provisions of this chapter.

14 (c) Attach certain conditions to the special permit as it deems necessary to further the  
15 purposes of this chapter.

16 In passing upon such special permits, the city council shall consider that permits shall only  
17 be issued upon a determination that (i) they are the minimum necessary, considering the flood  
18 hazard, to afford relief; (ii) the granting will not result in increased flood heights, additional threats  
19 to public safety, extraordinary public expenses, create nuisances, cause fraud on or victimization of  
20 the public, or conflict with existing local laws or ordinances; and (iii) the decision is based upon a  
21 showing of good and sufficient cause and a reasonable use of land involved.

22 Any applicant to whom a special permit is granted shall be given a written notice that the cost  
23 of flood insurance will be commensurate with the increased risk resulting from the reduced lowest

1 floor elevation. The Director of Building and Safety shall maintain all the records of special permits  
2 issued by the city council and report them to FEMA upon request.

3 Section 8. That Title 27 of the Lincoln Municipal Code be amended by adding a new  
4 section numbered 27.52.070 to read as follows:

5 **27.52.070 Pre-existing Uses.**

6 The following pre-existing uses will be allowed in the floodplain:

7 (a) Continuation of pre-existing uses. The lawful use of a building and premises existing  
8 prior to the effective date of this ordinance may be continued although such use does not conform  
9 to the provisions hereof; provided, that no expansion, enlargement, change, or alteration shall be  
10 made except in conformance with Section 27.52.070(b) below.

11 (b) Substantial improvements of preexisting uses. No existing building and premises  
12 which is not in conformity with the provisions of this chapter shall be substantially improved unless  
13 it is done in conformity with the provisions of this chapter. A request for the substantial  
14 improvement of a pre-existing use which does not conform to the provisions of this chapter shall be  
15 processed through special permit procedures set forth in Section 27.52.060 of this chapter.

16 Section 9. That Title 27 of the Lincoln Municipal Code be amended by adding a new  
17 section numbered 27.52.080 to read as follows:

18 **27.52.080 Penalties for Violation.**

19 Violation of the provisions of this chapter or failure to comply with any of its requirements  
20 shall be punished in accordance with Chapter 27.81.

21 Section 10. That Title 27 of the Lincoln Municipal Code be amended by adding a  
22 new section numbered 27.52.090 to read as follows:

1 **27.52.090** **Amendments.**

2 The regulations, restrictions, and boundaries set forth in this chapter may from time to time  
3 be amended, supplemented, changed, or appealed to reflect any and all changes in the National Flood  
4 Disaster Protection Act of 1973, in accordance with the procedures set forth in Chapter 27.81. The  
5 regulations of this chapter are in compliance with the National Flood Insurance Program regulations,  
6 as amended, and the 1983 Nebraska Flood Plains Regulations Act.

7 Section 11. That Sections 1 through 10 of this ordinance be codified in the Lincoln  
8 Municipal Code as Chapter 27.52, Flood Regulations for Existing Urban Area.

9 Section 12. That this ordinance shall take effect and be in force from and after its  
10 passage and publication according to law.

Introduced by:

\_\_\_\_\_

Approved as to Form & Legality:

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

Approved this \_\_\_ day of \_\_\_\_\_, 2004:  
\_\_\_\_\_  
Mayor