

## 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 open burning permit fees;  
3 amending Section 8.08.060 to increase body art establishment permit fees; amending Section  
4 8.08.150 to increase body art practitioner permit fees; amending Section 8.12.035 to increase small  
5 family child care home permit fees and to decrease the annual fee paid for new certificates of  
6 compliance issued after July 31 of each year; amending Section 8.12.075 to revise the small family  
7 child care home late fees to be a percentage of the annual fee; amending Section 8.12.200 to revise  
8 the small family child care home reinstatement fee to be a percentage of the annual fee; amending  
9 Section 8.14.035 to replace a reference to the term “Level III Food Handler” with “Prep/Cook Food  
10 Handler or Food Manager” for the type of permit an operator or person in charge of food preparation  
11 must hold; amending Section 8.14.037 to increase child care program permit fees; amending Section  
12 8.14.065 to revise child care program late fees to be a percentage of the annual fee; amending  
13 Section 8.14.150 to revise the child care program reinstatement fee to be a percentage of the annual  
14 fee; amending Section 8.20.150 to increase food code permit fees; amending Section 8.24.150 to  
15 increase the permit fee for a variance of the noise control ordinance; amending Section 8.38.090 to  
16 increase public swimming pool permit fees; amending Section 8.40.070 to increase spa facility  
17 permit and inspection fees; amending Section 8.44.070 to increase permit fees for water wells; and  
18 repealing Sections 8.06.145, 8.08.060, 8.08.150, 8.12.035, 8.12.075, 8.12.200, 8.14.035, 8.14.037,  
19 8.14.065, 8.14.150, 8.20.150, 8.24.150, 8.38.090, 8.40.070 and 8.44.070 of the Lincoln Municipal  
20 Code as hitherto existing.

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

22           Section 1. That Section 8.06.145 of the Lincoln Municipal Code be amended to read  
23 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 ~~\$115.00~~ \$120.00 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 required  
24     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

1 permit may be revoked by the Director at any time a violation of this ordinance is observed or  
2 conditions of the permit are not met.

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

5 **8.08.060 Body Art Establishment; Permit Fees.**

6 (a) The fee for a body art establishment permit shall be as follows:

7 <b>Body Art Establishment</b>	<b>Initial</b>	<b>Renewal</b>
8 One (1) to five (5) stations	<del>\$340.00</del> <u>\$350.00</u>	<del>\$225.00</del> <u>\$230.00</u>
9 Each additional five (5) stations	<del>\$135.00</del> <u>\$140.00</u>	<del>\$95.00</del> <u>\$100.00</u>

10 (b) Any initial body art establishment permit issued after the thirtieth of November of  
11 each calendar year shall pay 67% of the annual fee. Renewal of all body art establishment permits  
12 shall be as required in Section 8.08.080. The fees shall be payable to the Lincoln-Lancaster County  
13 Health Department and the Health Director shall deposit the fees at the City Treasurer's Office. The  
14 City Treasurer shall credit the fees to the Health Fund.

15 Section 3. That Section 8.08.150 of the Lincoln Municipal Code be amended to read  
16 as follows:

17 **8.08.150 Body Art Practitioner Permit; Fees.**

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

19 Initial Fee	<del>\$60.00</del> <u>\$65.00</u>
20 Renewal Fee	<del>\$30.00</del> <u>\$35.00</u>

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

24 Section 4. That Section 8.12.035 of the Lincoln Municipal Code be amended to read  
25 as follows:

26 **8.12.035 Permit; Fees.**

27 (a) The fee for a small family child care home permit shall be as follows:

	<u>Initial</u>	<u>Renewal</u>
Small family child care home	<del>\$80.00</del> <u>\$85.00</u>	<del>\$55.00</del> <u>\$60.00</u>

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

(a c) Any person issued a new certificate of compliance after July 31 of each year shall pay ~~70%~~ 67% of the annual fee.

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

Section 5. That Section 8.12.075 of the Lincoln Municipal Code be amended to read as follows:

**8.12.075 Permit, Renewal; Late Fees.**

(a) An operator who fails to renew the permit before it expires, but within thirty days of the date of expiration, shall pay a late fee of ~~ten dollars~~ 33% of the annual fee in addition to the renewal fee.

(b) An operator who fails to renew the permit before it expires and fails to renew the permit within thirty days from the date of expiration shall pay a late fee of ~~twenty dollars~~ 67% of the annual fee in addition to the renewal fee.

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

Section 6. That Section 8.12.200 of the Lincoln Municipal Code be amended to read as follows:

**8.12.200 Suspended Permit; Reinstatement Fee.**

Any operator eligible for reinstatement as provided in this chapter, shall pay a reinstatement fee of ~~\$25.00~~ 50% of the annual fee in addition to any other applicable fees. The Health Director shall not reinstate the permit until the reinstatement fee is paid.

1 Section 7. That Section 8.14.035 of the Lincoln Municipal Code be amended to read  
2 as follows:

3 **8.14.035 Operator and Staff Training Requirements.**

4 Before a certificate of compliance shall be issued or renewed by the Health Director, the  
5 operator shall submit verification for the operator and all staff of completion of training approved  
6 by the Health Director. Such training shall be completed before an initial certificate of compliance  
7 is issued and shall be completed every two years thereafter before a renewal certificate of  
8 compliance is issued. At a minimum, such training shall include a total of two hours in the  
9 following subjects: illness and injury prevention, mildly ill child care, medication administration,  
10 safe food handling, and the requirements of this chapter. In addition, the operator or the person in  
11 charge of food preparation shall hold ~~at least a Level III Food Handlers~~ a Prep/Cook Food Handler  
12 or Food Manager Permit issued per Lincoln Municipal Code Chapter 8.20, the Lincoln Food Code.  
13 Copies of original certificates of attendance must be provided to the Health Director. Existing  
14 operators and staff must obtain training within twelve months of the adoption of this chapter. Newly  
15 hired staff must have training within thirty days of employment.

16 Section 8. That Section 8.14.037 of the Lincoln Municipal Code be amended to read  
17 as follows:

18 **8.14.037 Fees.**

19 (a) The following fees are required:

20	(1) Plan review for new, remodeled or	
21	relocated child care programs	<del>\$85.00</del> <u>\$90.00</u>
22	(2) Fee for certificate of compliance (initial or renewal)	
23	School-age child care program	<del>\$85.00</del> <u>\$90.00</u>
24	All other child care programs:	
25	Providing care for less than four hours per day	<del>\$85.00</del> <u>\$90.00</u>
26	Providing care for four or more hours per day	
27	with:	
28	50 or less children	<del>\$110.00</del> <u>\$115.00</u>
29	51 to 100 children	<del>\$135.00</del> <u>\$140.00</u>

1 101 or more children \$~~165.00~~ \$170.00  
2 (The number of children shall be based  
3 on licensing capacity, if applicable.)

4 (a) Any person issued a new certificate of compliance after July 31 of each year shall pay  
5 67% of the annual fee.

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

9 Section 9 That Section 8.14.065 of the Lincoln Municipal Code be amended to read as  
10 follows:

11 **8.14.065 Late Fees.**

12 (a) An operator who fails to renew the certificate of compliance before it expires, but within  
13 thirty days of the date of expiration shall pay a late fee of ~~\$20.00~~ 33% of the annual fee in addition  
14 to the annual fee.

15 (b) An operator who fails to renew the certificate of compliance before it expires and fails  
16 to renew the certificate of compliance within thirty days from the date of expiration shall pay a late  
17 fee of ~~\$50.00~~ 67% of the annual fee in addition to the annual fee.

18 (c) An operator who fails to renew the certificate of compliance before it expires is  
19 operating without a valid certificate of compliance and shall be subject to appropriate enforcement  
20 action, including an order to cease operating, as determined by the Health Director.

21 Section 10. That Section 8.14.150 of the Lincoln Municipal Code be amended to read  
22 as follows:

1 **8.14.150 Suspended Certificate of Compliance; Reinstatement Fee.**

2 Any operator eligible for reinstatement as provided in this chapter, shall pay a reinstatement  
3 fee of ~~\$50.00~~ 50% of the annual in addition to any other applicable fees. The Health Director shall  
4 not reinstate the certificate of compliance until the reinstatement fee is paid.

5 Section 11. That Section 8.20.150 of the Lincoln Municipal Code be amended to read as  
6 follows:

7 **8.20.150 Food Establishment; Permit Fees**

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

- 10 (1) Food Establishment:
  - 11 Food establishment -- new permit ..... ~~\$430.00~~ \$440.00
  - 12 Food establishment -- renewal ..... ~~\$290.00~~ \$300.00
  - 13 Each additional food preparation facility
  - 14 (new or renewal) ..... ~~\$130.00~~ \$135.00
- 15 (2) Mobile Food Unit:
  - 16 New or renewal as additional facility ..... ~~\$130.00~~ \$135.00
- 17 (3) Food Catering Services:
  - 18 Operating as an additional food preparation facility to
  - 19 an approved food establishment:
  - 20 New or renewal ..... ~~\$130.00~~ \$135.00
- 21 (4) Temporary Food Establishment:
  - 22 (a) Operating for a single event not to exceed
  - 23 fourteen consecutive days
    - 24 Temporary food establishment ..... ~~\$115.00~~ \$120.00
    - 25 With a related food establishment ..... ~~\$ 55.00~~ \$60.00
    - 26 Nonprofit organization ..... ~~\$ 55.00~~ \$60.00
  - 27 (b) Operating annually for more than one single event not to exceed
  - 28 fourteen consecutive days
    - 29 Temporary food establishment ..... ~~\$370.00~~ \$380.00
    - 30 Non-Profit Organization ..... ~~\$185.00~~ \$190.00

1	(c) Operating as an additional food preparation facility to an approved		
2	food establishment		
3	New or renewal .....	<del>\$130.00</del>	<u>\$135.00</u>
4			
5	(d) Event Market:		
6	One to five vendors .....	<del>\$115.00</del>	<u>\$120.00</u>
7	Each additional five vendors .....	<del>\$115.00</del>	<u>\$120.00</u>
8			
9	(e) Farmers' Market:		
10	Basic Fee .....	<del>\$65.00</del>	<u>\$70.00</u>
11	Plus: Vendor fee for each vendor selling foods		
12	other than fruits, vegetables and products		
13	permitted by the Nebraska Department of		
	Agriculture .....		\$ 10.00

14 (b) Any person issued a new food establishment permit, other than a temporary food  
15 establishment permit, after November 30 of each year shall pay 67% of the annual fee.

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

18 Section 12. That Section 8.24.150 of the Lincoln Municipal Code be amended to read as  
19 follows:

20 **8.24.150 Variances.**

21 (a) The health officer shall have the authority to grant an initial variance to the strict  
22 application of Section 8.24.090 for a period of not to exceed fifteen calendar days. Any person  
23 seeking such a variance shall file an application with the health officer and shall submit a permit fee  
24 of ~~\$65.00~~ \$70.00. The application shall contain the information which demonstrates that bringing  
25 the source of sound or activity for which the variance is sought into compliance with this ordinance  
26 would constitute an unreasonable hardship on the applicant, on the community, or on other persons.

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

32 (c) Any individual who claims to be adversely affected by allowance of any requested  
33 extension of a variance may, prior to the end of the two-day period after posting of the property, file  
34 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  
5 the hardship to the applicant, the community, and other persons of not granting the variance or  
6 extension against the adverse impact to the health, safety, and welfare of persons affected, the  
7 adverse impact on property affected, and any other adverse impacts of granting the variance or  
8 extension. Applicants for variances or extensions and persons contesting extensions may be  
9 required to submit any information the health officer may reasonably require. In granting or denying  
10 an application, the health officer shall place on public file a copy of the decision and the reasons for  
11 denying or granting the variance or extension and the criteria to be considered in deciding whether  
12 to grant variances and extensions.

13 Variances or extensions shall be granted by notice to the applicant containing all  
14 necessary conditions, including a time limit on the permitted activity. The variance or extension  
15 shall not become effective until all conditions are agreed to by the applicant. Noncompliance with  
16 any 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 13. That Section 8.38.090 of the Lincoln Municipal Code be amended to read as  
36 follows:

37 **8.38.090 Permit Fees.**

38 (a) There shall be a ~~\$315.00~~ \$325.00 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           **(b)** Any initial swimming pool permit issued after the thirtieth of September of each calendar  
2 year shall pay 67% of the annual fee.

3           **(c)** The fee for a permit to conduct, operate and maintain a swimming pool shall be payable  
4 annually to the City of Lincoln and shall be credited to the Health Fund.

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

7           Section 14. That Section 8.40.070 of the Lincoln Municipal Code be amended to read as  
8 follows:

9           **8.40.070 Permit and Inspection Fees.**

10          **(a)** The fee for a permit to conduct, operate, or maintain a spa facility shall be as follows:

11           **(1)** Individual Spa Facility

12                   One Spa Pool . . . . . ~~\$315.00~~ \$325.00;

13                   Additional Spa Pool. . . . . ~~\$90.00~~ \$95.00 per spa pool;

14           **(2)** Spa Facility Co-Located

15                   With A Permitted Swimming Pool. . . . . ~~\$90.00~~ \$95.00 per spa pool.

16          **(b)** Any initial spa permit issued after the 30th of September of each calendar year shall pay  
17 67% of the annual fee.

18          **(c)** The fees shall be payable annually to the City of Lincoln and shall be credited to the  
19 Health Fund.

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

22          **8.44.070 Permit for Water Well; Application; Fees.**

23          Applicants for a permit shall obtain forms from the Health Director, which completed forms  
24 together with the permit fee, shall be filed with the Health Director, who shall forthwith forward  
25 such completed forms to the Public Utilities Department and such other appropriate departments of  
26 the city for processing. If such applicant's well is found to be in compliance with the "Water Well  
27 Regulations and Standards of the City of Lincoln" and its ordinances, a permit shall then be issued.

1 In the event that such applicant's well does not comply with such ordinances, regulations and  
2 standards, such applicant shall immediately discontinue the use of such well until same is brought  
3 into compliance with the applicable ordinance provisions, regulations, or standards.

4 (a) The following permit fees are hereby adopted:

- 5 (1) Water well construction permit ..... ~~\$175.00~~ \$180.00
- 6 (2) Biennial permits ..... ~~\$115.00~~ \$120.00
- 7 (3) Water well repair permit ..... ~~\$ 90.00~~ \$95.00

8 (b) Any initial biennial well permit issued after January first of each even numbered year  
9 shall pay 67% of the biennial fee.

10 (c) All fees shall be credited to the Health Fund.

11 Section 16. That Sections 8.06.145, 8.08.060, 8.08.150, 8.12.035, 8.12.075, 8.12.200,  
12 8.14.035, 8.14.037, 8.14.065, 8.14.150, 8.20.150, 8.24.150, 8.38.090, 8.40.070 and 8.44.070 of the  
13 Lincoln Municipal Code as hitherto existing be and the same are hereby repealed.

14 Section 17. That this ordinance shall take effect and be in force from and after its  
15 passage and publication in one issue of a daily or weekly newspaper of general circulation in the  
16 City, according to law.

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

Approved as to Form & Legality:

\_\_\_\_\_  
City Attorney

Approved this \_\_\_ day of \_\_\_\_\_, 2009:  
\_\_\_\_\_  
Mayor