

ORDINANCE NO. _____

1 AN ORDINANCE amending Title 8 of the Lincoln Municipal Code relating to
2 Health and Sanitation by amending Section 8.06.145 to increase the fee for open burning permits;
3 amending Section 8.08.060 to increase permit fees for body art establishments; amending Section
4 8.08.090 to increase the late fee for body art establishment permits; amending Section 8.08.150 to
5 increase the initial permit fee for a body art practitioner; amending Section 8.08.350 to increase the
6 fee for reinstatement of a suspended permit for body art establishments or practitioners; amending
7 Section 8.12.035 to increase the initial and renewal permit fees for small family child care homes;
8 amending Section 8.14.037 to increase the fees related to child care programs; amending Section
9 8.20.150 to increase food establishment permit fees; amending Section 8.20.160 to increase late fees
10 for food establishment permits; amending Section 8.20.170 to increase the fee for reinstating a
11 suspended food establishment permit; amending Section 8.24.150 to increase the permit fee for
12 variances to the noise control ordinance; amending Section 8.38.090 to increase the permit fee for
13 Class A or Class B swimming pools; amending Section 8.40.070 to increase the permit fee for space
14 facilities; amending Section 8.44.070 to increase the permit fees relating to water wells; and
15 repealing Sections 8.06.145, 8.08.060, 8.08.090, 8.08.150, 8.08.350, 8.12.035, 8.14.037, 8.20.150,
16 8.20.160, 8.20.170, 8.24.150, 8.38.090, 8.40.070, and 8.44.070 of the Lincoln Municipal Code as
17 hitherto existing.

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

19 Section 1. That Section 8.06.145 of the Lincoln Municipal Code be amended to read
20 as follows:

1 **8.06.145 Open Burning Permits.**

2 (a) Any person may apply for a permit for open burning by filing a written application
3 on forms provided for that purpose with the Director giving reasons why no other practicable
4 method except open burning can be employed to dispose of the refuse involved, the amount and kind
5 of refuse to be burned, the exact location where the burning will take place, including the distances
6 to adjacent structures; and the dates or days and times when the open burning is proposed to take
7 place. Applications from industrial or commercial businesses must be accompanied by payment of
8 a permit fee of ~~\$105.00~~ \$110.00 per day on which burning is to take place. Said fee shall be credited
9 to the Health Fund.

10 (b) Upon receipt of the application, the Director shall immediately forward the
11 application to the Fire and Rescue Department having jurisdiction over the area in which the burning
12 is to take place. Such Fire and Rescue Department shall endorse its approval or disapproval on the
13 application within five days.

14 (c) Issuance of Permits. The Director shall not issue a permit unless:

15 (1) There is no other practical method except open burning which can be
16 employed to dispose of the refuse involved, and

17 (2) The appropriate fire department has approved the application as meeting their
18 fire safety requirements; or

19 (3) The fire is being set for purposes of training firefighters who are employed
20 by or members of a rural fire district.

21 (d) Applicants may be issued an extended permit covering a period of time not to exceed
22 one year. Such permits may limit the number of times the applicant can burn in a specific time
23 period. As a condition of issuance, specific pollution control procedures or methods may be
24 required by the Director in order to protect the public health.

25 (e) Unlawful Acts and Revocation. It shall be unlawful for the permittee to fail to carry
26 out any control procedures or other conditions established as criteria for issuance of the permit. Said
27 permit may be revoked by the Director at any time a violation of this ordinance is observed or
28 conditions of the permit are not met.

29 Section 2. That Section 8.08.060 of the Lincoln Municipal Code be amended to read
30 as follows:

1 **8.08.060 Body Art Establishment; Permit Fees.**

2 The fee for a body art establishment permit shall be as follows:

3 Body Art Establishment	Initial	Renewal
4 One (1) to five (5) stations	\$315.00 <u>\$330.00</u>	\$210.00 <u>\$220.00</u>
5 Each additional five (5) stations	\$125.00 <u>\$130.00</u>	\$85.00 <u>\$90.00</u>

6 Any initial body art establishment permit issued after the thirtieth of November of each
7 calendar year shall pay seventy percent (70%) of the yearly fee. Renewal of all body art
8 establishment permits shall be as required in Section 8.08.080. The fees shall be payable to the
9 Lincoln-Lancaster County Health Department and the Health Director shall deposit the fees at the
10 City Treasurer’s Office. The City Treasurer shall credit the fees to the Health Fund.

11 Section 3. That Section 8.08.090 of the Lincoln Municipal Code be amended to read
12 as follows:

13 **8.08.090 Body Art Establishment Permit; Renewal Late Fees.**

14 (a) An operator who fails to renew the permit before it expires, but within thirty days of
15 the date of expiration shall pay a late fee of ~~\$105.00~~ \$110.00 in addition to the renewal fee.

16 (b) An operator who fails to renew the permit before it expires and fails to renew the
17 permit within thirty days from the date of expiration shall pay a late fee of ~~\$210.00~~ \$220.00 in
18 addition to the renewal fee.

19 (c) An operator who fails to renew the permit before it expires is operating without a
20 valid permit and shall be subject to closure or other appropriate enforcement action determined by
21 the Health Director.

22 Section 4. That Section 8.08.150 of the Lincoln Municipal Code be amended to read
23 as follows:

24 **8.08.150 Body Art Practitioner Permit; Fees.**

25 (a) The fee for a body art practitioner permit shall be as follows:

26 Initial Fee	\$55.00 <u>\$60.00</u>
27 Renewal Fee	\$30.00

1 (b) The fees shall be payable to the Lincoln-Lancaster County Health Department and
2 the Health Director shall deposit the fees at the City Treasurer's Office. The City Treasurer shall
3 credit the fees to the Health Fund.

4 Section 5. That Section 8.08.350 of the Lincoln Municipal Code be amended to read
5 as follows:

6 **8.08.350 Body Art Establishment or Practitioner Suspended Permit; Reinstatement Fee.**

7 Any person eligible for reinstatement as provided in Section 8.08.240, shall pay a
8 reinstatement fee of ~~\$160.00~~ \$170.00 in addition to any other applicable fees. The Health Director
9 shall not reinstate the permit until the reinstatement fee is paid.

10 Section 6. That Section 8.12.035 of the Lincoln Municipal Code be amended to read
11 as follows:

12 **8.12.035 Permit; Fees.**

13 The fee for a small family child care home permit shall be as follows:

	Initial	Renewal
Small family child care home	\$75.00 <u>\$80.00</u>	\$50.00 <u>\$55.00</u>

16 Renewal of all small family child care home permits shall be required as in this chapter.

17 (a) Any person issued a new certificate of compliance after July 31 of each year shall pay
18 70% of the annual fee.

19 (b) Fees shall be payable to the Lincoln-Lancaster County Health Department and the
20 Health Director shall deposit the fees at the City Treasurer's Office. The City Treasurer shall credit
21 the fees to the Health Fund. No fees shall be refunded.

22 Section 7. That Section 8.14.037 of the Lincoln Municipal Code be amended to read
23 as follows:

24 **8.14.037 Fees.**

25 The following fees are required:

Plan review for new, remodeled or relocated child care programs	\$75.00 <u>\$80.00</u>
Fee for certificate of compliance (initial or renewal)	
School-age child care program	\$75.00 <u>\$80.00</u>

1	All other child care programs:	
2	Providing care for less than four hours per day	\$75.00 <u>\$80.00</u>
3	Providing care for four or more hours per day with:	
4	50 or less children	\$100.00 <u>\$105.00</u>
5	51 to 100 children	\$125.00 <u>\$130.00</u>
6	101 or more children	\$150.00 <u>\$160.00</u>

7 The number of children shall be based on licensing capacity, if applicable.

8 (a) Any person issued a new certificate of compliance after July 31 of each year shall pay
9 70% of the annual fee.

10 (b) Fees shall be payable to the Lincoln-Lancaster County Health Department and the
11 Health Director shall deposit the fees at the City Treasurer’s Office. The City Treasurer shall credit
12 the fees to the Health Fund. No fees shall be refunded.

13 Section 8. That Section 8.20.150 of the Lincoln Municipal Code be amended to read
14 as follows:

15 **8.20.150 Food Establishment; Permit Fees**

16 (a) Any person who secures a food establishment permit under the Lincoln Food Code
17 shall pay the appropriate fee as follows:

18	(1) Food Establishment:	
19	Food establishment -- new permit	\$400.00 <u>\$420.00</u>
20	Food establishment -- renewal	\$265.00 <u>\$280.00</u>
21	Each additional food preparation facility	
22	(new or renewal)	\$120.00 <u>\$125.00</u>

23	(2) Mobile Food Unit:	
24	New or renewal as additional facility	\$120.00 <u>\$125.00</u>

25	(3) Food Catering Services:	
26	Operating as an additional food preparation facility to an approved food	
27	establishment:	
28	New or renewal	\$120.00 <u>\$125.00</u>

1 (4) Temporary Food Establishment:

2 (a) Operating for a single event not to exceed fourteen consecutive days

3 Temporary food establishment ~~\$105.00~~ \$110.00

4 With a related food establishment \$ 55.00

5 Nonprofit organization \$ 55.00

6 (b) Operating annually for more than one single event not to
7 exceed fourteen consecutive days

8 Temporary food establishment ~~\$340.00~~ \$360.00

9 Non-Profit Organization ~~\$170.00~~ \$180.00

10 (c) Operating as an additional food preparation facility to an
11 approved food establishment

12 New or renewal ~~\$120.00~~ \$125.00

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16 (5) Event Market:

17 One to five vendors ~~\$105.00~~ \$110.00

18 Each additional five vendors ~~\$105.00~~ \$110.00

19 (6) Farmer's Market:

20 Basic Fee ~~\$ 55.00~~ \$60.00

21 Plus: Vendor fee for each vendor selling foods other
22 than fruits, vegetables and products permitted by the
23 Nebraska Department of Agriculture \$ 10.00

24 (b) Any person issued a new food establishment permit, other than a temporary food
25 service permit, after November 30 of each year shall pay 70% of the yearly fee.

26 (c) Fees shall be payable to the Health Director and the Health Director shall deposit the
27 fees at the City Treasurer's Office. The City Treasurer shall credit the fees to the Health Fund.

28 Section 9. That Section 8.20.160 of the Lincoln Municipal Code be amended to read
29 as follows:

1 **8.20.160 Late Fees.**

2 (a) An annual permit holder who fails to renew the permit before it expires, but within
3 thirty days of the date of expiration shall pay a late fee of ~~\$65.00~~ \$70.00 in addition to the annual
4 fee.

5 (b) An annual permit holder who fails to renew the permit before it expires and fails to
6 renew the permit within thirty days from the date of expiration shall pay a late fee of ~~\$180.00~~
7 \$190.00 in addition to the annual fee.

8 (c) An annual permit holder who fails to renew the permit before it expires is operating
9 without a valid permit and shall be subject to appropriate enforcement action by the Health Director.

10 Section 10. That Section 8.20.170 of the Lincoln Municipal Code be amended to read
11 as follows:

12 **8.20.170 Reinstatement Fee.**

13 Any person eligible for reinstatement as provided in Section 8.20.310, shall pay a
14 reinstatement fee of ~~\$105.00~~ \$110.00 in addition to any other applicable fees. The Health Director
15 shall not reinstate the permit until the reinstatement fee is paid.

16 Section 11. That Section 8.24.150 of the Lincoln Municipal Code be amended to read
17 as follows:

18 **8.24.150 Variances.**

19 (a) The health officer shall have the authority to grant an initial variance to the strict
20 application of Section 8.24.090 for a period of not to exceed fifteen calendar days. Any person
21 seeking such a variance shall file an application with the health officer and shall submit a permit fee
22 of ~~\$55.00~~ \$60.00. The application shall contain the information which demonstrates that bringing
23 the source of sound or activity for which the variance is sought into compliance with this ordinance
24 would constitute an unreasonable hardship on the applicant, on the community, or on other persons.

25 (b) The health officer shall have the authority to grant an extension to any variance. Any
26 person seeking such an extension shall file an application with the health officer. Notice of an
27 application for an extension shall be posted by a sign placed in a conspicuous place on or near the
28 property upon which action is pending. No extension shall be granted for a period of two days from
29 and after posting of the property.

30 (c) Any individual who claims to be adversely affected by allowance of any requested
31 extension of a variance may, prior to the end of the two-day period after posting of the property, file
32 a statement with the health officer containing any information to support the claim. If the health

1 officer finds that a sufficient controversy exists regarding an application, a public hearing shall be
2 held. All such hearings shall be held within five days after the period for filing claims under this
3 subsection has ended.

4 In determining whether to grant or deny any application, the health officer shall balance the
5 hardship to the applicant, the community, and other persons of not granting the variance or extension
6 against the adverse impact to the health, safety, and welfare of persons affected, the adverse impact
7 on property affected, and any other adverse impacts of granting the variance or extension.
8 Applicants for variances or extensions and persons contesting extensions may be required to submit
9 any information the health officer may reasonably require. In granting or denying an application,
10 the health officer shall place on public file a copy of the decision and the reasons for denying or
11 granting the variance or extension and the criteria to be considered in deciding whether to grant
12 variances and extensions.

13 Variances or extensions shall be granted by notice to the applicant containing all necessary
14 conditions, including a time limit on the permitted activity. The variance or extension shall not
15 become effective until all conditions are agreed to by the applicant. Noncompliance with any
16 condition of the variance or extension shall terminate such variance or extension and subject the
17 applicant to those provisions of this ordinance regulating the source of sound or activity for which
18 the variance or extension was granted.

19 The health officer may issue guidelines defining the procedures to be followed in applying
20 for a variance or extension and the criteria to be considered in deciding whether to grant variances
21 and extensions.

22 (d) Any person who is aggrieved by a decision or order of the health officer under this
23 ordinance may appeal such decision or order to the Air Pollution Control Advisory Board by filing
24 a notice of appeal with the board secretary within fifteen days from the date of the issuance of such
25 decision or order by the health officer.

26 The secretary of the Air Pollution Control Advisory Board, having received a properly
27 submitted notice of appeal, shall notify the chairman of the Air Pollution Control Advisory Board
28 and establish a date for the appeals hearing. The secretary shall then notify the person making the
29 appeal, and any person who appeared before or filed a statement with the health officer, in writing
30 of the time and place of the hearing, which shall, in no event, be more than fifteen days from the date
31 of the filing of the notice of appeal with the board secretary. The Air Pollution Control Advisory
32 Board shall, within seven days of the concluding date of the appeals hearing, file with the health
33 officer a written final decision, either affirming the decision of the health officer, or modifying or
34 reversing same. A copy of said decision shall be forwarded to the appellant.

35 Section 12. That Section 8.38.090 of the Lincoln Municipal Code be amended to read
36 as follows:

37 **8.38.090 Fees.**

38 There shall be a ~~\$290.00~~ \$305.00 fee for a permit to conduct, operate and maintain a Class
39 A or Class B swimming pool. The fee for a permit to conduct, operate and maintain a swimming
40 pool shall be payable annually to the City of Lincoln and shall be credited to the Health Fund.

1 Failure or refusal to pay the permit fees required by this section to be paid on or before April
2 first of each year for which a permit is issued shall be grounds for revocation of such permits.

3 Section 13. That Section 8.40.070 of the Lincoln Municipal Code be amended to read
4 as follows:

5 **8.40.070 Permit and Inspection Fees.**

6 The fee for a permit to conduct, operate, or maintain a spa facility shall be as follows:

7 Individual Spa Facility

8 One Spa Pool ~~\$290.00~~ \$305.00;

9 Additional Spa Pool. ~~\$ 80.00~~ \$85.00 per spa pool;

10 Spa Facility Co-Located

11 With A Permitted Swimming Pool. ~~\$ 80.00~~ \$85.00 per spa pool.

12 The fees shall be payable annually to the City of Lincoln and shall be credited to the Health
13 Fund.

14 Section 14. That Section 8.44.070 of the Lincoln Municipal Code be amended to read
15 as follows:

16 **8.44.070 Permit for Water Well; Application; Fees.**

17 Applicants for a permit shall obtain forms from the Health Director, which completed forms
18 together with the permit fee, shall be filed with the Health Director, who shall forthwith forward
19 such completed forms to the Public Utilities Department and such other appropriate departments of
20 the city for processing. If such applicant's well is found to be in compliance with the "Water Well
21 Regulations and Standards of the City of Lincoln" and its ordinances, a permit shall then be issued.
22 In the event that such applicant's well does not comply with such ordinances, regulations and
23 standards, such applicant shall immediately discontinue the use of such well until same is brought
24 into compliance with the applicable ordinance provisions, regulations, or standards.

25 The following permit fees are hereby adopted:

26 (a) Water well construction permit ~~\$160.00~~ \$170.00

27 (b) Bi-annual permits ~~\$105.00~~ \$110.00

28 (c) Water well repair permit ~~\$ 80.00~~ \$85.00

29 All fees shall be credited to the Health Fund.

1 Section 15. That Sections 8.06.145, 8.08.060, 8.08.090, 8.08.150, 8.08.350, 8.12.035,
2 8.14.037, 8.20.150, 8.20.160, 8.20.170, 8.24.150, 8.38.090, 8.40.070, and 8.44.070 of the Lincoln
3 Municipal Code as hitherto existing be and the same are hereby repealed.

4 Section 16. That this ordinance shall take effect and be in force from and after its
5 passage and publication according to law.

Introduced by:

Approved as to Form & Legality:

City Attorney

Approved this ____ day of _____, 2007: _____ Mayor
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