

ORDINANCE NO. _____

1 AN ORDINANCE amending Title 8 of the Lincoln Municipal Code relating to Health
2 and Sanitation by amending Section 8.06.145 to increase the permit fee for open burning; amending
3 Section 8.08.060 to increase the permit fees for a body art establishment; amending Section 8.08.150
4 to increase the permit fees for a body art practitioner; amending Section 8.08.350 to establish a
5 reinstatement fee of \$190 for a body art establishment permit and a set reinstatement fee of \$40 for
6 a practitioner permit; amending Section 8.14.037 to increase the permit fees associated with child
7 care programs; amending Section 8.14.150 to establish a set reinstatement fee of \$110 for a permit
8 associated with child care programs; amending Section 8.20.050 to adopt the updated Nebraska
9 Food Code; amending Section 8.20.150 to increase the permit fees associated with food
10 establishments; amending Section 8.20.170 to establish a reinstatement fee of \$240 for permits
11 associated with food service; amending Section 8.24.150 to increase the permit fee for a variance
12 to the provisions of LMC Section 8.24.090 relating to noise disturbances; amending Section
13 8.38.090 to increase the permit fee for the operation of a Class A or Class B swimming pool;
14 amending Section 8.40.070 to increase the permit fees associated with the operation of spa facilities;
15 and repealing Sections 8.06.145, 8.08.060, 8.08.150, 8.08.350, 8.14.037, 8.14.150, 8.20.050,
16 8.20.150, 8.20.170, 8.24.150, 8.38.090, and 8.40.070 of the Lincoln Municipal Code as hitherto
17 existing.

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

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

21 **8.06.145 Open Burning Permits.**

22 (a) Any person may apply for a permit for open burning by filing a written application on
23 forms provided for that purpose with the Director giving reasons why no other practicable method
24 except open burning can be employed to dispose of the refuse involved, the amount and kind of

1 refuse to be burned, the exact location where the burning will take place, including the distances to
2 adjacent structures; and the dates or days and times when the open burning is proposed to take place.
3 Applications from industrial or commercial businesses must be accompanied by payment of a permit
4 fee of ~~\$130.00~~ \$140.00 per day on which burning is to take place. Said fee shall be credited to the
5 Health Fund.

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

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

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

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

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

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

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

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

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

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

<u>Body Art Establishment</u>	<u>Initial</u>	<u>Renewal</u>
One (1) to five (5) stations	\$370.00 <u>\$380.00</u>	\$240.00 <u>\$250.00</u>
Each additional five (5) stations	\$150.00 <u>\$155.00</u>	\$110.00 <u>\$115.00</u>

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

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

13 **8.08.150 Body Art Practitioner Permit; Fees.**

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

Initial Fee	\$75.00 <u>\$80.00</u>
Renewal Fee	\$40.00 <u>\$45.00</u>

17 (b) The fees shall be payable to the Lincoln-Lancaster County Health Department and the
18 Health Director shall deposit the fees at the City Treasurer’s Office. The City Treasurer shall credit
19 the fees to the Health Fund.

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

22 **8.08.350 Body Art Establishment or Practitioner Suspended Permit; Reinstatement Fee.**

23 Any person eligible for reinstatement as provided in Section 8.08.240, shall pay a
24 reinstatement fee of ~~50% of the annual fee~~ \$190.00 for a body art establishment and \$40.00 for a
25 practitioner permit in addition to any other applicable fees. The Health Director shall not reinstate
26 the permit until the reinstatement fee is paid.

1 Section 5. That Section 8.14.037 of the Lincoln Municipal Code be amended to read
2 as follows:

3 **8.14.037 Fees.**

4 (a) The following fees are required:

5 (1) Plan review for new, remodeled or relocated
6 child care programs ~~\$100.00~~ \$110.00

7 (2) Fee for certificate of compliance (initial or renewal)
8 School-age child care program ~~\$100.00~~ \$110.00

9 All other child care programs:

10 Providing care for less than four hours per day . . ~~\$100.00~~ \$110.00

11 Providing care for four or more hours per day with:

12 50 or less children ~~\$130.00~~ \$140.00

13 51 to 100 children ~~\$155.00~~ \$165.00

14 101 or more children ~~\$185.00~~ \$195.00

15 (The number of children shall be based
16 on licensing capacity, if applicable.)

17 (b) Any person issued a new certificate of compliance after July 31 of each year shall pay
18 67% of the annual fee.

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

22 Section 6. That Section 8.14.150 of the Lincoln Municipal Code be amended to read
23 as follows:

24 **8.14.150 Suspended Certificate of Compliance; Reinstatement Fee.**

25 Any operator eligible for reinstatement as provided in this chapter, shall pay a reinstatement
26 fee of ~~50% of the annual fee~~ \$110.00 in addition to any other applicable fees. The Health Director
27 shall not reinstate the certificate of compliance until the reinstatement fee is paid.

1 Section 7. That Section 8.20.050 of the Lincoln Municipal Code be amended to read
2 as follows:

3 **8.20.050 Sanitation Standards and Regulations Adopted.**

4 The standards and regulations set forth in *Neb. Rev. Stat.* §§ 81-2,239 to 81-2,292, the
5 Nebraska Pure Food Act, as it existed as of ~~July 1, 2007~~ March 8, 2012, "Food Code", are hereby
6 adopted by reference and shall be applicable except where in direct conflict with a specific provision
7 of this chapter or additional sanitation standards and regulations adopted under this chapter.

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

10 **8.20.150 Food Establishment; Permit Fees**

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

- 13 (1) Food Establishment:
 - 14 Food establishment -- new permit ~~\$465.00~~ \$480.00
 - 15 Food establishment -- renewal ~~\$320.00~~ \$330.00
 - 16 Each additional food preparation facility
 - 17 (new or renewal) ~~\$145.00~~ \$150.00
- 18 (2) Mobile Food Unit:
 - 19 New or renewal as additional facility ~~\$145.00~~ \$150.00
- 20 (3) Food Catering Services:
 - 21 Operating as an additional food preparation facility
 - 22 to an approved food establishment:
 - 23 New or renewal ~~\$145.00~~ \$150.00
- 24 (4) Temporary Food Establishment:
 - 25 (a) Operating for a single event not to exceed
 - 26 fourteen consecutive days
 - 27 Temporary food establishment ~~\$130.00~~ \$135.00
 - 28 With a related food establishment \$65.00

1	Nonprofit organization	\$65.00
2	(b) Operating annually for more than one single	
3	event not to exceed fourteen consecutive days	
4	Temporary food establishment	\$400.00 <u>\$410.00</u>
5	Non-Profit Organization	\$200.00 <u>\$205.00</u>
6	(c) Operating as an additional food preparation	
7	facility to an approved food establishment	
8	New or renewal	\$145.00 <u>\$150.00</u>
9	(d) Event Market:	
10	One to five vendors	\$130.00 <u>\$150.00</u>
11	Each additional five vendors	\$130.00 <u>\$150.00</u>
12	(e) Farmers' Market:	
13	Basic Fee	\$ 80.00 <u>\$80.00</u>
14	Plus: Vendor fee for each vendor selling	
15	foods other than fruits, vegetables and products	
16	permitted by the Nebraska Department	
17	of Agriculture	\$ 15.00

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

(c) Fees shall be payable to the Health Director 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.

Section 9. That Section 8.20.170 of the Lincoln Municipal Code be amended to read as follows:

8.20.170 Reinstatement Fee.

Any person eligible for reinstatement as provided within the Lincoln Food Code shall pay a reinstatement fee of ~~50% of the annual fee~~ \$240.00 in addition to any other applicable fees. The Health Director shall not reinstate the permit until the reinstatement fee is paid.

Section 10. That Section 8.24.150 of the Lincoln Municipal Code be amended to read as follows:

1 **8.24.150 Variances.**

2 (a) The health officer shall have the authority to grant an initial variance to the strict
3 application of Section 8.24.090 for a period of not to exceed fifteen calendar days. Any person
4 seeking such a variance shall file an application with the health officer and shall submit a permit fee
5 of ~~\$100.00~~ \$110.00. The application shall contain the information which demonstrates that bringing
6 the source of sound or activity for which the variance is sought into compliance with this ordinance
7 would constitute an unreasonable hardship on the applicant, on the community, or on other persons.

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

13 (c) Any individual who claims to be adversely affected by allowance of any requested
14 extension of a variance may, prior to the end of the two-day period after posting of the property, file
15 a statement with the health officer containing any information to support the claim. If the health
16 officer finds that a sufficient controversy exists regarding an application, a public hearing shall be
17 held. All such hearings shall be held within five days after the period for filing claims under this
18 subsection has ended.

19 In determining whether to grant or deny any application, the health officer shall balance the
20 hardship to the applicant, the community, and other persons of not granting the variance or extension
21 against the adverse impact to the health, safety, and welfare of persons affected, the adverse impact
22 on property affected, and any other adverse impacts of granting the variance or extension.
23 Applicants for variances or extensions and persons contesting extensions may be required to submit
24 any information the health officer may reasonably require. In granting or denying an application,
25 the health officer shall place on public file a copy of the decision and the reasons for denying or
26 granting the variance or extension and the criteria to be considered in deciding whether to grant
27 variances and extensions.

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

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

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

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

23 Section 11. That Section 8.38.090 of the Lincoln Municipal Code be amended to read
24 as follows:

25 **8.38.090 Permit Fees.**

26 (a) There shall be a ~~\$345.00~~ \$355.00 fee for a permit to conduct, operate and maintain a
27 Class A or Class B swimming pool.

1 (b) Any initial swimming pool permit issued after the thirtieth of September of each
2 calendar 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 12. That Section 8.40.070 of the Lincoln Municipal Code be amended to read
8 as 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 ~~\$345.00~~ \$355.00;

13 Additional Spa Pool. ~~\$105.00~~ \$110.00 per spa pool;

14 (2) Spa Facility Co-Located

15 With A Permitted Swimming Pool. ~~\$105.00~~ \$110.00 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 13. That Sections 8.06.145, 8.08.060, 8.08.150, 8.08.350, 8.14.037, 8.14.150,
21 8.20.050, 8.20.150, 8.20.170, 8.24.150, 8.38.090, and 8.40.070 of the Lincoln Municipal Code as
22 hitherto existing be and the same are hereby repealed.

1 Section 10. That this ordinance shall take effect and be in force from and after passage
2 and publication in one issue of a daily or weekly newspaper of general circulation in the City,
3 according to law.

Introduced by:

Approved as to Form & Legality:

City Attorney

Approved this ___ day of _____, 2012:

Mayor