

ORDINANCE NO. _____

1 AN ORDINANCE amending Chapter 19.03 of the Lincoln Municipal Code relating to the
2 Fire Code, Chapter 20.04 relating to the Dangerous Building Code, Chapter 24.05 relating to the Gas
3 Piping Code, and Chapter 24.10 relating to the Lincoln Plumbing Code, by amending Section
4 19.03.120 to provide for staggered three-year terms for members of the Fire Code Board of
5 Appeals; amending Section 24.04.030 to provide for staggered three-year terms for members of the
6 Dangerous Buildings Code Board of Appeals; amending Section 24.05.240 to clarify that the three-
7 year terms of the Gas Piping Code Examining Board members are to be staggered terms; amending
8 Section 24.10.035 to provide for staggered three-year terms for members of the Plumbing Code
9 Board of Appeals; and repealing Sections 19.03.120, 20.04.030, 24.05.240, and 24.10.035 of the
10 Lincoln Municipal Code as hitherto existing.

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

12 Section 1. That Section 19.03.120 of the Lincoln Municipal Code be amended to read
13 as follows:

14 **19.03.120 Section 108 Amended; Board of Appeals.**

15 Section 108 of the International Fire Code is amended to read as follows:

16 **Section 108. Board of Appeals.** (a) Board of Appeals Created. In order to hear and decide
17 appeals of orders, decisions and determinations made by the code official relative to the application
18 and interpretation of this code, including but not limited to the suitability of alternate materials and
19 type of construction, there shall be and hereby is created a board of appeals, consisting of five
20 members who are qualified by experience and training to pass on pertinent matters. The code
21 official shall be an ex officio member and shall act as secretary of the board but shall have no vote
22 on any matter before the board. The board of appeals shall be appointed by the mayor and shall **hold**

1 ~~office at the mayor's pleasure~~ serve staggered terms of three years. The board shall adopt reasonable
2 rules and regulations for conducting its investigation and shall render all decisions and findings in
3 writing to the code official with a duplicate copy to the appellant and may recommend to the city
4 council such new legislation as is consistent therewith.

5 (b) Appeals to Board. Any person who is aggrieved by any order, decision or
6 determination of the code official relating to the application or interpretation of any provisions of
7 this code or to the suitability of alternate materials or methods of construction, may appeal such
8 decision by filing an appeal on forms furnished by the code official within thirty days from the date
9 of such decision. The filing of a completed appeals form, along with the payment of the prescribed
10 fee, shall be sufficient for the purpose of commencing an appeal proceeding hereunder.

11 (c) Filing Fees. The fee for each appeal filed with the code official shall be as follows:

12 (1) \$250.00 filing fee for review of a decision of the code official involving an
13 interpretation of any provisions of this code;

14 (2) \$250.00 filing fee for review of a decision of the code official relating to the
15 suitability of alternate materials or methods of construction.

16 (d) Hearing Date. The code official shall refer all properly and timely filed appeals to
17 the board of appeals for hearing. The secretary of said board shall in each appeal notify the appel-
18 lant in writing of the date, time, and place of hearing before the board, which date shall be no later
19 than thirty days from the filing of the appeal. Such notice shall be served upon the applicant by
20 personal service or registered mail.

21 (e) Hearing Procedure. Hearings on appeal need not be conducted according to technical
22 rules relating to evidence and witnesses. Oral evidence shall be taken only on oath or affirmation.
23 Any relevant evidence shall be admitted if it is the type of evidence upon which responsible persons
24 are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common
25 law or statutory rule which may make improper the admission of such evidence over objection in
26 civil actions in courts of competent jurisdiction in this state. Irrelevant and unduly repetitious
27 evidence shall be excluded. The appellant, the code official, and any other party to an appeal
28 hereunder shall have these rights, among others:

29 (1) To call and examine witnesses on any matter relevant to the issues of the
30 hearing;

31 (2) To introduce documentary and physical evidence;

32 (3) To cross-examine opposing witnesses on any matter relevant to the issues of
33 the hearing; and

34 (4) To rebut the evidence against him or her.

35 (f) Decision of Board. The board of appeals shall, within fifteen days after the hearing,
36 render a written decision which shall state its findings and conclusions. Decisions of the board may
37 be appealed as provided by law.

38 (g) Enforcement. Enforcement of any decision, notice, or order of the code official
39 issued under this code shall be stayed during the pendency of an appeal therefrom which is properly
40 and timely filed, except in cases of emergency, where enforcement of the same is necessary for the
41 protection of life, limb, or property.

1 Section 2. That Section 20.04.030 of the Lincoln Municipal Code be amended to
2 read as follows:

3 **20.04.030 Section 205.1 Amended; Board of Appeals; General.**

4 Section 205.1 of the Uniform Code for the Abatement of Dangerous Buildings is hereby
5 amended to read as follows:

6 **Section 205.1. Board of Appeals; General.** In order to provide for final interpretation of
7 the provisions of this code and to hear appeals provided for hereunder, there is hereby established
8 a Dangerous Buildings Code Board of Appeals consisting of three members who are not employees
9 of the city. The Building Official shall be an ex officio member of and shall act as secretary to said
10 board. Members of the board shall be appointed by the Mayor and shall serve ~~at the Mayor's~~
11 pleasure staggered terms of three years. The board may adopt reasonable rules and regulations for
12 the conduct of its business and shall render all decisions and findings in writing to any appellant
13 with a copy to the Building Official. Appeals to the board shall be processed in accordance with the
14 provisions contained in Section 501 of this code. Copies of all rules or regulations adopted by the
15 board shall be delivered to the Building Official who shall make them freely accessible to the public.

16 Section 3. That Section 24.05.240 of the Lincoln Municipal Code be amended to
17 read as follows:

18 **24.05.240 Examining Board.**

19 There is hereby created an examining board to examine the qualifications of applicants
20 desiring to be registered as a master or journeyman gas fitter. Such examining board shall consist
21 of the Chief Plumbing Inspector of the city, two master gas fitters, a natural gas supplier, a propane
22 gas industry representative, and a registered mechanical engineer. The two master gas fitters, the
23 natural gas supplier, the propane gas supplier, and the registered mechanical engineer shall be

1 appointed by the Mayor with City Council approval to serve on the examining board for ~~a term~~
2 staggered terms of three years and shall serve without pay. The Chief Plumbing Inspector shall be
3 the permanent secretary of the examining board and shall keep a record of all meetings.

4 Section 4. That Section 24.10.035 of the Lincoln Municipal Code be amended to
5 read as follows:

6 **24.10.035 Section 105.0 Added; Plumbing Board of Appeals.**

7 Section 105.0 is added to the Uniform Plumbing Code to read as follows:

8 **105.0 Plumbing Board of Appeals**

9 **105.1 Creation.** In order to review determinations of the Administrative Authority as to
10 the suitability of alternate materials and types of installation and in order to review interpretations
11 of the provisions of this code by the Administrative Authority, there is hereby created and
12 established a Plumbing Code Board of Appeals consisting of five members who shall be qualified
13 by experience and training to pass upon matters pertaining to plumbing and drainage work. Two
14 members shall be master plumber contractors registered with the City of Lincoln. The
15 Administrative Authority shall be ex officio member and shall act as Secretary of this Board. The
16 five members of the Appeals Board shall be appointed by the Mayor and shall ~~hold office at his or~~
17 her pleasure serve staggered terms of three years without pay. The Board may adopt reasonable rules
18 and regulations for the conduct of its investigations and shall render all decisions and findings in
19 writing to the Administrative Authority with a duplicate copy to the person appealing to it.

20 **105.2 Filing Fees.** (a) Any person who is aggrieved by any decision, notice or order of the
21 Administrative Authority relating to the suitability of alternate materials and types of installation
22 and interpretation of any provision of this code may obtain review of such decision upon filing a
23 written request for review by the Plumbing Code Board of Appeals in the office of the
24 Administrative Authority within thirty days from the date of such decision and payment of a filing
25 fee as provided below:

1 (1) A two hundred forty dollar (\$240.00) fee for review of a decision of the
2 Administrative Authority interpreting any provision or provisions of this code;

3 (2) A two hundred forty dollar (\$240.00) fee for review of a decision of the
4 Administrative Authority concerning the suitability of alternate materials or type of installation.

5 (b) The Administrative Authority shall refer all properly and timely filed appeals to the
6 Plumbing Code Board of Appeals for hearing. The secretary of said board shall in each appeal
7 notify the appellant in writing of the date, time, and place of hearing before the board, which date
8 shall be no later than thirty days from the filing of the appeal. Such notice shall be served upon the
9 appellant by personal service or certified mail.

10 (c) Hearings on appeal need not be conducted according to technical rules relating to
11 evidence and witnesses. Oral evidence shall be taken only on oath or affirmation. Any relevant
12 evidence shall be admitted if it is the type of evidence upon which responsible persons are
13 accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law
14 or statutory rule which may make improper the admission of such evidence over objection in civil
15 actions in courts of competent jurisdiction in this state. Irrelevant and unduly repetitious evidence
16 shall be excluded. The appellant, the board members, the Administrative Authority, and any other
17 party to an appeal hereunder shall have these rights, among others:

18 (1) To call and examine witnesses on any matter relevant to the issues of the
19 hearing:

20 (2) To introduce documentary and physical evidence;

21 (3) To cross-examine opposing witnesses on any matter relevant to the issues of
22 the hearing; and

23 (4) To rebut evidence.

24 (d) The Plumbing Code Board of Appeals shall then within a reasonable time after the
25 hearing render a written decision which shall state its findings and conclusions. Decisions of the
26 Plumbing Code Board of Appeals may be appealed as provided by law.

27 (e) Enforcement of any decision, notice, or order of the Administrative Authority issued
28 under this code shall be stayed during the pendency of an appeal therefrom which is properly and
29 timely filed, except in cases of emergency, where enforcement of the same is necessary for the
30 protection of persons or property.

31 Section 5. That Sections 19.03.120, 20.04.030, 24.05.240, and 24.10.035 of the
32 Lincoln Municipal Code as hitherto existing be and the same are hereby repealed.

33 Section 6. Pursuant to Article VII, Section 7 of the City Charter, this ordinance shall
34 be posted on the official bulletin board of the City, located on the wall across from the City Clerk's
35 office at 555 S. 10th Street, in lieu of and in place of newspaper publication with notice of passage
36 and such posting to be given by publication one time in the official newspaper by the City Clerk.

1 This ordinance shall take effect and be in force from and after its passage and publication as herein
2 and in the City Charter provided.

Introduced by:

Approved as to Form & Legality:

City Attorney

Approved this ___ day of _____, 2013:

Mayor