

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

1           AN ORDINANCE amending Title 24 of the Lincoln Municipal Code, Plumbing and  
2 Sewers, to regulate on-site systems to include on-site water supply systems and on-site wastewater  
3 treatment systems prior to the sale, transfer, or conveyance of property within the City of Lincoln  
4 and the three mile area by adding a new section numbered 24.42.010 to establish the purpose of this  
5 ordinance; adding a new section numbered 24.42.020 to define terms used in the ordinance; adding  
6 a new section numbered 24.42.030 to require inspections of on-site systems prior to the sale,  
7 transfer, or conveyance of property and exceptions to the inspection requirements; adding a new  
8 section numbered 24.42.040 to define the inspection requirements of on-site wastewater treatment  
9 systems; adding a new section numbered 24.42.050 to define inspection of on-site water supply  
10 systems; adding a new section numbered 24.42.060 to define the requirements of inspection reports;  
11 adding a new section numbered 24.42.070 to identify the review of the inspection reports and  
12 issuance of determination letters; adding a new section numbered 24.42.080 to allow entry for  
13 purposes of inspection and enforcement; adding a new section numbered 24.42.090 to create  
14 Property Transfer Inspector permits; adding new section numbered 24.42.100 to require Property  
15 Transfer Inspectors to maintain insurance; adding a new section numbered 24.42.110 to create  
16 permit fees and inspection report review fees; adding a new section numbered 24.42.120 to require  
17 a person to have a permit in order to do inspections; adding new section numbered 24.42.130 to  
18 establish the procedures for suspension or revocation of a permit; adding a new section numbered  
19 24.42.140 to establish the procedures for the reinstatement of a suspended or revoked permit; adding  
20 a new section numbered 24.42.150 to establish enforcement hearings; adding a new section

1 numbered 24.42.160 to establish notice and service provisions; adding a new section numbered  
2 24.42.170 to provide penalties for violations of this chapter; adding a new section numbered  
3 24.42.180 to protect other sections should one section become invalid; and adding a new section  
4 numbered 24.42.190 to state the effective date of the ordinance and to provide an effective date for  
5 penalties against an owner of an on-site system.

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

7 Section 1. That Title 24 of the Lincoln Municipal Code be amended by adding a new  
8 section numbered 24.42.010 to read as follows:

9 **24.42.010 Purpose.**

10 The City Council finds that properly planned, constructed, installed, operated and maintained  
11 on-site water supply systems and on-site wastewater treatment systems:

12 (a) Promote the health and welfare of the citizens of the City by preventing the pollution  
13 of ground and surface water;

14 (b) Prevent nuisances;

15 (c) Eliminate hazards to the public health by minimizing pollution of water supplies and  
16 hazards to recreational areas;

17 (d) Minimize disease transmission potential; and

18 (e) Minimize economic impact to the city and the public resulting from on-site water  
19 system and on-site wastewater treatment system failures.

20 It is therefore, declared to be the public policy of the City to ensure a safe and adequate  
21 supply of drinking water for those homes served by an on-site water supply system, ensure the  
22 adequate treatment and disposal of sewage from premises served by an on-site wastewater treatment  
23 system and eliminate and prevent health and safety hazards by regulating the operation and

1 maintenance of on-site water supply systems and on-site wastewater treatment systems, requiring  
2 permitting of those who inspect on-site systems; and providing penalties for violations.

3 The intention of this ordinance is not to cause existing permitted on-site systems that are in  
4 substantial conformance (pose a minimal likelihood of degradation of groundwater or surface water,  
5 or risk to public health) to be brought into compliance with Chapter 24.38 of the Lincoln Municipal  
6 Code (On-site Wastewater Treatment Systems), as amended, and Chapter 4.10 of the City of Lincoln  
7 Design Standards (Design Standards, Operation and Maintenance of On-site Wastewater Treatment  
8 Systems), as amended.

9 Section 2. That Title 24 of the Lincoln Municipal Code be amended by adding a new  
10 section numbered 24.42.020 to read as follows:

11 **24.42.020 Definitions.**

12 Definitions for purposes of this chapter shall include definitions provided in Chapter 24.38  
13 of the Lincoln Municipal Code and the Design Standards for the Operation and Maintenance of On-  
14 Site Wastewater Treatment Systems, and shall also include the following:

15 **AUTHORIZED AGENT** shall mean a real estate agent, Property Transfer Inspector, or any  
16 individual or corporation authorized, in writing, to act as the legal representative in all matters  
17 authorized by the owner.

18 **BUSINESS DAY** shall mean any day, Monday through Friday, except official City holidays  
19 or a day during which the City does not operate for any reason.

20 **FAILURE OF AN ON-SITE WATER SUPPLY SYSTEM** shall mean (1) an unsafe water  
21 sample; (2) substantial nonconformance with water well construction requirements in Title 178 NAC  
22 12; (3) substantial nonconformance with water well location from contamination source  
23 requirements in Title 178 NAC 12.

1           **ON-SITE SYSTEM (OS)** shall mean an On-site Wastewater Treatment System (OWWTS)  
2 and/or an On-site Water Supply System (OWSS).

3           **ON-SITE WATER SUPPLY SYSTEM (OWSS)** shall mean a private or shared well for  
4 domestic purposes.

5           **OWNER** shall mean any person who is an owner of record or a trustee under a deed of trust  
6 or similar trust document.

7           **PROPERTY TRANSFER INSPECTOR** shall mean any person meeting the requirements  
8 of a Property Transfer Inspector pursuant to this chapter and possessing a valid permit issued by the  
9 Lincoln-Lancaster County Health Director.

10          **PUMPER** shall mean a person that is certified by the Nebraska Department of  
11 Environmental Quality under Title 124 NAC as an On-site Wastewater Treatment System  
12 Professional in the category of Pumper.

13          **TITLE 124 NAC** shall mean the Nebraska Administrative Code Title 124 (Nebraska  
14 Department of Environmental Quality Title 124 - Rules and Regulations for the Design, Operation  
15 and Maintenance of On-site Wastewater Treatment Systems).

16          **TITLE 178 NAC 10** shall mean the Nebraska Administrative Code Title 178 Chapter 10  
17 (Nebraska Department of Health and Human Services Title 178 Environmental Health, Chapter  
18 10 - Regulations Governing Licensure of Water Well and Pump Installation Contractors and  
19 Certification of Water Well Drilling and Pump Installation Supervisors, and Water Well Monitoring  
20 and Natural Resources Ground Water Technicians).

21          **TITLE 178 NAC 12** shall mean the Nebraska Administrative Code Title 178 Chapter 12  
22 (Nebraska Department of Health and Human Services Title 178 Environmental Health Chapter 12 -  
23 Water Well Construction, Pump Installation and Water Well Decommissioning Standards).

1            **TITLE 179 NAC 3** shall mean the Nebraska Administrative Code Title 179 Chapter 3  
2 (Nebraska Department of Health and Human Services Title 179 Public Water Systems Chapter 3 -  
3 Monitoring and Analytical Requirements).

4            **UNSAFE WATER SAMPLE** shall mean a water sample which tests positive for coliform  
5 bacteria, or exceeds 10 mg/l Nitrate-Nitrogen, or which exceeds the Maximum Contaminant Level  
6 (MCL) for any other contaminant as established by the U.S. Environmental Protection Agency or  
7 Nebraska Department of Health and Human Services for a public water supply.

8            Section 3. That Title 24 of the Lincoln Municipal Code be amended by adding a new  
9 section numbered 24.42.030 to read as follows:

10 **24.42.030      Inspection Required; Exceptions.**

11            Prior to the sale, transfer or conveyance of property upon which an OS is located, it shall be  
12 the duty of the owner to have each OS inspected pursuant to this chapter by a Property Transfer  
13 Inspector and secure a determination letter as provided in Section 24.42.070. An inspection is not  
14 required for the following:

15            (a)    When a determination letter approving an OS was issued within the preceding 36  
16 months of the transfer.

17            (b)    When a new OS was installed in compliance with Chapter 24.38 of the Lincoln  
18 Municipal Code and Chapter 4.10 of the City of Lincoln Design Standards within the preceding 36  
19 months of the transfer.

20            (c)    A transfer creating or ending a joint tenancy or tenancy in common if at least one  
21 person is an original owner of the property or his or her spouse, including a transfer from one spouse  
22 to another, or a change in ownership solely to exclude a spouse.

1           (d)     Where structures on the property will not be occupied and are to be demolished after  
2 property is sold, transferred, or conveyed.

3           (e)     A transfer to establish, release, or foreclose a security interest.

4           (f)     A transfer by intestate, will, or trust to an heir, devisee, or beneficiary.

5           (g)     A transfer by warranty deed or quitclaim deed between immediate family members,  
6 including parents, grandparents, grandchildren, siblings, and children (including adopted children  
7 and stepchildren).

8                     Section 4. That Title 24 of the Lincoln Municipal Code be amended by adding a new  
9 section numbered 24.42.040 to read as follows:

10 **24.42.040     Inspection of On-site Wastewater Treatment Systems (OWWTS).**

11           (a)     An inspection of an OWWTS by a OWWTS Property Transfer Inspector shall consist  
12 of determining compliance with Chapter 24.38 of the Lincoln Municipal Code, Chapter 4.10 of the  
13 City of Lincoln Design Standards, Title 124 NAC, and the following:

14                     (1)     The septic tank shall be inspected to determine the depth of the sludge layer  
15 and scum layer; and

16                     (2)     The soil absorption field shall be visually inspected for signs or evidence of  
17 failure; and

18                     (3)     The soil absorption field shall be probed to determine the location of laterals  
19 and to check for excess effluent.

20           (b)     An inspection of a wastewater lagoon by an OWWTS Property Transfer Inspector  
21 shall consist of determining compliance with Chapter 24.38 of the Lincoln Municipal Code, Chapter  
22 4.10 of the City of Lincoln Design Standards, Title 124 NAC, and the following:

1           (1)    The dike shall be inspected for the presence of animal burrows, damage,  
2 cracks or crevices, and evidence of wastewater lagoon overflow or over-the-ground surface water  
3 inflow; and

4           (2)    The wastewater lagoon shall be inspected for the presence of cattails, other  
5 emergent plants, and trees that might damage the wastewater lagoon seal or dike construction.

6           Section 5. That Title 24 of the Lincoln Municipal Code be amended by adding a new  
7 section numbered 24.42.050 to read as follows:

8 **24.42.050    Inspection of On-site Water Supply Systems (OWSS).**

9           (a)    An inspection of an OWSS by a OWSS Property Transfer Inspector shall consist of:

10           (1)   Determining compliance with Title 178 NAC 12; and

11           (2)   Taking water samples from the OWSS and having such water samples  
12 analyzed for coliform bacteria, fecal coliform bacteria and Nitrate-Nitrogen to determine compliance  
13 with Title 179 NAC 3.

14           (b)   Further water analysis may be required by the Health Director in cases of unsafe  
15 water samples, or in areas known or suspected to have contamination which could impact human  
16 health. Analysis may include testing for organic or inorganic chemicals. All such sampling and  
17 analysis shall be in compliance with Title 179 NAC 3.

18           Section 6. That Title 24 of the Lincoln Municipal Code be amended by adding a new  
19 section numbered 24.42.060 to read as follows:

20 **24.42.060    Inspection Reports; Requirements.**

21           (a)    The Property Transfer Inspector shall submit to the Department a signed property  
22 inspection report on forms approved by the Health Director. Inspection reports shall include, but  
23 are not limited to:

- 1           (1)    The street address and the legal description of the property.
- 2           (2)    The parcel identification number.
- 3           (3)    The name of the owner or authorized agent.
- 4           (4)    The location of the OS.
- 5           (5)    Proximity to sources of contamination.
- 6           (6)    A description of the current operational or functional status of the OS.
- 7           (7)    Identification of any necessary repairs or replacement of all or portions of the
- 8   OS.
- 9           (8)    Results of the OWSS water analysis, where applicable.
- 10          (9)    Other relevant observations related to the system(s), and potential health or
- 11   environmental hazards, or nuisance conditions.
- 12          (10)   Signature of Property Transfer Inspector.

13           (b)    In the event that a complete inspection of the OWWTS cannot occur prior to the sale,  
14   transfer, or conveyance of property due to inclement weather conditions, the Property Transfer  
15   Inspector shall submit to the Health Director a signed written statement indicating what elements  
16   of the inspection could not be completed.

17           (c)    The Property Transfer Inspector shall provide a copy of the inspection report to the  
18   owner or authorized agent.

19           (d)    The inspection report filed with the Department shall be considered a public record.

20           Section 7. That Title 24 of the Lincoln Municipal Code be amended by adding a new  
21   section numbered 24.42.070 to read as follows:

22   **24.42.070    Review of Inspection Report by Health Director; Determination Letter.**

23           (a)    Upon receipt of an inspection report and review fee, the Health Director will:

1           (1)    Document the day of receipt of the inspection report.

2           (2)    Review and evaluate the inspection report.

3           (3)    Provide a written or electronic determination letter to the owner or authorized  
4 agent within five (5) business days after receipt of the inspection report and review fee. The  
5 determination letter will issue:

6                   (i)    The approval of the OS to mean the structure and operational status  
7 are in substantial conformance with Chapter 24.38 of the Lincoln Municipal Code, Chapter 4.10 of  
8 the City of Lincoln Design Standards, Title 124 NAC and/or Title 178 NAC 12; or

9                   (ii)   The denial of the OS to mean the OS adversely affects or may  
10 adversely affect the public health and/or the environment; or

11                   (iii)   An inability to approve or deny the OWWTS based upon receipt of  
12 a signed written statement from a Property Transfer Inspector indicating that an inspection could not  
13 be completed due to weather conditions.

14           (b)    The owner or authorized agent is considered notified of the determination letter when  
15 the Health Director sends it by U.S. mail to the owner's or authorized agent's last known mailing  
16 address.

17           (c)    If the owner or authorized agent disputes the Health Director's determination, the  
18 owner or authorized agent shall have the right to a hearing and appeal as provided in this chapter.  
19 A hearing or appeal does not stay the effect of the Health Director's determination.

20                   Section 8. That Title 24 of the Lincoln Municipal Code be amended by adding a new  
21 section numbered 24.42.080 to read as follows:

1     **24.42.080     Inspections and Enforcement; Right of Entry.**

2             (a)     The Health Director is hereby authorized and directed to make such inspections as  
3 are necessary to determine compliance with this chapter.

4             (b)     Upon presentation of proper credentials the Health Director may enter at reasonable  
5 times any building, structure, or property in the city to determine compliance with the requirements  
6 of this chapter. It shall be unlawful for any owner or occupier of the property or person in charge  
7 of the property to deny right of entry to the Health Director to make such inspection.

8                     Section 9. That Title 24 of the Lincoln Municipal Code be amended by adding a new  
9 section numbered 24.42.090 to read as follows:

10    **24.42.090     Property Transfer Inspector Permit; Requirements.**

11             (a)     Application for a permit for a Property Transfer Inspector shall be made to the Health  
12 Director on forms furnished by the Health Director. Such forms shall require the name, address,  
13 business address, daytime phone number of the applicant, which permit the applicant is applying for,  
14 and such other relevant information as may be required by the Health Director. The applicant shall  
15 complete the required forms.

16             (b)     A Property Transfer Inspector may be permitted in two categories: On-site Water  
17 Supply Systems (OWSS) and/or On-site Wastewater Treatment Systems (OWWTS).

18                     (1)     WSS Property Transfer Inspector. A person shall be certified in the State of  
19 Nebraska under Title 178 NAC 10 as a Water Well Contractor, a Water Well Drilling Supervisor,  
20 a Pump Installation Contractor or a Water Well Monitoring Technician.

21                     (2)     OWWTS Property Transfer Inspector. A person shall be certified by the State  
22 of Nebraska under Title 124 NAC as a Site Evaluator or Inspector, shall be a Journeyman Installer  
23 or Master Installer under Chapter 24.38 of the Lincoln Municipal Code.

1           (c)     The applicant shall be required to take a Property Transfer Inspector training program  
2 and the Property Transfer Inspector Exam. Both the training program and exam must be approved  
3 by the Health Director.

4           (d)     The Health Director shall issue a permit if:

5                   (1)     The applicant has properly completed the required application forms; and

6                   (2)     The applicant possesses the required certification requirements for the permit;

7 and

8                   (3)     The applicant has paid the required permit fee; and

9                   (4)     The applicant has provided proof insurance meeting the requirements of this  
10 chapter; and

11                  (5)     The applicant has satisfactorily completed the training program and passed  
12 the exam.

13                  (6)     The applicant agrees to supplement all pertinent information, including  
14 applicant's address, business address, phone number, and such other information as the Health  
15 Director requires.

16           (e)     The permit shall remain in force for two (2) years from its date of issue, unless  
17 suspended or revoked. The permit may be renewed without an exam, by paying the required fee,  
18 and providing documentation of required certification. Any person who does not renew their permit  
19 prior to or on the date of expiration shall complete a new permit application, pay the required fee,  
20 and pass the exam.

21           (f)     Any person whose application for a Property Transfer Inspector permit has been  
22 denied by the Health Director shall be notified in writing as to the denial. Such person may within

1 ten (10) business days after receipt of denial request a hearing before the Health Director to be held  
2 in compliance with this chapter.

3 Section 10. That Title 24 of the Lincoln Municipal Code be amended by adding a  
4 new section numbered 24.42.100 to read as follows:

5 **24.42.100 Certificate of Insurance.**

6 (a) Before any Property Transfer Inspector may be issued, a permit under the provisions  
7 of this chapter, such Property Transfer Inspector shall be required to purchase and maintain a policy  
8 of insurance sufficient in coverage and amount to fully satisfy any judgments and pay any and all  
9 liabilities, judgments, claims, and related expenses that may arise in connection with services  
10 provided under the provisions of this chapter. At a minimum, such insurance shall include:

11 (1) Workers' Compensation Insurance fully insuring its employees as required  
12 by law. Said insurance shall be obtained from an insurance company which is authorized to do  
13 business in the State of Nebraska.

14 (2) Commercial or Comprehensive General Liability Insurance, naming and  
15 protecting the Property Transfer Inspector, City of Lincoln, and the Lincoln-Lancaster County  
16 Health Department against claims for damages resulting from (i) bodily injury, including wrongful  
17 death; (ii) personal injury liability; and (iii) property damage which may arise from services  
18 provided under the provisions of this chapter. The minimum acceptable limits of liability to be  
19 provided by such insurance shall be as follows:

- 20 \$1,000,000 Each Occurrence
- 21 \$1,000,000 Personal Injury
- 22 \$2,000,000 Aggregate

23  
24 (b) All Certificates of Insurance shall be subject to review and approval by the City  
25 Attorney's Office. All Certificates of Insurance shall be filed with the Health Department on the

1 standard ACCORD Certificate of Insurance form showing the specific limits of insurance required  
2 by the preceding subsections A and B, and showing the City of Lincoln and Lancaster County as  
3 additional insured. Such certificate shall specifically state that insurance policies are to be endorsed  
4 to require the insurer to provide the City of Lincoln, Lancaster County, and the Health Department  
5 with thirty (30) days notice of cancellation, non-renewal or any material reduction of insurance  
6 coverage. Any termination, reduction, or lapse of such insurance shall be grounds for suspension  
7 or revocation of the Property Transfer Inspector’s permit, unless other insurance satisfying the  
8 requirements of this section is provided and is in full force and effect at the time of such expiration  
9 or cancellation.

10 Section 11. That Title 24 of the Lincoln Municipal Code be amended by adding a  
11 new section numbered 24.42.110 to read as follows:

12 **24.42.110 Fees.**

13 (a) <u>Fee for evaluation and review of Property Transfer</u>	
14 <u>Inspector reports and any necessary site visits by Health Director</u>	<u>\$75.00</u>
15	
16 (b) <u>Property Transfer Inspector permit fees:</u>	
17 <u>On-site Wastewater Treatment System</u>	
18 <u>(OWWTS) Property Transfer Inspector</u>	<u>\$20.00</u>
19	
20 <u>On-site Waste Supply System (OWSS)</u>	
21 <u>Property Transfer Inspector</u>	<u>\$20.00</u>
22	
23 <u>Both OWWTS &amp; OWSS</u>	<u>\$30.00</u>
24	

25 All fees are payable to the Lincoln-Lancaster County Health Department and shall be  
26 credited to the Health Fund. No fees will be refunded.

27 Section 12. That Title 24 of the Lincoln Municipal Code be amended by adding a  
28 new section numbered 24.42.120 to read as follows:

1     **24.42.120     Property Transfer Inspection; Permit Required.**

2             It shall be unlawful for any person other than a Property Transfer Inspector or an authorized  
3 representative of the Health Director that is currently a Registered Environmental Health Specialist  
4 in the State of Nebraska to inspect any OS prior to transfer, sale or conveyance of property as  
5 required by this chapter.

6             Section 13. That Title 24 of the Lincoln Municipal Code be amended by adding a  
7 new section numbered 24.42.130 to read as follows:

8     **24.42.130     Property Transfer Inspector Permit; Suspension, Revocation.**

9             It shall be a condition of the Property Transfer Inspector permit issued under this chapter that  
10 it may be suspended or revoked at any time by the Health Director for a violation of Title 124 NAC,  
11 Title 178 NAC 10, Title 179 NAC 3, or any of the provisions of this chapter. A permit granted  
12 under this chapter shall be subject to suspension or revocation in the following manner:

13             (a)     The Health Director shall notify the person holding the Property Transfer Inspection  
14 Permit to be suspended or revoked as provided in Section 24.42.160.

15             (b)     The Health Director may suspend the permit for an appropriate period of time not to  
16 exceed 90 days.

17             (c)     The suspension or revocation shall be effective immediately upon notice.

18             (d)     This person has a right to a hearing in which the Health Director shall conduct the  
19 hearing in accordance with this chapter.

20             (e)     It shall be unlawful to inspect an OS after receiving notice of suspension or  
21 revocation.

22             (f)     Actions for reinstatement, hearing, or appeal shall not stay or delay the suspension  
23 or revocation in any manner.

1           Section 14. That Title 24 of the Lincoln Municipal Code be amended by adding a  
2 new section numbered 24.42.140 to read as follows:

3 **24.42.140     Property Transfer Inspector Permit; Reinstatement of Permit.**

4           (a)     Any person whose Property Transfer Inspector Permit has been suspended may apply  
5 to have the permit reinstated after the suspension period has expired. The person shall pass the exam  
6 and provide a statement signed by the person that the conditions causing suspension of the permit  
7 have been corrected.

8           (b)     Any person whose Property Transfer Inspector Permit has been revoked may apply  
9 for a new permit after 90 days. The person shall complete a new permit application, pay the  
10 required fee, pass the exam, and provide a statement signed by the person that the conditions causing  
11 revocation of the permit have been corrected.

12           Section 15. That Title 24 of the Lincoln Municipal Code be amended by adding a  
13 new section numbered 24.42.150 to read as follows:

14 **24.42.150     Enforcement Hearings.**

15           (a)     Unless this chapter provides otherwise, the Health Director shall conduct hearings  
16 allowed or required under this chapter as soon as practicable, but in no event later than:

17                   (1)     Three business days after a request for hearing to appeal a permit suspension  
18 or revocation; or

19                   (2)     Five business days after any other request; or

20                   (3)     At an agreed upon time frame if such is requested by the person for whom the  
21 hearing is being held.

22           (b)     The Health Director shall make recommendations based on the evidence adduced at  
23 the hearing for the Health Director's final determination of the matter.

1           (c)    The hearing need not be conducted according to the technical rules relating to  
2 evidence and witnesses. The person requesting the hearing and the Health Director may:

3           (1)    Call and examine witnesses on any matter relevant to the issues of the  
4 hearing;

5           (2)    Introduce documentary and physical evidence;

6           (3)    Cross examine opposing witnesses on any matter relevant to the issues of the  
7 hearing; and

8           (4)    Rebut evidence.

9           (d)    The Health Director may uphold, reverse, or modify the act or findings prompting  
10 the request or the Health Director may take such other reasonable action as the Health Director may  
11 determine proper related to the request.

12           (e)    The Health Director shall make a final determination within ten (10) business days  
13 after the hearing.

14           (f)    The Health Director's decision shall be final and binding upon the City and upon the  
15 person making the request. The Health Director's decision may be appealed to the district court as  
16 provided by state law.

17                   Section 16. That Title 24 of the Lincoln Municipal Code be amended by adding a  
18 new section numbered 24.42.160 to read as follows:

19    **24.42.160    Notice; Service.**

20           (a)    The Health Director may serve notice authorized or required by this chapter as  
21 follows:

22           (1)    By personal service to the person holding the Property Inspector Permit; or

1           (2)    By certified mail, postage prepaid, return receipt requested to the last known  
2 address of the person holding the Property Inspector Permit.

3           (b)    The person making personal service may provide a written declaration, under penalty  
4 of perjury, identifying the person served and the time, date, and manner of service as proof of  
5 service.

6           (c)    After a request for a hearing, the Health Director shall provide notice of the time,  
7 place and date for said hearing and shall identify the provisions of this chapter alleged to be violated  
8 and the facts alleged to constitute such violation.

9                       Section 17. That Title 24 of the Lincoln Municipal Code be amended by adding a  
10 new section numbered 24.42.170 to read as follows:

11 **24.42.170    Penalty.**

12           Any person who is found to have violated any provision of this chapter shall be subject to  
13 a fine of no more than \$500.00, or imprisonment in the county jail for a period not to exceed six  
14 months, or both such fine and imprisonment. Each day that a violation of this chapter continues is  
15 punishable as a separate and distinct offense. In addition to any penalty sought or obtained under  
16 this chapter or other applicable law, the City Attorney may institute injunctive or other appropriate  
17 civil proceedings necessary to obtain compliance or to abate any nuisance resulting from violations  
18 of this chapter.

19                       Section 18. That Title 24 of the Lincoln Municipal Code be amended by adding a  
20 new section numbered 24.42.180 to read as follows:

1     **24.42.180**     **Severability.**

2             If any section, subsection, sentence, clause or phrase of this chapter is for any reason held  
3     to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions  
4     of this chapter.

5             Section 19. That Title 24 of the Lincoln Municipal Code be amended by adding a  
6     new section numbered 24.42.190 to read as follows:

7     **24.42.190**     **Effective Date**

8             This chapter shall take effect and be in full force fifteen days after passage, except for the  
9     inspection requirement in Section 24.42.130 which shall take effect and be in full force on May 29,  
10    2006. No penalty shall be imposed against any owner of an OS for noncompliance with Section  
11    24.42.130 until and after May 29, 2006.

12            Section 20. That Sections 1 through 19 of this ordinance be codified in the Lincoln  
13    Municipal Code as Chapter 24.42, Regulation of Property Transfers with On-site Systems.

14            Section 21. That this ordinance shall take effect and be in full force from and after  
15    passage and publication according to law.

Introduced by:  
  
\_\_\_\_\_

Approved as to Form & Legality:  
  
\_\_\_\_\_  
City Attorney

Approved this ____ day of _____, 2006:  _____ Mayor
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