

ORDINANCE NO. _____

C O N S E N T A M E N D M E N T S

1 AN ORDINANCE amending Chapter 12.08 of the Lincoln Municipal Code, relating
2 to General Rules and Regulations for Parks, by amending Section 12.08.010 to define “hiker-biker
3 trail” and “multi-use trails,” and to clarify that the definition of “roadway” includes “multi-use
4 trails”, repealing Sections 12.08.030 and 12.08.040, to remove the authorization to permit use of
5 snowmobiles in parks, amending Section 12.08.060 by applying speed limits to multi-use trails,
6 amending Section 12.08.070 to reflect the renaming of Bill Harris Park, clarifying that multi-use
7 trails are open 24 hours a day and repealing the requirement that the Director of the Parks and
8 Recreation Department report changes of park hours to the Parks and Recreation Advisory Board,
9 amending Section 12.08.200 by providing that shooting model rockets and flying model aircraft are
10 prohibited in parks, and amending Section 12.08.230, to provide that commercial activities may be
11 permitted by the Director of the Parks and Recreation Department; repealing Chapter 12.12 of the
12 Lincoln Municipal Code, consisting of Section 12.12.010 relating to Policing Parks Outside City;
13 amending Chapter 12.20 of the Lincoln Municipal Code, relating to Trees and Shrubbery, by
14 amending Section 12.20.025 to delete the requirement for annual reports on tree planting; amending
15 Chapter 12.32, relating to Boating in parks, by repealing Section 12.32.050 requirements for liability
16 insurance for hauling passengers by boat for hire; and repealing Sections 12.08.010, 12.08.060,
17 12.08.070, 12.08.200, 12.08.230, and 12.20.025 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 12.08.010 of the Lincoln Municipal Code be amended to read
20 as follows:

1 **12.08.010 Definitions.**

2 For the purpose of Title 12, the following definitions are applicable:

3 **Director** shall mean the head of the Parks and Recreation Department as designated by the
4 Mayor.

5 **Fireworks** shall mean any combustible or explosive composition, or any substance or
6 combination of substances, or articles prepared for the purpose of producing a visible or an audible
7 effect by combustion, explosion, deflagration, or detonation.

8 [Hiker-Biker trail shall mean a pathway within a park for recreational use.](#)

9 **Motor vehicle** shall mean and include any vehicle propelled by power other than muscular
10 power.

11 [Multi-use trails shall mean the interconnected system of trails for transportation and](#)
12 [recreational use.](#)

13 **Park** shall mean and include any area of public ground dedicated as a park or held for the
14 enjoyment of the public and managed and maintained by the Parks and Recreation Department
15 within or without the limits of the city which is under the city ownership or control.

16 **Park facility** shall mean and include any swimming pool, recreation center, or any other
17 building or facility held for the enjoyment of the public and managed and maintained by the Parks
18 and Recreation Department within or without the limits of the city which is under the city ownership
19 or control.

20 **Roadway** shall mean and include every way open to the use of the public for vehicular
21 travel, including any street or highway of the city in or through any park as herein defined, and
22 including any park drive, parkway, and park boulevard open to the public for vehicular travel. This
23 definition shall not include the [Billy Wolff bikeway](#) [multi-use trails](#) or the hiker-biker trails within
24 any park.

1 Section 2. That Section 12.08.030 of the Lincoln Municipal Code be and the same is
2 hereby repealed.

3 **~~12.08.030 Operation of Snowmobiles in Parks as Authorized by Parks Director; Rules and~~**
4 **~~Regulations; Violation; Penalty.~~**

5 ~~_____ (a) The Director may authorize the operation of snowmobiles as defined in Section~~
6 ~~10.02.370 within any park and adopt rules and regulations governing:~~

7 ~~_____ (1) The area or areas of permissible operation;~~

8 ~~_____ (2) The times of operation;~~

9 ~~_____ (3) The number of snowmobiles in the park;~~

10 ~~_____ (4) The number of persons on the snowmobile; and the Director may adopt such~~
11 ~~other rules and regulations as he/she deems necessary for the protection of persons and property.~~

12 ~~_____ (b) The Director shall file all rules and regulations with the office of the City Clerk and~~
13 ~~when so filed they shall be in full force and effect; provided, when snowmobile operation is~~
14 ~~permitted in a park, it shall be sufficient that notice be posted at the entrance to such park, or at~~
15 ~~designated areas within the park indicating the permissible area of operation.~~

16 ~~_____ (c) Any person who operates a snowmobile as defined in Section 10.02.370 in an area not~~
17 ~~designated for such operation, or who violates any rule or regulation adopted pursuant to this chapter~~
18 ~~shall be guilty of a misdemeanor and shall, upon conviction thereof, be punished as provided in the~~
19 ~~penalty provision of this chapter.~~

20 Section 3. That Section 12.08.040 of the Lincoln Municipal Code be and the same is
21 hereby repealed.

22 **~~12.08.040 Operation of Snowmobiles in Parks; Operator Indemnitor for City.~~**

23 ~~_____ Any person operating a snowmobile as defined in Section 10.02.370 within a park shall~~
24 ~~indemnify, save and keep harmless the City of Lincoln from any and all damages, liability, losses,~~
25 ~~or judgments that may be claimed against the City of Lincoln as a result of said use, and thereby~~
26 ~~assume all responsibility and liability for any damages resulting from such operation.~~

27 Section 4. That Section 12.08.060 of the Lincoln Municipal Code be amended to read
28 as follows:

29 **12.08.060 Speed Limit in Parks.**

30 It shall be unlawful for any person to drive, operate, or propel over or along any park
31 roadway, hiker-biker trail, or the [Billy Wolff bikeway multi-use trails](#) any vehicle, motor vehicle,
32 moped, bicycle, or tricycle, or to drive or ride any horse or other animal at a greater speed than
33 twenty-five miles per hour. The Director may authorize regulations requiring a speed lower than
34 twenty-five miles per hour on any park roadway, hiker-biker trail, or [the Billy Wolff bikeway multi-](#)
35 [use trails](#) or segment thereof. Such regulations shall be approved by the Mayor and filed with the

1 office of the City Clerk. Such lower speed limits shall be posted along the portion so regulated, and
2 upon such posting shall be in full force and effect.

3 Section 5. That Section 12.08.070 of the Lincoln Municipal Code be amended to read
4 as follows:

5 **12.08.070 Unlawful to Be in Park After Hours; Closing Hours; Entering a Closed Area.**

6 (a) It shall be unlawful for any person to occupy or be present in any park or park facility
7 during any hours during which said park or park facility is not open to the public.

8 (b) Subject to the provisions of subparagraphs (c), (d), (e), (f), and (g) of this section, all
9 parks shall be opened daily to the public during the hours of 5:00 a.m. to 11:00 p.m., except
10 Wilderness Park which shall be open from sunrise to sunset, Pioneers Park which shall be open from
11 6:00 a.m. to 11:00 p.m. during daylight savings time and from 7:00 a.m. to sunset during the
12 remainder of the year, and ~~Iron Horse Park~~ Bill Harris Park which shall be open twenty-four hours
13 a day.

14 (c) Organized events and activities authorized by the Director of Parks and Recreation,
15 such as outdoor athletic competitions, may extend beyond regular park closing hours but shall not
16 extend beyond 12:00 midnight.

17 (d) ~~Commuter/recreation~~ Multi-use trails and the sidewalks on Centennial Mall shall be
18 open twenty-four hours a day. ~~Recreational trail loops~~ Hiker-biker trails within parks shall be open
19 the same hours as the associated park area.

20 (e) The Director of Parks and Recreation may temporarily authorize an extension of the
21 hours during which a park shall be open to the public. Such authorization shall be in writing and
22 shall specify the extended hours, the dates during which such extended hours shall be in effect, and
23 the specific park or parks to which such temporarily extended hours shall apply.

24 (f) Any park may be declared closed to the public by the Mayor or Director of Parks and
25 Recreation at any time or at regular or stated intervals when necessary for:

- 26 (1) the care and maintenance of the park; or

1 (2) the health, safety and welfare of the public; or

2 (3) the protection or preservation of park property. When so closed, the Director
3 shall cause notice to be posted at the entrance to said park to notify the public that the park is closed,
4 and when so posted it shall be unlawful for any person to enter said park; and it shall be unlawful
5 for any person to remain in said park after oral notice by the Director, or any law enforcement
6 officer or other duly authorized representative of the Director that said park is closed, regardless of
7 whether or not the notice has been posted. Such authorization for the closing shall be in writing.

8 (g) Any extension or reduction of park hours by the Director of Parks and Recreation shall
9 be reported to the Parks and Recreation Advisory Board at their next regularly scheduled meeting.

10 Section 6. That Section 12.08.200 of the Lincoln Municipal Code be amended to read
11 as follows:

12 **12.08.200 Weapons Prohibited in Parks.**

13 (a) It shall be unlawful for any person to possess or discharge, or cause to be discharged,
14 within any park, any firearm, including, but not limited to, any pistol, revolver, shotgun, or rifle.

15 (b) It shall be unlawful for any person to possess or discharge, or cause to be discharged,
16 within any park, any air rifle, bow and arrow, crossbow, toy pistol, toy gun, slingshot, [model rocket](#),
17 [model aircraft](#), or any other air, gas, manually operated or spring operated gun, weapon, apparatus,
18 or instrument designed or intended to be used for the purpose of throwing or projecting missiles of
19 any kind by any means whatsoever, whether the instrument is called by any name set forth above
20 or by any other name.

21 (c) Notwithstanding the foregoing, the Director of the Parks and Recreation Department
22 may designate areas in certain parks and park facilities to allow various organized programs to
23 engage in the activities described herein.

24 (d) The provisions of subsections (a) and (b) of this section shall not apply to duly
25 authorized Parks and Recreation Department employees or law enforcement officers acting in the
26 course of their duty.

1 Section 7. That Section 12.08.230 of the Lincoln Municipal Code be amended to read
2 as follows:

3 **12.08.230 Selling, Peddling, etc.**

4 It shall be unlawful for any person to have any commercial activity within any [park, park](#)
5 [facility](#), or on any roadway within any park, except as authorized by [action of the City Council a](#)
6 [permit to conduct business on park property pursuant to Section 12.08.320 of this chapter](#).

7 Section 8. That Chapter 12.12 of the Lincoln Municipal Code, consisting of Section
8 12.12.010, be and the same is hereby repealed.

9 ~~CHAPTER 12.12-~~

10 ~~POLICING PARKS OUTSIDE CITY~~

11 **Sections:**

12 ~~12.12.010 Jurisdiction over Pioneers Park and Municipal Aviation Field.~~

13 ~~12.12.010 Jurisdiction over Pioneers Park and Municipal Aviation Field.~~

14 ~~All ordinances, bylaws, and regulations of the city now in force and effect or which may~~
15 ~~hereafter be enacted and become effective and in force, shall apply to the territory and real estate~~
16 ~~owned by the city, and described as the Northeast Quarter of Section Eight, Township Ten North,~~
17 ~~Range Six East of the Sixth P.M., in Lancaster County, Nebraska, and also designated as "Municipal~~
18 ~~Aviation Field," and South Half of the Northwest Quarter of Section Four, South Half of the~~
19 ~~Northeast Quarter of Section Five, Township Nine North, Range Six East of the Sixth P.M., and that~~
20 ~~part of the Southeast Quarter and 1,793.6 feet of the West Half of Section Five lying and being on~~
21 ~~the northerly side of a line drawn 100 feet distance, parallel with and northerly from the centerline~~
22 ~~of the main track of the railroad of the Chicago, Burlington & Quincy Railroad Company as the~~
23 ~~same is now located, constructed and in operation over and across said Section Five in Lancaster~~
24 ~~County, Nebraska, and designated as "Pioneers Park," as fully as if the said territory and real estate~~
25 ~~were within the present boundaries of the city; and the city shall exercise jurisdiction, control, and~~
26 ~~police power in every way over said above described real estate as fully as if the same were situated~~
27 ~~within the present territorial boundaries of said city. This section shall also apply to and be in force~~
28 ~~and effect as to any other real estate outside of said territorial boundaries now owned by the city or~~
29 ~~hereinafter acquired.~~

30 Section 9. That Section 12.20.025 of the Lincoln Municipal Code be amended to read
31 as follows:

32 **12.20.025 Street Trees on Private Property.**

33 The Director may, subject to approval of the Mayor, request permission to enter upon and
34 plant one or more street trees on property adjacent to public right-of-way pursuant to an easement

1 agreement when there is insufficient land available for the planting and proper growth of the street
2 tree or trees in the public right-of-way. Such easement agreement shall be conditioned upon the
3 owner of the property agreeing to assume ownership and liability for the street tree and the
4 responsibility for its proper maintenance which shall include watering as often as required by
5 necessity, cultivating, mulching, and trimming, or its removal if dead, dying, diseased, or hazardous.

6 The determination of insufficiency of available land shall be based upon existing roadway
7 width, except in those cases where design work is underway or completed for a roadway project to
8 be constructed within the next year, in which case the new curb location shall control. ~~The Parks
9 and Recreation Department shall prepare an annual report each January for the City Council
10 detailing where trees have been planted on private property and the reasons for such plantings.~~

11 Section 10. That Section 12.32.050 of the Lincoln Municipal Code be and the same
12 is hereby repealed.

13 ~~**12.32.050 — Liability Insurance.**~~

14 ~~Any person desiring to haul passengers by boat for hire shall be required to:~~

15 ~~(a) At all times maintain public liability insurance in the form of a commercial or~~
16 ~~comprehensive general liability policy, or an acceptable substitute policy form as permitted by the~~
17 ~~City Attorney, with a minimum combined single limit of \$500,000.00 aggregate for any one~~
18 ~~occurrence. The coverages required herein shall be subject to review and approval by the City~~
19 ~~Attorney for conformance with the provisions of this section;~~

20 ~~(b) At all times keep on file with the City Clerk a current certificate of insurance signed~~
21 ~~by a qualified agent of an insurance company licensed to do business in the State of Nebraska and~~
22 ~~approved by the City Attorney for conformance with the provisions of this section evidencing the~~
23 ~~existence of valid and effective policies of insurance naming the city as an additional insured for the~~
24 ~~coverage required by subsection (a) of this section, the limits of each policy, the policy number, the~~
25 ~~name of the insurer, the effective date and expiration date of each policy, the deductibles or self-~~
26 ~~insurance retainers of each policy, and a copy of an endorsement placed on each policy requiring~~
27 ~~thirty days' notice by mail to the City Clerk before the insurer may cancel the policy for any reason,~~
28 ~~and upon request of the City Clerk or the City Attorney, a copy of any endorsements placed on such~~
29 ~~policies or the declarations page of such policies.~~

30 ~~Cancellation, reduction, or other termination of any insurance policy issued for or in~~
31 ~~compliance with the provisions hereof shall automatically terminate the privilege for the operation~~
32 ~~of any boat covered by such insurance policy, unless another policy complying with the provisions~~
33 ~~hereof shall be provided and in full force and effect at the time such cancellation, reduction, or~~
34 ~~termination becomes effect.~~

1 Section 11. That Sections 12.08.010, 12.08.060, 12.08.070, 12.08.200, 12.08.230, and
2 12.20.025 of the Lincoln Municipal Code as hitherto existing be and the same are hereby repealed.

3 Section 12. Pursuant to Article VII, Section 7 of the City Charter, this ordinance shall
4 be posted on the official bulletin board of the City, located on the wall across from the City Clerk's
5 office at 555 South 10th Street, in lieu of and in place of newspaper publication with notice of
6 passage and such posting to be given by publication one time in the official newspaper by the City
7 Clerk. This ordinance shall take effect and be in force from and after its passage and publication
8 as herein and in the City Charter provided.

Introduced by:

Approved as to Form & Legality:

City Attorney

Approved this ___ day of _____, 2012: _____ Mayor
