

ORDINANCE NO. _____

1 AN ORDINANCE amending Title 8 of the Lincoln Municipal Code relating to
2 Health and Sanitary by creating a new Chapter 8.18 entitled “Communicable Disease Act” by adding
3 new section numbered 8.18.010 to set forth the title of the chapter; adding new section numbered
4 8.18.020 to set forth the purpose of the chapter; adding new section numbered 8.18.030 to provide
5 definitions used in the chapter; adding new section numbered 8.18.040 to provide that
6 communicable diseases be reported to the Health Director; adding new section numbered 8.18.050
7 to identify individuals with a duty to report communicable diseases; 8.18.060 to set forth the
8 information to be included in communicable disease reports and the method for transmitting such
9 reports; adding new section numbered 8.18.070 to establish the Lincoln-Lancaster County Health
10 Department as the lead agency for any response or activities related to a communicable disease
11 outbreak within the City of Lincoln or Lancaster County; adding new section numbered 8.18.080
12 to provide the general conditions and principles for quarantine and isolation related to
13 communicable diseases; adding new section numbered 8.18.090 to provide the conditions under
14 which an order for isolation shall be made by the Health Director; adding new section numbered
15 8.18.100 to set forth the information to be included in an Isolation Order and/or Quarantine Order;
16 adding new section numbered 8.18.110 to provide for the placarding of a residence or structure
17 containing quarantined and/or isolated individuals; adding new section numbered 8.18.120 to
18 provide the means and method of notice and service of Isolation Orders and Quarantine Orders;
19 adding new section numbered 8.18.130 to provide a hearing procedure for all orders; adding new
20 section numbered 8.18.140 to provide for enforcement of the chapter; adding new section numbered

1 8.18.150 to make it unlawful for an individual with a known reportable communicable disease to
2 intentionally expose another individual or group of individuals to said disease; adding new section
3 numbered 8.18.160 to provide severability for the sections within Chapter 8.18; and adding new
4 section numbered 8.18.170 to provide penalties for violations of Chapter 8.18.

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

6 Section 1. That Title 8 of the Lincoln Municipal Code be amended by adding a new
7 section numbered 8.18.010 to read as follows:

8 **8.18.010 Title.**

9 This chapter shall be known as the Communicable Disease Act of 2007.

10 Section 2. That Title 8 of the Lincoln Municipal Code be amended by adding a new
11 section numbered 8.18.020 to read as follows:

12 **8.18.020 Purpose.**

13 The City Council finds the need to define and authorize appropriate actions and procedures
14 to be taken in the surveillance and monitoring of communicable, contagious, and infectious diseases
15 that may threaten the public's health, safety and welfare; Such actions and procedures are for the
16 purpose of:

17 (a) Promoting the health and welfare of the citizens of this city by preventing the spread
18 of communicable, contagious and infectious diseases;

19 (b) Assuring early identification, follow-up and response to a public health threat due
20 to communicable, contagious, and infectious diseases;

21 (c) Minimizing disease transmission potential of communicable, contagious and
22 infectious diseases;

1 (d) Minimizing the restrictions imposed on persons who have or may have been exposed
2 to a communicable, contagious or infectious disease.

3 It is therefore, declared to be the public policy of this city to ensure that appropriate reporting
4 is required of health care providers and clinical laboratories, that disease monitoring procedures,
5 follow-up investigations, and infection control processes are undertaken, including isolation and
6 quarantine orders when necessary to prevent and control the spread of diseases that threaten the
7 health and welfare of the community; enforcement of said orders; and providing penalties for
8 violations.

9 Section 3. That Title 8 of the Lincoln Municipal Code be amended by adding a new
10 section numbered 8.18.030 to read as follows:

11 **8.18.030** **Definitions.**

12 For purposes of this chapter, definitions shall include the following:

13 **Clinical laboratory** shall mean any laboratory where diagnostic or other screening
14 procedures are performed on blood or other potentially infectious materials.

15 **Communicable disease** shall mean any disease caused by an infectious agent or toxic
16 product produced by such agent that is capable of being transmitted from individual to individual
17 either directly or indirectly.

18 **Confirmed laboratory test** shall mean a laboratory test that documents the presence of a
19 communicable or infectious disease.

20 **Contagious disease** shall mean an infectious disease that can be transmitted from individual
21 to individual either directly or indirectly.

22 **Health care facility** shall mean any institution, building, or agency, or portion thereof,
23 whether public or private (for-profit or nonprofit) that is used, operated, or designed to provide

1 health services, medical treatment, or nursing, rehabilitative, or preventive care to any individual.
2 This includes, but is not limited to, ambulatory surgical centers, assisted-living facilities, centers or
3 group homes for the developmentally disabled, critical access hospitals, general acute hospitals,
4 health clinics, hospitals, intermediate care facilities, mental health centers, nursing facilities, adult
5 day care centers, pharmacies, psychiatric or mental hospitals, public health clinics, rehabilitation
6 hospitals, skilled nursing facilities, or substance abuse treatment centers.

7 **Health care provider** shall mean an individual who is licensed, certified, or otherwise
8 authorized by the State of Nebraska to administer health care in the ordinary course of business or
9 practice of a profession.

10 **Health Director** shall mean the Director of the Lincoln-Lancaster County Health
11 Department or his or her designated representative.

12 **Infectious disease** shall mean any disease caused by the growth of microorganisms in the
13 body. An infectious disease may or may not be communicable. Infectious disease may include, but
14 is not limited to, hepatitis A, hepatitis B, hepatitis C, meningococcal meningitis, active pulmonary
15 tuberculosis, human immunodeficiency virus, diphtheria, plague, any hemorrhagic fever, and rabies.

16 **Isolate, isolated, or isolation** shall mean the physical separation and confinement of an
17 individual or individuals who are symptomatic or have received a positive confirmatory laboratory
18 test related to a communicable disease that poses a public health threat.

19 **Placard** shall mean an official document posted for public display, such as a license or
20 permit.

21 **Probable diagnosis** shall mean any time that a health care provider, based upon clinical
22 findings, suspects an individual has a communicable disease.

1 **Public sector partner** shall mean the international, federal, tribal, or other state or local
2 governments and their public health agencies that provide essential public health services and
3 functions or work to improve public health outcomes with a state or local public health agency.

4 **Quarantine** shall mean the physical separation and confinement of an individual or groups
5 of individuals, who are or may have been exposed to a communicable disease that poses a public
6 health threat and who do not show signs or symptoms of a contagious disease, from non-quarantined
7 individuals, to prevent or limit the transmission of the disease to non-quarantined individuals.

8 **Reportable communicable disease** shall mean a subset of communicable diseases that may
9 pose serious health consequences, such as hospitalization or mortality, to individuals who may
10 contract the disease. These would include novel strains of viruses, vaccine preventable diseases that
11 have been eradicated or nearly so, other highly infectious diseases identified as sentinel diseases,
12 and any such disease as the Health Director or the Nebraska Department of Health and Human
13 Services Regulation and Licensure may specify from time to time. The common cold, and other
14 highly contagious diseases which do not pose a public health threat are not included.

15 Section 4. That Title 8 of the Lincoln Municipal Code be amended by adding a new
16 section numbered 8.18.040 to read as follows:

17 **8.18.040 Reportable Communicable Diseases.**

18 (a) In addition to the reportable diseases provided in Title 173 of the Nebraska
19 Administrative Code, Section 1-003, the Health Director shall have the authority to require reports
20 of additional communicable diseases and determine an appropriate reporting deadline for such
21 reportable communicable diseases. The Health Director shall make available a list of said additional
22 diseases identified by the Health Director.

1 **(b) Under certain circumstances, such as a declared public health emergency or based**
2 **on medical advice from a public sector partner, the Health Director may modify all reportable times**
3 **for any disease to a shorter time frame. The Health Director shall notify all health care providers**
4 **and clinical laboratories of the modified times through the customary physician notifications,**
5 **including physician advisories and the Health Alert Network.**

6 Section 5. That Title 8 of the Lincoln Municipal Code be amended by adding a new
7 section numbered 8.18.050 to read as follows:

8 **8.18.050 Duty to Report.**

9 **(a) Upon probable diagnosis or detection of those reportable diseases listed in 173 NAC**
10 **1-003.01(A) and (B) and 1-003.02, a health care provider shall have the duty to make immediate**
11 **reports of such diseases to the Health Director as specified in 173 NAC 1-004.01.**

12 **(b) Any individual who is in charge of a clinical laboratory shall have the duty to report**
13 **to the Health Director, all positive laboratory or confirmatory tests for a reportable communicable**
14 **disease or infectious disease as specified in 173 NAC 1-004.02.**

15 **(c) Upon probable diagnosis or detection of those diseases identified by the Health**
16 **Director in Section 8.18.040 (a), a health care provider and/or clinical laboratory shall have the duty**
17 **to make reports of such diseases to the Health Director within the designated time frame after**
18 **diagnosis or detection.**

19 **(d) Health care providers, clinical laboratories, and any individual acting on their behalf**
20 **shall comply with reasonable requests for information, in a reasonable period of time, from the**
21 **Health Director who is engaged in an active disease investigation.**

22 **(e) It shall be unlawful for any person required to report a reportable communicable**
23 **disease or infectious disease to provide false information to the Health Director.**

1 Section 6. That Title 8 of the Lincoln Municipal Code be amended by adding a new
2 section numbered 8.18.060 to read as follows:

3 **8.18.060 Duty to Report; Contents; Transmission.**

4 (a) All communicable disease reports shall at a minimum include the date and result of
5 the test performed, the name and, when available, the date of birth, gender, and address of the
6 individual from whom the specimen was obtained, and the name and address of the health care
7 provider for whom such examination or test was performed.

8 (b) Reports required by Section 8.18.050 (a) through (c) shall be transmitted to the
9 Health
10 Director by telephone, facsimile, or other secure electronic mail system.

11 Section 7. That Title 8 of the Lincoln Municipal Code be amended by adding a new
12 section numbered 8.18.070 to read as follows:

13 **8.18.070 Lead Agency.**

14 The Lincoln-Lancaster County Health Department shall be the lead agency for any response
15 or activities related to a communicable disease outbreak based on surveillance data or when there
16 is other reasonable information which is indicative of a potential or existing communicable disease
17 outbreak, epidemic or pandemic within the City of Lincoln or Lancaster County.

18 Section 8. That Title 8 of the Lincoln Municipal Code be amended by adding a new
19 section numbered 8.18.080 to read as follows:

20 **8.18.080 Isolation and Quarantine; General Conditions and Principles.**

21 (a) Isolation and quarantine must be by the least restrictive means necessary to prevent
22 the spread of a contagious or possibly contagious disease to others.

1 (b) Isolated individuals must be confined separately from quarantined individuals except
2 when the premises allow adequate physical and airflow separation.

3 (c) The health status of isolated and quarantined individuals must be monitored regularly
4 to determine if they continue to require isolation or quarantine.

5 (d) Isolation and quarantine must be immediately terminated when an individual poses
6 no substantial risk of transmitting a contagious or possibly contagious disease to others.

7 (e) An individual's residence will be the least restrictive and preferred option for
8 quarantine or isolation. In all other cases, to the extent possible, premises used for isolation and
9 quarantine shall be maintained in a safe and hygienic manner and be designed to minimize the
10 likelihood of further transmission of infection.

11 (f) To the extent possible, cultural and religious beliefs shall be respected in addressing
12 the needs of individuals, and establishing and maintaining isolation and quarantine premises, subject
13 to those limitations necessary to maintain facility safety, security, and order, along with the need to
14 minimize the risk of transmitting a contagious disease to others.

15 Section 9. That Title 8 of the Lincoln Municipal Code be amended by adding a new
16 section numbered 8.18.090 to read as follows:

17 **8.18.090 Isolation and Quarantine; Orders.**

18 (a) An order for isolation shall be made by the Health Director when the following
19 conditions are met:

20 (1) When there is a confirmed laboratory test for an individual or individuals of
21 a reportable communicable disease or a probable diagnosis of a reportable communicable disease;

1 (2) After consultation with local and state medical specialists in infectious and
2 communicable diseases it is recommended that isolating the individual(s) could lessen the spread
3 of the disease within the community;

4 (3) When voluntary isolation has been determined by the Health Director to be
5 ineffective or insufficient to minimize the threat to public health, safety, and welfare; and

6 (4) A determination has been made by the Health Director that isolation is the
7 least restrictive means to prevent the spread of a contagious or possibly contagious disease to others.

8 (b) An order for quarantine shall be made by the Health Director when the following
9 conditions are met:

10 (1) An individual or individuals has/have experienced:

11 (i) Exposure to a known case of a highly infectious reportable disease or
12 contact with an individual known to have a reportable communicable disease; or

13 (ii) Suspected contact with an animal, or animal of a species or a vector
14 known to be a carrier for a communicable disease; or

15 (iii) Based upon information from a public sector partner, or an individual,
16 that the individual has traveled to or from, or been in the proximity of a geographic area where there
17 has been an outbreak of a highly contagious infectious disease.

18 (2) After consultation with local and/or state medical specialists in infectious and
19 communicable diseases it is recommended to quarantine the individual(s) during a normal
20 incubation period for the specific disease;

21 (3) When voluntary measures have been determined to be ineffective or
22 insufficient to minimize the threat to public health, safety, and welfare; and

1 (4) A determination has been made by the Health Director that quarantine is the
2 least restrictive means to prevent the spread of a contagious or possible contagious disease to others.

3 Section 10. That Title 8 of the Lincoln Municipal Code be amended by adding a new
4 section numbered 8.18.100 to read as follows:

5 **8.18.100 Isolation Order, Quarantine Order: Contents.**

6 (a) The Health Director shall issue an isolation or quarantine order to an individual or
7 individuals, when feasible, including the following information:

8 (1) Name and identifying information of the individual subject to the order;

9 (2) Brief statement of the facts warranting the order, including the suspected
10 contagious disease;

11 (3) Date and time at which isolation or quarantine commences and terminates;

12 (4) The location of isolation or quarantine;

13 (5) Prohibition of contact with individuals except as approved by the Health
14 Director;

15 (6) Recommended treatment or prophylaxis;

16 (7) Required conditions to be met for visitation, if allowed;

17 (8) Instructions on the disinfecting or disposal of any personal property of the
18 individual;

19 (9) Required precautions to prevent the spread of the disease; and

20 (10) Availability of a hearing to contest the order, including the procedure thereof.

21 (b) The Health Director may issue an isolation or quarantine order to large numbers of
22 individuals, or unidentified individuals, by mass media, including the following information:

23 (1) Identifying information of the group of individuals subject to the order;

1 (2) Brief statement of the facts warranting the order, including the suspected
2 contagious disease;

3 (3) Date and time at which isolation or quarantine commences and terminates;

4 (4) The location of isolation or quarantine;

5 (5) General prohibition of contact with individuals until contact has been made
6 with the Health Director;

7 (6) Recommended treatment or prophylaxis;

8 (7) Required precautions to prevent the spread of the disease;

9 (8) Instructions to contact the Health Director immediately to receive further
10 information and necessary instructions; and

11 (9) Availability of a hearing to contest the order, including the procedure thereof.

12 Once an individual, subject to a order issued by mass media, contacts the Health
13 Director a new isolation or quarantine order shall be issued in the manner prescribed in Section
14 8.18.100(a), if isolation or quarantine is still necessary.

15 Section 11. That Title 8 of the Lincoln Municipal Code be amended by adding a new
16 section numbered 8.18.110 to read as follows:

17 **8.18.110 Residence or Structure Containing Quarantined and/or Isolated Individuals;**
18 **Placard.**

19 (a) A residence or structure or commercial entity that contains a quarantined and/or
20 isolated individual, or group of people, shall be placarded in the following manner:

21 (1) A placard shall be placed near all possible points of entry; and

22 (2) Such placard shall contain the limitations upon the quarantine or isolation,
23 including, but not limited to: required personal protective equipment, precautions, etc.

1 **(b) It shall be unlawful for any individual who is not authorized by the Health Director**
2 **to enter a residence or structure or commercial entity that has been placarded.**

3 **(c) It shall be unlawful for any individual, or group of people, to deface, alter, mutilate,**
4 **destroy, tear down, or remove the placard without the express, written permission of the Health**
5 **Director.**

6 Section 12. That Title 8 of the Lincoln Municipal Code be amended by adding a new
7 section numbered 8.18.120 to read as follows:

8 **8.18.120 Isolation Order, Quarantine Order; Notice, Service.**

9 **(a) Orders directed to an individual will be delivered in a manner reasonably calculated**
10 **to give the individual actual notice of the terms of the order consistent with the threat of**
11 **communicable diseases. The Health Director may serve notice of the order of isolation or quarantine**
12 **as follows:**

13 **(1) By personal service to the individual, except in the cases where personal**
14 **delivery would present a spread of disease or exposure to agents that cannot be avoided by measures**
15 **reasonably available; or**

16 **(2) By certified mail, postage prepaid, return receipt requested to the individual's**
17 **last known address; or**

18 **(3) By electronic transmission via e-mail or telefacsimile, provided that any**
19 **available means of determining and recording receipt of such notice will be made, and further**
20 **provided that notice by certified mail shall accompany such electronic transmission.**

21 **(4) Orders directed to large numbers of individuals or a population may be**
22 **disseminated by mass media.**

1 **(b) The individual making personal service pursuant to this section shall provide a**
2 **written declaration under penalty of perjury identifying the individual served and the time, date, and**
3 **manner of service as proof of service.**

4 Section 13. That Title 8 of the Lincoln Municipal Code be amended by adding a new
5 section numbered 8.18.130 to read as follows:

6 **8.18.130 Hearings.**

7 **(a) Any individual subject to an order under this chapter may request a hearing in front**
8 **of the Health Director to contest the validity of the order.**

9 **(b) The Health Director shall conduct hearings no later than three days after a request**
10 **for a hearing.**

11 **(c) In the event the Health Director is unavailable, the Health Director may appoint a**
12 **suitable hearing officer to hear the matter. Such hearing officer shall make recommendations based**
13 **on the evidence adduced at the hearing for the Health Director’s final determination of the matter.**

14 **(d) The hearing need not be conducted according to the technical rules relating to**
15 **evidence and witnesses. The individual requesting the hearing and the Health Director may:**

16 **(1) Call and examine witnesses on any matter relevant to the issues of the**
17 **hearing;**

18 **(2) Introduce documentary and physical evidence;**

19 **(3) Cross examine opposing witnesses on any matter relevant to the issues of the**
20 **hearing; and**

21 **(4) Rebut evidence.**

1 (e) The Health Director may uphold, reverse, or modify the order. The Health Director
2 may also take such other reasonable action as the Health Director may determine proper in relation
3 to the request.

4 (f) The Health Director shall make a final determination within one day after the hearing.

5 (g) The Health Director’s decision shall be final and binding. The Health Director’s
6 decision may be appealed to the district court as provided by law.

7 Section 14. That Title 8 of the Lincoln Municipal Code be amended by adding a new
8 section numbered 8.18.140 to read as follows:

9 **8.18.140 Enforcement and Related Powers.**

10 (a) In addition to the Health Director, the Lincoln Police Department and/or the
11 Lancaster County Sheriff’s Department shall enforce any and all orders issued by the Health
12 Director pursuant to this chapter.

13 (b) The Health Director may order the closure of, or restrict access to any business,
14 office, healthcare facility, school or government agency or department for the purpose of controlling
15 the spread of disease or for any activity related to controlling the spread of disease.

16 (c) The Health Director may allow any necessary or critical business, office, healthcare
17 facility, school, or government agency or department to remain operational.

18 (d) The Health Director may adopt any other control measures which are consistent with
19 applicable guidelines of a public sector partner, emergency management agency, and other
20 applicable laws and regulations.

21 Section 15. That Title 8 of the Lincoln Municipal Code be amended by adding a new
22 section numbered 8.18.150 to read as follows:

1 **8.18.150** **Unlawful Exposure of Another Individual.**

2 It shall be unlawful for an individual with a known reportable communicable disease, which
3 disease is potentially life-threatening and presently incurable, to intentionally expose another
4 individual or group of individuals to said disease except where an individual or group of individuals
5 has expressly consented to the risk of exposure through specified behavioral activities.

6 Section 16. That Title 8 of the Lincoln Municipal Code be amended by adding a new
7 section numbered 8.18.160 to read as follows:

8 **8.18.160** **Severability.**

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

12 Section 17. That Title 8 of the Lincoln Municipal Code be amended by adding a new
13 section numbered 8.18.170 to read as follows:

14 **8.18.170** **Penalties.**

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

1 Section 18. That this ordinance shall take effect and be in force from and after its
2 passage and publication according to law.

Introduced by:

Approved as to Form & Legality:

City Attorney

Approved this ____ day of _____, 2007:

Mayor