

ORDINANCE NO. _____

1 AN ORDINANCE amending Chapters 10.06 and 10.44 of the Lincoln Municipal Code
2 relating to automobile impoundment by amending Section 10.06.100 relating to parking services;
3 amending Section 10.06.120 relating to payment of fines and costs; amending Section 10.06.140
4 relating to mailing notice of complaint; adding a new Section 10.44.035 relating to immobilization
5 of vehicles; and amending Section 10.44.040 relating to accounting for fees; and repealing Sections
6 10.06.100, 10.06.120, 10.06.140 and 10.44.040 of the Lincoln Municipal Code as hitherto existing.

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

8 Section 1. That Section 10.06.100 of the Lincoln Municipal Code be amended to read
9 as follows:

10 **10.06.100 Parking Services; Rules; Collect and Account for Money.**

11 The Parking Services Division shall collect and account for all monies paid in accordance
12 with the provisions of this title and shall issue receipts therefor, shall remit all monies collected
13 under the provisions of this title to the City Treasurer; and shall keep records of all violators,
14 showing the name, time, and date of violation and disposition. It shall be the duty of the City
15 Treasurer to credit to the city such amounts as shall be collected for the payment of administrative
16 costs. The balance of the monies collected shall be disbursed by the City Treasurer as provided by
17 law.

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

1 Section 2. That Section 10.06.120 of the Lincoln Municipal Code be amended to read
2 as follows

3 **10.06.120 Payment of Fines and Costs; Administrative Hearing Process; Appeal.**

4 (a) Any person accused of any of the following violations of the Lincoln Municipal Code
5 may waive arraignment and right to a hearing and pay the sum indicated for those complaints as
6 listed below:

7 (1) Violation of a motor vehicle parking ordinance or duly
8 established parking regulation not otherwise herein-after
9 specified, or parking on or obstructing a fire lane in violation
10 of Title 19 of this code \$ 2.00

11 (2) Parking or stopping of a motor vehicle in such a manner as to
12 interfere with the lawful use of the street, street intersection
13 or sidewalk, or parking in an alley in violation of Section
14 10.32.150, or the parking, stopping, or standing of a motor
15 vehicle in a bus stop zone, or parking near street intersections
16 in violation of Section 10.32.140, or obstructing private
17 driveways in violation of Section 10.32.110 \$ 12.00

18 (3) Parking or stopping of a motor vehicle too close to a fire
19 hydrant in violation of Section 10.32.320 \$ 32.00

20 (4) Parking or stopping of a motor vehicle in violation of
21 Sections 10.40.030, 10.40.040, or 10.40.080 regarding
22 prohibition of parking on snow emergency routes, arterials,
23 and bus routes \$ 42.00

24 (5) Parking of a motor vehicle in violation of Section 10.40.050
25 relating to parking on residential streets during a snow
26 emergency \$ 27.00

27 (6) Violation of Section 10.32.020 relating to handicapped
28 parking:
29 First offense within a one-year period \$ 92.00
30 Second offense within a one-year period \$192.00
31 Third or subsequent offense within a one-year period \$292.00

32 (7) Failure to carry registration certificate as required by
33 Section 10.08.010 \$ 2.00

- 1 (8) Failure to have motor vehicle registered and displaying
2 proper plates (other than violations subject to the penalty set
3 forth in Section 10.08.050) \$ 92.00

- 4 (9) Parking a motor vehicle in violation of Section 10.32.070
5 relating to parking of trucks and other oversized vehicles on
6 streets adjacent to residentially zoned property \$ 32.00

7 In the event the payment for violation, as specified above, and waiver of arraignment
8 and right to a hearing and entry of a plea of guilty occurs within seven (7) days of service of the
9 complaint, the person charged in the complaint shall pay, in addition to the amount specified above,
10 the administrative costs of eight dollars and no cents (\$8.00); in the event such payment for
11 violation and waiver occurs after such seven-day period the person charged in the complaint shall
12 pay, in addition to the amount for the violation specified above, administrative costs of twenty-three
13 dollars and no cents (\$23.00); provided, however, that persons making such payments online shall
14 be entitled to deduct one dollar (\$1.00) from the administrative costs that would otherwise be
15 payable according to the terms of this section.

16 (b) (1) For a period of 14 calendar days from the issuance of a notice of parking
17 violation, a person may request an initial review of the notice by the Parking Services Division. The
18 request may be made by telephone, in writing, or in person. The review shall occur within seven
19 days of such request and there shall be no charge for this review. If, following the initial review, the
20 Parking Services Division is satisfied that the violation did not occur, that the registered owner was
21 not responsible for the violation, or that extenuating circumstances make dismissal of the citation
22 appropriate in the interest of justice, the Parking Services Division shall cancel the notice of parking
23 violation or notice of delinquent parking violation. The Parking Services Division shall mail the
24 results of the initial review to the person contesting the notice.

25 (2) If the person is dissatisfied with the results of the initial review, the person may,
26 no later than 14 calendar days following the initial review, request an administrative hearing of the
27 violation. The request may be made in writing or in person. The person requesting an administrative

1 hearing shall, at the time of making the appeal request, deposit the amount of the parking penalty
2 with the Parking Services Division. Notice of this procedure shall be provided to all persons
3 requesting an administrative hearing. An administrative hearing shall be held within 30 calendar
4 days following the receipt of a request for an administrative hearing.

5 (3) If a person has requested either the review in subsection (b)(1) or the appeal in
6 subsection (b)(2), the impoundment and immobilization provisions of this title shall be automatically
7 deferred until the completion of the review and/or appeal process.

8 (4) The administrative hearing process shall include the following:

9 (i) The person requesting a hearing may present any written statements or
10 documentary evidence relevant to the determination. All hearings shall be conducted within the
11 jurisdictional limits of the City of Lincoln.

12 (ii) If the person requesting a hearing is a minor under the age of 18, that
13 person shall be permitted to appear at a hearing or admit responsibility for the parking violation
14 without the necessity of the appointment of a guardian. The Parking Services Division may proceed
15 against the minor in the same manner as against an adult.

16 (iii) The administrative hearing shall be conducted in accordance with written
17 procedures established by the Parking Services Division and approved by the Director of Urban
18 Development.

19 (iv) The Director of Urban Development may delegate conducting the
20 administrative hearings to another city employee or to a company contracting with the City to
21 provide parking services. If the hearing is delegated to someone other than the Director of Urban
22 Development, such delegatee shall make written findings and conclusions and a recommendation
23 to the Director of Urban Development for the final determination of the matter.

1 (v) The officer or person who issues a notice of parking violation shall not be
2 required to participate in the administrative hearing. The Parking Services Division shall not be
3 required to produce any evidence other than the notice of parking violation or copy thereof and
4 information received from the Department of Motor Vehicles identifying the registered owner of the
5 vehicle. The documentation in proper form shall be prima facie evidence of the violation.

6 (vi) The Director of Urban Development shall make a final and binding
7 determination, within fifteen days following the administrative hearing. Such determination shall
8 then be sent by first-class mail to the person requesting the appeal.

9 (c) Any person aggrieved by the decision of the Director of Urban Development in
10 Subsection (b) may appeal such decision to district court through the provisions established in
11 Nebraska Revised Statutes § 15-1201 et seq.

12 Section 3. That Section 10.06.140 of the Lincoln Municipal Code be amended to read
13 as follows:

14 **10.06.140 Mailing Notice of Complaint.**

15 In the event that a person accused of a violation does not appear before the Parking Services
16 Division within seven days after the date of the issuance of the citation, notice shall be mailed to the
17 last known address of the registered owner of the vehicle found to be in violation of the ordinance
18 or regulation setting forth the date and the nature of the alleged offense, the disposition that can be
19 made of the matter by appearing at the Parking Services Division within fifteen days of the issuance
20 of the citation, and that upon the expiration of the fifteen-day period such vehicle may be impounded
21 or immobilized pursuant to Chapter 10.44 or as otherwise allowed by law.

22 Section 4. That Chapter 10.44 of the Lincoln Municipal Code be amended by adding
23 a new section 10.44.035 to read as follows:

1 **10.44.035 Impounding Vehicles; Immobilization; Fee for Release.**

2 Whenever any vehicle is found by a police officer parked or left standing in the streets,
3 alleys, public ways or parking facilities, or other public places of the city or in violation of any
4 ordinances of the city or state statute, or which is subject to immobilization pursuant to Chapter
5 10.06 or other applicable ordinances of the city, in lieu of impounding said vehicle the police officer
6 may immobilize the vehicle by means of a wheel lock, boot, or other immobilization device which
7 shall not be removed from the vehicle, except upon payment by the owner, driver, or operator such
8 vehicle of an immobilization release fee, established by resolution of the City Council, and all other
9 unpaid parking or traffic citations.

10 Whenever any vehicle is found by a Parking Control Officer parked in violation of any
11 parking ordinances of the city delegated for their enforcement or which is subject to immobilization
12 pursuant to Chapter 10.06 or other applicable ordinances of the city, in lieu of impounding said
13 vehicle the Parking Control Officer may immobilize the vehicle by means of a wheel lock or other
14 immobilization device which shall not be removed from the vehicle, except upon payment by the
15 owner, driver, or operator of such vehicle of an immobilization release fee established by resolution
16 of the City Council and all other unpaid parking or traffic citations.

17 When the owner, driver, or operator of the vehicle so immobilized claims such vehicle to
18 seek its release, it shall be the duty of the person in charge of releasing the vehicle to inform the
19 owner, driver, or operator of the nature and circumstances of the violation for which the vehicle was
20 immobilized. If the owner, driver, or operator of an immobilized vehicle is found not guilty by the
21 court upon such charges, the city shall refund to such person the fees paid by such person.

22 Section 5. That Section 10.44.040 of the Lincoln Municipal Code be amended to
23 read as follows:

1 **10.44.040 Account For Fees Collected.**

2 It shall be the duty of the Chief of Police and the Director of Urban Development to account
3 for any fees collected under the provisions of this chapter to the City Treasurer, who shall place the
4 same in the City General Fund. The Chief of Police and the Director of Urban Development shall
5 also keep a record of the name of the owner of each vehicle impounded or immobilized, the number
6 of the registration plates thereon, the nature and circumstances of each violation involved, and the
7 disposition of each case.

8 Section 6. That Sections 10.06.100, 10.06.120, 10.06.140 and 10.44.040 of the
9 Lincoln Municipal Code as hitherto existing be and the same are hereby repealed.

10 Section 7. That this ordinance shall take effect and be in force from and after passage
11 and publication in one issue of a daily or weekly newspaper of general circulation in the City,
12 according to law.

Introduced by:

Approved as to Form & Legality:

City Attorney

<p>Approved this ___ day of _____, 2012:</p> <p>_____</p> <p>Mayor</p>
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