

ORDINANCE NO. _____

1 AN ORDINANCE amending Title 1 of the Lincoln Municipal Code to create a new
2 Chapter 1.28, Reasonable Accommodation.

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

4 Section 1. That Title 1 of the of the Lincoln Municipal Code be amended by adding
5 a new section numbered 1.28.010 to read as follows:

6 **1.28.010 Purpose.**

7 This chapter provides a procedure to request reasonable accommodation for persons with
8 disabilities or handicaps seeking equal access to housing under the Rehabilitation Act, the
9 Americans With Disabilities Act, the Federal Fair Housing Amendments Act and the Nebraska Fair
10 Housing Act (the Acts) in the application of the City of Lincoln’s building codes, fire or safety
11 codes, zoning laws, and other land use regulations, policies and procedures.

12 Section 2. That Title 1 of the of the Lincoln Municipal Code be amended by adding
13 a new section numbered 1.28.020 to read as follows:

14 **1.28.020 Applicability.**

15 A request for reasonable accommodation may be made by any person with a disability or
16 handicap, as defined in the Acts, or by an entity acting on behalf of a person or persons with
17 disabilities or handicaps to provide or secure equal access to housing when the application of a City
18 of Lincoln building code, fire or safety code, zoning law or other land use regulation, policy or
19 practice acts as a barrier to fair housing opportunities. The provisions of this chapter do not apply
20 to the City’s Bureau of Fire Prevention’s application of any code or regulation adopted by the State

1 Fire Marshal pursuant to its delegated authority from the State Fire Marshal. As defined in the Acts,
2 a person with a disability or handicap is a person who has a physical or mental impairment that
3 limits or substantially limits one or more major life activities; anyone who is regarded as having such
4 impairment; or anyone who has a record of such impairment.

5 A request for reasonable accommodation may include a modification or exception to the
6 rules, standards and practices for the construction, siting, development and use of housing or
7 housing-related facilities that would eliminate regulatory barriers and provide a person with a
8 disability or handicap with equal opportunity to housing of their choice. Requests for reasonable
9 accommodation shall be made in the manner prescribed by Section 1.28.030 (Application
10 Requirements).

11 Section 3. That Title 1 of the of the Lincoln Municipal Code be amended by adding
12 a new section numbered 1.28.030 to read as follows:

13 **1.28.030 Application Requirements.**

14 Requests for reasonable accommodation shall be submitted on an application form provided
15 by the City Clerk, or in the form of a letter to the City Clerk, and shall contain the following
16 information:

- 17 (a) The applicant’s name, address and telephone number.
- 18 (b) The street address and legal description or Assessor’s Parcel Number of the
19 property for which the request is being made.
- 20 (c) The current actual use of the property.

1 (d) The basis for the claim that the individual (or group of individuals, if
2 application is made by an entity acting on behalf of a person or persons with disabilities or
3 handicaps) is considered disabled or handicapped under the Acts.

4 (e) The law, provision, regulation or policy from which reasonable
5 accommodation is being requested.

6 (f) Why the requested accommodation is necessary to make the specific property
7 accessible to the individual or group of individuals.

8 Upon the filing of the application for request for reasonable accommodation, the City
9 Council shall refer a request for reasonable accommodation from a zoning law or other land use
10 regulation policy or practice to the Planning Commission. If the request is for reasonable
11 accommodation from a building code, fire code, or safety code, the City Council shall refer the
12 request to the Board of Appeals established under said code to hear appeals of orders, decisions,
13 determinations, made by the code official relative to the application or interpretation of such code.
14 The Planning Commission or such Board of Appeals are hereinafter referred to in this chapter as the
15 Reviewing Authority.

16 Section 4. That Title 1 of the of the Lincoln Municipal Code be amended by adding
17 a new section numbered 1.28.040 to read as follows:

18 **1.28.040 Reviewing Authority and Procedure.**

19 The Reviewing Authority shall hold a public hearing on the request and make a
20 recommendation and report to the City Council within 45 days from the date of referral regarding
21 granting, granting with modifications, or denying the request for reasonable accommodation in
22 accordance with Section 1.28.050 (Findings and Decision). Failure of the Reviewing Authority to

1 submit its report and recommendation to the City Council within said 45 days shall be deemed to
2 be a recommendation of approval, unless the delay is at the request of or due to the default of the
3 applicant.

4 Section 5. That Title 1 of the of the Lincoln Municipal Code be amended by adding
5 a new section numbered 1.28.050 to read as follows:

6 **1.28.050 Findings and Decision.**

7 Upon receiving the report from the Reviewing Authority or upon failure of the Reviewing
8 Authority to timely submit its report, the City Council after public hearing shall take final action
9 upon the application and may grant, grant with modifications, or deny the request for reasonable
10 accommodation consistent with the Acts and based upon consideration of the following:

11 (1) Whether the housing which is the subject of the request will be used by an
12 individual or a group of individuals considered disabled or handicapped under the Acts, and that the
13 accommodation requested is necessary to make specific housing available to the individual or group
14 of individuals with a disability or handicap under the Acts.

15 (2) Whether there are alternative reasonable accommodations available that would
16 provide an equivalent level of benefit, or if alternative accommodations would be suitable based on
17 the circumstances of this particular case.

18 (3) Whether the requested reasonable accommodation would impose an undue
19 financial or administrative burden on the City.

20 (4) If applicable, whether the requested reasonable accommodation would be
21 consistent with the Comprehensive Plan land use designation of the property which is the subject

1 of the reasonable accommodation request, and with the general purpose and intent of the zoning
2 district in which the use is located.

3 (5) Whether the requested reasonable accommodation substantially affects the
4 physical attributes of the property.

5 In granting a request for reasonable accommodation, the City may impose any conditions of
6 approval deemed reasonable and necessary to ensure that the reasonable accommodation would
7 comply with the findings required above.

8 Section 6. That Title 1 of the of the Lincoln Municipal Code be amended by adding
9 a new section numbered 1.28.060 to read as follows:

10 **1.28.060 Notice of Request for Reasonable Accommodation.**

11 For public hearings required to be held by the Reviewing Authority and the City Council,
12 notice shall be given as provided in Lincoln Municipal Code Section 27.81.050, subsections (a), (b),
13 and (c); provided that no recommendation of the Reviewing Authority or decision of the City
14 Council shall be void or invalidated or effected in any way, for any irregularity, defect, error, or
15 failure on the part of the City Clerk to cause notice to be given as required in Section 27.81.050(c).

16 It shall not be necessary to give further notice of adjourned or continued public hearings.

17 Section 7. That Sections 1 through 6 of this ordinance be codified in the Lincoln
18 Municipal Code as Chapter 1.28, Reasonable Accommodation.

19 Section 8. That this ordinance shall take effect and be in force from and after its
20 passage and publication according to law.

Introduced by:

Approved as to Form & Legality:

City Attorney

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Approved this ___ day of _____, 2005:

Mayor