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CHAPTER 1 CIVIL ADMINISTRATION

Article 1 City Administration

SECTION 1-101: CORPORATE EXISTENCE

Prior to 1990, the population of the City of Elgin was in excess of 800 persons and the City was classified by statute as a second class city. The 1990 census, enumeration, and return taken by the United States and the State of Nebraska reflected a decrease in population so that Elgin had a population of less than 800 inhabitants and more than 100 inhabitants. The mayor and City Council of the City of Elgin decided that the City should remain a city of the second class. Pursuant to Ord. No. 447 passed on December 4, 1994, by virtue of the authority vested in it pursuant to Neb. Rev. Stat. §17-310, the City of Elgin shall remain a city of the second class notwithstanding the decrease in population and such city shall continue to be governed by the laws of the State of Nebraska applicable to cities of the second class. (Neb. Rev. Stat. §17-101) (Ord No. 447, 12/5/94)

SECTION 1-102: OFFICIAL CORPORATE SEAL

The official corporate seal of the City shall be kept in the office of the city clerk, and may bear the following inscription: "Official Seal, City of Elgin, Nebraska." The city clerk shall affix an impression of the said official seal to all warrants, licenses, permits, ordinances, and all other official papers issued by order of the City Council and countersigned by the clerk. (Neb. Rev. Stat. §17-502)

SECTION 1-103: OATH OF OFFICE; CITY OFFICIALS

All officials of the City, whether elected or appointed, except when a different oath is specifically provided herein, shall, before entering upon their respective duties, take and subscribe the following oath which shall be endorsed upon their respective bonds:

"I, _____, do solemnly swear that I will support the Constitution of the United States and the Constitution of the State of Nebraska against all enemies foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely and without mental reservation or for the purpose of evasion; and that I will faithfully and impartially perform the duties of the office of _____ according to law and to the best of my ability. And I do further swear that I do not advocate nor am I a member of any political party or organization that advocates the overthrow of the government of the United States or of this State by force or violence; and that during such time as I am in this position I will not advocate nor become a member of any political party or organization that advocates the overthrow of the government of the United States or of this state by force or violence. So help me God."

(Neb. Rev. Stat. §11-101)

SECTION 1-104: BONDS; FORM

A. Official bonds of the City shall be in form, joint and several, and shall be made payable to the City in such penalty as the City Council may set by resolution; provided, the penalty amount on any bond shall not fall below the legal minimum, when one has been set by the State of Nebraska, for each particular official. All official bonds of the city officials shall be executed by the principal named in such bonds and by at least two sufficient sureties who shall be freeholders of the county or by the official as principal and by a guaranty, surety, fidelity, or bonding company; provided, no city official while still in his official term of office shall be accepted as surety on any other official's bond, contractor's bond, license bond, or appeal bond under any circumstances. Only companies that are legally authorized to transact business in the State of Nebraska shall be eligible for suretyship on the bond of an official of the City. All said bonds shall obligate the principal and sureties for the faithful discharge of all duties required by law of such principal and shall inure to the benefit of the City and any persons who may be injured by a breach of the conditions of such bonds. No bond shall be deemed to be given or complete until approved by the City Council and all sureties are endorsed in writing on the said instrument by the mayor and city clerk pursuant to the said council approval. The premium on any official bond required to be given may be paid out of the General Fund or other proper city fund upon a resolution to that effect by the City Council at the beginning of any city year.

B. All surety and other bonds required by city ordinances or by Nebraska law for city officials may be provided by the purchase of a blanket bond, undertaking or equivalent insurance. The City may pay the premium for the bond or insurance coverage. The bond or insurance coverage shall be, at a minimum, an aggregate of the amounts fixed by the law or by the City Council requiring such bond or undertaking and on such terms and conditions as may be required.

C. All official bonds meeting the conditions herein shall be filed with the city clerk for the official records and it shall be his/her duty to furnish a certified copy of any bond so filed upon the payment of a fee which shall be set by resolution of the City Council. In the event that the sureties on the official bond of any officer of the City, in the opinion of the City Council, become insufficient, the Council may, by resolution, fix a reasonable time within which the said officer may give a new bond or additional sureties as directed. In the event that the officer should fail, refuse, or neglect to give a new bond, or additional sureties to the satisfaction and approval of the City Council, then the office shall, by such failure, refusal, or neglect, become vacant and it shall be the duty of the Council to appoint a competent and qualified person to fill the said office. Any official who is re-elected to office shall be required to file a new bond after each election.

(Neb. Rev. Stat. §11-103 thru 11-118, 17-604)

SECTION 1-105: RESERVE OFFICER'S BOND

No appointment of a law enforcement reserve officer shall be valid until a bond in the amount of \$2,000.00, payable to the City, has been filed with the city clerk by the individual appointed or a blanket surety bond arranged and paid for by the City Council and bonding all such officers of the Council has been filed. Such bonds shall be subject to the provisions of Neb. Rev. Stat. Chapter 11, Article 1. (Neb. Rev. Stat. §81-1444) (Ord. No. 329, 10/6/86)

SECTION 1-106: COMPENSATION

The compensation of any elective official of the City shall not be increased or diminished during the term for which he/she shall have been elected except when there has been a merger of offices; provided, the compensation of the members of the City Council, a board, or commission may be increased or diminished at the beginning of the full term of any member whether or not the terms of one or more members commence and end at different times. No elected official may be rehired at a greater salary if he/she resigns and desires to be rehired during the unexpired term of office. Such official may be rehired after the term of office during which he/she resigned at a greater salary. All salaries shall be set by ordinance of the City Council and will be available for public inspection at the office of the city clerk. (Neb. Rev. Stat. §17-108.02, 17-612)

SECTION 1-107: CONFLICT OF INTEREST

A. For purposes of this section, "officer" shall mean (1) any member of any board or commission of the City, (2) any appointed official if such city official (a) serves on a board or commission which spends and administers its own funds and (b) is dealing with a contract made by such board or commission, or (3) any elected city official. Unless specified otherwise, volunteer firefighters and ambulance drivers shall not be considered officers for purposes of this section with respect to their duties as firefighters and ambulance drivers.

B. No officer of the City shall be permitted to benefit from any contract to which the City is a party. The existence of such an interest in any contract renders the contract voidable by decree of a court of competent jurisdiction as to any person who entered into the contract or took assignment thereof with actual knowledge of the prohibited conflict. An action to have a contract declared void under this section may be brought by the City or by any resident thereof and must be brought within one year after the contract is signed or assigned. Any such decree may provide for the reimbursement of any person for the reasonable value of all money, goods, material, labor, or services furnished under the contract to the extent that the City has benefited thereby. The prohibition in this section shall apply only when the officer or his/her parent, spouse, or child:

1. Has a business with which the individual is associated or business

association which shall mean a business (a) in which the individual is a partner, director, or officer or (b) in which the individual or a member of the individual's immediate family is a stockholder of a closed corporation stock worth \$1,000.00 or more at fair market value or which represents more than 5% equity interest or is a stockholder of publicly traded stock worth \$10,000.00 or more at fair market value or which represents more than 10% equity interest or

2. Will receive a direct pecuniary fee or commission as a result of the contract; provided however, if such officer is an employee of the business involved in the contract and has no ownership interest or will not receive a pecuniary fee, such officer shall not be deemed to have an interest within the meaning of this section.

C. The provisions of this section shall not apply if the interested officer:

1. Makes a declaration on the record to the governmental body responsible for approving the contract regarding the nature and extent of his/her interest, prior to official consideration of the contract;
2. Does not vote on the matter of granting the contract, except that if the number of members of the board declaring an interest in the contract would prevent the board, with all members present, from securing quorum on the issue, then all members may vote on the matter; and
3. Does not act for the City as to inspection or performance under the contract in which he/she has an interest.

D. The receiving of deposits, cashing of checks, and buying and selling of warrants and bonds of indebtedness of any city by a financial institution shall not be considered a contract under the provisions of this section. The ownership of less than 5% of the outstanding shares of a corporation shall not constitute an interest within the meaning of this section. Notwithstanding the provisions of subsections (C)(1) through (3) above, if an officer's parent, spouse or child is an employee of the City, the officer may vote on all issues of the contract which are generally applicable to all employees or all employees within a classification and do not single out his/her parent, spouse, or child for special action. If an officer has the power to employ personnel and he/she hires his/her parent, spouse, or child, such officer shall disclose the hiring pursuant to subsections (E)(1) through (5) below, except that if the parent, spouse, or child is already employed in the position at the time the officer takes office and such position does not change, no disclosure need be made. Notwithstanding any other provision of this section, any contract entered into with an interested officer shall be subject to applicable competitive bidding requirements and shall be fair and reasonable to the City.

E. The city clerk shall maintain, separately from other records, a ledger containing the information listed in subsections (1) through (5) of this section about every contract entered into by the City in which an officer has an interest as specified above for which disclosure is made as provided in subsections (C)(1) through (3) above. Such information shall be kept in the ledger for five years from the date of the officer's last day in office and shall include the:

1. Names of the contracting parties;
2. Nature of the interest of the officer in question;
3. Date that the contract was approved by the City;
4. Amount of the contract; and
5. Basic terms of the contract.

F. The information supplied relative to the contract shall be provided to the clerk not later than ten days after the contract has been signed by both parties. The ledger kept by the clerk shall be available for public inspection during the normal working hours of the city office.

G. An open account established for the benefit of any city or entity thereof, with a business in which an officer has an interest, shall be deemed a contract subject to the provisions of this section. The statement required to be filed pursuant to this section shall be filed within ten days after such account is opened. Thereafter, the clerk shall maintain a running account of all amounts purchased on the open account. Purchases made from petty cash or a petty cash fund shall not be subject to the provisions of this section

H. Any officer who knowingly violates the provisions of Neb. Rev. Stat. §49-14,103.01 through 49-14,103.03 shall be guilty of a Class III misdemeanor. Any officer who negligently violates Neb. Rev. Stat. §49-14,103.01 through 49-14,103.03 shall be guilty of a Class V misdemeanor.

I. The City may enact ordinances exempting from the provisions of this section contracts involving \$100.00 or less in which an officer may have an interest.

J. No officer, including volunteer firefighters and ambulance drivers, shall receive any pay or perquisites from the City other than his/her salary. The City Council shall not pay or appropriate any money or other valuable thing to pay a person who is not an officer for the performance of any act, service, or duty, which shall come within the proper scope of the duties of any officer of the City.

(Neb. Rev. Stat. §17-611, 18-305 through 18-312, 49-14,103.01 through 49-14,103.03, 70-624.04) (Am. by Ord. Nos. 267, 9/7/82; 286, 9/6/83; 294, 11/7/83; 305, 9/4/84; 328, 10/6/86)

SECTION 1-108: PRODUCTION OF PUBLIC RECORDS

A. Except as otherwise expressly provided by statute, all citizens of this state

and all other persons interested in the examination of the public records of the city, as defined in Neb. Rev. Stat. §84-712.01, are hereby fully empowered and authorized to:

1. Examine such records and make memoranda, copies using their own copying or photocopying equipment in accordance with subsection (B) of this section, and abstracts therefrom, all free of charge, during the hours the city office may be kept open for the ordinary transaction of business; and
2. Except if federal copyright law otherwise provides, obtain copies of public records in accordance with subsection (C) of this section during the hours the city office may be kept open for the ordinary transaction of business.

B. Copies made by citizens or other persons using their own copying or photocopying equipment pursuant to subdivision (A)(1) of this section shall be made at the city office or at a location mutually agreed to by the requester and the city clerk.

C. Procedure.

1. Copies may be obtained pursuant to subdivision (A)(2) of this section only if the city has copying equipment reasonably available. Such copies may be obtained in any form designated by the requester in which the public record is maintained or produced, including but not limited to printouts, electronic data, discs, tapes, and photocopies. This section shall not be construed to require the city clerk to copy any public record that is available to the requester on the city's web site on the Internet. The city clerk is required to provide the location of the public record on the Internet to the requester. If the requester does not have reasonable access to the Internet due to lack of computer, lack of Internet availability, or inability to use a computer or the Internet, the city clerk shall produce copies for the requester.
2. Except as otherwise provided by statute, the city may charge a fee for providing copies of such public record pursuant to subdivision (A)(2) of this section, which fee shall not exceed the actual added cost of making the copies available. For purposes of this subdivision: (a) for photocopies, the actual added cost of making the copies available shall not exceed the amount of the reasonably calculated actual added cost of the photocopies, which may include a reasonably apportioned cost of the supplies, such as paper, toner, and equipment, used in preparing the copies, as well as any additional payment obligation of the city for time of contractors necessarily incurred to comply with the request for copies, (b) for printouts of computerized data on paper, the actual added cost of

making the copies available shall include the reasonably calculated actual added cost of computer run time and the cost of materials for making the copy, and (c) for electronic data, the actual added cost of making the copies available shall include the reasonably calculated actual added cost of the computer run time, any necessary analysis and programming by the public body, public entity, public official, or third-party information technology services company contracted to provide computer services to the city, and the production of the report in the form furnished to the requester.

3. The actual added cost used as the basis for the calculation of a fee for records shall not include any charge for the existing salary or pay obligation to the city employees with respect to the first four cumulative hours of searching, identifying, physically redacting, or copying. A special service charge reflecting the calculated labor cost may be included in the fee for time required in excess of four cumulative hours, since that large a request may cause some delay or disruption of the other responsibilities of the city clerk's office, except that the fee for records shall not include any charge for the services of an attorney to review the requested public records seeking a legal basis to withhold the public records from the public.
4. This section shall not be construed to require the city to produce or generate any public record in a new or different form or format modified from that of the original public record.
5. If copies requested in accordance with subdivision (A)(2) of this section are estimated by the city clerk to cost more than \$50.00, he or she may require the requester to furnish a deposit prior to fulfilling such request.

D. Upon receipt of a written request for access to or copies of a public record, the city clerk shall provide to the requester as soon as is practicable and without delay but not more than four business days after actual receipt of the request, an estimate of the expected cost of the copies and either:

1. Access to or, if copying equipment is reasonably available, copies of the public record;
2. If there is a legal basis for denial of access or copies, a written denial of the request, together with the information specified in Neb. Rev. Stat. §84-712.04; or
3. If the entire request cannot with reasonable good faith efforts be fulfilled within four business days after actual receipt of the request due to the significant difficulty or the extensiveness of the request, a written explanation, including the earliest practicable date for fulfilling the request, an estimate of the expected cost of any copies, and an opportunity for the

requester to modify or prioritize the items within the request. The requester shall have ten business days to review the estimated costs, including any special service charge, and request the city clerk to fulfill the original request, negotiate with the clerk to narrow or simplify the request, or withdraw the request. If the requester does not respond to the city clerk within ten business days, the clerk shall not proceed to fulfill the request. The four business days shall be computed by excluding the day the request is received, after which the designated period of time begins to run. "Business day" does not include a Saturday, a Sunday, or a day during which the city office is closed.

E. Records which may be withheld from the public are enumerated in Neb. Rev. Stat. §84-712.05 and are on file in the office of the city clerk. Any reasonably segregable public portion of a record shall be provided to the public as a public record upon request after deletion of the portions which may be withheld.

F. Any person denied any rights granted by Neb. Rev. Stat. §84-712 to 84-712.03 may act as provided in Neb. Rev. Stat. §84-712.03 and shall receive in written form from the city at least the information as provided in Neb. Rev. Stat. §84-712.04.

(Ord. No. 636, 1/6/14)

Article 2 Elected Officials

SECTION 1-201: QUALIFICATIONS; HOLDING OTHER ELECTIVE OFFICE

The mayor and the members of the Council shall be residents and registered voters of the City of Elgin. The mayor and members of the Council shall hold no other elective or appointive office or employment with the City other than as members of the Volunteer Fire Department or emergency medical technician team. No person shall simultaneously serve as an elected official of this city and any other high elective office as defined by Neb. Rev. Stat. §32-604(6), or any other Constitutional office set forth in Neb. Rev. Stat. §32-604(2). (Ord. No. 387, 12/3/90) (Am. by Ord. No. 508, 9/8/98)

SECTION 1-202: CITY COUNCIL; SELECTION AND DUTIES

The members of the City Council shall be elected and serve for four-year terms. The Council shall be the legislative division of the city government and shall perform such duties and have such powers as may be authorized by law. The City Council shall maintain the peace, regulate business, protect the public health and safety, and assess such taxes and fees as are necessary and appropriate in the exercise of these functions. (Neb. Rev. Stat. §17-103, 17-104)

SECTION 1-203: CITY COUNCIL; ACTING PRESIDENT

The City Council shall elect one of its own body each year who shall be styled the president of the Council and who shall preside at meetings in the absence of the mayor. In the absence of the mayor and the president of the Council, the City Council shall elect one of its own body to occupy his/her place temporarily, who shall be styled acting president of the Council. Both the president of the Council and the acting president of the Council, when occupying the position of the mayor, shall have the same privileges as the other members of the City Council, and all acts of the president of the Council or acting president of the Council, while so acting, shall be as binding upon the City Council and upon the City as if done by the elected mayor. (Neb. Rev. Stat. §17-148)

SECTION 1-204: CITY COUNCIL; ORGANIZATION

City Council members shall take office and commence their duties on the first regular meeting in December following their election. The newly elected council members who have qualified as prescribed by law, together with the members of the City Council holding over, shall assemble in a regular meeting at the hour and place hereinafter prescribed and perfect the reorganization of the City Council as herein provided. All appointive offices in which the terms of incumbents are expired shall be filled by appointment. After the said meeting has been called to order, the city clerk shall report to the City Council the names of all council members-elect who have qualified for their respective offices, and this report shall be spread upon the minutes of the meeting preceding the roll call. Each ward of the City shall be represented by at least two council members. No person shall be eligible who is not at the time of his/her election an actual resident of the ward for which he/she is qualified and should any council member move from the ward from which elected, his/her office shall thereby become vacant. (Neb. Rev. Stat. §17-104, 17-107.01, 19-613)

SECTION 1-205: CITY COUNCIL; VACANCY, GENERALLY

A. Every elective office shall be vacant upon the happening of any of the events specified in Neb. Rev. Stat. §32-560 except as provided in Neb. Rev. Stat. §32-561. (Neb. Rev. Stat. §32-560)

B. Except as otherwise provided in subsection (B), (E), or (F) of this section, vacancies in city elected offices shall be filled by the mayor and City Council for the balance of the unexpired term. Notice of a vacancy, except a vacancy resulting from the death of the incumbent, shall be in writing and presented to the Council at a regular or special meeting and shall appear as a part of the minutes of such meeting. The Council shall at once give public notice of the vacancy by causing to be published in a newspaper of general circulation within the City or by posting in three public places in the City the office vacated and the length of the unexpired term.

C. The mayor shall, within four weeks after the meeting at which such notice of vacancy has been presented or upon the death of the incumbent, call a special meeting of the Council or place the issue of filling such vacancy on the agenda at the next regular meeting, at which time the mayor shall submit the name of a qualified registered voter to fill the vacancy for the balance of the unexpired term. The Council shall vote upon such nominee and if a majority votes in favor of such nominee, the vacancy shall be declared filled. If the nominee fails to receive a majority of the votes, the nomination shall be rejected and the mayor shall, at the next regular or special meeting, submit the name of another qualified registered voter to fill the vacancy. If the subsequent nominee fails to receive a majority of the votes, the mayor shall continue at such meeting to submit the names of qualified registered voters in nomination and the Council shall continue to vote upon such nominations until the vacancy is filled. The mayor shall cast his/her vote for or against the nominee in the case of a tie vote of the Council. All council members present shall cast a ballot for or against the nominee. Any member of the Council who has been appointed to fill a vacancy shall have the same rights, including voting, as if such person were elected.

D. The mayor and Council may, in lieu of filling a vacancy in a city elected office as provided in subsection (C) of this section, call a special city election to fill such vacancy.

E. If vacancies exist in the offices of a majority of the members of the City Council, the secretary of state shall conduct a special city election to fill such vacancies. (Neb. Rev. Stat. §32-569)
(Am. by Ord. Nos. 300, 9/4/84; 390, 12/3/90; 551, 5/6/02)

SECTION 1-206: CITY COUNCIL; VACANCY DUE TO UNEXCUSED ABSENCES

A. In addition to the events listed in Neb. Rev. Stat. §32-560 and any other reasons for a vacancy provided by law, after notice and a hearing, a vacancy on the City Council shall exist if a member is absent from more than five consecutive regular meetings of the Council unless the absences are excused by a majority vote of the remaining members. (Neb. Rev. Stat. §19-3101)

B. The City Council shall take a vote on whether to excuse a member's absence from a meeting upon either a written request from the member submitted to the city clerk or a motion of any other council member.

C. If a council member has been absent from six consecutive regular meetings and none of the absences have been excused by a majority vote of the remaining members, the city clerk shall include this as an item on the agenda for the next regular meeting. At that meeting, the Council shall set a date for a hearing and direct the city clerk to give the member notice of the hearing by personal service or first class mail to the member's last known address.

D. At the hearing, the council member shall have the right to present information on why one or more of the absences should be excused. If the Council does not excuse one or more of the member's absences by a majority vote at the conclusion of the hearing, there shall be a vacancy on the Council.

(Ord. No. 572, 4/7/03)

SECTION 1-207: MAYOR; SELECTION AND DUTIES

A. The mayor shall be elected in the manner provided in the Nebraska Revised Statutes. The mayor shall take office on the date of the first regular meeting of the city council held in December following the statewide general election. The mayor shall be a resident and registered voter of the city. The mayor shall:

1. Have the general and immediate control over all property and officials, whether elected or appointed, of the City.
2. Preside at all meetings of the City Council and may vote when his/her vote would provide the additional vote required to attain the number of votes equal to a majority of the number of members elected to the City Council on any pending matter, legislation, or transaction, and the mayor shall, for the purpose of such vote, be deemed to be a member of the Council.
3. Sign the city clerk's minutes of all meetings and sign all resolutions which have been passed and warrants for the payment of money when ordered by the City Council; provided, any ordinance vetoed by the mayor may be passed over his/her veto by a two-thirds vote by the members of the Council but if the mayor neglects or refuses to sign any ordinance and returns it to the Council with his/her objections in writing at the next regular council meeting, the same shall become a law without his/her signature.
4. From time to time communicate to the Council such information and recommendations as, in his/her opinion, may improve the City.
5. Have the power to remit fines or pardon any offense arising under the ordinances of the City.
6. Have such other duties as the City Council may by resolution confer upon him/her or in any other matters which the laws of the of the State of Nebraska repose in him/her.

B. The mayor may require at reasonable intervals any city official to exhibit his/her accounts; make reports to the Council on any subject pertaining to his/her office;

and remove at any time an appointed police officer of the City.

C. The mayor's territorial authority shall extend over all places within five miles of the corporate limits of the City for the enforcement of any health ordinance and one-half mile in all matters vested in him/her except taxation.

(Neb. Rev. Stat. §17-107, 17-110 through 17-114) (Am. by Ord. Nos. 230, 10/6/80; 1-501-2012, 3/5/12)

SECTION 1-208: MAYOR; VACANCY

A. Whenever a vacancy occurs in the office of mayor or in case of his/her disability or absence, the president of the Council shall exercise the office of mayor until such vacancy is filled or such disability is removed or, in the case of temporary absence, until the mayor returns.

B. When the successful candidate for mayor shall be unable to assume office, the incumbent mayor shall not be entitled to hold over the term; such office shall automatically become vacant and the president of the Council shall exercise the office of mayor until such vacancy is filled.

C. If the president of the Council assumes the office of mayor for the unexpired term, there shall be a vacancy on the council which shall be filled as provided in Neb. Rev. Stat. §32-568.

(Neb. Rev. Stat. §17-107) (Am. by Ord. No. 1-501-2012, 3/5/12)

Article 3 Meetings

SECTION 1-301: DEFINED

"Meetings" as used in this article shall mean all regular, special, or called meetings, formal or informal, of a public body for the purposes of briefing, discussion of public business, formation of tentative policy, or the taking of any action. (Neb. Rev. Stat. §84-1409(2)) (Am. by Ord. No. 284, 9/6/83)

SECTION 1-302: PUBLIC BODY DEFINED

"Public body" as used in this article shall mean (1) the City Council; (2) all independent boards, commissions, bureaus, committees, councils, subunits, Certificate of Need appeal panels, or any other bodies now or hereafter created by Constitution, statute, or otherwise pursuant to law; and (3) advisory committees of the bodies listed above. This article shall not apply to subcommittees of such bodies unless such subcommittees are holding hearings, making policy or taking formal action on behalf of their parent body. (Neb. Rev. Stat. §84-1409(1))(Am. by Ord. No. 284, 9/6/83)

SECTION 1-303: RIGHTS OF PUBLIC

A. Subject to the Open Meetings Act, the public shall have the right to attend

and the right to speak at meetings of public bodies, and all or any part of a meeting of a public body, except for closed sessions called pursuant to Section 1-310, may be videotaped, televised, photographed, broadcast, or recorded by any person in attendance by means of a tape recorder, camera, video equipment, or any other means of pictorial or sonic reproduction or in writing.

B. Public bodies shall make available at least one current copy of the Open Meetings Act by posting it in the meeting room at a location accessible to members of the public. At the beginning of the meeting, the public shall be informed about the location of the posted information.

C. It shall not be a violation of this section for any public body to make and enforce reasonable rules and regulations regarding the conduct of persons attending, speaking at, videotaping, televising, photographing, broadcasting, or recording its meetings. A body may not be required to allow citizens to speak at each meeting but it may not forbid public participation at all meetings.

D. No public body shall require members of the public to identify themselves as a condition for admission to the meeting nor shall such body require that the name of any member of the public be placed on the agenda prior to such meeting in order to speak about items on the agenda. The body may require any member of the public desiring to address the body to identify himself/herself.

E. No public body shall, for the purpose of circumventing the provisions of this section, hold a meeting in a place known by the body to be too small to accommodate the anticipated audience.

F. No public body shall be deemed in violation of this section if it holds its meeting in its traditional meeting place which is located in this state.

G. The public body shall, upon request, make a reasonable effort to accommodate the public's right to hear the discussion and testimony presented at the meeting.

H. Public bodies shall make available at the meeting, for examination and copying by members of the public, at least one copy of all reproducible written material to be discussed at an open meeting.

(Neb. Rev. Stat. §84-1412) (Am. by Ord. Nos. 284, 9/6/83; 316, 10/7/85; 341, 10/5/87; 554, 5/6/02)

SECTION 1-304: NOTICE; AGENDA

A. All public meetings as defined by law shall be held in a public building which shall be open to attendance by the public. All meetings shall be held in the public building in which the City Council usually holds such meetings unless the publicized notice hereinafter required shall designate some other public building or other specified place. The advance publicized notice of all public convened meetings shall

be simultaneously transmitted to all members of the City Council and to the public by a method designated by the Council or by the mayor if the City Council has not designated a method. Such notice shall contain the time and specific place for each meeting and either an enumeration of the agenda subjects known at the time of the notice or a statement that such an agenda, kept continually current, shall be readily available for public inspection at the office of the city clerk.

B. Except for items of an emergency nature, the agenda shall not be altered later than 24 hours before the scheduled commencement of the meeting or 48 hours before the scheduled commencement of a meeting of the City Council scheduled outside the corporate limits of the City. The Council shall have the right to modify the agenda to include items of an emergency nature only at such public meetings. The minutes of the city clerk shall include the record of the manner and advance time by which the advance publicized notice was given, a statement of how the availability of an agenda of the then known subjects was communicated, the time and specific place of the meetings, and the names of each council member present or absent at each convened meeting.

C. The minutes of the City Council shall be a public record open to inspection by the public upon request during office hours at the city office. Any official action on any question or motion duly moved and seconded shall be taken only by roll call vote of the City Council in open session. The record of the city clerk shall show how each member voted, or that the member was absent and did not vote.

(Neb. Rev. Stat. §84-1408, 84-1409, 84-1411, 84-1413) (Am. by Ord. Nos. 284, 9/6/83; 340, 10/5/87)

SECTION 1-305: PROHIBITED ACTS; EXEMPT EVENTS

A. No person or public body shall fail to invite a portion of its members to a meeting and no public body shall designate itself a subcommittee of the whole body for the purpose of circumventing this article or the Open Meetings Act. No closed session, informal meeting, chance meeting, social gathering, email, fax, or electronic communication shall be used for the purpose of circumventing the requirements of this article or the act.

B. This article does not apply to chance meetings or to attendance at or travel to conventions or workshops of members of a public body at which there is no meeting of the body then intentionally convened, if there is no vote or other action taken regarding any matter over which the public body has supervision, control, jurisdiction, or advisory power.

(Neb. Rev. Stat. §84-1410) (Ord. No. 589, 2/7/05)

SECTION 1-306: NOTICE TO NEWS MEDIA

The city clerk shall maintain a list of the news media requesting notification of

meetings and shall make reasonable efforts to provide advance notification to them of the time and place of each meeting and the subjects to be discussed at that meeting. (Neb. Rev. Stat. §84-1411)

SECTION 1-307: ELECTION YEAR CHANGE IN OFFICE

The change in office shall be made as follows: The mayor and Council shall meet on the first regular meeting date in December of each year in which a city election is held and the outgoing officers and the outgoing members of the Council shall present their reports. Upon the old Council having completed its business up to the said time, the outgoing members of the Council shall thereupon each surrender to his/her successor in office all property, records, papers and moneys belonging to the same.

SECTION 1-308: ORGANIZATIONAL MEETING; STANDING COMMITTEES

A. The newly elected council members shall convene at the city hall on the first regular meeting in December of each year in which a city election is held immediately after the prior Council adjourns and proceed to organize themselves for the ensuing year. The mayor elected for the new city year shall call the meeting to order. The Council shall then proceed to examine the credentials of its members and other elective officers of the City to see that each has been duly and properly elected and to see that such oaths and bonds have been given as are required. After ascertaining that all members are duly qualified, the Council shall then elect one of its own body who shall be styled as "president of the Council." The mayor shall nominate his/her candidates for appointive offices and then proceed with the regular order of business.

B. It is hereby made the duty of each and every member of the Council or his successor in office and of each officer elected to any office to qualify prior to the first regular meeting in December following election. All appointive officers shall qualify within two weeks following their appointments. Qualification for each officer who is not required to give bond shall consist in subscribing and taking an oath to support the Constitution of the United States, the Constitution of the State of Nebraska, and the laws of the City and to perform faithfully and impartially the duties of the office, said oath to be filed in the office of the city clerk. Each officer who is required to give a bond shall file the required bond in the office of the city clerk with sufficient sureties, conditioned on the faithful discharge of the duties of his/her office, with the oath endorsed thereon.

C. At the organizational meeting of the City Council, the mayor shall appoint members of such standing committees as the Council may by ordinance or resolution create. The membership of such standing committees may be changed at any time by the mayor, who shall be a member ex officio of each standing committee. The members of the said committees shall serve terms of office of one year unless reappointed. The following standing committees shall be appointed or reappointed

each year until changed by the City Council: Water & Sewer, Legal Paper & Bank, Park & Pool, Streets & Alleys, and Youth.

SECTION 1-309: REGULAR MEETING

The meetings of the City Council shall be held at the city hall. Regular meetings shall be held on the first Monday of each month at the hour of 7:30 P.M. At all meetings of the Council a majority of the council members shall constitute a quorum to do business. (Neb. Rev. Stat. §17-105) (Ord. No. 317, 10/7/85)

SECTION 1-310: CLOSED SESSIONS

A. Any public body may hold a closed session by the affirmative vote of a majority of its voting members if a closed session is clearly necessary for the protection of the public interest or for the prevention of needless injury to the reputation of an individual and if such individual has not requested a public meeting. Closed sessions may be held for, but shall not be limited to, such reasons as:

1. Strategy sessions with respect to collective bargaining, real estate purchases, pending litigation, or litigation which is imminent as evidenced by communication of a claim or threat of litigation to or by the public body;
2. Discussion regarding deployment of security personnel or devices;
3. Investigative proceedings regarding allegations of criminal misconduct; or
4. Evaluation of the job performance of a person when necessary to prevent needless injury to the reputation of a person and if such person has not requested a public meeting.

Nothing in this section shall permit a closed meeting for discussion of the appointment or election of a new member to any public body.

B. The vote to hold a closed session shall be taken in open session. The vote of each member on the question of holding a closed session, the reason for the closed session, and the time when the closed session commenced and concluded shall be recorded in the minutes. The public body holding such a closed session shall restrict its consideration of matters during the closed portions to only those purposes set forth in the minutes as the reason for the closed session. The meeting shall be reconvened in open session before any formal action may be taken. For purposes of this section, "formal action" means a collective decision or a collective commitment or promise to make a decision on any question, motion, proposal, resolution, order, or ordinance or formation of a position or policy but shall not include negotiating

guidance given by members of the public body to legal counsel or other negotiators in closed sessions authorized under division (A)(1) of this section.

C. Any member of any public body shall have the right to challenge the continuation of a closed session if the member determines that the session has exceeded the reason stated in the original motion to hold a closed session or if the member contends that the closed session is neither clearly necessary for (1) the protection of the public interest or (2) the prevention of needless injury to the reputation of an individual. Such challenge shall be overruled only by a majority vote of the members of the public body. Such challenge and its disposition shall be recorded in the minutes.

D. Nothing in this section shall be construed to require that any meeting be closed to the public.

(Neb. Rev. Stat. §84-1410) (Am. by Ord. Nos. 284, 9/6/83; 412, 4/5/93; 448, 3/6/95; 589, 2/7/05)

SECTION 1-311: SPECIAL MEETINGS

A. Special meetings may be called by the mayor or by three members of the City Council, the object of which shall be submitted to the Council in writing. The call and object, as well as the disposition thereof, shall be entered upon the journal by the city clerk. On filing the call for a special meeting, the city clerk shall notify the Council members of the special meeting, stating the time and its purpose. Notice of a special meeting need not be given to a council member known to be out of the state or physically unable to be present. A majority of the members of the City Council shall constitute a quorum for the transaction of business but a smaller number may adjourn from day to day and compel the attendance of the absent members. Whether a quorum is present or not, all absent members shall be sent for and compelled to attend.

B. At the hour appointed for the meeting, the city clerk shall proceed to call the roll of members and announce whether a quorum is present. If a quorum is present, the Council shall be called to order by the mayor, if present or, if absent, by the president of the Council. In the absence of both the mayor and the president of the Council, the City Council members shall elect a president pro tempore. All ordinances passed at any special meeting shall comply with procedures set forth in Chapter 1, Article 4 herein.

(Neb. Rev. Stat. §17-106) (Ord. No. 317, 10/7/85)

SECTION 1-312: EMERGENCY MEETINGS

When it is necessary to hold an emergency meeting without reasonable advance public notice, the nature of the emergency shall be stated in the minutes and any formal action taken in such meeting shall pertain only to the emergency. Such emergency meetings may be held by means of electronic or telecommunication

equipment. The provisions of Section 1-306 (Notice to News Media) of this article shall be complied with in conducting emergency meetings. Complete minutes of any such emergency meeting, specifying the nature of the emergency and any formal action taken at the meeting, shall be made available to the public by no later than the end of the next regular business day. (Neb. Rev. Stat. §84-1411) (Am. by Ord. No. 284, 9/6/83)

SECTION 1-313: ORDER OF BUSINESS

All meetings of the City Council shall be open to the public. Promptly at the hour set by law on the day of each regular meeting, the members of the City Council, the city clerk, the mayor, and such other city officials that may be required shall take their regular stations in the city hall and the business of the City shall be taken up for consideration and disposition in the manner prescribed by the official agenda on file at the office of the city clerk.

SECTION 1-314: MINUTES

The City Council shall keep minutes of all meetings showing the time, place, members present and absent, and the substance of all matters discussed. The minutes of all meetings shall be public records and open to public inspection during normal business hours. Minutes shall be written and available for inspection within ten working days or prior to the next convened meeting, whichever occurs earlier, but the city clerk may have an additional ten working days if absent due to a serious illness or emergency. (Neb. Rev. Stat. §84-1412, 84-1413)

SECTION 1-315: VOTES

Any action taken on any question or motion duly moved and seconded shall be by roll call vote of the public body in open session and the record shall state how each member voted or if the member was absent or not voting. The requirements of a roll call or viva voce vote shall be satisfied by the city which utilizes an electronic voting device allowing the “yeas” and “nays” of each member of the City Council to be readily seen by the public. The vote to elect leadership within a public body may be taken by secret ballot but the total number of votes for each candidate shall be recorded in the minutes. (Neb. Rev. Stat. §17-616, 84-1413)

Article 4 Ordinances, Resolutions, and Motions

SECTION 1-401: GRANT OF POWER

The City Council may make all ordinances, bylaws, rules, regulations, and resolutions not inconsistent with the laws of the State of Nebraska as may be expedient for maintaining the peace, good government, and welfare of the City and its trade, commerce, and manufactories. (Neb. Rev. Stat. §17-505) (Am. by Ord. No. 490, 8/4/97)

SECTION 1-402: ORDINANCES; STYLE

The style of all city ordinances shall be: "Be it ordained by the Mayor and City Council of the City of Elgin, Nebraska". (Neb. Rev. Stat. §17-613)

SECTION 1-403: ORDINANCES; TITLE

No ordinance shall contain a subject not clearly expressed in its title. (Neb. Rev. Stat. §17-614)

SECTION 1-404: ORDINANCES; INTRODUCTION

Ordinances shall be introduced by members of the City Council in either of the following ways:

A. With the recognition of the mayor, a council member may, in the presence and hearing of a majority of the Council, read aloud the substance of his/her proposed ordinance and file a copy of the same with the city clerk for future consideration; or

B. With the recognition of the mayor, a council member may present his/her proposed ordinance to the clerk who, in the presence and hearing of a majority of the Council, shall read aloud the substance of the same and file the same for future consideration.

SECTION 1-405: ORDINANCES; READING AND PASSAGE

A. Ordinances of a general or permanent nature shall be read by title on three different days unless three-fourths of the City Council votes to suspend this requirement, except that such requirement shall not be suspended for any ordinance for the annexation of territory. In case such requirement is suspended, the ordinance shall be read by title and then moved for final passage. Three-fourths the Council may require a reading of any ordinance in full before enactment under either procedure set out in this chapter. All ordinances and resolutions or orders for the appropriation or payment of money shall require for their passage or adoption the concurrence of a majority of the City Council. The mayor may vote when his/her vote would provide the additional vote required to attain the number of votes equal to a majority of the number of members elected to the Council, and the mayor shall, for the purpose of such vote, be deemed to be a member of the Council.

B. On the passage or adoption of every bylaw or ordinance and every resolution or order to enter into a contract by the City Council, the "yeas" and "nays" shall be called and recorded. To pass or adopt any bylaw, ordinance, or any such resolution or order, a concurrence of a majority of the City Council shall be required.

C. All appointments of officers by the City Council shall be made viva voce and

the concurrence of a like majority shall be required and the names of those and for whom they voted on the vote resulting in an appointment shall be recorded. The requirements of a roll call or viva voce vote shall be satisfied by a city which utilizes an electronic voting device allowing the "yeas" and "nays" of each member of the City Council to be readily seen by the public.

(Neb. Rev. Stat. §17-614, 17-616) (Am. by Ord. No. 491, 8/4/97)

SECTION 1-406: ORDINANCES; PUBLICATION OR POSTING; CERTIFICATE

A. All ordinances of a general nature shall be published one time within 15 days after they are passed in some newspaper published in the City or, if no paper is published in the City, then by posting a written or printed copy thereof in each of three public places in the City or in book or pamphlet form. (Neb. Rev. Stat. §17-613) (Am. by Ord. No. 327, 10/6/86)

B. The passage, approval, and publication or posting of all ordinances shall be sufficiently proven by a certificate under the seal of the City from the city clerk showing that the said ordinance was passed and approved and when and in what paper the same was published or when, by whom, and where the same was posted. (Neb. Rev. Stat. §17-613)

SECTION 1-407: EMERGENCY ORDINANCES; EFFECTIVE DATE

A. Except as provided in subsection (B) of this section, an ordinance for the government of the City which has been adopted by the City Council without submission to the voters of the City shall not go into effect until 15 days after the passage of the ordinance.

B. In the case of riot, infectious or contagious diseases, or other impending danger, failure of a public utility or any other emergency requiring its immediate operation, an ordinance shall take effect upon the proclamation of the mayor and the posting thereof in at least three of the most public places in the City. Such emergency ordinance shall recite the emergency, be passed by a three-fourths vote of the City Council, and be entered of record on the city clerk's minutes.

(Neb. Rev. Stat. §17-613, 19-3701) (Am. by Ord. No. 492, 8/4/97)

SECTION 1-408: ORDINANCES; AMENDMENTS AND REVISIONS

No ordinance or section thereof shall be revised or amended unless the new ordinance contains the entire ordinance or section as revised or amended, and the ordinance or section so amended shall be repealed. (Neb. Rev. Stat. §17-614)

SECTION 1-409: RESOLUTIONS AND MOTIONS; PROCEDURE

Resolutions and motions shall be introduced in one of the methods prescribed for the introduction of ordinances. After their introduction, they shall be fully and distinctly

read one time in the presence and hearing of a majority of the City Council. The issue raised by any said resolution or motion shall be disposed of in accordance with the usage of parliamentary law adopted for the guidance of the Council. A majority vote shall be required to pass any resolution or motion. The vote on any resolution or motion shall be by roll call vote.

Article 5 Appointed Officials

SECTION 1-501: GENERAL AUTHORITY

The mayor, with the consent of the City Council, may appoint such officers as shall be required by ordinance or otherwise required by law. Such officers may be removed from office by the mayor. The terms of office for all officers, except regular police officers, shall be such that the officers hold office for one year unless sooner removed. (Neb. Rev. Stat. §17-107, 81-1438 thru 81-1446) (Am. by Ord. No. 1-501-2012, 3/5/12)

SECTION 1-502: MERGER OF OFFICES

A. The City Council may, at its discretion, by ordinance combine and merge any elective or appointive office or employment or any combination of duties of any such offices or employments, except mayor and council member, with any other elective or appointive office or employment so that one or more of such offices or employments or any combination of duties of any such offices or employments may be held by the same officer or employee at the same time.

B. The offices or employments so merged and combined shall always be construed to be separate and the effect of the combination or merger shall be limited to a consolidation of official duties only. The salary or compensation of the officer or employee holding the merged or combined offices or employments or offices and employments shall not be in excess of the maximum amount provided by law for the salary or compensation of the office, offices, employment or employments so merged and combined. For purposes of this section, volunteer firefighters and ambulance drivers shall not be considered officers.

(Neb. Rev. Stat. §17-108.02) (Am. by Ord. Nos. 301, 9/4/84; 389, 12/3/90)

SECTION 1-503: CLERK-TREASURER POSITION CREATED

The appointive offices of city clerk and city treasurer are hereby combined and merged in accordance with the authority granted to the City Council by Section 1-502. The office so merged and combined shall always be construed to be separate and the effect of the combination or merger shall be limited to a consolidation of official duties only. The salary of the officer holding the merged offices shall not be in excess of the maximum amount provided by law for the salary of the offices so combined.

SECTION 1-504: CITY CLERK

A. The city clerk shall attend the meetings of the City Council and keep a correct journal of the proceedings of that body and shall make, at the end of the fiscal year, a report of the business of the City transacted through the office for the year.

B. The city clerk shall issue and sign all licenses, permits, and occupation tax receipts authorized by law and required by the city ordinances; collect all occupation taxes and license money except where some other city officer is specifically charged with that duty; and keep a register of all licenses granted in the City and the purpose for which they have been issued.

C. The city clerk shall permit no records, public papers, or other documents of the City kept and preserved in his/her office to be taken therefrom except by such officers of the City as may be entitled to the use of the same, but only upon their leaving a receipt therefor; keep all the records of his office, including a record of all licenses issued in a blank book with a proper index; include as part of the records all petitions under which the City Council shall order public work to be done at the expense of the property fronting thereon, together with references to all resolutions and ordinances relating to the same; and endorse the date and hour of filing upon every paper or document so filed in his/her office and properly docketing all such filings. Included in the records shall be all standard codes, amendments thereto, and other documents incorporated by reference and arranged in triplicate in a manner convenient for reference.

D. The clerk shall keep and preserve the proceedings of the City Council in two separate and distinct record books. The Minute Records shall contain a record of all the miscellaneous and informal doings of the City Council and shall not include the passage and approval of ordinances except such resolutions incorporating the Ordinance Record by reference into the Minute Record. The Ordinance Record shall contain the formal proceedings of the City Council in the matter of passing, approving, publishing, posting, and certifying of ordinances. After the formalities for the legal enactment of an ordinance have been completed, the city clerk shall record, and spread at large in the Ordinance Record his/her ordinance minutes on printed forms. In all cases hereafter where single ordinances are introduced for the consideration of the City Council, the city clerk shall cause to be introduced an appropriate resolution incorporating by reference the Ordinance Record into the Minute Record.

E. The clerk shall keep an accurate and complete account of the appropriation of the several funds and draw, sign, and attest all warrants ordered for the payment of money on the particular fund from which the same is payable. At the end of each month, he/she shall then make a report of the amounts appropriated to the various funds and the amount of the warrants drawn thereon. Nothing herein shall be construed to prevent any citizen, official, or other person from examining any public

records at all reasonable times.

F. The city clerk shall deliver all warrants, ordinances, and resolutions to the mayor for his/her signature; deliver to officers, employees, and committees all resolutions and communications which are directed at said persons; and with the seal of the City, duly attest the mayor's signature to all ordinances, deeds, and papers required to be attested to when ordered to do so by the City Council. Within 30 days after any meeting of the Council, the city clerk shall prepare and publish the official proceedings in a legal newspaper of general circulation in the City and which was duly designated as such by the Council. Said publication shall set forth a statement of the proceedings thereof and shall also include the amount of each claim allowed, the purpose of the claim, and the name of the claimant, except that the aggregate amount of all payroll claims may be included as one item.

G. Between July 15 and August 15 of each year, all job titles and their current annual, monthly, or hourly salaries shall be published and any changes in salaries or the hiring of new employees during the calendar quarter preceding the months of October, January, and April shall be published during the months of November, February, and May; provided, the charge for such publication shall not exceed the rates provided by state statutes. Said publication shall be charged against the General Fund. He/she shall then keep in a book with a proper index copies of all notices required to be published or posted by him/her by order of the City Council or under the ordinances of the City. To each of the file copies of said notices shall be attached the printer's affidavit of publication, if the said notices are required to be published, or the city clerk's certificate under seal where the same are required to be posted only.

H. The city clerk shall receive all objections to creation of paving districts and other street improvements. He/she shall receive the claims of any person against the City and in the event that the said claim is disallowed in part or in whole, notify such claimant, agent, or attorney by letter within five days after such disallowance. The city clerk shall then prepare transcripts on appeals of any disallowance of a claim in all proper cases.

I. The city clerk may charge a reasonable fee for certified copies of any record in his/her office as set by resolution of the City Council. He/she shall destroy city records under the direction of the State Records Board pursuant to Neb. Rev. Stat. §84-1201 thru 84-1220; provided, the Council shall not have the authority to destroy the minutes of the city clerk, the permanent ordinances and resolution books, or any other records classified as permanent by the State Records Board.

(Neb. Rev. Stat. §17-605, 19-1102, 19-1104, 84-1201 thru 84-1220, 84-712) (Am. by Ord. No. 633, 1/6/14)

SECTION 1-505: CITY TREASURER

A. The city treasurer shall be the custodian of all money belonging to the City, keeping a separate account of each fund or appropriation and the debts and credits belonging thereto. He/she shall give every person paying money into the treasury a receipt therefor, specifying the date of payment and on what account paid and shall also file copies of such receipts with his/her monthly reports. The city treasurer shall, at the end of every month and as often as may be required, render an account to the City Council, under oath, showing the state of the treasury at the date of such account and the balance of money in the treasury. He/she shall also accompany such accounts with a statement of all receipts and disbursements, together with all warrants redeemed and paid by him or her, which warrants, with any and all vouchers held, shall be filed with his/her account in the city clerk's office. If the city treasurer neglects or fails to render his/her account for the space of ten days from the end of each month, the office shall be declared vacant and the City Council shall fill the vacancy by appointment until the next election for city officers. (Neb. Rev. Stat. §17-606)

B. All warrants upon the treasurer shall be paid in the order of their presentation therefor and as otherwise provided in Neb. Rev. Stat. §77-2201 through 77-2215. The city treasurer shall keep a warrant register in the form required by Neb. Rev. Stat. §77-2202. (Neb. Rev. Stat. §77-2201)

C. The treasurer shall make duplicate receipts for all sums which shall be paid into his/her office, which receipts shall show the source from which such funds are derived and shall, by distinct lines and columns, show the amount received to the credit of each separate fund and whether the same was paid in cash, in warrants, or otherwise. The treasurer shall deliver one of the duplicates to the person making the payment and retain the other in his/her office. (Neb. Rev. Stat. §77-2209)

D. The city treasurer shall daily, as money is received, foot the several columns of the cash book and of the register and carry the amounts forward. At the close of each year, in case the amount of money received by the treasurer is insufficient to pay the warrants registered, he/she shall close the account for that year in the register and shall carry forward the excess. (Neb. Rev. Stat. §77-2210)

E. The treasurer shall prepare and publish annually within 60 days following the close of the city fiscal year a statement of the receipts and expenditures by funds for the preceding fiscal year. Publication shall be made in one legal newspaper of general circulation in the City. If no legal newspaper is published in the City, then such publication shall be made in one legal newspaper published or of general circulation within the county in which the City is located. (Neb. Rev. Stat. §§19-1101, 19-1103)

F. The treasurer shall keep a record of all outstanding bonds against the city, showing the number and amount of each bond, for and to whom the bonds were issued, and the date upon which any bond is purchased, paid, or canceled. He or she shall accompany the annual statement submitted pursuant to Neb. Rev. Stat.

§19-1101 with a description of the bonds issued and sold in that year and the terms of sale, with every item of expense thereof.

G. The treasurer shall invest and collect all money owned by or owed to the City as directed by the City Council and shall maintain depository evidence that all city money is, in the name of the City, in a solvent and going financial institution of a type authorized by state law for deposit of city funds. He/she shall cancel all bonds, coupons, warrants, and other evidences of debt against the City whenever paid by him or her, by writing or stamping on the face thereof, "Paid by the City Treasurer," with the date of payment written or stamped thereon; and collect all special taxes, allocate special assessments to the several owners, and obtain from the county treasurer a monthly report as to the collection of delinquent taxes.

(Am. by Ord. Nos. 552, 5/6/02; 633, 1/6/14)

SECTION 1-506: CITY ATTORNEY

The city attorney shall be the legal advisor of the Board. He/she shall commence, prosecute, and defend all suits and actions necessary to be commenced, prosecuted, or defended on behalf of the City or that may be ordered by the City Council. When requested, the city attorney shall attend meetings of the Council and give his/her opinion upon matters submitted to him/her, either orally or in writing, as may be required. The city attorney shall draft and review for legal correctness, ordinances, contracts, franchises, and other instruments as may be required and shall perform such other duties as may be imposed upon him/her by general law or ordinance. The Council shall have the right to pay the city attorney compensation for legal services performed by him/her on such terms as the Council and attorney may agree and to employ additional legal assistance and to pay for such legal assistance out of the funds of the City. (Neb. Rev. Stat. §17-610)

SECTION 1-507: CITY PHYSICIAN

The city physician shall be a member of the Board of Health and perform the duties devolving upon him/her as the medical advisor of the said board. In all injuries where a liability may be asserted against the City, the city physician shall immediately investigate the said injuries, the extent thereof, and the circumstances and shall then report the results of his/her investigation with the name of the party injured and all other persons who may have personal knowledge of the matter. He/she shall make all physical examinations and necessary laboratory tests incident thereto and issue such health certificates as are required by ordinance. For the purpose of making examinations of the sanitary conditions of any property and the state of health of the inhabitants therein, he/she shall have the right at all reasonable hours to go upon and enter all premises, buildings, or other structures in the City. He shall perform such other duties as may be required of him by state laws and city ordinances. When ordered to do so by the City Council, he/she shall disinfect or fumigate the premises

or persons in or about the premises when the premises are quarantined and to call upon indigent sick persons and perform other professional services at the direction of the City Council. The city physician shall receive as compensation for services such sum as the Council may from time to time set but shall receive no compensation for services as a member of the Board of Health. (Neb. Rev. Stat. §17-121)

SECTION 1-508: CITY POLICE CHIEF

The police chief shall direct the police work of the City and shall be responsible for the maintenance of law and order. He shall act as health inspector and building inspector except in the event the City appoints another person. He shall file the necessary complaints in cases arising out of violations of city ordinances and shall make all necessary reports required by the city ordinances or state laws. (Neb. Rev. Stat. §17-107, 17-121)

SECTION 1-509: POLICE; DUTIES

The Police Department shall consist of the chief of police and such further number of regular policemen as may be duly ordered by resolution of the Council. The chief of police shall, subject to the direction of the mayor, have control and management of all matters relating to the Police Department, its officers and members, and shall have the custody and control of all property and books belonging to the department. He shall devote his whole time to the City affairs, interests of the City, and to the preservation of peace, order, safety, and cleanliness thereof. The Department shall execute and enforce all laws and also the orders of the mayor. It shall be the duty of the Department to protect the rights of persons and property. There shall be a proper police force at all fires. The Department shall take notice of all nuisances, impediments, obstructions, and defects in the streets, avenues, alleys, business places, and residences of the City. The Department shall execute, or cause to be executed, the processes issued and shall cause all persons arrested to be brought before the proper court for trial as speedily as possible. The chief of police and all regular and special policemen shall become thoroughly conversant with the laws of the City, and shall see that the same are strictly enforced and shall make sworn complaints against any person or persons for violation of the same.

SECTION 1-510: POLICE; ARREST AND ENFORCEMENT JURISDICTION

A. Every city law enforcement officer shall have the power and authority to enforce the laws of this state and the City or otherwise perform the functions of that office anywhere within his/her primary jurisdiction. "Primary jurisdiction" shall mean the geographic area within territorial limits of the City.

B. Any city law enforcement officer who is within this state but beyond the

territorial limits of his/her primary jurisdiction shall have the power and authority to enforce the laws of this state or any legal ordinance of any city or incorporated village or otherwise perform the functions of his/her office, including the authority to arrest and detain suspects, as if enforcing the laws or performing the functions within the territorial limits of his/her primary jurisdiction in the following cases:

1. Any city law enforcement officer, if in a fresh attempt to apprehend a person suspected of committing a felony, may follow such person into any other jurisdiction in this state and there arrest and detain such person and return him/her to the officer's primary jurisdiction;
2. Any city law enforcement officer, if in a fresh attempt to apprehend a person suspected of committing a misdemeanor or a traffic infraction, may follow such person anywhere in an area within 25 miles of the boundaries of the officer's primary jurisdiction and there arrest and detain such person and return him/her to the officer's primary jurisdiction;
3. Any city law enforcement officer shall have such enforcement and arrest and detention authority when responding to a call in which a local, state, or federal law enforcement officer is in need of assistance. "Law enforcement officer in need of assistance" shall mean a law enforcement officer whose life is in danger or a law enforcement officer who needs assistance in making an arrest and the suspect (a) will not be apprehended unless immediately arrested, (b) may cause injury to himself or herself or others or damage to property unless immediately arrested, or (c) may destroy or conceal evidence of the commission of a crime; and
4. If the City, under the provisions of the Interlocal Cooperation Act, enters into a contract with any other city or county for law enforcement services or joint law enforcement services, law enforcement personnel may have such enforcement authority within the jurisdiction of each of the participating political subdivisions if provided for in the agreement. Unless otherwise provided in the agreement, the City shall provide liability insurance coverage for its own law enforcement personnel as provided in Neb. Rev. Stat. §13-1802.

C. If city law enforcement personnel are rendering aid in their law enforcement capacity outside the limits of the City in the event of disaster, emergency, or civil defense emergency or in connection with any program of practice or training for such event when such program is conducted or participated in by the Nebraska Emergency Management Agency or with any other related training program, the law enforcement personnel shall have the power and authority to enforce the laws of this

state or any legal ordinances or resolutions of the local government where they are rendering aid or otherwise perform the functions of their office, including the authority to arrest and detain suspects, as if enforcing the laws or performing the functions within the territorial limits of their primary jurisdiction. The City shall self-insure or contract for insurance against any liability for personal injuries or property damage that may be incurred by it or by its personnel as the result of any movement or its personnel outside the limits of the City pursuant to this subsection.

(Neb. Rev. Stat. §29-215, 81-629.65) (Ord. No. 450, 3/6/95) (Am. by Ord. No. 521, 9/8/98)

SECTION 1-511: CITY FIRE CHIEF

The fire chief shall be elected by the members of the Fire Department. He shall enforce all laws and ordinances covering the prevention of fires, the storage and use of explosives and flammable substances, the installation of fire alarm systems, the maintenance of fire extinguishing equipment, the regulation of fire escapes, and the inspection of all premises requiring adequate fire escapes. He shall within two days investigate the cause, origin, and circumstances of any fire arising within his jurisdiction. He shall, on or before April 1 and October 1 each year, cause the secretary to file with the city clerk and the clerk of the District Court a certified copy of the rolls of all members in good standing in their respective companies in order to obtain the exemptions provided by law. He shall have the power during the time of a fire and for a period of 36 hours thereafter to arrest any suspected arsonist or any person for hindering the department's efforts, conducting himself in a noisy and disorderly manner, or who shall refuse to obey any lawful order by the fire chief or assistant chief. The fire chief or his assistant in charge of operations at a fire may command the services of any person present at any fire in extinguishing the same or in the removal and protection of property. Failure to obey such an order shall be a misdemeanor punishable by a fine. The fire chief shall have the right to enter at all reasonable hours into buildings and upon all premises within his jurisdiction for the purpose of examining the same for fire hazards and related dangers. Also see Section 8-102.

(Neb. Rev. Stat. §17-147, 17-505, 35-102, 35108, 81-506, 81-512)

SECTION 1-512: SPECIAL ENGINEER

The City Council may employ a special engineer to make or assist the city engineer in making any particular estimate, survey, or other work. The special engineer shall make a record of the minutes of his surveys and all other work done for the City. He shall, when directed by the Council, accurately make all plats, sections, profiles, and maps as may be necessary in the judgment of the Council. He shall, upon request of the Council, make estimates of the costs of labor and material which may be done or furnished by contract with the City and make all surveys, estimates, and calculations necessary for the establishment of grades, bridges, building of culverts, sewers, electric light system, waterworks, power plant, public heating system, bridges, curbing and gutters, and the improvement of streets and erection and repair of buildings. He shall perform such other duties as the City Council may require. All

records of the special engineer shall be public records which shall belong to the City and shall be turned over to his successor. (Neb. Rev. Stat. §17-405, 17-568, 17-568.01, 17-919)(Am. by Ord. No. 283, 9/6/83)

SECTION 1-513: CITY STREET COMMISSIONER

The city street commissioner shall, subject to the orders and directives of the City Council, have general charge, direction, and control of all work on the streets, sidewalks, culverts, and bridges of the City and shall perform such other duties as the Council may require. It shall be his responsibility to see that gutters and drains therein function properly and that the same are kept in good repair. He shall, at the request of the City Council, make a detailed report on the condition of the streets, side-walks, culverts, alleys, and bridges of the City and shall direct its attention to such improvements, repairs, extensions, additions, and additional employees as he may believe are needed to maintain a satisfactory street system in the City, along with an estimate of the cost thereof. He shall issue such permits and assume such other duties as the City Council may direct. (Neb. Rev. Stat. §17-107, 17-119)

SECTION 1-514: CITY UTILITIES SUPERINTENDENT

In the event that there is another city utility in addition to the city waterworks, a public works commissioner, also called utilities superintendent, shall be appointed annually at the first regular meeting of the City Council in December to manage the said utilities. The superintendent may be required to provide a bond conditioned upon the faithful discharge of his duties which shall amount to not less than the amount set by resolution of the City Council and on file in the office of the city clerk. He shall perform such additional duties as may be prescribed by the Council. He may be removed at any time by a two-thirds vote of the City Council. Any vacancy occurring in the said office by death, resignation or removal may be filled in the manner hereinbefore provided for the appointment of all city officials. The utilities superintendent's duties over the following departments shall be as stated herein and he shall have such other duties as the City Council may delegate.

Water Department

He shall have general supervision and control over the city water system and shall be primarily responsible for its economic operation and prudent management. Included in the said water system shall be the water plant, the pump house, all machinery, and appliances used in connection with producing and distributing water to inhabitants of the City. All actions, decisions, and procedures of the utilities superintendent shall be subject to the general directives and control of the City Council. The utilities superintendent shall have the general control and supervisory authority over all employees of the water system which the Council may from time to time hire to operate and maintain the said system. He shall make a detailed report to the Council at least once every six months of the condition of the said water system, of all mains, pipes,

hydrants, reservoirs, and machinery and such improvements, repairs, and extensions thereof as he may think proper. The report shall show the amount of receipts and expenditures on account thereof for the preceding six months. No money shall be expended for improvements, repairs, or extensions of the said waterworks system except upon the recommendation of the superintendent.

Sewer Department

The utilities superintendent shall have the immediate control and supervision over all the employees, and property that make up the city sewer system, subject to the general control and directives of the City Council. He shall make a detailed report to the Council at least every six months on the condition of the sewer system and shall direct its attention to such improvements, repairs, extensions, additions, and additional employees as he may believe are needed, along with an estimate of the cost thereof. He shall inspect and supervise all repairs made to the said system.

(Neb. Rev. Stat. §17-107, 17-541, 17-543)

SECTION 1-515: RECREATION DIRECTOR

The City Council shall appoint a recreation director. It shall be the duty of the director to plan, direct, and supervise recreational activities at the city parks, playgrounds, and recreational areas. The director shall take immediate charge of the expenditures for the playground and recreational equipment and activities, subject to the review of the Council. The director shall also be responsible for making reports and performing such other duties as the Council may, from time to time, designate.

Article 6 Fiscal Management

SECTION 1-601: FISCAL YEAR

The fiscal year of the City and any public utility of the City commences on October 1 and extends through the following September 30 except as provided in the Municipal Proprietary Function Act. (Neb. Rev. Stat. §17-701) (Am. by Ord. No. 463, 2/5/96)

SECTION 1-602: PUBLIC FUNDS DEFINED

“Public funds” shall mean all money, including non-tax money, used in the operation and functions of governing bodies. For purposes of a city which has a lottery established under the Nebraska County and City Lottery Act, only those net proceeds which are actually received by the City from a licensed lottery operator shall be considered public funds, and public funds shall not include amounts awarded as prizes. (Neb. Rev. Stat. §13-503)

SECTION 1-603: DEPOSIT OF FUNDS

A. The City Council, at its first meeting in each fiscal year, shall designate one or more banks, capital stock financial institutions, or qualifying mutual financial institutions of approved and responsible standing in which the city treasurer shall keep at all times, subject to payment on his/her demand, all money held by him/her as treasurer. If one or more banks, capital stock financial institutions, or qualifying mutual financial institutions are located in the City which apply for the privilege of keeping such money and give bond or security for the repayment of deposits as provided in this section, such banks, capital stock financial institutions, or qualifying mutual financial institutions shall be selected as such depositories. The city treasurer shall not give a preference to any one or more of them in the money he/she may so deposit.

B. The City Council shall require from all banks, capital stock financial institutions, or qualifying mutual financial institutions (1) a bond in such penal sum as may be the maximum amount on deposit at any time less the amount insured by the Federal Deposit Insurance Corporation or, in lieu thereof, (2) security given as provided in the Public Funds Deposit Security Act to secure the payment of all such deposits and accretions. The City Council shall approve such bond or giving of security. The city treasurer shall not be liable for any loss of any money sustained by reason of the failure of any such depository so designated and approved. The fact that a stockholder, director, or other officer of such bank, capital stock financial institution, or qualifying mutual financial institution is also serving as mayor, as a member of the City Council, or as any other officer of the City shall not disqualify such bank, capital stock financial institution, or qualifying mutual financial institution from acting as a depository for such city funds.

C. The insurance afforded to depositors in banks, capital stock financial institutions, or qualifying mutual financial institutions through the Federal Deposit Insurance Corporation shall be deemed and construed to be a surety bond to the extent that the deposits are insured by such corporation and for deposits so insured, no other surety bond or other security shall be required. Neb. Rev. Stat. §77-2366 shall apply to deposits in capital stock financial institutions. Neb. Rev. Stat. §77-2365.01 shall apply to deposits in qualifying mutual financial institutions. (Neb. Rev. Stat. §17-607, 77-2362) (Am. by Ord. Nos. 518, 9/8/98; 578, 4/7/03)

SECTION 1-604: GENERAL FUND

All money not specifically appropriated in the annual appropriation bill shall be deposited in and known as the General Fund.

SECTION 1-605: CERTIFICATES OF DEPOSIT; TIME DEPOSITS; CONDITIONS

Whenever the City has accumulated a surplus of any fund in excess of its current needs or has accumulated a sinking fund for the payment of its bonds, the city treasurer may invest such surplus in certificates of deposit from and make time

deposits to any bank or capital stock financial institution pursuant to Neb. Rev. Stat. §17-720 and 16-714 to 16-716. (Ord. No. 519, 9/8/98)

SECTION 1-606: CLAIMS

All claims against the City shall be presented to the City Council in writing with a full account of the items, and no claim or demand shall be audited or allowed unless presented as provided for in this section. No costs shall be recovered against the City in any action brought against it for an unliquidated claim which has not been presented to the Council to be audited nor upon claims allowed in part unless the recovery shall be for a greater than the amount allowed, with the interest due. No order or warrant shall be drawn in excess of 85% of the current levy for the purpose for which it is drawn unless there shall be sufficient money in the city treasury for the appropriate fund against which it is to be drawn; provided, in the event there exist obligated funds from the federal and/or state government for the general purpose of such warrant, then such warrant may be drawn in excess of 85% but not more than 100% of the current levy for the purpose for which said warrant is drawn. (Neb. Rev. Stat. §17-714, 17-715)

SECTION 1-607: WARRANTS

All warrants drawn upon the city treasury must be signed by the mayor and countersigned by the city clerk, stating the particular fund to which the warrant is chargeable, the person to whom it is payable, and the purpose of the expenditure. No money shall be otherwise paid than upon warrants so drawn. Each warrant shall specify the amount included in the adopted budget statement for the fund upon which it is drawn and the amount already expended of such fund. (Neb. Rev. Stat. §17-711)

SECTION 1-608: EXPENDITURES

No city official shall have the power to appropriate, issue, or draw any order or warrant on the city treasury for money unless the same has been appropriated or ordered by ordinance. No expenditure for any improvement to be paid for out of the general fund of the City shall exceed in any one year the amount provided for that improvement in the adopted budget statement. (Neb. Rev. Stat. §17-708)

SECTION 1-609: BOND ISSUES

The City Council may, after meeting all the requirements of state law, issue bonds, fund bonds, and retire bonds for such purposes as may be permitted by state law. The Council shall have the authority to levy special assessments for the payment of interest and principal on such bonds and may spread the payments up to the maximum number of years permitted by state law. (Neb. Rev. Stat. §10-201 through 10-411, 10-601 through 10-614, 12-1001, 17-529.01, 17-529.08, 17-534, 17-905, 17-908, 17-911, 17-939, 17-958, 17-968, 18-1801 through 18-1805, 23-343.13, 39-836)

SECTION 1-610: SINKING FUNDS

A. The City Council, subject to the limitations set forth herein, shall have the power to levy a tax not to exceed that prescribed by state law upon the assessed value of all taxable property within the City for a term not to exceed that prescribed by state law in addition to the amount of tax which may be annually levied for the purposes of the adopted budget statement of the City for the purpose of establishing a sinking fund for the construction, purchase, improvement, extension, or repair of the approved uses as authorized by state law. To initiate the said sinking fund, the Council shall declare its purpose by resolution to submit to the qualified electors of the City a proposition to provide the improvement at the next general city election. The resolution shall set forth the improvement, the estimated cost, the amount of the annual levy, the number of years required to provide the required revenue, the name of the sinking fund proposed, and the proposition as it will appear on the ballot. Notice of the said proposition shall be published in its entirety three times on successive weeks before the day of the election in a legal newspaper of general circulation in the City.

B. The sinking fund may be established after the election if a majority or more of the legal votes were in favor of the establishment of the fund. The City Council may then proceed to establish the said fund in conformity with the provisions of the proposition and applicable state law. The funds received by the city treasurer shall, as they accumulate, be immediately invested with the written approval of the City Council in the manner provided by state law. No sinking fund so established shall be used for any purpose or purposes contrary to the purpose as it appeared on the ballot unless the City Council is authorized to do so by 60% of the qualified electors of the City voting at a general election favoring such a change in the use of the sinking fund.

(Neb. Rev. Stat. §19-1301 through 19-1304, 77-2337, 77-2339)

SECTION 1-611: TRANSFER OF FUNDS

A. Whenever during the current fiscal year it becomes apparent due to unforeseen emergencies that there is temporarily insufficient money in a particular fund to meet the requirements of the adopted budget of expenditures for that fund, the City Council may by majority vote transfer money from other funds to such fund. No expenditure during any fiscal year shall be made in excess of the amounts indicated in the adopted budget statement, except as authorized herein. If, as the result of un-foreseen circumstances, the revenue of the current fiscal year shall be insufficient, the City Council may propose to supplement the previously adopted budget statement and shall conduct a public hearing, at which time any taxpayer may appear or file a written statement protesting the application for additional money.

B. Notice of a place and time for the said hearing shall be published at least five days prior to the date set for the hearing in a newspaper of general circulation in the City. The published notice shall set forth the time and place of the proposed hearing, the amount of additional money required, the purpose of the required money, a statement setting forth the reasons why the adopted budget of expenditures cannot be reduced to meet the need for additional money, and a copy of the summary of the originally adopted budget previously published.

C. A written record shall be kept of all such hearings. Upon the conclusion of the public hearing on the proposed supplemental budget, and the approval by the City Council, the Council shall file with the county clerk and the Nebraska state auditor a copy of the supplemental budget and shall certify the amount of additional tax to be levied. The Council may then issue warrants in payment for expenditures authorized by the adopted supplemental budget. The said warrants shall be referred to as "registered warrants" and shall be repaid during the next fiscal year from funds derived from taxes levied therefor.

(Neb. Rev. Stat. §13-510, 13-511)

SECTION 1-612: SPECIAL ASSESSMENT FUND

All money received on special tax assessments shall be held by the city treasurer as a special fund to be applied to the payment of the improvement for which the assessment was made and such money shall be used for no other purpose unless to reimburse the City for money expended for any such improvement. (Neb. Rev. Stat. §17-710)

SECTION 1-613: CONTRACTS AND PURCHASES; BIDDING AND OTHER REQUIREMENTS

A. Except as provided in Neb. Rev. Stat. §18-412.01 for a contract with a public power district to operate, renew, replace, or add to the electric distribution, transmission, or generation system of the City, no contract for enlargement or general improvements, such as water extensions, sewers, public heating system, bridges, work on streets, or any other work or improvement when the cost of such enlargement or improvement is assessed to the property, costing over \$30,000.00 shall be made unless it is first approved by the City Council.

B. Except as provided in Neb. Rev. Stat. §18-412.01, before the City Council makes any contract in excess of \$30,000.00 for enlargement or general improvements, such as water extensions, sewers, public heating system, bridges, work on streets, or any other work or improvement when the cost of such enlargement or improvement is assessed to the property, an estimate of the cost shall be made by the city engineer and submitted to the City Council. In advertising for bids as provided in subsections (C) and (E) of this section, the City Council may publish the amount of

the estimate.

C. Advertisements for bids shall be required for any contract costing over \$30,000.00 entered into (1) for enlargement or general improvements, such as water extensions, sewers, public heating system, bridges, work on streets, or any other work or improvement when the cost of such enlargement or improvement is assessed to the property, or (2) for the purchase of equipment used in the construction of such enlargement or general improvements.

D. A city electric utility may enter into a contract for the enlargement or improvement of the electric system or for the purchase of equipment used for such enlargement or improvement without advertising for bids if the price is: (1) \$30,000.00 or less; (2) \$60,000.00 or less and the city electric utility has gross annual revenue from retail sales in excess of \$1,000,000.00; (3) \$90,000.00 or less and the city electric utility has gross annual revenue from retail sales in excess of \$5,000,000.00; or (4) \$120,000.00 or less and the city electric utility has gross annual revenue from retail sales in excess of \$10,000,000.00.

E. The advertisement provided for in subsection (C) of this section shall be published at least seven days prior to the bid closing in a legal newspaper published in or of general circulation in the City and, if there is no legal newspaper published in or of general circulation in the City, then in some newspaper of general circulation published in the county in which the City is located, and if there is no legal newspaper of general circulation published in the county in which the City is located, then in a newspaper designated by the County Board, having a general circulation within the county where bids are required, and if no newspaper is published in the City or county, or if no newspaper has general circulation in the county, then by posting a written or printed copy thereof in each of three public places in the City at least seven days prior to the bid closing. In case of a public emergency resulting from infectious or contagious diseases, destructive windstorms, floods, snow, war, or an exigency or pressing necessity or unforeseen need calling for immediate action or remedy to prevent a serious loss of, or serious injury or damage to, life, health, or property, estimates of costs and advertising for bids may be waived in the emergency ordinance authorized by Neb. Rev. Stat. §17-613 when adopted by a three-fourths vote of the City Council and entered of record.

F. If, after advertising for bids as provided in this section, the City Council receives fewer than two bids on a contract or if the bids received by the Council contain a price which exceeds the estimated cost, the Council may negotiate a contract in an attempt to complete the proposed enlargement or general improvements at a cost commensurate with the estimate given.

G. If the materials are of such a nature that, in the opinion of the manufacturer and with the concurrence of the City Council, no cost can be estimated until the materials have been manufactured or assembled to the specific qualifications of the

purchasing city, the City Council may authorize the manufacture and assemblage of such materials and may thereafter approve the estimated cost expenditure when it is provided by the manufacturer.

H. Any city bidding procedure may be waived by the City Council (1) when materials or equipment are purchased at the same price and from the same seller as materials or equipment which have formerly been obtained pursuant to the State bidding procedure in Neb. Rev. Stat. §81-145 to 81-162 or (2) when the contract is negotiated directly with a sheltered workshop pursuant to Neb. Rev. Stat. §48-1503.

I. Notwithstanding any other provisions of law or a home rule charter, a city which has established, by an interlocal agreement with any county, a joint purchasing division or agency may purchase personal property without competitive bidding if the price for the property has been established by the federal General Services Administration or the materiel division of the Department of Administrative Services. For purposes of this subsection, "personal property" includes, but is not limited to, supplies, materials, and equipment used by or furnished to any officer, office, department, institution, board, or other agency; and "purchasing" or "purchase" means the obtaining of personal property by sale, lease, or other contractual means. (Neb. Rev. Stat. §17-568.01, 17-568.02, 18-1756) (Am. by Ord. Nos. 219, 10/1/79; 285, 9/6/83; 520, 9/8/98)

SECTION 1-614: ANNUAL AUDIT; FINANCIAL STATEMENTS

A. The City Council shall cause an audit of the city accounts to be made by a qualified accountant as expeditiously as possible following the close of the fiscal year. Such audit shall be made on a cash or accrual method at the discretion of the Council. The said audit shall be completed, and the annual audit report made not later than six months after the close of the fiscal year. The accountant making the audit shall submit not fewer than three copies of the audit report to the City Council. All public utilities or other enterprises which substantially generate their own revenue shall be audited separately and the results of such audits shall appear separately in the annual audit report. Such audits shall be on an accrual basis and shall contain statements and materials which conform to generally accepted accounting principles.

B. The audit report shall set forth the financial position and results of financial operations for each fund or group of accounts of the City as well as an opinion by the accountant with respect to the financial statements. Two copies of the annual audit report shall be filed with the city clerk and shall become a part of the public records of the City, open for public inspection at all times thereafter. One copy shall be filed with the auditor of public accounts. Every governing body that is required herein to submit to an audit of its accounts shall provide and file with the city clerk, not later than August 1 of each year, financial statements showing its actual and budgeted figures for the most recently completed fiscal year.

(Neb. Rev. Stat. §19-2901 through 19-2909, 13-606) (Am. by Ord. No. 304, 9/4/84)

SECTION 1-615: APPROPRIATIONS

The City Council shall, on or before August 15 of each year, pass an ordinance to be termed "the Annual Appropriation Bill", in which are appropriated such sums of money as may be deemed necessary to defray all necessary expenses and liabilities of the City. (Neb. Rev. Stat. §17-706)

SECTION 1-616: BUDGET PROCEDURE; BUDGET MANUAL INCORPORATED

The *Manual of Instructions for City/Village: Budgets*, prepared by the auditor of public accounts, State Capitol, Lincoln, Nebraska 68509 is incorporated by reference for the purpose of proper budget preparation.

SECTION 1-617: PROPOSED BUDGET STATEMENT; CONTENTS; AVAILABILITY; CORRECTION

A. The City Council shall annually prepare a proposed budget statement on forms prescribed and furnished by the auditor of public accounts. The proposed budget statement shall be made available to the public prior to publication of the notice of the hearing on the proposed budget statement. A proposed budget statement shall contain the following information, except as provided by state law:

1. For the immediately preceding fiscal year, the revenue from all sources, including motor vehicle taxes, other than revenue received from personal and real property taxation, allocated to the funds and separately stated as to each such source: The unencumbered cash balance at the beginning and end of the year; the amount received by taxation of personal and real property; and the amount of actual expenditures.
2. For the current fiscal year, actual and estimated revenue from all sources, including motor vehicle taxes, allocated to the funds and separately stated as to each such source: The actual unencumbered cash balance available at the beginning of the year; the amount received from personal and real property taxation; and the amount of actual and estimated expenditures, whichever is applicable. Such statement shall contain the cash reserve for each fiscal year and shall note whether or not such reserve is encumbered. Such cash reserve projections shall be based upon the actual experience of prior years. The cash reserve shall not exceed 50% of the total budget adopted exclusive of capital outlay items.
3. For the immediately ensuing fiscal year, an estimate of revenue from all sources, including motor vehicle taxes, other than revenue to be received from taxation of personal and real property, separately stated as to each such source: The actual or estimated unencumbered cash

balances, whichever is applicable, to be available at the beginning of the year; the amounts proposed to be expended during the year; and the amount of cash reserve, based on actual experience of prior years, which cash reserve shall not exceed 50% of the total budget adopted exclusive of capital outlay items.

4. A statement setting out separately the amount sought to be raised from the levy of a tax on the taxable value of real property (a) for the purpose of paying the principal or interest on bonds issued by the City Council and (b) for all other purposes.
5. A uniform summary of the proposed budget statement, including each proprietary function fund included in a separate proprietary budget statement prepared pursuant to the Municipal Proprietary Function Act, and a grand total of all funds maintained by the City Council.
6. A list of the proprietary functions which are not included in the budget statement. Such proprietary functions shall have a separate budget statement which is approved by the City Council as provided in the Municipal Proprietary Function Act.

B. The actual or estimated unencumbered cash balance required to be included in the budget statement by this section shall include deposits and investments of the City as well as any funds held by the county treasurer for the City and shall be accurately stated on the proposed budget statement.

C. The City shall correct any material errors in the budget statement detected by the auditor of public accounts or by other sources. (Neb. Rev. Stat. §13-504)

D. The estimated expenditures plus the required cash reserve for the ensuing fiscal year less all estimated and actual unencumbered balances at the beginning of the year and less the estimated income from all sources, including motor vehicle taxes, other than taxation of personal and real property shall equal the amount to be received from taxes and such amount shall be shown on the proposed budget statement pursuant to this section. The amount to be raised from taxation of personal and real property, as determined above, plus the estimated revenue from other sources, including motor vehicle taxes and the unencumbered balances shall equal the estimated expenditures, plus the necessary required cash reserve, for the ensuing year. (Neb. Rev. Stat. §13-505)

(Am. by Ord. Nos. 303, 9/4/84; 426, 6/6/94; 511, 9/8/98; 575, 4/7/03)

SECTION 1-618: PROPOSED BUDGET STATEMENT; HEARING; ADOPTION; CERTIFICATION OF TAX AMOUNT

A. The City Council shall each year conduct a public hearing on its proposed

budget statement. Notice of the place and time of the hearing, together with a summary of the proposed budget statement, shall be published at least five days prior to the date set for the hearing in a newspaper of general circulation within the City.

B. After the hearing, the proposed budget statement shall be adopted, or amended and adopted as amended, and a written record shall be kept of such hearing. The amount to be received from personal and real property taxation shall be certified to the levying board after the proposed budget statement is adopted or is amended and adopted as amended. The certification of the amount to be received from personal and real property taxation shall specify separately the amount to be applied to the payment of principal or interest on bonds issued by the City Council and the amount to be received for all other purposes.

C. If the adopted budget statement reflects a change from that shown in the published proposed budget statement, a summary of such changes shall be published within 20 days after its adoption in the manner provided in this section, but without provision for hearing, setting forth the items changed and the reasons for such changes. (Neb. Rev. Stat. §13-506)

D. When a levy increase has been authorized by vote of the electors, the adopted budget statement shall indicate the amount of the levy increase. (Neb. Rev. Stat. §13-507)
(Am. by Ord. Nos. 512, 9/8/98; 576, 4/7/03)

SECTION 1-619: EXPENDITURES PRIOR TO ADOPTION OF BUDGET

A. On and after the first day of its fiscal year until the adoption of the budget in September, the City Council may expend any balance of cash on hand for current expenses. Except as provided in subsection (B) of this section, such expenditures shall not exceed an amount equivalent to the total amount expended under the last budget in the equivalent period of the prior budget year. Such expenditures shall be charged against the appropriations for each individual fund or purpose as provided in the budget when adopted.

B. The restriction on expenditures in subsection (A) may be exceeded upon the express finding of the City Council that expenditures beyond the amount authorized are necessary to enable the City to meet its statutory duties and responsibilities. The finding and approval of the expenditures in excess of the statutory authorization shall be adopted in open public session. Expenditures authorized by this section shall be charged against appropriations for each individual fund or purpose as provided in the budget when adopted, and nothing in this section shall be construed to authorize expenditures in excess of that authorized by any other statutory provision.
(Neb. Rev. Stat. §13-509.01, 13-509.02) (Ord. No. 449, 3/6/95)

SECTION 1-620: ADOPTED BUDGET STATEMENT; FILING; CERTIFICATION

OF AMOUNT OF TAX

A. After publication and hearing on the proposed budget statement and within the time prescribed by law, the City Council shall file with and certify to the levying board on or before September 20 of each year and file with the auditor of public accounts a copy of the adopted budget statement, together with the amount of the tax required to fund the adopted budget, setting out separately (1) the amount to be levied for the payment of principal or interest on bonds issued by the City Council and (2) the amount to be levied for all other purposes. Proof of publication shall be attached to the statements.

B. The City Council, in certifying the amount required, may make allowance for delinquent taxes not exceeding 5% of the amount required plus the actual percentage of delinquent taxes for the preceding tax year and for the amount of estimated tax loss from any pending or anticipated litigation which involves taxation and in which tax collections have been or can be withheld or escrowed by court order. For purposes of this section, "anticipated litigation" shall be limited to the anticipation of an action being filed by a taxpayer who or which filed a similar action for the preceding year which is still pending. Except for such allowances, the City Council shall not certify an amount of tax more than 1% greater or lesser than the amount determined in the proposed budget statement.

C. The City Council may designate one of its members to perform any duty or responsibility required of such body by this section.

(Neb. Rev. Stat. §13-508) (Am. by Ord. Nos. 464, 2/5/96; 513, 9/8/98)

SECTION 1-621: REVISION OF BUDGET

A. Unless otherwise provided by law, the City Council may propose to revise the previously adopted budget statement and shall conduct a public hearing on such proposal whenever during the current fiscal year it becomes apparent to the City Council that:

1. There are circumstances which could not reasonably have been anticipated at the time the budget for the current year was adopted;
2. The budget adopted violated Neb. Rev. Stat. §13-518 to 13-522 such that the revenue of the current fiscal year for any fund thereof will be insufficient, additional expenses will be necessarily incurred, or there is a need to reduce the budget requirements to comply with Neb. Rev. Stat. §13-518 to 13-522; or
3. The City Council has been notified by the auditor of public accounts of a mathematical or accounting error or noncompliance with the Nebraska Budget Act.

B. Notice of the time and place of the hearing shall be published at least five days prior to the date set for hearing in a newspaper of general circulation within the City. Such published notice shall set forth:

1. The time and place of the hearing;
2. The amount in dollars of additional or reduced money required and for what purpose;
3. A statement setting forth the nature of the unanticipated circumstances and, if the budget requirements are to be increased, the reasons why the previously adopted budget of expenditures cannot be reduced during the remainder of the current year to meet the need for additional money in that manner;
4. A copy of the summary of the originally adopted budget previously published; and
5. A copy of the summary of the proposed revised budget.

C. At such hearing any taxpayer may appear or file a written statement protesting any application for additional money. A written record shall be kept of all such hearings.

D. Upon conclusion of the public hearing on the proposed revised budget and approval of the proposed revised budget by the City Council, the Council shall file with the county clerk of the county and with the auditor of public accounts, a copy of the revised budget, as adopted. The City Council may then issue warrants in payment for expenditures authorized by the adopted revised budget. Such warrants shall be referred to as "registered warrants" and shall be repaid during the next fiscal year from funds derived from taxes levied therefor.

E. Within 30 days after the adoption of the budget under Neb. Rev. Stat. §13-506, a governing body may, or within 30 days after notification of an error by the auditor of public accounts, a governing body shall, correct an adopted budget which contains a clerical, mathematical, or accounting error which does not affect the total amount budgeted by more than 1% or increase the amount required from property taxes. No public hearing shall be required for such a correction. After correction, the City Council shall file a copy of the corrected budget with the county clerk of the and with the auditor of public accounts. The Council may then issue warrants in payment for expenditures authorized by the budget.

(Neb. Rev. Stat. §13-511) (Ord. No. 577, 4/7/03)

SECTION 1-622: PROPERTY TAX LEVY AND REQUEST; AUTHORITY TO SET

A. The property tax request for the prior year shall be the property tax request for the current year for purposes of the levy set by the County Board of Equalization in Neb. Rev. Stat. §77-1601 unless the City Council passes by a majority vote a resolution or ordinance setting the tax request at a different amount. Such resolution or ordinance shall only be passed after a special public hearing called for such purpose is held and after notice is published in a newspaper of general circulation in the area of the City at least five days prior to the hearing.

B. The hearing notice shall contain the following information:

1. The dollar amount of the prior year's tax request and the property tax rate that was necessary to fund that tax request;
2. The property tax rate that would be necessary to fund last year's tax request if applied to the current year's valuation; and
3. The proposed dollar amount of the tax request for the current year and the property tax rate that will be necessary to fund that tax request.

C. Any resolution setting a tax request under this section shall be certified and forwarded to the county clerk prior to October 14 of the year for which the tax request is to apply.

D. Any tax levy which is not in compliance with this section and Neb. Rev. Stat. §77-1601 shall be construed as an unauthorized levy under Neb. Rev. Stat. §77-1606.

(Neb. Rev. Stat. §77-1601.02) (Ord. No. 494, 8/4/97) (Am. by Ord. Nos. 515, 9/8/98; 539, 8/7/00)

SECTION 1-623: PROPERTY TAX; CERTIFICATION OF AMOUNT

The City Council shall, at the time and in the manner provided by law, cause to be certified to the county clerk the amount of tax to be levied upon the taxable value of all the taxable property of the City which the City requires for the purposes of the adopted budget statement for the ensuing year, including all special assessments and taxes assessed as otherwise provided. Subject to Neb. Rev. Stat. §77-3442, the maximum amount of tax which may be so certified, assessed, and collected shall not require a tax levy in excess of the amounts specified in Neb. Rev. Stat. §17-702. (Neb. Rev. Stat. §17-702) (Am. by Ord. No. 514, 9/8/98)

SECTION 1-624: ALL-PURPOSE LEVY; ALLOCATION; ABANDONMENT; EXTRAORDINARY LEVIES

A. The City Council has decided to certify to the county clerk for collection one all-purpose levy required to be raised by taxation for all city purposes instead of

certifying a schedule of levies for specific purposes added together. Subject to the limits in Neb. Rev. Stat. §77-3442, the all-purpose levy shall not exceed the annual levy specified in Neb. Rev. Stat. §19-1309 to be levied upon the taxable valuation of all taxable property in the City.

B. The amount of the all-purpose levy shall be certified as a single amount for General Fund purposes. The City Council shall allocate the amount raised by the all-purpose levy to the several departments of the City in its annual budget and appropriation ordinance or in other legal manner as the City Council deems wisest and best.

C. The City shall be bound by its election to follow the all-purpose levy method during the ensuing fiscal year but may abandon such method in succeeding fiscal years.

D. Otherwise authorized extraordinary levies to service and pay bonded indebtedness of the City may be made by the City in addition to the all-purpose levy. (Neb. Rev. Stat. §19-1309 through 19-1312) (Am. by Ord. No. 516, 9/8/98)

SECTION 1-625: MOTOR VEHICLE TAX

The City Council may levy a tax on all motor vehicles owned or used in the City, which tax shall be paid to the county treasurer when the registration fees as provided in Neb. Rev. Stat. §60-329 to 60-339 are paid. Such taxes shall be credited by the county treasurer to the Road Fund of the City. Such funds shall be used by such city for constructing, resurfacing, maintaining, or improving streets, roads alleys, public ways, or parts thereof for the amortization of bonded indebtedness when created for such purposes. (Neb. Rev. Stat. §18-1214) (Ord. No. 369, 12/4/89)

Article 7 Elections

SECTION 1-701: GENERALLY

A. All city issues and offices shall be combined on the statewide primary and general election ballots whenever possible. The issuance of separate ballots shall be avoided in a statewide election if city offices or issues can reasonably be combined with the nonpartisan ballot and state law does not require otherwise. All city elections involving the election of officers shall be held in accordance with the Election Act and in conjunction with the statewide primary or general election. (Neb. Rev. Stat. §32-556)

B. When the City holds an election in conjunction with the statewide primary or general election, the election shall be held as provided in the Election Act. Any other election held by the City shall be held as provided in the Election Act unless otherwise provided by the charter, code, or bylaws of the City. (Neb. Rev. Stat. §32-404) (Am. Ord. No. 590, 2/7/05)

SECTION 1-702: CANDIDATE QUALIFICATIONS

Any person seeking elected office in the City shall be a registered voter prior to holding such office and in addition shall have reached the age of majority. The mayor and members of the Council shall be residents and qualified electors of the City. They shall not hold any other public elective public office, except for officers of public power districts, public power and irrigation districts, and public utility companies. (Neb. Rev. Stat. §32-602) (Ord. No. 302, 9/4/84)

SECTION 1-703: COUNCIL MEMBERS; WARDS

A. Council members shall be elected by wards. They shall serve terms of four years and until their successors are elected and have qualified. In election of council members by wards, each nominee shall be a resident and qualified elector of the ward for which he/she is a candidate and only residents of that ward may sign the candidate's nomination petitions. (Neb. Rev. Stat. §19-613.01) (Am. by Ord. No. 250, 9/8/81)

B. The City shall redistrict as often as necessary using the most recent federal census to insure that each ward is substantially equal in population. The City shall stand divided into the following wards as set forth herein:

Ward One

The First Ward shall include all that part of the City lying northerly of a line commencing at the intersection of the center line of Pine Street with the westerly city limits; thence easterly along the center line of Pine Street to Fifth Street; thence northerly along the center line of Fifth Street to Maple Street; thence easterly along the center line of Maple Street to the easterly city limits.

Ward Two

The Second Ward shall include all that part of the city lying south of the First Ward.

(Neb. Rev. Stat. §17-102)

SECTION 1-704: OFFICERS; CERTIFICATIONS REQUIRED

No later than January 5 of each even-numbered year, the City Council shall certify to the county clerk, on forms prescribed by such official, the name of the City, the number of officers to be elected, the length of the terms of office, the vacancies to be filled by election and length of remaining term, and the number of votes to be cast by a registered voter for each office. (Neb. Rev. Stat. §32-404) (Am. by Ord. No. 590, 2/7/05)

SECTION 1-705: FILING FEE

Prior to the filing of any nomination papers, there shall be paid to the city treasurer a filing fee which shall amount to 1% of the annual salary for the office for which the candidate will file; provided, there shall be no filing fee for any candidate filing for an office in which a per diem is paid rather than a salary or an office for which there is a salary of less than \$500.00 per year. No nominating papers shall be filed until the proper city treasurer's receipt, showing the payment of the filing fee, shall be presented to the election officer with whom the nomination papers are to be filed. (Neb. Rev. Stat. §32-608)

SECTION 1-706: PRIMARY ELECTION; NUMBER OF CANDIDATES FILING

If the number of candidates properly filed for nomination at the primary election does not exceed two for each vacancy to be filled, all candidates properly filed shall be considered nominated, and no primary election for their nomination shall be required. (Neb. Rev. Stat. §32-811(1))

SECTION 1-707: GENERAL ELECTION; PREPARATION OF BALLOT

A. When more than one person becomes a candidate by filing, petition, or write-in procedures for the same position in the primary, the county clerk, in preparing the official ballot for the general election, shall place thereon the names of the persons who received the greatest number of votes in the primary but in no event shall the names on the general election ballot be more than twice the number of vacancies to be filled at the general election.

B. The county clerk shall place the names of the candidates on the general election ballot in the direct order according to the number of votes received at the primary election. If no primary election was held, the names of the candidates shall be placed upon the general election ballot in the order of their filing. (Neb. Rev. Stat. §17-107.02(6) & (7)) (Am. by Ord. No. 251, 9/8/81)

SECTION 1-708: PRIMARY OR GENERAL ELECTION; NOTICE

The county clerk shall publish in a newspaper designated by the County Board the notice of the election no less than 40 days prior to the primary or general election. This notice will serve the notice requirement for all city elections which are held in conjunction with the county. (Neb. Rev. Stat. §32-402.01)

SECTION 1-709: BALLOTS

The county clerk shall provide printed ballots for every general city election and the expense of printing and delivering the ballots and cards of instruction shall be a charge upon the City. (Neb. Rev. Stat. §32-417, 32-418)

SECTION 1-710: EXIT POLLS

No person shall conduct any exit poll, public opinion poll, or any other interview with voters on Election Day seeking to determine voter preference within 20 feet of the entrance of any polling place room or, if inside the polling place building, within 100 feet of any voting booth. (Neb. Rev. Stat. §32-1525) (Ord. No. 318, 10/7/85)

SECTION 1-711: RECOUNT OF BALLOTS

The losing candidate for any office at the city election may request a recount of the ballots cast when the official canvass of such votes cast reveals that there is a difference of 25 votes or less between the total cast for the winner and the loser. Such recount shall be made if the losing candidate files a written request therefor with the city clerk within three days following the completion of the official canvass. (Neb. Rev. Stat. §19-3042 through 19-3050)

SECTION 1-712: TIE VOTES

In the case of a tie vote of any of the candidates in either the primary or general election, the county clerk shall notify such candidates to appear at his/her office on a given day and hour to determine the same by lot before the Canvassing Board, and the certificate of nomination or election shall be given accordingly. Notice to appear shall be given by certified mail. (Neb. Rev. Stat. §17-107.02(6))

SECTION 1-713: SPECIAL, JOINT

A. Any issue to be submitted to the registered voters at a special election by the City shall be certified by the city clerk to the county clerk at least 50 days prior to the election. A special election may be held by mail as provided in Neb. Rev. Stat. §32-952 through 32-959. No special election to be conducted by the county clerk shall be held within 30 days prior to or 60 days after the statewide primary election, and no special election to be conducted by the county clerk shall be held within 30 days prior to or 60 days after the statewide general election.

B. In lieu of submitting the issue at a special election, the City may submit the issue at a statewide primary or general election or at any scheduled county election, except that no such issue shall be submitted at a statewide election or scheduled county election unless the issue to be submitted has been certified by the city clerk to the county clerk by March 1 for the primary election and by September 1 for the general election.

C. After the county clerk has received the certification of the issue to be submitted, he/she shall be responsible for all matters relating to the submission of the issue to the registered voters, except that the city clerk shall be responsible for the publication or posting of any required special notice of the submission of such issue other than the notice required to be given of the statewide election issues. The county clerk shall prepare the ballots and issue absentee ballots and shall also

conduct the submission of the issue, including the receiving and counting of ballots on the issue. The election returns shall be made to the county clerk. The ballots, including absentee ballots, shall be counted and canvassed at the same time and in the same manner as the other ballots. Upon completion of the canvass of the vote by the County Canvassing Board, the county clerk shall certify the election results to the City Council. The canvass by the Canvassing Board shall have the same force and effect as if made by the City Council.

(Neb. Rev. Stat. §32-559) (Am. by Ord. Nos. 302, 9/4/84; 493, 8/4/97)

SECTION 1-714: SPECIAL ELECTION; NOTICE

No less than five days nor more than 10 days prior to any special city election, the city clerk shall prepare and cause to be published once in a newspaper that is in or of general circulation in the City a notice containing the proclamation concerning the said special election. If no newspaper is published in or is of general circulation in the City, then by posting in each of three public places in the City. The notice shall be in the form prescribed by state law. (Neb. Rev. Stat. §19-3006)

SECTION 1-715: RECALL PROCEDURE

A. Any or all of the elected officials of the City may be removed from office by recall pursuant to Neb. Rev. Stat. §32-1301 to 32-1309. Petition circulators shall conform to the requirements of Neb. Rev. Stat. §32-628, 32-630 and 32-1303. Each petition paper shall conform to the requirements of Neb. Rev. Stat. §32-1304.

B. The petition papers shall be procured from the city clerk. Prior to the issuance of such petition papers, an affidavit shall be signed and filed with the clerk by at least one registered voter. Such voter or voters shall be deemed to be the principal circulator or circulators of the recall petition. The affidavit shall state the name and office of the official sought to be removed, shall include in typewritten form in concise language of 60 words or less the reason or reasons for which recall is sought, and shall request that the clerk issue initial petition papers to the principal circulator for circulation. The clerk shall deliver a copy of the affidavit by certified mail to the official sought to be removed. If the official chooses, he/she may submit a defense statement in typewritten form in concise language of 60 words or less for inclusion on the petition. Any such defense statement shall be submitted to the filing clerk within 20 days after the official receives the copy of the affidavit. The clerk shall notify the principal circulator or circulators that the necessary signatures must be gathered within 30 days from the date of issuing the petitions.

C. The clerk, upon issuing the initial petition papers or any subsequent petition papers, shall enter in a record to be kept in his/her office the name of the principal circulator or circulators to whom the papers were issued, the date of issuance, and the number of papers issued. The clerk shall certify on the papers the name of the principal circulator or circulators to whom the papers were issued and the date they

were issued. No petition paper shall be accepted as part of the petition unless it bears such certificate. The principal circulator or circulators who check out petitions from the clerk may distribute such petitions to registered voters residing in the district who may act as circulators of such petitions. For purposes of this section, if the official was elected by ward, "district" shall mean that ward, and if the official was not elected by ward, "district" shall mean the City.

D. Petition signers shall conform to the requirements of Neb. Rev. Stat. §32-629, 32-630, and 32-1303.

E. A petition demanding that the question of removing the mayor, a member of the City Council, or another elected official be submitted to the registered voters shall be signed by registered voters equal in number to at least 35% of the total vote cast for that office in the last general election, except that for an office for which more than one candidate is chosen, the petition shall be signed by registered voters equal in number to at least 35% of the number of votes cast for the person receiving the most votes for such office in the last general election. The signatures shall be affixed to petition papers and shall be considered part of the petition. (Neb. Rev. Stat. §32-1303)

F. The principal circulator(s) shall file, as one instrument, all petition papers comprising a recall petition for signature verification with the clerk within 30 days after the clerk issues the initial petition papers to the principal circulator(s).

G. Within 15 days after the filing of the petition, the clerk shall ascertain whether or not the petition is signed by the requisite number of registered voters. No new signatures may be added after the initial filing of the petition papers. No signatures may be removed unless the clerk receives an affidavit signed by the person requesting his/her signature be removed before the petitions are filed with the clerk for signature verification. If the petition is found to be sufficient, the clerk shall attach to the petition a certificate showing the result of such examination. If the requisite number of signatures has not been gathered, the clerk shall file the petition in his/her office without prejudice to the filing of a new petition for the same purpose. (Neb. Rev. Stat. §32-1305)

H. If the recall petition is found to be sufficient, the clerk shall notify the official whose removal is sought and the City Council that sufficient signatures have been gathered. If the official does not resign within five days after receiving the notice, the Council shall order an election to be held not less than 30 nor more than 45 days after the expiration of the five-day period, except that if any other election is to be held in the City within 90 days of the expiration of the five-day period, the Council shall provide for the holding of the removal election on the same day. After the Council sets the date for the recall election, the election shall be held regardless of whether the official whose removal is sought resigns before the recall election is held. (Neb. Rev. Stat. §32-1306)

I. If a majority of the votes cast at a recall election are against the removal of the official named on the ballot or the election results in a tie, the official shall continue in office for the remainder of his/her term but may be subject to further recall attempts as provided in subsection (N) of this section.

J. If a majority of the votes cast at a recall election are for the removal of the official named on the ballot, he/she shall, regardless of any technical defects in the recall petition, be deemed removed from office unless a recount is ordered. If the official is deemed removed, the removal shall result in a vacancy in the office which shall be filled as otherwise provided in this section and state law.

K. If the election results show a margin of votes equal to 1% or less between the removal or retention of the official in question, the secretary of state or county clerk shall order a recount of the votes cast unless the official named on the ballot files a written statement with the city clerk that he/she does not want a recount.

L. If there are vacancies in the offices of a majority or more of the members of the City Council at one time due to the recall of such members, a special election to fill such vacancies shall be conducted as expeditiously as possible by the secretary of state or county clerk.

M. No official who is removed at a recall election or who resigns after the initiation of the recall process shall be appointed to fill the vacancy resulting from his/her removal or the removal of any other member of the same City Council during the remainder of his/her term of office. (Neb. Rev. Stat. §32-1308)

N. No recall petition shall be filed against an elected official within 12 months after a recall election has failed to remove him/her from office or within six months after the beginning of his/her term of office or within six months prior to the incumbent filing deadline for the office. (Neb. Rev. Stat. §32-1309)
(Ord. No. 218, 10/1/79) (Am. by Ord. Nos. 302, 9/4/84; 530, 5/3/99; 574, 4/7/03)

Article 8 Penal Provision

SECTION 1-801: VIOLATION; PENALTY

Any person, or any person's agent or servant, who violates any of the provisions of this chapter, unless otherwise specifically provided herein, shall be deemed guilty of an offense and upon conviction thereof shall be fined in any sum not exceeding \$500.00. A new violation shall be deemed to have been committed every 24 hours of failure to comply with the provisions of this chapter. (Neb. Rev. Stat. §17-505, 18-1720, 18-1722) (Am. by Ord. No. 543, 8/7/00)

CHAPTER 2 COMMISSIONS AND BOARDS

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CHAPTER 2 COMMISSIONS AND BOARDS

Article 1 Library Board

SECTION 2-101: LIBRARY; OPERATION AND FUNDING

The City owns and manages the library through the Library Board. The City Council, for the purpose of defraying the cost of the management, purchases, improvements,

and maintenance of the library, may each year levy a tax not exceeding the maximum limit prescribed by state law on the taxable value of all the taxable property within the City. The amount collected from the levy shall be known as the Library Fund. The said fund shall also include all gifts, grants, deeds of conveyance, bequests, or other valuable income-producing personal property and real estate from any source for the purpose of endowing the library. All taxes levied or collected and all funds donated or in any way acquired for the erection, maintenance, or support of the library shall be kept for the use of the library separate and apart from all other funds of the City, shall be drawn upon and paid out by the city treasurer upon vouchers signed by the president of the Library Board and authenticated by the secretary, and shall not be used or disbursed for any other purpose or in any other manner. The City Council may establish a public library sinking fund for major capital expenditures. Any money collected by the library shall be turned over monthly by the librarian to the city treasurer along with a report of the sources of the revenue. (Neb. Rev. Stat. §51-201, 51-209) (Am. by Ord. No. 565, 5/6/02)

SECTION 2-102: MEMBERS; TERMS

The Library Board shall consist of five appointed members who shall be residents of the City and who shall serve terms of four years. The board members shall be appointed by a majority vote of the City Council. Neither the mayor nor any member of the Council shall be a member of the Library Board. The terms of members serving on the effective date of a change in the number of members shall not be shortened, and any successors to those members shall be appointed as the terms of those members expire. In cases of vacancies by resignation, removal, or otherwise, the City Council shall fill the vacancy for the unexpired term. No member shall receive any pay or compensation for any services rendered as a member of the Library Board. The Council may require the members of the Library Board to give a bond in a sum set by resolution and conditioned upon the faithful performance of their duties. (Neb. Rev. Stat. §51-202)

SECTION 2-103: OFFICERS; MEETINGS

The members of the Library Board shall immediately after their appointment meet and organize by electing from their number a president, a secretary, and such other officers as may be necessary. No member of the Board shall serve in the capacity of both president and secretary of the Board. It shall be the duty of the secretary to keep the full and correct minutes and records of all meetings and to file the same with the city clerk, where they shall be available for public inspection during office hours. The Board shall meet at such times as the members may designate. A majority of the members of the Library Board shall constitute a quorum for the transaction of business. Special meetings may be held upon the call of the president or a majority of the members of the Board. (Neb. Rev. Stat. §51-204) (Am. by Ord. Nos. 252, 9/8/81; 553, 5/6/02)

SECTION 2-104: GENERAL POWERS AND DUTIES

A. The Library Board shall have the power to make and adopt such bylaws, rules, and regulations for its own guidance and for the government of the library and reading room as it may deem expedient, not inconsistent with Neb. Rev. Stat. §51-201 through 51-219. (Neb. Rev. Stat. §51-205)

B. The Library Board shall have exclusive control of expenditures, of all money collected or donated to the credit of the Library Fund, of the renting and construction of any library building, and the supervision, care, and custody of the grounds, rooms, or buildings constructed, leased, or set apart for that purpose. (Neb. Rev. Stat. §51-207)

C. The Library Board shall have the power to appoint a suitable librarian and assistants, to fix their compensation, and to remove such appointees at pleasure. It shall have the power to establish rules and regulations for the government of the library as may be deemed necessary for its preservation and to maintain its usefulness and efficiency. It shall have the power to fix and impose, by general rules, penalties and forfeitures, for trespasses upon or injury to the library grounds, rooms, books, or other property, for failure to return any book, or for violation of any bylaw, rule, or regulation. The Board shall have and exercise such power as may be necessary to carry out the spirit and intent of Neb. Rev. Stat. §51-201 through 51-219 in establishing and maintaining the library and reading room.
(Neb. Rev. Stat. §51-211) (Am. by Ord. No. 565, 5/6/02)

SECTION 2-105: ANNUAL REPORT

The Library Board shall, on or before the second Monday in February in each year, make a report to the City Council of the condition of its trust on the last day of the prior fiscal year. The report shall show all money received and credited or expended; the number of materials held, including books, video and audio materials, software programs, and materials in other formats; the number of periodical subscriptions on record, including newspapers; the number of materials added and the number withdrawn from the collection during the year; the number of materials circulated during the year; and other statistics, information, and suggestions as the Library Board may deem of general interest or as the City Council may require. The report shall be verified by affidavit of the president and secretary of the Library Board. (Neb. Rev. Stat. §51-213) (Ord. No. 565, 5/6/02) (Am by Ord. No. 592, 2/7/05)

SECTION 2-106: RELEASE OR RENEWAL OF MORTGAGES

The president of the Library Board shall have the power to release, upon full payment, any mortgage constituting a credit to the Library Fund and standing in the name of the Library Board. The signature of the president on any such release shall be authenticated by the secretary of the Board. The president and secretary in like manner, upon resolution duly passed and adopted by the Board, may renew any

such mortgage. (Neb. Rev. Stat. §51-206) (Ord. No. 565, 5/6/02)

SECTION 2-107: GROUNDS AND BUILDING

A. The Library Board may purchase or lease grounds, exercise the power of eminent domain, and condemn real estate for the purpose of securing a site for a library building. The procedure to condemn property shall be exercised in the manner set forth in Neb. Rev. Stat. §76-704 through 76-724. (Neb. Rev. Stat. §51-210)

B. The Board may erect, lease, or occupy an appropriate building for the use of the library. (Neb. Rev. Stat. §51-211) (Ord. No. 565, 5/6/02)

SECTION 2-108: SALE AND CONVEYANCE OF REAL ESTATE

The Library Board may by resolution direct the sale and conveyance of any real estate owned by the Board or by the library which is not used for library purposes, or of any real estate so donated or devised to the Board or to the library upon such terms as the Board may deem best and as otherwise provided in Neb. Rev. Stat. §51-216. (Neb. Rev. Stat. §51-216) (Ord. No. 565, 5/6/02)

SECTION 2-109: LIBRARY; COST OF USE

A. Except as provided in division (B) of this section, the basic services of the library and reading room shall be forever free to the use of the inhabitants of the City, subject always to such reasonable regulations as the Library Board may adopt to render the library of the greatest use to such inhabitants. The Board may exclude from the use of the library and reading rooms any person who willfully violates or refuses to comply with rules and regulations established for the government thereof. (Neb. Rev. Stat. §51-212)

B. The Library Board may fix and impose reasonable fees, not to exceed the library's actual cost, for nonbasic services. For purposes of this section:

1. "Basic services" shall include but not be limited to free loan of circulating print and nonprint materials from the local collection and general reference and information services; and
2. "Nonbasic services" shall include but not be limited to use of:
 - a. Photocopying equipment;
 - b. Telephones, facsimile equipment, and other telecommunications equipment;
 - c. Media equipment;
 - d. Personal computers; and
 - e. Videocassette recording and playing equipment.

(Neb. Rev. Stat. §51-201.01, 51-211) (Am. by Ord. No. 565, 5/6/02)

SECTION 2-110: LIBRARY; DISCRIMINATION PROHIBITED

No library service shall be denied to any person because of race, sex, religion, age, color, national origin, ancestry, physical handicap, or marital status. (Neb. Rev. Stat. §51-211) (Ord. No. 565, 5/6/02)

SECTION 2-111: LIBRARY; IMPROPER BOOK REMOVAL

It shall be unlawful for any person not authorized by the regulations made by the Library Board to take a book or any other material from the library without the consent of the librarian or an authorized employee of the library. Any person removing a book or other material from the library without properly checking it out shall be deemed to be guilty of an offense. (Am. by Ord. No. 565, 5/6/02)

SECTION 2-112: LIBRARY; DONATIONS

Any person may make donation of money, lands, or other property for the benefit of the library. The title to property so donated may be made to and shall vest in the Library Board and its successors in office and the Board shall thereby become the owners thereof in trust to the uses of the library. (Neb. Rev. Stat. §51-215) (Ord. No. 565, 5/6/02)

SECTION 2-113: LIBRARY; PENALTIES; RECOVERY; DISPOSITION

Penalties imposed or accruing by any bylaw or regulation of the Library Board and any court costs and attorney's fees may be recovered in a civil action before any court having jurisdiction, such action to be instituted in the name of the Library Board. Money collected in such actions, other than any court costs and attorney's fees, shall be placed in the treasury of the City to the credit of the Library Fund. Attorney's fees collected pursuant to this section shall be placed in the treasury of the City and credited to the budget of the city attorney's office. (Neb. Rev. Stat. §51-214) (Ord. No. 565, 5/6/02)

Article 2 – Tree Board

SECTION 2-201: CREATION AND ESTABLISHMENT

There is hereby created and established a Tree Board for the City, which shall consist of five citizens and residents of the City who shall be appointed by the mayor with approval of the City Council. One person representing the Council may also serve as a member of the Tree Board. Members of the Tree Board shall serve without compensation. The Board shall choose its own officers, make its own rules and regulations and keep a minute book of its proceedings. (Ord. No. 546, 2/5/01)

SECTION 2-202: TERMS

Terms of the five Tree Board members shall be three years. Terms shall commence on July 1 each year. In the event that a vacancy shall occur during the term of any member, a successor shall be appointed for the unexpired portion of the term by the mayor with approval of the Council. (Ord. No. 546, 2/5/01)

SECTION 2-203: DUTIES AND RESPONSIBILITIES

It shall be the responsibility of the Board to study, investigate, counsel and develop and/or update annually and administer a written plan for the care, preservation, pruning, planting, replanting, removal or disposition of trees and shrubs in parks, along streets and in other public areas. Such plan shall be presented annually to the City Council and upon its acceptance and approval shall constitute the official comprehensive city tree plan for the City. The Board, when requested by the City Council, shall consider, investigate and make finding, report and recommend upon any special matter of question coming within the scope of its work. (Ord. No. 546, 2/5/01)

SECTION 2-204: MEETINGS

A majority of the Board members shall be a quorum for the transaction of business. The Tree Board shall meet at least two times per year and more often as determined by the members. The Board shall also meet at such special times as requested by the City Council. (Ord. No. 546, 2/5/01)

SECTION 2-205: REVIEW BY CITY COUNCIL

The City Council shall have the right to review the conduct, acts and decisions of the Tree Board. Any person aggrieved by any act or order of the Tree Board may appeal to the City Council, which may hear the matter and make final decision. (Ord. No. 546, 2/5/01)

SECTION 2-206: INTERFERENCE

It shall be unlawful for any person to prevent, delay or interfere with the Tree Board or any of its agents while they are engaging in and about the planting, cultivating, mulching, pruning, spraying, or removing of any street trees, park trees, or trees on private grounds as authorized in this article. (Ord. No. 546, 2/5/01)

SECTION 2-207: TREES; DEFINITIONS

“Board” shall mean the Tree Board established by Section 2-201 of this code.

“Park trees” shall mean trees, shrubs, bushes and all other woody vegetation in public parks having individual names and all areas owned by the City or to which the public has free access as a park.

“Street trees” shall mean trees, shrubs, bushes and all other woody vegetation on land lying between property lines on either side of all streets, avenues, or ways within the City.

(Ord. No. 546, 2/5/01)

SECTION 2-208: TREES; SPECIES TO BE PLANTED

Upon its first meeting, the Board shall compile an official list of species of trees which may be planted within the city limits. No species other than those included in said list may be planted without permission of the Board. (Ord. No. 546, 2/5/01)

SECTION 2-209: TREES; SPACING

The Tree Board shall classify tree species into three size classes of small, medium and large. Once classified, a species of tree may only be planted with the following spacing between trees: (A) small trees, 30 feet; (B) medium trees, 40 feet; (C) large trees, 50 feet; except in special planting designed or approved by a landscape architect. (Ord. No. 546, 2/5/01)

SECTION 2-210: TREES; DISTANCE FROM CURB AND SIDEWALK

The distance which a tree may be planted from curb or sidewalk will be in accordance with the three size classes that were referred to above. No tree may be planted closer to any curb or sidewalk than the following: (A) small trees, 2 feet; (B) medium trees, 3 feet; (C) large trees, 4 feet. (Ord. No. 546, 2/5/01)

SECTION 2-211: TREES; DISTANCE FROM STREET CORNERS AND FIRE HYDRANTS

No street tree shall be planted closer than 35 feet from any street corner, measured from the point of the nearest intersecting curbs. No street trees shall be planted closer than ten feet of any fire hydrant. (Ord. No. 546, 2/5/01)

SECTION 2-212: TREES; UTILITIES

No tree other than those species listed as small trees may be planted under or within ten lateral feet of any overhead utility wire or within five lateral feet of any underground water line, sewer line, transmission line or other utility. (Ord. No. 546, 2/5/01)

SECTION 2-213: TREES; PUBLIC TREE CARE

The City shall have the right to plant, prune, maintain and remove trees, plants and shrubs within the lines of all streets, alleys, avenues, lanes, squares and public grounds as may be necessary to insure public safety or to preserve or enhance the symmetry and beauty of such public grounds. The Tree Board may remove or cause or order to be removed any tree or part thereof which is in an unsafe condition or

which by reason of its nature is injurious to sewers, electric power lines, gas lines, water lines, or other public improvements or is affected with any injurious fungus, insect or other pest. This section does not prohibit the planting of street trees by adjacent property owners, providing that the selection and location of said trees is in accordance with Sections 2-208 through 2-212 of this article. (Ord. No. 546, 2/5/01)

SECTION 2-214: TREES; TOPPING

It shall be unlawful as a normal practice for any person, firm or city department to top any street tree, park tree, or other tree on public property. "Topping" is defined as the severe cutting back of limbs to stubs larger than three inches in diameter within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree. Trees severely damaged by storms or other causes or certain trees under utility wires or other obstructions where other pruning practices are impractical may be exempted from this article at the determination of the Tree Board. (Ord. No. 546, 2/5/01)

SECTION 2-215: TREES; PRUNING, CORNER CLEARANCE

Every owner of any tree overhanging any street or right of way within the City shall prune the branches so that such branches shall not obstruct the light from any street lamp or obstruct the view of any street intersection and so that there shall be a clear space of 14 feet above the surface of the street and 8 feet above the surface of the sidewalk. Upon ten days' notice given by the City, said owners shall remove all dead, diseased or dangerous trees or broken or decayed limbs which constitute a menace to the safety of the public. In the event that the owner fails to prune or remove such trees or limbs after said notice, the City shall have the right to prune or remove any such trees and charge the cost of removal to the owner, which costs shall be immediately due and payable by the owner. The City shall have the right to prune any tree or shrub on private property immediately when it interferes with the proper spread of light along the street, street light or interferes with visibility of any traffic control device or sign. (Ord. No. 546, 2/5/01)

SECTION 2-216: TREES; DEAD OR DISEASED TREE REMOVAL ON PRIVATE PROPERTY

A. The City shall have the right to cause the removal of any dead or diseased trees on private property within the City when such trees constitute a hazard to life or property or harbor insects or disease which constitute a potential threat to other trees within the City. The Tree Board shall notify the owners and any tenants in control of the property.

B. Removal shall be done by or on behalf of the owners within 60 days after the date of the service of notice unless written cause shall be submitted by owners to the city clerk as to why removal is not necessary. If the owners contest the notice to remove the offending tree, then a hearing shall be held before the City Council. If the

Council deems that removal is necessary, then the owners shall remove such tree within 30 days of the Council's determination. In the event of failure of owners to comply with said provisions, the City shall have the authority to remove such trees and charge the costs of removal to the owners. Such costs shall become a lien on the property and noted on the property owner's next tax notice. The City may in its discretion initiate legal action against the owners for recovery of such costs. (Ord. No. 546, 2/5/01)

SECTION 2-217: TREES; REMOVAL OF STUMPS

All stumps of street and park trees shall be removed below the surface of the ground so that the top of the stump does not project above the surface of the ground. (Ord. No. 546, 2/5/01)

SECTION 2-218: TREES; ARBORIST'S LICENSE AND BOND

It shall be unlawful for any person or firm to engage in the business or occupation of pruning, treating, or removing street or park trees within the City without first applying for and procuring a license. The license fee as set by the City Council shall be paid annually in advance; provided, however, no license shall be required of any public service company or city employee doing such work in the pursuit of their public service endeavors. Before any license shall be issued, each applicant shall first file evidence of possession of liability insurance in minimum amounts of \$100,000.00 for bodily injury and \$100,000.00 property damage, indemnifying the City or any person injured or damaged resulting from the pursuit of such endeavors as herein described. (Ord. No. 546, 2/5/01)

Article 3 Park Department and Swimming Pool

SECTION 2-301: PARK; OPERATION AND FUNDING

The City owns and operates the city park and other recreational areas through the recreation director. The City Council, for the purpose of defraying the cost of the care, management, and maintenance of the city park, may each year levy a tax not exceeding the maximum limit prescribed by state law on the actual valuation of all real estate and personal property within the corporate limits that is subject to taxation. The revenue from the said tax shall be known as the Park Fund and shall remain in the custody of the city treasurer. The Council shall have the authority to adopt rules and regulations for the efficient management of the park and other recreational areas of the City. (Neb. Rev. Stat. §17-948 thru 17-952)

SECTION 2-302: PARK; INJURY TO PROPERTY; LITTERING

It shall be unlawful for any person to maliciously or willfully cut down, injure, or destroy any tree, plant, or shrub in the city park and recreational areas. It shall be unlawful for any person to injure or destroy any sodded or planted area or injure or

destroy any building, structure, equipment, fence, bench, table, or any other property of the city park and recreational areas. No person shall commit any waste on or litter the city park or other public grounds.

**SECTION 2-303: PARK; PREVENTION OF MOTORIZED VEHICLES;
EXCEPTION; PENALTY**

It shall be unlawful for any person to operate or drive a motor vehicle as defined in Neb. Rev. Stat. §60-638, except lawn mowers, within the city park without the specific permission of the City Council, unless on roadways or drives within the park designated for such purpose. Any person who shall violate this provision shall be fined in an amount set by the Council and placed on file in the office of the city clerk. (Ord. No. 544, 12/4/00)

SECTION 2-304: SWIMMING POOL; OPERATION AND FUNDING

The City owns and manages the swimming pool. The City Council, for the purpose of defraying the cost of the management, maintenance, and improvements of the swimming pool, may each year levy a tax not exceeding the maximum limit prescribed by state law on the actual valuation of all real estate and personal property within the City that is subject to taxation. The revenue from the said tax shall be known as the Swimming Pool Fund and shall include all gifts, grants, deeds of conveyance, bequests, or other valuable income-producing personal property and real estate from any source for the purpose of endowing the swimming pool. The Swimming Pool Fund shall at all times be in the custody of the city treasurer. The Council shall hire and supervise a qualified swimming pool manager to operate and manage the pool. The Council shall hire such other employees as may be deemed necessary and shall pass such rules and regulations for the operation of the swimming pool as may be proper for its efficient operation. (Neb. Rev. Stat. §17-948, 17-951, 17-952)

SECTION 2-305: SWIMMING POOL; ADMISSION CHARGE

The City Council may, for the purpose of defraying the expenses involved in maintaining, improving, managing, and beautifying the swimming pool, make a reasonable admission charge for the use by any person of the swimming pool. The said charges shall be on file at the office of the city clerk and shall also be posted in a conspicuous place at the pool for public inspection. Such rates may be structured for classes of persons in a reasonable manner; provided, nothing herein shall be construed to permit or allow discrimination on the basis of race, creed, color, or national origin in the classification of persons for admission charges. (Neb. Rev. Stat. §17-949)

SECTION 2-306: SWIMMING POOL; RENTALS

The City Council shall have the authority to rent the swimming pool to such organiza-

tions and other persons as it may in its discretion see fit. The Council shall prescribe rules and regulations for such rentals and shall require an appropriate number of qualified lifeguards to be in attendance during the rental period. Such fees and other costs shall be on file at the office of the city clerk and posted in a conspicuous place at the pool. (Neb. Rev. Stat. §17-949)

Article 4 Fire Hall

SECTION 2-401: OWNERSHIP

The City, along with the Rural Fire Department, owns and operates the fire hall. The City Council, for the purpose of defraying the cost of the management, maintenance, and improvements on its interest in the fire hall, may each year levy a tax not exceeding the maximum limit prescribed by state law on the actual valuation of all real estate and personal property within the City that is subject to taxation. The revenue from the said tax shall be known as the Fire Hall Fund and shall include all gifts, grants, deeds of conveyance, bequests, or other valuable income-producing personal property and real estate from any source for the purpose of endowing the Fire Hall Fund. The said fund shall at all times be in the custody of the city treasurer. The fire chief and Council shall have the power to hire and supervise such employees as they may deem necessary and shall pass such rules and regulations for the operation of the hall as may be proper for its efficient management. (Neb. Rev. Stat. §17-953 through 17-955)

SECTION 2-402: RENTALS

The City Council, for the purpose of defraying the expenses involved in maintaining, improving, managing, and beautifying the fire hall, may make a reasonable rental charge for its use by any person or organization. Such fee shall be available for public inspection at the office of the city clerk. The Council shall prescribe rules and regulations for such rentals. Rental rates may be structured for classes of persons and organizations in a reasonable manner; provided, nothing herein shall be construed to permit or allow discrimination on the basis of race, creed, color, or national origin in the classification of persons and organizations for rental purposes. The receipts from such rentals shall be divided equally between the City and the Rural Fire Department. (Neb. Rev. Stat. §17-953)

Article 5 – Housing Authority

SECTION 2-501: CONTINUED EXISTENCE AS HOUSING AGENCY

A. The local Housing Authority established under prior state law and in existence on January 1, 2000, shall have continued existence as a housing agency under the Nebraska Housing Agency Act.

B. The local housing agency shall conduct its operations consistent with the Nebraska Housing Agency Act. All property, rights in land, buildings, records, and

equipment and any funds, money, revenue, receipts, or assets of the Authority belong to the agency as successor. All obligations, debts, commitments, and liabilities of the Authority are obligations, debts, commitments, and liabilities of the successor agency.

C. All commissioners of the local housing agency and all officers, legal counsel, technical experts, directors, and other appointees or employees of the agency holding office or employment by virtue of any such prior law on January 1, 2000, shall be deemed to have been appointed or employed under the Nebraska Housing Agency Act.

(Neb. Rev. Stat. §71-1576) (Ord. No. 542, 8/7/00)

SECTION 2-502: DEFINITIONS

Except as otherwise specifically provided, the definitions and terms set out in the Nebraska statutes relating to housing authorities under the Nebraska Housing Authority Law are hereby adopted by reference as they now exist or may hereafter be amended. (Neb. Rev. Stat. §71-1522)

SECTION 2-503: COMMISSIONERS

A. The City Council shall appoint five persons who shall constitute the Housing Authority and shall be called the commissioners. One commissioner shall be appointed each year. Each commissioner shall serve a five-year term of office or until his/her successor is duly appointed; provided, all vacancies shall be filled for the unexpired terms. The City Council may appoint one of its members to serve as one of the five members of the Authority for such term as the Council may determine. No person shall serve as a commissioner unless he/she resides within the area of operation of the Authority. A certificate of the appointment or reappointment of any commissioner shall be filed with the city clerk, which shall be conclusive evidence of the proper appointment of such commissioner. A commissioner shall receive no compensation for his/her services but shall be entitled to the necessary expenses, including travel expenses, incurred in discharge of his/her duties.

B. A majority of commissioners shall constitute a quorum of the Authority for the purpose of conducting its business, exercising its powers, and for all other purposes. Action may be taken by the Authority upon the vote of the majority of the commissioners present unless in any case the bylaws of the Authority shall require a larger number. The commissioners shall elect a chairman and vice-chairman from among their number and shall have the power to employ an executive director, who shall serve as ex officio secretary of the Housing Authority. The Authority may also employ legal counsel or it may call upon the chief law officer of the City for such services as it may require. It may employ technical experts and such other officers, agents, and employees as it may require and shall determine their qualifications, duties, compensations, and terms of office. The Authority may delegate such other powers and duties to its agents or employees as it may deem proper. The Housing

Authority shall keep an accurate account of all its activities and of all its receipts and disbursements and shall make a report to the City Council on all such information.

C. During his/her tenure and for one year thereafter, no commissioner, officer, or employee of the Housing Authority shall voluntarily acquire any interest, direct or indirect, in any project, in any property included or planned to be included in any project, or in any contract or proposed contract relating to any housing project. If any such commissioner, officer, or employee involuntarily acquires any such interest or voluntarily or involuntarily acquired any such interest prior to appointment or employment as commissioner, officer, or employee, he/she shall immediately disclose such interest in writing to the Authority. Such disclosure shall be entered upon the minutes of the Authority and said person shall not participate in any action by the Authority relating to the property or contract in which he/she has any such interest; provided, nothing herein shall apply to (1) the acquisition of any interest in notes or bonds of the Authority issued in connection with any housing project; (2) the execution of agreements by banking institutions for deposit or handling of funds in connection with a project or to act as trustee under any trust indenture, or (3) utility services, the rates for which are fixed or controlled by a governmental agency.

D. The mayor may remove a commissioner for neglect of duty or misconduct in office in the manner prescribed hereinafter. The mayor shall send a notice of removal to such commissioner, which notice shall state the charges against him/her. Unless within ten days from the receipt of such notice such commissioner files with the clerk a request for a hearing before the City Council, the commissioner shall be deemed removed from office. If a request for a hearing is filed with the clerk, the City Council shall hold a hearing at which the commissioner shall have the right to appear in person or by counsel and the Council shall determine whether the removal shall be disapproved or upheld. If the removal is disapproved, the commissioner shall continue to hold his/her position.

(Neb. Rev. Stat. §71-1524 thru. 71-1526, 71-1552) (Am. by Ord. No. 268, 9/7/82)

SECTION 2-504: RULES AND REGULATIONS

The Housing Authority may establish from time to time rules and regulations consistent with the purposes of this article concerning the priority of eligible applicants for occupancy. The Authority may give preferential treatment to applicants who are servicemen or veterans, relatives of servicemen or veterans, to disabled servicemen or veterans, the elderly or disabled, those in urgent need of adequate housing or who have no adequate source of income; provided, in any such system of priority, displaced persons in need shall have a priority ahead of all other persons; and provided further, no tenant in good standing then in occupancy and qualified for continued occupancy shall have his/her tenancy terminated in order to provide dwelling units for classes or categories of applicants as the Authority may establish.

(Neb. Rev. Stat. §71-1547)

SECTION 2-505: OPERATION AND MANAGEMENT

A. The Authority shall at all times observe the following duties with respect to rentals and tenant selection:

1. It may rent or lease dwelling accommodations therein only to persons of low income, elderly, or handicapped persons of low income, and displaced persons in need.
2. There shall be no discrimination in the eligibility or occupancy of tenants on the basis of race, sex, marital status, religion, color, creed, national origin, or ancestry.
3. The Authority shall not accept any person as a tenant in any dwelling in the housing project if he/she has an aggregate annual income which equals or exceeds the amount which the Authority has conclusively determined to be sufficient to enable one to secure, safe, sanitary, and uncongested dwelling accommodations within the area served by the Authority and to provide an adequate standard of living.
4. The Authority may rent or lease to a tenant a dwelling consisting of a number of rooms which is deemed necessary to provide safe and sanitary accommodations to the occupant(s) without overcrowding.
5. The Authority shall fix income limits for occupancy and rents after taking into consideration:
 - a. The family size, composition, age, physical handicaps, and other factors which might affect the rent-paying ability of the person.
 - b. The economic factors which affect the financial stability and solvency of the project.
6. The Authority may accept as a tenant any displaced person or persons in need, regardless of income, but in no event shall such person or persons remain as a tenant or tenants of the Authority for more than a period of six months unless such persons also qualify as persons of low income, elderly, or handicapped persons of low income.
7. All persons of low income, elderly, or handicapped persons of low income, or displaced persons in need, shall be entitled to the benefits of this article and the Authority may establish rules and regulations consistent with the purposes of this article concerning eligibility and occupancy of the housing project or other such shelter.
8. Nothing herein shall prohibit the right of the Authority to inquire into the financial condition, family composition, medical, personal, and employ-

ment history of any tenant or prospective tenant.

9. The Authority shall prohibit subletting by tenants.

B. The Authority may establish from time to time rules and regulations consistent with federal and state laws and regulations and the purposes of this article concerning the termination of tenancy. Any tenant so terminated shall be sent a written notice of termination setting out the reasons for such termination. Any tenant served with a notice shall be given the opportunity to contest the termination in an appropriate hearing, except that tenants who have created or maintained a threat constituting a serious and clear danger to the health or safety of other tenants or authority employees need not be given such a hearing by the Authority. Such notice may provide that if the tenant fails to pay his/her rent or comply with any covenant or condition of his/her lease or the rules and regulations of such Authority or cure a violation or default thereof, as the case may be, as specified in such notice, or follow the procedure for a hearing as set forth in the notice, all within the time or times set forth in such notice, the tenancy shall then be automatically terminated and no other notice or notices need be given of such termination or the intent to terminate the tenancy. Upon such termination and without any notice other than as provided for in this section, the Authority may file suit against any tenant for recovery of possession of the premises and may recover the same as provided by law.

C. The Authority may establish from time to time rules and regulations consistent with the purposes of this article concerning personal property of tenants and other persons located in projects of the Authority, and if such personal property is not removed from a dwelling unit at the time of the termination of the lease, at the time of vacation or abandonment of the dwelling unit, or at the time of the death of any tenant, then the Authority may remove the same and store such property at the tenant's risk and expense. In the event that possession of such personal property is not taken by the tenant or other person authorized by law to take possession within 45 days after such termination, vacation, or abandonment, and any storage removal charges remain unpaid, then the Authority may at its option dispose of the personal property in any manner which the Authority deems fit, except that any proceeds from the disposal of such personal property shall be paid to the General Fund of the body which created the Authority. No tenant or other person shall have any cause of action against the Authority for such removal or disposition of such personal property.

(Neb. Rev. Stat. §71-1536) (Am. by Ord. No. 269, 9/7/82)

SECTION 2-506: REPORTS

The Housing Authority shall keep an accurate account of all its activities and of all its receipts and disbursements and shall make an annual report at the second regular meeting in January of each year to the City Council. Such report shall include all

mortgages and other interests in real property held by the Housing Authority, including options to purchase and land sale contracts; a listing of all bond issues and their essential terms and obligations; and all other financial obligations of the Authority over \$50,000.00. Such reports shall be considered public records. If there has been no change from the last report in the status of any of the items reported pursuant to this section, the Housing Authority may file a statement to that effect in lieu of the report. (Neb. Rev. Stat. §71-1552) (Am. by Ord. No. 270, 9/7/82)

SECTION 2-507: JOINT HOUSING AUTHORITY

A. Any two or more cities, villages or counties or any combination thereof may, by resolution of their separate governing bodies, determine that there is a need for a joint housing authority to provide decent, safe and sanitary housing for persons of low income living in a multijurisdictional area and that this need would be more efficiently served by the establishment of such joint housing authority. Any such joint housing authority shall have perpetual existence; except that any city, village, or county, as the case may be, may withdraw from participation in the joint housing authority by resolution of its governing body only under the conditions set out in state law. The area of operation of such joint housing authority would be an area equivalent to the total areas of operation which the housing authorities, if created separately by the cities, villages, or counties establishing the joint authority, would have. The creation of subsequent housing authorities shall not affect the area of operation or territorial jurisdiction of any existing housing authority. Whenever a joint housing authority is created, it shall bear such name as the political subdivision or subdivisions creating it shall choose, and such name shall include the words "joint housing authority."

B. When it is determined by resolution of the governing bodies of two or more cities, villages, or counties or any combination thereof that it is expedient to create a joint housing authority and to participate therein, the governing bodies shall appoint persons who shall be residents of the area of operations of the authority and who shall constitute the joint housing authority. Such persons shall be called commissioners and shall be appointed as follows:

1. When two political subdivisions constitute the participating members in such joint authority, each shall appoint two persons to act as commissioners and those four persons shall elect a fifth person to act as a commissioner;
2. When three political subdivisions constitute the participating members in such joint authority, each shall appoint one person to act as a commissioner and those three persons shall elect a fourth and fifth person to act as commissioners;
3. When four political subdivisions constitute the participating members in

such joint authority, each shall appoint one person to act as commissioner and those four persons shall elect a fifth person to act as a commissioner; and

4. When five or more political subdivisions constitute the participating members in the joint authority, each shall appoint one person to act as commissioner.

C. Each commissioner shall serve a term of five years from the date of his/her appointment. All vacancies shall be filled for the unexpired term by the entity originally appointing such commissioner. Tenancy in a project established by a joint housing authority shall not preclude the appointment of any person to serve as a commissioner of such joint housing authority. After a joint housing authority has been created, additional political subdivisions may elect to participate as members of such joint housing authority after compliance with Neb. Rev. Stat. §71-1523, if the majority of existing commissioners in such joint housing authority and all participating political subdivisions by their respective governing bodies consent to such additional member. A joint housing authority having 12 or more commissioners may by resolution establish an executive committee of at least five but not more than seven commissioners. The committee shall have such powers over the management and operation of such joint housing authority as the commissioners of such joint housing authority shall specify and declare in the resolution. No person shall serve as a commissioner unless he/she resides within the area of operation of the joint housing authority involved.

(Neb. Rev. Stat. §71-1520, 71-1522 thru 71-1524) (Ord. No. 271, 9/7/82)

Article 6 – Board of Health

SECTION 2-601: OPERATION

A. The City Council shall appoint a Board of Health consisting of four members including the mayor, who shall serve as chairperson, the president of the City Council, and two other members. One member shall be a physician or health care provider if one can be found who is willing to serve. Such physician or health care provider, if appointed, shall be the Board's medical advisor. If the mayor has appointed a chief of police, he/she shall serve on the Board as secretary and quarantine officer. The members of the Board shall serve, without compensation, one-year terms of office, unless reappointed. No member of the Board of Health shall hold more than one Board of Health position. The Board of Health shall be funded by the City Council from time to time out of the General Fund.

B. The Board shall meet at such times as the City Council may designate. Special meetings may be held upon the call of the chairperson or any two members of the Board. The members shall reorganize at the first meeting in December of each year. The secretary shall keep full and correct minutes and records of all meetings and file the same with the city clerk, where they shall be available for public inspection.

tion during office hours. A majority of the Board shall constitute a quorum for the purpose of doing business.

C. The Board shall enact rules and regulations which shall have the full force and effect of law to safeguard the health of the people of the City. The Board shall enforce the rules and regulations and provide fines and punishments for any violations thereof. It may regulate, suppress and prevent the occurrence of nuisances and enforce all laws of the State of Nebraska and ordinances of the City relating to nuisances and to matters of sanitation which affect the health and safety of the people. The Board shall regularly inspect such premises and businesses as the City Council may direct. All members of the Board shall be responsible for making such reports and performing such other duties as the Council may, from time to time, designate.

(Neb. Rev. Stat. §17-121) (Am. by Ord. No. 495, 8/4/97)

Article 7 – Planning Commission

SECTION 2-701: OPERATION

A. The City Council shall appoint the Planning Commission, which shall consist of nine members representing, insofar as is possible, the different professions or occupations in the City and who shall be residents of the City. However, two of such members may be residents of the area over which the City is authorized to exercise extraterritorial zoning and subdivision regulation. The members of the Commission shall serve three-year terms of office unless reappointed. The commission members shall serve without compensation and may be required, in the discretion of the City Council, to give a bond in a sum set by resolution of the Council and conditioned upon the faithful performance of their duties. No member of the City Council or other city official, except where otherwise specifically provided, shall serve as a member of the Planning Commission while serving any other term of office. The Planning Commission shall be funded by the City Council from time to time out of the General Fund.

B. At the time of the Commission's first meeting in December of each year, the members shall organize by selecting from their membership a chairman and secretary. No member of the Planning Commission shall serve in the capacity of both chairman and secretary. It shall be the duty of the secretary to keep the full and correct minutes and records of all meetings and to file the same with the city clerk, where they shall be available for public inspection during office hours. A majority of the Commission shall constitute a quorum for the purpose of doing business. Special meetings may be held upon the call of the chairman or any three members of the Commission.

C. It shall be the duty of the Commission to make and adopt plans for the physical development of the City, including any areas outside its boundaries which, in

the Commission's judgment, bear relation to the planning of the City. All actions by the Commission shall be subject to the review and supervision of the City Council. The Commission shall be responsible for making such reports and performing such other duties as the Council may, from time to time, designate.

(Neb. Rev. Stat. §18-1302 thru 18-1306)

TRANSFERRED to 19-924 et seq

Article 8 – Board of Adjustment

SECTION 2-801: OPERATION

A. The City Council shall appoint the Board of Adjustment, which shall consist of five regular members plus one additional member designated as an alternate, who shall attend and serve only when one of the regular members is unable to attend for any reason. No member of the City Council shall serve as a member of the Board of Adjustment. Each member of the Board shall serve a term of three years unless reappointed and shall be removable only for good and sufficient cause by the City Council upon written charges and after a public hearing. The members of the Board shall serve without compensation and may be required, in the discretion of the Council, to give a bond in a sum set by resolution and conditioned upon the faithful performance of their duties. One member of the Board of Adjustment shall be at the same time a member of the Planning Commission at all times. Upon loss of membership on the Planning Commission, the said member shall also lose membership on the Board of Adjustment. The Board shall be funded from time to time out of the General Fund by the City Council.

B. Meetings of the Board shall be held at such times as the City Council or the board chairman may in their discretion designate. Special meetings may be also held upon the call of any three members of the Board. A majority of the board shall constitute a quorum for the purpose of doing business. The Board shall organize at its first meeting in June of each year and elect from its membership a chairman and secretary. No member of the Board of Adjustment shall serve in the capacity of both chairman and secretary. It shall be the duty of the secretary to keep complete and accurate minutes of all board meetings and to file the same at the office of the city clerk for examination by the public.

C. The Board shall be responsible for making such reports and performing such other duties as the City Council may designate. It shall be the duty of the Board to hear and decide appeals where it is alleged that there is error in any order, requirement, decision, or determination made by a city official based on any zoning ordinance of the City; to hear and decide, in accordance with the provisions of any zoning ordinance, requests for interpretation of any map and authorize a variance from the strict application of any zoning ordinance if it is found that a specific piece of property, due to exceptional specifications existing at the time of passage of the said ordinance, would result in exceptional difficulties and undue hardship. No variance

shall be granted if the undue hardship appears to affect the property in the district generally or if the situation of the property concerned appears to be so general or recurring in nature as to make reasonably practicable the formulation of a general regulation to be adopted by the City Council as an ordinance. The concurring vote of four members of the Board shall be necessary to reverse any order requirement, decision, or determination made by a city official on any matter which was governed by any zoning ordinance.

(Neb. Rev. Stat. §19-911. 84-155)

Article 9 Penal Provision

SECTION 2-901: VIOLATION; PENALTY

Any person or any person's agent or servant who violates any of the provisions of this chapter, unless otherwise specifically provided herein, shall be deemed guilty of an offense and upon conviction thereof shall be fined in any sum not exceeding \$500.00. A new violation shall be deemed to have been committed every 24 hours of failure to comply with the provisions of this chapter. (Neb. Rev. Stat. §17-505, 18-1720, 18-1722) (Am. by Ord. No. 543, 8/7/00)

CHAPTER 3 – MISDEMEANORS

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3-601 VIOLATION; PENALTY

CHAPTER 3 – MISDEMEANORS

Article 1 – General Misdemeanors

SECTION 3-101: RESISTING OFFICER

It shall be unlawful for any person to resist any city police officer when such officer is in the lawful performance of his/her duties. (Neb. Rev. Stat. §28-904, 28-906)

SECTION 3-102: CRIMINAL MISCHIEF

A person commits criminal mischief if he/she (A) damages property of another intentionally or recklessly; (B) intentionally tampers with property of another so as to endanger person or property; or (C) intentionally or maliciously causes another to suffer pecuniary loss by deception or threat. (Neb. Rev. Stat. §28-519)

SECTION 3-103: FALSE REPORTING

It shall be unlawful for any person to:

A. Furnish information he/she knows to be false to any peace officer or other official with the intent to instigate an investigation of an alleged criminal matter or impede the investigation of an actual criminal matter; or

B. Furnish information he/she knows to be false alleging the existence of an emergency in which human life or property are in jeopardy to any hospital, ambulance company, or other person or governmental agency which deals with emergencies involving danger to life or property; or

C. Furnish any information, or cause such information to be furnished or conveyed by electric, electronic, telephonic, or mechanical means, knowing the same to be false concerning the need for assistance of a fire department or any personnel or equipment of such department; or

D. Furnish any information he/she knows to be false concerning the location of any explosive in any building or other property to any person.
(Neb. Rev. Stat. §28-907) (Ord. No. 287, 9/7/82)

SECTION 3-104: SHOPLIFTING

A. A person commits the crime of theft by shoplifting when he/she, with the intent of appropriating merchandise to his/her own use without paying for the same or to deprive the owner of possession of such property or its retail value, in whole or in part, does any of the following:

1. Conceals or takes possession of the goods or merchandise of any store or retail establishment;
2. Alters the price tag or other price marking on goods or merchandise of any store or retail establishment;
3. Transfers the goods or merchandise of any store or retail establishment from one container to another;
4. Interchanges the label or price tag from one item of merchandise with a label or price tag from another item of merchandise; or
5. Causes the cash register or other sales recording device to reflect less than the retail price of the merchandise.

B. In any prosecution for theft by shoplifting, in order to allow the owner or owners of shoplifted property the use of such property pending criminal prosecutions, photographs of the shoplifted property may be accepted as prima facie evidence as to the identity of the property. Such photograph shall be accompanied by a written statement containing the following:

1. A description of the property;
2. The name of the owner or owners of the property;
3. The time, date, and location where the shoplifting occurred;
4. The time and date the photograph was taken;
5. The name of the photographer; and
6. Verification by the arresting officer.

C. Prior to allowing the use of shoplifted property as provided in this section, legal counsel for the alleged shoplifter shall have a reasonable opportunity to inspect and appraise the property and may file a motion for retention of the property, which motion shall be granted if there is any reasonable basis for believing that the photographs and accompanying affidavit may be misleading.

(Neb. Rev. Stat. §28-514) (Ord. No. 275, 9/7/82)

SECTION 3-105: CRIMINAL IMPERSONATION

A. For purposes of this section:

1. The definitions found in Neb. Rev. Stat. §28-608 shall apply; and
2. The offenses described in division (B) shall exist when the credit, money, goods, services, or other thing of value that was gained or was attempted to be gained was less than \$500.00

B. A person commits criminal impersonation if he/she:

1. Assumes a false identity and does an act in his/her assumed character with intent to gain a pecuniary benefit for himself, herself, or another or to deceive or harm another;
2. Pretends to be a representative of some person or organization and does an act in his/her pretended capacity with the intent to gain a pecuniary benefit for himself, herself, or another and to deceive or harm another;
3. Carries on any profession, business, or any other occupation without a license, certificate, or other authorization required by law.
4. Without the authorization or permission of another and with the intent to deceive or harm another (a) obtains or records personal identification documents or personal identifying information; and (b) accesses or attempts to access the financial resources of another through the use of a personal identification document or personal identifying information for the purpose of obtaining credit, money, goods, services, or any other thing of value.

C. Criminal impersonation does not mean:

1. The lawful obtaining of credit information in the course of a bona fide consumer or commercial transaction;
2. The lawful, good faith exercise of a security interest or a right of setoff by a creditor or a financial institution; or
3. The lawful, good faith compliance by any person when required by any warrant, levy, garnishment, attachment, court order, or other judicial or administrative order, decree, or directive.

(Neb. Rev. Stat. §28-608) (Ord. No. 571, 4/7/03)

SECTION 3-106: MALICIOUS DESTRUCTION OF PROPERTY

It shall be unlawful for any person within the corporate limits to purposely, willfully, or maliciously injure in any manner or destroy any real or personal property of any description belonging to another. (Neb. Rev. Stat. §28-519)

SECTION 3-107: STALKING

Any person who willfully and maliciously harasses another person with the intent to terrify, threaten, or intimidate commits the offense of stalking. For purposes of this section: "harass" shall mean to engage in a knowing and willful course of conduct directed at a specific person which terrifies, threatens, or intimidates the person and

which serves no legitimate purpose, and “course of conduct” shall mean a pattern of conduct composed of a series of acts of following, detaining, restraining the personal liberty of, or stalking the person or telephoning the person. (Neb. Rev. Stat. §28-311.02, 28-311.03)

SECTION 3-108: DISORDERLY CONDUCT

Any person who shall knowingly start a fight, fight, commit assault or battery, make unnecessary noise, or otherwise conduct himself/herself in such a way as to breach the peace shall be deemed to be guilty of a misdemeanor. (Neb. Rev. Stat. §17-129, 17-556)

SECTION 3-109: DISTURBING THE PEACE

Any person who shall intentionally disturb the peace and quiet of any person, family, or neighborhood commits the offense of disturbing the peace. (Neb. Rev. Stat. §28-1322)

SECTION 3-110: UNLAWFUL ASSEMBLY

A person is guilty of unlawful assembly if he/she assembles with two or more persons for the purpose of engaging in conduct constituting the crime of riot or if, being present at any assembly that either has or develops such a purpose, he/she remains there with an intent to advance that purpose. (Neb. Rev. Stat. §17-124, 28-202)

SECTION 3-111: RIOTOUS ASSEMBLY

If three or more persons shall assemble together with intent to do any unlawful act with force and violence against the person or property of another or to do any unlawful act against the peace or, being lawfully assembled, shall agree with each other to do any unlawful act as aforesaid and shall make any movement or preparation therefor, the persons so offending shall be deemed guilty of a misdemeanor. (Neb. Rev. Stat. §17-124)

SECTION 3-112: CONCEALED WEAPONS

Except as otherwise provided in this section, any person who carries a weapon or weapons concealed on or about his/her person such as a revolver, pistol, bowie knife, dirk or knife with a dirk blade attachment, brass or iron knuckles, or any other deadly weapon commits the offense of carrying a concealed weapon. This section shall not apply to a person who is the holder of a valid permit issued under the Concealed Handgun Permit Act if the concealed weapon which the offender is carrying is a handgun as defined in Neb. Rev. Stat. §69-2429. (Neb. Rev. Stat. §28-1202)

SECTION 3-113: TRESPASSING; LOITERING

It shall be unlawful for any person to trespass upon any private grounds within the City or to break, cut, or injure any tree, shrub, plant, flower, or grass growing thereon,

or without the consent of the owner or occupant to enter upon an improved lot or grounds occupied for residence purposes and to loiter about the same. (Neb. Rev. Stat. §28-520, 28-521)

SECTION 3-114: DISCHARGE OF FIREARMS

It shall be unlawful for any person, except an officer of the law in the performance of his/her official duty, to fire or discharge any gun, pistol, or other fowling piece within the City; provided, nothing herein shall be construed to apply to officially sanctioned public celebrations if the persons so discharging firearms have written permission from the City Council. (Neb. Rev. Stat. §17-556)

SECTION 3-115: SLINGSHOTS, AIR GUNS, BB GUNS

It shall be unlawful for any person to discharge a slingshot, air gun, BB gun, or the like loaded with rock or other dangerous missiles at any time or under any circumstances within the City.

SECTION 3-116: CURFEW

It shall be unlawful for any minor under the age of 18 years to ride in or operate any vehicle in or upon any street, alley, or other public place, or to loiter, wander, stroll, loaf, or play in or upon any of the streets, alleys, or other public places between the hours of 11:00 p.m. of any day and 6:00 a.m. of the following day, Sunday through Thursday inclusive, and between the hours of 12:00 midnight and 6:00 a.m. Friday and Saturday, unless (A) accompanied by a parent, guardian or other adult person having the care, custody or control of said minor; or (B) the minor is engaged in lawful employment or is on an emergency errand; provided, when an activity of the kind normally attended by minors under 18 years terminates after or less than one hour prior to 11:00 p.m., Sunday through Thursday inclusive, or less than one hour prior to 12:00 midnight Friday and Saturday, the curfew shall commence one hour after the termination of such activity.

SECTION 3-117: EXCESSIVE NOISE

It shall be unlawful for any person within the City to operate any radio, tape player, compact disc player, stereophonic sound system or similar device which reproduces or amplifies radio broadcasts or musical recordings in or upon any street, alley, or other public place in such a manner as to be audible to any person at any point or place more than 75 feet from the source. The prohibition set forth herein shall not apply to such activity:

- A. When conducted in connection with an activity or event sponsored by a school, church, or governmental entity;
- B. When conducted in connection with an activity open to the public such as a

carnival, circus or athletic event; and

C. If a permit for same has been issued by the City Council or its designee, which permit may include such conditions as the Council or its designee shall deem necessary and appropriate; provided, however, such conditions shall be reasonably related to preserving the public peace and shall not infringe upon the applicant's right to free speech.

(Neb. Rev. Stat. §18-1720)

SECTION 3-118: WINDOW PEEPING

It shall be unlawful for any person to go upon the private premises of another to look or peep into any window, door, or other opening in a building occupied by any other person.

SECTION 3-119: TRASH ON OTHER'S PREMISES

It shall be unlawful for any person to willfully, maliciously, or negligently place or throw upon the premises of another, any filth, garbage, leaves, papers, or other matter to the annoyance of the owner or occupant thereon. (Neb. Rev. Stat. §28-523)

SECTION 3-120: LITTERING

A. Any person who deposits, throws, discards, or otherwise disposes of any litter on any public or private property or in any waters commits the offense of littering unless (1) such property is an area designated by law for the disposal of such material and such person is authorized by the proper public authority to so use such property; or (2) the litter is placed in a receptacle or container installed on such property for such purpose.

B. The word "litter" as used in this section shall mean all waste material susceptible of being dropped, deposited, discarded or otherwise disposed of by any person upon any property in the state but does not include wastes of primary processes of farming or manufacturing. "Waste material" as used in this section shall mean any material appearing in a place or in a context not associated with that material's function or origin.

C. Whenever litter is thrown, deposited, dropped, or dumped from any motor vehicle or watercraft in violation of this section, the operator of such motor vehicle or watercraft commits the offense of littering.

(Neb. Rev. Stat. §28-523) (Am. by Ord. No. 453, 3/6/95)

SECTION 3-121: APPLIANCES IN YARD

It shall be unlawful for any person to permit a refrigerator, icebox, freezer, or any other dangerous appliance to be in the open and accessible to children whether on private or public property unless he/she shall first remove all doors and make the same

reasonably safe. (Neb. Rev. Stat. §18-1720)

SECTION 3-122: OBSTRUCTION OF PUBLIC WAYS

It shall be unlawful for any person to erect, maintain, or suffer to remain on any street or public sidewalk a stand, wagon, display, or other obstruction inconvenient to, or inconsistent with, the public use of the same.

SECTION 3-123: OBSTRUCTION OF WATER FLOW

It shall be unlawful for any person to stop or obstruct the passage of water in a street gutter, culvert, water pipe, or hydrant.

SECTION 3-124: AIR POLLUTION

It shall be unlawful for any person, firm, or corporation to permit the emission of smoke from any source that is injurious or offensive to the residents of the residents of the City in the judgment of the City Council. Air shall be considered to be polluted when the discharge into the open air of dust, fumes, gases, mist, odors, smoke, or any combination thereof is such character and in a quantity which to any group of persons interferes with their health, repose, or safety, or causes severe annoyance or discomfort or is offensive and objectionable to normal persons and causes injury to real and personal property of any kind. The standards for air pollution established or adopted by the State of Nebraska shall be presumptive evidence as to when the air is deemed to be polluted under this section. It is hereby unlawful for any such person, firm, or corporation to permit or cause the escape of the aforesaid nuisances and the escape of said dust, fumes, gases, mists, odors, and smoke is hereby declared to be a nuisance and shall be summarily abated upon written notice by the City Council to the violator. Such abatement may be in addition to the penalty for air pollution in the City. (Neb. Rev. Stat. §18-1720, 28-1321)

SECTION 3-125: PUBLIC URINATION AND DEFECATION; INDECENT ACTS

It shall be unlawful for any person within this city to urinate or defecate in public or to commit any indecent or lewd act. (Ord. No. 639, 6/1/15)

Article 2 – Dogs and Cats

(Article amended by Ord. No. 352, 6/6/88)

SECTION 3-201: OWNER DEFINED

Any person who shall harbor or permit any dog or cat to be present for ten days or more in or about his/her house, store, or enclosure or to remain to be fed shall be deemed the owner and possessor of such dog or cat and shall be deemed to be liable for all penalties herein prescribed. (Neb. Rev. Stat. §54-606, 71-4401)

SECTION 3-202: DOGS; LICENSING

A. Any person who shall own, keep or harbor a dog over the age of four months within the City shall, within 30 days after acquisition of the said dog, acquire a license for each such dog annually on or before the May 1 of each year. The tax shall be delinquent from and after May 10; provided, the possessor of any dog brought into or harbored within the corporate limits subsequent to May 15 of any year shall be liable for the payment of the dog tax levied herein and such tax shall be delinquent if not paid within ten days thereafter. Licenses shall be issued by the city clerk or other person designated by the City Council upon the payment of a license fee for each dog. Such fee shall be set by the council and placed on file in the office of the city clerk for public inspection. Said license shall not be transferable and no refund will be allowed in case of death, sale or other disposition of the licensed dog. At the time the application is made, upon a form provided for such purpose, the owner shall state his/her name and address and the name, breed, color and sex of each dog owned and kept by him/her. A certificate that the dog has had a rabies shot, effective for the ensuing year of the license, shall be presented with the license application and no license or tag shall be issued until the certificate is shown.

B. Upon the payment of the license fee, the city clerk shall issue to the owner of the dog a license certificate and a metallic tag for each dog so licensed. The metallic tag shall be properly attached to the collar or harness of each dog so licensed and shall entitle the owner to keep or harbor the said dog until the 30th day of April following such licensing. In the event that a license tag is lost, and upon satisfactory evidence that the original tag was issued in accordance with the provisions herein, the city clerk shall issue a duplicate or new tag for the balance of the year for which the license tax has been paid. All license fees and collections shall be immediately credited to the general fund. It shall be the duty of the city clerk to issue tags of a suitable design that are different in appearance each year.

C. It shall be unlawful for the owner, keeper or harbinger of any dog to permit or allow such dog to wear any license, metallic tag or other city identification than that issued by the city clerk for dogs.

(Ord. No. 3-306, 7/1/13)

SECTION 3-203: DOGS; UNCOLLARED

All dogs found running at large upon the streets and public grounds of the City without a collar or harness are hereby declared a public nuisance. Dogs found running at large without a collar or harness shall be impounded in the dog shelter by the city police. The City shall acquire legal title to any such impounded dog which is confined in the shelter for a period longer than the required waiting period after giving notice. All dogs shall be destroyed and buried in the summary and humane manner as prescribed by the City Council unless suitable homes can be found. (Neb. Rev. Stat. §54-605, 17-548, 71-4408)

SECTION 3-204: DOGS; RUNNING AT LARGE; PENALTY

A. It shall be unlawful for the owner of any dog to allow such dog to run at large at any time within the corporate limits of the City. "Running at large" shall mean any dog found off the premises of the owner, and not under control of the owner or a responsible person, either by leash, cord, chain, wire, rope, cage or other suitable means of physical restraint.

B. Violation; Penalty.

1. Any person who suffers or permits his/her dog, whether it be male or female, to run at large within the corporate limits of the City is hereby deemed to be guilty of a misdemeanor and upon conviction thereof be fined in a sum set by the City Council and shall pay the costs of prosecution.
2. Additionally, in the absolute discretion of the city police chief, such dog found running at large may be picked up and impounded in a suitable place to be provided by the City until it is released to the owner or until it is disposed of as provided in Section 3-221.
3. The owner of any dog which has been impounded may claim said dog at any time prior to its disposition as provided in Section 3-221 by providing satisfactory proof of ownership and paying costs of boarding and any costs incurred in giving notice to the owner.

SECTION 3-205: DOGS; FEMALE IN SEASON

It is hereby declared unlawful for the owner, keeper, or harbinger of a female dog to permit her to run at large within the City while in season. Any such female dog found running at large in violation of this section shall be declared to be a public nuisance and as such may be impounded or killed according to the provisions herein. (Neb. Rev. Stat. §17-526)

SECTION 3-206: DOGS; EXCREMENT

Excreta from any dog shall be declared a nuisance. The owner of a dog shall immediately remove from public or private property any excrement from such dog. If any part of a public street, public park, or private property of a person other than the owner of the animal shall be soiled by the excreta of that animal, whether such nuisance shall take place in the presence of the owner or not, the owner shall, upon becoming aware thereof, promptly remove such excreta and dispose of it in a sanitary manner. (Neb. Rev. Stat. §18-1720)

SECTION 3-207: DOGS; BARKING AND OFFENSIVE

It shall be unlawful for any person to own, keep, or harbor any dog which by loud, continued, or frequent barking, howling, or yelping shall annoy or disturb any neighborhood, or person or which habitually barks at or chases pedestrians, drivers, or owners of horses or vehicles while they are on any public sidewalks, streets, or alleys in the City. Upon the written complaint of two or more affected persons from different households, filed within any 30-day period with the city clerk, that any dog owned by the person named in the complaint is an annoyance or disturbance or otherwise violates the provisions of this section, the city police shall investigate the complaint and, if in their opinion the situation warrants, shall notify the owner to silence and restrain such dog. The provisions of this section shall not be construed to apply to the city dog shelter.

SECTION 3-208: DOGS; DAMAGE; LIABILITY OF OWNER

It shall be unlawful for any person to allow a dog owned, kept, or harbored by him or under his/her charge or control to injure or destroy any real or personal property of any description belonging to another person. The owner or possessor of any such dog, in addition to the usual judgment upon conviction, may be made to be liable to the persons so injured in an amount equal to the value of the damage so sustained. (Neb. Rev. Stat. §54-601, 54-602)

SECTION 3-209: KILLING AND POISONING

It shall be unlawful to kill or to administer or cause to be administered poison of any sort to a dog or cat or in any manner to injure, maim, or destroy, or in any manner attempt to injure, maim, or destroy any dog or cat that is the property of another person, or to place any poison, or poisoned food where the same is accessible to a dog or cat; provided, this section shall not apply to city police acting within their power and duty. (Neb. Rev. Stat. §28-552, 28-553)

SECTION 3-210: RABIES; VACCINATION OF DOMESTIC ANIMALS REQUIRED

Every domestic animal shall be vaccinated against rabies with a licensed vaccine as

provided in Neb. Rev. Stat. §71-4402. The cost of the rabies vaccination shall be borne by the owner of the domestic animal. For purposes of this section, "domestic animal" shall mean any dog or cat, and "cat" shall mean a cat which is a household pet.

SECTION 3-211: RABIES; SEIZURE BY THE CITY; CONFINEMENT BY OWNER; TEST AUTHORIZED

A. Any animal which is owned by a person and has bitten any person or caused an abrasion of the skin of any person shall be seized by the city police and impounded for a period of not less than ten days if:

1. The animal is suspected of having rabies, regardless of the species and whether or not the animal has been vaccinated;
2. The animal is not vaccinated and is of a species determined by the Nebraska Department of Health ("the department") to be a rabid species; or
3. The animal is of a species which has been determined by the department to be a rabid species not amenable to rabies protection by immunization, whether or not such animal has been vaccinated.

B. Whenever any person has been bitten or has an abrasion of the skin caused by an animal owned by another person, which animal has been vaccinated in accordance with Neb. Rev. Stat. §71-4402, or if such injury to a person is caused by an owned animal determined by the department to be a rabid species amenable to rabies protection by immunization which has been vaccinated, such animal shall be confined by the owner or other responsible person as required by statute for a period of at least ten days and shall be observed and examined by a veterinarian at the end of such ten-day period. If no clinical signs of rabies are found by the veterinarian, such animal may be released from confinement.

C. Any animal of a rabid species which has bitten a person or caused an abrasion of the skin of a person and which is unowned or the ownership of which cannot be determined within 72 hours of the time of the bite or abrasion shall be immediately subject to any tests which the department believes are necessary to determine whether the animal is afflicted with rabies. The 72-hour period shall include holidays and weekends and shall not be extended for any reason. The tests required by this subsection may include tests which require the animal to be destroyed.

SECTION 3-212: RABIES; DOMESTIC ANIMAL BITTEN BY A RABID ANIMAL; DISPOSITION

In the case of domestic animals known to have been bitten by a rabid animal, the following rules shall apply:

A. If the bitten or exposed domestic animal has not been vaccinated in accordance with Neb. Rev. Stat. §71-4402, such bitten or exposed domestic animal shall be immediately destroyed unless the owner is willing to place such domestic animal in strict isolation in a kennel under veterinary supervision for a period of not less than six months; and

B. If the bitten or exposed domestic animal has been vaccinated in accordance with Neb. Rev. Stat. §71-4402, such domestic animal shall be subject to the following procedure:

1. Such domestic animal shall be immediately revaccinated and confined for a period of not less than 30 days following vaccination;
2. If such domestic animal is not immediately revaccinated, such domestic animal shall be confined in strict isolation in a kennel for a period of not less than six months under the supervision of a veterinarian; or
3. Such domestic animal shall be destroyed if the owner does not comply with either subdivision (1) or (2) above.

SECTION 3-213: RABIES; PROCLAMATION

It shall be the duty of the City Council, whenever in its opinion the danger to the public safety from rabid dogs is great or imminent, to issue a proclamation ordering all persons owning, keeping, or harboring any dog to muzzle the same or to confine it for a period of not less than 30 days or more than 90 days from the date of such proclamation or until such danger is passed.

SECTION 3-214: RABIES; CAPTURE IMPOSSIBLE

The city police shall have the authority to kill any animals showing vicious tendencies or characteristics of rabies which make capture impossible because of the danger involved. (Neb. Rev. Stat. §54-605)

SECTION 3-215: RABIES; VIOLATION; PENALTY; ORDER FOR SEIZURE

The owner of any domestic animal or any person who violates any of the provisions of Sections 3-210 to 3-212 shall be guilty of a Class V misdemeanor. This shall be a separate offense from any other offenses in this chapter relating to dogs running at large. When the owner of any domestic animal fails or refuses to comply with Sections 3-210 to 3-212, the City shall obtain an order for seizure of such animal.

SECTION 3-216: DANGEROUS DOGS; DEFINITIONS

“Animal Control Authority” shall mean an entity authorized to enforce the animal control laws of the Village.

“Animal control officer” shall mean any individual employed, appointed, or authorized by an Animal Control Authority for the purpose of aiding in the enforcement of this article or any other law or ordinance relating to the control of animals or seizure and impoundment of animals and shall include any state or local law enforcement personnel or other employee whose duties in whole or in part include assignments that involve the seizure and impoundment of any animal.

“Dangerous dog” shall mean any dog that, according to the records of the Animal Control Authority:

- A. Has killed or inflicted injury on a human being on public or private property;
- B. Has killed a domestic animal without provocation while the dog was off the owner's property; or
- C. Has been previously determined to be a potentially dangerous dog by an Animal Control Authority and the owner has received notice of such determination, and such dog again aggressively bites, attacks, or endangers the safety of humans or domestic animals. A dog shall not be defined as a dangerous dog if the damage was sustained by a person who (1) at the time was committing a willful trespass as defined in Neb. Rev. Stat. §20-203, §28-520, or §28-521 or any other tort upon the property of the owner of the dog or was tormenting, abusing, or assaulting the dog; (2) has in the past been observed or reported to have tormented, abused, or assaulted the dog, or (3) was committing or attempting to commit a crime.

“Domestic animal” shall mean a cat, a dog, or livestock.

“Owner” shall mean any person, firm, corporation, organization, political subdivision, or department possessing, harboring, keeping, or having control or custody of a dog.

“Potentially dangerous dog” shall mean any dog that, when unprovoked, (1) inflicts an injury on a human or injures a domestic animal either on public or private property, or (2) chases or approaches a person upon streets, sidewalks, or any public grounds in a menacing way or apparent attitude of attack.

(Neb. Rev. Stat. §54-617)

SECTION 3-217: DANGEROUS DOGS; RESTRAINED

No owner of a dangerous dog shall permit the dog to go beyond the property of the owner unless the dog is restrained securely by a chain or leash. (Neb. Rev. Stat. §54-618)

SECTION 3-218: DANGEROUS DOGS; CONFINED

While unattended on the owner's property, a dangerous dog shall be securely confined in a humane manner indoors or in a securely enclosed and locked pen or structure suitably designed to prevent the entry of young children and to prevent the dog from escaping. The pen or structure shall have secure sides and a secure top. If the pen or structure has no bottom secured to the sides, the sides shall be embedded into the ground. The pen or structure shall also protect the dog from the elements. The owner of a dangerous dog shall post a warning sign on the property where the dog is kept that is clearly visible and that informs persons that a dangerous dog is on the property. (Neb. Rev. Stat. §54-619)

SECTION 3-219: DANGEROUS DOGS; PENALTY

A. The owner of any domestic animal or dog who violates the provisions of Sections 3-217 and 3-218 shall be guilty of a misdemeanor and shall be fined in an amount set by the City Council. The Court, in addition to the penalty provided, may order such disposition of the offending dog as may seem reasonable and proper including an order to destroy the offending animal.

B. If the Court orders the dog destroyed, the dog shall be immediately impounded by the animal control officer at the expense of the owner, until the time to perfect an appeal has expired or until the owner consents to destruction of the animal.

(Am. by Ord. No. 394, 6/3/91)

SECTION 3-220: DANGEROUS OR POTENTIALLY DANGEROUS ANIMALS

A. *Spaying or Neutering; Microchip ID and License Required.* Any animal judicially determined to be dangerous or administratively determined to be potentially dangerous shall be spayed or neutered and implanted with microchip identification by a licensed veterinarian at the owner's expense no less than 30 days after such determination is entered with written proof of spaying or neutering and the microchip identification number being provided to the animal control authority within 72 hours of the procedure being completed. In addition such dangerous or potentially dangerous animal shall be required to be licensed as a dangerous or potentially dangerous dog within 30 days of the determination.

B. *Classes Required.* The owner of any animal determined to be dangerous or potentially dangerous shall be required to attend, at the owner's expense, within 90 days after such determination is entered, a responsible pet ownership class approved by the animal control authority and, at the discretion and direction of the animal control authority, a dog behavior class provided or approved by the animal control authority.

C. *Warning Signs Required.* Any property wherein a dangerous animal is kept, harbored or confined shall be posted with warning signs visible from all areas of public access. The warning signs must:

1. Be no less than 10 inches by 12 inches in size;
2. Contain the words "Warning; Dangerous Animal" in high contrast lettering on a black background in English; and
3. Have lettering no less than 3 inches high.

D. *Confinement.* No person owning, harboring or having the care of a potentially dangerous or dangerous animal shall permit such animal to go unconfined on the premises of such person. A dangerous animal is unconfined, as the term is used in this section, if such animal is not:

1. Confined indoors; or
2. Confined outdoors in an enclosed and locked pen or structure upon the premises of the person described above; provided the existence of such a pen or structure is permitted by building permits or other regulations. Maintenance of a dangerous animal is not permitted in areas where such structures or pens are not authorized by building permits or other regulations. If permitted, such pen or structure shall be:

Size of Animal	Pen Sq. Ft.
Extra large (over 26" at withers or over 75 lbs.)	48
Large (over 20" and up to 26" at withers or not over 75 lbs.)	40
Medium (over 12" and up to 20" at withers or not over 50 lbs.)	32
Small (12" or less at withers or not over 20 lbs.)	24

The pen must be constructed with chain link fencing for all four sides and the top. If the pen or structure has no bottom secured to the sides, the sides must be imbedded in the ground no less than one foot or have a concrete pad for the bottom. The pen or structure shall be set back at least 10 feet from the nearest property line.

E. *Muzzle, Leash and Harness Required.* It shall be unlawful for any person owning, harboring or having the care of a dangerous or potentially dangerous animal to permit such animal to go beyond the property of such person unless the animal is under the control of a person 19 years of age or older and restrained securely by a harness and leash no longer than 6 feet and properly muzzled to reasonably prevent the animal from biting.

F. *Proof of Insurance.* Any animal that has been determined to be a dangerous animal or a potentially dangerous animal, and any prohibited dog as defined in sub-section (G) below that is required to be licensed under this chapter cannot be licensed unless the person having custody, ownership or control of such dog or other

animal first presents written proof of public liability insurance of not less than \$100,000.00 to the animal control authority. Such insurance shall be maintained in effect for the period such dangerous or potentially dangerous animal is so designated, provided, that insurance for a prohibited dog as defined in subsection (G) below shall be maintained in effect for the life of the prohibited dog.

G. Exemptions; Current License. It shall be unlawful for any person to own, keep, possess, control, or harbor a prohibited dog within the municipal limits of the City. This section does not apply to those prohibited dogs which are not permitted to be owned, kept, possessed, controlled, or harbored which were properly licensed with the City pursuant to this chapter as of September 1, 2013. An owner of such dog previously existing within the municipal limits of the city and properly licensed as of September 1, 2013 shall be allowed to own, keep, possess, control, or harbor such dog during such dog's lifetime, but shall not be permitted to own, keep, possess, control, or harbor any new or additional prohibited dogs. For purposes of this section, "prohibited dog" shall be defined as any dog that is:

1. An American Pit Bull Terrier, American Staffordshire Terrier, Staffordshire Bull Terrier, Dogo Argentino, Presa Canario, Cane Corso, American Bulldog, Doberman Pinscher, German Shepherd, Alsatian, Alsatian Wolf Dog, Siberian Husky, Chow Chow (Songshi Quan), Malamute, Rottweiler, wolf-dog, wolf-dog hybrid, or wolf hybrid, or
2. Any dog displaying the majority of physical traits of any one or more of the above breeds (more so than any other breed), or
3. Any dog exhibiting those distinguishing characteristics which substantially conform to the standards established by the American Kennel Club or United Kennel Club for any of the above breeds. The A.K.C. and U.K.C. standards for the above breeds are on file in the office of the animal control authority.

Testimony by a veterinarian, zoologist, or city animal control officer that a particular dog exhibits distinguishing physical characteristics of a prohibited dog shall establish a rebuttable presumption that the dog is a prohibited dog.

H. Exemptions; Organized Events. A prohibited dog which is a participant in an organized dog event approved by the city authority shall not be so prohibited during such dog's period of participation in such event, and shall be properly leashed and muzzled at all times when not in actively competing in such event.

I. Restraint. It shall be unlawful for the owner of any dog within the City to fail to keep his/her dog securely restrained or otherwise confined in or upon his premises in an enclosure sufficient to contain the dog. Each animal shall be separately tethered. No animal shall be tethered outdoors in excess of 15 minutes at any one time unless an owner, custodian or person responsible for the animal, 19 years of age or

older, is present in the same yard in which the animal is tethered. The tether shall:

1. Be at least five times the length of the animal's body as measured from the tip of the nose to the base of the tail;
2. Terminate at each end with a swivel;
3. Weigh no more than one-eighth of the animal's weight;
4. Be free of tangles;
5. Prevent strangulation or injury; and
6. Prevent the animal from being within 15 feet from the edge of any public street or sidewalk;

provided, if the tethering method is a trolley system, at least 15 feet in length and less than 7 feet above ground, and meets the foregoing tether requirements, the animal may be tethered outdoors for up to one hour with an owner, custodian or person responsible for the animal, 19 years of age or older, present in the same yard in which the animal is tethered.

J. Sanction and Penalties. In addition to the sanctions which may be imposed by law, any person who fails to keep his/her dog securely restrained or otherwise confined as required by this ordinance shall pay the following penalties as set by the City Council and placed on file in the office of the city clerk: (1) for the first violation; (2) for the second violation within 24 months of the first violation; and (3) for the third violation within 24 months of the first violation and each subsequent violation thereafter. Such penalties shall be paid to the animal control authority and shall be used for enforcement activities.

(Ord. No. 3-307, 8/5/13)

SECTION 3-221: DISPOSITION OF IMPOUNDED DOGS OR CATS

A. If any animal is impounded pursuant to the provisions herein, said animal shall be held by the City for a period of five days unless sooner released to the owner as provided in said sections. If said animal is not claimed within the expiration of the five-day period, then said animal may be sold, given away, donated to any authorized person or institution for a scientific research or destroyed.

B. Notice of impoundment shall be given to the owner of such animal, setting forth the whereabouts of the animal's impoundment, a general description of the animal and the right of the owner to claim such animal upon presenting proof of ownership, proof of vaccination, and payment of boarding fees and the cost of the notice. Such notice shall further state that if such animal is not claimed within five days from the date of the notice that such animal will be sold, given away or destroyed. If the owner of such impounded animal can be identified or its owner is known to the police chief, then the City may give notice in writing by certified mail to the owner of such animal.

C. If the owner of the animal cannot be identified or if its owner is not other-

wise known to the police chief, then the City shall cause a notice to be published one time in the legal notices section of the newspaper in general circulation within the City and that disposition of the animal shall be at the expiration of five days from the date said notice is published.

D. Any owner shall be liable to the City for the cost incurred for the boarding and destruction of such animal and for the cost of providing notice.

SECTION 3-222: INTERFERENCE WITH ANIMAL CONTROL

It shall be unlawful for any person to hinder, delay, or interfere with any city police officer who is performing any duty enjoined upon him/her by the provisions of this article or to break open or in any manner directly or indirectly aid, counsel, or advise the breaking open of the animal shelter, any ambulance wagon, or other vehicle used for the collecting or conveying of dogs to the shelter. (Neb. Rev. Stat. §28-729)

Article 3 – Animals Generally

SECTION 3-301: ANIMALS; RUNNING AT LARGE

It shall be unlawful for the owner, keeper, or harbinger of any animal, or any person having the charge, custody, or control thereof, to permit a horse, mule, cow, sheep, goat, swine, or other animal to be driven or run at large on any of the public ways and property or upon the property of another or to be tethered or staked out in such a manner so as to allow such animal to reach or pass into any public way. (Neb. Rev. Stat. §17-547)

SECTION 3-302: FOWLS; RUNNING AT LARGE

It shall be unlawful for any person to allow poultry, chickens, turkeys, geese, or any other fowls to run at large within the corporate limits, except in enclosed places on private property. (Neb. Rev. Stat. §17-547)

SECTION 3-303: ENCLOSURES

All pens, cages, sheds, yards, or any other area or enclosure for the confinement of animals and fowls not specifically barred within the corporate limits shall be kept in a clean and orderly manner so as not to become a menace or nuisance to the neighborhood in which the said enclosure is located.

SECTION 3-304: EQUINES; RIDING ON SIDEWALK PROHIBITED

It shall be unlawful for any person to walk, ride or in any manner exhibit a horse, mule or pony on any sidewalk within the City.

SECTION 3-305: UNUSUAL ANIMALS PROHIBITED

A. It shall be unlawful for any person or persons to own, keep, or harbor any unusual animal within the corporate limits of the City, except that this section shall not be construed to prohibit a public zoo, circus, humane society, or carnival from displaying unusual animals as exhibits or to prohibit any wildlife rescue organizations with appropriate permits from the Nebraska Game and Parks Commission from rehabilitating or sheltering unusual animals.

B. It shall be unlawful for any person or persons to sell, give away, transfer or import into the City any unusual animal as defined in this section, excluding a public zoo from doing business with another public zoo.

C. In the event the city police chief, police officer or other law enforcement officer determines an unusual animal is being owned, kept or harbored by any person in violation of this section, the officer may have such person prosecuted for such violation and shall order such person to remove said unusual animal from the City or

destroy it. Such order shall be contained in a written notice to remove or destroy said unusual animal within ten days and shall be delivered in person or by certified mail, return receipt requested. If the owner or person keeping or harboring of such unusual animal shall have failed to remove or destroy such unusual animal after the expiration of ten days from the receipt of said notice and no appeal is taken, the City shall have such unusual animal destroyed.

D. For the purposes of this section the following definitions shall apply:

1. "Unusual animal" shall mean any poisonous or potentially dangerous animal not normally considered domesticated and shall include animals prohibited by the City or federal requirements, and also:
 - a. Class *Mammalia*; order *Carnivora*, family *Felidae* (such as lions, tigers, jaguars, leopards, bobcats and cougars), except commonly accepted domestic cats and hybrids involving the same; family *Canidae* (such as wolves, coyotes, and fox), except domesticated dogs and hybrids involving the same; family *Mustelidae* (such as weasels, martins, fishers, skunks, wolverines, mink and badgers), except ferrets; family *Procyonidae* (such as raccoons); family *Ursidae* (such as bears); order *Primata* (such as monkeys and chimpanzees); and order *Chiroptera* (such as bats).
 - b. Poisonous reptiles, cobras, and their allies (*Elapidae*, *Hydrophiidae*); vipers and their allies (*Crotalidae*, *Viperidae*); boomslangs and Kirkland's tree snakes; Gila monsters (*Helodermatidae*); sunbeam snakes (*Xenopeltidae*); dwarf boas (*Tropidophiidae*); pythons (*Pythonidae* or *Pythoninae*); splitjaw snakes (*Bolyeriidae*); old world sand boas (*Erycinae*); and boas (*Boidae*).
2. "Domesticated" shall mean a tame animal that is subject to the dominion and control of an owner or person keeping or harboring said animal and accustomed to living in or near human habitation without requiring extraordinary restraint for the protection of humans or unreasonably disturbing such human habitation.

(Ord. No. 525-1, 4/5/99) (Am. by Ord. No. 525-2, 10/10/12)

SECTION 3-306: KENNELS

A. *Definition.* The term "kennel" shall be construed to include any establishment for the raising, training, boarding or selling of dogs, cats, birds, mice, rats or other small animals for hire or profit or where more than three dogs or three cats are harbored or kept.

B. *License.* It shall be unlawful to operate a kennel anywhere in the City without first securing a license therefor. Said party seeking said license shall make written

application to the City Council, which, in the event it shall allow said kennel to exist within the corporate limits of the City, shall set forth whatever regulations for said kennel that it deems appropriate. Said license shall be on an annual basis and may be revoked for violation of the standards and regulations set forth by the council after due notice and hearing to said kennel owner or operator. The annual fee for such kennel license shall be as set by the council and placed on file in the office of the village clerk for public inspection.

C. *Regulations.* Every place used as a kennel shall be kept in a clean and sanitary condition and no refuse or waste material shall be allowed to remain thereon for more than 24 hours. All animals shall be humanely treated and any animal having any disease shall be properly isolated and treated. All kennel operators shall be bound by all the rules and regulations set forth herein.

(Ord. No. 3-308, 8/5/13)

Article 4 – Nuisances

SECTION 3-401: WEEDS AND GRASSES, JUNK, LITTER; DEFINITIONS

A. The term "weeds, grasses or worthless vegetation" shall mean any growth of weeds, grasses or worthless vegetation more than 12 inches in height on any lot or piece of ground located within the corporate limits, or 8 inches or more in height during any calendar year if, within the same calendar year, the city has previously acted to remove weeds, grasses, or worthless vegetation exceeding 12 inches in height on the same lot or piece of ground and had to seek recovery of the costs and expenses of such work from the owner. Weeds shall include, but not be limited to, bindweed, puncture vine, leafy spurge, Canada thistle, perennial peppergrass, Russian knapweed, Johnson grass, nodding or musk thistle, quack grass, perennial sow thistle, horse nettle, bull thistle, buckthorn, hemp plant and ragweed.

B. The term "litter" shall include, but not be limited to:

1. Trash, rubbish, refuse, garbage, paper, rags and ashes;
2. Wood, plaster, cement, brick or stone building rubble;
3. Offal and dead animals;
4. Any machine, vehicle, or parts of a machine or vehicle which have lost their identity, character, utility or serviceability as such through deterioration, dismantling or the ravages of time, are inoperative or unable to perform their intended functions, or are cast off, discarded or thrown away or left as waste, wreckage or junk;
5. Any motor vehicle without a current license and not housed in a storage or other building.
6. Any wood or tree limbs not cut and stacked in neat rows on an area not exceeding 10 feet by 16 feet.

SECTION 3-402: WEEDS OR GRASSES; PUBLIC NUISANCE

It is hereby declared to be a public nuisance to permit grasses or weeds to grow in excess of 12 inches, or 8 inches as provided in Section 3-401(A), on any property within the corporate limits of the City.

SECTION 3-403: LITTER; PUBLIC NUISANCE

It is hereby declared to be a public nuisance to permit the accumulation of litter on any property within the corporate limits of the City.

SECTION 3-404: NOTICE OF NONCOMPLIANCE

A. Whenever the City Council determines that any grasses or weeds in excess of 12 inches, or 8 inches as provided in Section 3-401(A), are growing on property within the City or litter is found on any property, the designated code enforcement officer shall cause written notice to be served on (1) each owner or owner's duly authorized agent by certified mail, which shall be conspicuously marked as to its importance; and (2) the occupant, if any, by personal service through a city police officer or the county sheriff or deputy.

B. Within five days after receipt of such notice, the owner or occupant of the lot or piece of ground may request a hearing with the city to appeal the decision to abate or remove a nuisance by filing a written appeal with the office of the city clerk. A hearing on the appeal shall be held within 14 days after the filing of the appeal and shall be conducted by the mayor as hearing officer, who shall render a decision on the appeal within five business days after the conclusion of the hearing. If the appeal fails, the city may have such work done.

C. Within five days after receipt of such notice, if the owner or occupant of the lot or piece of ground does not request a hearing with the city or fails to comply with the order to abate and remove the nuisance, the city may have such work done. The costs and expenses of any such work shall be paid by the owner. If unpaid for two months after such work is done, the city may either (1) levy and assess the costs and expenses of the work upon the lot or piece of ground so benefited in the same manner as other special taxes for improvements are levied and assessed or (2) recover in a civil action the costs and expenses of the work upon the lot or piece of ground and the adjoining streets and alleys. In this event, however, the City shall comply with the notice and hearing requirements set forth in Sections 3-412, 3-413 and 3-414 set forth hereafter.

(Am. by Ord. No. 635, 1/6/14)

SECTION 3-405: FAILURE TO CORRECT; FINE

(Repealed as conflicting) (Ord. No. 635, 1/6/14)

SECTION 3-406: COST ASSESSED TO PROPERTY

(Repealed as conflicting) (Ord. No. 635, 1/6/14)

SECTION 3-407: DANGEROUS BUILDINGS; DEFINITIONS

Any buildings or structures which have any or all of the following defects are hereby declared to be unsafe or dangerous buildings or structures and a public nuisance:

A. Those having walls or other vertical structural members that list, lean or buckle to such an extent that a plumb line passing through the center of gravity falls outside the middle third of its base;

B. Those showing 33% or more of damage or deterioration of the supporting member or members, exclusive of the foundation;

C. Those with improperly distributed loads upon floors or roofs or in which the same are overloaded or which have insufficient strength to be reasonably safe for the purpose used;

D. Those damaged by fire, wind, or other causes so as to have become dangerous to life, safety or the general health and welfare of the occupants of the people of the City;

E. Those which have become dilapidated, decayed, unsafe, unsanitary, or which so utterly fail to provide the amenities essential to decent living that they are unfit for human habitation or are likely to cause sickness or disease, so as to work injury to the health, morals, safety, or general welfare of those living therein;

F. Those having light, air and sanitation facilities which are inadequate to protect the health, safety, or general welfare of human beings who live or may live therein;

G. Those having inadequate facilities for egress in the case of fire or panic, or those having insufficient stairways, elevators, fire escapes, or other means of communication;

H. Those having parts thereof which are so attached that they may fall and injure persons or property;

I. Those that are unsafe, unsanitary, or dangerous to the health, safety, or general welfare of the people of the City because of their condition;

J. Those having been inspected by the County Health Department or a professional engineer appointed by the City which are, after inspection, deemed to be in violation of any provision of the Health Department rules and regulations or which are structurally unsafe or unsound as found by the inspection of the professional engineer;

K. Those existing in violation of any provision of this article, any provision of the Fire Prevention Code, any provision of the county health rules and regulations or other applicable provisions of the ordinances of the City, including but not limited to the building code adopted by the City.

SECTION 3-408: DANGEROUS BUILDINGS; STANDARDS

The following standards shall be followed in substance in determining whether the structure or building should be repaired, vacated, or demolished:

A. If the unsafe or dangerous building or structure can reasonably be repaired so that it will no longer exist in violation of any of the terms or provisions of this article, it shall be ordered to be repaired.

B. If the unsafe or dangerous building is in such condition as to make it dangerous to the health, morals, safety, or general welfare of its occupants, it shall be ordered to be vacated.

C. In any case where an unsafe or dangerous building or structure cannot be repaired so that it will no longer exist in violation of the terms or provisions of this article, it shall be demolished. In all cases where the unsafe or dangerous building is a fire hazard existing or erected in violation of the applicable fire codes and regulations, or any other provision of an ordinance of this city or statute of the state, it shall be demolished.

SECTION 3-409: DANGEROUS BUILDINGS; PUBLIC NUISANCE

All unsafe or dangerous buildings or structures within the terms of this article are hereby declared to be nuisances and shall be repaired, vacated, or demolished as provided herein.

SECTION 3-410: BUILDING INSPECTOR

The building inspector, his/her authorized representatives, a general building contractor, county health official, or professional engineer shall, at the direction of the City Council:

A. Inspect any building, wall, or structure about which complaints are filed by any person to the effect that a building, wall, or structure is or may be existing in a dangerous or unsafe manner;

B. Inspect any building or structure within the jurisdictional area of the City for the purpose of determining whether any conditions exist which render such place a dangerous or unsafe building or structure within the terms of this article;

C. Report to the City Council the results of the inspection;

D. Appear at all hearings and testify as to the condition of the unsafe or dangerous building or structure.

SECTION 3-411: DANGEROUS BUILDINGS; PROCEDURE

If the building inspector or his/her representatives, a general building contractor, the county health official or a professional engineer designated by the City Council finds that a building or structure is unsafe or dangerous and a nuisance, the Council shall:

A. Notify the owner, occupant, lessee, mortgagee, agent or other persons having an interest in the building or structure that it has been found to be an unsafe or dangerous building. The notice will indicate whether the owner must vacate, repair or demolish the building or structure.

B. Set forth in the notice a description of the building or structure deemed unsafe or dangerous, accompanied by a statement of the particulars which make the building or structure unsafe or dangerous and an order requiring the same to be put in such condition as to comply with the terms of this article within such length of time, not exceeding 30 days, as is reasonable.

C. Direct the building inspector, or other designated official, to place a sign on the building or structure found to be unsafe or dangerous on its exterior near the main entrance which shall state that the building or structure is unsafe or dangerous for occupancy and use.

SECTION 3-412: FAILURE TO COMPLY

In case any owner, occupant, lessee, mortgagee, agent or other person having an interest in the property, building or structure shall fail, neglect, or refuse to comply with the notice by or on behalf of the City to repair, rehabilitate or demolish and remove a building or structure which is unsafe or dangerous and a public nuisance, or shall fail to comply with the notice to abate grasses, weeds or litter, the City may proceed with the work specified in the notice to the property owner. A statement of the cost of such work shall be transmitted to the City Council, which is authorized to levy the cost as a special assessment against the property. Such special assessment shall be a lien on the real estate and shall be collected in the manner provided for special assessments under Nebraska statutes. In addition, the City may bring a civil action against the offending party to recover the cost of the work.

SECTION 3-413: DISPUTES

A. In the event that the owner, occupant, lessee, mortgagee, agent or other person having an interest in the building or structure determined dangerous, disagrees with or disputes the information contained in the notice to abate, such person shall notify the city clerk with a written statement that sets forth the reasons for the disagreement or dispute and the relief requested. This written request shall be made within 10 days of mailing of the notice. If written notice is received by the city clerk within 10 days, a hearing shall be held before the City Council at a regularly scheduled monthly meeting. The clerk shall notify the person requesting the hearing, in writing, of the time, place, and date of the regular monthly meeting and shall place the name of the person on the agenda of such meeting.

B. The hearing before the City Council shall be shall be informal and not governed by the Nebraska Rules of Evidence. Such hearing shall be quasi-judicial in nature and its decision shall be based on the evidence presented at the hearing. The

person requesting the hearing may be represented by legal counsel or other representative, may present witnesses and offer evidence, and may examine and copy, at his/her own expense, and not less than three business days before the hearing, the records of the City regarding the inspection and notice. The City Council need not make a written finding of fact and may make its pronouncement orally at the hearing. The decision of the City Council shall be final unless appealed. Failure of the person to attend the hearing shall relieve the City Council of any further procedures before action is taken as set forth in a notice.

SECTION 3-414: APPEAL

Any person aggrieved by the decision of the City Council may appeal the decision to the District Court of Antelope County. This appeal shall and must be taken within 30 days of the pronouncement of the Council's decision. The record and evidence made before the City Council shall become the record for purposes of appeal. All appeals shall be made on the record and not a trial de novo.

SECTION 3-415: IMMEDIATE HAZARD

In the event the building constitutes an immediate hazard to the life or safety of any persons and must be demolished to protect their health or safety, the building inspector or a professional engineer designated by the City Council shall report such facts to the Council, which shall follow the procedures set forth in state statutes. The City, by and through the City Council, may immediately contract for the immediate demolition of the unsafe or dangerous building without requiring bids. The cost of such emergency vacation and demolition of unsafe or dangerous buildings or structures shall be levied, equalized, and assessed, as are other special assessments.

Article 5 – Sexual Predators; Residency Restrictions

(Article adopted by Ord. No. 604, 7/3/06)

SECTION 3-501: DEFINITIONS

For purposes of this article:

“Child care facility” means a facility licensed pursuant to the Child Care Licensing Act;

“School” means a public, private, denominational, or parochial school which meets the requirements for state accreditation or approval;

“Reside” means to sleep, live, or dwell at a place, which may include more than one location, and may be mobile or transitory;

“Residence” means a place where an individual sleeps, lives, or dwells, which may include more than one location, and may be mobile or transitory; and

“Sexual predator” means an individual who is required to register under the Sex Offender Registration Act, who has committed an aggravated offense as defined in Neb. Rev. Stat. §29-4001.01 and who has victimized a person 18 years of age or younger.

(Neb. Rev. Stat. §29-4016)

SECTION 3-503: RESIDENCY RESTRICTIONS

It is unlawful for any sexual predator to reside within 500 feet from a school or child care facility. For purposes of determining the minimum distance separation, the distance shall be measured by following a straight line from the outer property line of the residence to the nearest outer boundary line of the school or child care facility. (Neb. Rev. Stat. §29-4017)

SECTION 3-504: EXCEPTIONS

This article shall not apply to a sexual predator who (A) resides within a person or correctional or treatment facility operated by the state or a political subdivision; (B) established a residence before July 1, 2006, and has not moved from that residence; or (C) established a residence after July 1, 2006, and the school or child care facility triggering the restriction was established after the initial date of the sexual predator's residence at that location. (Neb. Rev. Stat. §29-4017)

Article 6 – Penal Provisions

SECTION 3-601: VIOLATION; PENALTY

A. Any person or any person's agent or servant who violates any of the provisions of this chapter, unless otherwise specifically provided herein, shall be deemed guilty of an offense and upon conviction thereof shall be fined in any sum not exceeding \$500.00. A new violation shall be deemed to have been committed every 24 hours of failure to comply with the provisions of this chapter.

B. Whenever a nuisance exists as defined in this chapter, the City may proceed by a suit in equity to enjoin, abate, and remove the same in the manner provided by law.

C. Whenever in any action it is established that a nuisance exists, the court may, together with the fine or penalty imposed, enter an order of abatement as a part of the judgment in the case.

(Neb. Rev. Stat. §17-505, 18-1720, 18-1722) (Am. by Ord. No. 543, 8/7/00)

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CHAPTER 4 – VEHICLES AND TRAFFIC

Article 1 – Traffic Regulations

SECTION 4-101: DEFINITIONS

The words and phrases used in this chapter pertaining to motor vehicles and traffic regulations shall be construed as defined in Neb. Rev. Stat. Chapter 60, Article 6. If not defined in the designated statutes, the word or phrase shall have its common meaning. (Neb. Rev. Stat. §60-606 through 60-676) (Am. by Ord. No. 428, 6/6/94)

SECTION 4-102: POLICE; EMERGENCY REGULATIONS

The chief of police is hereby empowered to make and enforce temporary traffic regulations to cover emergencies. (Neb. Rev. Stat. §60-435)

SECTION 4-103: POLICE; ENFORCEMENT

The city police are hereby authorized, empowered, and ordered to exercise all powers and duties with relation to the management of street traffic and to direct, control, stop, restrict, regulate and, when necessary, temporarily divert or exclude, in the interest of public safety, health, and convenience, the movement of pedestrian, animal, and vehicular traffic of every kind in streets, parks, and on bridges. The driver of any vehicle shall stop upon the signal of any police officer. (Neb. Rev. Stat. §60-683)

SECTION 4-104: POLICE; REFUSAL TO OBEY

It shall be unlawful for any person to refuse or fail to comply with any lawful order, signal, or direction of a police officer.

SECTION 4-105: SIGNS, SIGNALS

The City Council may by resolution provide for the placing of stop signs or other signs, signals, standards, or mechanical devices in any street or alley under the City's jurisdiction for the purpose of regulating or prohibiting traffic thereon. Such resolution shall describe the portion of the street or alley wherein traffic is to be regulated or prohibited; the regulation or prohibition; the location where such sign, signal, standard or mechanical device shall be placed; and the hours when such regulation or prohibition shall be effective. It shall be unlawful for any person to fail, neglect, or refuse to comply with such regulation, or prohibition. (Neb. Rev. Stat. §60-6,119)

SECTION 4-106: STOP SIGNS

Every person operating any vehicle shall, upon approaching any stop sign erected in accordance with the resolution prescribed heretofore, cause such vehicle to come to a complete stop before entering or crossing any street, highway, or railroad crossing.

The vehicle operator shall stop at a marked stop line or, if there is no stop line, before entering the crosswalk but if neither is indicated, then as near the right of way line of the intersecting roadway as possible. (Neb. Rev. Stat. §60-6,119)

SECTION 4-107: SIGNS, TRAFFIC CONTROL DEVICES, TRAFFIC SURVEILLANCE DEVICES; DEFACING, INTERFERING WITH

It shall be unlawful for any person to willfully or maliciously deface, injure, remove, obstruct, knock down or interfere with any official traffic sign or signal, traffic control device, or traffic control surveillance device. (Neb. Rev. Stat. §60-6,129 to 60-6,139) (Ord. No. 370, 12/4/90)

SECTION 4-108: CROSSWALKS

The City Council may by resolution establish and maintain crosswalks by appropriate devices, markers, or lines upon the street at intersections where there is particular danger to pedestrians crossing the street and at such other places as may be deemed necessary. (Neb. Rev. Stat. §60-680)

SECTION 4-109: ONE-WAY TRAFFIC

The City Council may by resolution provide for one-way travel in any street or alley located in the City and shall provide for appropriate signs and markings when said streets have been so designated by resolution. (Neb. Rev. Stat. §60-680)

SECTION 4-110: TRUCK ROUTES

The City Council may by resolution designate certain streets in the City that trucks shall travel upon and it shall be unlawful for persons operating such trucks to travel on other streets than those designated for trucks unless to pick up or deliver goods, wares, or merchandise. In that event, the operator of such truck shall return to such truck routes as soon as possible in traveling through or about the City. The Council shall cause notices to be posted or shall erect signs indicating the streets so designated as truck routes. (Neb. Rev. Stat. §60-681)

SECTION 4-111: POSITION OF VEHICLE ON HIGHWAY; GENERALLY

Upon all highways of sufficient width, one-way streets excepted, the driver of a vehicle shall drive the same on the right half of the roadway. In passing or meeting other vehicles, drivers shall give each other at least one-half of the main traveled portion of the roadway. (Neb. Rev. Stat. §60-6,131)

SECTION 4-112: POSITION OF VEHICLE ON HIGHWAY; PASSING

A vehicle shall not be driven to the left of the center line of the highway in overtaking or passing another vehicle proceeding in the same direction unless such left side is clearly visible and free from oncoming traffic for a sufficient distance to permit such

overtaking and passing to be made in safety. (Neb. Rev. Stat. §60-6,136)

SECTION 4-113: SPEED LIMITS

A. No person shall operate a motor vehicle on any street, alley, or other place at a rate of speed greater than 25 miles per hour within the residential district and 20 miles per hour within the business district unless a different rate of speed is specifically permitted by ordinance. In no instance shall a person drive a vehicle on a highway at a speed greater than is reasonable and prudent under the conditions. Where a different maximum speed is set by ordinance, appropriate signs shall be posted.

B. No person shall drive a vehicle on a highway at a speed greater than is reasonable and prudent under the conditions. Except when a special hazard exists that requires slower speed for compliance with this section, no person shall drive a vehicle on the streets of the City in excess of the posted speed limits as set forth in Section 4-114 and as previously posted throughout the city streets.

(Neb. Rev. Stat. §60-6,186) (Ord. No. 407, 9/8/92)

SECTION 4-114: SPEED LIMITS POSTED

A. The posted speed limit on State Highway 14 (Second Street) from the south boundary of the city limits north to Remington Street shall be 35 miles per hour.

B. The posted speed limit on State Highway 14 (Second Street) from Remington Street north to the middle of the block bounded on the south by Maple Street and bounded on the north by Beech Street shall be 25 miles per hour.

C. The posted speed limit on State Highway 14 (Second Street) from the middle of the block bounded on the south by Maple Street and on the north by Beech Street north to the north boundary of the city limits shall be 35 miles per hour.

(Ord. No. 407, 9/8/92)

SECTION 4-115: SPEED NEAR SCHOOLS

It shall be unlawful for the driver of any vehicle, when passing premises on which school buildings are located and which are used for school purposes, during school recess or while children are going to or leaving school during the opening or closing hours, to drive such vehicle at a rate of speed in excess of 15 miles per hour past such premises and such driver shall stop at all stop signs located at or near such school premises. It shall be unlawful for such driver to make a "U" turn at any intersection where such stop signs are located at or near such school premises. (Neb. Rev. Stat. §60-6,190)

SECTION 4-116: SPEED; ELECTRONIC DETECTION

Determinations made regarding the speed of any motor vehicle based upon the visual observation of any law enforcement officer may be corroborated by the use of ra-

dio microwaves or other electronic device. The results of such radio microwave or other electronic speed measurement may be accepted as competent evidence of the speed of such motor vehicle in any court or legal proceeding when the speed of the vehicle is at issue. Before the City may offer in evidence the results of such radio microwave or other electronic speed measurement for the purpose of establishing the speed of any motor vehicle, the City shall prove the following:

A. The measuring device was in proper working order at the time of conducting the measurement;

B. The measuring device was being operated in such a manner and under such conditions so as to allow a minimum possibility of distortion or outside interference;

C. The person operating such device and interpreting such measurement was qualified by training and experience to properly test and operate the device; and

D. The operator conducted external tests of accuracy upon the measuring device, within a reasonable time both prior to and subsequent to an arrest being made, and the measuring device was found to be in proper working order.

E. The driver of any such motor vehicle may be arrested without a warrant under the authority herein granted if the arresting officer is in uniform or displays his/her badge of authority; provided, such officer shall have observed the recording of the speed of such motor vehicle by the radio microwaves or other electronic device or had received a radio message from the officer who observed the speed of the motor vehicle recorded by the radio microwaves or other electronic device. In the event of an arrest based on such a message, such radio message must have been dispatched immediately after the speed of the motor vehicle was recorded and must include a description of the vehicle and the recorded speed.

(Neb. Rev. Stat. §60-6,192) (Am. by Ord. No. 291, 10/3/83)

SECTION 4-117: RIGHT OF WAY

When two vehicles approach or enter an intersection at approximately the same time, the driver of the vehicle on the left shall yield the right of way to the vehicle on the right when the paths of such vehicles intersect and there is danger of a collision, unless otherwise directed by a city police officer stationed at the intersection. The driver of a vehicle intending to turn to the left within an intersection or into an alley, private road, or driveway shall yield the right of way to any vehicle approaching from the opposite direction which is within the intersection or so close thereto as to constitute an immediate hazard. The driver of a vehicle on any street shall yield the right of way to a pedestrian crossing such street within any clearly marked crosswalk or at any regular pedestrian crossing at the end of a block where the movement of traffic is being regulated by traffic officers or traffic direction devices. Every pedestrian crossing a street at any point other than a pedestrian crossing, crosswalk, or intersection shall

yield the right of way to vehicles upon the street. The driver of a vehicle entering a city street from a private road or drive shall yield the right of way to all vehicles approaching on such streets. The driver of a vehicle upon a street shall yield the right of way to authorized emergency vehicles when the latter are operated upon official business and the drivers thereof make proper use of visual or audible signals. (Neb. Rev. Stat. §60-6,146 through 60-6,154)

SECTION 4-118: RIGHT OF WAY; SLOW-MOVING VEHICLES

Vehicles moving slowly shall keep as close as possible to the curb on the right, allowing more swiftly moving vehicles free passage to their left. Vehicles in motion shall be kept between the curb at the right and the center of the street.

SECTION 4-119: RIGHT OF WAY; EMERGENCY VEHICLES

Upon the approach of any authorized emergency vehicle, every vehicle within one block of the route of such emergency vehicle shall immediately stop, except at the time they are on or crossing a street intersection, in which event such vehicle shall drive clear of the street intersection and then stop. Every vehicle along the route of such emergency vehicle shall immediately move to a position as near the right hand curb as possible and remain there until such authorized emergency vehicle has passed, provided said vehicle is being operated on official business and the driver thereof makes use of proper visual or audible signals. (Neb. Rev. Stat. §60-151)

SECTION 4-120: TURNING; GENERALLY

Vehicles turning to the right into an intersecting street shall approach such intersection in the lane of traffic nearest to the right hand side of the highway and must turn the corner as near the right hand curb as possible to keep between the curb to the right and the center of the intersection of the two streets. The driver of a vehicle intending to turn to the left shall approach such center line of the highway and in turning shall pass as near as possible to the center of the intersection, passing as closely as practicable to the right thereof before turning such vehicle to the left. For the purposes of this section, the "center of the intersection" shall mean the meeting point of the medial lines of the highways intersecting one another. (Neb. Rev. Stat. §60-6,159)

SECTION 4-121: TURNING; CAUTION

The operator of a vehicle shall, before stopping, turning, or changing the course of such vehicle, see that there is sufficient space to make such movement in safety. If any pedestrian might be affected by such movement, the operator shall give a clearly audible signal by sounding the horn and whenever the operation of any other vehicle may be affected by such movement, he/she shall give some unmistakable signal to the driver of all other vehicles of his intention. (Neb. Rev. Stat. §60-163)

SECTION 4-122: TURNING; HAND SIGNALS

A signal of intention to turn right or left shall be given continuously during not less than the last 100 feet traveled by the vehicle before turning. The signals herein required shall be given either by means of the hand and arm or by a signal device of a type approved by the Department of Roads. (Neb. Rev. Stat. §60-6,161)

SECTION 4-123: TURNING; "U" TURNS

No vehicle shall be turned so as to proceed in the opposite direction except at a street intersection. No vehicle shall be turned so as to proceed in the opposite direction at any intersection where a sign is posted indicating that "U" turns are prohibited. (Neb. Rev. Stat. §60-6,160)

SECTION 4-124: DRIVING IN SIDEWALK SPACE

No motor vehicle or livestock shall be driven or ridden within any sidewalk space, except a permanent or temporary driveway. (Neb. Rev. Stat. §60-6,178)

SECTION 4-125: DRIVING ON SHOULDERS OF HIGHWAY

No person shall drive on the shoulders of highways, except mail carriers while driving the United States mail, any person desiring to safely remove a vehicle from traffic lanes, and drivers of farm implements. (Neb. Rev. Stat. §60-6,142) (Ord. No. 358, 11/8/88)

SECTION 4-126: BACKING

The driver of a vehicle shall not back such vehicle on any roadway unless such movement can be made with safety and without interfering with other traffic. (Neb. Rev. Stat. §60-6,169)

SECTION 4-127: NEGLIGENT DRIVING

Any person who operates a motor vehicle in such a manner as to indicate a want of ordinary care and caution that a person of ordinary prudence would use under like circumstances shall be deemed guilty of negligent driving. (Neb. Rev. Stat. §60-4, 182)

SECTION 4-128: CARELESS DRIVING

Any person who drives any motor vehicle carelessly or without due caution so as to endanger a person or property shall be guilty of careless driving. (Neb. Rev. Stat. §60-6,212, 60-4,182) (Ord. No. 205; Am. by Ord. No. 222, 10/ 1/79)

SECTION 4-129: RECKLESS DRIVING

Any person who drives a motor vehicle in such a manner as to indicate an indifferent or wanton disregard for the safety of persons or property shall be deemed to be guilty of reckless driving. (Neb. Rev. Stat. §60-6,213, 60-6,215, 60-6,217, 60-6,-218, 60-4,182)

SECTION 4-130: WILLFUL RECKLESS DRIVING

Any person who drives a motor vehicle in such a manner as to indicate a willful disregard for the safety of persons, or property shall be deemed to be guilty of willful, reckless driving. (Neb. Rev. Stat. §60-6,214, 60-6,216 through 60-6,218, 60-4,182)

SECTION 4-131: UNNECESSARY STOPPING

No operator of a motor vehicle shall stop said vehicle and allow it to remain stopped for more than 30 seconds at any point on the streets of this city other than where parking is permitted except in event of an accident or emergency or when directed to do so by a law enforcement officer. No operator of a motor vehicle shall stop alongside a motor vehicle headed in the same or opposite direction except in case of an accident or emergency or when directed to do so by a law enforcement officer. (Neb. Rev. Stat. §60-149) (Ord. No. 209)

SECTION 4-132: DRIVING ABREAST

Two or more vehicles shall not be driven abreast except when passing or when traversing a multi-lane or one- way street; provided, motorcycles may be driven no more than two abreast in a single lane. (Neb. Rev. Stat. §60-6,139, 60-6,308)

SECTION 4-133: FOLLOWING; DISTANCE

The operator of a vehicle shall not follow another vehicle more closely than is reasonable and prudent, having due regard for the speed of the vehicles and the traffic and condition of the street. (Neb. Rev. Stat. §60-6,140)

SECTION 4-134: FOLLOWING; FIRE APPARATUS

The driver of any vehicle shall not follow any fire apparatus traveling in response to a fire alarm closer than 500 feet or drive into or park such vehicle within the block where fire apparatus has stopped in answer to a fire alarm. (Neb. Rev. Stat. §60-6,183)

SECTION 4-135: FUNERAL PROCESSIONS

No vehicle, except Police and Fire Department vehicles when responding to emergency calls or orders, ambulances responding to emergency calls, or vehicles carrying United States mails, shall be driven through a funeral procession or cortege except with the permission of a police officer.

SECTION 4-136: CROWDING FRONT SEAT

No person shall drive a motor vehicle when it is so loaded or when there is in the front seat such a number of persons, exceeding three, as to obstruct the view of the

driver to the front or sides of the vehicle or to interfere with the driver's control over the driving mechanism of such vehicle. (Neb. Rev. Stat. §60-6,179)

SECTION 4-137: RIDING OUTSIDE VEHICLE

No person shall permit any other person to ride on the running board, hood, top, or fenders of any motor vehicle nor shall any person ride on the running board, hood, top, or fenders of any motor vehicle.

SECTION 4-138: CLINGING TO MOTOR VEHICLE

No person riding upon any bicycle or roller skates shall attach the same or himself to any moving vehicle upon any roadway and it shall be unlawful for the driver of any vehicle to suffer or permit any person traveling upon any bicycle or roller skates to cling to or attach himself or his bicycle or roller skates to such vehicle so driven and operated by him. (Neb. Rev. Stat. §39-6,316)

SECTION 4-139: MUFFLER, EXHAUST SYSTEM

Every motor vehicle operated within this city shall at all times be equipped with a muffler in good working condition which blends the exhaust noise into the overall vehicle noise and is in constant operation to prevent excessive or unusual noise; and no person shall use a muffler cut-out, bypass, or similar device upon a motor vehicle on the streets or highways within this city. No person shall operate a motor vehicle within this city with an exhaust system which emits or produces sharp popping or cracking sounds. No person shall operate a motor vehicle within the corporate limits of this city which is not equipped with such parts and equipment so arranged and kept in such a state of repair as to prevent carbon monoxide gas from entering the interior of said vehicle. (Neb. Rev. Stat. §28-521) (Ord. No. 207)

SECTION 4-140: UNNECESSARY NOISE

It shall be unlawful for any person to operate a motor vehicle upon any street, highway, alley or public place within the City in such a manner as to cause, make, or to be made unnecessary noise from its tires, horn or exhaust system. (Ord No. 206)

SECTION 4-141: LITTERING

It shall be unlawful for any person to drop or cause to be left upon any city highway, street, or alley, except at places designated by the City Council, any rubbish, debris, or waste; and any person so doing shall be guilty of littering. (Neb. Rev. Stat. §39-311)

SECTION 4-142: GLASS; POINTED OBJECTS

No person shall throw, cast, lay, or place upon any street any thorns, nails, tacks, glass, bottles, window glass, or other articles made of or containing glass. In case of

an accident causing the breaking of any glass upon any street, the owner or person in charge of such glass or the person responsible for such breakage shall at once remove or cause the same to be removed from the street. (Neb. Rev. Stat. §39-311)

SECTION 4-143: LOADS; PROJECTING, SPILLING

A. When any vehicle shall be loaded in such a manner that any portion of the load extends more than four feet beyond the rear of the bed or the body of such vehicle, a red flag shall be carried by day and red light after sunset at the extreme rear end of such load. (Neb. Rev. Stat. §60-6,243)

B. All vehicles used for carrying coal, earth, cinders, sand, gravel, rock, asphalt, tar, or any similar substance shall be so constructed as to prevent the sifting or spilling of any of the contents. (Neb. Rev. Stat. §60-6,304, 60-6,286)

SECTION 4-144: ENGINE BRAKING

From and after the effective date of this ordinance, it shall be and hereby is determined unlawful for any person to make or cause to be made loud or disturbing noises with any mechanical device operated by compressed air and used for purposes of assisting braking on any semi-tractor, commonly referred to as "engine braking" or "engine retarding." Proper notices shall be posted by the City notifying the public of such prohibition. (Neb. Rev. Stat. §60-680) (Ord. No. 534, 5/1/00)

SECTION 4-145: ELECTRONIC ADVERTISING DEVICES ADJACENT TO HIGHWAY; WHEN PROHIBITED

A. No electronic advertising devices shall be erected or operated upon any private property adjacent to or near any public road or any street when the beam of such device is concentrated on the public road or street or adversely affects the vision of operators of vehicles upon the roadway or street by the use of flashing red, amber/yellow, or green lights which have the very obvious appearance of devices generally used as official traffic control devices, photo-flash type lights, flood or spot lights or other lighted signs which use the words "stop" or "danger" prominently displayed, or imply the need or requirement of stopping or the existence of danger or otherwise copy or resemble official traffic-control devices; provided, nothing contained in this section shall be construed to apply to official traffic control devices erected by the public agencies having jurisdiction.

B. Any advertising device erected, maintained, or operated in violation of this section is hereby declared a public nuisance. It shall be the duty of the police chief to notify the owner of all lights in violation of the provisions of this section and he may remove such lights if the owner fails or refuses to remove same after a reasonable time after he is notified of such violation.
(Neb. Rev. Stat. §60-6,128)

SECTION 4-146: RADAR DEVICE PROHIBITED

It shall be unlawful for any person to operate or possess any radar transmission device while operating a motor vehicle on any road, street, highway, or interstate highway, except that this section shall not apply to any such device which has been lawfully licensed by the Federal Communications Commission or is being used by law enforcement officials in their official duties. For purposes of this section, unless the context otherwise requires:

“Radar transmission device” shall mean any mechanism designed to interfere with the reception of radio microwaves in the electromagnetic spectrum, which microwaves, commonly referred to as radar, are employed by law enforcement officials to measure the speed of motor vehicles;

“Possession” shall mean to have a device as defined above in a motor vehicle if such device is not disconnected from all power sources and placed in the rear trunk, which shall include the spare tire compartment or any other compartment which is not accessible to the driver or any other person in the vehicle while such vehicle is in operation. If no such compartment exists in a vehicle, then such device must be disconnected from all power sources and be placed in a position not readily accessible to the driver or any other person in the vehicle; and

“Transceiver” shall mean an apparatus contained in a single housing, functioning alternately as a radio transmitter and receiver.

(Neb. Rev. Stat. §60-6,274 through 60-6,277) (Ord. No. 273, 9/7/82)

SECTION 4-147: REGISTRATION; TRAILER

No trailer, semitrailer, or cabin trailer shall be operated or parked on any street, alley, or public highway within the City without having first registered the same in accordance with Neb. Rev. Stat. Chapter 60, Article 3, except as provided in this section. A person may pull such trailer, semitrailer, or cabin trailer without registration for a period not to exceed 30 days from the date of purchase. Upon registration, such trailer, semitrailer, or cabin trailer shall have the required number plate displayed upon said trailer as provided in Neb. Rev. Stat. §60-311. If a citation is issued to an owner of a vehicle for a violation of this section and the owner, within ten days of issuance of the citation, properly registers and licenses the vehicle not in compliance, pays all taxes and fees due, and provides proof of such registration to the prosecuting attorney, no prosecution for the offense cited shall occur. (Neb. Rev. Stat. §60-302, 60-320) (Ord. No. 430, 6/6/94)

SECTION 4-148: TRAFFIC CITATIONS; FORM; REPORT

A. The police chief shall provide, in appropriate form, traffic citations containing notices to appear. The chief shall be responsible for the issuance of such books and shall maintain a record of every such book and each citation number therein is-

sued to the city police. The chief shall require the return of all copies of every traffic citation which has been spoiled or upon which any entry has been made and not issued to an alleged violator.

B. The police chief shall make a monthly report to the City Council, as required by the Council.

SECTION 4-149: TRAFFIC CITATIONS; DISPOSITION; RECORDS

The city police, upon issuing a traffic citation to an alleged violator of any provision of this chapter, shall deposit a copy of the traffic citation with the city attorney unless the citation is just a warning. Upon the deposit of such citation with the attorney, it may be disposed of only by trial in the appropriate court or other official action by the judge of the court, including a forfeiture of bail or by the deposit of sufficient bail with or payment of a fine to the court by the person to whom such traffic citation has been issued. It shall be unlawful for the city police to dispose of a traffic citation or copies thereof or of the record of the issuance of the same in a manner other than as required herein.

SECTION 4-150: TRAFFIC CITATIONS; ILLEGAL CANCELLATION

Any person who cancels or solicits the cancellation of any traffic citation in any manner other than as provided herein shall be guilty of a misdemeanor.

Article 2 – Parking

SECTION 4-201: DESIGNATION

The City Council may by resolution designate any street or portion thereof where vehicles shall be parked parallel with and adjacent to the curb or at an angle so as to have the right front wheel at the curb. (Neb. Rev. Stat. §60-680)

SECTION 4-202: TIME LIMIT

The City Council may by resolution entirely prohibit or fix a time limit for the parking and stopping of vehicles on any street or in any district so designated.

SECTION 4-203: GENERALLY

No person shall park any vehicle or approach the curb with a vehicle except when headed in the direction of the traffic. Vehicles when parked shall stand parallel with and adjacent to the curb or edge of the roadway in such manner as to have both right wheels within 12 inches of the curb or edge of the roadway and so as to leave at least four feet between the vehicle so parked and any other parked vehicles, except where the City Council designates that vehicles shall be parked at an angle so as to have the front right wheel at the curb or edge of the roadway. Where stalls are designated either on the curb or pavement, vehicles shall be parked within such stalls. (Neb. Rev. Stat. §60-680)

SECTION 4-204: AREAS

The City Council may by resolution set aside any street, alley, public way, or portion thereof where the parking of a particular kind or class of vehicle shall be prohibited or where the parking of any vehicle shall be prohibited. No vehicle prohibited from parking thereon shall stand or be parked adjacent to the curb of said street, alley, public way, or portion thereof longer than a period of time necessary to load and unload freight or passengers. (Neb. Rev. Stat. §60-680)

SECTION 4-205: PROHIBITED PARKING AREAS

A. For the purpose of ensuring adequate traffic flow and ensuring the safety of pedestrians of the City, it shall be unlawful for any person to park a motor vehicle on the south side of Remington Street between the designated "No Parking" signs during the months of April, May, June, July, August and September of each year. (Ord. No. 610, 9/5/07)

B. For the purpose of ensuring adequate traffic flow and ensuring the safety of pedestrians of the City, it shall be unlawful for any person to park a motor vehicle on the south side of North Street between the designated "No Parking" signs. (Ord. No. 611, 9/5/07)

SECTION 4-206: INTERSECTIONS; OBSTRUCTING TRAFFIC

A. Except in compliance with traffic control devices, no vehicle shall be parked or left standing for any purpose, except momentarily to load or discharge passengers, within 25 feet of the intersection of curb lines or if none, then within 15 feet of the intersection of property lines, nor where said curb lines are painted red to indicate such prohibition. (Neb. Rev. Stat. §60-6,166)

B. No person shall, except in case of an accident or emergency, stop any vehicle in any location where such stopping will obstruct any street, intersection, or entrance to an alley or public or private drive. (Neb. Rev. Stat. §60-680)

SECTION 4-207: FIRE HYDRANTS AND STATIONS

No vehicle shall be parked within 15 feet in either direction of any fire hydrant nor within 20 feet of the driveway entrance to any fire station. The curb space within such area of 15 feet in either direction of such fire hydrant shall be painted red to indicate such prohibition. (Neb. Rev. Stat. §60-6,166)

SECTION 4-208: CURBS, PAINTED

It shall be the duty of the street commissioner to cause the curb space to be painted and keep the same painted as provided in this article. No person, firm, or corporation shall paint the curb of any street or in any manner set aside or attempt to prevent the parking of vehicles in any street or part thereof except at such places where the parking of vehicles is prohibited by the provisions of this article. The marking or designating of portions of streets or alleys where the parking of vehicles is prohibited or limited shall be done only by the City through its proper officers at the direction of the City Council. (Neb. Rev. Stat. §60-680)

SECTION 4-209: REPAIR OF VEHICLES

No person shall adjust or repair any automobile or motorcycle or race the motor of same while standing on the public streets or alleys except in case of breakdown or other emergency requiring same. No person or employee connected with a garage or repair shop shall use sidewalks, streets, or alleys in the vicinity of such garage or shop for the purpose of working on automobiles or vehicles of any description. (Neb. Rev. Stat. §60-680)

SECTION 4-210: CURRENT LICENSE

It shall be unlawful to park or place on the streets, alleys, or other public property any motor vehicle without first securing a current license as provided by law and no such licensed motor vehicle shall be allowed to stand for a longer period than 24 hours. (Neb. Rev. Stat. §60-323)

SECTION 4-211: SNOW EMERGENCY AND PARKING PROHIBITION

A. Whenever the mayor or his/her designated representative shall find, on the basis of falling or fallen snow, sleet, or freezing rain or on the basis of an official forecast by the United States Weather Bureau, that falling or fallen snow, sleet, or freezing rain will make it necessary that parking on local and residential streets be prohibited or restricted for snow plowing and/or other purposes, he/she may put into effect a parking prohibition on parts of or on all local and residential streets by declaring that parking be prohibited:

1. Entirely on any local or residential streets,
2. On one side of the local or residential streets,
3. On either the odd- or even-numbered side,
4. Within the turnaround area or circular area of a cul-de-sac,
5. On a local or residential street, or
6. In any other manner that he/she may believe is appropriate under the circumstances.

B. In any such declaration, the mayor or designated representative shall state the date and time that such parking prohibition shall take effect. The prohibition shall remain in effect until further announcement by the mayor or designated representative, who may then declare that the parking prohibition be terminated in its entirety or who may then declare that the parking prohibition be continued or modified in some other manner than previously announced. The mayor or designated representative may continue any such parking prohibition or prohibitions until such time as is necessary to accomplish any snow removal or other purpose.

C. While the parking prohibition is in effect, either by original announcement or by continuation or modification of a prior parking prohibition, it shall be unlawful for any person to park or allow to remain parked any vehicle on any street or portion of any street whereon parking has been prohibited by declaration of the mayor or designated representative.

(Neb. Rev. Stat. §17-557) (Am. Ord. No. 600, 3/7/05)

SECTION 4-212: EMERGENCY VEHICLES

The provisions of this article regulating the movement, parking, and standing of vehicles shall not apply to authorized emergency vehicles while the driver of such vehicle is operating the same in an emergency in the necessary performance of public duties. (Neb. Rev. Stat. §60-6,114)

SECTION 4-213: SEMI-TRUCKS AND TRAILERS

A. "Truck tractor" shall be defined as a vehicle separately licensed and used for the purpose of pulling commercial trailers used in the transportation of goods, property or livestock over the public highways of this state. "Truck trailer" is hereby

defined as a commercial trailer hauling goods, properties or livestock over the highways of this state and requiring a separate title. "Livestock trailer" is hereby defined as a trailer used to haul any livestock, whether or not it is licensed for commercial use. "Truck" shall mean a motor vehicle equipped or used for the transportation of property but shall not include pickup trucks.

B. It shall be unlawful for the operator of any truck, truck tractor, truck trailer or livestock trailer, other than a pickup or passenger-size panel truck, to park such vehicle on any street except where the City Council by resolution designates otherwise. However, such vehicles may park for the purposes of loading or unloading, in which event such vehicles may stop or stand for a period of time not to exceed what is reasonable to load or unload but in no case for a period in excess of one hour unless the operator has obtained prior permission from the city police to do so for a longer period of time.

C. It shall be unlawful for the operator of any truck, truck tractor, truck trailer or livestock trailer to park said vehicle in a street intersection or within 25 feet thereof, within a crosswalk, in front of a private drive or on a sidewalk.

(Am. by Ord. No. 461, 10/2/95)

SECTION 4-214: PRIVATE LOTS

A. Any person parking a motor vehicle in a properly posted, restricted parking lot without the consent of the owner or tenant authorized to give permission shall be guilty of an infraction and the vehicle shall be subject to being towed away at the request of such lot owner or tenant. Any person found guilty under this section shall be subject to the penalties provided for infractions. If the identity of the operator of a motor vehicle in violation of this section cannot be determined, the owner or person in whose name such vehicle is registered shall be held prima facie responsible for such infraction. When any law enforcement officer observes or is advised that a motor vehicle may be in violation of this section, he/she shall make a determination as to whether a violation has in fact occurred and if so, shall personally serve or attach to such motor vehicle a citation directed to the owner or operator of such vehicle, which shall set forth the nature of the violation. Any person who refuses to sign the citation or otherwise comply with the command of the citation shall be punished as provided by Neb. Rev. Stat. §29-426.

B. Signs designating a restricted parking lot shall be readily visible and shall state the purpose or purposes for parking on the restricted parking lot, state the hours for restricted parking, and state contact information regarding a towed vehicle.

(Neb. Rev. Stat. §60-2401, 60-2402) (Ord. No. 254, 9/8/81)

SECTION 4-215: PARKING OR STOPPING UPON HIGHWAY 14 DURING CONSTRUCTION

During any period of construction by the State Department of Roads, it shall be unlawful for any person to stop, park, or leave standing any vehicle, whether attended

or unattended, on Nebraska Highway 14 between Nebraska Highway 70 and the north corporate limits except in areas designated or unless so directed by a peace officer, except that when a vehicle is disabled or inoperable or the driver of the vehicle is ill or incapacitated, such vehicle shall be permitted to park, stop, or stand on the shoulder facing in the direction of travel with all wheels and projecting parts of such vehicle completely clear of the traveled lanes but in no event shall such parking, standing, or stopping upon the shoulder of the roadway exceed 12 hours. (Ord. No. 605, 8/7/06)

SECTION 4-216: REMOVAL OF ILLEGALLY PARKED VEHICLES

A. Whenever any police officer shall find a vehicle standing upon a street or alley in violation of any of the provisions of this article, such individual may remove or have such vehicle removed or require the driver or other person in charge of the vehicle to move such vehicle to a position off the roadway of such street or alley or from such street or alley.

B. The owner or other person lawfully entitled to the possession of any vehicle towed or stored shall be charged with the reasonable cost of towing and storage fees. Any such towing or storage fee shall be a lien upon the vehicle prior to all other claims. Any person towing or storing a vehicle shall be entitled to retain possession of such vehicle until such charges are paid. The lien provided for in this section shall not apply to the contents of any vehicles.

(Neb. Rev. Stat. §60-6,165, 60-680) (Ord. No. 309, 9/4/84) (Am. by Ord. No. 360, 11/8/88)

(Sections 4-217 through 4-226 adopted by Ord. No. 401, 3/2/92)

SECTION 4-217: HANDICAPPED OR DISABLED PERSONS; DESIGNATION OF ONSTREET PARKING; DISPLAY OF PERMITS

A. The City Council may designate parking spaces, including access aisles, for the exclusive use of (1) handicapped or disabled persons whose motor vehicles display the distinguishing license plates issued to handicapped or disabled persons pursuant to Neb. Rev. Stat. §60-311.14; (2) handicapped or disabled persons whose motor vehicles display a distinguishing license plate issued to a handicapped or disabled person by another state; (3) such other handicapped or disabled persons or temporarily handicapped or disabled persons, as certified by the City, whose motor vehicles display the permit specified in Neb. Rev. Stat. §18-1739; and (4) such other motor vehicles, as certified by the City, which display such permit.

B. All such permits shall be displayed by hanging the permit from the motor vehicle's rearview mirror so as to be clearly visible through the front windshield. The permit shall be displayed on the dashboard only when there is no rearview mirror.

C. If the City Council so designates a parking space or access aisle, it shall be indicated by posting aboveground and immediately adjacent to and visible from each space or access aisle a sign as described in Neb. Rev. Stat. §18-1737. In addition to

such sign, the space or access aisle may also be indicated by blue paint on the curb or edge of the paved portion of the street adjacent to the space or access aisle.

(Neb. Rev. Stat. §18-1736) (Am. by Ord. Nos. 431, 6/6/94; 467, 2/5/96; 557, 5/6/02)

SECTION 4-218: HANDICAPPED OR DISABLED PERSONS; DESIGNATION OF OFFSTREET PARKING

The City and any person in lawful possession of any offstreet parking facility may designate stalls or spaces, including access aisles, in such facility owned or operated by the City or person for the exclusive use of:

A. Handicapped or disabled persons whose motor vehicles display the distinguishing license plates issued to such individuals pursuant to Neb. Rev. Stat. §60-311.14,

B. Such other handicapped or disabled persons or temporarily handicapped or disabled persons, as certified by the City, whose motor vehicles display the permit specified in Neb. Rev. Stat. §18-1739 , and

C. Such other motor vehicles, as certified by the City, which display such permit. Such designation shall be made by posting aboveground and immediately adjacent to and visible from each stall or space, including access aisles, a sign which is in conformance with the requirements in Neb. Rev. Stat. §18-1737.

(Neb. Rev. Stat. §18-1737) (Am. by Ord. Nos. 432, 6/6/94; 558, 5/6/02)

SECTION 4-219: HANDICAPPED OR DISABLED PERSONS; DEFINITIONS

For purposes of Sections 4-217 to 4-226:

“Access aisle” means a space adjacent to a handicapped parking space or passenger loading zone which is constructed and designed in compliance with the federal Americans with Disabilities Act of 1990 and the federal rules and regulations adopted and promulgated in response to the act. (Neb. Rev. Stat. §18-1736)

“Handicapped or disabled person” means any individual with a severe visual or physical impairment which limits personal mobility and results in an inability to travel unassisted more than 200 feet without the use of a wheelchair, crutch, walker, or prosthetic, orthotic, or other assistant device; any individual whose personal mobility is limited as a result of respiratory problems; any individual who has a cardiac condition to the extent that his/her functional limitations are classified in severity as being Class III or Class IV, according to standards set by the American Heart Association; and any individual who has permanently lost all or substantially all the use of one or more limbs.

“Temporarily handicapped or disabled person” means any handicapped or disabled person whose personal mobility is expected to be limited in such manner for no longer than one year. (Neb. Rev. Stat. §18-1738)

“Handicapped parking infraction” means the violation of any section of this article regulating (A) the use of parking spaces, including access aisles, designated for use by handicapped or disabled persons, (B) the unauthorized possession, use, or display of handicapped or disabled parking permits, or (C) the obstruction of any wheelchair ramps constructed or created in accordance and in conformity with the federal Americans with Disabilities Act of 1990.

(Neb. Rev. Stat. §18-1741.01) (Am. by Ord. Nos. 433, 6/6/94; 468, 2/5/96; 556, 5/6/02)

SECTION 4-220: HANDICAPPED OR DISABLED PERSONS; PERSONAL PERMIT; ISSUANCE; RENEWAL

A. The city clerk shall take an application, on a form provided by the Department of Motor Vehicles, from a handicapped or disabled person or temporarily handicapped or disabled person or his/her parent, legal guardian, or foster parent for a permit which will entitle the holder thereof or a person driving a motor vehicle for the purpose of transporting such holder to park in those spaces or access aisles provided for by this article when the holder of the permit will enter or exit the motor vehicle while it is parked in such spaces or access aisles. For purposes of this section, the handicapped or disabled person or temporarily handicapped or disabled person shall be considered the holder of the permit.

B. A person applying for a permit or for the renewal of a permit shall complete an application, provide proof of identity, and submit a completed medical form containing the statutory criteria for qualification and signed by a physician, physician's assistant, or advanced practice registered nurse certifying that the person who will be the holder meets the definition of handicapped or disabled person or temporarily handicapped or disabled person. No applicant shall be required to provide his/her social security number. In the case of a temporarily handicapped or disabled person, the certifying physician, physician's assistant, or advanced practice registered nurse shall indicate the estimated date of recovery or that the temporary handicap or disability will continue for a period of six months, whichever is less.

C. A person may hold only one permit under this section and may hold either a permit under this section or a permit under Section 4-221 (Motor Vehicle Permit; Issuance), but not both.

D. A copy of the completed application form shall be given to each applicant. The city clerk shall not accept the application for a permit of any person making application contrary to the provisions of Neb. Rev. Stat. §18-1738.02. The clerk shall submit to the Department of Motor Vehicles the name, address, and license number of all persons applying for a permit pursuant to this section. (Neb. Rev. Stat. §18-1738.02)

E. An application for the renewal of a permit under this section may be filed within 30 days prior to the expiration of the permit. The existing permit shall be invalid upon receipt of the new permit. (Neb. Rev. Stat. §18-1738)

(Am. by Ord. Nos. 469, 2/5/96; 497, 8/4/97; 559, 5/6/02)

SECTION 4-221: HANDICAPPED OR DISABLED PERSONS; MOTOR VEHICLE PERMIT; ISSUANCE; RENEWAL

A. The city clerk shall take an application from any person for a motor vehicle permit which will entitle the holder thereof or a person driving the motor vehicle for the purpose of transporting handicapped or disabled persons or temporarily handicapped or disabled persons to park in those spaces or access aisles provided for by this article if the motor vehicle is used primarily for the transportation of handicapped or disabled persons or temporarily handicapped or disabled persons. Such parking permit shall be used only when the motor vehicle for which it was issued is being used for the transportation of a handicapped or disabled person or temporarily handicapped or disabled person and such person will enter or exit the motor vehicle while it is parked in such designated spaces or access aisles.

B. A person applying for a permit or for the renewal of a permit pursuant to this section shall apply for a permit for each motor vehicle used for the transportation of handicapped or disabled persons or temporarily handicapped or disabled persons, shall complete such forms as are provided to the city clerk by the Department of Motor Vehicles and shall demonstrate to the city clerk that each such motor vehicle is used primarily for the transportation of handicapped or disabled persons or temporarily handicapped or disabled persons. A copy of the completed application form shall be given to each applicant.

C. No more than one such permit shall be issued for each motor vehicle. A person may hold either a permit under this section or a permit under Section 4-220 (Personal Permit; Issuance), but not both.

D. An application for the renewal of a permit under this section may be filed within 30 days prior to the expiration of the permit. The existing permit shall be invalid upon receipt of the new permit.

E. The city clerk shall submit to the Department of Motor Vehicles the name, address, and license number of all persons applying for a permit pursuant to this section. (Neb. Rev. Stat. §18-1738.01)

F. The city clerk shall not accept the application for a permit of any person making application contrary to Neb. Rev. Stat. §18-1738.02. (Neb. Rev. Stat. §18-1738.02) (Am. by Ord. Nos. 470, 2/5/96; 498, 8/4/97; 560, 5/6/02)

SECTION 4-222: HANDICAPPED OR DISABLED PERSONS; PERMITS; PROHIBITED ISSUANCE; DUPLICATE PERMITS

A. No permit shall be issued to any person or for any motor vehicle if any parking permit has been issued to such person or for such motor vehicle and such permit

has been suspended pursuant to Section 4-224 (Permits Nontransferable; Violations; Suspension). At the expiration of such suspension, a permit may be renewed in the manner provided for renewal in this article.

B. A duplicate permit may be provided without cost if the original permit is destroyed, lost, or stolen. Such duplicate permit shall be issued in the same manner as the original permit except that a newly completed medical form need not be provided if a completed medical form submitted at the time of the most recent application for a permit or its renewal is on file with the city clerk or the Department of Motor Vehicles. A duplicate permit shall be valid for the remainder of the period for which the original permit was issued.

(Neb. Rev. Stat. §18-1739) (Am. by Ord. Nos. 415, 4/5/93; 471, 2/5/96; 561, 5/6/02)

SECTION 4-223: HANDICAPPED OR DISABLED PERSONS; PERMITS; PERIOD VALID; RENEWAL OF TEMPORARY PERMITS

A. All permanently issued permits for handicapped or disabled parking issued on or after August 1, 2005, shall be valid for a period ending on the last day of the month of the applicant's birthday in the third year after issuance and shall expire on that day. All permits issued thereafter shall expire on the last day of the month of the applicant's birthday and every three years thereafter.

B. All permits authorized under this article for temporarily handicapped or disabled parking shall be issued for a period ending not more than six months after the date of issuance but may be renewed one time for a period not to exceed six months. For the renewal period, there shall be submitted an additional application with proof of a handicap or disability.

(Neb. Rev. Stat. §18-1740) (Am. by Ord. Nos. 434, 6/6/94; 472, 2/5/96; 562, 5/6/02)

SECTION 4-224: HANDICAPPED OR DISABLED PERSONS; PERMITS NONTRANSFERABLE; VIOLATIONS; SUSPENSION

A. Permits issued under this article shall not be transferable and shall be used only by the party to whom issued or for the motor vehicle for which issued and only for the purpose for which it is issued. No person shall alter or reproduce in any manner a permit issued pursuant to this article. No person shall knowingly hold more than one permit or knowingly provide false information on an application for a permit.

B. No person who is not the holder of a handicapped or disabled parking permit issued to him or her as a handicapped or disabled person shall display a handicapped or disabled parking permit and park in a space or access aisle designated for the exclusive use of a handicapped or disabled person.

C. No person who is the holder of a handicapped or disabled parking permit issued for the use of such person when transporting a handicapped or disabled person shall display his/her handicapped or disabled parking permit and park in a space

or access aisle designated for the exclusive use of a handicapped or disabled person unless a handicapped or disabled person is actually in the vehicle displaying the permit at the time it is parked, has left the vehicle while it was parked, and will return to the vehicle before it leaves the designated space or access aisle.

D. No person who is not the holder of a handicapped or disabled parking permit issued for use when a vehicle is transporting a handicapped or disabled person shall display a handicapped or disabled parking permit and park in a space or access aisle designated for the exclusive use of a handicapped or disabled person unless a handicapped or disabled person is actually in the vehicle displaying the permit at the time it is parked, has left the vehicle while it was parked, and will return to the vehicle before it leaves the designated space or access aisle.

E. Any violation of this section shall constitute a handicapped parking infraction and shall be cause for suspension of such permit for a period of six months and imposition of the penalty provided for violation of this chapter. In addition, the trial court shall impose a fine of not more than \$250.00 which may be waived by the court if, at the time of sentencing, all handicapped parking permits issued to or in the possession of the offender are returned to the court. At the expiration of such six-month period, a suspended permit may be renewed in the manner provided for renewal in this article.

(Neb. Rev. Stat. §18-1741) (Am. by Ord. Nos. 473, 2/5/96; 499, 8/4/97; 563, 5/6/02)

SECTION 4-225: HANDICAPPED OR DISABLED PERSONS; REMOVAL OF UNAUTHORIZED VEHICLE; PENALTY

A. The owner or person in lawful possession of an offstreet parking facility, after notifying the city police and the City, if it provides onstreet parking or owns, operates, or provides an offstreet parking facility, may cause the removal from a stall or space, including access aisles, designated exclusively for handicapped or disabled persons or temporarily handicapped or disabled persons or motor vehicles for the transportation of handicapped or disabled persons or temporarily handicapped or disabled persons, of any vehicle not displaying the proper permit or the distinguishing license plates specified in this article if there is posted aboveground and immediately adjacent to and visible from such stall or space, including access aisles, a sign which clearly and conspicuously states the area so designated as a tow-in zone.

B. A person who parks a vehicle in any onstreet parking space or access aisle which has been designated exclusively for handicapped or disabled persons or temporarily handicapped or disabled persons or motor vehicles for the transportation of handicapped or disabled persons or temporarily handicapped or disabled persons, or in any so exclusively designated parking space or access aisle in any offstreet parking facility, without properly displaying the proper permit or when the handicapped or disabled person to whom or for whom, as the case may be, the license plate or permit is issued will not enter or exit the vehicle while it is parked in the designated space or access aisle shall be guilty of a handicapped parking infraction and shall be

subject to the penalties and procedures set forth in Section 4-226 (Citation, Issuance; Complaint; Trial; Dismissal). The display on a motor vehicle of a distinguishing license plate or permit issued to a handicapped or disabled person by and under the duly constituted authority of another state shall constitute a full and complete defense in any action for a handicapped parking infraction. If the identity of the person who parked the vehicle in violation of this section cannot be readily determined, the owner or person in whose name the vehicle is registered shall be held prima facie responsible for such violation and shall be guilty and subject to the penalties and procedures described in this section.

C. In the case of a privately owned offstreet parking facility, the City shall not require the owner or person in lawful possession of such facility to inform the City of a violation of this section prior to the City's issuance of a handicapped parking infraction citation to the violator.

(Neb. Rev. Stat. §18-1737) (Am. by Ord. Nos. 416, 4/5/93; 435, 6/6/94; 474, 2/5/96; 501, 8/4/97; 564, 5/6/02)

SECTION 4-226: HANDICAPPED OR DISABLED PERSONS; CITATION, ISSUANCE; COMPLAINT; TRIAL; DISMISSAL

A. For any offense classified as a handicapped parking infraction, a handicapped parking citation may be issued by any peace officer or by any person designated by ordinance by the City Council to exercise the authority to issue a citation for any handicapped parking infraction.

B. When a handicapped parking citation is issued for a handicapped parking infraction, the person issuing the citation shall enter thereon all required information, including the name and address of the cited person or, if not known, the license number and description of the offending motor vehicle, the offense charged, and the time and place the person cited is to appear in court. Unless the person cited requests an earlier date, the time of appearance shall be at least three days after the issuance of the citation. One copy of the citation shall be delivered to the person cited or attached to the offending motor vehicle.

C. At least 24 hours before the time set for the appearance of the cited person, either the city attorney or other person authorized by law to issue a complaint for the particular offense shall issue and file a complaint charging such person with a handicapped parking infraction or such person shall be released from the obligation to appear as specified.

D. The trial of any person for a handicapped parking infraction shall be by the court without a jury. A person cited for a handicapped parking violation may waive his/her right to trial.

E. For any handicapped parking citation issued for a handicapped parking infraction by reason of the failure of a vehicle to display a handicapped parking permit

issued pursuant to Neb. Rev. Stat. §18-1738 or 18-1738.01, the complaint shall be dismissed if, within seven business days after the date of issuance of the citation, the person cited files with the court the affidavit included on the citation, signed by a peace officer certifying that the recipient is the lawful possessor in his/her own right of a handicapped parking permit issued under Neb. Rev. Stat. §18-1738 or 18-1738.01 and that the peace officer has personally viewed the permit.

(Neb. Rev. Stat. §18-1741.01, 18-1741.04, 18-1741.06) (Ord. No. 436, 6/6/94) (Am. by Ord. No. 500, 8/4/97)

Article 3 – Bicycles and Other Conveyances

SECTION 4-301: OPERATION

A. No person shall ride or propel a bicycle on a street or other public highway of this city with another person on the handlebars or in any position in front of the operator.

B. No bicycle shall be ridden faster than is reasonable and proper, but every bicycle shall be operated with reasonable regard to the safety of the operator and any other persons upon the streets and public highways.

C. Persons riding bicycles shall observe all traffic signs and stop at all stop signs.

D. No bicycle shall be permitted on any street or other public highway from one-half hour after sunset and one-half hour before sunrise without a headlight, visible under normal atmospheric conditions from the front thereof for not less than 500 feet indicating the approach or presence of the bicycle, firmly attached to such bicycle, and properly lighted, or without a yellow or red light reflector attached to and visible 500 feet from the rear thereof. The said headlight shall give a clear, white light.

E. No person shall ride or propel a bicycle upon any street or other public highway abreast of more than one other person riding or propelling a bicycle.

F. Every person riding or propelling a bicycle upon any street or other public highway shall observe all traffic rules and regulations applicable thereto and shall turn only at intersections, signal for all turns, ride at the right-hand side of the street or highway, pass to the left when passing overtaken vehicles and individuals that are slower moving, and shall pass vehicles to the right when meeting.

G. No person shall park a bicycle on any sidewalk unless a bicycle stand is located on said sidewalk.

H. No person shall ride a bicycle on the sidewalks within the business district.
(Neb. Rev. Stat. §39-688, 39-690, 39-691)

SECTION 4-302: ROLLER SKATES, SKATEBOARDS, BICYCLES, ETC. ON SIDEWALKS

No roller skates, roller blades, scooters, bicycles, coasters, toy vehicles, skateboards, or similar devices shall be placed or utilized upon the sidewalks along the north and south sides of Second Street between Cedar Street and Maple Street, nor shall they be placed or utilized on the alleyways running parallel to Second Street between First Street and Third Street. This section shall not be applicable to scooters, power chairs or electric wheelchairs having more than two wheels which are designed for and be-

ing utilized by individuals with limited mobility. (Ord. No. 606, 1/3/07)

Article 4 – Mopeds, Mini-Bikes and Motorcycles

SECTION 4-401: MOPEDS; DEFINED

For the purposes of this article, “moped” shall mean a bicycle with fully operative pedals for propulsion by human power, an automatic transmission, and a motor with a cylinder capacity not exceeding 50cc, which produces no more than two brake horsepower and is capable of propelling the bicycle at a maximum design speed of no more than 30 miles per hour on level ground. Mopeds, their owners and their operators shall be subject to Neb. Rev. Stat. Chapter 60, Article 4 but shall be exempt from the requirements of Neb. Rev. Stat. Chapter 60, Articles 1, 3, 5, and 17. (Neb. Rev. Stat. §60-637) (Ord. No. 223, 10/1/79)

SECTION 4-402: MOPEDS; OPERATOR’S LICENSE REQUIRED

No person shall operate a moped upon the streets, alleys, or public highways of the City unless such person has a valid motor vehicle operator's license or a valid school or learner's permit. (Neb. Rev. Stat. §60-6,310) (Ord. No. 223, 10/1/79)

SECTION 4-403: MOPEDS; TRAFFIC REGULATIONS APPLICABLE

Any person who rides a moped upon a roadway shall have all of the rights and shall be subject to all of the duties applicable to the driver of a motor vehicle under this chapter and Neb. Rev. Stat. Sections 60-6,309 to 60-6,312, except for those provisions of such sections which by their nature can have no application. Such regulations applicable to mopeds shall apply whenever a moped is operated upon any street, alley, or public highway within the City or upon any path set aside by the Department of Roads or local authority for the use of mopeds. Notwithstanding any established maximum speed limits in excess of 25 miles per hour, no person shall operate any moped at a speed in excess of 30 miles per hour. (Neb. Rev. Stat. §60-6,377) (Ord. No. 223, 10/1/79)

SECTION 4-404: MOPEDS; OPERATION

Any person who operates a moped shall ride only upon a permanent and regular seat attached thereto and shall not carry any other person nor shall any other person ride on a moped unless such moped is designed by the manufacturer to carry more than one person. Any person shall ride a moped only while sitting astride the seat, facing forward. Further, no person shall operate a moped while carrying any package, bundle, or other article which prevents him/her from keeping both hands on the handlebars. No operator shall carry any person nor shall any person ride in a position that will interfere with the operation or control of the moped or the view of the operator. No person who rides upon a moped shall attach himself/herself or the moped to any other vehicle on a roadway. (Neb. Rev. Stat. §60-6,312) (Ord. No. 223, 10/1/79)

SECTION 4-405: MOPEDS; USE OF TRAFFIC LANES

A moped shall be entitled to full use of a traffic lane of any street or highway with an authorized speed limit of 45 miles per hour or less and no vehicle shall be operated in such a manner as to deprive any moped of the full use of such lane. This section shall not apply to mopeds or motorcycles operated two abreast in a single lane. No person shall operate a moped between lanes of traffic or between adjacent lines or rows of vehicles. Mopeds shall not be operated more than two abreast in a single lane. Any person who operates a moped on a roadway with an authorized speed limit of more than 45 miles per hour shall ride as near to the right side of the roadway as practicable and shall not ride more than single file. (Neb. Rev. Stat. §60-6,313) (Ord. No. 223, 10/1/79)

SECTION 4-406: MOPEDS; EQUIPMENT

Any moped which carries a passenger shall be equipped with footrests for such passenger. No person shall operate any moped with handlebars more than 15 inches above the mounting point of the handlebars. (Neb. Rev. Stat. §60-6,312) (Ord. No. 223, 10/1/79)

SECTION 4-407: MOPEDS; HELMET

Commencing January 1, 1989, a person shall not operate or be a passenger on a moped or motorcycle on any highway, as defined in state statutes, unless such person is wearing a protective helmet of the type and design manufactured for use by operators of such vehicles and unless such helmet is secured properly on his/her head with a chin strap while the vehicle is in motion. All such protective helmets shall be designed to reduce injuries to the user resulting from head impacts and shall be designed to protect the user by remaining on the user's head, deflecting blows, resisting penetration, and spreading the force of impact. Each such helmet shall consist of lining, padding, visor, and chin strap and shall meet or exceed the standards established in the United States Department of Transportation's *Federal Motor Vehicle Safety Standard No. 218*, 49 C.F.R. 571.218, for motorcycle helmets. (Neb. Rev. Stat. §60-6,279) (Ord. No. 359, 11/8/88)

SECTION 4-408: MINI-BIKES; UNLAWFUL OPERATION

It shall be unlawful for any person to operate a mini-bike upon any street or highway within the City. For purposes of this article, "mini-bike" shall mean a two-wheel motor vehicle which has a total wheel and tire diameter of less than 14 inches or an engine rated capacity of less than 45 cubic centimeters displacement or any other two-wheel motor vehicle primarily designed by the manufacturer for off-road use only. (Neb. Rev. Stat. §60-2101.01, 60-2107)(Am. by Ord. No. 253, 9/8/81)

SECTION 4-409: MINI-BIKES; EMERGENCIES AND PARADES

Mini-bikes shall be exempt from the provisions of this article during any public emer-

gency or while being used in parades by regularly organized units of any recognized charitable, social, educational or community service organization. (Neb. Rev. Stat. §60-2102)

SECTION 4-410: MINI-BIKES; PUBLIC LANDS

Mini-bikes shall be prohibited upon the public lands owned by the City except where allowed by resolution of the City Council. (Neb. Rev. Stat. §60-2106)

SECTION 4-411: MINIBIKES; TRAFFIC LAWS INAPPLICABLE

The provisions of Chapter 60, Articles 1, 3, 4, 5, and 17 of the Nebraska statutes shall not be applicable to the owners and operators of any mini-bike. (Neb. Rev. Stat. §60-2101.01)

SECTION 4-412: MOTORCYCLE; OPERATION, EQUIPMENT

A. Any person who operates a motorcycle shall ride only upon a permanent and regular seat attached to the motorcycle. The operator shall not carry any other person nor shall any other person ride on a motorcycle unless such motorcycle is designed to carry more than one person, in which event a passenger may ride upon the permanent and regular seat, if designed for two persons, or upon another seat firmly attached to the motorcycle to the rear or side of the operator.

B. A person shall ride upon a motorcycle only while sitting astride the seat, facing forward.

C. No person shall operate a motorcycle while carrying any package, bundle, or other article which prevents him or her from keeping both hands on the handlebars.

D. No operator shall carry any person nor shall any person ride in a position that interferes with the operation or control of the motorcycle or the view of the operator.

E. Any motorcycle which carries a passenger, other than in a sidecar or enclosed cab, shall be equipped with footrests for such passenger.

F. No person shall operate any motorcycle with handlebars more than 15 inches above the mounting point of the handlebars.
(Neb. Rev. Stat. §60-6,307)

SECTION 4-413: MOTORCYCLE; LIGHTS

No person shall ride a motorcycle upon the streets, alleys, or highways from one-half hour after sunset to one-half hour before sunrise unless the same shall be equipped with at least one and not more than two headlights, plainly visible from the front and

with a light on the rear exhibiting a red light visible under normal atmospheric conditions from a distance of at least 500 feet to the rear thereof; provided, said lamps shall comply with the requirements and limitations of state statutes. (Neb. Rev. Stat. §60-6,219)

SECTION 4-414: MOTORCYCLE; HELMET

Commencing January 1, 1989, a person shall not operate or be a passenger on a motorcycle or moped on any highway, as defined in state statutes, unless such person is wearing a protective helmet as provided in Section 4-407.

Article 5 – Snowmobiles

SECTION 4-501: EQUIPMENT

Every snowmobile operated within the City shall be registered with the State of Nebraska. No snowmobile shall be operated upon a public street or highway unless it is equipped with at least one headlight, one taillight, reflector material of a minimum area of 16 square inches mounted on each side forward of the handlebars, and with brakes as prescribed by the director of motor vehicles. All laws applying to the operation of other motor vehicles shall apply to snowmobiles except those relating to required equipment and those which, by their nature, have no application. (Neb. Rev. Stat. §60-2002, 60-2013)

SECTION 4-502: UNLAWFUL ACTS

It shall be deemed a misdemeanor for any person to allow a snowmobile, either owned or operated by him, to be operated:

A. Within the congested area of the City unless weather conditions are such that it provides the only practicable method of safe vehicular travel, or said snowmobile is engaged in responding to an emergency.

B. At a rate of speed greater than reasonable or proper under the surrounding circumstances.

C. In a careless, reckless or negligent manner so as to endanger person or property.

D. Without a lighted headlight and taillight when such would be required by conditions.

E. In any tree nursery or planting in a manner which damages or destroys growing stock.

F. Upon any private lands without first having obtained permission of the owner, lessee or operator of such lands.
(Neb. Rev. Stat. §60-2013, 60-2015)

SECTION 4-503: PUBLIC LANDS

Snowmobiles shall be prohibited from operation on the public lands owned by the City except where allowed by resolution of the City Council. (Neb. Rev. Stat. §60-2016)

SECTION 4-504: ENFORCEMENT; PENALTY

Any peace officer, including a conservation officer, may enforce the provisions relat-

ing to snowmobiles. Any person convicted of violating any rule or regulation dealing with snowmobiles shall be punished by a fine of not more than \$100.00. (Neb. Rev. Stat. §60-2021)

Article 6 – All-Terrain and Utility-Type Vehicles

(Article adopted by Ord. Nos. 344, 10/5/87)

SECTION 4-601: DEFINED

A. “All-terrain vehicle” means any motorized off-highway vehicle which (1) is 50 inches or less in width, (2) has a dry weight of 900 pounds or less, (3) travels on three or more low-pressure tires, (4) is designed for operator use only with no passengers or is specifically designed by the original manufacturer for the operator and one passenger, (5) has a seat or saddle designed to be straddled by the operator, and (6) has handlebars or any other steering assembly for steering control. (Neb. Rev. Stat. §60-6,355)

B. “Utility-type vehicle” means any motorized off-highway vehicle which (1) is not less than 48 inches nor more than 74 inches in width, (2) is not more than 135 inches in length, including the bumper, (3) has a dry weight of not less than 900 pounds nor more than 2,000 pounds, (4) travels on four or more low-pressure tires, and (5) is equipped with a steering wheel and bench or bucket-type seating designed for at least two people to sit side by side. “Utility-type vehicle” does not include a golf cart or a low-speed vehicle. (Neb. Rev. Stat. 60-6,355)

C. “Street” or “highway” means the entire width between the boundary limits of any street, road, avenue, boulevard, or way which is publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel. (Neb. Rev. Stat. §60-624)

D. All-terrain vehicles which have been modified to include additional equipment not required by Section 4-603 of this article shall not be registered under Neb. Rev. Stat. Chapter 60, Article 3.
(Neb. Rev. Stat. §60-2801) (Am. by Ord. No. 623, 2/7/11)

SECTION 4-602: OPERATION

An all-terrain vehicle (ATV) and a utility-type vehicle (UTV) may be operated on streets and highways within the corporate limits of the city only if the operator and the vehicle comply with the provisions of this section.

A. *Operation Generally.* An ATV or a UTV may be operated only between the hours of sunrise and sunset and shall not be operated at a speed in excess of 30 miles per hour. When in operation, the headlights and taillights of the vehicle shall be on and the vehicle shall be equipped with a bicycle safety flag which extends not less than five feet above ground attached to the rear of such vehicle. The bicycle safety flag shall be triangular in shape with an area of not less than 30 square inches and shall be Day-Glo in color.

B. *Operator Requirements.* Any person operating an ATV or a UTV as authorized herein shall have:

1. A valid Class O operator's license or a farm permit as provided in Neb. Rev. Stat. 604,126; and
2. Liability insurance coverage for the ATV or UTV of at least \$25,000 per person, \$50,000 per accident or minimum required by Nebraska statutes, whichever is greater. The person operating the all-terrain vehicle or utility-type vehicle shall provide proof of such insurance coverage to any peace officer requesting such proof within five days of such a request.

C. *Parades.* ATVs and UTVs may be operated without complying with these provisions in parades which have been authorized by the City.

D. *Crossings.* The crossing of any interstate or limited-access highway shall not be permitted. The crossing of a public street, road, or highway shall be permitted only if:

1. The crossing is made at an angle of approximately 90 degrees to the direction of the street, road, or highway and at a place where no obstruction prevents a quick and safe crossing.
2. The vehicle is brought to a complete stop before crossing the shoulder or main-traveled way of the street, road or highway.
3. The operator yields the right of way to all oncoming traffic that constitutes an immediate potential hazard.
4. In crossing a divided street, road, or highway, the crossing is made only at an intersection of such street, road, or highway with another public street, road, or highway; and
5. Both the headlight and taillight of the vehicle are on when the crossing is made.

(Neb. Rev. Stat. §60-2802) (Am. by Ord. Nos. 372, 12/4/89; 615, 7/7/08; 623, 2/7/11)

SECTION 4-603: EQUIPMENT

Every all-terrain vehicle shall be equipped with a brake system maintained in good operating condition, an adequate muffler system in good working condition, and a United States Forest Service-qualified spark arrester. (Neb. Rev. Stat. §60-2804)

SECTION 4-604: PROHIBITIONS

No person shall equip the exhaust system of an all-terrain vehicle with a cutout, bypass, or similar device; operate an all-terrain vehicle with an exhaust system so modified; or operate an all-terrain vehicle with the spark arrester removed or modified except for use in closed-course competition events. (Neb. Rev. Stat. §60-2805)

SECTION 4-605: COMPETITION

All-terrain vehicles participating in competitive events may be exempted from Sections 4-603 and 4-604 of this article at the discretion of the state director of motor vehicles. (Neb. Rev. Stat. §60-2806)

SECTION 4-606: ACCIDENT REPORT

If an accident results in the death of any person or in the injury of any person which requires the treatment of the person by a physician, the operator of each all-terrain vehicle involved in the accident shall give notice of the accident in the same manner as provided in Neb. Rev. Stat. §60-505. (Neb. Rev. Stat. §60-2807)

SECTION 4-607: PENALTY

Any violations of Sections 4-602 to 4-606 of this article which is also a violation under Neb. Rev. Stat. Chapter 60 may be punished under the penalty provisions of such chapter. (Neb. Rev. Stat. §60-2808)

SECTION 4-608: ENFORCEMENT

Any peace officer of the State or of any political subdivision, including conservation officers of the Game and Parks Commission shall be charged with the enforcement of the provisions of Sections 4-602 to 4-606 of this article.

Article 7 – Abandoned Vehicles

SECTION 4-701: DEFINED

A. A motor vehicle is an abandoned vehicle:

1. If left unattended, with no license plates or valid “In Transit” stickers issued pursuant to the Motor Vehicle Registration Act affixed thereto, for more than six hours on any public property;
2. If left unattended for more than 24 hours on any public property, except a portion thereof on which parking is legally permitted;
3. If left unattended for more than 48 hours, after the parking of such vehicle has become illegal, if left on a portion of any public property on which parking is legally permitted;
4. If left unattended for more than seven days on private property if left initially without permission of the owner or after permission of the owner is terminated;
5. If left for more than 30 days in the custody of a law enforcement agency after the agency has sent a letter to the last registered owner under Neb. Rev. Stat. §60-1903.01; or
6. If removed from private property by the City pursuant to a municipal ordinance.

B. For purposes of this section “public property” means any public right-of-way, street, highway, alley, or park or other state, county, or municipally owned property; and “private property” means any privately owned property which is not included within the definition of public property.

C. No motor vehicle subject to forfeiture under state statutes shall be an abandoned vehicle under this section.
(Neb. Rev. Stat. §60-1901)

SECTION 4-702: ABANDONMENT OF VEHICLE PROHIBITED

No person shall cause any vehicle to be an abandoned vehicle as described in Section 4-501 (A)(1), (2), (3), or (4). (Neb. Rev. Stat. §60-1907)

SECTION 4-703: TITLE; VEST IN LOCAL AUTHORITY OR STATE AGENCY

If an abandoned vehicle, at the time of abandonment, has no license plates of the current year or valid “In Transit” stickers issued pursuant to state statute affixed and is of a wholesale value, taking into consideration the condition of the vehicle, of \$250.00 or less, title shall immediately vest in the City Council or state agency having jurisdiction thereof as provided in Section 4-706 (Custody). Any certificate of title issued under this section to the City Council or state agency shall be issued at no cost to such authority or agency. (Neb. Rev. Stat. §60-1902)

SECTION 4-704: LOCAL AUTHORITIES; POWERS AND DUTIES

A. Except for vehicles governed by Section 4-703, the City Council, having custody of an abandoned vehicle, shall make an inquiry concerning the last-registered owner of such vehicle as follows:

1. With license plates affixed, to the jurisdiction which issued such license plates; or
2. With no license plates affixed, to the Department of Motor Vehicles.

B. The City Council shall notify the last registered owner, if any, that the vehicle in question has been determined to be an abandoned vehicle and that, if unclaimed, either (1) it will be sold or will be offered at public auction after five days from the date such notice was mailed or (2) title will vest in the City Council 30 days after the date such notice was mailed. If the agency described in subdivision (A)(1) or (2) of this section also notifies the City Council that a lien or mortgage exists, such notice shall also be sent to the lienholder or mortgagee. Any person claiming such vehicle shall be required to pay the cost of removal and storage of such vehicle.

C. Title to an abandoned vehicle, if unclaimed, shall vest in the City Council (1) five days after the date the notice is mailed if the vehicle will be sold or offered at public auction, (2) 30 days after the date the notice is mailed if the City Council will retain the vehicle, or (3) if the last-registered owner cannot be ascertained, when notice of such fact is received.

D. After title to the abandoned vehicle vests pursuant to subsection (C) of this section, the City Council may retain for use, sell, or auction the abandoned vehicle. If the Council has determined that the vehicle should be retained for use, it shall, at the same time that the notice, if any, is mailed, publish in a newspaper of general circulation in the jurisdiction an announcement that the Council intends to retain the abandoned vehicle for its use and that title will vest in the City Council 30 days after the publication.

(Neb. Rev. Stat. §60-1903)

SECTION 4-705: LAW ENFORCEMENT AGENCY; POWERS AND DUTIES

A local law enforcement agency which has custody of a motor vehicle for investigatory purposes and has no further need to keep it in custody shall send a certified letter to each of the last-registered owners stating that the vehicle is in the custody of the said law enforcement agency, that the vehicle is no longer needed for law enforcement purposes, and that after 30 days the agency will dispose of the vehicle. This section shall not apply to motor vehicles subject to forfeiture under state statutes. No storage fees shall be assessed against the registered owner of a motor vehicle held in custody for investigatory purposes under this section unless the registered owner or the person in possession of the vehicle when it is taken into custody is charged

with a felony or misdemeanor related to the offense for which the law enforcement agency took the vehicle into custody. If a registered owner or the person in possession of the vehicle when it is taken into custody is charged with a felony or misdemeanor but is not convicted, the registered owner shall be entitled to a refund of the storage fees. (Neb. Rev. Stat. §60-1903.01)

SECTION 4-706: CUSTODY; WHO ENTITLED

If a state agency caused an abandoned vehicle described in Section 4-701 (A)(5) to be removed from public property, the state agency shall be entitled to custody of the vehicle. If a state agency caused an abandoned vehicle described in Section 4-701 (A)(1), (2), (3), or (4) to be removed from public property, the state agency shall deliver the vehicle to the City Council, which shall have custody. The City Council shall be entitled to custody of an abandoned vehicle if the said vehicle was abandoned in the City. (Neb. Rev. Stat. §60-1904)

SECTION 4-707: PROCEEDS OF SALE; DISPOSITION

Any proceeds from the sale of an abandoned vehicle less any expenses incurred by the City Council shall be held by the Council without interest, for the benefit of the owner or lienholders of such vehicle for a period of two years. If not claimed within such two-year period, the proceeds shall be paid into the General Fund of the City. (Neb. Rev. Stat. §60-1905)

SECTION 4-708: LIABILITY FOR REMOVAL

Neither the owner, lessee, nor occupant of the premises from which any abandoned vehicle is removed nor the City shall be liable for any loss or damage to such vehicle which occurs during its removal or while in the possession of the City or its contractual agent or as a result of any subsequent disposition. (Neb. Rev. Stat. §60-1906)

SECTION 4-709: DESTROY, DEFACE, OR REMOVE PARTS; UNLAWFUL; EXCEPTION; VIOLATION; PENALTY

No person other than one authorized by the City Council shall destroy, deface, or remove any part of a vehicle which is left unattended on a highway or other public place without license plates affixed or which is abandoned. Anyone violating this section shall be guilty of a Class V misdemeanor. (Neb. Rev. Stat. §60-1908)

SECTION 4-710: COSTS OF REMOVAL AND STORAGE; LAST REGISTERED OWNER LIABLE

The last registered owner of an abandoned vehicle shall be liable to the City Council for the costs of removal and storage of such vehicle. (Neb. Rev. Stat. §60-1909)

Article 8 – Golf Car Vehicles

(Ord. No. 640, 8/3/15)

SECTION 4-801: OPERATION

A. The City hereby authorizes the operation of golf car vehicles within the corporate limits of the City, provided such operation is (1) between sunrise and sunset, (2) on streets with a posted speed limit of 35 miles per hour or less, and (3) carried out in compliance with the Nebraska Rules of the Road

B. A golf car vehicle shall only cross other streets or intersections after yielding the right of way, traveling in the most direct and safe route possible, at reasonable speed, taking into consideration the condition of the roadway and environmental factors.

C. Golf car vehicles shall not be operated on sidewalks or areas reserved for pedestrian traffic. Golf car vehicles shall only be operated on "roads," meaning public ways for the purposes of vehicular travel, including the entire area within the right-of-way, and "streets," meaning public ways for the purposes of vehicular travel in the City and includes the entire area within the right-of-way.

SECTION 4-802: OPERATORS AND OWNERS

Any person operating a golf car vehicle as authorized under Section 4-801 shall have a valid Class O operator's license and the owner of the vehicle shall have liability insurance coverage for it. Any person operating a golf car vehicle in violation of Section 4-801 or Section 4-802 shall be guilty of a Class IV misdemeanor. Any owner permitting the operation of a golf car vehicle without having liability insurance as required by this section shall be guilty of a Class IV misdemeanor.

SECTION 4-803: ALCOHOLIC LIQUORS OR DRUGS; PROHIBITION

A. It shall be unlawful for any person to operate or be in the actual physical control of such golf car vehicle (1) while under the influence of alcoholic liquor or of any drug; (2) when such person has a concentration of eight-hundredths of one gram or more by weight of alcohol per 100 milliliters of his or her blood; or (3) when such person has a concentration of eight-hundredths of one gram or more by weight of alcohol per 210 liters of his or her breath.

B. Any person who operates or is in the actual physical control of any motor vehicle while in a condition described in subsection (A) of this section shall be guilty of a crime and upon conviction punished as provided in Neb. Rev. Stat. §§60-6,197.02 to 60-6,197.08, which are incorporated herein by reference.

Article 9 – Penal Provision

SECTION 4-901: VIOLATION; PENALTY

Any person, or any person's agent or servant, who violates any of the provisions of this chapter, unless otherwise specifically provided herein, shall be deemed guilty of an offense and upon conviction thereof shall be fined in any sum not exceeding \$500.00. A new violation shall be deemed to have been committed every 24 hours of failure to comply with the provisions of this chapter. (Neb. Rev. Stat. §17-505, 18-1720, 18-1722) (Am. by Ord. No. 543, 8/7/00)

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CHAPTER 5 – BUSINESS REGULATIONS

Article 1 – Alcoholic Beverages

SECTION 5-101: DEFINITIONS

All words and phrases herein used are to have the definitions applied thereto, as defined in the Liquor Control Act of the State of Nebraska. (Neb. Rev. Stat. §53-103)

SECTION 5-102: DECLARED LEGISLATIVE INTENT

It is hereby declared to be the intent and purpose of the City Council in adopting and administering the provisions of this chapter:

A. To express the community sentiment that the control of the availability of alcoholic liquor to the public in general and to minors in particular, promotes the public health safety and welfare;

B. To encourage temperance in the consumption of alcoholic liquor by sound and careful control and regulation of the sale and distribution thereof; and

C. To ensure that the number of retail outlets and the manner in which they are operated is such that they can be adequately policed by local law enforcement agencies so that the abuse of alcohol and the occurrence of alcohol-related crimes and offenses is kept to a minimum.

(Ord. No. 336, 10/6/86)

SECTION 5-103: CONSUMPTION IN PUBLIC PLACES OR PLACES OPEN TO THE PUBLIC; RESTRICTIONS

A. Except when the Nebraska Liquor Control Commission has issued a license as provided in Neb. Rev. Stat. §53-186(2), it is unlawful for any person to consume alcoholic liquor upon property owned or controlled by the state or any governmental subdivision thereof unless authorized by the governing bodies having jurisdiction over such property. (Neb. Rev. Stat. §53-186(1))

B. It is unlawful for any person owning, operating, managing, or conducting any dance hall, restaurant, cafe, or club or any place open to the general public to permit or allow any person to consume alcoholic liquor upon the premises except as permitted by a license issued for such premises pursuant to the Nebraska Liquor Control Act. It is unlawful for any person to consume alcoholic liquor in any dance hall, restaurant, cafe, or club or any place open to the general public except as permitted by a license issued for such premises pursuant to the Act. This subsection does not apply to a retail licensee while lawfully engaged in the catering of alcoholic beverages. (Neb. Rev. Stat. §53-186.01)

(Am. by Ord. No. 536, 8/7/00)

SECTION 5-104: ACQUISITION OF ALCOHOLIC BEVERAGES

It shall be unlawful for any person to have possession of any alcoholic liquors which shall have been acquired otherwise than from a licensee duly licensed to sell same to such person under the provisions of the Nebraska Liquor Control Act; however:

A. Nothing herein shall prevent the possession of alcoholic liquor for the personal use of the possessor, his family and guests, as long as the quantity of alcoholic liquor transported, imported, brought, shipped or caused to be transported, imported, brought, or shipped into the state for personal use does not exceed one gallon at any one time or in excess of two gallons in any one calendar month.

B. Nothing herein shall prevent the making of wine, cider or other alcoholic liquor by a person from fruits, vegetables or grains, or the products thereof by simple fermentation and without distillation if it is made solely for the use of the maker, his/her family and guests.

C. Nothing herein shall prevent any duly licensed practicing physician or dentist from possessing or using alcoholic liquor in the strict practice of his profession or any hospital or institution caring for the sick and diseased persons from possessing any alcoholic liquor for the treatment of bona fide patients of such hospital or other institution.

D. Any drug store employing a licensed pharmacist may possess and use alcoholic liquors in the compounding of prescriptions of duly licensed physicians.

E. The possession and dispensation of wine by an authorized representative of any church for the purpose of conducting any bona fide rite or religious ceremony conducted by such church shall not be prohibited by this section.

F. Persons who are 16 years old or older may carry beer from grocery stores when they are accompanied by a person not a minor, persons who are 16 years old or older may handle beer containers and beer in the course of their employment in grocery stores, and persons who are 16 years old or older may remove and dispose of alcoholic liquor containers for the convenience of their employer and customers in the course of their employment as waiters, waitresses, or busboys, by any restaurant, club, hotel, or similar organization.

G. Persons who are 19 years old or older may serve or sell alcoholic liquor in the course of their employment.

(Neb. Rev. Stat. §53-102, 53-164.01, 53-175)(Am. by Ord. Nos. 235, 10/6/80; 323, 10/7/85)

SECTION 5-105: MUNICIPAL POWERS AND DUTIES; LICENSE APPLICATION AND ISSUANCE

A. The City Council is authorized to regulate by ordinance, not inconsistent with the Nebraska Liquor Control Act, the business of all retail or craft brewery licenses carried on within the corporate limits of the City.

(Neb. Rev. Stat. §53-134.03)

B. The City Council, with respect to licenses within the corporate limits of the City, has the following powers, functions, and duties with respect to retail and craft brewery licenses:

1. To cancel or revoke for cause retail or craft brewery licenses to sell or dispense alcoholic liquor issued to persons for premises within its jurisdiction, subject to the right of appeal to the Nebraska Liquor Control Commission;
2. To enter or to authorize any law enforcement officer to enter at any time upon any premises licensed under the Nebraska Liquor Control Act to determine whether any provision of the Act, any rule or regulation adopted and promulgated pursuant to the Act, or any ordinance, resolution, rule, or regulation adopted by the City Council has been or is being violated and at such time examine the premises of such licensee in connection with such determination;
3. To receive a signed complaint from any citizen within its jurisdiction that any provision of the Act, any rule or regulation adopted and promulgated pursuant to the Act, or any ordinance, resolution, rule, or regulation relating to alcoholic liquor has been or is being violated and to act upon such complaints in the manner provided in the Act;
4. To receive retail license fees and craft brewery license fees as provided in Neb. Rev. Stat. §53-124 and pay the same, after the license has been delivered to the applicant, to the city treasurer;
5. To examine or cause to be examined any applicant or any retail licensee or craft brewery licensee upon whom notice of cancellation or revocation has been served as provided in the Act, to examine or cause to be examined the books and records of any applicant or licensee, and to hear testimony and to take proof for its information in the performance of its duties. For purposes of obtaining any of the information desired, the City Council may authorize its agent or attorney to act on its behalf;
6. To cancel or revoke on its own motion any license if, upon the same notice and hearing as provided in Section 5-124 (Citizen Complaints), it determines that the licensee has violated any of the provisions of the Nebraska Liquor Control Act or any valid and subsisting ordinance, resolution, rule, or regulation duly enacted, adopted, and promulgated relating to alcoholic liquor. Such order of cancellation or revocation may be

appealed to the Commission within 30 days after the date of the order by filing a notice of appeal. The Commission shall handle the appeal in the manner provided for hearing on an application in Neb. Rev. Stat. §53-133;

7. Upon receipt from the Commission of the notice and copy of application as provided in Neb. Rev. Stat. §53-131, to fix a time and place for a hearing at which the City Council shall receive evidence, either orally or by affidavit from the applicant and any other person, bearing upon the propriety of the issuance of a license. Notice of the time and place of such hearing shall be published in a legal newspaper in or of general circulation in the City one time not less than seven and not more than 14 days before the time of the hearing. Such notice shall include but not be limited to a statement that all persons desiring to give evidence before the City Council in support of or in protest against the issuance of such license may do so at the time of the hearing. The hearing shall be held not more than 45 days after the date of receipt of the notice from the Commission, and after such hearing the City Council shall cause to be recorded in the minute record of its proceedings a resolution recommending either issuance or refusal of such license. The city clerk shall mail to the Commission by first-class mail, postage prepaid, a copy of the resolution which shall state the cost of the published notice, except that failure to comply with this provision shall not void any license issued by the Commission. If the Commission refuses to issue such a license, the cost of publication of notice shall be paid by the Commission from the security for costs.

(Neb. Rev. Stat. §53-134)

C. During the period of 45 days after the date of receiving from the Nebraska Liquor Control Commission notice and a copy of an application for a new license to sell alcoholic liquor at retail or a craft brewery license, the City Council may make and submit to the Commission recommendations relative to the granting or refusal to grant such license to the applicant. (Neb. Rev. Stat. §53-131)

D. When the Nebraska Liquor Control Commission mails or delivers to the city clerk a retail or craft brewery license issued or renewed by the commission, the clerk shall deliver the license to the licensee upon receipt from the licensee of proof of payment of.

1. The license fee if by the terms of Neb. Rev. Stat. §53-124(5) the fee is payable to the city treasurer;
2. Any fee for publication of notice of hearing before the City Council upon the application for the license;
3. The fee for publication of notice of renewal, if applicable, as provided in

Neb. Rev. Stat. §53-135.01; and

4. Occupation taxes, if any, imposed by the City.

E. Notwithstanding any ordinance or charter power to the contrary, the City shall not impose an occupation tax on the business of any person, firm, or corporation licensed under the Nebraska Liquor Control Act and doing business within the corporate limits of the City in any sum which exceeds two times the amount of the license fee required to be paid under the Act to obtain such license.

(Neb. Rev. Stat. §53-132) (Am. by Ord. Nos. 232, 10/6/80; 290, 9/6/83; 538, 8/7/00; 595, 2/7/05)

SECTION 5-106: LICENSE REQUIRED

It shall be unlawful for any person to manufacture for sale, sell, keep for sale, or to barter any alcoholic liquors within the City unless said person shall have in full force and effect a license as provided by the Nebraska Liquor Control Act. (Neb. Rev. Stat. §53-102)

SECTION 5-107: LICENSEE REQUIREMENTS

It shall be unlawful for any person or persons to own an establishment that sells at retail any alcoholic beverages unless said person is a resident of the county in which the premises are located; a person of good character and reputation; a citizen of the United States; a person who has never been convicted of a felony or any Class I misdemeanor pursuant to Neb. Rev. Stat. Chapter 28, Article 3, 4, 7, 8, 10, 11, or 12 or any similar offense under a prior criminal statute or in another state; a person who has never had a liquor license revoked for cause; a person whose premises for which a license is sought meets standards for fire safety as established by the state fire marshal; or a person who has not acquired a beneficial interest in more than two alcoholic beverage retail establishments since March 4, 1963; provided, the beneficial interest requirement in this section shall not apply to a person applying for an additional license for use in connection with the operation of a hotel containing at least 25 sleeping rooms or where the request is limited to on-premises sale of beer only in a restaurant. (Neb. Rev. Stat. §53-124.03, 53-125) (Am. by Ord. Nos. 233, 10/6/80; 290, 9/6/83)

SECTION 5-108: LOCATION

It shall be unlawful for any person or persons to own, maintain, manage, or hold open to the public any establishment for the purpose of selling at retail any alcoholic liquor within one hundred and 150 feet of any church, school, hospital, or home for aged or indigent persons or veterans, their wives or children; provided, this prohibition shall not apply to any location within such distance when the said establishment has been licensed by the Nebraska Liquor Control Commission at least two years and to hotels offering restaurant service, regularly organized clubs, or to restaurants where the selling of alcoholic liquors is not the principal business carried on, if the said hotel, club, or restaurant were licensed and in operation prior to May 24, 1935. No alcoholic liquor other than beer shall be sold for consumption on the premises within 300 feet

from the campus of any college within the City. (Neb. Rev. Stat. §53-177)

SECTION 5-109: DWELLINGS

Except in the case of hotels and clubs no alcoholic liquor shall be sold at retail upon any premises which has any access which leads from such premises to any other portion of the same building used for dwelling or lodging purposes, and which is permitted to be used by the public. Nothing herein shall prevent any connection with such premises and such other portion of the building which is used only by the licensee, his/her family, or personal guests. (Neb. Rev. Stat. §53-178)

SECTION 5-110: SANITARY CONDITIONS

It shall be unlawful to open for public use any retail liquor establishment that is not in a clean and sanitary condition. Toilet facilities shall be adequate and convenient for customers and patrons and said licensed premises shall be subject to any health inspections the City Council or the city police may make or cause to be made. All applications for liquor licenses shall be viewed in part from the standpoint of the sanitary conditions and a report concerning the said sanitary conditions shall be made at all hearings concerning the application for or renewal of a liquor license.

SECTION 5-111: LICENSE DISPLAYED

Every licensee under the Nebraska Liquor Control Act shall cause his/her license to be framed and hung in plain public view in a conspicuous place on the licensed premises. (Neb. Rev. Stat. §53-148)

SECTION 5-112: HOURS OF SALE

A. It shall be unlawful for any person holding a retail liquor license to sell any alcoholic beverages within the City except during the hours provided herein:

Class A (Beer only, on premises only)	
Monday through Saturday	6:00 A.M. to 1:00 A.M. of the following day
Sunday	12:00 Noon to 1:00 A.M. of the following Monday
Class B (Beer only, off premises only)	
Monday through Saturday	6:00 A.M. to 1:00 A.M. of the following day
Sunday	12:00 Noon to 1:00 A.M. of the following Monday
Class C (All alcoholic liquors including beer and wine, on or off premises)	

Monday through Saturday	6:00 A.M. to 1:00 A.M. of the following day
Sunday	12:00 Noon to 1:00 A.M. of the following Monday
<i>Class D</i> <i>(All alcoholic liquors, including beer, off premises only)</i>	
Monday through Saturday	6:00 A.M. to 1:00 A.M. of the following day
Sunday	12:00 Noon to 1:00 A.M. of the following Monday

B. No person or persons shall consume any alcoholic beverages on licensed premises for a period of time longer than 15 minutes after the time fixed herein for stopping the sale of alcoholic beverages on the said premises. For the purposes of this section, "on sale" shall be defined as alcoholic beverages sold by the drink for consumption on the premises of the licensed establishment; "off sale" shall be defined as alcoholic beverages sold at retail in the original container for consumption off the premises of the licensed establishment.

D. Nothing in this section shall be construed to prohibit licensed premises from being open for other business on days and hours during which the sale or dispensing of alcoholic beverages is prohibited by this section.

(Neb. Rev. Stat. §53-179) (Am. by Ord. Nos. 242, 10/6/80; 296, 2/6/84; 367, 12/4/89; 399, 12/2/91; 481, 6/3/96)

SECTION 5-113: KEG SALES; REGISTRATION; KEG IDENTIFICATION NUMBERS; PROHIBITED ACTS

A. When any person licensed to sell alcoholic liquor at retail sells beer for consumption off the premises in a container with a liquid capacity of five or more gallons or 18.92 or more liters, the seller shall record the date of sale, the keg identification number, the purchaser's name and address, and the number of the purchaser's motor vehicle operator's license, state identification card, or military identification, if such military ID contains a picture of the purchaser, together with the purchaser's signature. Such record shall be on a form prescribed by the Liquor Control Commission and shall be kept by the licensee at the retail establishment where the purchase was made for not less than six months. Such records kept pursuant to this section shall be available for inspection by any law enforcement officer during normal business hours or at any other reasonable time. Any person violating this section shall be guilty of an offense.

B. Licensees shall place a label bearing a keg identification number on each keg at the time of retail sale. Any person who unlawfully tampers with, alters, or removes the keg identification number from a beer container after such container has been taken from the licensed premises pursuant to a retail sale and before its return to such licensed premises or other place where returned kegs are accepted shall be guilty of an offense.

(Neb. Rev. Stat. §53-167.02, 53-167.03) (Ord. No. 440, 6/6/94)

SECTION 5-114: CATERING LICENSES

A. The holder of a license to sell alcoholic liquor at retail issued under Neb. Rev. Stat. §53-124(5) or a craft brewery license may obtain an annual catering license by filing an application and license fee with the Nebraska Liquor Control Commission.

B. Upon receipt from the commission of the notice and a copy of the application as provided in Neb. Rev. Stat. §53-124.12, the City Council shall process the application in the same manner as provided in Section 5-105 (Municipal Powers and Duties; License Application and Issuance).

C. The City Council, with respect to catering licensees within its corporate limits, may cancel a catering license for cause for the remainder of the period for which such catering license is issued. Any person whose catering license is canceled may appeal to the District Court.

D. The City Council may impose an occupation tax on the business of a catering licensee doing business within the liquor license jurisdiction of the Council. The tax may not exceed double the license fee for a catering license.
(Neb. Rev. Stat. §53-124.12) (Ord. No. 537, 8/7/00) (Am. by Ord. No. 598, 2/7/05)

SECTION 5-115: LICENSE RENEWAL; MUNICIPAL POWERS AND DUTIES

A. A retail license issued by the Nebraska Liquor Control Commission and outstanding may be automatically renewed by the Commission in the absence of a written request by the City Council to require the licensee to submit an application for renewal. Any licensed retail premises located in an area which is annexed to the City shall file a formal application for a license and while such application is pending, the licensee may continue all license privileges until the original license expires or is canceled or revoked. If such license expires within 60 days following the annexation date of such area, the license may be renewed by order of the Commission for not more than one year. (Neb. Rev. Stat. §53-135)

B. The city clerk shall cause to be published in a legal newspaper in or of general circulation in the City one time between January 10 and January 30 of each year, individual notice in the form prescribed by law of the right of automatic renewal of each retail liquor and beer license within the City, except that notice of the right of automatic renewal of Class C licenses shall be published between the dates of July 10 and July 30 of each year. If written protests to the issuance of automatic renewal of a license are filed in the office of the city clerk by three or more residents of the City on or before February 10, or August 10 for Class C licenses, the City Council shall hold a hearing to determine whether continuation of the license should be allowed. Upon the conclusion of any hearing required by this section, the City Council may request a licensee to submit an application as provided in Neb. Rev. Stat. §53-135.

(Neb. Rev. Stat. §53-135.01) (Am. by Ord. Nos. 290, 9/6/83; 597, 2/7/05)

SECTION 5-116: OWNER OF PREMISES

The owner of any premises used for the sale at retail of alcoholic beverages shall be deemed guilty of a violation of these laws to the same extent as the said licensee if the owner shall knowingly permit the licensee to use the said licensed premises in violation of any municipal code section or Nebraska statute. (Neb. Rev. Stat. §53-1,101)

SECTION 5-117: EMPLOYER

The employer of any officer, director, manager, or employees working in a retail liquor establishment shall be held to be liable and guilty of any act of omission or violation of any law or ordinance, if such act is committed or omission made with the authorization, knowledge or approval of the employer or licensee. Each such act or omission shall be deemed and held to be the act of the employer and will be punishable in the same manner as if the said act or omission had been committed by him personally. (Neb. Rev. Stat. §53-1,102)

SECTION 5-118: CREDIT SALES

No person shall sell or furnish alcoholic liquor at retail to any person or persons for credit of any kind, barter, or services rendered; provided, nothing herein contained shall be construed to prevent any club holding a Class C license from permitting checks or statements for alcoholic liquor to be signed by members or guests of members and charged to the accounts of the said members or guests in accordance with the bylaws of any such club; and provided further, nothing herein shall be construed to prevent any hotel or restaurant holding a retail alcoholic beverage license from permitting checks or statements for liquor to be signed by regular guests residing in the said hotel and charged to the accounts of such guests. (Neb. Rev. Stat. §53-183)

SECTION 5-119: SPIKING BEER

It shall be unlawful for any person or persons owning, managing, or leasing any premises in which the sale of alcoholic beverages is licensed to serve or offer for sale any beer to which there has been added any alcohol or permit any person or persons to add alcohol to any beer on the licensed premises of such licensee. (Neb. Rev. Stat. §53-174)

SECTION 5-120: ORIGINAL PACKAGE

It shall be unlawful for any person or persons owning, managing, or leasing any premises in which the sale of alcoholic beverages is licensed to have in their possession for sale at retail any alcoholic liquors contained in bottles, casks, or other con-

tainers except in the original package. (Neb. Rev. Stat. §53-184)

SECTION 5-121: MINORS AND INCOMPETENTS

It shall be unlawful for any person or persons to sell, give away, dispose of, exchange, permit the sale of or make a gift of any alcoholic liquors or to procure any such alcoholic liquors to or for any minor or to any person who is mentally incompetent. (Neb. Rev. Stat. §53-180) (Am. by Ord. No. 234, 10/6/80)

SECTION 5-122: MINOR'S PRESENCE

It shall be unlawful for any person or persons who own, manage, or lease an establishment selling alcoholic beverages at retail to allow any minor under the age of 18 years to frequent or otherwise remain in the said establishment unless the said minor is accompanied by a parent or legal guardian and unless said minor remains seated with and under the immediate control of the said parent or legal guardian. (Neb. Rev. Stat. §53-147)

SECTION 5-123: INSPECTION

The City Council shall cause frequent inspection to be made on the premises of all retail licensees. If it is found that any such licensee is violating any provision of this article, the Nebraska Liquor Control Act, or the rules and regulations of the Nebraska Liquor Control Commission or is failing to observe in good faith the purposes of this article or the act, the license may be suspended, canceled, or revoked after the licensee is given an opportunity to be heard in his/her defense. (Neb. Rev. Stat. §53-116.01) (Ord. No. 237, 10/6/80) (Am. by Ord. No. 596, 2/7/05)

SECTION 5-124: CITIZEN COMPLAINTS

Any five residents of the City shall have the right to file a complaint with the City Council stating that any retail licensee subject to the jurisdiction of the City Council has been or is violating any provision of the Nebraska Liquor Control Act or the rules or regulations issued pursuant to the Act. Such complaint shall be in writing in the form prescribed by the City Council and shall be signed and sworn to by the parties complaining. The complaint shall state the particular provision, rule, or regulation believed to have been violated and the facts in detail upon which belief is based. If the City Council is satisfied that the complaint substantially charges a violation and that from the facts alleged there is reasonable cause for such belief, it shall set the matter for hearing within 10 days from the date of the filing of the complaint and shall serve notice upon the licensee of the time and place of such hearing and of the particular charge in the complaint. The complaint shall in all cases be disposed of by the City Council within 30 days from the date the complaint was filed by resolution thereof, which resolution shall be deemed the final order for purposes of appeal to the Nebraska Liquor Control Commission as provided in Neb. Rev. Stat. §53-1,115. (Neb.

SECTION 5-126: REMOVAL OF INTOXICATED PERSONS FROM PUBLIC OR QUASI-PUBLIC PROPERTY

A. Any law enforcement officer with the power to arrest for traffic violations may take a person who is intoxicated and in the judgment of the officer dangerous to himself, herself, or others or who is otherwise incapacitated from any public or quasi-public property. An officer removing an intoxicated person from public or quasi-public property shall make a reasonable effort to take such intoxicated person to his/her home or to place such person in any hospital, clinic, alcoholism center or with a medical doctor as may be necessary to preserve life or to prevent injury. Such effort at placement shall be deemed reasonable if the officer contacts those facilities or doctors who have previously represented a willingness to accept and treat such individuals and which regularly do accept such individuals. If such efforts are unsuccessful or are not feasible, the officer may then place such intoxicated person in civil protective custody, except that civil protective custody shall be used only as long as is necessary to preserve life or to prevent injury and under no circumstances longer than 24 hours. The placement of such person in civil protective custody shall be recorded at the facility or jail at which he/she is delivered and communicated to his/her family or next of kin, if they can be located, or to such person designated by the person taken into civil protective custody.

B. The law enforcement officer who acts in compliance with this section shall be deemed to be acting in the course of his/her official duty and shall not be criminally or civilly liable for such actions. The taking of an individual into civil protective custody under this section shall not be considered an arrest. No entry or other record shall be made to indicate that the person has been arrested or charged with a crime.

C. For purposes of this section, "public property" shall mean any public right-of-way, street, highway, alley, park, or other state, county, or city-owned property. For the purposes of this section, "quasi-public property" shall mean and include private or publicly-owned property utilized for proprietary or business uses which invites patronage by the public or which invites public ingress and egress.

(Neb. Rev. Stat. §53-1,121) (Am. by Ord. No. 257, 9/8/81)

Article 2 – Peddlers and Solicitors

SECTION 5-201: REGULATION

All peddlers and solicitors shall, before doing business within the City, make application for and be issued a permit. Application for said permit shall be made to the city clerk and shall contain all the necessary information and documents required for the protection of the residents of the City. Any person or persons granted a peddlers' and solicitors' permit shall be subject to any fees, occupation taxes, and other rules and regulations which the City Council deems appropriate for the purposes stated herein. Any permit so granted shall be subject to revocation for good and sufficient cause by the city police. (Neb. Rev. Stat. §17-134. 17-525)

SECTION 5-202: APPLICATION

Applicants for a permit shall file with the city clerk a written, sworn application signed by the applicant showing:

A. The name or names of the person or persons having the management or supervision of the applicant's business during the time that it is proposed to be carried on in the City; the local address or addresses of such person or persons while engaged in such business; the permanent address or addresses of such person or persons; the capacity in which such person or persons will act (that is, whether as proprietor, agent, or otherwise); the name and address of the person, firm, or corporation for whose account the business will be carried on, if any; and if a corporation, under the law of what state the same is incorporated.

B. The place or places in the City where it is proposed to carry on applicant's business and the length of time during which it is proposed that such business will be conducted.

C. A statement of the nature of merchandise to be sold or offered for sale.

D. A brief statement of the nature of the advertising done or proposed to be done in order to attract customers.

E. Credentials from the person for whom the applicant proposes to do business, authorizing the applicant to act as such representative.

F. Such other reasonable information as to the identity or character of the person or persons having the management or supervision of the applicant's business or the method or plan of doing such business as the city clerk may deem proper.

SECTION 5-203: HOURS OF SOLICITATION

It shall be unlawful for any solicitor, salesperson, or peddler to solicit any individual

between the hours of 5:00 p.m. and 9:00 a.m. unless they have a previous appointment with the resident or residents of the premises solicited. It shall be unlawful at any hour for a solicitor, salesperson, or peddler to solicit without a proper permit on his/her person at all times. (Neb. Rev. Stat. §17-134)

SECTION 5-204: EXCEPTIONS

Nothing herein shall be construed to apply to any person or persons selling produce raised within the county, to wholesale salespeople soliciting merchants directly, or to representatives of a non-profit or charity organization soliciting on behalf of that organization.

Article 3 – Amusements

SECTION 5-301: PUBLIC DANCE; SUPERVISION

Any person or persons who sponsor or manage a public dance are hereby required to provide for proper policing and supervision of such dance and enforcement of all city and state laws. The supervising officials shall be approved by the City Council and, in the discretion of the Council, may be city police officers. Such officials shall be entitled to compensation for their services at each dance. Said compensation shall be paid by the person or persons conducting the public dance.

SECTION 5-302: BINGO; APPLICATION, PERMIT, RENEWAL

Games of bingo shall be conducted within the City in accordance with all laws of the City and the State of Nebraska if the said game of bingo is played for or involves profit or gain. Any association duly licensed by the State to conduct the game of bingo shall obtain a written permit from the City Council before commencing operation of said game. Application shall be made to the city clerk for such permit. Said application form shall contain such information and documents or copies thereof as the City Council deems necessary to determine whether to grant or reject the application. Upon the determination that granting the application would be proper, the City Council shall immediately direct the city clerk to issue the said license to the applicant upon the payment of an annual permit fee which shall be credited to the General Fund. Said license shall be subject to revocation. The permit shall be on display at any place where a game of bingo is conducted. Any person or persons so licensed shall be subject to any other fees, rules, and regulations which the City Council may designate. All permits so issued will automatically expire on September 30 following their issuance or renewal. There shall be a fee for each renewal. Such permit fees, both initial and renewal, shall be set by the City Council and placed on file in the office of the city clerk for public inspection during office hours. (Neb. Rev. Stat. §9-166) (Am. by Ord. No. 312, 9/4/84)

SECTION 5-303: BINGO; INCORPORATED REGULATION

All applicable state statutes as they now exist or may hereafter be amended shall be and will constitute a part of this article as if repeated verbatim herein, and violation of any state statute will be a distinct and separate offense against the City as well as against the State. Violators thereof shall be separately prosecuted by the City for each of such offenses and if convicted shall be deemed to be guilty of a misdemeanor. (Neb. Rev. Stat. §9-101 through 9-123)

Article 4 – Occupation Taxes and Sales Tax

SECTION 5-401: OCCUPATION TAXES; AMOUNTS

For the purpose of raising revenue, occupations subject to taxes and the amounts of such taxes shall be established by ordinance from time to time by the mayor and City Council. Said ordinance shall be on file in the office of the city clerk and shall be available for public inspection during office hours.

SECTION 5-402: OCCUPATION TAXES; FIRE INSURANCE COMPANIES

For the use, support, and maintenance of the Fire Department all revenue realized from the occupation tax on fire insurance companies shall be appropriated to the Fire Department Fund. (Neb. Rev. Stat. §35-106)

SECTION 5-403: OCCUPATION TAXES; COLLECTION DATE

All occupation taxes shall be due and payable on May 1 each year, except in the event that the said tax is levied daily, and upon the payment thereof to the city clerk by any person or persons, the said clerk shall give a receipt, properly dated and specifying the person paying the said tax and the amount paid; provided, occupation taxes collected from Class C liquor licensees shall be due and payable on November 1. The revenue collected shall then be given to the City's General Fund. The city treasurer shall keep an accurate account of all revenue turned over to him/her. All forms and receipts herein mentioned shall be issued in duplicate. One copy shall then be kept by each party in the transaction. (Neb. Rev. Stat. §53-124) (Am. by Ord. No. 244, 12/10/80)

SECTION 5-404: SALES TAX

A. Pursuant to the approval by the electors of the City at the general election held on November 2, 2004, there is hereby adopted, pursuant to the provisions of Neb. Rev. Stat. §77-2701 to 77-27,135.01 and 77-27,222, as amended, also known as the Nebraska Revenue Act of 1967, and Neb. Rev. Stat. §77-27,142 to 77-27,148, as amended, also known as the Local Option Revenue Act of 1969, a sales and use tax effective on and after July 1, 2005, of 1%, as the same may from time to time be extended, upon the same transactions within the corporate limits of the City of Elgin on which the State of Nebraska is authorized to impose a tax, pursuant to the provisions of the aforementioned state statutes as the same may from time to time be amended.

B. Pursuant to Resolution 2004-2, the proceeds of said tax shall be used as follows:

1. 5% to economic development;
2. 20% to street, water and sewer projects;

3. 20% to youth, park and pool projects;
4. 25% to fire and rescue projects;
5. 30% to daily operations.

C. Pursuant to Neb. Rev. Stat. §77-27,146, as amended, any proceeds from the above-mentioned tax shall be deposited into the General Fund upon receipt by the city clerk.

D. The state tax commissioner shall administer the sales and use tax imposed by this ordinance, the making of returns for the ascertainment and assessment of the taxes so imposed, the provisions for tax claims and remedies, the laws governing consummation of sales, any penalties and collection, and the disposition and distribution of the said taxes.

(Ord. No. 588, 12/6/04)

Article 5 – Tobacco

SECTION 5-501: LICENSE; APPLICATION, FEE

Every person, partnership, limited liability company, or corporation desiring a license to sell tobacco at retail shall file with the city clerk a written application on forms provided by the City, stating the name of the person, partnership, limited liability company, or corporation for whom the license is desired and the exact location of the place of business and shall deposit with the application a license fee which shall be set by the City Council and placed on file in the office of the city clerk. If the applicant is an individual, the application shall include the applicant's social security number. (Neb. Rev. Stat. §28-1422, 28-1423) (Ord. No. 524, 9/8/98)

Article 6 – Fair Housing Regulations

SECTION 5-601: PURPOSE

The purpose of this article is to promote the general welfare of the residents of Elgin by endorsing the provisions of the Nebraska Fair Housing Act, Neb. Rev. Stat. §20-301 through 23-344, to the effect that there shall be no discrimination in the City of Elgin in the acquisition, ownership, possession or enjoyment of housing in accordance with Article I, Section 25, of the Constitution of the State of Nebraska.

SECTION 5-602: DEFINITIONS

As used in this article, unless the context otherwise requires:

“Aggrieved person” shall include any person who:

- A. Claims to have been injured by a discriminatory housing practice; or
- B. Believes that he/she will be injured by a discriminatory housing practice that is about to occur;

“Commission” shall mean the Nebraska Equal Opportunity Commission;

“Dwelling” shall mean any building, structure or portion thereof which is occupied as or designed or intended for occupancy as a residence for one or more families and any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure or portion thereof;

“Familial status” shall mean one or more minors being domiciled with:

- A. A parent or another person having legal custody of such individual; or
- B. The designee of a parent or other person having legal custody, with written permission of the parent or other person;

“Handicap” shall mean, with respect to a person:

- A. A physical or mental impairment, excluding the current illegal use of or addiction to a controlled substance as defined in Neb. Rev. Stat. §28-401, which substantially limits one or more of such person's major life activities,
- B. A record of having such an impairment, or
- C. Being regarded as having such an impairment;

“Person” shall include one or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, receivers and fiduciaries;

“Rent” shall include lease, sublease, let, and otherwise grant for consideration the right to occupy premises not owned by the occupant; and

“Restrictive covenant” shall mean any specification limiting the transfer, rental or lease of any housing because of race, creed, religion, color, national origin, sex, handicap, familial status or ancestry.

SECTION 5-603: UNLAWFUL ACTS

A. Except as exempted by Section 6-107, it shall be unlawful to:

1. Refuse to sell or rent after the making of a bona fide offer, refuse to negotiate for the sale or rental of or otherwise make unavailable or deny, refuse to show, or refuse to receive and transmit an offer for a dwelling to any person because of race, color, religion, national origin, familial status or sex;
2. Discriminate against any person in the terms, conditions or privileges of sale or rental of a dwelling or in the provision of services or facilities in connection therewith because of race, color, religion, national origin, familial status or sex;
3. Make, print, publish, or cause to be made, printed or published any notice, statement or advertisement with respect to the sale or rental of a dwelling that indicates any preference, limitation or discrimination based on race, color, religion, national origin, handicap, familial status or sex or an intention to make any such preference, limitation or discrimination;
4. Represent to any person because of race, color, religion, national origin, handicap, familial status or sex that any dwelling is not available for inspection, sale or rental when such dwelling is in fact so available.
5. Cause to be made any written or oral inquiry or record concerning the race, color, religion, national origin, handicap, familial status or sex of a person seeking to purchase, rent or lease any housing;
6. Include any transfer, sale, rental or lease of housing any restrictive covenants or honor or exercise or attempt to honor or exercise any restrictive covenant pertaining to housing;
7. Discharge or demote an employee or agent or discriminate in the compensation of such employee or agent because of such employee's compliance with this article on the Nebraska Fair Housing Act; and
8. Induce or attempt to induce, for profit, any person to sell or rent any

dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, national origin, handicap, familial status or sex.

B. The protections afforded against discrimination on the basis of familial status shall apply to any person who is pregnant or is in the process of securing legal custody of any minor.

SECTION 5-604: HANDICAPPED PERSON; DISCRIMINATORY PRACTICES PROHIBITED; DESIGN AND CONSTRUCTION STANDARDS

A. Except as exempted by Section 5-607, it shall be unlawful to:

1. Discriminate in the sale or rental of or otherwise make unavailable or deny a dwelling to any buyer or renter because of a handicap of (a) the buyer or renter; (b) any person associated with the buyer or renter; or (c) a person residing in or intending to reside in the dwelling after it is so sold, rented or made available; or
2. Discriminate against any person in the terms, conditions or privileges of sale or rental of a dwelling or in the provision of services or facilities in connection with a dwelling because of a handicap of (a) such person; (b) any person associated with such person; or (c) a person residing in or intending to reside in the dwelling after it is so sold, rented or made available.

B. For purposes of this section, "discrimination" shall include:

1. A refusal to permit, at the expense of the handicapped person, reasonable modifications of existing premises occupied or to be occupied by the person if the modifications may be necessary to afford the person full enjoyment of the premises, except that in the case of rental, the landlord may, when it is reasonable to do so, condition permission for a modification on the renter agreeing to restore the interior of the premises to the condition that existed before the modification, reasonable wear and tear expected;
2. A refusal to make reasonable accommodations in rules, policies, practices or services when such accommodations may be necessary to afford the handicapped person equal opportunity to use or enjoy a dwelling; and
3. In connection with the design and construction of covered multi-family dwellings, a failure to design and construct the dwellings in such manner that:

- a. The public use and common use portions of the dwelling are readily accessible to and usable by handicapped persons;
- b. All the doors designed to allow passage into and within all premises within the dwellings are sufficiently wide to allow passage by handicapped persons in wheelchairs; and
- c. All premises within the dwellings contain the following features of adaptive design:
 - I. An accessible route into and through the dwelling;
 - II. Light switches, electrical outlets, thermostats, and other environmental controls in accessible locations;
 - III. Reinforcements in bathroom walls to allow later installation of grab bars; and
 - IV. Kitchens and bathrooms such that a handicapped person in a wheelchair can maneuver about the space.

C. Compliance with the appropriate requirements of the American National Standards Institute standard for buildings and facilities providing accessibility and usability for physically handicapped people, ANSI A117.1, shall satisfy the requirements of subdivision (B)(3)(c) of this section.

D. For purposes of this section, "covered multi-family dwellings" shall mean:

1. Buildings consisting of four or more units if such buildings have one or more elevators; and
2. Ground floor units in other buildings consisting of four or more units.

E. Nothing in this section shall require that a dwelling be made available to an individual whose tenancy would constitute a direct threat to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of others.

SECTION 5-605: TRANSACTION RELATED TO RESIDENTIAL REAL ESTATE; DISCRIMINATORY PRACTICES PROHIBITED

A. It shall be unlawful for any person or other entity whose business includes engaging in transactions related to residential estate to discriminate against any person in making available such a transaction because of race, color, religion, sex, handicap, familial status or national origin.

B. For purposes of this section, "transaction related to residential estate" shall

mean any of the following:

1. The making or purchasing of loans or providing other financial assistance (a) for purchasing, constructing, improving, repairing or maintaining a dwelling; (b) secured by residential real estate; or
2. The selling, brokering or appraising of residential real property.

C. Nothing in this section shall prohibit a person engaged in the business of furnishing appraisals of real property from taking into consideration factors other than race, color, religion, national origin, handicap, familial status or sex.

SECTION 5-606: MULTIPLE LISTING SERVICE; OTHER SERVICE; DISCRIMINATORY PRACTICES PROHIBITED

It shall be unlawful to deny any person access to or membership or participation in any multiple listing service, real estate brokers' organization or other service, organization or facility relating to the business of selling or renting dwellings or to discriminate against any person in the terms or conditions of such access, membership or participation on account of race, color, religion, national origin, handicap, familial status or sex.

SECTION 5-607: RELIGIOUS ORGANIZATION, PRIVATE HOME, PRIVATE CLUB, OR HOUSING FOR OLDER PERSONS; RESTRICTING USE NOT PROHIBITED

A. Nothing in this article shall prohibit a religious organization, association or society or any nonprofit institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association or society from limiting the sale, rental or occupancy of a dwelling which it owns or operates, for other than commercial purposes, to persons of the same religion or from giving preferences to such persons unless membership in such religion is restricted on account of race, color, national origin, handicap, familial status or sex.

B. Nothing in this article shall prohibit a private club not in fact open to the public, which as an incident to its primary purpose or purposes provides lodgings which it owns or operates for other than commercial purposes, from limiting the rental or occupancy of such lodging to its members or from giving preference to its members.

C. Nothing in this article shall prohibit or limit the right of any person or his/her authorized representative to refuse to rent a room or rooms in his/her own home for any reason or for no reason or to change tenants in his/her own home as often as desired, except that this exception shall not apply to any person who makes available for rental or occupancy more than four sleeping rooms to a person or family within his/her home.

D. Nothing in this article regarding familial status shall apply with respect to housing for older persons. For purposes of this subsection, "housing for older persons" shall mean housing:

1. Provided under any state program that the commission determines is specifically designed and operated to assist elderly persons or defined in the program;
2. Intended for and solely occupied by persons 62 years of age or older; or
3. Intended and operated for occupancy by at least one person 55 years of age or older per unit.

SECTION 5-608: INFORMATION

The city clerk, upon request, shall make available to an aggrieved person or any other person information regarding the Nebraska Fair Housing Act and the Nebraska Equal Opportunity Commission without cost to such individual. (Neb. Rev. Stat. §20-301 through 20-322)

Article 7 – Penal Provision

SECTION 5-701: VIOLATION; PENALTY

Any person, or any person's agent or servant, who violates any of the provisions of this chapter, unless otherwise specifically provided herein, shall be deemed guilty of an offense and upon conviction thereof shall be fined in any sum not exceeding \$500.00. A new violation shall be deemed to have been committed every 24 hours of failure to comply with the provisions of this chapter. (Neb. Rev. Stat. §17-505, 18-1720, 18-1722) (Am. by Ord. No. 543, 8/7/00)

CHAPTER 6 – PUBLIC WAYS AND PROPERTY

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CHAPTER 6 – PUBLIC WAYS AND PROPERTY

Article 1 – Municipal Property

SECTION 6-101: DEFINITION

The following definition shall be applied throughout this chapter. When no definition is specified, the normal dictionary usage of the word shall apply.

"Sidewalk space" as used herein shall mean that portion of a street between curb lines and adjacent property lines.

SECTION 6-102: MAINTENANCE AND CONTROL

The City Council shall have the care, supervision, and control of all public highways, bridges, streets, alleys, public squares, and commons within the City and shall cause the same to be kept open, in repair, and free from nuisances. (Neb. Rev. Stat. §17-567)

SECTION 6-103: OBSTRUCTIONS

Trees and shrubs growing upon or near the lot line or upon public ground and interfering with the use or construction of any public improvements shall be deemed an obstruction under this article. Said trees, shrubs and their roots may be removed by the City at the expense of the owner of the property upon which the tree or shrub is located should the owner fail or neglect to do so after notice. It shall be unlawful for any person, persons, firm, or corporation to obstruct, or encumber by fences, gates, buildings, structures, or otherwise, any of the streets, alleys, or sidewalks. (Neb. Rev. Stat. §17-557.01)

SECTION 6-104: EAVES AND GUTTER SPOUTS

It is hereby declared unlawful for any person to erect or maintain any dwelling house or business building within the limits of the City where the said dwelling or building abuts on any sidewalk or street without providing proper guttering and eave spouts to receive the waste waters that collect on the said sidewalks and streets. All eave spouts erected on any dwelling house or business building shall be constructed to drain into the alleys or shall be buried beneath the sidewalks and drain into the streets where it is found to be impossible to drain said eave spouts into the alley.

SECTION 6-105: HEAVY EQUIPMENT

A. It shall hereafter be unlawful for any person or persons to move or operate heavy equipment across any curb, gutter, bridge, culvert, sidewalk, crosswalk or crossing on any unpaved street without first having protected such structure with heavy plank sufficient in strength to warrant against the breakage or damage of the same. Hereafter, it shall be unlawful to drive, move, operate or convey over or across

any paved street a vehicle, machine or implement with sharp discs or sharp wheels that bear upon said pavement; with wheels having cutting edges; with wheels having lugs, protruding parts or bolts thereon that extend beyond a plain tire so as to cut, mark, mar, indent or otherwise injure or damage any pavement, gutter or curb.

B. Where heavy vehicles, structures, and machines move along paved or unpaved streets, the City Council is hereby authorized and empowered to choose the route over which the moving of such vehicles, structures or machines will be permitted and allowed.

C. It shall be permissible (1) for school buses and emergency vehicles to use metal or metal-type studs any time of the year; (2) to use farm machinery with tires having protuberances which will not damage the streets; and (3) to use tire chains of reasonable proportions upon any vehicle when required for safety because of snow, ice, or other conditions tending to cause a vehicle to slide or skid.

(Neb. Rev. Stat. §60-6,250)

SECTION 6-106: REAL PROPERTY; ACQUISITION; AUTHORITY

When acquiring an interest in real property by purchase or eminent domain, the City shall do so only after the City Council has authorized the acquisition by action taken in a public meeting after notice and public hearing. (Neb. Rev. Stat. §18-1755) (Ord. No. 455, 3/6/95)

SECTION 6-107: REAL PROPERTY; ACQUISITION; APPRAISAL

The City shall not purchase, lease-purchase, or acquire for consideration real property having an estimated value of \$100,000.00 or more unless an appraisal of such property has been performed by a certified real estate appraiser. (Neb. Rev. Stat. §13-403) (Ord. No. 456, 3/6/95)

SECTION 6-108: REAL PROPERTY; CONSTRUCTION; ELECTIONS, WHEN REQUIRED

A. The City is authorized and empowered to (1) purchase, (2) accept by gift or devise, (3) purchase real estate upon which to erect, and (4) erect a building or buildings for an auditorium, fire station, city building, or community house for housing city enterprises and social and recreation purposes and other public buildings and to maintain, manage, and operate the same for the benefit of the inhabitants of the City.

B. Except as provided in subsection (C) of this section, before any such purchase can be made or building erected, the question shall be submitted to the electors of the City at a general city election or at an election duly called for that purpose, or as set forth in Neb. Rev. Stat. §17-954, and be adopted by a majority of the electors voting on such question.

C. If the funds to be used to finance the purchase or construction of a building pursuant to this section are available other than through a bond issue, then either:

1. Notice of the proposed purchase or construction shall be published in a newspaper of general circulation in the City and no election shall be required to approve the purchase or construction unless within 30 days after the publication of the notice, a remonstrance against the purchase or construction is signed by registered voters of the City equal in number to 15% of the registered voters of the City voting at the last regular city election held therein and is filed with the City Council. If the date for filing the remonstrance falls upon a Saturday, Sunday, or legal holiday, the signatures shall be considered timely if filed or postmarked on or before the next business day. If a remonstrance with the necessary number of qualified signatures is timely filed, the question shall be submitted to the voters of the City at a general city election or a special election duly called for that purpose. If the purchase or construction is not approved, the property involved shall not then nor within one year following the election be purchased or constructed; or
2. The City Council may proceed without providing the notice and right of remonstrance required in subdivision (1) of this subsection if the property can be purchased below the fair market value as determined by an appraisal, there is a willing seller, and the purchase price is less than \$25,000.00. The purchase shall be approved by the City Council after notice and public hearing as provided in Neb. Rev. Stat. §18-1755.

(Neb. Rev. Stat. §17-953, 17-953.01) (Ord. No. 256, 9/8/81) (Am. by Ord No. 476, 2/5/96)

SECTION 6-109: REAL PROPERTY; SALE AND CONVEYANCE

A. The power of the City Council to convey any real property owned by it, including land used for park purposes and public squares, except real property used in the operation of public utilities, shall be exercised by resolution, directing the sale at public auction or by sealed bid of such real property and the manner and terms thereof, except that such real property shall not be sold at public auction or by sealed bid when (1) such property is being sold in compliance with the requirements of federal or state grants or programs; (2) such property is being conveyed to another public agency; or (3) such property consists of streets and alleys. The City Council may establish a minimum price for such real property at which bidding shall begin or shall serve as a minimum for a sealed bid.

B. After the passage of the resolution directing the sale, notice of all proposed sales of real property described in subsection (A) of this section and the terms thereof shall be published once each week for three consecutive weeks in a legal newspaper published in or of general circulation in the City; provided, if a remonstrance against such sale, signed by registered voters thereof equal in number to 30% of the registered voters of the City voting at the last regular city election held therein, be

filed with the City Council within 30 days after the third publication of the notice, such property shall not then nor within one year thereafter be sold. If the date for filing the remonstrance falls upon a Saturday, Sunday, or legal holiday, the signatures shall be collected within the 30-day period but the filing shall be considered timely if filed or postmarked on or before the next business day. Real estate now owned or hereafter owned by the City may be conveyed without consideration to the State of Nebraska for state armory sites or, if acquired for state armory sites, such property shall be conveyed strictly in accordance with the conditions of Neb. Rev. Stat. §18-1001 to 18-1006.

C. Following passage of the resolution directing a sale, publishing of the notice of the proposed sale, and passing of the 30-day right of remonstrance period, the property shall then be sold. Such sale shall be confirmed by passage of an ordinance stating the name of the purchaser and terms of the sale. The city clerk shall, upon passage of such ordinance, certify the name of the purchaser to the register of deeds of the county in which the property is located.

(Neb. Rev. Stat. §17-503, 17-503.01) (Ord. No. 442, 6/6/94)

SECTION 6-110: PERSONAL PROPERTY; SALE AND CONVEYANCE

In order to sell personal property owned by the City, the City Council shall adopt a resolution directing the sale and the manner and terms of the sale. Following passage of the resolution directing the sale of the property, notice of the sale shall be posted in three prominent places within the City for a period of not less than seven days prior to the sale of the property. If the fair market value of the property is greater than \$5,000.00, notice of the sale shall also be published once in a legal newspaper in or of general circulation in such city at least seven days prior to the sale of the property. The notice shall give a general description of the property offered for sale and state the terms and conditions of sale. When such personal property is being sold in compliance with the requirements of federal or state grants or programs or conveyed to another public agency, the notice procedure set forth above may be dispensed with. (Neb. Rev. Stat. §17-503.02)

SECTION 6-111: SPECIAL IMPROVEMENT DISTRICT; ASSESSMENT AND CREATION PROCEDURE

The City Council may, by ordinance, create a special improvement district for the purpose of replacing, reconstructing, or repairing an existing water line, sewer line, or any other such improvement. Except as provided in Neb. Rev. Stat. §19-2428 to 19-2431, the City Council shall have power to assess, to the extent of such benefits, the costs of such improvements upon the properties found especially benefited thereby, whether or not such properties were previously assessed for the same general purpose. In creating such special improvement district, the City Council shall follow procedures applicable to the creation and assessment of the same type of improvement district as otherwise provided by law. (Neb. Rev. Stat. §18-1751) (Ord. No. 345, 10/5/87)

SECTION 6-112: IMPROVEMENT DISTRICT; LAND ADJACENT

Supplemental to any existing law on the subject, a city may include land adjacent to such city when creating an improvement as a sewer, water, water extension, or sanitary sewer extension district. The City Council shall have power to assess, to the extent of special benefits, the costs of such improvements upon the properties found especially benefited thereby, except as provided in Section 6-113. (Neb. Rev. Stat. §19-2427) (Ord. No. 346, 10/5/87)

SECTION 6-113: DEFERRAL FROM SPECIAL ASSESSMENTS

A. Whenever the City Council creates an improvement district as specified in Section 6-111 which includes land adjacent to the City which is within an agricultural use zone and is used exclusively for agricultural use, the owners of record title of such adjacent land may apply for a deferral from special assessments. For purposes of this section, the terms “agricultural use” and “agricultural use zone” shall have the meanings specified in Neb. Rev. Stat. §77-1343.

B. Any owner of record title eligible for the deferral granted by this section shall, to secure such assessment, make application to the City Council within 90 days after creation of an improvement district as specified in Section 6-111. Any owner of record title who makes application for the deferral provided by this section shall notify the county register of deeds of such application in writing prior to approval by the City Council. The Council shall approve the application of any owner of record title upon determination that the property is within an agricultural use zone and is used exclusively for agricultural use, and the owner has met the requirements of this section.

C. The deferral provided for in this section shall be terminated upon any of the following events:

1. Notification by the owner of record title to the City Council to remove such deferral;
2. Sale or transfer to a new owner who does not make a new application within 60 days of the sale or transfer, except as provided in subdivision (C)(3) of this section.
3. Transfer by reason of death of a former owner to a new owner who does not make application within 125 days of the transfer;
4. The land is no longer being used as agricultural land; or
5. Change of zoning to other than an agricultural zone.

D. Whenever property which has received a deferral pursuant to this section becomes disqualified for such deferral, the owner of record title of such property shall pay to the City an amount equal to:

1. The total amount of special assessments which would have been assessed against such property, to the extent of special benefits, had such deferral not been granted; and
2. Interest upon the special assessments not paid each year at the rate of 6% from the dates at which such assessments would have been payable if no deferral had been granted.

E. In cases where the deferral provided by this section is terminated as a result of a sale or transfer described in subdivision (C)(2) or (3) of this section, the lien for assessments and interest shall attach as of the day preceding such sale or transfer.

(Neb. Rev. Stat. §19-2428 through 19-2431)(Ord. No. 347, 10/5/87)

SECTION 6-114: EMINENT DOMAIN; PROCEDURE

The City Council may, after negotiations in good faith have failed, bring condemnation actions for the acquisition of property within the City. Such procedure shall be prescribed by state law and damages shall be paid to the condemnee according to the provisions therein. (Neb. Rev. Stat. §76-701 thru 76-726)

Article 2 – Streets

SECTION 6-201: GENERAL GRANT OF POWER

The City shall have power to create, open, widen, extend or otherwise improve any street, avenue, alley, lane, off-street parking area, or other public way or to annul, vacate, or discontinue the same. (Neb. Rev. Stat. §17-558, 17-559)

SECTION 6-202: NAMES AND NUMBERS

Each house, residence or business and each unimproved lot shall be assigned a number which, along with the named street, shall represent each house, business or empty lot street address. The city clerk and the street commissioner shall assign a house number to each house and business on each street presently platted within the city limits and note each house number and street address on a plat to be available for all persons wishing to inspect such plat during regular city office hours. It shall be the duty of the street commissioner, upon the erection of any new building or buildings, to assign the proper numbers to said building or buildings and give notice to the owner or owners and occupant or occupants of the same. (Am. by Ord. No. 385, 9/4/90)

SECTION 6-203: DRIVING STAKES

It shall be unlawful for any person to drive any peg or stake of any kind into the pavement in any street or alley without first procuring the written consent of the street commissioner.

SECTION 6-204: MIXING CONCRETE

It shall be unlawful for any person to mix any concrete or plastering material directly on the street pavement for any reason whatsoever.

SECTION 6-205: HARMFUL LIQUIDS

It shall be unlawful for any person to place or permit to leak any waste gasoline, kerosene, or high lubricating oils in the gutter of any street, which damage or act as a solvent upon said streets.

SECTION 6-206: PUBLIC SERVICE COMPANIES; POLES, WIRES, ETC.

A. Poles, wires, gas mains, pipelines, and other appurtenances of public service companies shall be located or erected over, upon, or under the streets, alleys, and common grounds after a proper application shall have been made to the city clerk in writing and permission in writing shall have been given by the City Council. Public service companies heretofore or hereafter granted right of way for the erection and maintenance of such appurtenances for the purpose of transacting their busi-

ness upon, under, or over the streets, alleys, and public grounds shall at all times, when requested by the City Council, erect, locate, or relocate their said appurtenances to such places and in such manner as shall be designated by the Council. Such appurtenances shall be removed or relocated by said companies at their own expense when requested to do so by the City Council.

B. Whenever it becomes necessary for the Council to request such relocation for the public safety and convenience, it shall order said relocation by resolution and the city clerk shall notify any company or companies affected. Said companies shall, within 24 hours after receiving notice, at their own expense, cause the poles, wires, gas mains, pipe lines, or other appurtenances to be removed. The City Council shall designate another location as close as possible where said appurtenances may be reset or placed. All appurtenances shall be reset, placed, or erected in such manner that they will not interfere with the water system, sewer system, or poles, wires, and mains of any public utility located on the same street or alley or with travel or buildings constructed or hereafter to be constructed. Whenever possible, all poles, lines, wires, gas mains, pipelines, or appurtenances shall be confined to the alleys of the City.

SECTION 6-207: CUTTING CURB; DRIVEWAY APPROACHES

A. It shall be unlawful for any person to cut into any paving, curb, or sidewalk for the purpose of constructing a driveway or any other purpose whatsoever without first having obtained approval from the City Council and special engineer. Before any person shall obtain such approval, he shall inform the city clerk of the place where such cutting is to be done and it shall be the street commissioner's duty to inspect the place of entry into the paving, sidewalk, or curb before the same is cut. When cutting into any paving, it shall be the duty of the applicant to cut the paving under such rules and regulations as may be prescribed by the City Council or the city engineer. When the applicant is ready to close the opening made, he shall inform the chief street official, who shall supervise and inspect the materials used and the work done in closing the opening. It shall be discretionary with the City Council to order the chief street official, under the supervision and inspection of the city engineer or the committee of the City Council on streets and alleys, to do the work of cutting and closing the paving and charge the costs thereof to the party who obtained such approval. The City Council may consent to the work of cutting and closing the paving to be done by the party granted such approval.

B. The street commissioner may require the owner of property served by a drive-way approach constructed or maintained upon the street right-of-way to repair or replace any such approach which is cracked, broken, or otherwise deteriorated to the extent that it is causing or is likely to cause damage to or interfere with any street structure including pavement or sidewalks. The city clerk shall give the property owner notice by registered letter or certified mail, directed to the last known address of such owner or the agent of such owner, directing the repair or replacement of such driveway approach. If within 30 days of mailing such notice the property owner fails

or neglects to cause such repairs or replacements to be made, the street commissioner may cause such work to be done and assess the cost upon the property served by such approach.

(Neb. Rev. Stat. §18-1748) (Ord. No. 310, 9/4/84)

SECTION 6-208: STANDING VEHICLES ON PUBLIC HIGHWAY RIGHT OF WAY

It shall be unlawful for any filling station, service station or other business establishment located on Nebraska Highway 14 between Nebraska Highway 70 and the north corporate limits to be located in such a way that vehicles being served will be required to stand on the public highway right of way. (Ord. No. 605, 8/7/06)

SECTION 6-209: ENTERING AND EXITING PRIVATE PROPERTY ONTO PUBLIC HIGHWAY RIGHT OF WAY

It shall be unlawful for any new entrance or exit from private property to the public highway right of way on Nebraska Highway 14 between Nebraska Highway 70 and the north corporate limits to be constructed without prior approval of the State of Nebraska Department of Roads. The decision to allow such entrance or exit shall be by made by the Department of Roads or its authorized representative in its/his sole discretion. (Ord. No. 605, 8/7/06)

SECTION 6-210: CONSTRUCTION NOTICE

The City Council shall notify the owners in fee simple of real estate abutting a street, alley, or a part thereof which is to be put under contract for paving or repaving. Notice shall also be given to all gas, electric service, and telephone companies. Notice shall also be given to all consumers of gas, water, and sewer services which will be discontinued during such construction. Said notice shall be published one time in a legal newspaper at least 20 days prior to the beginning of such construction by the party undertaking such construction and said notice shall state at what date connections must be made and excavation completed. All gas, water, sewer and underground connections must be made prior to the paving or repaving of the street under construction. After expiration of such time, permits for excavation will not be issued nor will excavation be allowed until after the completion of the pavement in said street or alley and the formal final acceptance thereof by the proper officials of the City.

SECTION 6-211: PETITION FOR IMPROVEMENTS

Whenever a petition signed by the owners of record title representing more than 60% of the front footage of the property directly abutting upon the street, streets, alley, alleys, public way, or the public grounds proposed to be improved shall be presented and filed with the city clerk, petitioning therefor, the City Council shall by ordinance create a paving, graveling, or other improvement district or districts and shall cause such work to be done or such improvement to be made, contracting therefor and levying assessments on the lots and parcels of land abutting on or adjacent to such

street, streets, alley, or alleys especially benefited thereby in such district in proportion to such benefits to pay the cost of such improvement. The City Council shall have the discretion to deny the formation of the proposed district when the area has not previously been improved with a water system, sewer system, and grading of streets. If the City Council should deny a requested improvement district formation, it shall state the grounds for such denial in a written letter to interested parties. (Neb. Rev. Stat. §17-510) (Ord. No. 225, 10/1/79) (Am. by Ord. No. 288, 9/6/83)

SECTION 6-212: VACATING PUBLIC WAYS

A. Whenever the City Council decides that it would be in the best interests of the City to vacate a street, avenue, alley, lane, or similar public way, the Council shall comply with the following procedure:

1. Notice shall be given to all abutting property owners either by first class mail to their last known address or, if there is no known address, then by publishing the notice in a newspaper that is of general circulation in the City. The content of the notice shall advise the abutting property owners that the City Council will consider vacating such street, avenue, alley, lane, or similar public way at its next regular meeting or, if a special meeting is scheduled for such discussion, then the date, time, and place of such meeting.
2. The City Council may have all the abutting property owners sign a form stating that they consent to the action being taken by the Council and waive their right of access. The signing of such form shall have no effect on claims for special damages by the abutting property owners but shall create the presumption that the City Council's action was proper. If the abutting property owners do not sign the consent/waiver form, the Council may still proceed with vacating the street, avenue, alley, lane, or similar public way under the authority granted by Neb. Rev. Stat. §17-558 and 17-559.
3. The City Council shall pass an ordinance that includes essentially the following provisions: (a) a declaration that the action is expedient for the public good or in the best interests of the City; (b) a statement that the City will have an easement for maintaining all utilities; and (c) a method or procedure for ascertaining special damages to abutting property owners.

B. The mayor shall appoint three or five or seven disinterested residents of the City to a special commission to ascertain the amount of special damages that the abutting property owners are entitled to receive and which resulted from the City Council vacating the street, avenue, alley, lane, or similar public way. The appointees of the special commission shall be approved by the Council. Only special damages shall be awarded to the abutting property owners.

C. In determining the amount of compensation to award the abutting property owners as special damages, the commission shall use the following rule:

An abutting property owner is entitled to recover as compensation the difference between the value of the property immediately before and immediately after the vacating of such street, avenue, alley, lane, or similar public way. If no difference in value exists, the abutting property owner is entitled to no compensation.

D. "Special damages" shall mean only those losses or damages or injuries which a property owner suffers that are peculiar or special or unique to his/her property and which result from the City Council's vacation of a street, avenue, alley, lane, or similar public way. "Special damages" shall not mean those losses or damages or injuries that a property owner suffers that are in common with the rest of the City or public at large, even though those losses or damages or injuries suffered by the property owner are greater in degree than the rest of the City or public at large.

(Ord. No. 330, 10/6/86) (Am. by Ord. No. 567, 5/6/02)

SECTION 6-213: VACATING STREETS OR ALLEYS; TITLE

A. Upon the vacation of any street or alley or any part thereof by the City, the title of such property shall vest in the owner of the abutting property and become part of such property, one-half on each side thereof, except that the City may reserve title to such property in the ordinance vacating such street or alley. If title is retained by the City, such property may be sold, conveyed, exchanged or leased upon such terms and conditions as shall be deemed in the best interest of the City.

B. In the event the City does not elect to reserve title in the vacated portion of such street or alley, the title to said property nonetheless shall be subject to the following:

1. There is reserved to the City the right to maintain, operate, repair, and renew public utilities existing at the time title to the property is vacated there; and
2. There is reserved to the City, any public utilities, and any cable television systems the right to maintain, repair, renew, and operate water mains, gas mains, pole lines, conduits, electrical transmission lines, sound and signal transmission lines, and other similar services and equipment and appurtenances, including lateral connections or branch lines, above, on, or below the surface of the ground that are existing as valid easements at the time title to the property is vacated for the purposes of serving the general public or the abutting properties and to en-

ter upon the premises to accomplish such purposes at any and all reasonable times.

(Neb. Rev. Stat. §17-558)

Article 3 – Sidewalks

SECTION 6-301: DUTY TO KEEP CLEAN

It shall be unlawful for the occupant of any lot or lots or the owner of any vacant lot or lots within the corporate limits to allow snow, sleet, mud, ice, or other substance to accumulate on the sidewalks or to permit any snow, sleet, ice, mud, or other substance to remain upon said sidewalk. All sidewalks within the business district shall be cleaned within five hours after the cessation of a storm unless the storm or fall of snow shall have taken place during the night, in which case the sidewalk shall be cleaned before 12:00 noon the following day; provided, sidewalks within the residential areas of the City shall be cleaned within 24 hours after the cessation of the storm. (Neb. Rev. Stat. §17-557)

SECTION 6-302: CONSTRUCTION BY OWNER

Any person desiring to construct or cause to be constructed any sidewalk shall do so only as herein provided. It shall be unlawful for any person to construct any sidewalk without first having obtained approval from the street commissioner. It shall be unlawful for any person to construct or cause to be constructed said sidewalk at any other location, grade, or elevation than so approved by the City. All sidewalks shall be built and constructed on the established grade or elevation and if there is no established grade, then on the grade or elevation indicated by the street commissioner.

SECTION 6-303: CONSTRUCTION BY PETITION

If the owners of the record title representing more than 60% of the front footage of the directly abutting property subject to assessment for sidewalk improvements petition the City Council to make the same, the Council shall proceed in all things as though such construction had been ordered by it. Upon the petition of any freeholder who is an abutting owner in fee simple of property subject to assessment for sidewalk improvements, the City Council may order permanent sidewalks built in accordance with this article upon the freeholder making, executing, and delivering to the City an agreement to the effect that the petitioning freeholder (A) will pay the engineering service fee and all other incidental construction costs which until paid shall be a perpetual lien upon the real estate along which the freeholder desires such sidewalk to be constructed; (B) gives and grants to the City the right to assess and levy the costs of such construction against his/her real estate abutting the sidewalk improvement; and (C) promises to pay such costs with interest. The total cost of such improvement shall be levied, allocated, financed, and specially assessed as provided by law. In the event the property owner is a nonresident of the county in which the property lies, the City shall, before levying any special assessment against that property, send a copy of any notice required by law to be published by means of certified mail, return receipt requested, to the last known address of the nonresident property owner. The last known address shall be that address listed on the current tax rolls at the time such required notice was first published. (Am. by Ord. No. 224, 10/1/79)

SECTION 6-304: REPAIRS

A. The City Council may by resolution order the repair of a sidewalk on any lot or piece of ground within the City and may assess the expense thereof on the property where such repairs are made, after having given notice of its intention to do so (1) by publication in one issue of a legal newspaper of general circulation in the City; and (2) by either causing a written notice to be served upon the occupant in possession of the property involved or to be posted upon such premises ten days prior to the commencement of such repair. (Neb. Rev. Stat. §17-522)

B. The notice shall:

1. State that the City Council has ordered repair of the sidewalk;
2. Contain the City's estimate of the cost of the repair;
3. Notify the property owner that he/she may, within 10 days after the date of publication of the notice, notify the City that he/she will repair the sidewalk within 30 days after such date of publication;
4. Notify the property owner that if he/she fails to so notify the City within the 10 days or, having so notified the City, fails to repair the sidewalk within the 30 days, the City will cause the sidewalk to be repaired and the expense thereof will be assessed against the property.

C. Before the City imposes any special assessments for sidewalk repair:

1. A copy of the notice that is required to be published shall be mailed to the last known address of all nonresident property owners as shown on the current tax rolls at the time such notice is first published. (Neb. Rev. Stat. §13-310)
2. The city clerk shall mail the notice by certified mail with return receipt requested. (Neb. Rev. Stat. §13-312)
3. For purposes of this division, "nonresident property owner" means any person or corporation whose residence and mailing address as shown on the current tax rolls is outside the boundaries of the county in which the property subject to assessment is located and who is a record owner of the property. (Neb. Rev. Stat. §13-314)

D. All sidewalks shall be repaired in conformity with such plans and specifications as may be approved by the City Council.

E. Assessments made under this section shall be made and assessed in the

manner provided in Neb. Rev. Stat. §17-524.
(Am by Ord. No. 594, 2/7/05)

Article 4 – Penal Provision

SECTION 6-401: VIOLATION; PENALTY

Any person, or any person's agent or servant, who violates any of the provisions of this chapter, unless otherwise specifically provided herein, shall be deemed guilty of an offense and upon conviction thereof shall be fined in any sum not exceeding \$500.00. A new violation shall be deemed to have been committed every 24 hours of failure to comply with the provisions of this chapter. (Neb. Rev. Stat. §17-505, 18-1720, 18-1722) (Am. by Ord. No. 543, 8/7/00)

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CHAPTER 7 – PUBLIC UTILITIES

Article 1 – Utilities Generally

SECTION 7-101: CHARGES FOR WATER AND SEWER USAGE

Water and sewer customers shall be charged such fees as shall be set from time to time by the City Council. Said fees shall be on file in the office of the city clerk, where they shall be available for inspection during office hours.

SECTION 7-102: DISCONTINUANCE OF SERVICE; NOTICE PROCEDURE

A. The City shall have the right to discontinue utility services and remove its properties if the charges for such services are not paid within seven days after the date that the charges become delinquent. Before any termination, the City shall first give notice by first class mail or in person to any domestic subscriber whose service is proposed to be terminated. If notice is given by first class mail, such mail shall be conspicuously marked as to its importance. Service shall not be discontinued for at least seven days, weekends and holidays excluded, after notice is sent or given. As to any subscriber who has previously been identified as a welfare recipient to the City by the Department of Health and Human Services, such notice shall be by certified mail and notice of such proposed termination shall be given to HHS.

B. The notice shall contain the following information:

1. The reason for the proposed disconnection;
2. A statement of the intention to disconnect unless the domestic subscriber either pays the bill or reaches an agreement with the City regarding payment of the bill;
3. The date upon which service will be disconnected if the domestic subscriber does not take appropriate action;
4. The name, address, and phone number of the employee or department to whom the domestic subscriber may address an inquiry or complaint;
5. The domestic subscriber's right, prior to the disconnection date, to request a conference regarding any dispute over such proposed disconnection;
6. A statement that the City may not disconnect service pending the conclusion of the conference;
7. A statement to the effect that disconnection may be postponed or pre-

vented upon presentation of a duly licensed physician's certificate certifying that the domestic subscriber or a resident within his/her household has an existing illness or handicap which would cause such subscriber or resident to suffer an immediate and serious health hazard by the disconnection of the City's service to that household. Such certificate shall be filed with the City within five days of receiving notice under this section and will prevent the disconnection of the City's service for a period of 30 days from such filing. Only one postponement of disconnection shall be allowed under this subsection for each incidence of nonpayment of any past due account;

8. The cost that will be borne by the domestic subscriber for restoration of service;
9. A statement that the domestic subscriber may arrange with the City for an installment payment plan;
10. A statement to the effect that those domestic subscribers who are welfare recipients may qualify for assistance in payment of their utility bills and that they should contact their caseworkers in that regard; and
11. Any additional information not inconsistent with this section which has received prior approval from the City Council.

C. A domestic subscriber may dispute the proposed discontinuance of service by notifying the City with a written statement that sets forth the reasons for the dispute and the relief requested. If a statement has been made by the subscriber, a conference shall be held before the City may discontinue services.

D. The procedures adopted by the City Council for resolving utility bills, three copies of which are on file in the office of the city clerk, are hereby incorporated by reference in addition to any amendments thereto and are made a part of this section as though set out in full.

E. This section shall not apply to any disconnections or interruptions of services made necessary by the City for reasons of repair or maintenance or to protect the health or safety of the domestic subscriber or of the general public.

(Neb. Rev. Stat. §70-16025-1606) (Ord. No. 220, 10/1/79) (Am. by Ord. Nos. 308, 9/4/84; 496, 8/4/97)

SECTION 7-103: DENIAL OF SERVICE; WHEN PROHIBITED

No applicant for the services of a public or private utility company furnishing water, natural gas, or electricity at retail in this city shall be denied service because of unpaid bills for similar service which are not collectible at law because of statutes of limitations or discharge in bankruptcy proceedings. (Neb. Rev. Stat. §70-1601) (Ord. No. 529, 5/3/99)

SECTION 7-104: DIVERSION OF SERVICES, METER TAMPERING, UNAUTHORIZED RECONNECTION, PROHIBITED; EVIDENCE

A. It is an offense for any person:

1. To connect any pipe or conduit supplying water, without the knowledge and consent of the City, in such manner that any portion thereof may be supplied to any instrument by or at which water may be consumed without passing through the meter made or provided for measuring or registering the amount or quantity thereof passing through it;
2. To knowingly use or knowingly permit the use of water obtained unlawfully pursuant to this section;
3. To reconnect water service without the knowledge and consent of the City if the service has been disconnected pursuant to Neb. Rev. Stat. §70-1601 to 70-1615 or Section 7-210 (Water Bills) of this code; or
4. To willfully injure, alter, or by any instrument, device, or contrivance in any manner interfere with or obstruct the action or operation of any meter made or provided for measuring or registering the amount or quantity of water passing through it, without the knowledge and consent of the City.

B. Proof of the existence of any pipe or conduit connection or reconnection or of any injury, alteration, interference, or obstruction of a meter is prima facie evidence of the guilt of the person in possession of the premises where such connection, reconnection, injury, alteration, interference, or obstruction is proved to exist. (Neb. Rev. Stat. §28-515.02) (Ord. No. 466, 2/5/96) (Am. by Ord. No. 579, 4/7/03)

SECTION 7-105: DIVERSION OF SERVICES; CIVIL ACTION

A. For purposes of this section, the definitions found in Neb. Rev. Stat. §25-21,275 shall apply.

B. The City may bring a civil action for damages against any person who commits, authorizes, solicits, aids, abets, or attempts bypassing, tampering, or unauthorized metering when such act results in damages to a city utility. The City may bring a civil action for damages pursuant to this section against any person receiving the benefit of utility service through means of bypassing, tampering or unauthorized metering.

C. In any civil action brought pursuant to this section, the City shall be entitled, upon proof of willful or intentional bypassing, tampering, or unauthorized metering to

recover as damages:

1. The amount of actual damage or loss if the amount of the damage or loss can be reasonably calculated; or
2. Liquidated damages of \$750.00 if the amount of actual damage or loss cannot be reasonably calculated.

D. In addition to damage or loss under subdivision (C)(1) or (2), the City may recover all reasonable expenses and costs incurred on account of the bypassing, tampering, or unauthorized metering including but not limited to disconnection, reconnection, service calls, equipment, costs of the suit, and reasonable attorney's fees in cases within the scope of Neb. Rev. Stat. §25-1801.

E. There shall be a rebuttable presumption that a tenant or occupant at any premises where bypassing, tampering or unauthorized metering is proven to exist caused or had knowledge of such bypassing, tampering, or unauthorized metering if the tenant or occupant had access to the part of the utility supply system on the premises where the bypassing, tampering, or unauthorized metering is proven to exist and was responsible or partially responsible for payment, either directly or indirectly, to the utility or to any other person for utility services to the premises.

F. There shall be a rebuttable presumption that a customer at any premises where bypassing, tampering, or unauthorized metering is proven to exist caused or had knowledge of such bypassing, tampering, or unauthorized metering if the customer controlled access to the part of the utility supply system on the premises where the bypassing, tampering, or unauthorized metering was proven to exist. (Neb. Rev. Stat. §25-21,277)

G. The remedies provided by this section shall be deemed to be supplemental and additional to powers conferred by existing laws. The remedies provided in this section are in addition to and not in limitation of any other civil or criminal statutory or common law remedies. (Neb. Rev. Stat. §25-21,278)
(Ord. No. 287, 9/6/83) (Am. by Ord. No. 580, 4/7/03)

Article 2 – Water Department

SECTION 7-201: OPERATION AND FUNDING

The City owns and operates the Water Department through the utilities superintendent. The City Council, for the purpose of defraying the cost of the care, management, and maintenance of the Water Department may each year levy a tax not exceeding the maximum limit prescribed by state law on the actual valuation of all real estate and personal property within the corporate limits that is subject to taxation. The revenue from the said tax shall be known as the Water Fund and shall remain in the custody of the city treasurer. The utilities superintendent shall have the direct management and control of the Water Department and shall faithfully carry out the duties of his office. He shall have the authority to adopt rules and regulations for the sanitary and efficient management of the Water Department, subject to the supervision and review of the City Council. The Council shall set the rates to be charged for services rendered by resolution and shall file a copy of the rates in the office of the city clerk for public inspection at any reasonable time. (Neb. Rev. Stat. §17-531, 17-534, 19-1305) (Am. by Ord. No. 259, 3/1/82)

SECTION 7-202: DEFINITIONS

The following definitions shall be applied throughout this article. Where no definition is specified, the normal dictionary usage of the word shall apply.

"Main" is hereby defined to be any pipe other than a supply or service pipe that is used for the purpose of carrying water to and dispersing the same in the City.

"Separate premises" is hereby defined to be more than one consumer procuring water from the same service or supply pipe. The second premises may be a separate dwelling, apartment, building, or structure used for a separate business.

"Service pipe" is hereby defined to be any pipe extending from the shut-off, stop box, or curb cock at or near the lot line to and beyond the property line of the consumer to the location on the premises where the water is to be dispersed.

"Supply pipe" is hereby defined to be any pipe tapped into a main and extending from there to a point at or near the lot line of the consumer's premises where the shut-off, stop box, or curb cock is located.

SECTION 7-203: CONSUMER'S APPLICATION; DEPOSIT

Every person or persons desiring a supply of water must make application to the city clerk. Water may not be supplied to any house or private service pipe except upon the approval of the City Council. The clerk may require any applicant to make a service deposit in such amount as set by the City Council for service to any real estate not owned by the customer. The deposit referred to in this paragraph shall also rep-

resent the deposit referred to in Section 7-409(B) (Solid Waste Collection Service; Fees). That said deposit shall be retained until the customer vacates the premises to which service is supplied, provided that all charges for water service have been paid in full. (Neb. Rev. Stat. §17-537) (Am. by Ord. No. 486, 3/4/97)

SECTION 7-204: SERVICE TO NONRESIDENTS

The Department shall not supply water service to any person outside the corporate limits without special permission from the City Council; provided, the entire cost of laying mains, service pipe, and supply pipe shall be paid by the consumer. Nothing herein shall be construed to obligate the City to provide water service to nonresidents. (Neb. Rev. Stat. §19-2701)

SECTION 7-205: WATER CONTRACT; NOT TRANSFERABLE

A. The City through its Water Department shall furnish water to persons within its corporate limits whose premises abut a street or alley in which a commercial main now is or may hereafter be laid. The City may furnish water to persons within its corporate limits whose premises do not abut a street or alley in which a city commercial main is now or may hereafter be laid. The rules, regulations, and water rates hereinafter named in this article shall be considered a part of every application hereafter made for water service and shall be considered a part of the contract between every consumer now or hereafter served.

B. Without further formality, the making of application on the part of any applicant or the use or consumption of water service by present consumers thereof and the furnishing of water service to said consumer shall constitute a contract between the consumer and the City, to which said contract both parties are bound. If the consumer shall violate any of the provisions of said contract or any reasonable rules and regulations that the City Council may hereafter adopt, the utilities superintendent or his agent may cut off or disconnect the water service from the building or premises or place of such violation. No further connection for water service to said building, premises, or place shall again be made save or except by order of said superintendent or his agent.

C. Contracts for water service are not transferable. Any person wishing to change from one location to another shall make a new application and sign a new contract. If any consumer shall move from the premises where service is furnished or if the said premises are destroyed by fire or other casualty, he/she shall at once inform the utilities superintendent, who shall cause the water service to be shut off at the said premises. If the consumer should fail to give such notice, h/she shall be charged for all water used on the said premises until the superintendent is otherwise advised of such circumstances.

(Neb. Rev. Stat. §17-537)

SECTION 7-206: INSTALLATION PROCEDURE

A. In making excavations in streets, alleys, or sidewalks for the purpose of installing pipe or making repairs, the paving, stones, and earth must be removed and deposited in a manner that will occasion the least inconvenience to the public and provide for adequate drainage. No person shall leave an excavation made in the street, alley, or sidewalk open at any time without a barricade and, during the night, warning lights. After service pipes are laid, the streets, alleys, and sidewalks shall be restored to good condition. If the excavation in any street, alley, or sidewalk is left open or unfinished for a period of 48 hours or more, the utilities superintendent shall have the duty to finish or correct the work and all expenses so incurred shall be charged to the consumer.

B. All installations or repairs of pipes require inspection by the utilities superintendent. The inspection shall be made when connections or repairs are completed and before the pipes are covered. It is the customer's responsibility to notify the superintendent at the time the work is ready for each inspection. All installation shall be done under the supervision and strictly in accordance with the rules, regulations, and specifications prescribed for such installation by the utilities superintendent; provided, the said rules, regulations, and specifications have been reviewed and approved by the City Council.

(Neb. Rev. Stat. §17-537)

SECTION 7-207: INSTALLATION; LEAD PIPES, SOLDER AND FLUX PROHIBITED

Any pipe, solders or flux used in the installation or repair of any residential or non-residential facility which is connected to the public water supply system shall be lead free. For purposes of this section, "lead free" shall mean: (A) solders and flux, not more than .2% lead and (B) pipe and pipe fittings, not more than 8% lead. (Neb. Rev. Stat. §71-5301) (Ord. No. 351, 5/2/88)

SECTION 7-208: INSTALLATION EXPENSE

A. No person other than the utilities superintendent or his duly authorized agent shall tap the water main. Provided that the customer's property is in the city limits and abuts a street where a commercial main also abuts such street, the customer shall pay a minimum tap fee which shall be set by the City Council, on file in the office of the city clerk. In consideration therefor, the City will tap the main for a one inch or smaller line. In the event that the customer wishes a larger line, then the tap fee shall be determined by the City Council. The City shall bring the water from the main abutting the street which the customer's property also abuts and shall provide all of the labor and materials to tap the main, regardless of whether a long tap or short tap is necessary.

B. In the event that the customer's property does not abut a street where a commercial main also abuts a street, the customer shall be assessed the actual cost

of tapping the main and all of the labor and materials to bring the water service from the closest existing commercial main to the customer's property line.

C. Nonresidents shall pay such tap fees and installation charges as the City Council shall in each case fix.

D. The extension of commercial mains into unsupplied territory within the corporate limits may be made by water extension districts.

E. Thereafter, all customers shall purchase from the City, in order to maintain the quality and standards set by the City, the curb stop valve, riser box, meter and connections.

F. All customers shall employ a plumber and shall pay the expenses of furnishing and installing pipe, trenching, and the necessary labor to bring water service from said lot line to the place of disbursement.

G. Every customer shall make his/her meter accessible to be read and/or repaired by the utilities superintendent or his duly authorized agent between the hours of 9:00 a.m. and 5:00 p.m. Monday through Friday.

(Neb. Rev. Stat. §17-542) (Am. by Ord. Nos. 240, 10/6/80; 485, 11/7/96; 612, 1/7/08)

SECTION 7-209: MINIMUM RATES

All water consumers shall be liable for the minimum rate provided by ordinance unless and until the consumer shall, by written order, direct the utilities superintendent to shut off the water at the stop box, in which case he/she shall not be liable thereafter for water rental until the water is turned on again. The rate structure as set by the City Council is described in Section 7-101, and the actual rates shall be on file in the office of the city clerk. (Neb. Rev. Stat. §17-542)

SECTION 7-210: BILLING AND COLLECTION

A. Water bills shall be due and payable quarterly at city hall. The utilities superintendent shall read or cause to be read water meters quarterly between the 15th day and the last day of the month of the quarter during which service is used. The superintendent shall direct the city clerk to charge and collect from each customer for the amount of water consumed since the last examination, together with any other charges, properly itemized, due the Water Department. Bills shall be due on the first day of each quarter. Bills paid after the 30th day of each quarter shall have a penalty charge added thereto in an amount set by resolution of the City Council, on file at the office of the city clerk. Bills not paid by the 30th day of each quarter shall be deemed to be delinquent.

B. Upon being deemed to be delinquent as herein defined, the city clerk shall give a written notice to the customer of such delinquency and shall demand payment

immediately. In the event that the bill is not paid within seven business days after the sending of said notice, it shall be discretionary with the utilities superintendent to cut off service at any time; provided, if the delinquent customer is a known welfare recipient, it shall be the duty of the city clerk to notify the customer and the Department of Social Services by certified mail of the proposed termination.

C. In the event that water is shut off for the nonpayment of any water bill, the utilities superintendent shall assess an additional fee to compensate the City for the additional hookup necessary to again provide water service to the delinquent customer. Fees shall be set for water service hookups during regular business hours and for hookups outside of regular business hours. Such fees shall be set by the City Council and shall be on file in the office of the city clerk.

(Neb. Rev. Stat. §17-542, 70-1605) (Am. by Ord. Nos. 350, 3/7/88; 607, 1/3/07)

SECTION 7-211: LIEN

In addition to all other remedies, if a customer shall for any reason remain indebted to the City for water service furnished, such amount due, together with any rents and charges in arrears, shall be considered a delinquent water rent which is hereby declared to be a lien upon the real estate for which the same was used. The city clerk shall notify in writing or cause to be notified in writing all owners of premises or their agents whenever their tenants or lessees are 60 days or more delinquent in the payment of water rent.

SECTION 7-212: HOURS OF WORK

All taps or plumbing work done on or to the city water system shall be done between the hours of 8:00 a.m. and 6:00 p.m. (Neb. Rev. Stat. §17-537)

SECTION 7-213: DUTY TO REPLACE OR REPAIR PIPES

A. The Water Department may require the owner or possessor of any property which is within the City and/or connected to the public water system to repair or replace any connection line serving the owner's property which is clogged, broken or otherwise in need of repair or replacement. The duty of the owner or possessor of property to repair or replace such a connection line shall include those portions upon the owner's property and those portions upon public property or easements up to and including the point of junction with the public water system.

B. The city clerk shall give the property owner or possessor notice by registered letter or certified mail, directed to his/her last known address or the agent of such owner, directing the repair or replacement of such connection line. If within 30 days of mailing such notice the property owner fails or neglects to cause such repair or replacement to be made, the utilities superintendent may cause such work to be done and assess the costs upon the property served by such connection.

(Ord. No. 408, 2/1/93)

SECTION 7-214: METERS

A. Repairs to the service pipe shall be made by and at the expense of the customer. All other repairs to the property of the Water Department, including the meter, shall be made by the City. All water meters shall be kept in repair by the City at its expense. When meters are worn out, they shall be replaced and reset by the City at its expense; provided, if the customer permits or allows a water meter to be damaged, injured, or destroyed through his/her own recklessness, carelessness, or neglect so that the meter must be repaired or replaced, the utilities superintendent shall bill and collect from the customer the cost of such meter repair or replacement in the same manner as water rent is collected. Permitting a water meter to be damaged or destroyed by freezing shall always be considered negligence on the part of the customer.

B. All meters shall be tested at the customer's request at his/her expense any reasonable number of times; provided, if the test shows the water meter to be running 2% or more fast, the City shall bear the expense of such test. The City reserves the right to test any water service meter at any time and if said meter is found to be beyond repair, the City shall always have the right to place a new meter on the customer's water service fixtures at its expense. Should a consumer's meter fail to register properly, the customer shall be charged for water during the time the meter is out of repair on the basis of the quarterly consumption during the same quarter of the preceding year; provided, if no such basis for comparison exists, the customer shall be charged such amount as may be reasonably fixed by the utilities superintendent. (Neb. Rev. Stat. §17-542)

SECTION 7-215: SINGLE PREMISES

No consumer shall supply water to other families or allow them to take water from his premises nor after water is supplied into a building shall any person make or employ a plumber or other person to make a tap or connection with the pipe upon the premises for alteration, extension, or attachment without the written permission of the utilities superintendent. (Neb. Rev. Stat. §17-537)

SECTION 7-216: ENTRY OF PREMISES FOR INSPECTION

Every person taking water supplied through the water system of the City shall permit the utilities superintendent or his duly authorized agent, at all hours of the day or night, to enter his/her premises or buildings to examine the pipes and fixtures and the manner in which the water is used. Such customer must at all times, frankly without concealment, answer all questions relative to the consumption. (Neb. Rev. Stat. §17-537)

SECTION 7-217: POLLUTION

It shall be unlawful for any person to pollute or attempt to pollute any stream or source of water for the supply of the Water Department. (Neb. Rev. Stat. §17-536)

SECTION 7-218: DESTRUCTION OF PROPERTY

It shall be unlawful for any person to willfully or carelessly break, injure, or deface any building, machinery, apparatus, fixture, attachment, or appurtenance of the Water Department. No person may deposit anything in a stop box or commit any act tending to obstruct or impair the intended use of any of the above-mentioned property without the written permission of the utilities superintendent.

SECTION 7-219: FLUORIDES PERMITTED

Fluorides shall be added to the water supply of the City of Elgin. (Am. by Ord. No. 239, 10/6/80)

SECTION 7-220: FIRE HYDRANTS

All hydrants for the purpose of extinguishing fires are hereby declared to be public hydrants and it shall be unlawful for any person other than members of the Fire Department under the orders of the fire chief or the assistant chief or employees of the Water Department to open or attempt to open any of the hydrants and draw water from the same or in any manner to interfere with the hydrants.

SECTION 7-221: RESTRICTED USE

The City Council or the utilities superintendent may order a reduction in the use of water or shut off the water on any premises in the event of a water shortage due to fire or other good and sufficient cause. The City shall not be liable for any damages caused by shutting off the supply of water of any consumer while the system or any part thereof is undergoing repairs or when there is a shortage of water due to circumstances over which the City has no control. (Neb. Rev. Stat. §17-537)

SECTION 7-222: WATER CONSERVATION/RESTRICTION PLAN; CREATION

For the purpose of ensuring adequate public water systems, including but not limited to adequate drinking water, a water conservation/restriction plan shall be developed by a committee comprised of the mayor, the president of the City Council and the utilities superintendent. The committee shall modify the water conservation/restriction plan from time to time as needed. The utilities superintendent shall enforce the plan. (Ord. No. 550, 1/7/02)

SECTION 7-223: WATER EMERGENCY; RESTRICTION; VIOLATION; PENALTY

When necessary and in accordance with the water conservation/restriction plan created pursuant to Section 7-222, the utilities superintendent or his authorized representative may declare a water emergency and such decision shall be in his sole discretion. During a declared water emergency, no person shall use water furnished by

the City for the purpose of watering lawns, gardens, trees, or shrubs, the washing of cars, or the filling of swimming pools. Any water emergency declaration made by the utilities superintendent or his authorized representative may provide for additional water usage restrictions as necessitated by the severity of the water emergency, in his sole discretion. Any water usage restrictions, whether pursuant to a declared water emergency or otherwise, shall apply to any and all parcels of property within the territorial limits of the City and to any other parcel of property where water is provided by the City to the owner or tenant of said property. (Ord. No. 550, 1/7/02)

(Sections 7-224 through 7-236 were adopted by Ord. No. 384, 8/6/90)

SECTION 7-224: BACKFLOW PREVENTION; STATEMENT OF PURPOSE

The City hereby finds that backflow and backsiphonage of contaminants into a public water supply system can be a threat to public health and safety. Direct or indirect cross-connections within a water distribution system, including within a customer's water distribution system, are among possible structural arrangements which can result backflow and backsiphonage. In the interest of public health and safety, the City hereby adopts the following backflow and backsiphonage prevention program and cross-connection control program.

SECTION 7-225: BACKFLOW PREVENTION; DEFINITIONS

For the purpose of this ordinance, the following terms shall mean:

"Air gap separation," used to prevent either backflow or backsiphonage, shall mean the unobstructed vertical distance through the free atmosphere between the lowest opening from any pipe or faucet supplying water to a tank, plumbing fixture, or other device and the flood level rim of the receptacle.

"Atmospheric vacuum breaker" shall mean a nonpressure-type backsiphonage preventer used as protection from direct or indirect water connections to all types of polluted or contaminated liquids where the preventer is not subjected to back pressures and is installed on the discharge side of the last control valve. This preventer should not be subjected to continuous flows for periods of more than 12 hours.

"Backflow" shall mean the flow of water or other liquids, mixtures or substances into the water distribution system from other than the intended liquids, mixtures or substances of the public water supply system.

"Backsiphonage" shall mean the flowing back of water or other liquids, mixtures or substances into a water distribution system due to negative pressure in the piping of the water distribution system.

"Double check-valve assembly" shall mean a backflow preventer used as protection for all direct or indirect water connections through which foreign substances might

enter the system in such concentrations as to constitute a nuisance or be aesthetically objectionable. Examples are foods, beverages, or other substances that do not constitute a health hazard.

“Cross-connection” shall mean any actual or potential connection or structural arrangement within a water distribution system through which it is possible to introduce into the public water supply system any water, liquids, mixtures or substances other than the intended water, liquids, mixtures or substances of the public water supply system.

“Nontoxic substance” shall mean any substance of a nonpoisonous nature that may create a moderate or minor hazard to the domestic water system. Hazardous connections include:

- A. Connections to food processing lines, including but not limited to those carrying syrups, lard, or beer.
- B. Connections to steam and steam boilers where the steam does not come in contact with toxic substances.
- C. McDaniel tees or steam clean-up connections in food plants, apartment house boilers, or pressing boilers where toxic compounds are not used.
- D. Connections to enclosed circulating systems, such as radiant heating systems and refrigerated water systems where toxic compounds are not used.

“Pressure vacuum breaker” shall mean a backsiphonage preventer used as a protection for direct or indirect water connections to all types of polluted or contaminated liquids where the preventer is not subjected to back pressures. This device may be installed for use under continuous line pressure.

“Reduced-pressure device” shall mean a backflow preventer used as protection for direct or indirect water connections where the device may be subject to back pressures from toxic chemicals, sewage, or other lethal substances.

“Toxic substance” shall mean any substance (liquid, solid or gaseous), including raw sewage and lethal substances, that when introduced into the water supply system creates or may create a danger to the health and well being of the consumer. Hazardous connections include flush valve toilet, direct connection to contaminated vessel or system, and ship watering point.

SECTION 7-226: BACKFLOW PREVENTION; DECLARATION OF NUISANCE

Any actual or potential connection or structural arrangement within a water distribution system through which it is possible to introduce into the public water supply system any water, liquids, mixtures or substances other than the intended water, liquids,

mixtures or substances of the public water supply system shall hereby be declared a nuisance.

**SECTION 7-227: BACKFLOW PREVENTION; UNLAWFUL CONNECTIONS;
NEW INSTALLATIONS AND REPAIRS**

No installation or repair within the water distribution system, including the customer's water distribution system, shall be made in such a manner:

A. That a cross-connection shall exist; or

B. That it will be possible in any manner to allow the flow of any water or other liquids, mixtures or substances into the water supply system other than the intended water, liquids, mixtures or substances of the public water supply system; or

C. That it will be possible in any manner to allow the flowing back of water or other liquids, mixtures, or substances into the water supply system due to negative pressure in the water distribution system.

**SECTION 7-228: BACKFLOW PREVENTION; PREVENTION DEVICES
REQUIRED**

A backflow or backsiphonage prevention device approved by the utilities superintendent shall be installed at the customer's expense in the customer's service pipe when any of the following conditions are found by the superintendent:

A. Premises having an auxiliary water supply;

B. Premises in which, in the opinion of the superintendent, substances are handled in a manner as to create an actual or potential hazard to the public water supply;

C. Premises having existing or potential internal cross-connections;

D. Premises where, in the opinion of the superintendent, it is impossible or impractical to make a complete cross-connection premises survey;

E. Premises having more than one customer service pipe.

**SECTION 7-229: BACKFLOW PREVENTION; PREVENTION DEVICES;
MINIMUM PROTECTION**

When backflow or backsiphonage prevention devices are required by this ordinance, the prevention devices shall provide a minimum level of protection as determined by the utilities superintendent.

SECTION 7-230: BACKFLOW PREVENTION; INSTALLATION INSPECTIONS

The utilities superintendent, at the expense of the City, may inspect any premises to determine if a backflow device is required and to what level of protection will be necessary to protect the public health and safety. In order to inspect any premises, the superintendent shall give notice setting forth a proposed date and time to the customer at least ten working days in advance by first class mail, return receipt requested. If the customer cannot make the premises available for inspection on that date and time, the customer shall contact the superintendent to arrange another date and time for inspection. If the superintendent and the customer cannot agree on a date and time for the inspection, the premises shall be declared impossible or impractical to make a cross-connection survey and a backflow or backsiphonage device shall be installed pursuant to Section 7-228 (Prevention Devices Required). All inspections shall be at reasonable times.

SECTION 7-231: BACKFLOW PREVENTION; NEW METER INSTALLATION

All backflow and backsiphonage prevention devices shall be installed in a manner that the device shall be accessible.

SECTION 7-232: BACKFLOW PREVENTION; MAINTENANCE

Backflow and backsiphonage prevention devices shall be maintained in good working condition by the customer at the customer's expense.

SECTION 7-233: BACKFLOW PREVENTION; TESTING

Backflow and backsiphonage prevention devices designed to be tested shall be tested for proper operation annually or when necessary in the opinion of the utilities superintendent. Actual testing shall be at the expense of the City. Any required maintenance or repair shall be at the expense of the customer and subject to the approval of the superintendent. If testing shall require entry into the premises, the superintendent shall give notice setting forth a proposed date and time to the customer at least ten working days in advance by first class mail, return receipt requested. If the customer cannot make the premises available for inspection on that date and time, the customer shall contact the utilities superintendent to arrange another date and time.

SECTION 7-234: BACKFLOW PREVENTION; UTILITIES SUPERINTENDENT'S AUTHORITY

The utilities superintendent shall have the authority to issue any order consistent with the provisions of this ordinance in order to protect the public health and safety. Any order of the superintendent shall be in writing and shall clearly state the nature of the order and compliance requirements and shall set a reasonable date by which compliance must be met. All orders will be mailed to the customer by first class mail, return receipt requested.

SECTION 7-235: BACKFLOW PREVENTION; APPEALS

In the event that it is claimed that the true intent and meaning of this ordinance has been wrongfully interpreted by the utilities superintendent, that the time allowed for compliance with any order of the superintendent is too short or that conditions peculiar to a particular premises make it unreasonably difficult to meet the literal requirements prescribed by this ordinance, the owner may file a written notice of appeal with the city clerk within ten days after the decision or order of the superintendent has been made. The City Council shall hear all appeals and shall have the power and authority, when appealed to, to modify the decision or order of the superintendent. Such decision shall be final, subject only to any remedy which the aggrieved party may have at law or equity. Appeals shall be in writing and shall state the reason for the appeal.

SECTION 7-236: BACKFLOW PREVENTION; PENAL PROVISION; VIOLATION; PENALTY

Any person who shall violate or refuse to comply with the enforcement of any of the provisions of this ordinance shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not more than \$100.00 for each offense. A new violation shall be deemed to have been committed every 24 hours of such failure to comply.

SECTION 7-237: WELLS AND OTHER FACILITIES; PERMIT REQUIRED; FEE

A. From and after the effective date of this ordinance, it shall be unlawful for any person, corporation or other legal entity to drill and/or operate any of the following facilities within the corporate limits of the City without first having obtained the proper permit from the City Council: potable water well; any other well; sewage lagoon; absorption or disposal field for water cesspool; dumping grounds; feedlot; livestock pasture or corral; chemical product storage facility; petroleum product storage facility; pit toilet; sanitary landfill; septic tank; sewage treatment plant; sewage wet well.

B. In order to obtain a permit to drill and/or operate any of the facilities listed herein, the owner of property on which the proposed facility is to be located must make application on the proper form provided by the City Council. Such application must be presented to the Council at any regular or special meeting. After reviewing the application of any person desiring to drill or operate any of the above-described facilities, the City Council must approve or deny said permit.

C. The fee for the permit to drill and/or operate any of the facilities listed herein shall be \$1000.00, with said fee to accompany the application. The permit fee shall be refundable if the permit is not approved by the City Council.

(Ord. Nos. 398, 12/2/91; 7-237-2011; 6/6/11)

SECTION 7-238: WELLS AND OTHER FACILITIES NEAR CITY WATER

SOURCES; PROHIBITED

Under no circumstances shall the City Council approve any permit to drill or operate any of the below-described facilities within the indicated number of feet from city water wells:

Potable water well	1,000 feet
Any other well	1,000 feet
Sewage lagoon	1,000 feet
Absorption or disposal field for water	500 feet
Cesspool	500 feet
Dumping grounds	500 feet
Feedlot or feedlot runoff	500 feet
Livestock pasture or corral	500 feet
Chemical product storage facility	500 feet
Petroleum product storage facility	500 feet
Pit toilet	500 feet
Sanitary landfill	500 feet
Septic tank	500 feet
Sewage treatment plant	500 feet
Sewage wet well	500 feet

(Ord No. 398, 12/2/91)

SECTION 7-239: PENALTIES AND ABATEMENT PROCEDURE

In the event any of the above-described facilities are installed or operated (A) without first having obtained a permit from the City and/or (B) within a designated number of feet from the city water supply, then such facilities shall be deemed a nuisance and the City Council shall abate such facility as a public nuisance pursuant to Chapter 3, Article 4 (Nuisances). In addition thereto, any person violating any of the terms of this ordinance is hereby determined to be guilty of a Class III misdemeanor as the same is defined by Nebraska statute. The penalty for such violation shall be that as defined by Nebraska law for the violation of a Class III misdemeanor. (Ord. No. 398, 12/2/91)

Article 3 – Sewer Department

SECTION 7-301: OPERATION AND FUNDING

A. The City owns and operates the sewer system through the utilities superintendent. The City Council, for the purpose of defraying the cost of the operation, maintenance and replacement (OM&R) of the sewer system, may establish a user charge system based on actual use and revise the charges, if necessary, to accomplish the following: (1) maintain the proportional distribution of operation, maintenance and replacement (OM&R) costs among users and user classes; (2) generate adequate revenues to pay the costs of OM&R; (3) apply excess revenues collected from a class of users to the costs of OM&R attributable to that class for the next year and adjust the rates accordingly.

B. The revenue from the said user charge system based on actual use shall be known as the Sewer Maintenance Fund. The utilities superintendent shall have the direct management and control of the Sewer Department and shall faithfully carry out the duties of his office. He shall have the authority to adopt rules and regulations for the sanitary and efficient management of the Department subject to the supervision and review of the City Council.

(Neb. Rev. Stat. §17-149, 17-925.01)

SECTION 7-302: DEFINITION OF TERMS

Unless the context specifically indicates otherwise, the meaning of terms used in this article shall be as follows:

"Biological oxygen demand" (BOD) shall mean and include the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days at 20° C., expressed in parts per million by weight.

"Building drain" and "house drain" shall mean and include that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, or other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning 5 feet (1.5 meters) outside the inner face of the building wall.

"Building sewer" shall mean the extension from the building drain to the public sewer or other place of disposal.

"City" shall mean the City of Elgin, Nebraska.

"Combined sewer" shall mean a sewer receiving both surface runoff and sewage.

"Garbage" shall mean solid wastes from the domestic and commercial preparation, cooking and dispensing of food, and from the handling, storage and sale of produce.

"Industrial wastes" shall mean the liquid wastes from industrial manufacturing processes, trade, or business as distinct from sanitary sewage.

"May" is permissive; "shall" is mandatory.

"Natural outlet" shall mean any outlet into a watercourse, pond, ditch, lake, or other body of surface or groundwater.

"Person" shall mean any individual, firm, company, association, society, corporation, or group.

"pH" shall mean and include the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

"Properly shredded garbage" shall mean the wastes from the preparation, cooking, and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than 3 inches (1.27 centimeters) in any dimension.

"Public sewer" shall mean a sewer in which all owners of abutting properties have equal rights and is controlled by public authority.

"Sanitary sewer" shall mean and include a sewer which carries sewage and to which storm, surface, and ground waters are not intentionally admitted.

"Sewage" shall mean and include a combination of the water-carried wastes from residences, business buildings, institutions, and industrial establishments, together with such ground, surface, and storm waters as may be present.

"Sewage treatment plant" shall mean any arrangement of devices and structures used for treating sewage.

"Sewage works" shall mean all facilities for collecting, pumping, treating and disposing of sewage.

"Sewer" shall mean a pipe or conduit for carrying sewage.

"Shall" is mandatory; "may" is permissive.

"Slug" shall mean any discharge of water, sewage, or industrial waste which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than 15 minutes more than five times the average 24-hour concentration or flows during normal operation.

"Storm sewer" shall mean a sewer which carries storm and surface waters and drainage but excludes sewage and industrial wastes, other than unpolluted cooling water.

"Superintendent" shall mean the utilities superintendent of the City of Elgin or his authorized deputy, agent, or representative.

"Suspended solids" shall mean and include solids that either float on the surface of or are in immersion in water, sewage, or other liquids and are removable by filtering.

"Watercourse" shall mean a natural or artificial channel for the passage of water either continuously or intermittently.

SECTION 7-303: MUNICIPAL POWERS

The City has the legal authority to enforce its system of user charges, industrial cost recovery charge, and sewer use regulations on all existing or future users of the system, whether located inside or outside the City limits.

SECTION 7-304: UNLAWFUL DEPOSIT OF WASTES

It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner on public or private property within the City, within two miles of the corporate limits thereof, or in any area under the jurisdiction of said City any human or animal excrement, garbage, or other objectionable waste.

SECTION 7-305: UNLAWFUL DISCHARGE OF UNTREATED SEWAGE

It shall be unlawful to discharge to any natural outlet within the City, within two miles of the corporate limits thereof, or in any area under the jurisdiction of said City any sewage or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this article.

SECTION 7-306: CESSPOOLS, PRIVIES AND SEPTIC TANKS PROHIBITED

Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of sewage.

SECTION 7-307: MANDATORY HOOKUP

The owner of any house, building, or property used for human employment, recreation, or other purposes situated within the City and abutting on any street, alley, or right-of-way in which there is now located or may in the future be located a public sanitary or combined sewer of the City is hereby required at hi/her expense to install suitable toilet facilities therein and to connect such facilities directly with the proper public sewer in accordance with the provisions of this article within 90 days after date of official notice to do so.

SECTION 7-308: APPLICATION FOR PERMIT; DEPOSIT; SERVICE TO NONRESIDENTS

Any person wishing to connect with the sewer system shall make an application to the city clerk, who may require any applicant to make a service deposit in such amount as set by the City Council. Sewer service may not be supplied to any house or building except upon the approval of the application by the City Council. The Department shall not supply sewer service to any person outside the corporate limits without special permission from the City Council; provided, the entire cost of pipe and other installation charges shall be paid by such consumers. Nothing herein shall be construed to obligate the City to provide sewer service to non-residents. (Neb. Rev. Stat. §17-149, 19-2701)

SECTION 7-310: INSTALLATION; PERMIT REQUIRED

No unauthorized person shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining written permission from the superintendent.

SECTION 7-311: INSTALLATION; CLASSIFICATION; APPLICATION, FEE

There shall be two classes of building sewer permits: (A) for residential and commercial service and (B) for service to establishments producing industrial wastes. In either case, the owner or his/her agent shall make application on a form furnished by the City. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the superintendent. A permit and inspection fee, in an amount set by resolution of the City Council, shall be paid to the City at the time the application is filed.

SECTION 7-312: INSTALLATION; EXPENSE; TAP FEE

The customer, upon approval of his/her application for sewer service, shall pay the city clerk a tap fee to compensate the City for the expense of processing the application and tapping the sewer main. The said fee shall be set by the City Council and shall be on file in the office of the city clerk. The utilities superintendent in his discretion may direct the customer to hire a plumber to tap the main. The customer shall then be required to pay the expense of procuring the materials required as well as the services of a plumber and shall pay all other costs of installation to extend the sewer line from his property line to the point of connection on his/her property. The owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer. (Am. by Ord. No. 612, 1/7/08)

SECTION 7-313: INSTALLATION; SINGLE PREMISES

A separate and independent building sewer shall be provided for every building, except that where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer. However, the City does not and will not assume any obligation or responsibility for damage caused by or resulting from any such single connection aforementioned.

SECTION 7-314: INSTALLATION; USE OF EXISTING SEWERS

Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the superintendent, to meet all requirements of this article.

SECTION 7-315: INSTALLATION; CONSTRUCTION CODES

A. The size, slope, alignment, materials of construction of a building sewer, and the methods to be used in excavating, placing of the pipe, jointing, testing and backfilling the trench, shall all conform to the requirements of the building and plumbing code or other applicable rules and regulations of the City. In the absence of code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the A.S.T.M. and W.P.C.F. *Manual of Practice No. 9* shall apply.

B. Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer.

C. The connection of the building sewer into the public sewer shall conform to the requirements of the building and plumbing code or other applicable rules and regulations of the City, or the procedures set forth in appropriate specifications of the A.S.T.M. and the W.P.C.F. *Manual of Practice No. 9*. All such connections shall be made gastight and watertight and verified by proper testing. Any deviation from the prescribed procedures and materials must be approved by the superintendent before installation.

SECTION 7-316: INSTALLATION; UNLAWFUL CONNECTION

No person shall make connection of roof downspouts, interior and exterior foundation drains, areaway drains, or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer unless such connection is approved by the superintendent for purposes of disposal of polluted surface drainage; provided, if responsibility can be determined, the party responsible for disposal of polluted surface drainage into the public sanitary sewer shall pay a user charge equivalent to the cost of treating the pollut-

ed drainage.

SECTION 7-317: INSTALLATION; INSPECTIONS

The applicant for a building sewer permit shall notify the utilities superintendent when the building sewer is ready for inspection and connection to the public sewer. The connection and testing shall be made under the supervision of the superintendent or his representative.

SECTION 7-318: INSTALLATION; EXCAVATIONS

All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the City.

SECTION 7-319: INSTALLATION; PROCEDURE

A. In making excavations in streets, alleys, or sidewalks for the purpose of installing pipe, or making repairs, the paving, stones, and earth must be removed and deposited in a manner that will occasion the least inconvenience to the public and provide for adequate drainage. After the house sewer is laid, the public ways and property shall be restored to good condition. If the excavation is left open or unfinished for a period of 48 hours or more, the utilities superintendent shall have the duty to finish or correct the work and all expenses so incurred shall be charged to the owner, occupant, or lessee of the property.

B. All installations or repairs of pipes require inspection by the utilities superintendent. The inspection shall be made when connections or repairs are complete and before the pipe is covered. It is the customer's responsibility to notify the superintendent at the time the work is ready for inspection. All installation shall be done under the supervision and strictly in accordance with the rules, regulations, and specifications for such installation prescribed by the City; provided, the said rules, regulations, and specifications have been reviewed and approved by the City Council.

SECTION 7-320: REPAIRS AND REPLACEMENT

The Sewer Department may require the owner of any property which is within the City and connected to the public sewers or drains to repair or replace any connection line which serves the owner's property and is broken, clogged or otherwise in need of repair or replacement. The property owner's duty to repair or replace such a connection line shall include those portions upon the owner's property and those portions upon public property or easements up to and including the point of junction with the public main. The city clerk shall give the property owner notice by registered letter or certified mail, directed to the last known address of such owner or the agent of such owner, directing the repair or replacement of such connection line. If within 30 days of

mailing such notice the property owner fails or neglects to cause such repairs or replacements to be made, the utilities superintendent may cause such work to be done and assess the cost upon the property served by such connection. (Neb. Rev. Stat. §18-1748)(Am. by Ord. No. 307, 9/4/84)

SECTION 7-321: RATE SETTING

Customers of the City Sewer Department shall be charged a rate based on water usage for the use of sewer service. The rate structure as set by the City Council is described in Section 7-101 and the actual rates shall be on file in the office of the city clerk.

SECTION 7-322: CLASSIFICATION

The City Council may classify the customers of the Sewer Department for the purpose of rental fees; provided, such classifications are reasonable and do not discriminate unlawfully against any consumer or group of consumers. The classification must be approved by the Environmental Protection Agency relative to the user charge grant condition. (Neb. Rev. Stat. §17-925.02)

SECTION 7-323: USER CHARGE REVIEW

The City Council shall review, at least annually, the user charge system and revise the charges, if necessary, to accomplish the following:

- A. Maintain the proportional distribution of operation, maintenance and replacement (OMR) costs among users and user classes;
- B. Generate adequate revenues to pay the costs of OM&R;
- C. Apply excess revenues collected from a class of users to the costs of OM&R attributable to that class for the next year and adjust the rates accordingly.

SECTION 7-324: SURCHARGES

In addition to other elements of the total user charge system in Sections 7-339 (Rejection, Pretreatment) and 7-344 (Special Exceptions; Use Fee Surcharge), the ordinance on file with the city clerk shall provide for the following surcharges:

- A. A high-strength waste surcharge established for pollutant levels (BOD, SS, etc.) which exceed the levels contained in the domestic strength wastewater of the service area. The surcharge shall be expressed as a formula with a per unit charge established for each applicable pollutant. (See Appendix B of 40 CFR 35.900)

B. The authority and intent shall be established to require each user discharging any toxic pollutants to pay the increased costs of managing the effluent or the sludge of the treatment works resulting from such discharge.

SECTION 7-325: USER NOTIFICATION

Each user will be notified, in a regular monthly bill at least annually, of the rate and that portion of the user charges which are attributable to wastewater treatment.

SECTION 7-326: SEWER MAINTENANCE FUND

The operation, maintenance and replacement (OM&R) portion of the total sewer user charges shall be deposited in a non-lapsing Sewer Maintenance Fund or set of funds, and the revenues so deposited will be used only for the purposes of defraying the OM&R costs of the treatment works. Funds transferred from other revenue sources to meet temporary shortages in the OM&R accounts shall be refunded following an appropriate adjustment in the user charges for OM&R. The Sewer Maintenance Fund will have a minimum of two primary accounts :

A. An O&M account with provision for carryover of the fiscal year end balance to meet the overall O&M costs in the subsequent fiscal year;

B. A non-lapsing sinking fund for replacement costs which accrues funds through deposits made at least annually from OM&R use charge revenues. The deposits shall provide adequate revenues to meet the replacement needs of the treatment works over its service life and shall be used for no other purpose. For purposes of maintaining said fund on a perpetual basis, the City shall budget a sum of money not less than 20% of its annual projected operation and maintenance budget for the sewer treatment works. Fiscal year-end balances in the nonlapsing sinking fund will be carried over to the same fund in the subsequent year.

SECTION 7-327: COLLECTION OF SEWER USE FEES

Sewer rental bills shall be due and payable at the same time and in the same manner as water bills. All penalties and procedures concerning delinquent accounts with the Water Department shall also be applicable to delinquent accounts with the Sewer Department.

SECTION 7-328: DESTRUCTION OF PROPERTY

No person or persons shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance, or equipment which is part of the wastewater facilities. Any person or persons violating this provision shall be subject to immediate arrest under charge of disorderly conduct.

SECTION 7-329: MANHOLES

Entrance into a manhole or opening the same for any purpose except by authorized persons is hereby prohibited. It shall be unlawful to deposit or cause to be deposited in any receptacle connected with the sewer system any substance which is not the usual and natural waste carried by the sewer system.

SECTION 7-330: PRIVATE SEWAGE DISPOSAL; WHEN APPLICABLE

Where a public sanitary or combined sewer is not available under the provisions herein, the building sewer shall be connected to a private sewage disposal system complying with the provisions of this article. At such time as a public sewer becomes available to a property served by a private wastewater disposal system, a direct connection shall be made to the public sewer within 60 days in compliance with this article and any septic tanks, cesspools, and similar private wastewater disposal facilities shall be cleaned of sludge and filled with suitable material.

SECTION 7-331: PRIVATE SEWAGE DISPOSAL SYSTEM; PERMIT; FEE

Before commencing construction of a private sewage disposal system, the owner shall first obtain a written permit signed by the utilities superintendent. The application for such permit shall be made on a form furnished by the City, which the applicant shall supplement by any plans, specifications, and other information as deemed necessary by the superintendent. A permit and inspection fee, in an amount set by resolution of the City Council, shall be paid to the City at the time the application is filed.

SECTION 7-332: PRIVATE SEWAGE DISPOSAL SYSTEM; PERMIT, WHEN EFFECTIVE; INSPECTIONS

A permit for a private sewage disposal system shall not become effective until the installation is completed to the satisfaction of the utilities superintendent. He shall be allowed to inspect the work at any stage of construction and, in any event, the applicant for the permit shall notify the superintendent when the work is ready for final inspection and before any underground portions are covered. The inspection shall be made within 24 hours of the receipt of notice by the superintendent.

SECTION 7-333: PRIVATE SEWAGE DISPOSAL SYSTEM; SPECIFICATIONS

The type, capacities, location, and layout of a private sewage disposal system shall comply with all recommendations of the State Department of Public Health. No permit shall be issued for any private sewage disposal system employing subsurface soil absorption facilities when the area of the lot is less than 10,000 square feet. No septic tank or cesspool shall be permitted to discharge to any natural outlet.

SECTION 7-334: PRIVATE SEWAGE DISPOSAL SYSTEM; MAINTENANCE

The owner shall operate and maintain his/her private sewage disposal facilities in a sanitary manner at all times at no expense to the City.

SECTION 7-335: PRIVATE SEWAGE DISPOSAL SYSTEM; ADDITIONAL REQUIREMENTS

No statement contained in Sections 7-330 thru 7-334 shall be construed to interfere with any additional requirements that may be imposed by the health officer.

SECTION 7-336: PROHIBITED DISCHARGES; STORM, SURFACE, GROUND, COOLING AND PROCESS WATERS

No person shall discharge or cause to be discharged any stormwater, surface water, groundwater, roof runoff, subsurface drainage including interior and exterior foundation drains, uncontaminated cooling water, or unpolluted industrial waters to any sanitary sewer. Stormwater and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as combined sewers or storm sewers or to a natural outlet approved by the utilities superintendent. Industrial cooling water or unpolluted process water may be discharged, on approval of the superintendent, to a storm sewer, combined sewer, or natural outlet. The contributor of any identifiable discharge of polluted water to the sanitary sewer system shall be held responsible for reimbursing the City for such costs. The costs shall be determined by the superintendent with the approval of the City Council.

SECTION 7-337: HAZARDOUS AND PROHIBITED DISCHARGES; PROHIBITED SUBSTANCES; PRELIMINARY TREATMENT

No person shall discharge or cause to be discharged any of the following-described waters or wastes to any public sewers:

A. Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid, or gas.

B. Any waters or wastes containing toxic or poisonous solids, liquids, or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any waste treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the wastewater treatment plant.

C. Any waters or wastes having a pH lower than 5.5 or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the sewage works.

D. Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers or other interference with the proper operation of the sewage facilities such as, but not limited to, ashes, cinders, sand, mud, straw, shav-

ings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.

E. Any waters or wastes having:

1. A five-day BOD greater than 300 parts per million by weight;
2. Containing more than 350 parts per million by weight of suspended solids;
3. Having an average daily flow greater than 2% of the average sewage flow of the City; or
4. A chlorine requirement greater than demanded by normal sewage, as evaluated by the City's consulting engineer,

shall be subject to the review of the superintendent.

F. Where necessary in the opinion of the superintendent, the owner shall provide, at his/her expense, such preliminary treatment as may be necessary to:

1. Reduce the biochemical oxygen demand to 300 parts per million by weight,
2. Reduce the suspended solids to 350 parts per million by weight,
3. Control the quantities and rates of discharge of such waters or wastes, or
4. Reduce the chlorine requirement to conform with normal sewage.

G. Plans, specifications, and other pertinent information relating to proposed preliminary treatment facilities shall be submitted for the approval of the superintendent and no construction of such facilities shall be commenced until said approvals are obtained in writing.

SECTION 7-338: HAZARDOUS AND PROHIBITED DISCHARGES; SPECIFIC PROHIBITIONS AS DETERMINED BY SUPERINTENDENT

No person shall discharge or cause to be discharged the following-described substances, materials, waters, or wastes if it appears likely in the opinion of the utilities superintendent that such wastes can harm either the sewers, sewage treatment process, or equipment, have an adverse effect on the receiving stream or can otherwise endanger life, limb, public property, or constitute a nuisance. In forming his opinion as to the acceptability of these wastes, the superintendent will give consideration to such factors as the quantities of subject wastes in relation to flows and velocities in the sewers, materials of construction of the sewers, nature of the sewage treatment process, capacity of the sewage treatment plant, and other pertinent factors. The substances prohibited are:

A. Any liquid or vapor having a temperature higher than 150° F (65° degrees

C).

B. Any water or waste containing fats, wax, grease, or oils, whether emulsified or not, in excess of 100 mg/l or containing substances which may solidify or become viscous at temperatures between 32° and 150° F (0° and 65° C) .

C. Any garbage that has not been properly shredded. The installation and operation of any garbage grinder equipped with a motor of three-fourths horsepower (0.76 hp metric) or greater shall be subject to the review and approval of the superintendent.

D. Any waters or wastes containing strong acid iron pickling wastes or concentrated plating solutions, whether neutralized or not.

E. Any water or wastes containing iron, chromium, copper, zinc, and similar objectionable or toxic substances or wastes exerting an excessive chlorine requirement to such degree that any such material received in the composite sewage at the sewage treatment works exceeds the limits established by the superintendent for such materials.

F. Any waters or wastes containing phenols or other taste- or odor-producing substances in such concentrations exceeding limits which may be established by the superintendent as necessary, after treatment of the composite sewage, to meet the requirements of state, federal, or other public agencies of jurisdiction for such discharge to the receiving waters.

G. Any radioactive wastes isotopes of such half-life or concentration as may exceed limits established by the superintendent in compliance with applicable State or Federal regulations.

H. Any waters of wastes having a pH in excess of 9.5.

I. Materials which exert or cause:

1. Unusual concentrations of inert suspended solids (such as but not limited to Fuller's earth, lime slurries, and lime residues) or of dissolved solids, (such as but not limited to sodium chloride or sodium sulfate).
2. Excessive discoloration (such as but not limited to dye wastes and vegetable tanning solutions).
3. Unusual BOD, chemical oxygen demand, or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment works.
4. Unusual volume of flow or concentration of wastes constituting "slugs" as defined herein.

J. Waters or wastes containing substances which are not amenable to treat-

ment or reduction by the sewage treatment processes employed or are amenable to treatment only to such degree that the sewage treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.

SECTION 7-339: DISCHARGE OF HAZARDOUS AND PROHIBITED SUBSTANCES; OPTIONS

A. If any waters or wastes are discharged or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in Section 7-338 and which in the judgment of the superintendent, may have a deleterious effect upon the sewage works, processes, equipment, or receiving waters or which otherwise create a hazard to life to constitute a public nuisance, the superintendent may (1) reject the wastes, (2) require pretreatment to an acceptable condition for discharge into the public sewers, (3) require control over the quantities and rates of discharge, and/or (4) require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges under the provisions of Section 7-344 (Special Exceptions Permitted; Use Fee Surcharge).

B. If the superintendent permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to his review and approval and subject to the requirements of all applicable codes, ordinances and laws.

SECTION 7-340: GREASE, OIL AND SAND INTERCEPTORS; WHEN REQUIRED

Grease, oil, and sand interceptors shall be provided when, in the opinion of the superintendent, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts or any flammable wastes, sand, or other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the superintendent and shall be located as to be readily and easily accessible for cleaning and inspection. In the maintaining of these interceptors, the owner(s) shall be responsible for the proper removal and disposal by appropriate means of the captured material and shall maintain records of the dates and means of disposal which are subject to review by the superintendent. Any removal and hauling of the collected materials not performed by owner's personnel must be performed by currently licensed waste disposal firms.

SECTION 7-341: PRELIMINARY TREATMENT OR FLOW-EQUALIZING FACILITIES; MAINTENANCE BY OWNER

Where preliminary treatment or flow-equalizing facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at his/her expense.

SECTION 7-342: CONTROL MANHOLES/SAMPLING STATIONS; WHEN REQUIRED; INSTALLATION AND MAINTENANCE

When required by the utilities superintendent, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable control manhole, together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling, and measurement of the wastes. Such manhole, when required, shall be accessibly and safely located and shall be constructed in accordance with plans approved by the superintendent. The manhole shall be installed by the owner at his/her expense and shall be maintained so as to be safe and accessible at all times.

SECTION 7-343: CONTROL MANHOLES/SAMPLING STATIONS; METHOD

All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in this article shall be determined in accordance with the latest edition of *Standard Methods for the Examination of Water and Wastewater*, published by the American Public Health Association and shall be determined at the control manhole provided or upon suitable samples taken at said control manhole. In the event no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence of hazards to life, limb, and property. (The particular analyses involved will determine whether a 24-hour composite of all outfalls of a premises is appropriate or whether a grab sample or samples should be taken. Normally, but not always, BOD and suspended solids analyses are obtained from 24-hour composites of all outfalls whereas pH's are determined from periodic grab samples.)

SECTION 7-344: HAZARDOUS AND PROHIBITED SUBSTANCES; SPECIAL EXCEPTIONS PERMITTED; USE FEE SURCHARGE

No statement contained in this article shall be construed as preventing any special agreement or arrangement between the City and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the City for treatment, subject to payment therefor, by the industrial concern.

SECTION 7-345: COMPLIANCE WITH REGULATIONS; INSPECTIONS GENERALLY

The superintendent and other duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling, and testing system in accordance with the provisions of these regulations. The superintendent or his representatives shall have no authority to inquire into any processes including metallurgical,

chemical, oil, refining, ceramic, paper, or other industries beyond that point having a direct bearing on the kind and source of discharge to the sewers or waterways or facilities for waste treatment.

SECTION 7-346: COMPLIANCE WITH REGULATIONS; INSPECTIONS; INJURY LIABILITY

While performing the necessary work on private properties referred to in Section 7-345 above, the superintendent or duly authorized employees of the City shall observe all safety rules applicable to the premises established by the company. The said company shall be held harmless for injury or death to city employees and the City shall indemnify the company against loss or damage to its property by city employees and against liability claims and demands for personal injury or property damage asserted against the company and growing out of the gauging and sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions as required in Section 7-342 (Control Manholes/Sampling Stations).

SECTION 7-347: COMPLIANCE WITH REGULATIONS; INSPECTIONS; EASEMENTS

The superintendent and other duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all private properties through which the City holds a duly negotiated easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair, and maintenance of any portion of the sewage works lying within said easement. All entry and subsequent work, if any, on said easement, shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

SECTION 7-348: VIOLATION; NOTICE AND LIABILITY

Any person found to be violating any provision of the Hazardous and Prohibited Discharges Regulations, Sections 7-336 through 7-347, shall be served by the City with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations. Any person violating any of the provisions of these regulations shall become liable to the City for any expense, loss, or damage occasioned the City by reason of such violation.

Article 4 – Solid Waste

SECTION 7-401: DEFINITIONS

A. “Garbage” and “refuse” shall mean:

1. Any odorous, putrid, unsound or unwholesome grain, meat, hides, skins, feathers, vegetable matter or the whole or any part of any dead animal, fish, or fowl.
2. Animal manure in any quantity which is not securely protected from flies and the elements or which is kept or handled in violation of any ordinance of the City.
3. Liquid household waste, human excreta, garbage, butcher’s trimmings and offal, parts of fish or any waste vegetable or animal matter in any quantity; provided, nothing herein contained shall prevent the temporary retention of waste in receptacles in a manner provided by the health officer of the City nor the dumping of non-putrefying waste in a place and manner approved by the health officer.
4. Tin cans, bottles, glass, cans, ashes, small pieces of scrap iron, wire metal articles, bric-a-brac, broken stone or cement, broken crockery, broken glass, broken plaster, and all trash or abandoned material, unless the same be kept in covered bins or galvanized iron receptacles.
5. Trash, litter, rags, accumulations of barrels, boxes, crates, packing crates, mattresses, bedding, excelsior, packing hay, straw or other packing material, lumber not neatly piled, scrap iron, tin or other metal not neatly piled, old automobiles or parts thereof or any other waste materials when any of said articles or materials create a condition in which flies or rats may breed or multiply, which may be a fire danger or which are so unsightly as to depreciate property values in the vicinity thereof.

B. “Yard waste” shall mean grass and leaves. (Neb. Rev. Stat. §13-2016.01)
(Ord. No. 452, 3/6/95)

SECTION 7-402: COLLECTION AND REMOVAL; AUTHORITY

The City Council may provide for the collection and removal of garbage or refuse found upon any lot or land within its corporate roads or alleys abutting such lot or land which constitutes a public nuisance. The City may require the owner, duly authorized agent, or tenant of such lot or land to remove the garbage or refuse from such lot or land and streets, roads, or alleys. (Neb. Rev. Stat. §18-1303)

SECTION 7-403: NOTICE; REMOVAL

Notice that removal of garbage or refuse is necessary shall be given to each owner or owner's duly authorized agent and to the tenant, if any. Such notice shall be provided by personal service or by certified mail. After providing such notice, the City through its proper offices shall, in addition to other proper remedies, remove the garbage or refuse or cause it to be removed from such lot or land and streets, roads, or alleys. (Neb. Rev. Stat. §18-1303)

SECTION 7-404: NUISANCE

If the mayor declares that the accumulation of such garbage or refuse upon any lot or land constitutes an immediate nuisance and hazard to public health and safety, the City shall remove the garbage or refuse or cause it to be removed from such lot or land within 48 hours after notice by personal service or following receipt of a certified letter in accordance with Section 7-403 if such garbage or refuse has not been removed. (Neb. Rev. Stat. §18-1303)

SECTION 7-405: COST OF REMOVAL; LIEN

Whenever the City removes any garbage or refuse or causes it to be removed from any lot or land pursuant to this article, it shall, after a hearing conducted by the City Council, assess the cost of the removal against such lot or land. (Neb. Rev. Stat. §18-1303)

SECTION 7-406: CLOSURE OF CITY LANDFILL

Due to the implementation of solid waste disposal regulations enacted by the State, the mayor and City Council deem it expedient and necessary to close the solid waste landfill owned and operated by the City for the disposal of city, commercial, and household solid waste. Effective August 1, 1993, the City landfill site no longer accepts any form of any or type of trash, garbage, rags, paper products, chemical containers, construction debris, white goods or any type of city, commercial, institutional or household solid waste. (Ord. No. 425, 4/4/94)

SECTION 7-407: COLLECTION; REGULATIONS

The City provides curbside trash and garbage pickup to the residents and business owners of the City. All solid waste shall be in containers of 30-gallon or less capacity or sacked in durable bags or be of such a nature that it can be easily placed in trucks. No hazardous materials shall be placed for collection. If any resident or business owner has an item to dispose of that does not fit in a 30-gallon container, said person may contact the city clerk and make arrangements to have said item disposed of. (Ord. No. 425, 4/4/94)

SECTION 7-408: COLLECTION; LIABILITY FOR CHARGES; PROOF OF PROPER DISPOSAL

A. The City Council has separately established charges to be paid by each person whose premises are served by the city solid waste collection system. For purposes of such charges, a person's premises are deemed to be served by the city solid waste collection system and the owner and occupant of the premises shall be deemed served and therefore liable for the charges, unless the owner or occupant proves to the City Council that:

1. The premises are unoccupied for 30 days or more; or
2. The solid waste generated at the premises during the applicable billing period was lawfully collected and hauled to a permitted facility or was otherwise disposed of in conformance with all applicable laws, regulations, and ordinances.

B. Proof of proper disposal during the applicable billing period may be provided by means of any of the following:

1. A billing receipt or other statement from a duly permitted solid waste hauling service for collection of solid waste at the premises during the applicable billing period;
2. A billing receipt or register tab from a duly permitted transfer station or disposal facility or landfill for solid waste received during the applicable billing period; or
3. Such other documentation of proper disposal as may be acceptable to the City Council. (Neb. Rev. Stat. §17-3020)

C. The city clerk may require any applicant to make a service deposit for service to any real estate not owned by the customer.

(Ord. No. 425, 4/4/94) (Am. by Ord. No. 486, 3/4/97; 528, 5/3/99)

SECTION 7-409: COLLECTION; DELINQUENT BILL; DISCONTINUANCE OF WATER SERVICE

A. In the event that any portion of any customer's city utility bill is not paid within 30 days of the date said bill initially becomes due, there shall be a penalty charge added thereto in an amount set by resolution of the City Council and on file at the office of the city clerk. Bills not paid by the 30th day from the date said bill initially becomes due shall be deemed to be delinquent. Upon being deemed to be delinquent as herein defined, the clerk shall give a written notice to the customer of such delinquency and shall demand payment immediately. In the event that the bill is not

paid within seven business days after the sending of said notice, it shall be discretionary with the utilities superintendent to cut off water service at any time; provided, if the delinquent customer is a known welfare recipient, it shall be the duty of the clerk to notify the customer and the Department of Social Services by certified mail of the proposed termination.

B. The superintendent shall assess an additional fee in the event the water is shut off for nonpayment of any portion of the City utilities bill to compensate the City for the additional hookup necessary to again provide water service to the delinquent customer. Such fee shall be set by the City Council, on file at the office of the city clerk.

(Ord. No. 425, 4/4/94)

SECTION 7-410: COLLECTION; DELINQUENT BILL; LIEN

In addition to all of the remedies, if a customer shall for any reason remain indebted to the City for utilities or services provided, such an amount due, together with any rents and charges in arrears, shall be considered a delinquent rent which is hereby declared to be a lien upon the real estate for which the same was used. The city clerk shall notify in writing or cause to be notified in writing all owners of premises or their agents whenever their tenants or lessees are 60 days or more delinquent in the payment of city utilities charges. (Ord. No. 425, 4/4/94)

Article 5 – Penal Provision

SECTION 7-501: VIOLATION; PENALTY

Any person, or any person's agent or servant, who violates any of the provisions of this chapter, unless otherwise specifically provided herein, shall be deemed guilty of an offense and upon conviction thereof shall be fined in any sum not exceeding \$500.00. A new violation shall be deemed to have been committed every 24 hours of failure to comply with the provisions of this chapter. (Neb. Rev. Stat. §17-505, 18-1720, 18-1722) (Am. by Ord. No. 543, 8/7/00)

CHAPTER 8 – FIRE REGULATIONS

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CHAPTER 8 – FIRE REGULATIONS

Article 1 – Fire Department

SECTION 8-101: OPERATION AND FUNDING; AGREEMENT WITH RURAL FIRE DISTRICT

The City operates the Fire Department through the fire chief and firemen. The City Council, for the purpose of defraying the cost of the management, maintenance, and improving the Fire Department, may each year levy a tax not exceeding the maximum limits prescribed by state law on the actual valuation of all real estate and personal property within the City that is subject to taxation. The revenue from the said tax shall be known as the Fire Department Fund, which shall be at all times in the possession of the city treasurer. The City may enter into an agreement with the appropriate rural fire district for cooperation in providing mutual aid and protection for all of the residents therein. (Neb. Rev. Stat. §178-147, 17-718, 17-953, 35-530)

SECTION 8-102: FIRE CHIEF

The fire chief shall manage the Fire Department and it shall be his duty to inform the City Council when any of the fire engines, hose, ladders, or other apparatus needs repair. Upon the written consent and directive of the Council, the fire chief shall cause the repair, improvement, or maintenance of the said equipment and shall personally supervise and approve of the same. It shall be the duty of the fire chief to come before the City Council at the regular meeting in January of each year to give an annual report of the general condition and the proposed additions or improvements recommended by him. Also see Section 1-511.

SECTION 8-103: MEMBERSHIP

A. The fire chief shall appoint no more than 25 members for each Fire Department company subject to the review and approval of the City Council. All vacancies shall be filled in this manner. Said members shall be considered to be employees of the City for the purpose of providing them with workers' compensation and other benefits. Each member shall be entitled to a term life insurance policy in the amount of at least \$510,000.00 for death from any cause to age 65 and such policy shall, at the option of the individual fireman, be convertible to a permanent form of life insurance at age 65; provided, the firemen covered are actively and faithfully performing the duties of their position. The Fire Department shall consist of so many members as may be decided by the City Council.

B. The members may organize themselves in any way they may decide, subject to the review of the City Council. They may hold meetings and engage in social activities. The secretary shall upon request keep a record of all meetings and shall make a report to the City Council of all meetings and activities of the Fire Department. The Council may, for services rendered, compensate or reward any member or members of

the Fire Department in an amount set by resolution. All members of the Fire Department shall be subject to such rules and regulations and shall perform such duties as may be prescribed or required of them by the fire chief or the City Council. The members of the Fire Department shall, during the time of a fire or great public danger, have and exercise the powers and duties of police officers and shall have full power and authority to arrest any person guilty of any violation of the municipal code or state laws.

C. Volunteer firefighters and rescue squad members testifying as witnesses in connection with their officially assigned duties in that capacity alone shall not be deemed employees of the State or of the City.

(Neb. Rev. Stat. §33-139.01, 35-101 thru 35-103, 35-108)(Am. by Ord. No. 319, 10/7/85)

SECTION 8-104: FIRES

It shall be the duty of the Fire Department to use all proper means for the extinguishment of fires; to protect property within the City; and to secure the observance of all ordinances, laws, and other rules and regulations with respect to fires and fire prevention.

SECTION 8-105: DISTANT FIRES

A. The firemen of the City shall be considered as acting in the performance and within the scope of their duties in fighting fires or saving property or life outside the corporate limits of the City when directed to do so by the mayor, the fire chief or some person authorized to act for such chief, or pursuant to any agreement with a rural fire district for mutual aid and protection.

B. Upon the permission of the mayor, fire chief, or officer in charge, such fire equipment of the City as may be designated by the City Council as rural equipment may be used beyond the corporate limits to extinguish reported fires; provided, however, at all times at least one truck shall be reserved to be available for fires within the City.

SECTION 8-106: FIRE INVESTIGATION

It shall be the duty of the Fire Department to investigate or cause to be investigated the cause, origin, and circumstances of every fire occurring in the City in which property has been destroyed or damaged in excess of \$50.00. All fires of unknown origin shall be reported, and such officers shall especially make an investigation and report as to whether such fire was the result of carelessness, accident, or design. Such investigation shall be begun within two days of the occurrence of such fire and the state fire marshal shall have the right to supervise and direct the investigation whenever he deems it expedient or necessary. The officer making the investigation of fires occurring within the City shall immediately notify the fire marshal and shall, within one week of the occurrence of the fire, furnish him with a written statement of all the facts relating to the cause and origin of the fire and such further information as he may call for. (Neb. Rev. Stat. §81-506)

SECTION 8-107: HOSE TESTING

All fire hose shall be pressure tested at least one time each year.

SECTION 8-108: EQUIPMENT

It shall be unlawful for any person except the fire chief and the members of the Fire Department to molest, destroy, handle or in any other way to interfere with the use and storage of any of the fire trucks and other apparatus belonging to the City.

SECTION 8-109: IMPERSONATING FIREMAN

It shall be unlawful for any person to falsely impersonate a fireman by wearing a badge or other apparel usually worn by a fireman for the purpose of obtaining any benefit whatsoever. Nothing herein shall be construed to prohibit the theatrical representation of a fireman for bona fide entertainment purposes when there is no intent to defraud. (Neb. Rev. Stat. §28-609)

Article 2 – Fires

SECTION 8-201: PRESERVATION OF PROPERTY

The fire chief or any officer in charge of the Fire Department shall have the authority and power to cause the removal of property whenever it shall become necessary for the preservation of more valuable property, the protection of human life, or to prevent the spreading of fire to adjoining property. The fire chief may direct the firemen to remove any building, structure, or fence for the purpose of checking the progress of any fire. The fire chief shall have the authority to blow up or cause to be blown up with explosives any building or structure during the progress of a fire for the purpose of checking the progress of the same.

SECTION 8-202: DISORDERLY SPECTATOR

It shall be unlawful for any person during the time of a fire and for a period of 36 hours after its extinguishment to hinder, resist or refuse to obey the fire chief or to act in a noisy or disorderly manner. (Neb. Rev. Stat. §28-730.01)

SECTION 8-203: MANDATORY ASSISTANCE

Any official of the Fire Department may command the assistance and services of any person present at a fire to help in extinguishing the fire or in the removal and protection of property. In the event that a spectator refuses, neglects, or fails to assist the Fire Department after a lawful order to do so, he shall be deemed guilty of a misdemeanor.

SECTION 8-204: INTERFERENCE

It shall be unlawful for any person or persons to hinder or obstruct the fire chief or the members of the Fire Department in the performance of their duties. (Neb. Rev. Stat. §28-730.01)

SECTION 8-205: OBSTRUCTION

It shall be unlawful for any person to obstruct the use of a fire hydrant or to have or place any material within 15 feet of the said hydrant. Any vehicle or material found as an obstruction may be immediately removed by the fire chief or any member of the Fire Department at the risk, cost, and expense of the owner or claimant. (Neb. Rev. Stat. §39-672)

SECTION 8-206: POWER OF ARREST

The fire chief or the assistant chief shall have the power during the time of a fire and for a period of 36 hours after its extinguishment to arrest any suspected arsonist or other person hindering or resisting the fire fighting effort or any person who conducts himself in a noisy or disorderly manner.

SECTION 8-207: DRIVING OVER HOSE

It shall be unlawful for any person, without the consent of the fire chief or assistant chief, to drive any vehicle over unprotected hose of the Fire Department. (Neb. Rev. Stat. §39-682)

SECTION 8-208: TRAFFIC

Every vehicle already stationary when the fire alarm shall have been sounded must remain so for a period of five minutes after the sounding of the fire alarm. No vehicle, except by the specific direction of the fire chief or assistant chief, shall follow, approach or park closer than 500 feet to any fire vehicle or to any fire hydrant to which a hose is connected. Nothing herein shall be construed to apply to vehicles carrying doctors or members of the Fire Department or to emergency vehicles. (Neb. Rev. Stat. §39-681)

SECTION 8-209: PEDESTRIANS

It shall be unlawful for any pedestrian to enter or remain in any street after a fire alarm shall have sounded until the fire trucks shall have completely passed.

SECTION 8-210: FALSE ALARM

It shall be unlawful for any person to intentionally and without good and reasonable cause raise any false alarm of fire.

Article 3 – Fire Prevention

SECTION 8-301: LIFE SAFETY CODE

Incorporated by reference into this code are the standards recommended by the National Fire Protection Association, known as the Life Safety Code. This code shall have the same force and effect as if set out verbatim herein. One copy of the Life Safety Code shall be on file with the city clerk, available for public inspection during office hours. (Neb. Rev. Stat. §18-132)

SECTION 8-302: FIRE PREVENTION CODE

The rules and regulations promulgated by the office of the state fire marshal relating to fire prevention are incorporated by reference into this code and made a part of this article as though spread at large herein, together with all subsequent amendments thereto. One copy of the Fire Prevention Code shall be on file with the city clerk, available for public inspection during office hours. (Neb. Rev. Stat. §18-132, 19-902, 19-922, 81-502)

SECTION 8-303: FIRE CODE ENFORCEMENT

It shall be the duty of all city officials to enforce the incorporated fire code provisions and all infractions shall be immediately brought to the attention of the fire chief.

SECTION 8-304: FIRE LIMITS DEFINED

The following-described territory in the City shall be and constitute the fire limits: Both sides of Second Street from Cedar Street on the South to Maple Street on the North, one-half block running east of Second Street and one block running west of Second Street, inclusive. (Neb. Rev. Stat. §17-550)(Am. by Ord. No. 246, 6/1/81)

SECTION 8-305: FIRE LIMITS MATERIALS

Within the aforesaid fire limits, no structure shall be built, altered, moved, or enlarged unless such structure will be enclosed with walls constructed wholly of stone, well-burned brick, terra cotta, concrete, or other such noncombustible materials as will satisfy the fire chief that the said structure will be reasonably fireproof. All buildings, sheds, and structures known as ironclads which are constructed of wood and covered with sheet iron or tin attached to the frame shall be considered and deemed to be constructed of combustible materials. Any future construction of an ironclad building shall hereafter be prohibited. It shall be unlawful for any person to repair, alter, or add to any building in the fire limits unless he/she shall use materials approved by the fire chief with the authorization of the City Council. (Neb. Rev. Stat. §17-550)

SECTION 8-306: LAWFUL ENTRY

It shall be the duty of the owner, lessee, or occupant of any building or structure, except

the interiors of private dwellings, to allow the fire chief to inspect or cause to be inspected as often as necessary the said structure for the purpose of ascertaining and enumerating all conditions therein that are likely to cause fire, or any other violations of the provisions of the City ordinances affecting the hazard of fire.

SECTION 8-307: VIOLATION NOTICE

It shall be the duty of the owner, lessee, or occupant of any building or structure that was lawfully inspected as hereinbefore prescribed and who receives written or verbal notice of a violation of any of the provisions of the city ordinances to correct the condition that violates the said ordinance or ordinances within five days from the date of receipt of such notice.

SECTION 8-308: REMOVAL REQUIRED

In the event that any wooden or combustible building or structure which stands within the fire limits is damaged to the extent of 50% or more of its value, exclusive of the foundation, it shall not be repaired or rebuilt but shall be taken down and removed within 60 days from the date of such fire or other casualty. (Neb. Rev. Stat. §17-550)

SECTION 8-309: REMOVAL OR REPAIR REQUIRED

In the event that a building within the fire limits becomes damaged by fire, wind, flood, vandalism or any other cause to the extent of less than 50% of its value, exclusive of the foundation, it shall be the duty of the owner, lessee, or occupant to remove or repair the said building in accordance with the provisions of this article. It shall be unlawful for any person to allow a building to stand in such damaged or decayed condition. Any such building shall be removed or repaired within 30 days after receiving notice to do so by the City Council. (Neb. Rev. Stat. §17-550)

SECTION 8-310: FIRES ON STREETS

It shall be unlawful for any person to set out a fire on the streets or near any curb within the City.

SECTION 8-311: HOUSEHOLD REFUSE BURNING PROHIBITED

It shall be unlawful for any person to start or maintain any fire within the City which is set for the purpose of destroying household refuse. (Ord. No. 614, 6/2/08)

SECTION 8-312: OPEN BURNING BAN; WAIVER

A. There shall be a statewide open burning ban on all bonfires, outdoor rubbish fires, and fires for the purpose of clearing land.

B. The fire chief or designee may waive an open burning ban for an area under

his jurisdiction by issuing an open burning permit to a person requesting permission to conduct open burning. The permit shall be in writing on a form provided by the state fire marshal and signed by the fire chief or designee.

C. The fire chief or designee may waive the open burning ban in his jurisdiction when conditions are acceptable to the chief or designee. Anyone burning in such jurisdiction when the open burning ban has been waived shall notify the Fire Department of his/her intention to burn.

D. The fire chief may adopt and promulgate rules and regulations listing the conditions acceptable for issuing a permit to conduct open burning under subsection (B) of this section.

E. The Fire Department may set and charge a fee for each such permit issued. This fee shall be remitted to the City Council for inclusion in the general funds allocated to the Fire Department. Such funds shall not reduce the tax requirements for the Department. No such fee shall be collected from any state or political subdivision to which such a permit is issued to conduct open burning under subsection (B) of this section in the course of such state's or political subdivision's official duties.

(Neb. Rev. Stat. §81-520.01) (Ord. No. 231, 10/6/80) (Am. by Ord. Nos. 276, 9/7/82; 454, 3/6/95)

Article 4 – Fireworks

SECTION 8-401: PERMITTED FIREWORKS

A. “Consumer fireworks” shall be defined as follows: (1) any small firework device designed to produce visible effects by combustion; (2) any small device designed to produce audible effects such as a whistling device; (3) any ground device or firecracker containing 50 milligrams or less of explosive composition; (4) any aerial device containing 130 milligrams or less of explosive composition; or (5) Class C explosives as classified by the U. S. Department of Transportation.

B. “Consumer fireworks” does not include: (1) rockets that are mounted on a stick or wire and project into the air when ignited, with or without report; (2) wire sparklers, except that silver and gold sparklers are deemed to be consumer fireworks until January 1, 2014; (3) nighttime parachutes; (4) fireworks that are shot into the air and after coming to the ground cause automatic ignition due to sufficient temperature; (5) firecrackers that contain more than 50 milligrams of explosive composition;

C. The provisions of this section shall not apply to toy cap pistols or toy caps, each of which does not contain more than .25 of a grain of explosive material; any fireworks to be used for purpose of public exhibitions or display under authorization of the City Council or to fireworks furnished for agricultural purposes pursuant to written authorization from the state fire marshal.

(Neb. Rev. Stat. §17-556, 28-1241, 28-1244, 28-1245) (Am. by Ord. No. 361, 11/8/88; 625, 2/7/11)

SECTION 8-402: FIREWORKS VENDOR; REGULATION

A. It shall be unlawful for any person or persons to sell fireworks of any description whatsoever except those described in Section 8-401(A), provided said vendor shall secure a license prior to such sales. Application shall be filed with the city clerk upon a form supplied by the City, requesting such information and documents as the City Council may deem necessary as to whether or not to grant said license. The Council shall direct the city clerk to collect the appropriate fee and issue said license, which shall authorize the sale of consumer fireworks only between June 24 and July 5 and between December 28 and January 1 each year. Any license may be revoked at any time by the Council upon proper notice and hearing, if one is requested by the licensee.

B. Color wheels, toy cap pistols and permissible caps may be sold at retail at all times.

(Neb. Rev. Stat. §18-137, 28-1003.03 through 28-1003.08) (Am. by Ord. No.356, 11/8/88; 625, 2/7/11)

Article 5 – Poisonous and Flammable Gases; Explosives

SECTION 8-501: ANHYDROUS AMMONIA; WHEN PROHIBITED

It shall be unlawful for the owner, tenant, subtenant, occupant, lessor or lessee or any other person in possession of any premises to keep or permit the loading or unloading or storage of any pressurized liquid fertilizer, commonly known as anhydrous ammonia, upon any such premises within the limits of the City. (Ord. No. 179)

SECTION 8-502: EXPLOSIVE MATERIALS, POISONOUS AND FLAMMABLE GASES AND EXPLOSIVES; REGISTRATION

A. Any person desiring to store or keep for any period of time explosive materials as defined in Neb. Rev. Stat. §28-1213 or any form of poisonous or flammable gases or liquefied petroleum gases within the City shall register such information with the city clerk 24 hours prior to such storage. The transfer of such explosives or gases to another person within the City shall require the person receiving such explosives or gases to register the transfer and the new location of the explosives and gases with the city clerk. The transfer of explosive materials and gases to a new location by the owner shall require registration of the new location with the city clerk. This section shall not apply to the storage of five gallons or less of gasoline. (Neb. Rev. Stat. §17-549, 17-556, 28-1229, 28-1233) (Am. by Ord. No. 437, 6/6/94; 439, 6/6/94)

B. All explosive materials shall be stored in a proper receptacle made of cement, metal, or stone and be closed at all times except when in actual use. Such receptacles shall not be located in any room where there are flames or flammable materials. The area surrounding storage facilities shall be kept clear of rubbish, brush, dry grass, or trees not less than 25 feet in all directions. Any other combustible materials shall be kept a distance of not less than 50 feet from outdoor storage facilities. (Neb. Rev. Stat. §17-549, 17-556, 28-1229, 28-1233) (Am. by Ord. No. 437, 6/6/94)

SECTION 8-503: BLASTING PERMITS

Any person desiring to discharge explosive materials, as defined in Neb. Rev. Stat. §28-1213, within the City shall apply for and secure a permit from the City Council 24 hours prior to such discharge. In addition, the Fire Department shall be notified pursuant to Neb. Rev. Stat. §28-1233(3). Such explosive materials shall be discharged in conformance with the conditions specified in the permit. In no case shall any person perform blasting operations unless operating under the direct supervision of a person in possession of a valid user's permit issued by the Nebraska State Patrol. (Neb. Rev. Stat. §17-549, 17-556, 28-1229, 28-1233) (Ord. No. 373, 12/4/89) (Am. by Ord. No. 438, 6/6/94)

Article 6 – Penal Provision

SECTION 8-601: VIOLATION; PENALTY

Any person, or any person's agent or servant, who violates any of the provisions of this chapter, unless otherwise specifically provided herein, shall be deemed guilty of an offense and upon conviction thereof shall be fined in any sum not exceeding \$500.00. A new violation shall be deemed to have been committed every 24 hours of failure to comply with the provisions of this chapter. (Neb. Rev. Stat. §17-505, 18-1720, 18-1722) (Am. by Ord. No. 543, 8/7/00)

CHAPTER 9 – BUILDING REGULATIONS

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CHAPTER 9 – BUILDING REGULATIONS

Article 1 – Building Permits

SECTION 9-101: REQUIREMENT

In order that improvements to real property are properly assessed for ad valorem tax purposes, no building or any other structure or improvement shall hereafter be erected or placed on real property nor shall structural alterations be made to existing structures until a building permit has been filed with the city clerk.

SECTION 9-102: INFORMATION

Each building permit shall contain the following information:

- A. Name and address of the owner of the property;
- B. Name and address of the applicant, if different from the owner;
- C. Name of the prime contractor for the project if there is one;
- D. The location of the property and the size, nature, intended use and approximate material cost of the improvement;
- E. A sketch of the property showing the location thereon of the improvement;
- F. The estimated period of construction;
- G. Acknowledgment or permission from the following utilities, indicating that the improvement will not be placed over any existing utility line unless express permission is granted from the utility company:
 - 1. Gas supplier;
 - 2. Electrical supplier;
 - 3. Phone and cable supplier;
 - 4. The City of Elgin for water and sewer.

SECTION 9-103: ADJACENT OWNERS

All structural improvements to the property shall not be erected within 6 feet from the property boundary unless said permit is accompanied by a written agreement signed by the property owner whose boundary is within 6 feet of the improvement of structure proposed to be made.

SECTION 9-104: PERMITS TO BE FILED WITH ASSESSOR

Each building permit shall be filed by the city clerk with the Antelope County assessor and shall satisfy the requirement provided by Neb. Rev. Stat. §77-1318.01.

SECTION 9-105: FEES

Each building permit shall be accompanied by a permit fee. Additional fees for water and sewer hookups shall be assessed. All such fees shall be set by the City Council and shall be available for public inspection in the office of the village clerk during office hours. (Ord. 531, 8/2/99)

Article 2 – Plumbing and Electric Code

SECTION 9-201: NATIONAL PLUMBING CODE; ADOPTED BY REFERENCE

The City of Elgin has adopted the provisions contained within the most current edition of the National Standard Plumbing Code as prescribed by the National Association of Plumbing, Heating and Cooling Contractors. The city clerk shall maintain a current copy of the National Standard Plumbing Code as part of the official records and said code shall be available for public inspection during regular city business hours. From and after this date, all construction within the City shall be done in conformity with the National Standard Plumbing Code, and all rules and regulations prescribed by the City shall be in conformity with said code. (Ord. No. 364, 7/6/89)

SECTION 9-202: NATIONAL ELECTRICAL CODE; ADOPTED BY REFERENCE

The City of Elgin shall adopt the provisions contained within the most current edition of the National Electrical Code, as recommended and published by the National Fire Protection Association. The city clerk shall maintain a current copy of the National Electrical Code as part of the official records and said code shall be available for public inspection during regular city business hours. From and after this date, all construction within the City shall be done in conformity with the National Electrical Code, and all rules and regulations prescribed by the City shall be in conformity with said code. (Ord. No. 624, 2/7/11)

**Article 3 – Enforcement Official;
Building Codes, Zoning and Subdivisions**

SECTION 9-301: APPOINTMENT

A. The city clerk shall have the added responsibility of enforcement of all the provisions of Article 4 (Floodplains) and all other ordinances of the City of Elgin now in force or hereafter adopted relating to building codes, zoning or subdivisions and is hereby authorized and directed to enforce the same.

B. The clerk is hereby appointed to these additional responsibilities by the City Council and his/her appointment shall continue during good behavior and satisfactory service. During temporary absence or disability of the clerk, the Council shall designate an acting enforcement official.

(Ord. No. 458, 8/7/95)

Article 4 – Floodplain Management

(Article adopted by Ord. No. 458, 8/7/95)

SECTION 9-401: ENFORCEMENT OFFICIAL

The city clerk shall enforcement all the provisions of this article as provided in Section 9-301.

SECTION 9-402: MAP

The City Council hereby designates the current Flood Hazard Boundary Map/Flood Insurance Rate Map and amendments as the official map to be used in determining those areas of special flood hazard.

SECTION 9-403: PERMITS REQUIRED

No person, firm or corporation shall erect, construct, enlarge or improve any building or structure in the City or cause the same to be done without first obtaining a separate development permit for each building or structure.

A. To obtain a permit, the applicant shall first file an application in writing on a form furnished for that purpose. Every such application shall:

1. Identify and describe the work to be covered by the permit for which application is made;
2. Describe the land on which the proposed work is to be done by lot, block, tract and house and street address or similar description that will readily identify and definitely locate the proposed building or work;
3. Indicate the use or occupancy for which the proposed work is intended;
4. Be signed by the permittee or his/her authorized agent who may be required to submit evidence to indicate such authority;
5. Be signed by representatives of all utilities indicating that the construction will not interfere with the utility's access to the property;
6. Be accompanied by a permit application fee as set by the City Council.

B. Within Zone(s) A on the official map, a separate development permit is required in addition to the permits set forth in subsection (A) above for substantial improvements and other developments, including the placement of mobile homes and modular homes. The application shall include:

1. All of the information set forth in subsection (A)(1) through (5) of this section is required;
2. In addition thereto, the application must be accompanied by plans and specifications for proposed construction drawn or approved by an architect or professional engineer;
3. Included in the specifications shall be an indication of elevation (in relation to mean sea level) of the lowest floor (including basement or in the case of floodproofed nonresidential structures, the elevation to which it has been floodproofed);
4. In addition to the information set forth above, such other information as may reasonably be required by the city clerk;
5. Be accompanied by a permit application fee of \$50.00.

SECTION 9-404: PERMITS

The city clerk shall review all development permit applications submitted pursuant to Section 9-403(B) to determine if the site of the proposed development is reasonably safe from flooding and that all necessary permits have been received as required by federal and state law.

SECTION 9-405: PERMIT REVIEW

The city clerk, in reviewing all applications for new construction, substantial improvements, prefabricated buildings, placement of mobile homes and other development(s), shall refer to the regulations enacted by the City Council concurrent with this article, as such regulations may be subsequently updated. A pamphlet of the regulations referred to shall be kept continuously on file in the office of the clerk.

SECTION 9-406: FINDINGS OF FACT

The City Council shall review all subdivision applications and shall make findings of fact to assure that:

A. All such proposed developments are consistent with the need to minimize flood damage;

B. Subdivision proposals and other proposed new development greater than five acres or 50 lots, whichever is lesser, include within such proposals regulatory flood elevation data in areas designated Zone A;

C. Adequate drainage is provided so as to reduce exposure to flood hazards;

D. All public utilities and facilities are located so as to minimize or eliminate flood damage.

SECTION 9-407: NEW WATER AND SEWER SYSTEMS

New and replacement water and sewer systems shall be constructed to eliminate or minimize infiltration by or discharge into floodwaters. Moreover, on-site waste disposal systems shall be designed to avoid impairment or contamination during flooding.

SECTION 9-408: COOPERATION AND NOTIFICATION

The City Council shall insure that the flood-carrying capacity within the altered or relocated portion of any watercourse is maintained. The City, in riverine situations, will notify adjacent communities and the state coordinating office prior to any alteration or relocation of a watercourse and submit copies of such notifications to the Federal Emergency Management Agency. Moreover, the City will work with appropriate state and federal agencies in every way possible in complying with the National Flood Insurance Program in accordance with the National Flood Disaster Protection Act of 1973.

SECTION 9-409: VARIANCE PROCEDURES

A. An Appeals Board shall be established by the City Council and shall consist of the city engineer, an architect or engineer selected by the applicant, and a third person agreed upon by the first two chosen; and said Appeals Board shall hear and decide appeals and requests for variances from the requirements of this article.

B. The Appeals Board shall hear and decide appeals when it is alleged that there is an error in any requirement, decision, or determination made by the city clerk or the City Council in the enforcement or administration of this article.

C. Any person aggrieved by the decision of the Appeals Board may appeal such decision to the Antelope County District Court similar to that procedure provided in Neb. Rev. Stat. §19-912.

D. In passing upon such applications, the Appeals Board shall consider all technical evaluations, relevant factors and standards specified in other sections of this article and shall additionally consider those provisions set forth in the regulations promulgated concurrent with the passage of this article. A copy of the regulations shall be kept continuously on file in the office of the city clerk.

SECTION 9-410: NONCONFORMING USE

A structure or the use of a structure or premises which was lawful before the passage or amendment of this article but which is not in conformity with its provisions may be continued subject to the following conditions:

A. If such use is discontinued for six consecutive months, the city clerk shall be notified, in writing by all utility services providing utilities to the building, of instances of nonconforming uses where utility services have been discontinued for a period of six months.

B. Uses or adjuncts thereof which are or become nuisances shall not be entitled to continue as nonconforming uses.

C. If any nonconforming use or structure is destroyed by any means, including flood, it shall not be reconstructed if the cost is more than 50% of the market value of the structure before the damage occurred unless it is reconstructed in conformity with the provisions of this article. This limitation does not include the cost of any alteration to comply with existing state or local health, sanitary, building, or safety codes or regulations or the cost of any alteration of a structure listed on the National Register of Historic Places or a state inventory of historic places.

SECTION 9-411: PENALTIES FOR VIOLATION

Violation of the provisions of this article or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or special exceptions) shall constitute a misdemeanor. Any person who violates this article or fails to comply with any of its requirements shall upon conviction be fined not more than \$100.00 and in addition shall pay all costs and expenses involved in the case. Each day that such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the City Council or other appropriate authority from taking such other lawful action as is necessary to prevent or remedy any violation.

SECTION 9-412: PRECEDENCE OF ARTICLE

This article shall take precedence over conflicting ordinances or parts of ordinances. The City Council may, from time to time, amend this article to reflect any and all changes in the National Flood Disaster Protection Act of 1973. The regulations of this article are in compliance with the National Flood Insurance Program Regulations as published in Title 44 of the Code of Federal Regulations and the 1983 Nebraska Floodplain Management Act.

SECTION 9-413: DEFINITIONS

With reference to certain phrases in this article, definitions are contained in the regulations promulgated concurrent with the passage of this article. A copy of the regulations shall be kept continuously on file in the office of the city clerk.

Article 5 – Penal Provision

SECTION 9-501: VIOLATION; PENALTY

Any person, or any person's agent or servant, who violates any of the provisions of this chapter, unless otherwise specifically provided herein, shall be deemed guilty of an offense and upon conviction thereof shall be fined in any sum not exceeding \$500.00. A new violation shall be deemed to have been committed every 24 hours of failure to comply with the provisions of this chapter. (Neb. Rev. Stat. §17-505, 18-1720, 18-1722) (Am. by Ord. No. 543, 8/7/00)