

ORDINANCE NO. _____

T E C H N I C A L A M E N D M E N T S

1 AN ORDINANCE amending Chapter 2.02 of the Lincoln Municipal Code relating to
 2 Governmental Organization, Chapter 2.35 relating to the Public Works and Utilities Department,
 3 Chapter 2.76 relating to the Personnel System, Chapter 5.36 relating to Peddlers, Chapter 27.02
 4 relating to Zoning General Definitions, Chapter 27.70 relating to Zoning Additional Use
 5 Regulations, Chapter 27.72 relating to Zoning Height and Lot Regulations, Chapter 27.83 relating
 6 to Build Through Acreage Overlay District and Chapter 28.01 relating to Regulations for
 7 Construction Site Discharges by amending Sections 2.02.130 and 2.35.035 to reflect changes in the
 8 designations of divisions, operations and functions of the Public Works and Utilities Department;
 9 amending Section 2.35.030 to gender-neutralize that section; amending Section 2.76.365 to reflect
 10 a change in terminology from fireman to firefighter; amending Section 5.36.040 to reflect a change
 11 in terminology in processing peddler permits; amending Section 27.02.200 by correcting Code
 12 references in definitions; amending Sections 27.70.060 and 27.72.140 to revise obsolete policy
 13 references to refer to the City of Lincoln Access Management Policy; amending Section 27.83.020
 14 to refer to the most current Lincoln/Lancaster County Comprehensive Plan; amending Section
 15 28.01.060 to clarify Stormwater Activity Pollution Prevention Plan requirements; and repealing
 16 Sections 2.02.130, 2.35.030, 2.35.035, 2.76.365, 5.36.040, 27.02.200, 27.70.060, 27.72.140,
 17 27.83.020 and 28.01.060 of the Lincoln Municipal Code as hitherto existing.

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

19 Section 1. That Section 2.02.130 of the Lincoln Municipal Code be amended to read
 20 as follows:

21 **2.02.130 Public Works and Utilities Department.**

22 Under the direction and supervision of the Mayor, the Director of Public Works and Utilities
 23 shall have charge and supervision of the Department of Public Works and Utilities which shall
 24 include the following divisions, operations, and functions: City Engineering, Street Maintenance,

1 Traffic ~~Engineering~~ Operations, Lincoln Water System, Lincoln Wastewater System, ~~sanitary~~
2 ~~landfills, storm sewers, recycling operations, operation of City parking lots and garages~~ Solid Waste
3 Management and Recycling Operations, Watershed Management; and all officers, employees,
4 accounts, and records, and all plants, buildings, equipment, machinery, wells, mains, lines, and prop-
5 erty, both real and personal, pertaining thereto. The Director of Public Works and Utilities shall also
6 have such other and additional duties as may be provided by the Mayor or by the City Council
7 consistent with the Charter of the City of Lincoln.

8 Section 2. That Section 2.35.030 of the Lincoln Municipal Code be amended to read
9 as follows:

10 **2.35.030 Surveys and Estimates.**

11 The Director of Public Works and Utilities shall make surveys of all streets, sidewalks,
12 alleys, lanes, marketspaces, public grounds, sewers and drains of the City, calculate and ascertain
13 the grade-lines and levels thereof, and execute and record such plans, charts, profiles, drafts,
14 estimates, and calculations, as shall be necessary for a complete record and history thereof, and of
15 the changes and improvements made therein from time to time. The Director of Public Works and
16 Utilities shall make such surveys, plans, drafts, and estimates of public works and improvements as
17 may be required of ~~him~~ the Director by the City Council, or City Attorney, for prosecuting or de-
18 fending any action in which the City is interested.

19 Section 3. That Section 2.35.035 of the Lincoln Municipal Code be amended to read
20 as follows:

21 **2.35.035 Utility Operations.**

22 The Director of Public Works and Utilities shall have general control and supervision over
23 the planning, design, construction, operation, maintenance, repair, extension, and replacement of all
24 public utilities owned or operated by the City of Lincoln, including the Lincoln Water System, the
25 Lincoln Wastewater System, ~~sanitary landfill operations, and storm sewer systems~~ Solid Waste
26 Management and Recycling Operations and Lincoln Storm Drainage System, but excluding the
27 Lincoln Electric System. The Director of Public Works and Utilities shall be responsible for all

1 future planning and development (in conformance with the Comprehensive Plan), fiscal planning,
2 project development, and design and construction engineering relating to such utilities.

3 Section 4. That Section 2.76.365 of the Lincoln Municipal Code be amended to read
4 as follows:

5 **2.76.365 Hours of Work.**

6 (a) Regular working hours for all full-time employees shall be forty hours each week,
7 which shall be the standard work week unless otherwise provided by departmental regulation
8 approved by the Mayor and except for ~~firemen~~ firefighters, whose hours of duty are prescribed by
9 Neb. Rev. Stat. §35-302 (Reissue 1988), and amendments thereto.

10 (b) Generally, eight hours shall constitute a regular work day for nonshift workers and
11 forty hours or five days shall constitute a regular work week. This does not mean that all employees
12 can be given a five-day week or an eight-hour day from 8:00 a.m. to 4:30 p.m. with one-half hour
13 for lunch. In order to obtain the most efficient operation and give the best possible service, it may
14 be necessary in some classifications for an employee to work forty hours in more or less than five
15 days by working more or less than eight hours per day or those working eight hours per day may be
16 required to start the day some time other than 8:00 a.m.

17 (c) Eight hours per day shall constitute a regular work day for shift workers and forty
18 hours including Saturday, Sunday, and holidays shall constitute a regular work week. The hours
19 worked per day and the days worked per week shall be consecutive as nearly as practicable. Shift
20 schedules shall be posted or copies distributed to the employees as far in advance as possible.

21 (d) There shall be allowed one fifteen-minute rest period during each one-half shift of
22 the work day. The rest period shall be scheduled at the approximate middle of each one-half shift.
23 Employees who for any reason work beyond their regular quitting time into the next shift shall be
24 granted the regular rest periods that occur during the shift.

25 (e) A regular employee with a pay range prefixed by "E" who is eligible to retire may
26 elect with the Department Head's approval an alternative schedule as follows: the employee may
27 elect to reduce, on a permanent basis, their hours from 40 to 36 per week or from 40 to 32 hours per
28 week. Employees who request and are granted these hours will continue to earn vacation sick leave
29 the same as if they were full-time.

30 (f) A regular employee with a pay range prefixed by "X" who is eligible to retire may
31 elect with the Department Head's approval an alternative schedule as follows: the employee may
32 elect to reduce, on a permanent basis, their hours from 40 to 32 hours per week. Employees who
33 request and are granted these hours will continue to earn vacation and sick leave the same as if they
34 were full-time.

35 Section 5. That Section 5.36.040 of the Lincoln Municipal Code be amended to read
36 as follows:

1 **5.36.040 Investigation and Issuance.**

2 (a) Upon receipt of an application as described in Section 5.36.030, the original shall be
3 referred to the Chief of Police, who shall cause an investigation of the statements contained within
4 the application to be made to determine if the same be true and correct.

5 (b) If, as a result of such investigation, the Chief of Police finds that the statements
6 within the application are materially untrue or incorrect, or if it is found that the applicant has been
7 convicted within the past ten years of a felony or a crime involving moral turpitude, the Chief of
8 Police shall disapprove such application in writing and provide the reasons for the same, and return
9 said application to the City Clerk, who shall notify the applicant that the application is ~~disapproved~~
10 denied and that no permit will be issued.

11 (c) If, as a result of such investigation, the statements contained in the application are
12 found to be true and correct, and the applicant has not been convicted within the past ten years of
13 any felony or any crime involving moral turpitude, the Chief of Police shall approve the application
14 in writing, and shall return the said application to the City Clerk for issuance of the permit.

15 The permit shall contain the signature and seal of the issuing officer and shall show the name
16 and address of the permittee and the kind of goods to be sold thereunder, or services to be furnished
17 or performed, the date of issuance, and the length of time the same shall be operative. The Clerk
18 shall keep a permanent record of all permits issued.

19 Section 6. That Section 27.02.200 of the Lincoln Municipal Code be amended to
20 read as follows:

21 **27.02.200 S.**

22 **Salvage Material.** See definition in Chapter 5.41.

23 **Salvage Operation and Salvage Material.** See definition in Chapter 5.41.

24 **Salvage Yard.** Salvage yard shall mean any salvage operation, recycling center, or recycling
25 processing center where any wrecking, dismantling, or holding of salvage material or recycling of
26 recyclables as defined in Chapter 5.41 is wholly or partially outside a building for more than 30
27 days.

28 **Satellite College.** Satellite college shall mean a post-secondary educational institution whose
29 main campus is located on another premises or in another city. Uses consist primarily of classrooms
30 and offices. Student housing is not considered customary or accessory.

31 **School.** School shall mean an institution where instruction is given and shall include the
32 following institutions: Academies, Private College, Private School, Satellite College, Vocational
33 Schools.

34 **Service and Repair Facility.** Service and/or Repair Facility shall mean a facility that
35 performs routine maintenance or repair work. Such facilities would include but not be limited to
36 repair and maintenance of home and office equipment, electrical appliances, radios, televisions, lawn

1 and garden equipment repair, appliance, bicycle, electrical, furnace shops, and rental equipment.
2 Service and repair facility does not include the service or repair of motorized vehicles.

3 **Sexually Oriented Live Entertainment Establishment.** Sexually oriented live entertain-
4 ment establishment shall mean any commercial establishment that as a substantial or significant
5 portion of its business features or provides any of the following:

- 6 (a) Persons who appear showing specified anatomical areas.
- 7 (b) Live performances that are distinguished or characterized by an emphasis on the expo-
8 sure, depiction, or description of specific anatomical areas or the conduct or simulation
9 of specified sexual activities.

10 Sexually oriented live entertainment establishment shall not include any theater, concert hall, art
11 center, museum, or similar establishment which is primarily devoted to the arts or theatrical
12 performances and in which any of the circumstances contained in this section were permitted or
13 allowed as part of such art exhibits or performances.

14 **Sign.** (See definition of Sign in ~~27.69.030~~ 27.69.020).

15 **Small Batch Concrete Dispensing Unit.** Small batch concrete dispensing unit shall mean
16 a machine or device with a mixing chamber with a capacity no greater than one-fourth of a cubic
17 yard and mixing materials are totally enclosed.

18 **Social Hall.** Social hall shall mean a building or premises available for rent on a daily basis
19 to be used for social, educational, or civic gatherings, including, but not limited to, charitable fund
20 raising events, wedding receptions, family reunions, educational seminars, neighborhood meetings,
21 or similar events.

22 **Solar Screen.** Solar screen shall mean a device attached to a building to provide shading
23 for glazed areas thereof.

24 **Specified Anatomical Areas.** Specified Anatomical Areas shall mean:

- 25 (a) Less than completely and opaquely covered human genitals; pubic region; anus; or
26 female breast below a point immediately above the top of the areolae, but not including
27 any portion of the cleavage of the female breast exhibited by a dress, blouse, shirt,
28 leotard, bathing suit, or other wearing apparel, provided the areolae is not exposed.
- 29 (b) Human male genitals in a discernibly turgid state, even if completely and opaquely
30 covered, or any device covering that, when worn, simulates male genitals in a
31 discernibly turgid state.

32 **Specified Sexual Activities.** Specified Sexual Activities shall mean any of the following:

- 33 (a) Fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or
34 female breasts.
- 35 (b) Sex acts normal or perverted, actual or simulated, including intercourse, oral copula-
36 tion, or sodomy.
- 37 (c) Masturbation, actual or simulated.
- 38 (d) Human genitals in a state of sexual stimulations, arousal, or tumescence.
- 39 (e) Excretory functions as part of or in connection with any of the activities set forth in (a),
40 (b), (c) or (d) above.

41 **Story.** Story shall mean that portion of a building included between the upper surface of any
42 floor and the upper surface of the floor next above, except that the top-most story shall be that
43 portion of the building included between the upper surface of the topmost floor and the ceiling or

1 roof above. If the finished floor level directly above a basement, cellar, or unused under-floor space
2 is more than six feet above grade as defined herein for more than fifty percent of the total perimeter,
3 or is more than twelve feet above grade at any point, such basement, cellar, or unused underfloor
4 space shall be considered as a story.

5 **Street.** Street shall mean all property acquired or dedicated to the public and accepted by
6 the appropriate governmental agencies for street purposes, and property that has been commonly
7 used or dedicated to be used for street purposes prior to November 2, 1953.

8 **Street Centerline.** Street centerline shall mean a line midway between street lines except
9 under conditions specified in Section ~~27.71.190~~ 27.72.170.

10 **Street Line.** Street line shall mean a dividing line between a lot, tract, or parcel of land and
11 a contiguous street.

12 **Structure.** Structure shall mean anything constructed or erected, the use of which requires
13 permanent location on the ground or attachment to something having a permanent location on the
14 ground. Poles used for the support of wires and appurtenant equipment for supplying public utility
15 services shall not be considered as buildings or structures under this title.

16 **Structural Alteration.** Structural alteration shall mean any change in the supporting
17 members of a building, such as bearing walls, columns, beams, or girders, or any complete
18 rebuilding of the roof or the exterior walls.

19 Section 7. That Section 27.70.060 of the Lincoln Municipal Code be amended to
20 read as follows:

21 **27.70.060 Temporary Buildings and Temporary Fences.**

22 (a) Temporary buildings and temporary fences are allowed in any zoning district under
23 the following conditions:

24 (1) Temporary buildings may be used in conjunction with the construction of
25 buildings during the period of time that the building is being constructed. The temporary building
26 shall be removed upon completion of the construction work.

27 (2) Temporary fences may only be used in conjunction with construction work
28 and the temporary fence must meet the following requirements:

29 (i) Not to exceed ninety-six inches in height;
30 (ii) Be only used to protect construction work and materials;
31 (iii) The temporary fence may be located on any part of a lot but the fence
32 may not encompass any greater area than necessary to provide protection to the construction work
33 or materials and may encompass only that part of a lot necessary to allow construction activity and
34 access around the structures;

35 (iv) The temporary fence shall be removed upon completion of the
36 construction work or the availability of other protection within the lot. On lots or areas in which
37 more than one building will be under construction, the area enclosed by the fence shall be reduced
38 as construction proceeds;

39 (v) The temporary fence shall not obstruct the visibility of the
40 construction site nor prevent access to the site by emergency vehicles;

1 (vi) No fence shall be erected within that triangular area required for sight
2 distance of vehicles entering or exiting the property or entering an adjacent intersection in
3 conformance with the ~~“design standards” and “guidelines and regulations for driveway design”~~ of
4 ~~the city~~ City of Lincoln Access Management Policy.

5 Section 8. That Section 27.72.140 of the Lincoln Municipal Code be amended to
6 read as follows:

7 **27.72.140 Fences.**

8 (a) **Permitted Locations and Heights.** Notwithstanding the area regulations of this title with
9 respect to the requirements for open space for front yard, side yard, and rear yard, fences
10 may be erected to a height not to exceed seventy-six inches on any part of a lot or premises.
11 In addition, fences may be erected to a height not to exceed one hundred two inches on any
12 part of a lot or premises under one of the following conditions:

- 13 (1) The fence is located in a required front yard of a lot in a residentially zoned district
14 which has more than one required front yard;
- 15 (2) The fence is located within any commercial or industrial district;
- 16 (3) The fence is located on a common lot line between a residentially zoned district and
17 a commercially or industrially zoned district; or
- 18 (4) The fence is located in the rear or side yard of a residentially zoned district; provided
19 that no fence over seventy-six inches shall be located within four feet from any main
20 structure on an abutting lot.

21 (b) **Prohibited Locations.** No fence shall be erected within:

- 22 (1) The triangular area required for sight distance of vehicles entering or exiting the
23 property or entering an adjacent intersection, except in conformance with the design
24 standards of the city and the ~~“guidelines and regulations for driveway design and
25 approach.”~~ City of Lincoln Access Management Policy.
- 26 (2) Ten feet from the opening side of all padmounted equipment (the side with decals
27 on the lid), three feet from the opening side of the power pedestals (the side with the
28 padlock), or twelve inches from the other non-opening sides of the padmounted
29 equipment or power pedestals.

30 (c) **Measurement.** The height of a fence shall be determined by a measurement from the
31 ground beneath the fence. Swales and other earth depressions up to six feet wide shall not

1 be used when measuring the fence's height. Man-made earth berms, terraces, and retaining
2 walls that elevate the fence shall be considered a part of the fence. Notwithstanding the
3 above, if a lot or premises is lower than an adjacent major street, as defined in Section
4 26.07.190 of the Land Subdivision Ordinance, then the height of the fence shall be
5 determined by a measurement from the street grade at a ninety degree angle from the fence;
6 provided, however, the total vertical measurement from the ground beneath the fence to the
7 top of the fence shall not exceed twelve feet.

- 8 (d) The height limitation herein provided for fences permitted on any part of a lot or premises,
9 notwithstanding the area regulation of this title with the requirements for open space from
10 front yard, side yard, and rear yard, shall not apply to fences required by the city for uses
11 permitted by the city. It is not intended that any structure other than a fence is permitted on
12 any part of a lot or premises by this section, and all other structures must comply with area
13 and use regulations of this title.

14 Section 9. That Section 27.83.020 of the Lincoln Municipal Code be amended to
15 read as follows:

16 **27.83.020 Purpose.**

17 The purpose of this chapter is to provide a mechanism for approval of short-term acreage
18 development in portions of the City of Lincoln's zoning jurisdiction that are unlikely to receive
19 urban services, and consequent urban density development, within the next 20 to 25 years (generally
20 the area designated as Tiers II and III in the most current Lincoln/Lancaster County ~~2030~~
21 Comprehensive Plan) in the form of an overlay zone in combination with the City's existing AG
22 Agriculture and AGR Agricultural Residential Districts. The overlay district is intended to allow
23 owners the opportunity to realize a reasonable return on their property and to accommodate a
24 continuing demand for acreage development without obstructing future urban development. The
25 BTA Overlay District allows owners to develop a portion of their property with low-density
26 residential development, while reserving the majority of the property for future long-term
27 development with urban services. It also provides for the eventual transition of the previously
28 developed acreage residential use to higher densities with the extension of urban services.

29 Section 10. That Section 28.01.060 of the Lincoln Municipal Code be amended to
30 read as follows:

1 **28.01.060 Construction Activity Stormwater Pollution Prevention Plan (SWPPP).**

2 A SWPPP filed with the NOI or ILNOI for construction activity and submitted to the City
3 shall include the following information:

4 (a) Project Information.

5 (1) The permittee’s name, address and telephone number;

6 (2) The owner’s name (if the permittee is not the property owner), home and
7 business address, telephone number(s), and written consent to the construction activity set forth in
8 the NOI or ILNOI and acknowledgment that the permittee is responsible to ensure that any
9 construction activity complies with the SWPPP and the provisions of Chapter 28.01 of the Lincoln
10 Municipal Code from permit issuance to termination or transfer;

11 (3) Permittee’s legal interest in the land;

12 (4) The geographical location of the property which is to be affected by the
13 construction activity;

14 (5) The legal description with parcel numbers of the property or properties;

15 (6) Certification that the permittee is familiar with and agrees to comply with the
16 terms and conditions provided in the NOI or ILNOI and SWPPP; and

17 (7) Authorization for the City and Lower Platte South Natural Resources District
18 to inspect the property at reasonable times.

19 (b) Narrative. The narrative shall describe the BMPs to be implemented to control
20 erosion, sedimentation, and pollutants, both on and off site. Emphasis shall be placed on the
21 prevention of erosion using vegetative or non-structural control measures. The narrative must
22 address all phases of the construction activity (e.g. initial grading, infrastructure, building phase of
23 development, and final stabilization) and include:

24 (1) Start and completion dates;

25 (2) The nature, function, schedule and sequence of all phases of the construction
26 activity, including but not limited to estimates of total land area expected to be disturbed by the
27 excavation, grading or other construction activities (such as dedicated offsite borrow and fill areas);

28 (3) A list of proposed BMPs;

29 (4) The construction details, application schedule, and procedures for proposed
30 BMPs;

31 (5) The operations and maintenance program for proposed BMPs;

32 (6) The name of the authorized representative or individual responsible for
33 inspecting BMPs, including office address and telephone number(s) for 24-hour-a-day contact;

34 (7) A contingency plan if unforeseen erosion or sedimentation problems arise,
35 including emergency situations caused by storms;

36 (8) A description or spill plan of procedures to prevent, contain, and respond to
37 illicit discharges and spills that may impact the storm drainage system;

38 (9) Any features of the site which may be particularly vulnerable to erosion, such
39 as ridge tops, swales, and soil types, and any specific BMPs implemented for these features; and

40 (10) A list of all proposed post-construction BMPs and their respective Operations
41 and Maintenance Plan for the storm drainage system.

42 (c) Site Plan Map(s).

43 (1) Date prepared and name of preparer;

44 (2) Scale of the map. The suggested scale of the map is one inch = 40 feet with
45 two-foot contour intervals, but may be more or less detailed to meet specific site needs;

- 1 (3) A north arrow;
- 2 (4) Location or vicinity map;
- 3 (5) Street name and location of the proposed development and adjacent
4 properties, including all structures on the site and within 25 feet of the construction activity property
5 line, including but not limited to paving, fencing, structures, and archaeological sites;
- 6 (6) Existing and proposed topography (e.g. grading certificate) showing two foot
7 contours, including floodplains, floodprone areas, floodways, minimum corridors, wetlands,
8 watercourses, water bodies, and soil types if pertinent;
- 9 (7) Identification of surface water flow directions, indicated by arrows showing
10 where stormwater is expected to flow;
- 11 (8) Proposed alterations including cleared, excavated, filled or graded areas and
12 proposed structures, utilities, roads and, if applicable, new property lines;
- 13 (9) Any vehicular access locations for the site and measures to minimize off-site
14 tracking of sediments into the public right of way; and
- 15 (10) Location of all proposed BMPs (including post-construction BMPs) to be
16 utilized over the period of construction and on a permanent basis (i.e. post-construction BMPs).
- 17 (d) SWPPP Contents, Controls to Reduce Pollutants. The SWPPP must include:
- 18 (1) A description of all BMPs for the site and the sequence and schedule of when
19 BMPs will be implemented.
- 20 (2) A maintenance and operations plan for each of the permanent post-
21 construction BMPs.
- 22 (3) A description of measures to minimize, to the maximum extent practicable,
23 off-site vehicle tracking of sediments onto paved surfaces and the generation of dust.
- 24 (4) A description of construction and waste materials expected to be stored on-
25 site, and a description of controls and storage practices to minimize exposure of the materials to
26 stormwater.
- 27 (5) A description of spill prevention controls with contact information for the
28 hazardous response team.

29 Section 11. That Sections 2.02.130, 2.35.030, 2.35.035, 2.76.365, 5.36.040,
30 27.02.200, 27.70.060, 27.72.140, 27.83.020 and 28.01.060 of the Lincoln Municipal Code as
31 hitherto existing be and the same are hereby repealed.

32 Section 12. Pursuant to Article VII, Section 7 of the City Charter, this ordinance
33 shall be posted on the official bulletin board of the City, located on the wall across from the City
34 Clerk's office at 555 S. 10th Street, in lieu of and in place of newspaper publication with notice of
35 passage and such posting to be given by publication one time in the official newspaper by the City

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

Introduced by:

Approved as to Form & Legality:

City Attorney

Approved this ___ day of _____, 2013:

Mayor