

ORDINANCE NO. _____

1 AN ORDINANCE amending Title 26 of the Lincoln Municipal Code relating to the
2 Land Subdivision Ordinance by amending Section 26.11.037 to delete the provisions regarding
3 expiration of an application for a preliminary plat which has been placed on pending; by amending
4 Section 26.11.060 to delete provisions regarding the expiration of final plats; by amending Section
5 26.19.010 to delete the requirement that signatures be in black opaque ink; by amending Section
6 26.31.010 to delete the provision regarding the expiration of existing requests for modification of
7 the requirements of Title 26; by creating a new Chapter 26.35 entitled General Provisions by adding
8 a new section numbered 26.35.010 to provide provisions for amending Title 26 and adding a new
9 section numbered 26.35.020 to provide provisions for expiration of applications; and repealing
10 Sections 26.11.037, 26.11.060, 26.19.010, and 26.31.010 of the Lincoln Municipal Code as hitherto
11 existing.

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

13 Section 1. That Section 26.11.037 of the Lincoln Municipal Code be amended to
14 read as follows:

15 **26.11.037 Commission Action on Preliminary Plat.**

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

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

24 If after public hearing the commission finds that the proposed preliminary plat does not
25 satisfy the requirements of this title, it shall specify in writing in the minutes of the hearing the
26 objections to the proposed preliminary plat. The commission may disapprove or approve the

1 proposed preliminary plat upon the condition that the subdivider makes specific changes in the
2 proposed preliminary plat which will remove the objections and bring the proposed preliminary plat
3 into compliance with this title.

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

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

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

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

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

1 **26.11.060 Action Required on Final Plat.**

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

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

11 (c) Within fifteen days from receipt of all the above reports, the Planning Director shall
12 notify the subdivider in writing of the recommended approval, conditional approval or disapproval
13 of the final plat based upon a review of the recommendations of the various departments and the
14 Director's own review of the design of the subdivision. If the Director finds that the final plat
15 should be conditionally approved, the notification shall set forth all conditions of approval and the
16 amount of all bonds or escrow of security agreements necessary to insure installation of all required
17 improvements. The Planning Director shall also furnish the subdivider a subdivision agreement to
18 be executed by the subdivider wherein the subdivider agrees to comply with all conditions of
19 approval and further agrees to construct the required improvements as provided therein. Upon
20 satisfaction of all conditions of approval set forth in the Director's letter including, but not limited
21 to, receipt of the fully executed subdivision agreement and acceptance of the required sureties by
22 the Law Department, the Planning Director shall sign the final plat, thereby indicating that the final
23 plat has been approved and it substantially conforms to the approved preliminary plat and the
24 requirements of this title at the time of approval of the preliminary plat and that all approved offers
25 of dedication are accepted. If the final plat does not substantially conform to the approved
26 preliminary plat, the Planning Director shall disapprove the final plat.

27 (d) Except for those plats that meet the requirements of Section 26.11.050(b), any council
28 member or aggrieved person may appeal any action of the Planning Director to the Planning
29 Commission, and any decision of the Planning Commission to the City Council by filing notice of
30 an appeal within fourteen days following the action being appealed. The appeal of the Planning

1 Director's action shall be filed with the Director, and the appeal of the Planning Commission's
2 action shall be filed with the City Clerk. Upon receipt of the appeal, the Planning Commission or
3 City Council as appropriate shall hold a public hearing thereon within thirty days from the date of
4 the appeal. Notice of public hearing shall be given as provided in Section 26.11.036. In exercising
5 its appellate jurisdiction, the action appealed from shall be deemed advisory and the Planning
6 Commission or City Council may make such decision as ought to be made. If the Planning
7 Commission approves a final plat and its action is not appealed to the City Council, the final plat
8 shall be signed by the chairman of the commission. If the City Council approves a final plat after
9 the appeal of the denial of such a plat by the commission, no further action shall be required by the
10 commission to approve such a plat. After approval thereof by the City Council, the plat shall be re-
11 turned to the Planning Department for signing by the chairman of the commission. Thereafter, such
12 plat shall be processed in accordance with the procedures set forth in Section 26.11.070.

13 ~~All existing applications for a final plat shall automatically expire and become null and void~~
14 ~~one year after submission of the application or sixty days after the date of this ordinance (Bill No.~~
15 ~~08-39), whichever is longer, if the subdivider by said date has failed to satisfy all the conditions of~~
16 ~~approval set forth in the Planning Director's letter.~~

17 ~~— All applications for a final plat submitted after the date of this ordinance (Bill No. 08-39)~~
18 ~~shall automatically expire and become null and void one year thereafter if the subdivider by said~~
19 ~~date has failed to satisfy all the conditions of approval set forth in the Planning Director's letter.~~

20 ~~— All existing application appeals which have been placed on pending before the Planning~~
21 ~~Commission or City Council at the request of the subdivider shall automatically expire and become~~
22 ~~null and void one year after the date of this ordinance (Bill No. 07-33). All such application appeals~~
23 ~~which are placed on pending before the Planning Commission or City Council at the request of the~~
24 ~~subdivider after the date of this ordinance (Bill No. 07-33) shall automatically expire and become~~
25 ~~null and void one year thereafter.~~

26 ~~— At least thirty days before the date of expiration, the Planning Director shall cause notice of~~
27 ~~expiration to be sent to the subdivider by regular United States mail, postage prepaid. Said notice~~
28 ~~shall advise the subdivider that the application shall automatically expire unless prior to the~~
29 ~~expiration date, the final plat is approved by the Planning Director as provided in (c) above, or the~~
30 ~~Planning Director receives a request from the subdivider to remove the appeal of any action of the~~

1 ~~Planning Director or Planning Commission pending before the Planning Commission or City~~
2 ~~Council, respectively, and reschedule the matter on the Planning Commission or City Council~~
3 ~~agenda as appropriate.~~

4 Section 3. That Section 26.19.010 of the Lincoln Municipal Code be amended to
5 read as follows:

6 **26.19.010 Form of Final Plat.**

7 (a) The size of each sheet of said final plat shall be sixteen by twenty-two inches. All
8 lots and, wherever practicable, blocks in their entirety, shall be shown on one sheet.

9 (b) Said final plat shall be accurately, clearly, and legibly drawn in black waterproof
10 India ink or photographed upon tracing cloth or mylar which is a minimum of three thousandths
11 (.003) of an inch thick, 24-lb. white paper or its equivalent. Affidavits, certificates, and ack-
12 knowledgments shall be legibly lettered or printed upon the final plat with opaque ink. Signatures
13 shall be in **black** opaque ink.

14 (c) A marginal line shall be drawn completely around each sheet, leaving an entirely
15 blank margin of at least one-half inch.

16 (d) The final plat shall be drawn to one of the following scales: 1 inch equals 20 feet, 1
17 inch equals 30 feet, 1 inch equals 40 feet, 1 inch equals 50 feet, 1 inch equals 60 feet, 1 inch equals
18 100 feet, or any other scale proposed by the subdivider with the approval of the Planning Director.
19 The scale selected shall be sufficient to show all required information clearly, and enough sheets
20 shall be used to accomplish this end.

21 (e) If more than one sheet is used, the particular number of the sheet and the total number
22 of sheets comprising the final plat shall be stated on each of the sheets; and the relationship to each
23 adjoining sheet shall be clearly shown. If more than two sheets are used, an index sheet the same
24 size as required above shall be included showing, at whatever scale is necessary, the entire subdivi-
25 sion with an indication by the use of dotted lines of the component areas which are shown on the
26 other sheets.

27 (f) The boundary of the subdivision shall be clearly identified on the final plat. All lines
28 shown on the final plat which do not constitute a part of the subdivision itself shall be clearly
29 distinguishable from those lines which are a part of the subdivision, and any area enclosed by such
30 lines shall be labeled, "not a part of this subdivision."

1 Section 4. That Section 26.31.010 of the Lincoln Municipal Code be amended to
2 read as follows:

3 **26.31.010 Modification of Requirements.**

4 Whenever a lot, tract, or parcel of land is of such unusual size or shape or is surrounded by
5 such development or unusual condition that the strict application of the requirements contained in
6 these regulations would result in actual difficulties or substantial hardship or injustice, the
7 subdivider may request a modification of such requirements. Such request shall be filed with the
8 Planning Director and shall set forth the specific modification requested and all supporting reasons
9 and documentation as to why the modification should be granted, how the public welfare will be
10 preserved, and why the modification will not detract from the intent and spirit of these regulations.
11 The Director shall distribute copies of the requested modification and the subdivider's statement and
12 accompanying data to other City departments and governmental agencies who are directly concerned
13 with the proposed modification. Each department or governmental agency which is directly
14 concerned with the proposed modification shall, within fifteen days from receipt of a copy of the
15 requested modification, file with the Planning Director notice of its approval of the requested
16 modification or a report stating why the modification should not be granted. Within thirty days from
17 the filing of the request for modification, the Planning Director shall notify the subdivider in writing
18 of the recommended approval or disapproval of the request. The request for modification will then
19 be scheduled on the Planning Commission agenda for public hearing and action as provided below.

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

25 (2) Any aggrieved person or council member may appeal any action of the Planning
26 Commission to the City Council by filing a notice of appeal with the City Clerk within fourteen days
27 following the action of the Planning Commission. Upon receipt of the appeal by the City Council,
28 the Council shall hold a public hearing thereon within thirty days from the date of appeal. Notice
29 of the public hearing shall be given as provided in Section 26.11.036. In exercising its appellate
30 jurisdiction, the action appealed from shall be deemed advisory and the City Council may, after

1 public hearing in conformity with the provisions of this title, make such decision as ought to be
2 made.

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

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

26 ~~Notice of the public hearings required under this section shall be provided pursuant to~~
27 ~~Section 26.11.036 of this title. The minimum improvements set forth in Chapter 26.27 shall be~~
28 ~~required unless specifically and individually waived by the Planning Commission or City Council~~
29 ~~as provided above.~~

1 Section 5. That Title 26 of the Lincoln Municipal Code be amended by adding a new
2 section numbered 26.35.010 to read as follows:

3 **26.35.010 Amendments to the Title 26.**

4 The City Council may from time to time on its own motion, or on petition, amend,
5 supplement, or otherwise modify this title. Any such proposed amendment, supplement, or
6 modification shall first be submitted to the Planning Commission for its recommendations and
7 report. After the recommendations and report of the Planning Commission have been filed, the City
8 Council shall, before enacting any proposed amendment, supplement, or modification hold a public
9 hearing in relation thereto, giving notice of the time and place of such hearing as provided in Section
10 26.11.036(a).

11 Section 6. That Title 26 of the Lincoln Municipal Code be amended by adding a new
12 section numbered 26.35.020 to read as follows:

13 **26.35.020 Expiration of Applications.**

14 All applications, except final plats, which have been placed on pending by the applicant shall
15 automatically expire and become null and void one year thereafter. At least thirty days before the
16 date of expiration, the Planning Director shall cause notice of expiration to be sent to the applicant
17 by regular United States mail, postage prepaid. Said notice shall advise the applicant that the
18 application shall automatically expire unless prior to the expiration date, the Planning Director
19 receives a request from the applicant to remove the application from pending and reschedule the
20 matter on the Planning Commission or City Council agenda as appropriate.

21 All applications for a final plat shall automatically expire and become null and void one year
22 after submission of the application if the applicant by said date has failed to satisfy all the conditions
23 of approval set forth in the Planning Director’s letter. At least thirty days before the date of
24 expiration, the Planning Director shall cause notice of expiration to be sent to the applicant by
25 regular United States mail, postage prepaid. Said notice shall advise the subdivider that the
26 application shall automatically expire unless prior to the expiration date, the final plat is approved
27 by the Planning Director.

28 Section 7. That Sections 5 and 6 of this ordinance be codified in the Lincoln Municipal
29 Code as “Chapter 26.35” entitled “General Provisions.”

1 Section 8. That Sections 26.11.037, 26.11.060, 26.19.010, and 26.31.010 of the Lincoln
2 Municipal Code as hitherto existing be and the same is hereby repealed.

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

Introduced by:

Approved as to Form & Legality:

City Attorney

Approved this ___ day of _____, 2008:

Mayor