

ORDINANCE NO. _____

1 AN ORDINANCE amending Chapter 10.14 of the Lincoln Municipal Code
 2 relating to Rules of the Road by amending Section 10.14.360 (Motor Vehicle Restraint;
 3 Children) by changing use requirements for child occupant restraints, adding requirements for
 4 persons wearing occupant protection systems in vehicles operated by holders of provisional
 5 operator’s permits or school permits, amending exemptions, and modifying penalty provisions,
 6 in order to remain consistent with state statute provisions; amending Section 10.14.365
 7 (Occupant Protection System; Use Required) by deleting obsolete language, adding exemptions,
 8 and amending language in order to remain consistent with state statute; and repealing Sections
 9 10.14.360 and 10.14.365 of the Lincoln Municipal Code as hitherto existing.

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

11 Section 1. That Section 10.14.360 of the Lincoln Municipal Code be amended to
 12 read as follows:

13 **10.14.360 Motor Vehicle Restraint; Children.**

14 (a) Any person who resides in Nebraska and drives any motor vehicle which has or is
 15 required to have an occupant protection system, shall ensure that (1) all children ~~under the age of~~
 16 ~~four or weighing less than forty pounds~~ up to six years of age being transported in such vehicle
 17 use a child passenger restraint system of a type which meets Federal Motor Vehicle Safety
 18 Standard 213 as developed by the National Highway Traffic Safety Administration, ~~as of July~~
 19 ~~10, 1990~~ such standard existed on January 1, 2006, and which is correctly installed in such
 20 vehicle; and (2) all children ~~weighing forty or more pounds or at least four years of age and~~

1 ~~younger than five~~ six years of age and less than eighteen years of age being transported ~~in~~ by
2 such vehicle use an occupant protection system.

3 This subsection shall apply to every motor vehicle which is equipped with an
4 occupant protection system or is required to be equipped with restraint systems pursuant to
5 Federal Motor Vehicle Safety Standard 208, as such standard existed on January 1, 2006, except
6 taxicabs, mopeds, motorcycles, and any motor vehicle designated by the manufacturer as a 1963
7 year model or earlier which is not equipped with an occupant protection system.

8 (b) Whenever any physician licensed to practice medicine in Nebraska determines,
9 through accepted medical procedures, that use of a child passenger restraint system by a
10 particular child would be harmful by reason of the child's weight, physical condition, or other
11 medical reason, the provisions of subsection (a) of this section shall be waived. The driver of
12 any vehicle transporting such a child shall carry on his or her person or in the vehicle a signed
13 written statement of the physician identifying the child and stating the grounds for such waiver.

14 (c) ~~Any person violating any provision of subsection (a) of this section shall be fined~~
15 ~~twenty-five dollars for each violation, recoverable with costs.~~ The drivers of authorized
16 emergency vehicles as defined in Section 10.02.130 shall be exempt from the provisions of this
17 section when operating such emergency vehicles pursuant to the duties of their employment.

18 (d) ~~Any person who is charged with a violation of subsection (a) of this section who~~
19 ~~does not have in his or her possession a child restraint system meeting the requirements of~~
20 ~~Federal Motor Vehicle Safety Standard 213 as of the effective date of this act, and who~~
21 ~~subsequently purchases or rents for a one-year period such a system prior to his or her court~~
22 ~~appearance, shall, upon presentation of proof of purchase or proof of rental for a one-year period~~
23 ~~of such a system, be able to utilize such presentation as an absolute defense and cause for~~

1 ~~dismissal of such charge.~~ A driver of a motor vehicle shall not be subject to the requirements of
2 subsection (a) of this section if the motor vehicle is being operated in a parade or exhibition and
3 the parade or exhibition is being conducted in accordance with applicable state law and local
4 ordinances and resolutions.

5 (e) ~~A person who has acquired the statement authorized by subsection (b) of this~~
6 ~~section but fails to show a police officer such statement when requested to do so shall be fined~~
7 ~~\$10.00 for each offense, recoverable with costs.~~ All persons being transported by a motor
8 vehicle operated by a holder of a provisional operator's permit or a school permit shall use such
9 motor vehicle's occupant protection system.

10 (f) ~~The drivers of authorized emergency vehicles as defined in Section 10.02.130~~
11 ~~shall be exempt from the provisions of this section when operating such emergency vehicles~~
12 ~~pursuant to the duties of their employment.~~ Any person violating any provision of subsection (a)
13 of this section shall be guilty of an infraction as defined in Section 1.24.010(b) and shall be fined
14 twenty-five dollars for each violation, recoverable with costs. The failure to provide a child
15 restraint for more than one child in the same vehicle at the same time shall not be treated as a
16 separate offense.

17 (g) Enforcement of subsection (a)(2) and subsection (e) of this section shall be
18 accomplished only as a secondary action when an operator of a motor vehicle has been cited or
19 charged with a violation or some other offense unless the violation involves a person under the
20 age of eighteen years riding in or on any portion of the vehicle not designed or intended for the
21 use of passengers when the vehicle is in motion.

22 Section 2. That Section 10.14.365 of the Lincoln Municipal Code be amended to
23 read as follows:

1 **10.14.365 Occupant Protection System; Use Required.**

2 (a) Except as provided in subsection (b) of this section, no driver shall operate a
3 motor vehicle upon a public street unless/

4 ~~—————(1)——~~ T the driver and each front-seat occupant in the vehicle are wearing
5 occupant protection systems, and

6 ~~(2)——~~ Any child passenger required by law to be transported in a child passenger
7 restraint system is using such restraint system, and

8 ~~—————(3) A~~ all occupant protection systems and child passenger restraint systems worn
9 ~~or used~~ are properly adjusted and fastened.

10 (b) The following persons shall not be required to wear an occupant protection
11 system:

12 (1) A person who possesses written verification from a physician that the
13 person is unable to wear an occupant protection system for medical reasons; ~~and~~

14 (2) A rural letter carrier of the United States Postal Service while performing
15 his or her duties as a rural letter carrier between the first and last delivery points; and

16 ~~(2 3)~~ A member of an ~~ambulance or rescue service unit~~ emergency medical
17 service while involved in patient care.

18 (c) For purposes of this section, motor vehicle shall mean a vehicle required by *Neb.*
19 *Rev. Stat. § 39-6,171* ~~60-6,266~~ to be equipped with an occupant protection system.

20 (d) Any person who violates subsection (a) of this section shall be guilty of a traffic
21 infraction and shall be fined twenty-five dollars, but no court costs shall be assessed against him
22 or her. Regardless of the number of persons in a motor vehicle not wearing an occupant
23 protection system pursuant to subsection (a)(1) of this section, only one violation shall be

1 assessed against the driver of such motor vehicle for each time the motor vehicle is stopped and
2 a violation of such subsection is found.

3 (e) Enforcement of this section shall be accomplished only as a secondary action
4 when a driver of a motor vehicle has been cited or charged with a violation or some other
5 offense.

6 Section 3. That Sections 10.14.360 and 10.14.365 of the Lincoln Municipal
7 Code as hitherto existing be and the same are hereby repealed.

8 Section 4. That this ordinance shall take effect and be in force from and after its
9 passage and publication according to law.

Introduced by:

Approved as to Form & Legality:

City Attorney

<p>Approved this ___ day of _____, 2007:</p> <p>_____</p> <p>Mayor</p>
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