

ORDINANCE NO. _____

1 AN ORDINANCE amending Chapter 14.75 of the Lincoln Municipal Code relating
2 to Driveway Approaches and Curbs by amending Section 14.75.010 to amend the definition of
3 “regulations” to mean guidelines and regulations under the City of Lincoln Access Management
4 Policy; amending Section 14.75.060 to provide that before a permit for a driveway approach may
5 be denied, the Building Official or Public Works Official, as applicable, shall indicate the standards
6 or requirements that prevent approval of the permit application; adding a new section numbered
7 14.75.065 to provide for the submission of a request for deviation by the applicant; adding a new
8 section numbered 14.75.067 to provide the process for appealing the decision of the Building
9 Official or Public Works Decision on a requested deviation; adding a new section numbered
10 14.75.069 to provide the process for appealing the decision for access on a state or federal controlled
11 route; and repealing Sections 14.75.010 and 14.75.060 of the Lincoln Municipal Code as hitherto
12 existing.

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

14 Section 1. That Section 14.75.010 of the Lincoln Municipal Code be amended to
15 read as follows:

16 **14.75.010 Definitions; Application to Chapter.**

17 The following terms shall apply in the enforcement and interpretation of this chapter.

18 **Alter a curb** shall mean the cutting, breaking, lowering, or removing of any portion of curb
19 in the public right-of-way.

1 **Building Official** shall mean the Director of Building and Safety or a designated employee
2 of the Department of Building and Safety.

3 **Driveway approach** shall mean an area of the public right-of-way located between the
4 roadway and property adjacent to the public right-of-way which is intended to provide access for
5 vehicles from the roadway to the adjacent property.

6 **Person** shall mean and include a person, a corporation, or any type of business or
7 nonbusiness organization.

8 **Public Works Official** shall mean the Director of Public Works and Utilities or a designated
9 employee of the Public Works and Utilities Department.

10 **Regulations** shall mean the City of Lincoln guidelines and regulations ~~for driveway design~~
11 ~~and location~~ under the City of Lincoln Access Management Policy as approved and adopted by the
12 City of Lincoln, City Council through resolution.

13 **Roadway** shall mean the portion of the public right-of-way which is improved or designed
14 to accommodate through vehicular traffic or on which through vehicles ordinarily travel.

15 Section 2. That Section 14.75.060 of the Lincoln Municipal Code be amended to
16 read as follows:

17 **14.75.060 Official's Powers as to Permit Applications.**

18 The Building Official shall review and may approve or deny the permit applications for
19 driveway approaches which provide access for property used or proposed to be used exclusively for
20 single- or two- family residential dwellings.

21 The Public Works Official shall review and may approve or deny all other permit
22 applications.

1 Before either Official may deny a permit application, the Official will indicate the standards
2 or requirements that prevent approval of the permit application. If the applicant wants to continue
3 with the current design, the permit applicant shall make a request for deviation and the Official shall
4 process deviation requests in accordance with this chapter and the Access Management Policy.

5 Section 3. That Chapter 14.75 of the Lincoln Municipal Code be amended by adding
6 a new section numbered 14.75.065 to read as follows:

7 **14.75.065 Request for Deviation.**

8 A request for a deviation shall be submitted by the applicant in writing to the Building
9 Official or Public Works Official as provided in the Access Management Policy.

10 Section 4. That Chapter 14.75 of the Lincoln Municipal Code be amended by adding
11 a new section numbered 14.75.067 to read as follows:

12 **14.75.067 Appeal of Official’s Decision for Deviation Request.**

13 The decision of the Building Official or Public Works Official on the request for a deviation
14 may be appealed by the permit applicant to the City Council by filing a notice of appeal with the
15 City Clerk within fourteen days following the date of the decision of said Official. Upon receipt of
16 the appeal by the City Council, the Council shall hold a public hearing thereon within thirty days
17 from the date of receipt of the notice of appeal. If the appeal is associated with an application to be
18 heard by the Planning Commission, the appeal shall be scheduled within thirty days after the
19 Planning Commission’s action. The City Council may make such decision on the deviation request
20 as ought to be made and either approve, approve with modification, or deny the deviation request.
21 The decision regarding the deviation request will affect the permit application and the City Council
22 will, at the same hearing, make a determination on the Driveway Approach Permit and either deny
23 the permit or approve the permit with the deviation request approved, with the deviation request

1 approved as modified or with the deviation request denied. The decision by the City Council on the
2 Driveway Approach Permit is the final decision and may be appealed in accordance with state law.

3 Section 5. That Chapter 14.75 of the Lincoln Municipal Code be amended by adding
4 a new section numbered 14.75.069 to read as follows:

5 **14.75.069 Appeal of Driveway Approach Permit on State or Federal Controlled Route.**

6 Access on a state or federal controlled route requires the permit applicant to seek approval
7 of the state or federal government pursuant to their permit application processes and seek approval
8 of the City of Lincoln pursuant to this chapter and the policy. If the state or federal government
9 denies the state or federal access permit, the Director will deny the City of Lincoln Driveway
10 Approach Permit and such denial shall be a final decision and may be appealed to district court
11 pursuant to state law. If the state or federal government approves the state or federal access permit,
12 the Director will either approve or deny the City of Lincoln Driveway Approach Permit. If denied,
13 the denial may be appealed by the permit applicant to the City Council by filing a notice of appeal
14 with the City Clerk within fourteen days following the date of decision of said Official. Upon receipt
15 of the appeal by the City Council, the Council shall hold a public hearing thereon within thirty days
16 from the date of receipt of the notice of appeal. If the appeal is associated with an application to be
17 heard by the Planning Commission, the appeal shall be scheduled within thirty days after the
18 Planning Commission's action. The City Council may make such decision as ought to be made and
19 either approve or deny the City of Lincoln Driveway Approach. The decision by the City Council
20 on the Driveway Approach Permit is the final decision and may be appealed in accordance with state
21 law.

22 Section 6. That Sections 14.75.010 and 14.75.060 of the Lincoln Municipal Code
23 as hitherto existing be and the same are hereby repealed.

1 Section 7. 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