

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

1           AN ORDINANCE amending Title 26 of the Lincoln Municipal Code relating to  
2 the Land Subdivision Ordinance by amending Section 26.11.032 to delete the filing deadline  
3 before a preliminary plat may be scheduled on the Planning Commission agenda; amending  
4 Sections 26.11.037, 26.11.060 and 26.31.010 to provide that all applications which have been  
5 placed on pending by the subdivider shall automatically expire one year thereafter unless the  
6 subdivider requests the application be removed from pending prior to the expiration date; and  
7 repealing Sections 26.11.032, 26.11.037, 26.11.060, and 26.31.010 of the Lincoln Municipal  
8 Code as hitherto existing.

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

10           Section 1. That Section 26.11.032 of the Lincoln Municipal Code be amended  
11 to read as follows:

12       **26.11.032    Filing Preliminary Plat.**

13           Except as provided in Section 26.11.050(b) and Section 26.31.015, a preliminary plat  
14 shall be required for all subdivisions. The subdivider shall file with the Planning Director copies  
15 of the preliminary plat in the form hereinafter provided, together with copies of the owners'  
16 statement and accompanying data, the number of copies to be determined by the Planning  
17 Director. The preliminary plat shall be deemed filed on the date said plat and accompanying data  
18 is received in the Planning Director's office.

19           The preliminary plat may be scheduled for a hearing by the Planning Commission  
20 provided:

1 (a) The subdivider files a complete preliminary plat as required in Section 26.15.020  
2 at least four Thursdays prior to the Planning Commission meeting; and

3 (b) The Planning Director determines that the preliminary plat substantially complies  
4 with the requirements of this title and adopted design standards.

5 However, no hearing shall be held by the Planning Commission until notice of said  
6 hearing has been given as provided in Section 26.11.036.

7 Section 2. That Section 26.11.037 of the Lincoln Municipal Code be amended  
8 to read as follows:

9 **26.11.037 Commission Action on Preliminary Plat.**

10 If after public hearing the commission finds the proposed preliminary plat complies with  
11 the requirements of this title, it shall approve the preliminary plat. The approval of the  
12 preliminary plat shall not constitute authority for the subdivider to sell the individual lots.

13 If a governmental agency, other than the city, which is directly concerned with the  
14 proposed subdivision with respect to schools, parks, playgrounds, fire stations, libraries, and  
15 other common areas for public use, failed to file with the Planning Director its approval of or a  
16 report on the preliminary plat, the commission may withhold its approval or disapproval of the  
17 preliminary plat until such agency's approval or report is filed.

18 If after public hearing the commission finds that the proposed preliminary plat does not  
19 satisfy the requirements of this title, it shall specify in writing in the minutes of the hearing the  
20 objections to the proposed preliminary plat. The commission may disapprove or approve the  
21 proposed preliminary plat upon the condition that the subdivider makes specific changes in the  
22 proposed preliminary plat which will remove the objections and bring the proposed preliminary  
23 plat into compliance with this title.

1           The action and findings of the Commission on the preliminary plat after public hearing  
2 shall be filed with the City Clerk, and the person offering the proposed preliminary plat within  
3 seven days from the action by the Planning Commission. One copy of the proposed preliminary  
4 plat and findings shall be retained by the commission as part of its official records.

5           The subdivider, any council member, the Planning Director, the Public Works and  
6 Utilities Director, or any aggrieved person may appeal any action of the commission to the City  
7 Council as provided in Section 26.31.010.

8           All existing applications for a preliminary plat which have been placed on pending by a  
9 subdivider shall automatically expire and become null and void one year after the date of this  
10 ordinance (Misc. No. 06012). All such applications for a preliminary plat which are placed on  
11 pending by a subdivider after the date of this ordinance (Misc. No. 06012), shall automatically  
12 expire and become null and void one year thereafter. At least thirty days before the date of  
13 expiration, the Planning Director shall cause notice of expiration to be sent to the subdivider by  
14 regular United States mail, postage prepaid. Said notice shall advise the subdivider that the  
15 application shall automatically expire unless prior to the expiration date, the Planning Director  
16 receives a request from the subdivider to remove the preliminary plat from pending and  
17 reschedule the matter on the Planning Commission or City Council agenda as appropriate.

18           If any final plat on all or a portion of the approved preliminary plat is submitted five years  
19 or more after the effective date of the preliminary plat, the city may require that a new  
20 preliminary plat be submitted, pursuant to all the provisions of this chapter. A new preliminary  
21 plat may be required if the subdivision ordinance, the design standards, or the required  
22 improvements have been amended by the city; and as a result, the preliminary plat as originally  
23 approved does not comply with the amended rules and regulations.

1           Section 3. That Section 26.11.060 of the Lincoln Municipal Code be amended  
2 to read as follows:

3 **26.11.060     Action Required on Final Plat.**

4           (a)     Upon receipt of the final plat, the Planning Director shall cause copies of the  
5 proposed final plat and accompanying documents to be distributed to the Director of Public  
6 Works and Utilities and other city departments and governmental agencies who are directly  
7 concerned with the subdivision.

8           (b)     Each department or governmental agency which is directly concerned with the  
9 proposed subdivision shall, within ten days from receipt of a copy of the final plat, file with the  
10 Planning Director its approval of said plat or a report indicating in what manner such final plat  
11 does not conform to the requirements of this title and all other rules, regulations, and standards  
12 adopted pursuant to this title over which such department has administrative responsibility.

13           (c)     Within fifteen days from receipt of all the above reports, the Planning Director  
14 shall notify the subdivider in writing of the recommended approval, conditional approval or  
15 disapproval of the final plat based upon a review of the recommendations of the various  
16 departments and the Director's own review of the design of the subdivision. If the Director finds  
17 that the final plat should be conditionally approved, the notification shall set forth all conditions  
18 of approval and the amount of all bonds or escrow of security agreements necessary to insure  
19 installation of all required improvements. The Planning Director shall also furnish the subdivider  
20 a subdivision agreement to be executed by the subdivider wherein the subdivider agrees to  
21 comply with all conditions of approval and further agrees to construct the required improvements  
22 as provided therein. Upon receipt of the fully executed subdivision agreement and acceptance  
23 of the required sureties by the Law Department, the Planning Director shall sign the final plat,

1 thereby indicating that the final plat has been approved and it substantially conforms to the  
2 approved preliminary plat and the requirements of this title at the time of approval of the  
3 preliminary plat and that all approved offers of dedication are accepted. If the final plat does not  
4 substantially conform to the approved preliminary plat, the Planning Director shall disapprove  
5 the final plat.

6 (d) Except for those plats that meet the requirements of Section 26.11.050(b), any  
7 council member or aggrieved person may appeal any action of the Planning Director to the  
8 Planning Commission, and any decision of the Planning Commission to the City Council by  
9 filing notice of an appeal within fourteen days following the action being appealed. The appeal  
10 of the Planning Director's action shall be filed with the Director, and the appeal of the Planning  
11 Commission's action shall be filed with the City Clerk. Upon receipt of the appeal, the Planning  
12 Commission or City Council as appropriate shall hold a public hearing thereon within thirty days  
13 from the date of the appeal. Notice of public hearing shall be given as provided in Section  
14 26.11.036. In exercising its appellate jurisdiction, the action appealed from shall be deemed  
15 advisory and the Planning Commission or City Council may make such decision as ought to be  
16 made. If the Planning Commission approves a final plat and its action is not appealed to the City  
17 Council, the final plat shall be signed by the Chairman of the Commission. If the City Council  
18 approves a final plat after the appeal of the denial of such a plat by the Commission, no further  
19 action shall be required by the Commission to approve such a plat. After approval thereof by  
20 the City Council, the plat shall be returned to the Planning Department for signing by the  
21 Chairman of the Commission. Thereafter, such plat shall be processed in accordance with the  
22 procedures set forth in Section 26.11.070.

1           All existing applications for a final plat which have been placed on pending by a  
2 subdivider shall automatically expire and become null and void one year after the date of this  
3 ordinance (Misc. No. 06012). All such applications for a final plat which have been placed on  
4 pending by a subdivider after the date of this ordinance (Misc. No. 06012) shall automatically  
5 expire and become null and void one year thereafter. At least thirty days before the date of  
6 expiration, the Planning Director shall cause notice of expiration to be sent to the subdivider by  
7 regular United States mail, postage prepaid. Said notice shall advise the subdivider that the  
8 application shall automatically expire unless prior to the expiration date, all conditions of the  
9 Planning Director's letter have been accomplished and the final plat is approved, or the Planning  
10 Director receives a request from the subdivider to remove any appeal of the final plat from  
11 pending and reschedule the matter on the Planning Commission or City Council agenda as  
12 appropriate.

13           Section 4. That Section 26.31.010 of the Lincoln Municipal Code be and the same  
14 is hereby repealed.

15       **26.31.010     Modification of Requirements.**

16           Whenever a lot, tract, or parcel of land is of such unusual size or shape or is surrounded  
17 by such development or unusual condition that the strict application of the requirements  
18 contained in these regulations would result in actual difficulties or substantial hardship or injus-  
19 tice, the subdivider may request a modification of such requirements. Such request shall be filed  
20 with the Planning Director and shall set forth the specific modification requested and all  
21 supporting reasons and documentation as to why the modification should be granted, how the  
22 public welfare will be preserved, and why the modification will not detract from the intent and  
23 spirit of these regulations. The Director shall distribute copies of the requested modification and

1 the subdivider's statement and accompanying data to other City departments and governmental  
2 agencies who are directly concerned with the proposed modification. Each department or  
3 governmental agency which is directly concerned with the proposed modification shall, within  
4 fifteen days from receipt of a copy of the requested modification, file with the Planning Director  
5 notice of its approval of the requested modification or a report stating why the modification  
6 should not be granted. Within thirty days from the filing of the request for modification, the  
7 Planning Director shall notify the subdivider in writing of the recommended approval or  
8 disapproval of the request. The request for modification will then be scheduled on the Planning  
9 Commission agenda for public hearing and action as provided below.

10 (a) (1) If the requested modification is recommended for approval by the Planning  
11 Director, the Planning Commission, after holding at least one public hearing on the requested  
12 modification, may vary or modify such requirements so that the subdivider may develop the land  
13 in a reasonable manner, but so that at the same time, the public welfare and interests of the city  
14 and surrounding area are protected and the general intent and spirit of these regulations are  
15 preserved.

16 (2) Any aggrieved person or council member may appeal any action of the  
17 Planning Commission to the City Council by filing a notice of appeal with the City Clerk within  
18 fourteen days following the action of the Planning Commission. Upon receipt of the appeal by  
19 the City Council, the Council shall hold a public hearing thereon within thirty days from the date  
20 of appeal. Notice of the public hearing shall be given as provided in Section 26.11.036. In  
21 exercising its appellate jurisdiction, the action appealed from shall be deemed advisory and the  
22 City Council may, after public hearing in conformity with the provisions of this title, make such  
23 decision as ought to be made.

1 (b) If the Planning Director recommends denial of the requested modification, the  
2 Planning Commission shall hold a public hearing on such request and make a report and  
3 recommendation to the City Council regarding whether the modification should be granted or  
4 denied and, if approved, how the public welfare will be preserved and why the modification, if  
5 granted, will not detract from the intent and spirit of these regulations. The findings of the  
6 Commission after public hearing shall be submitted to the City Clerk within seven days from the  
7 action by the Planning Commission. After submittal of the findings of the Planning Commission  
8 to the City Clerk, the City Clerk shall cause the requested modification to be placed on the  
9 agenda of the City Council for approval by the City Council by resolution. The City Council,  
10 after holding at least one public hearing on the requested modification, may modify such  
11 requirements so that the subdivider may develop the land in a reasonable manner, but so that at  
12 the same time, the public welfare and interests of the City and surrounding area are protected and  
13 the general intent and spirit of these regulations are preserved.

14 All existing requests for a modification from the strict application of the requirements in  
15 these regulations which have been placed on pending by an applicant shall automatically expire  
16 and become null and void one year after the date of this ordinance (Misc. No. 06012). All such  
17 requests for a modification for the strict application of the requirements in these regulations  
18 which have been placed on pending by the applicant after the date of this ordinance (Misc. No.  
19 06012), shall automatically expire and become null and void one year thereafter. At least thirty  
20 days before the date of expiration, the Planning Director shall cause notice of expiration to be  
21 sent to the applicant by regular United States mail, postage prepaid. Said notice shall advise the  
22 applicant that the request shall automatically expire unless prior to the expiration date, the  
23 Planning Director receives a request from the applicant to remove the request for modification

1 from pending and reschedule the matter on the Planning Commission or City Council agenda  
2 as appropriate

3 Notice of the public hearings required under this section shall be provided pursuant to  
4 Section 26.11.036 of this title. The minimum improvements set forth in Chapter 26.27 shall be  
5 required unless specifically and individually waived by the Planning Commission or City Coun-  
6 cil as provided above.

7 Section 5. That Sections 26.11.032, 26.11.037, 26.11.060, and 26.31.010 of the  
8 Lincoln Municipal Code as hitherto existing be and the same are hereby repealed.

9 Section 6. 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 \_\_\_\_\_, 2007:  
\_\_\_\_\_  
Mayor