

ORDINANCE NO. _____

1 AN ORDINANCE amending Chapter 24.38 of the Lincoln Municipal Code relating
2 to On-site Wastewater Treatment Systems by amending Section 24.38.020 to add definitions for
3 “certified professional,” “development area,” “inspector,” “layout specialist,” “registered
4 environmental health specialist,” “site evaluator,” and “soil evaluator,” and to amend the definitions
5 of “journeyman installer” and “master installer”; amending Section 24.38.041 to provide only master
6 installers or journeyman installers may construct on-site wastewater treatment systems; repealing
7 Section 24.38.042 regarding installation by homeowners; amending Sections 24.38.043,
8 Registration, Application; 24.38.044, Registration Requirements; and 24.38.045, Certification of
9 Registration and Revocation, to include “certified professionals” in the conditions and provisions
10 of those sections; amending Section 24.38.070 to provide a maximum combined base fee and per
11 lot fee of \$1,000; and repealing Sections 24.38.020, 24.38.041, 24.38.043, 24.38.044, 24.38.045, and
12 24.38.070 of the Lincoln Municipal Code as hitherto existing.

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

14 Section 1. That Section 24.38.020 of the Lincoln Municipal Code be amended to
15 read as follows:

16 **24.38.020 Definitions.**

17 Certified professional shall mean a private onsite wastewater treatment system professional
18 certified under the Nebraska Private Onsite Wastewater Treatment System Contractors Certification
19 and System Registration Act to perform the tasks for which the certification has been issued.

1 **Chemical toilet** shall mean a portable structure containing toilet facilities which discharge
2 into a holding tank containing bactericidal liquid.

3 **Cleaner** shall mean a person who removes and transports for disposal the contents, including
4 sludge and septage, from on-site wastewater treatment systems, wastewater lagoons, or wastewater
5 works as defined hereinafter or who hauls special or industrial wastes of a liquid nature or of a
6 nature that it can be pumped.

7 **Community sewage system** shall mean a wastewater works.

8 **Department** shall mean the Lincoln-Lancaster County Health Department.

9 **Development area** shall mean an area of land subdivided into lots where an on-site
10 wastewater treatment system will be used. Such subdivision shall include the dividing of an area
11 of land into smaller areas to be sold, transferred, leased, rented, or allowed to be used for the purpose
12 of constructing or locating a dwelling, establishment, or other development feature that generates
13 wastewater.

14 **Domestic wastewater** shall mean human body waste and household type wastes including
15 bath and toilet wastes, laundry wastes, kitchen wastes, and other similar wastes from dwellings and
16 establishments.

17 **Ground water** shall mean water occurring beneath the surface of the ground that fills
18 available openings in rock or soil materials such that they may be considered saturated.

19 **Health Director** shall mean the Director of Health of the Lincoln-Lancaster County Health
20 Department or his or her authorized representative.

1 **Industrial wastes** shall mean wastewater not otherwise defined as domestic wastewater,
2 including the runoff and leachate from areas that received pollutants associated with industrial or
3 commercial storage, handling or processing.

4 **Inspector** shall mean a certified professional holding a certificate issued by the Nebraska
5 Department of Environmental Quality in the category of Inspector Specialist and is validly registered
6 as a Inspector, pursuant to Section 24.38.044.

7 **Journeyman Installer** shall mean any person who is a certified professional holding a
8 certificate issued by the Nebraska Department of Environmental Quality in the category of
9 Journeyman Installer and is validly registered as a Journeyman Installer, pursuant to Section
10 24.38.044 and who is employed by and works under the general supervision of a Master Installer.

11 **Layout Specialist** shall mean a certified professional holding a certificate issued by the
12 Nebraska Department of Environmental Quality in the category of Layout Specialist and is validly
13 registered as a Layout Specialist, pursuant to Section 24.38.044.

14 **Lot** shall have the same definition of the term "lot" as set forth in Section 27.03.360 of the
15 Lincoln Municipal Code.

16 **Master Installer** shall mean any person who is a certified professional holding a certificate
17 issued by the Nebraska Department of Environmental Quality in the category of Master Installer and
18 is validly registered as a Master Installer, pursuant to Section 24.38.044.

19 **Non-standard on-site wastewater treatment system** shall mean a system which does not
20 meet the requirements of design standards adopted pursuant to this chapter or generates over 1,000
21 gallons per day.

1 **On-site wastewater treatment system** shall mean any system of piping, treatment devices,
2 or other appurtenances that convey, store, treat, or dispose of wastewater on the property where it
3 originates, or on nearby property under the control of the user, where the system is not connected
4 to a wastewater works. All systems are limited to a maximum size of 1000 gallons per day to be
5 considered an on-site wastewater treatment system.

6 **Person** shall mean an individual, firm, partnership, company, corporation, trustee,
7 association, organization, or other public or private entity.

8 **Privy or earth pit privy** shall mean a device or structure for the disposal of human excreta
9 in a pit in the earth; the pit is covered by a structure affording privacy and shelter and containing a
10 riser and seat.

11 **Professional Engineer** shall mean a person licensed by the State of Nebraska as a
12 Professional Engineer.

13 **Registered Environmental Health Specialist** shall mean a person who has the educational
14 requirements and experience in the field of environmental sanitation required by Nebraska Revised
15 Statues 71-3703 and is registered with the Nebraska Board of Registration for Environmental Health
16 Specialists in accordance with Nebraska Revised Statues 71-3702 through 71-3715.

17 **Septage** shall mean those solids and liquids removed during periodic cleaning of a septic
18 tank.

19 **Septic tank** shall mean a watertight covered receptacle designed and constructed to receive
20 wastewater from a building sewer, separate solids from liquids, digest organic matter, store digested
21 solids through a period of detention, and allow the clarified liquid to discharge to a soil absorption
22 system or other approved system.

1 Site Evaluator shall mean a certified professional holding a certificate issued by the
2 Nebraska Department of Environmental Quality in the category of Site Evaluator Specialist and is
3 validly registered as a Site Evaluator, pursuant to Section 24.38.044.

4 Soil Evaluator shall mean a certified professional holding a certificate issued by the
5 Nebraska Department of Environmental Quality in the category of Soil Evaluator Specialist and is
6 validly registered as a Soil Evaluator, pursuant to Section 24.38.044.

7 **Sludge** shall mean the accumulated settled solids deposited from wastewater and containing
8 water to form a semi-liquid mass.

9 **Standard on-site wastewater treatment system** shall mean a system which meets the
10 requirements of this chapter and design standards adopted pursuant to this chapter.

11 **Three-mile zone** shall mean that area within three miles of the corporate limits of the City
12 of Lincoln.

13 **Wastewater lagoon** shall mean a shallow body of water in which organic wastes are
14 decomposed by bacteria in the presence of free oxygen.

15 **Wastewater works** shall mean facilities for collecting, transporting, pumping and treating
16 wastewater and the disposal of treated effluent and sludges.

17 **Waters of the state** shall mean all waters within the jurisdiction of this state, including all
18 streams, lakes, ponds, impounding reservoirs, marshes, wetlands, water courses, waterways, wells,
19 springs, irrigation systems, drainage systems and all other bodies or accumulations of water, surface
20 or underground natural or artificial, public or private, situated wholly or partly within or bordering
21 upon the state.

1 Section 2. That Section 24.38.041 of the Lincoln Municipal Code be amended to
2 read as follows:

3 **24.38.041 Requirements for Certification to Construct On-site Wastewater Treatment**
4 **System.**

5 After October 1, 2002, it shall be unlawful for any person other than a registered Master
6 Installer, or a registered Journeyman Installer, ~~or homeowner meeting the criterion set forth in~~
7 ~~Section 24.38.042 herein~~, to construct any on-site wastewater treatment system or similar waste
8 treatment, holding, or disposal facility; or replace tanks, soil absorption, infiltrative or evaporative
9 systems; to cause the same to be done. No such work shall be performed unless a registered Master
10 Installer or Journeyman Installer is present on-site ~~with the exception of the homeowner meeting the~~
11 ~~criterion set forth in Section 24.38.042 herein.~~

12 Section 3. That Section 24.38.042 of the Lincoln Municipal Code be and the same
13 is hereby repealed.

14 ~~**24.38.042 Installation by Homeowner.**~~

15 ~~After October 1, 2002, homeowners may install and maintain an on-site wastewater treatment~~
16 ~~system or similar waste treatment, holding or disposal facility only in a single family residence~~
17 ~~which they occupy or will occupy as their own home. All equipment installed by homeowners shall~~
18 ~~be for themselves without compensation or pay from or to any other person for such labor or~~
19 ~~installation. Such installation by homeowners shall comply with the requirements of this code,~~
20 ~~including the requirements to apply for and secure a permit, pay fees, and comply with inspection~~
21 ~~requirements.~~

22 Section 4. That Section 24.38.043 of the Lincoln Municipal Code be amended to
23 read as follows:

1 **24.38.043 Registration of ~~Master and Journeyman Installers~~ Certified Professionals;**
2 **Application.**

3 After October 1, 2002, application for a certificate of registration of a Master Installer, ~~and~~
4 Journeyman Installer, Inspector, Layout Specialist, Site Evaluator, or Soil Evaluator shall be made
5 to the Health Director on forms furnished by the Health Director for such purpose. Such forms shall
6 require the name, address, business address, daytime phone number of the applicant, which
7 certificate of registration the applicant is applying for, and such other relevant information as may
8 be required by the Health Director. The applicant shall complete the required forms.

9 Section 5. That Section 24.38.044 of the Lincoln Municipal Code be amended to
10 read as follows:

11 **24.38.044 Registration of ~~Master and Journeyman Installers~~ Certified Professionals;**
12 **Requirements.**

13 (a) Before a registration certificate shall be issued, the applicant, after October 1, 2002,
14 shall be required to satisfactorily complete a training and testing program approved by the Health
15 Director to determine their qualifications and fitness for executing the work necessary for ~~either a~~
16 Master Installer, ~~or~~ Journeyman Installer, Inspector, Layout Specialist, Site Evaluator, or Soil
17 Evaluator. The Health Director shall issue a registration certificate if:

- 18 (1) The applicant has properly completed the required application forms;
- 19 (2) The registration fee has been paid pursuant to Section 24.38.070;
- 20 (3) The training and testing program has been satisfactorily completed;
- 21 (4) The applicant agrees to up-date all pertinent registration data as it changes,
22 including applicant's address, business address, daytime phone number, and such other information
23 as the Health Director requires.

1 (b) Once issued, said registration certificate shall remain in force for ~~three~~ two years
2 from its date of issue, except that the certificate may be revoked as provided for in Section
3 24.38.045. ~~Registrations at the time of their expiration may be renewed without an examination~~
4 ~~upon completion of continuing education as approved or provided by the Health Department and~~
5 ~~payment of the registration fee as provided in Section 24.38.070. Registered Master Installers and~~
6 ~~Journeyman Installers who do not renew their registration prior to or on the date of expiration shall~~
7 ~~be required to submit to and re-apply for a certificate and pass a written examination and pay the~~
8 ~~registration fee provided in Section 24.38.070, prior to renewal.~~

9 Section 6. That Section 24.38.045 of the Lincoln Municipal Code be amended to
10 read as follows:

11 **24.38.045 Certification of ~~Master and Journeyman Installers~~ Registration; Revocation.**

12 (a) The Health Director, after conducting a hearing as herein provided, shall have the
13 power to revoke the certificate of registration of a Master Installer, ~~or~~ Journeyman Installer,
14 Inspector, Layout Specialist, Site Evaluator, or Soil Evaluator registered pursuant to this title if the
15 same was obtained by error or fraud, or if the holder thereof is shown to be no longer qualified, or
16 if such holder fails to comply with the provisions of law.

17 (b) Where the Health Director has reason to believe a revocation of a registered Master
18 Installer, or Journeyman Installer's, Inspector, Layout Specialist, Site Evaluator, or Soil Evaluator
19 certificate of registration is warranted, the Health Director may serve written notice as follows:

- 20 (1) By personal service to the registrant installer, or
21 (2) By certified mail, postage prepaid, return receipt requested to the registrant'
22 s last known business address.

1 (c) The person making personal service may provide a written declaration under penalty
2 or perjury identifying the person served and the time, date and manner of service as proof of service.

3 (d) The notice shall set forth a time, place and date for said hearing before the Health
4 Director and shall identify the facts alleged to constitute revocation of the certificate of registration

5 (e) The Health Director shall conduct hearings within ten days of the date of notice.

6 (f) The Health Director may appoint a suitable hearing officer to hear the matter. Such
7 hearing officer shall make recommendations based on the evidence adduced at the hearing for the
8 Health Director's final determination of the matter.

9 (g) The hearing need not be conducted according to the technical rules of evidence
10 relating to evidence and witnesses. At such hearing, the Health Director and all parties concerned
11 may:

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

14 (2) Introduce documentary and physical evidence;

15 (3) Cross-examine opposing witnesses on any matters relevant to the issues of
16 the hearing; and

17 (4) Rebut evidence.

18 The Health Director shall, within ten days after the hearing, render a final written decision,
19 setting forth his or her findings and conclusions. If a certificate is revoked, holder of the same shall
20 not apply for a new registration until one year after the date of such revocation. Decisions of the
21 Health Director are final and may be appealed to the District Court as provided by state law.

1 Section 7. That Section 24.38.070 of the Lincoln Municipal Code be amended to
2 read as follows:

3 **24.38.070 Fees.**

4 The following fees for permits are required:

- 5 (a) On-site wastewater treatment system construction permit fee:
- 6 Standard System \$275.00
- 7 Non-standard System \$400.00
- 8 (b) On-site wastewater treatment system repair permit fee \$150.00
- 9 (c) Non-standard on-site wastewater treatment system
- 10 annual operating permit fee \$ 40.00
- 11 (d) Cleaner’s permit fee (annual) \$320.00
- 12 This permit is issued on an annual basis, expires on
- 13 May 31 of each year, and is renewable on payment of
- 14 the annual fee and demonstrated compliance with the
- 15 requirements of this chapter.
- 16 (e) Any person who secures a registration certificate pursuant
- 17 to this chapter shall pay the following respective fee:
- 18 Master Installer \$ 20.00
- 19 Journeyman Installer \$ 20.00
- 20 Layout Specialist \$ 20.00
- 21 Site Evaluator \$ 20.00
- 22 Soil Evaluator \$ 20.00
- 23 Multiple category \$ 20.00
- 24 (f) Permit Extension Fee \$ 70.00
- 25 (g) Variance Fee \$150.00
- 26 (h) Reinstatement Fee \$150.00
- 27 (i) Development area review fees
- 28 A base fee and a per lot fee shall be paid for Health
- 29 Director review of any development area as follows:
- 30 Base fee \$275.00
- 31 Per lot fee \$ ~~25.00~~ 10.00
- 32 Maximum combined base fee and per lot fee \$1,000.00

1 (j) All fees are payable to the City of Lincoln and shall be credited to the Health Fund.
2 No fees will be refunded.

3 Section 8. That Sections 24.38.020, 24.38.041, 24.38.043, 24.38.044, 24.38.045, and
4 24.38.070 of the Lincoln Municipal Code as hitherto existing be and the same are hereby repealed.

5 Section 9. That this ordinance shall take effect and be in force from and after its
6 passage and publication according to law.

Introduced by:

Approved as to Form & Legality:

City Attorney

Approved this ___ day of _____, 2005:

Mayor