

ORDINANCE NO. _____

CONSENT A M E N D M E N T S

1 AN ORDINANCE amending Chapter 14.32 of the Lincoln Municipal Code relating to
 2 Special Events Ordinance, Chapter 14.57 relating to Newsracks, Chapter 15.04 relating to Tracks,
 3 and Chapter 27.69 relating to Signs by amending Sections 14.32.070 and 27.69.035 to update the
 4 names of arterial streets and designate new arterial streets; amending Section 14.57.060 to change
 5 the minimum distance a newsrack may be placed from a curb face; repealing Chapter 15.04,
 6 consisting of Sections 15.04.010, 15.04.020, 15.04.030, 15.04.040, 15.04.050, 15.04.060, 15.04.070,
 7 15.04.080, and 15.04.090, because its provisions have been preempted by federal law; and repealing
 8 Sections 14.32.070, 14.57.060 and 27.69.035 of the Lincoln Municipal Code as hitherto existing.

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

10 Section 1. That Section 14.32.070 of the Lincoln Municipal Code be amended to
 11 read as follows:

12 **14.32.070 Application; Review; Requirements.**

- 13 (a) Upon receipt of an application, the City Clerk shall forward the same to the Mayor
 14 for review. No permit shall be issued if the Mayor finds that the proposed special event:
 15 (1) Will cause unreasonable injury or damage to the public space requested;
 16 (2) Conflicts with a prior permit, or a prior application that is likely to be granted,
 17 for the same public space and for the same time;
 18 (3) Will continue for a duration longer than seven days, including any set-up or
 19 tear-down time;
 20 (4) Will involve such a number of persons or activities as will exceed the
 21 reasonable capacity of the public space requested;
 22 (5) Will interfere with the provision of proper fire and police protection to the
 23 area adjacent to the public space requested;
 24 (6) Will adversely affect adjacent or neighboring properties by causing excessive
 25 noise or creating a nuisance;
 26 (7) Will unreasonably interfere with the safe, orderly, and expeditious movement
 27 of vehicular or pedestrian traffic;

1 (8) Will be conducted primarily for the purpose of monetary gain or commercial
2 advertisement;

3 (9) Will fail to comply in any respect with the provisions of this chapter or any
4 other applicable law.

5 (b) No permit shall be issued to any applicant that has unpaid or past due fees under this
6 chapter for any prior special event.

7 (c) No permit shall be issued for any special event to be held during the following time
8 periods and locations:

9 (1) Between the hours of 12:30 a.m. and 6:30 a.m. on any day. The reasonable
10 and necessary time for set-up, tear-down, and preparation activities related to a special event may
11 be excepted from the strict application of this subsection.

12 (2) Beginning at 12:30 a.m. the day of any University of Nebraska home football
13 game and continuing through 6:30 a.m. the following day within any public space as follows:

14 (i) Within the area from the west line of 8th Street to the east line of 17th
15 Street and from the south line of K Street to the north line of R Street; or

16 (ii) Upon Avery Avenue; Charleston Street; State Fair Park Drive; New
17 Hampshire from the west line of 10th Street to the east line of 14th Street; First Street from the south
18 line of Charleston to the north line of Superior; Military Avenue; P Street from the west line of 17th
19 Street to the east line of 27th Street; Cotner Boulevard from the north line of Vine Street to the south
20 line of O Street; T Street; U Street; or

21 (iii) Upon the following arterial streets as designated in Chapter 10.26:
22 Ninth, Tenth, Eleventh, Thirteenth, Fourteenth, Sixteenth, Seventeenth, Twenty-first, Twenty-
23 seventh, Thirty-third, Forty-eighth, K, L, O, Q, R, ~~T, U~~, Nebraska Highway, Sun Valley Boulevard,
24 ~~Capitol Parkway~~ Rosa Parks Way, Cornhusker Highway, Holdrege, Normal Boulevard, Superior,
25 South, Van Dorn, Vine, ~~West By-Pass~~ Homestead Expressway (U.S. Highway 77), NW 12th, ~~and~~
26 NW 48th, Salt Creek Roadway, Antelope Valley Parkway, and Pinnacle Arena Drive.

27 (d) No permit shall be issued for any special event to be held on any arterial street
28 between the hours of 7:00 a.m. and 9:00 a.m.; 11:30 a.m. to 1:00 p.m.; and 3:30 p.m. to 6:30 p.m.,
29 Monday through Friday, without provision being made for an adequate number of police officers
30 to provide for the safe, orderly, and expeditious movement of vehicular and pedestrian traffic.

31 (e) If the permittee fails to provide necessary services and equipment reasonably required
32 for the special event, the City may provide or arrange for the same and, where allowed under this
33 chapter, charge the permittee for any costs related thereto as part of the fees.

34 (f) In determining whether an application should be approved, the Mayor may consider:

35 (1) Whether, in holding any previous special events, the applicant has conformed
36 to all permit requirements and the provisions of this chapter;

1 (2) The financial and practical ability of the applicant to conduct the proposed
2 special event in conformance with the provisions of the permit and this chapter.

3 (g) No permit shall be issued for a special permit within three days (excluding Saturdays,
4 Sundays, and City-observed holidays) after the application was filed with the City Clerk.

5 Section 2. That Section 14.57.060 of the Lincoln Municipal Code be amended to
6 read as follows:

7 **14.57.060 Standards for Location and Operation.**

8 No newsrack or newsrack enclosure shall be located:

9 (a) Within five feet of kiosk, bench, trash receptacle, drinking fountain, or bicycle rack,
10 or three feet of mailbox, post, pole, or any area planted with grass, shrubs, flowers; or trees; except
11 that such standards may be waived if pedestrian circulation space between such items and the
12 newsrack is not needed and sufficient space for maintenance of such items and newsracks is
13 provided or if the original design of such items specifically provides for newsracks in an integrated
14 design;

15 (b) Within five feet of a bus shelter, unless the height of the newsrack does not exceed
16 a height of three and one-half feet measured from the surface of the sidewalk;

17 (c) Within the sight triangles of street intersections;

18 (d) So as to reduce the clear, continuous sidewalk width to less than eight feet in the B-4
19 Zoning Districts and the P Zoning Districts where such district abuts the B-4 Zoning District or to
20 less than six feet in the B-3 Zoning Districts;

21 (e) Within five feet of any fire hydrant or other emergency facility;

22 (f) Within five feet of any driveway or alley;

23 (g) Within five feet ahead of, and twenty feet to the rear of any sign marking a designated
24 bus stop:

25 (h) Within six feet of a display window or building entrance;

26 (i) Within ~~one and one-half~~ two feet of the curb face;

27 (j) So as to impair or interfere with pedestrian traffic;

28 (k) So as to interfere or impair the vision of operators of vehicles at street intersections.

29 Section 3. That Chapter 15.04 of the Lincoln Municipal Code, consisting of Sections
30 15.04.010, 15.04.020, 15.04.030, 15.04.040, 15.04.050, 15.04.060, 15.04.070, 15.04.080, and
31 15.04.090, be and the same is hereby repealed.

32 ~~**15.04.010 Railway Tracks to Conform to Grade.**~~

33 ~~Every person or corporation operating a steam, electric or other railway, the tracks of which~~
34 ~~cross the streets or alleys, or occupy a street or alley or any portion thereof of the city, shall keep~~
35 ~~such tracks at each street or alley crossing, or place where a street or alley, or portion thereof is~~
36 ~~occupied within the city, and that portion of such street or alley lying between the rails of such~~
37 ~~tracks, in such condition as to conform with the grade established by the city for such particular~~

1 street or alley, and the tracks shall, at all times, be kept level with the surface of the street or alley
2 which they cross.

3 **15.04.020 — Resolution Ordering Tracks Brought to Grade.**

4 ——— All existing railway tracks, together with the surface between the rails thereof, at street or
5 alley crossings, or the place where a street or alley, or portion thereof, is occupied, which are not
6 in conformity with the grade established by the city for the street or alley which such track crosses
7 or occupies, shall be placed to such grade by such person or corporation within such time as the City
8 Council may, by resolution, direct. Upon passage of such resolution, the City Clerk shall
9 immediately deliver, by registered mail or by delivery at any place of business of such person or
10 corporation within the city, a certified copy of such resolution to the person or corporation owning
11 or maintaining such railway tracks.

12 **15.04.030 — Penalty.**

13 ——— Any such person or corporation that shall neglect or fail to put his or its track, or tracks, or
14 part of such track or tracks, together with the surface between the rails thereof, in the condition
15 required by the provisions hereof, within the time designated, shall be deemed guilty of a
16 misdemeanor and upon conviction thereof shall be fined \$100.00 for each offense. Each and every
17 day such neglect or failure shall continue shall constitute a separate and distinct offense. In addition
18 to such penalty, the City Council shall have the right, power, and authority to do the necessary work
19 and furnish the materials therefor to make such tracks conform to the grade at that time established,
20 and if lengthwise in a public way, to make such track level with the surface of the street, and assess
21 all the expense thereof against the person or corporation, to be collected as other taxes, and which
22 shall be a lien upon the property of such person or corporation, or the City of Lincoln may recover
23 such expense in a civil action as the City Council may elect.

24 **15.04.040 — Repair of Viaduct.**

25 ——— Every person or corporation owning or operating a steam, electric, or other railroad, the
26 tracks of which are under any viaduct on a public way within the city, shall repair and keep in repair
27 such viaduct, together with the viaduct approaches thereto.

28 **15.04.050 — Resolution Ordering Viaduct Repairs.**

29 ——— Such repairs shall be made in accordance with the plans and specifications of the Department
30 of Public Works and Utilities for the same and under said department's supervision, and shall be
31 made at such times, and within such time as the City Council may, by resolution, direct. Upon
32 passage of such resolution, the City Clerk shall immediately deliver, by registered mail or by
33 delivering to any place of business of such person or corporation within the city a certified copy of
34 such resolution to the person or corporation owning or maintaining such railroad tracks over which
35 such viaduct and viaduct approaches are constructed.

36 **15.04.060 — Penalty for Failure to Repair.**

37 ——— Any such person or corporation which shall fail, neglect or refuse to repair any such viaduct
38 and viaduct approaches thereto, in accordance with the provisions hereof and within the time
39 designated, as herein provided, shall be deemed guilty of a misdemeanor and upon conviction
40 thereof shall be fined \$100.00 and costs for each offense. Each and every day that such neglect shall
41 continue shall constitute a separate and distinct offense. In addition to such penalty, the City
42 Council shall have the power, whenever such person or corporation shall fail, neglect, or refuse to
43 repair such viaduct and viaduct approaches, as herein provided, to make such repairs by contract in
44 the same manner as other public improvements are made and assess the cost thereof against the
45 property of such a person or corporation, and such cost shall be a valid lien against such property,

1 and in the event there are railroad tracks owned by two or more persons or corporations under such
2 viaduct, then and in that event proportionate parts of such cost shall be assessed against the property
3 of each of said persons or corporations, and said assessment shall be a valid lien against such
4 property of each of such persons or corporations; or the cost of such repairs may be collected by the
5 city by an ordinary civil suit against such person or corporation, or persons or corporations, in the
6 proper court.

7 **15.04.070 — Railroad Companies to Pave Between Rails of Tracks on Paved Streets.**

8 ——— It shall be the duty of all railroad and railway companies which have railroad tracks on paved
9 streets within the corporate limits of the city, to lay and maintain paving on their whole right-of-way
10 on such paved streets so as to make the paving of such right-of-way to be in conformity to the
11 pavement already laid. Such paving shall be of the same material and character as the paving of the
12 streets in which such rights-of-way exist; provided, that, if such material is impracticable for paving
13 railroad crossings, then such material as is practicable and most nearly conforms to the street paving
14 and has the approval of the Department of Public Works and Utilities, may be used.

15 **15.04.080 — Notice to Pave.**

16 ——— Any railroad or railway company, as specified in the next preceding section hereof, shall
17 begin the paving of its right-of-way within sixty days after the date of receiving from the
18 Department of Public Works and Utilities a notice to so pave, and shall proceed to pave its right-of-
19 way as directed in such notice without unreasonable delay until completion.

20 **15.04.090 — Penalty for Failure to Commence Paving.**

21 ——— If after the sixty days notice has expired the railroad or railway company shall fail, neglect,
22 or refuse to commence paving its right-of-way as specified in the two preceding sections of this
23 chapter, or after having begun the paving, it shall unreasonably delay the completion of the same,
24 it shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be fined in a sum not
25 to exceed \$100.00, and each day's failure or refusal to begin paving, as aforesaid, and each day's
26 unreasonable delay in completion as aforesaid, shall be deemed a separate offense.

27 Section 4. That Section 27.69.035 of the Lincoln Municipal Code be amended to
28 read as follows:

29 **27.69.035 Off-Premises Signs.**

30 (a) Administrative Permits. Off-premises signs are permitted in the B-1, B-3, B-4, H-1,
31 H-2, H-3, H-4, and I-1 zoning districts by administrative permit issued by the Director of Building
32 and Safety. The administrative permits shall automatically expire ten years from their date of
33 issuance. The permittee may make application for renewal of the administrative permit.

34 (1) Applications for administrative permits and renewals thereof shall include:

35 (i) The legal description of the land upon which an off-premises sign is
36 to be located.

37 (ii) A copy of a signed lease or other verification that the applicant has
38 permission of the owner of the land upon which the off-premises sign shall be located to locate the
39 off-premises sign thereon.

40 (iii) The area of the proposed off-premises sign.

41 (iv) The description and location of a nonconforming off-premises sign
42 or signs to be removed as required by subsection (e) below or which was removed after January 10,
43 2000 and registered with the Department of Building and Safety and not previously used to satisfy

1 the requirement of subsection (3) below. The above provisions are not required to be met for
2 renewal of an administrative permit. For the purpose of this section, a nonconforming off-premises
3 sign shall mean any off-premises sign which was lawfully installed on the January 10, 2000 effective
4 date of Ordinance No. 17585 and for which an administrative permit has not been issued.

5 (2) The administrative permit and any renewals thereof shall be issued under the
6 following conditions:

7 (i) The off-premises sign shall be subject to the provisions of this section,
8 notwithstanding any other applicable regulation of the zoning district in which the off-premises sign
9 is located.

10 (ii) The nonconforming off-premises sign or signs identified in the
11 application for removal shall be removed prior to application for the permit or within 30 days of the
12 date of the issuance of the permit.

13 (iii) The off-premises sign shall be removed within 30 days following the
14 expiration of the permit.

15 (b) Siting Limitations.

16 (1) The minimum distance between an off-premises sign and an existing off-
17 premises sign or nonconforming off-premises sign shall be 600 feet measured in all directions
18 regardless of the zoning jurisdiction in which the existing off-premises sign or nonconforming off-
19 premises sign is located.

20 (2) The minimum distance between any two off-premises electronic changeable
21 copy signs shall be 5,000 feet measured in all directions regardless of the zoning jurisdiction in
22 which the existing off-premises electronic changeable copy sign is located.

23 (3) The minimum distance between an off-premises sign and a public elementary
24 or public high school, private school having a curriculum equivalent to a public elementary or public
25 high school, college or university, park, or cemetery shall be 600 feet measured in all directions
26 regardless of the zoning jurisdiction in which the public elementary or high school, private school
27 having a curriculum equivalent to a public elementary or public high school, university, park, or
28 cemetery is located.

29 (4) No off-premises sign shall be permitted in the areas designated as District A,
30 District B, or District C of the Capitol View Corridor Overlay District.

31 (5) No off-premises sign shall be permitted within the B-4 zoning district area
32 bounded by 10th Street, 14th Street, N Street, and P Street, or within the B-4 zoning district area
33 west of 9th Street or in the area beginning 150 feet east of 17th Street continuing to the eastern
34 boundary of the district.

35 (6) Within one-fourth mile on either side of the corporate limits of the City, the
36 minimum distance between an off-premises sign and any of the below listed entrance corridors to
37 the City shall be 800 feet measured in all directions.

38 (i) Interstate 80 and 180;

39 (ii) ~~West Bypass~~ Homestead Expressway (U.S. Highway 77) and “K” and
40 “L” ~~Extension~~ Rosa Parks Way;

- (iii) ~~U.S. 77 north of Morton Street~~ L55X (defined as the north line of Interstate 80 to the north line of Cornhusker Highway);
- (iv) Nebraska Highway 2;
- (v) U.S. 6;
- (vi) Cornhusker Highway;
- (vii) North 27th Street;
- (viii) "O" Street.

(7) Off-premises signs shall be located a minimum of 150 feet or one-half of the depth of the zoning district in which the off-premises sign shall be located, whichever is greater, measured in all directions from all residential zoning districts.

(8) No off-premises signs shall be located within 600 feet measured in all directions from a sensitivity zone. For the purpose of this section, a sensitivity zone shall mean an historic district, historic landmark, and Capitol environs.

(9) No off-premises signs shall be located within 660 feet of Interstate 80 and 180.

Notwithstanding the above (b)(1) through (b)(9) siting limitations, the Director of Building and Safety may approve an administrative permit for the face of the sign to be changed to an electronic changeable copy sign of equal or lesser face area provided that the sign is located at least 150 feet from and does not face a residential district, cemetery or park.

(c) Lighting. Illumination of off-premises signs shall not be allowed from midnight to 5:00 a.m., except for government initiated emergency information announcements. If off-premises signs are illuminated by reflected lighting, the lighting shall be provided by downlighting methods, until such time as sign illumination standards are adopted by resolution of the City Council and thereafter it shall in accordance with design standards. The lighting shall be controlled by an automatic timing device.

(d) Abandoned Signs. In addition to all other applicable regulations, off-premises sign structures and existing nonconforming off-premises sign structures which contain no sign copy on all faces for a continuous period of six months shall be considered an abandoned sign and shall be removed. This removal shall take place within ten days of the date of the abandonment.

(e) Removal of Existing Nonconforming Off-Premises Signs. For each new off-premises sign of a given total face area (rather than area of sign) to be erected within the zoning jurisdiction of the City in conformance with this section, an existing nonconforming off-premises sign or signs encompassing equal or greater total face area to the new off-premises sign shall be removed. In the alternative a nonconforming off-premises sign or signs removed after January 10, 2000 and registered with the Director of Building and Safety encompassing equal or greater face area to the new off-premises sign may be removed from the from the Director of Building and Safety registration and used in whole or part to satisfy this requirement. Notwithstanding the foregoing, for each new off-premises electronic changeable copy sign of a given sign area (rather than face area) to be erected within the zoning jurisdiction of the City in conformance with this section, three existing nonconforming signs each encompassing equal or greater sign area to the new off-premises

1 electronic changeable copy sign shall be removed. In the alternative, three nonconforming off-
2 premises signs removed after January 10, 2000 and registered with the Director of Building and
3 Safety, each encompassing equal or greater sign area value to the new off-premises sign, may be
4 removed from the Director of Building and Safety registration and used in whole or part to satisfy
5 this requirement.

6 (f) Notwithstanding (e) above, upon request of the applicant, the City Council may, after
7 report and recommendation of the Planning Commission, grant the applicant a bonus of one
8 additional off-premises sign of equal square footage to the nonconforming off-premises sign to be
9 removed upon a finding that the nonconforming off-premises sign to be removed is located in an
10 area of special aesthetic value to the community and that removal of the nonconforming off-premises
11 sign in question is a special desire of the community.

12 Section 6. That Sections 14.32.070, 14.57.060 and 27.69.035 of the Lincoln
13 Municipal Code as hitherto existing be and the same are hereby repealed.

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

Introduced by:

Approved as to Form & Legality:

City Attorney

Approved this ___ day of _____, 2013:

Mayor