11-6 Introduce: 1-3-11

## ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE amending Chapter 10.06 of the Lincoln Municipal Code relating to the Administration and Enforcement of Vehicles and Traffic regulations to repeal Section 10.06.090 establishing the Violations Bureau, and amending Sections 10.06.100, 10.06.110, 10.06.120, and 10.06.140 to transfer the responsibility of the Violations Bureau including the collection and associated accounting of parking tickets to the Parking Service Division of the Urban Development Department and to provide for an administrative hearing process and an appeal, and repealing Sections 10.06.100, 10.06.110, 10.06.120, and 10.06.140 of the Lincoln Municipal Code as hitherto existing.

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

Section 1. That Section 10.06.090 of the Lincoln Municipal Code be and the same is hereby repealed.

## 10.06.090 Violations Bureau Established.

For the purposes hereinafter provided there is hereby established a Violations Bureau which shall be under the direction and supervision of the Finance Director.

Section 2. That Section 10.06.100 of the Lincoln Municipal Code be amended to read as follows:

## 10.06.100 Violations Bureau Parking Services; Rules; Collect and Account for Money.

The Violations Bureau Parking Services Division shall collect and account for all monies paid in accordance with the provisions of this title and shall issue receipts therefor, shall remit all monies collected under the provisions of this title to the City Treasurer; and shall keep records of all violators, showing the name, time, and date of violation and disposition. It shall be the duty of the City Treasurer to credit to the city such amounts as shall be collected for the payment of

administrative costs. The balance of the monies collected shall be disbursed by the City Treasurer as provided by law.

The Finance Director Parking Services Division may accept credit card payments or partial payments of any fines and costs payable to the Violations Bureau Parking Services Division, on terms to be determined by the Director. The impoundment provisions of this title shall be automatically deferred until the completion or termination of such payment plan. Any such payment plan shall automatically terminate upon failure to comply with the terms thereof, and the vehicle involved in the violation shall be subject to impoundment as otherwise provided in this title.

Section 3. That Section 10.06.110 of the Lincoln Municipal Code be amended to read as follows:

## 10.06.110 Issuing Citations.

- (a) It shall be the duty of any police officer to issue a citation which shall be processed originally through the Violations Bureau Parking Services Division upon finding:
- (1) Any motor vehicle in violation of a motor vehicle parking ordinance or of a duly established parking regulation of the city;
- (2) Any motor vehicle stopped or parked in such a manner as to interfere with the lawful use of the street;
- (3) Any motor vehicle stopped or parked in violation of Chapter 10.32 of this title; or
- (4) Any motor vehicle parked on any street or other public property within the city which is in violation of a city ordinance regarding the registration certificate or registration or display of proper plates.
- (b) It shall be the duty of any Parking Control Officer to issue a citation, within the Parking Service Enforcement area, which shall be processed originally through the Violations Bureau Parking Services Division upon finding:

1	(1) Any motor vehicle stopped or parked in violation of any of the follow	ving	
2	sections of the Lincoln Municipal Code: 10.08.030, 10.08.050, 10.32.010, 10.32.015, 10.32.020		
3	10.32.050, 10.32.070, 10.32.080, 10.32.090, 10.32.100, 10.32.110, 10.32.140, 10.32.150, 10.32.1	160,	
4	10.32.170, 10.32.190, 10.32.200, 10.32.210, 10.32.220, 10.32.240, 10.32.250, 10.32.260, 10.32.2	280,	
5	10.32.290, 10.32.300, 10.32.310, 10.32.320, 10.32.330, 10.32.350, 10.34.050, 10.34.060, 10.40.110		
6	and 10.44.030.		
7	(2) Any motor vehicle parked on any street or other public property within the	city	
8	which is in violation of a city ordinance regarding the registration certificate or registration of		
9	display of proper plates.		
10	(3) The provisions of this subsection shall not be construed to restrict or prohibit	any	
11	Police officer or <u>City</u> employee from also enforcing parking or registration violations in the City of		
12	Lincoln.		
13	Section 4. That Section 10.06.120 of the Lincoln Municipal Code be amended to r	read	
14	as follows:		
15	10.06.120 Payment of Fines and Costs; Administrative Hearing Process; Appeal.		
16	(a) Any person accused of any of the following violations of the Lincoln Municipal C	ode	
17	may appear before the Violations Bureau, waive arraignment and right to a hearing, and enter a plea		
18	of guilty by payment of pay the sum indicated for those complaints as listed below:		
19 20 21 22	(a1) Violation of a motor vehicle parking ordinance or duly established parking regulation not otherwise herein-after specified, or parking on or obstructing a fire lane in violation of Title 19 of this code	2.00	
23 24 25 26 27 28 29 30	(b2) Parking or stopping of a motor vehicle in such a manner as to interfere with the lawful use of the street, street intersection or sidewalk, or parking in an alley in violation of Section 10.32.150, or the parking, stopping, or standing of a motor vehicle in a bus stop zone, or parking near street intersections in violation of Section 10.32.140, or obstructing private driveways in violation of Section 10.32.110	2.00	

2	hydrant in violation of Section 10.32.320\$ 32.00			
3 4 5 6	( <del>d</del> <u>4</u> )	Parking or stopping of a motor vehicle in violation of Sections 10.40.030, 10.40.040, or 10.40.080 regarding prohibition of parking on snow emergency routes, arterials, and bus routes		
7 8 9	( <u>e5</u> )	Parking of a motor vehicle in violation of Section 10.40.050 relating to parking on residential streets during a snow emergency		
10 11 12 13 14	(f <u>6</u> )	Violation of Section 10.32.020 relating to handicapped parking:  First offense within a one-year period		
15 16	( <del>g</del> 7)	Failure to carry registration certificate as required by Section 10.08.010		
17 18 19	( <u>h8</u> )	Failure to have motor vehicle registered and displaying proper plates (other than violations subject to the penalty set forth in Section 10.08.050) \$ 92.00		
20 21 22	( <del>i</del> <u>9</u> )	Parking a motor vehicle in violation of Section 10.32.070 relating to parking of trucks and other oversized vehicles on streets adjacent to residentially zoned property \$ 32.00		
23	In each instance of such waiver of arraignment and right to a hearing and entry of a			
24	plea of guilty, the person charged in the complaint shall pay, in addition to the amount specified			
25	above, the administrative costs of eight dollars and no cents (\$8.00).			
26	<u>(b)</u> <u>(1)</u> <u>I</u>	For a period of 14 calendar days from the issuance of a notice of parking violation,		
27	a person may request an initial review of the notice by the Parking Services Division. The request			
28	may be made by telephone, in writing, or in person. The review shall occur within seven days of			
29	such request and there shall be no charge for this review. If, following the initial review, the Parking			
30	Services Division is satisfied that the violation did not occur, that the registered owner was not			
31	responsible for the violation, or that extenuating circumstances make dismissal of the citation			

appropriate in the interest of justice, the Parking Services Division shall cancel the notice of parking
violation or notice of delinquent parking violation. The Parking Services Division shall mail the
results of the initial review to the person contesting the notice.

- (2) If the person is dissatisfied with the results of the initial review, the person may, no later than 14 calendar days following the initial review, request an administrative hearing of the violation. The request may be made in writing or in person. The person requesting an administrative hearing shall, at the time of making the appeal request, deposit the amount of the parking penalty with the Parking Services Division. Notice of this procedure shall be provided to all persons requesting an administrative hearing. An administrative hearing shall be held within 30 calendar days following the receipt of a request for an administrative hearing.
- (3) If a person has requested either the review in subsection (b)(1) or the appeal in subsection (b)(2), the impoundment provisions of this title shall be automatically deferred until the completion of the review and/or appeal process.
  - (4) The administrative hearing process shall include the following:
- (i) The person requesting a hearing may present any written statements or documentary evidence relevant to the determination. All hearings shall be conducted within the jurisdictional limits of the City of Lincoln.
- (ii) If the person requesting a hearing is a minor under the age of 18, that person shall be permitted to appear at a hearing or admit responsibility for the parking violation without the necessity of the appointment of a guardian. The Parking Services Division may proceed against the minor in the same manner as against an adult.
- (iii) The administrative hearing shall be conducted in accordance with written procedures established by the Parking Services Division and approved by the Director of Urban Development.

1	(iv) The Director of Urban Development may delegate conducting the administra-
2	tive hearings to another city employee or to a company contracting with the City to provide parking
3	services. If the hearing is delegated to someone other than the Director Of Urban Development,
4	such delegatee shall make written findings and conclusions and a recommendation to the Director
5	of Urban Development for the final determination of the matter.
6	(v) The officer or person who issues a notice of parking violation shall not be
7	required to participate in the administrative hearing. The Parking Services Division shall not be
8	required to produce any evidence other than the notice of parking violation or copy thereof and
9	information received from the Department of Motor Vehicles identifying the registered owner of the
10	vehicle. The documentation in proper form shall be prima facie evidence of the violation.
11	(vi) The Director of Urban Development shall make a final and binding
12	determination, within fifteen days following the administrative hearing. Such determination shall
13	then be sent by first-class mail to the person requesting the appeal.
14	(vii) The provisions of this section relating to the administrative appeal process
15	do not apply to an issuing agency that is a law enforcement agency.
16	(c) Any person aggrieved by the decision of the Director of Urban Development in
17	Subsection (b) may appeal such decision to district court through the provisions established in
18	Nebraska Revised Statutes § 15-1201 et seq.
19	Section 5. That Section 10.06.140 of the Lincoln Municipal Code be amended to read
20	as follows:
21	10.06.140 Mailing Notice of Complaint.
22	In the event that a person accused of a violation does not appear before the Violations Bureau
23	<u>Parking Services Division</u> within seven days after the date of the issuance of the citation, notice shall
24	be mailed to the last known address of the registered owner of the vehicle found to be in violation

of the ordinance or regulation setting forth the date and the nature of the alleged offense, the

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1	disposition that can be made of the matter by appearing at the $\frac{\text{Violations Bureau}}{\text{Parking Services}}$			
2	<u>Division</u> within fifteen days of the issuance of t	<u>Division</u> within fifteen days of the issuance of the citation, and that upon the expiration of the		
3	fifteen-day period such vehicle may be impoun	fifteen-day period such vehicle may be impounded pursuant to Chapter 10.44 or as otherwise		
4	allowed by law.	allowed by law.		
5	Section 6. That Sections 10.06.100	0, 10.06.110, 10.06.120, and 10.06.140 of the		
6	Lincoln Municipal Code as hitherto existing be a	Lincoln Municipal Code as hitherto existing be and the same are hereby repealed.		
7	Section 7. That this ordinance shall	take effect and be in force from and after passage		
8	and publication in one issue of a daily or weekl	y newspaper of general circulation in the City,		
9	according to law.			
	Intro	oduced by:		
	Approved as to Form & Legality:			
	Chief Asst. City Attorney			
	\[ \frac{1}{\lambda}	Approved this day of, 2011:		
	-	 Mayor		