MUNICIPAL CODE

OF THE

CITY OF YUTAN,

NEBRASKA

Ordinance No. 678

Adopted January 19, 2010

MAYOR AND CITY COUNCIL

MAYOR ..... DARIN EGR
COUNCIL PRESIDENT ..... JIM MCLAUGHLIN
COUNCIL MEMBER ..... CLAUDE BECK
COUNCIL MEMBER ..... MATT THOMPSON
COUNCIL MEMBER ..... JOHANNA PETERSON

CITY OFFICIALS

CLERK ADMINISTRATOR ..... COLE BOCKELMANN
CLERK TREASURER ..... KATY NEUKIRCH
ATTORNEY ..... BROMM, LINDAHL, FREEMAN-CADDY & LAUSTERER
POLICE CHIEF ..... TIM HANNAN
FIRE CHIEF ..... DON DOOLEY

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CHAPTER 1 – CIVIL ADMINISTRATION

Article 1 – City Administration

SECTION 1-101: CORPORATE EXISTENCE

The City of Yutan, Nebraska, is hereby declared to be a city of the second class and shall be governed in all respects by the laws regulating cities of the second class.

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: "Seal, City of Yutan, Saunders County, Nebraska." The city clerk shall affix an impression of the official seal to all warrants, licenses, permits, ordinances, and all other official papers issued by order of the City Council and countersigned by the city clerk. (Neb. Rev. Stat. §17-502, 64-118)

SECTION 1-103: CITY OFFICIALS; OATH OF OFFICE

A. 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."

B. If any such officer is not required to give bond, the oath shall be filed in the office of the secretary of state or with the city clerk.
(Neb. Rev. Stat. §11-201)

SECTION 1-104: CITY OFFICIALS; BOND

A. 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 bond or insurance coverage shall be, at a minimum, an aggregate of the amounts fixed by the law or by the City Council and on such terms and conditions as may be required. The City may pay the premium for the bond or insurance coverage. (Neb. Rev. Stat. §11-104)

B. Official bonds, with the oath endorsed thereon, shall be filed in the proper office within the following time: Of all officers elected at any general election, not later than ten days before the first Thursday after the first Tuesday in January next succeeding the election; of all appointed officers, within 30 days after their appointment; of officers elected at any special election, and city officers, within 30 days after the canvass of the votes of the election at which they were chosen. (Neb. Rev. Stat. §11-105)

SECTION 1-105: RESERVE OFFICER 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 and bonding all such officers of the City has been filed. Such bonds shall be subject to the provisions of Neb. Rev. Stat. Chapter 11, Article 1. (Neb. Rev. Stat. §16-323, 17-118, 81-2444) (Ord. 286, 9-16-86)

SECTION 1-106: 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. 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.
(Neb. Rev. Stat. §87-712 et seq.) (Ord. 701, 12-17-13)

Article 2 – Elected Officials

SECTION 1-201: CITY COUNCIL AND MAYOR; TERMS; ELECTION

A. The elected officials of the City shall consist of a mayor and four council members, who shall be citizens of the United States, residents of the City and registered voters; provided, a council member's term shall expire and the office become vacant upon removal or change of residence from the City. The council members shall qualify and meet on the first regular meeting in December following their election. (Neb. Rev. Stat. §17-103)

B. The terms of office of the mayor and City Council shall be four years. The members elected in the general election in 2006 shall continue to hold their office until December, 2010. Those members elected in 2008 shall continue to hold their office until December, 2012. Thereafter, two council members' terms shall expire every two years. The election of the council members shall be held on the date of the statewide general election.

SECTION 1-202: CITY COUNCIL; POWERS AND DUTIES

The City Council shall be the legislative subsection 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. §32-533)

SECTION 1-203: 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 and all appointive offices in which the terms of incumbents are expired shall be filled by appointment. After the 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 election an actual resident of the ward for which the person is qualified and a registered voter. If any City Council member moves from the ward from which the Council member was elected, his/her office shall thereby become vacant. (Neb. Rev. Stat. §17-104) (Am. Ord. 475, 3-19-96)

SECTION 1-204: CITY COUNCIL; VACANCY

A. Vacancies in city elected offices shall be filled by the mayor and City Council for the balance of the unexpired term except as provided in this section. 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.

B. The City 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 has been presented, or upon the death of the incumbent, call a special meeting of the City Council, at which time the mayor shall submit the name of a qualified elector to fill the vacancy for the balance of the unexpired term.

D. No officer who is removed at a recall election or 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 City Council during the remainder of his/her term of office.

E. Upon a majority vote of approval by the City Council the vacancy shall be filled. If a majority vote is not reached, the nomination shall be rejected and the mayor shall at the next regular meeting submit the name of another qualified elector. If the vote on the nominee fails to carry by majority vote, the mayor shall continue at such meeting to submit the names of qualified electors and the City Council shall continue to vote upon such nominations until the vacancy is filled.

F. The mayor shall cast his/her vote only in case of a tie vote of the City Council.

G. All City Council members shall cast a ballot for or against each nominee.

H. The mayor and Council may, in lieu of filling a vacancy in a city office as provided above in this section, call a special city election to fill such vacancy.

I. If there are vacancies in the offices of a majority of the members of the City Council, there shall be a special city election conducted by the secretary of state to fill such vacancies.
(Neb. Rev. Stat. §32-567 through 32-572) (Am. Ord. 360, 12-11-90)

SECTION 1-205: VACANCY DUE TO UNEXCUSED ABSENCES

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)

SECTION 1-206: MAYOR; SELECTION AND DUTIES

A. The mayor shall be elected at the city election and shall serve a four-year term of office. The mayor shall be a resident and registered voter of the City. He/she shall have the general and immediate control over all property and officials, whether elected or appointed. The mayor shall 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. The mayor's signature must appear on the city clerk's minutes of all meetings and he/she must sign all resolutions which have been passed and warrants for the payment of money when ordered by the City Council. The mayor shall have power to veto or sign any ordinance passed by the City Council and to approve or veto any order, bylaw, resolution, award of or vote to enter into any contract, or the allowance of any claim, as provided in Section 1-506. (Am. Ord. 702, 12-17-13)

B. The mayor shall from time to time communicate to the Council such information and recommendations as, in his/her opinion, may improve the City. The mayor may require at reasonable intervals any city official to exhibit accounts and make reports to the Council on any subject pertaining to the official's office. The mayor shall have the power to remit fines or pardon any offense arising under the ordinances of the City and may remove at any time an appointed police officer of the City. 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 the mayor except taxation. He/she shall also have such other duties as the City Council may by resolution confer upon the mayor or in any other matters which the laws of the state of Nebraska repose in the mayor.
(Neb. Rev. Stat. §17-107, 17-110 through 17-117, 32-533) (Am. Ord. 474, 3-19-96)

SECTION 1-207: MAYOR; VACANCY

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. 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. If the president of the Council shall for any cause assume the office of mayor for the remainder of the unexpired term, there shall be a vacancy on the Council which shall be filled as provided herein. (Neb. Rev. Stat. §17-107)

SECTION 1-208: CITY COUNCIL; PRESIDENT; 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 all meetings of the City Council 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 that 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 1-209: SUCCESSION OF CONTROL

In order to designate the succession of control of the City and to declare and control a disaster or emergency when the mayor is not present or is unable to act as the principal executive officer of the City, then the following is the procedure used to determine who is next in line to fulfill those duties and responsibilities:

A. If the mayor is not present or is incapable of performing his/her duties in order to declare a disaster or emergency and/or act as principal executive officer in a disaster or emergency situation, then the president of the City Council shall perform those functions and duties.

B. Should the president of the Council not be present or be unable to perform those functions and duties, then the next most senior elected official shall perform those duties and functions.

C. The line of succession for the remaining elected officials shall follow by seniority from the date originally elected. If more than one council member has the same date of seniority, then the most senior in age shall assume control.

SECTION 1-210: RESTRICTIONS ON OTHER EMPLOYMENT OR ELECTIVE OFFICE

A. The mayor and members of the City Council shall hold no other elective or appointive office or employment with the city.

B. For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

"Elective office" means any office which has candidates nominated or elected at the time of a statewide primary election, any office which has candidates nominated at the time of a statewide primary election and elected at the time of a statewide general election, any office which has candidates elected at the time of a statewide general election, any office which has candidates nominated or elected at a city election, and

any office created by an act of the Legislature which has candidates elected at an election and includes an office which is filled at an election held in conjunction with the annual meeting of a public body created by an act of the Legislature.

"High elective office" means a member of the Legislature, an elective office described in Article IV, Section 1 or 20, or Article VII, Section 3 or 10, of the Constitution of Nebraska, or a county, city, or school district elective office. (Neb. Rev. Stat. §32-109)

C. No candidate for member of the Legislature or an elective office described in Article IV, Section 1 or 20, or Article VII, Section 3 or 10 of the Constitution of Nebraska shall be eligible to file as a candidate, to petition on the ballot as a candidate, to accept a nomination by a political party or by party convention, caucus, or committee to fill a vacancy, or to be a declared write-in candidate for more than one elective office to be filled at the same election except for the position of delegate to a county, state, or national political party convention. No candidate for any other high elective office shall be eligible to file as a candidate, to petition on the ballot as a candidate, to accept a nomination by a political party or by party convention, caucus, or committee to fill a vacancy, or to be declared a write-in candidate for more than one high elective office to be filled at the same election. (Neb. Rev. Stat. §32-603)

D. Except as provided in subsections (E) or (G) of this section, no person shall be precluded from being elected or appointed to or holding an elective office for the reason that he/she has been elected or appointed to or holds another elective office.

E. No person serving as a member of the Legislature or in an elective office described in Article IV, Section 1 or 20, or Article VII, Section 3 or 10 of the Constitution of Nebraska shall simultaneously serve in any other elective office, except that such a person may simultaneously serve in another elective office which is filled at an election held in conjunction with the annual meeting of a public body.

F. Whenever an incumbent serving as a member of the Legislature or in an elective office described in Article IV, Section 1 or 20, or Article VII, Section 3 or 10 of the Constitution of Nebraska assumes another elective office, except an elective office filled at an election held in conjunction with the annual meeting of a public body, the office first held by the incumbent shall be deemed vacant.

G. No person serving in a high elective office shall simultaneously serve in any other high elective office.

H. Notwithstanding subsections (E) through (G) of this section, any person holding more than one high elective office upon September 13, 1997, shall be entitled to serve the remainder of all terms for which he/she was elected or appointed.
(Neb. Rev. Stat. §32-604, 17-108.02)

Article 3 – Appointed Officials

SECTION 1-301: SELECTION AND DUTIES

A. The mayor, with the consent of the City Council, may appoint such officers as shall be required by ordinance or otherwise required by law. The mayor, by and with the consent of the City Council, shall appoint such a number of regular police officers as may be necessary. The City Council may establish and provide for the appointment of members of a law enforcement reserve force as provided by law.

B. All police officers and other appointed officials may be removed at any time by the mayor, except that if the City has a water commissioner, he/she may at any time, for sufficient cause, be removed from office by a two-thirds vote of the City Council.
(Neb. Rev. Stat. §17-107, 17-541, 81-2438) (Am. Ord. 514, 7-15-97)

SECTION 1-302: MERGER OF OFFICES

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 employment, except mayor and council member, with any other elective or appointive office or employment so that one or more of such offices or employment or any combination of duties of any such offices or employment may be held by the same officer or employee at the same time. The offices or employment 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 employment or offices and employment shall not be in excess of the maximum amount provided by law for the salary or compensation of the office, offices, employment, or employment 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. Ord. 361, 12-11-90)

SECTION 1-303: CLERK-TREASURER POSITION CREATED

The appointive offices of village clerk and village treasurer are hereby combined and merged in accordance with the authority granted to the Village Board. Such merger shall be governed by the provisions of Section 1-302 above.

SECTION 1-304: OFFICE OF CITY ADMINISTRATOR SEPARATE FROM THE OFFICE OF CLERK-TREASURER

The appointive offices of city administrator, city clerk and city treasurer shall be separated into the office of city administrator, designated by the title "city administrator," and the merged office of city clerk and city treasurer, designated by the title "city clerk-treasurer." The city administrator shall have the duties and responsibilities as set forth in Section 1-305, and said collective appointive offices of clerk and treasurer shall have

the duties and responsibilities as set forth in Sections 1-306 and 1-308. (Ord. 647, 9-13-05) (Am. Ord. 674, 1-20-09)

SECTION 1-305: CITY ADMINISTRATOR

There is hereby created the separate office of city administrator as designated in Section 1-304. The city administrator shall be appointed by the mayor with the consent of the City Council and serve under the supervision and direction of the mayor. The city administrator shall further carry out all of the duties heretofore and hereafter adopted by the mayor and City Council, which shall include but not be limited to the following:

A. Acting as the agent of the mayor to carry out the mayor's recommendations, directives, and administrative functions in the absence of the mayor, in the performance of duties, responsibilities, acts, affairs or decisions required for the proper administration of the City; provided, however, the city administrator shall have no power to exercise any policy-making or legislative functions whatsoever or commit or bind the City to any plan, action, or program requiring official action by the mayor or City Council.

B. Having the direct and immediate supervision over the day-to-day operation of the city departments and city clerk-treasurer, city chief of police, police officers, utilities superintendent, department heads, and other municipal employees, either full- or part-time. Said supervision shall be for the purposes of general administration of the City and its affairs, and the city administrator's directives to carry out said duties and responsibilities shall be followed by all employees; provided, however, said duties and responsibilities shall not include the making of operational decisions authorized by this chapter or state statute as to any municipal departments, department heads, or other employees. The city administrator shall have general supervision over employee work schedules to optimize use of the City's work force but the responsibility of employee hours and work schedules for each municipal department shall be the responsibility of each department head.

C. Supervising the city building inspector, animal control officer, and other regulatory positions authorized, established, and created by the municipal code for liaison purposes with the mayor and City Council. The city administrator shall receive periodic reports, as deemed necessary by him/her, for the purposes of reporting to the mayor and City Council. The city administrator shall maintain all permanent files and records of said positions at the city office.

D. Acting as an ex officio member of all boards and committees authorized, established, and created by the municipal code for liaison purposes with the mayor and City Council and shall receive periodic reports, as deemed necessary by the city administrator, from all boards and committees for the purposes of reporting to the mayor and City Council as to the activities of said boards and committees. The city administrator shall not be required to attend any such board or committee meetings or record any minutes of such meetings. However, the city administrator shall maintain

minutes of all such board or committee meetings at the city office.

E. Acting as the City's personnel director, with the responsibility of supervision of payroll and recordkeeping, coordinating employment application procedures, maintaining employee files, administering the City's evaluation programs as set by the mayor and City Council, administering employee health insurance plans, workers compensation insurance programs, accident reports and claims, employee retirement programs, unemployment insurance and any and all other employment programs created by the City.

F. Administering the City's comprehensive liability insurance policies and programs as determined by the mayor and City Council and coordinating any insurance contract negotiations, renewals, claims, or other matters relating to the City's insurance programs.

G. Serving as public relations officer of the City and coordinating city interests with community organizations.

H. Serving as purchasing agent for the City and its departments, boards and committees authorized, established, and created by the municipal code, as directed by the mayor and City Council; provided, however, each department head shall have the authority to make expenditures for his/her respective department up to the limit of $500. The city administrator shall maintain records of all inventories, personal property and real property owned by the City and supervise the maintenance, repair and purchasing programs for all inventories, personal property and real property.

I. Coordinating the budget preparation and providing periodic budget and accounting reports to the mayor and City Council regarding financial operations of the City.

J. Providing information, facts and reports of city operations and suggesting long-range improvements, purchases, plans, and programs to the mayor and City Council.

K. Attending all meetings of the City Council and having the duty to report any matter concerning city affairs under his/her supervision.
(Ord. 647, 9-13-05) (Am. Ord. 674, 1-20-09)

SECTION 1-306: 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. He/she shall make the proper certificate of passage which shall be attached to original copies of all bond ordinances hereafter enacted by the City Council. Within 30 days after any meeting of the City 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.

B. The city clerk shall issue and sign all licenses, permits, and occupation tax receipts authorized by law and required by the city ordinances. He/she shall collect all occupation taxes and license money except where some other city officer is specifically charged with that duty. He/she shall 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. He/she shall keep all the records of his/her office, including a record of all licenses issued by him/her in a book with a proper index. He/she shall include as part of his/her 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. He/she shall endorse the date and hour of filing upon every paper or document so filed in his/her office. All such filings made by him/her shall be properly docketed. Included in his/her records shall be all standard codes, amendments thereto, and other documents incorporated by reference and arranged in triplicate in a manner convenient for reference. He/she shall keep an accurate and complete account of the appropriation of the several funds, 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 during office hours.

D. The city clerk shall deliver all warrants, ordinances, and resolutions under his/her charge to the mayor for his/her signature. He/she shall also deliver to officers, employees, and committees all resolutions and communications which are directed at said officers, employees, or committees. With the seal of the City, he/she shall duly attest the mayor's signature on all ordinances, deeds, and papers required to be attested to when ordered to do so by the City Council.

E. Between July 15 and August 15 of each year, the employee job titles and the current annual, monthly, or hourly salaries corresponding to such job titles shall be published. Each job title published shall be descriptive and indicative of the duties and functions of the position. The charge for such publication shall not exceed the rates provided by the statutes of the state of Nebraska, Neb. Rev. Stat. §19-1102 and §23-122. Said publication shall be charged against the general fund.

F. The city clerk shall keep in a book with a proper index copies of all notices

required to be published or posted by the city clerk 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.

G. 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, the city clerk shall notify such claimant, his/her agent, or attorney by letter within five days after such disallowance and he/she shall then prepare transcripts on appeals of any disallowance of a claim in all proper cases.

H. 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 through §84-1227, provided that the City 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, 19-1101 through 19-1103, 19-1104, 23-122, 33-141 through 33-143, 84-712, 84-1201 through 84-1227) (Am. Ords. 391, 2-16-93; 703, 12-17-13)

SECTION 1-307: DEPUTY CITY CLERK

The mayor with the consent of the City Council may appoint, within the office of the city clerk, a deputy clerk, who shall be under the immediate supervision of the city clerk and shall have the powers and duties as directed by the city clerk. The deputy clerk shall perform the duties of the city clerk in his/her absence. (Ord. 647, 9-13-05)

SECTION 1-308: CITY TREASURER

A. The city treasurer shall be the custodian of all money belonging to the City. He/she shall keep 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. He/she 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/her, which warrants, with any and all vouchers held by him/her, shall be filed with his/her account in the city clerk's office. If the city treasurer fails to render his/her account within 20 days after the end of the month or by a later date established by the City Council, the mayor with the advice and consent of the Council may use this failure as cause to remove the treasurer from office. (Neb. Rev. Stat. §17-606)

B. All warrants upon the city 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, 77-2202))

C. The city 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 city 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 of the city 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 city treasurer shall keep all money belonging to the City separate and distinct from his/her own money. He/she 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/her, by writing or stamping on the face thereof, "Paid by the City Treasurer," with the date of payment written or stamped thereon. He/she shall 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.
(Neb. Rev. Stat. §17-606 through 17-609, 84-712) (Am. Ord. 703, 12-17-13)

SECTION 1-309: CITY ATTORNEY

The city attorney shall be the legal advisor of the City Council. He/she shall commence, prosecute, and defend all suits and actions necessary to be commenced, prosecuted or defended on behalf of or that may be ordered by the Council. When requested, he/she shall attend meetings of the Council and give his/her opinion upon any matters submitted to him/her, either orally or in writing, as may be required. He/she shall draft or review for legal correctness ordinances, contracts, franchises and other instruments as may be required and shall perform such other duties as may be imposed by general law or ordinance. The City 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 1-310: CHIEF OF POLICE

The police chief shall direct the police work of the City and shall be responsible for the maintenance of law and order. The chief shall act as health inspector and building inspector except in the event the City appoints another person, 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 the laws of the state of Nebraska. (Neb. Rev. Stat. §17-107, 17-121)

SECTION 1-311: POLICE OFFICERS

A. The City Council may from time to time provide the city police with such uniforms, equipment, and transportation as may be essential in the performance of their official duties. Badges shall be furnished to the city police by the City. Any member who shall lose or destroy the same shall be required to pay the replacement costs, and in the event that any member shall leave the force, he/she shall immediately deliver his/her badge to the police chief.

B. The city police, whether regular or special, shall have the power to arrest all offenders against the laws of the State of Nebraska or the City, by day or by night, and keep the said offenders in the county jail or some other place to prevent their escape until trial can be held before the proper official of the state of Nebraska or the City. They shall have full power and authority to call on any person whenever necessary to assist them in performing public duties, and failure, neglect, or refusal to render such assistance shall be deemed a misdemeanor punishable upon conviction by a fine.

C. Every city police officer shall be expected to be conversant and knowledgeable with the city and state laws, and no law enforcement official shall have any interest in any establishment having a liquor license. Police officers shall have the duty to file such complaints and reports as may be required by the city ordinances and the laws of the state of Nebraska. Any police officer who shall willfully fail, neglect, or refuse to make an arrest or who purposely and willfully fails to make a complaint after an arrest is made shall be deemed guilty of a misdemeanor and upon conviction shall be fined. It shall be unlawful for the City Council to retain any police officer in that position after

he/she has been duly convicted of the willful violation of any law of the United States of America or the State of Nebraska or any ordinance of the City, except minor traffic violations. It shall be the duty of every police officer making a lawful arrest to search all persons in the presence of some other person, whenever possible, and shall carefully keep and produce to the proper judicial official upon the trial everything found upon the person of such prisoners.
(Neb. Rev. Stat. §17-118, 17-124, 17-213, 17-118, 17-124)

SECTION 1-312: POLICE DEPARTMENT; DUTIES

The Police Department shall consist of the chief of police and such further number of regular police officers 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. The chief shall devote his/her whole time to city affairs and 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. 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 police officers 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. (Neb. Rev. Stat. §16-323, 17-118)

SECTION 1-313: POLICE DEPARTMENT; JURISDICTION BEYOND CORPORATE LIMITS

The Police Department of the City shall have jurisdiction to enforce the ordinances of the City within the corporate limits of the City and for the area lying between the corporate limits and one mile beyond the corporate limits. (Ord. 315, 3-8-88) (Am. Ord. 467, 10-18-95)

SECTION 1-314: CITY FIRE CHIEF

The city fire chief shall be elected by the members of the Fire Department and 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/she shall within two days investigate the cause, origin, and circumstances of fires arising within his/her jurisdiction. He/she shall, on or before the first day in April and October of 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/herself in a noisy and disorderly manner, or any person who refuses to obey any lawful order by the fire chief or assistant fire chief. The fire chief or an 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 an offense 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/her jurisdiction for the purpose of examining the same for fire hazards and related dangers. (Neb. Rev. Stat. §17-147, 17-505, 35-102, 35-108, 81-506, 81-512)

SECTION 1-315: CITY ENGINEER

The city engineer shall make all surveys, estimates, and calculations necessary to be made for the establishment of any public utilities and the costs of labor and materials therefor. He shall accurately make all plats, sections, and maps as may be necessary under the direction of the City Council. Upon request, he shall make estimates of the cost of labor and material which may be done or furnished by contract with the City and make all surveys, estimates, and calculations necessary to be made for the establishment of grades, 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. The city engineer shall perform such other duties as the City Council may require. (Neb. Rev. Stat. §17-150 and 17-919, 17-405, 17-568.01, 81-3401 through 81-3455)

SECTION 1-316: 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/her surveys and all other work done for the City. He shall, when directed by the City 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 City 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, curbing and gutters, and the improvement of streets and erection and repair of buildings. The special engineer 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. §17-150, 17-919, 17-405, 17-568, 81-3401 through 81-3455) (Am. Ord. 232, 9-20-93)

SECTION 1-317: UTILITIES SUPERINTENDENT

A utilities superintendent shall be appointed in the event that there is more than one city utility and the City Council determines that it is in the best interest of the City to

appoint one official to have the immediate control over all the said utilities and city streets. 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 shall provide a bond conditioned upon the faithful discharge of 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. 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's duties over the following departments shall be as stated herein:

A. *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. The utilities superintendent shall have the general control and supervisory authority over all employees of the water system which the City Council may from time to time hire to operate and maintain the system. Unless some other official is specifically designated, he shall collect all money received by the City on account of the system of waterworks and shall faithfully account for and pay over to the city treasurer all such money collected in the name of the City and receive a receipt from the city treasurer for the depository evidence of the faithful discharge of this duty. This receipt shall then be filed with the city clerk and the second copy shall be kept by the superintendent. He shall make a detailed report to the City Council at least once every six months of the condition of the 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 waterworks system except upon the recommendation of the superintendent. He shall perform such additional duties as may be prescribed by the City Council.

B. *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 at least every six months make a detailed report to the City Council 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 issue permits for all connections to the city sewer system and inspect and supervise all repairs made to the said system. He shall have such other duties as the City Council may delegate.

C. *Street Department*. The utilities superintendent 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 City Council may require. It shall be his/her 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, sidewalks, 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.

D. *City Parks*. The utilities superintendent shall have the immediate control and supervision of the city parks and of all employees and property that make up the park system, subject to the general control and directives of the City Council. He shall at least every six months make a detailed report to the City Council on the condition of the park system and shall direct its attention to such improvements, repairs, and additional employees as he may believe are needed, along with an estimate of the cost thereof. He shall supervise all repairs made to the said system and shall also have such additional duties as the City Council may delegate.
(Neb. Rev. Stat. §17-107, 17-119, 17-541, 17-543)

SECTION 1-318: CITY BUILDING INSPECTOR

The city building inspector shall issue such permits as directed by the City Council. He shall conduct surveys and make inspections in any area of the City to determine whether all buildings and structures are in compliance with city ordinances. He shall investigate all complaints, whether verbal, written, or in the form of a petition, alleging and charging that a violation of the city ordinances exists and that a building or structure is unfit or unsafe for human habitation. The building inspector is authorized, upon properly identifying himself, to enter, inspect, survey, and investigate between the hours of 8:00 A.M. and 5:00 P.M. or at any time if an emergency exists or if requested by the owner or occupant thereof. He shall keep records of all complaints received, inspection reports, orders, and complaints issued. The records shall be available for public inspection and he shall prepare an annual report, including statistics based on the records kept. He shall report to the Council as often as may be deemed necessary. The building inspector shall have no financial interest in the furnishing of labor, materials, or appliances for the construction, alteration, or maintenance of a building, except where he is the owner of a building, and shall not act as an agent for any said dealer or as an agent for the sale, lease, or rental of any real estate. He shall have such other duties as the Council may direct. The building inspector may be removed at any time for good and sufficient cause by the City Council.

SECTION 1-319: ZONING INSPECTOR

The mayor may appoint a zoning inspector. In the absence of a specific appointment by the mayor, the City Council may designate a city official to serve as zoning inspector.

SECTION 1-320: HEARING OFFICER

The hearing officer shall be appointed annually and shall serve as a hearing officer for those matters which the Municipal Code requires the appointment of such officer for. The hearing officer shall follow the requirements set forth by Municipal Code and Nebraska law required of such position, which shall include cooperation with the Municipal Clerk in setting hearing dates, conducting hearings as required by law; administering oaths, compelling witnesses to appear, signing official documents, applying and following procedural rules adopted by the City; and rendering written decisions within the time period set forth by law. Upon rendering a decision, the hearing officer shall deliver the written decisions to the Municipal Clerk immediately for dissemination. The hearing officer shall be provided supplies in order to carry out the hearing officer's duties including office supplies, a secretary, recorder, or recording device for hearings. All appeal documents, hearing records, and decisions shall be maintained by the Municipal Clerk as custodian of records for the City. (Ord. 737, 4-17-18)

Article 4 – Meetings

SECTION 1-401: DEFINITIONS

A. For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

"Meetings" 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))

"Public body" shall mean:

1. The City Council;
2. All independent boards, commissions, bureaus, committees, councils, subunits, or any other bodies, now or hereafter created by constitution, statute, ordinance, or otherwise pursuant to law; and
3. Advisory committees of the bodies listed above.

B. This chapter shall not apply to subcommittees of the bodies designated in this definition unless a quorum of the public body attends a subcommittee meeting or 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. Ord. 392, 2-16-93)

SECTION 1-402: NOTICE; AGENDA

A. All public meetings as defined by law shall be held in a public building located within the City 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. All such meetings shall be open to attendance by the public. The advance publicized notice of all public, convened meetings shall be transmitted to all members of the Council and to the public by a method designated by the Council. 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 available for public inspection at the office of the city clerk. Agenda items shall be sufficiently descriptive to give the public reasonable notice of the matters to be considered at the meeting. The Council shall have the right to modify the agenda at the public meeting when convened. The minutes of the city clerk shall include a record of the manner by which the advance publicized notice was given, the time and specific place of each meeting and the names of each member of the Council present or absent at each convened meeting.

B. 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.

C. Any formal actions taken at any public meeting not in conformity with the provisions of this section shall be deemed to be void. Any official who shall violate the provisions of this section shall be deemed to be guilty of a misdemeanor.
(Neb. Rev. Stat. §84-1408, 84-1409, 84-1411, 84-1413)

SECTION 1-403: RIGHTS OF PUBLIC

A. Subject to the provisions of this chapter, 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 meetings, 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. 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. No public body shall require members of the public to identify themselves as a condition for admission to the meeting. The body may require any member of the public desiring to address the body to identify himself or herself.

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

D. An agency which contracts with municipalities outside the state of Nebraska may hold meetings of any committee outside the state of Nebraska if such meetings are held only in such contracting municipalities. Final action on any agenda item shall only be taken by the agency at a meeting in the state of Nebraska, which meeting shall comply with Neb. Rev. Stat. §84-1408 to §84-1414.

E. 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. 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 and 18-2438) (Am. Ord. 305, 9-15-87)

SECTION 1-404: OPEN MEETINGS INFORMATION

The City Council shall make available at least one current copy of the Open Meetings Act, to be posted in the meeting room at a location accessible to members of the public.

At the beginning of each meeting, the public shall be informed about the location of the posted information. (Neb. Rev. Stat. §84-1412)

SECTION 1-405: NOTICE TO NEWS MEDIA

The city clerk, secretary, or other designee of each public body 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(3))

SECTION 1-406: ORGANIZATIONAL MEETING

A. The newly elected council members shall convene at the regular meeting place in the City on the first regular meeting date in December of each year in which a city election is held. The outgoing officers and members of the Council shall present their reports. After the outgoing Council completes its business, the outgoing members shall surrender their offices to the incoming members. The outgoing officers shall thereupon each surrender to his/her successor in office all property, records, papers, and moneys.

B. 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 then nominate candidates for appointive offices. He/she shall then proceed with the regular order of business. It is hereby made the duty of each and every member of the Council or his/her 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 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.
(Am. Ord. 477, 3-19-96)

SECTION 1-407: STANDING COMMITTEES

A. At the reorganizational meeting after a general election, the mayor shall appoint each council member to a standing committee of the City. Each committee shall consist of two members who shall serve for two years. The mayor will serve as ex officio member of each standing committee.

B. The purposes of the various standing committees shall be to establish policy

for the City, to assist the various council persons on the committees to develop expertise in a specified area, to review specific problems or situations, and to provide recommendations to the mayor and Council as a whole. It is not the purpose of the committees to usurp the administrative powers of the mayor. The various standing committees shall meet on a periodic basis and shall keep accurate minutes and records of their meeting. Staff of the City shall be available to lend assistance to the various committees. The minutes and records of the various committee meetings shall be presented to the mayor and City Council at a regular monthly meeting.

C. The following standing committees shall be appointed or reappointed each year until changed by the City Council:

1. *Personnel and Finance*. This committee's responsibility shall be to review the city budget, to recommend financing, taxes, fees, audits, and investment policies, to review the mayor's recommendations regarding employee wage and benefit packages, and to review personnel policies. The city staff to assist this committee shall consist of the city clerk.

2. *Parks and Recreation*. This committee's responsibility shall be to serve as a liaison with the Park Board and Library Board. The city staff to assist this committee shall consist of the librarian and utilities superintendent.

3. *Water, Sewer, Streets, and Equipment*. This committee's responsibility shall be to review the utility rates and charges and capital improvement projects, recommend financing, review the utility operating policies and procedures regarding sewer, water, and streets, and to submit recommendations to the mayor as to equipment needed to perform the utility duties. The city staff to assist this committee shall consist of the utilities superintendent.

4. *Zoning, Building, and Industrial*. This committee's responsibility shall be to serve as liaison with the Planning Commission, Economic Development Committee, and Board of Adjustment. The city staff to assist this committee shall consist of the building inspector and city clerk.

5. *Ordinances and Legal; Police*. This committee's responsibility shall be to serve as liaison with the city attorney and review all ordinances and legal and police matters. The city staff to assist this committee shall consist of the chief of police and city clerk.

(Neb. Rev. Stat. §17-107) (Ord. 7-21-98)

SECTION 1-408: REGULAR MEETINGS

A. The meetings of the City Council shall be held at city hall. Regular meetings shall be held on the third Tuesday of each month at the hour of 7:00 P.M.

B. A majority of the City Council members shall constitute a quorum for the

transaction of any business but a smaller number may adjourn from day to day and compel the attendance of absent members. Whether a quorum is present or not, all absent members shall be sent for and compelled to attend.

C. Unless a greater vote is required by law, an affirmative vote of at least one-half of the elected members shall be required for the transaction of any business. (Neb. Rev. Stat. §17-105)

D. 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 council members shall elect a president pro tempore.
(Neb. Rev. Stat. §17-104)

SECTION 1-409: SPECIAL MEETINGS

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. All ordinances passed at any special meeting shall comply with procedures set forth in Article 5 (Ordinances, Resolutions, and Motions). (Neb. Rev. Stat. §17-106)

SECTION 1-410: 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. The subject matter and the reason necessitating the closed session shall be identified in the motion to close. 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.

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

C. The vote to hold a closed session shall be taken in open session. The entire motion, the vote of each member on the question of holding a closed session, and the time when the closed session commenced and concluded shall be recorded in the minutes. If the motion to close passes, then the presiding officer immediately prior to the closed session shall restate on the record the limitation of the subject matter of the closed session. 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 motion to close 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 shall mean 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 subdivision (A)(1) of this section.

D. 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.

E. Nothing in this section shall be construed to require that any meeting be closed to the public. 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 the Open Meetings Act. No closed session, informal meeting, chance meeting, social gathering, email, fax, or other electronic communication shall be used for the purpose of circumventing the requirements of the act.

F. The act 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. 623, 2-15-05)

SECTION 1-411: 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 1-405 (Notice to News Media) shall be complied with in conducting emergency meetings. Complete minutes of such emergency meetings 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(4))

SECTION 1-412: PARLIAMENTARY PROCEDURE; *ROBERT'S RULES OF ORDER*

Unless otherwise specified in this article, the City Council shall use as a guide in making parliamentary decisions the rules of procedure known as *Robert's Rules of Order*, Newly Revised, except the mayor shall vote only in case of a tie.

SECTION 1-413: RULES OF DEBATE

A. *Getting the Floor; Improper References to be Avoided*: Every council member desiring to speak shall address the chair and upon recognition by the presiding officer, shall confine himself/herself to the question under debate, avoiding all indecorous language.

B. *Interruptions*: A member, once recognized, shall not be interrupted when speaking, unless it is to call to order or as otherwise provided in this article. If a member, while speaking, is called to order, he/she shall cease speaking until the question of order is determined and, if in order, shall be permitted to proceed.

C. *Yielding the Floor*: A council member having the floor shall yield the same for a point of order addressed to the chair, a question of personal privilege raised by any member, or any inquiry for information addressed to the chair. He/she may, upon request of any other member, temporarily yield the floor for any interrogation or a statement by any member, at the conclusion of which he/she will again be entitled to the floor.

D. *Limitation on Debate*: The Council may, by a general rule, limit debate or discussion on any mater, or may, by motion adopted at the time, limit debate or discussion on any particular subject or motion, and may, by majority vote of the members present, extend any such limit. No member shall speak more than once on any subject under discussion without the permission of the presiding officer.

E. *Privilege of Closing Debate*: The council member moving for the adoption of an ordinance or resolution shall have the privilege of closing the debate.

F. *Motion to Reconsider*: A motion to reconsider any action taken by the Council may be made at any time prior to approval of the minutes of the meeting at which such motion was made. Such motion must be made by one of the prevailing side but may be seconded by any member and may be made at any time and have precedence over all other motions, and it shall be debatable. Nothing in this section shall be construed

to prevent any member of the Council from making or remaking the same or any other motion at a subsequent meeting of the Council.

G. *Remarks of Council Member Entered in Minutes*: A council member may request, through the mayor, the privilege of having an abstract of his/her statement on any subject under consideration by the Council entered in the minutes. If the Council consents thereto, such statement shall be entered in the minutes.

H. *Synopsis of Debate Entered in Minutes*: The city clerk may be directed by the mayor, with consent of the Council, to enter in the minutes a synopsis of the discussion of any question coming regularly before the Council.

I. *Motions to Adjourn*: A motion to adjourn shall always be in order and shall be decided without debate.

SECTION 1-414: VOTES

A. 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's utilization of an electronic voting device which allows the yeas and nays of each member of the City Council to be readily seen by the public. (Neb. Rev. Stat. §84-1413(2))

B. 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. §84-1413(3))

SECTION 1-415: MINUTES; DEADLINE

The minutes of any meeting of the City Council shall be written and available for public inspection within ten working days of the meeting or prior to the next convened meeting, whichever occurs earlier, except that the city clerk may have an additional ten working days if he/she is absent due to a serious illness or emergency. (Neb. Rev. Stat. §84-1412, 84-1413)

SECTION 1-416: VIDEOCONFERENCING

A. A meeting of an organization created under the Interlocal Cooperation Act, the Joint Public Agency Act or the City Cooperative Financing Act or of the governing body of a risk management pool or its advisory committees organized in accordance with the Intergovernmental Risk Management Act may be held by means of videoconferencing if:

1. Reasonable advance publicized notice is given;

2. Reasonable arrangements are made to accommodate the public's right

to attend, hear, and speak at the meeting, including seating, recordation by audio or visual recording devices, and a reasonable opportunity for input such as public comment or questions to at least the same extent as would be provided if videoconferencing were not used;

3. At least one copy of all documents being considered is available to the public at each site of the videoconference;

4. At least one member of the governing body or advisory committee is present at each site of the videoconference; and

5. No more than one-half of the governing body's or advisory committee's meetings in a calendar year are held by videoconference.

B. Videoconferencing or conferencing by other electronic communication shall not be used to circumvent any of the public government purposes established in this chapter. (Neb. Rev. Stat. §84-1411)

C. For the purpose of this section, the following definition shall apply unless the context clearly indicates or requires a different meaning. "Videoconferencing" shall mean conducting a meeting involving participants at two or more locations through the use of audio-video equipment which allows participants at each location to hear and see each meeting participant at each other location, including public input. Interaction between meeting participants shall be possible at all meeting locations.
(Neb. Rev. Stat. §84-1409) (Am. Ord. 621, 2-15-05)

SECTION 1-417: TELECONFERENCING

A. A meeting of the governing body of an entity formed under the Interlocal Cooperation Act or the Joint Public Agency Act or of the governing body of a risk management pool or its advisory committees organized in accordance with the Intergovernmental Risk Management Act may be held by telephone conference call if:

1. The territory represented by the member public agencies of the entity or pool covers more than one county;

2. Reasonable advance publicized notice is given which identifies each telephone conference location at which a member of the entity's or pool's governing body will be present;

3. All telephone conference meeting sites identified in the notice are located within public buildings used by members of the entity or pool or at a place which will accommodate the anticipated audience;

4. Reasonable arrangements are made to accommodate the public's right to attend, hear, and speak at the meeting, including seating, recordation by audio recording devices, and a reasonable opportunity for input such

as public comment or questions to at least the same extent as would be provided if a telephone conference call was not used;

5. At least one copy of all documents being considered is available to the public at each site of the telephone conference call;

6. At least one member of the governing body of the entity or pool is present at each site of the telephone conference call identified in the public notice;

7. The telephone conference call lasts no more than one hour; and

8. No more than one-half of the entity's or pool's meetings in a calendar year are held by telephone conference call.

B. Nothing in this section shall prevent the participation of consultants, members of the press, and other nonmembers of the governing body at sites not identified in the public notice. Telephone conference calls, emails, faxes, or other electronic communication shall not be used to circumvent any of the public government purposes established in this chapter.
(Neb. Rev. Stat. §84-1411) (Ord. 622, 2-15-05)

Article 5 – Ordinances, Resolutions, and Motions

SECTION 1-501: 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) (Ord. 516, 7-15-97)

SECTION 1-502: ORDINANCES; STYLE

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

SECTION 1-503: ORDINANCES; TITLE

No ordinance shall contain a subject which is not clearly expressed in the title. (Neb. Rev. Stat. §17-614) (Am. Ord. 446, 4-18-95)

SECTION 1-504: 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 shall file the same for future consideration.

SECTION 1-505: RESOLUTIONS AND MOTIONS

A resolution or motion shall be introduced by one of the methods prescribed for the introduction of ordinances. After its introduction, it shall be fully and distinctly read one time in the presence and hearing of a majority of the Council. The issue raised by said resolution or motion shall be disposed of in accordance with parliamentary law. 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.

SECTION 1-506: READING AND PASSAGE; MAYOR'S VETO

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. A reading of any ordinance in full may be required by three-fourths of the Council before enactment under either procedure set out in this section. 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 or 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. The mayor shall have power to veto or sign any ordinance passed by the City Council and to approve or veto any order, bylaw, resolution, award of or vote to enter into any contract, or the allowance of any claim. If the mayor approves the ordinance, order, bylaw, resolution, contract, or claim, he or she shall sign it and it shall become effective. If the mayor vetoes the ordinance, order, bylaw, resolution, contract, or any item or items of appropriations or claims, he or she shall return it to the City Council, stating that the measure is vetoed. The mayor may issue the veto at the meeting at which the measure passed or within seven calendar days after the meeting. If the mayor issues the veto after the meeting, he or she shall notify the city clerk of the veto in writing. The clerk shall notify the City Council in writing of the mayor's veto.

C. Any ordinance, order, bylaw, resolution, award of or vote to enter into any contract, or the allowance of any claim vetoed by the mayor may be passed over his or her veto by a vote of two-thirds of the members of the council. If the mayor neglects or refuses to sign any ordinance, order, bylaw, resolution, award of or vote to enter into any contract, or the allowance of any claim but fails to veto the measure within the time required by this section, the measure shall become effective without his or her signature. The mayor may veto any item or items of any appropriation bill or any claims bill and approve the remainder thereof, and the item or items vetoed may be passed by the council over the veto as in other cases.

D. 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. All appointments of the officers by the Council shall be made viva voce and the concurrence of a like majority shall be required; 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 utilizing an electronic voting device which allows the “yeas” and “nays” of each member of the City Council to be readily seen by the public.

(Neb. Rev. Stat. §17-111, 17-614, 17-616) (Am. Ords. 518, 7-15-97; 702, 12-17-13)

SECTION 1-507: ORDINANCES; PUBLICATION OR POSTING

All ordinances of a general nature shall, before they take effect, be published one time, within 15 days after they are passed: (A) in some newspaper published in the City or, if no paper is published in the City, then by posting a written or printed copy in each of three public places in the City; or (B) in book or pamphlet form. (Neb. Rev. Stat. §17-613) (Am. Ord. 519, 7-15-97)

SECTION 1-508: ORDINANCES; CERTIFICATE OF PUBLICATION OR POSTING

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

SECTION 1-509: ORDINANCES; EFFECTIVE DATE

A. Except as provided in Section 1-508 (Certificate of Publication or Posting) and 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. (Neb. Rev. Stat. §19-3701)

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) (Am. Ord. 520, 7-15-97)

SECTION 1-510: 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 is repealed, except that an ordinance revising all the ordinances of the City and modifications to zoning or building districts may be adopted as otherwise provided by law. (Neb. Rev. Stat. §17-614) (Am. Ord. 521, 7-15-97)

Article 6 – Elections

SECTION 1-601: 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. Ords. 478, 3-19-96; 624, 2-15-05)

SECTION 1-602: 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. Ord. 624, 2-15-05)

SECTION 1-603: OFFICERS; TERMS; QUALIFICATIONS

A. Commencing with the primary election in 1976 and every two years thereafter, all elected officers of the City shall be nominated at the statewide primary election and elected at the statewide general election. All elected officers of the City shall serve for terms of four years or until their successors are elected and qualified. (Neb. Rev. Stat. §32-533)

B. The mayor and Council members shall be residents and registered voters of the City.

C. The members of the City Council shall be elected from the City by wards, as defined in Section 1-604, unless the registered voters of the City vote to elect its council members at large. Each ward of the City shall have two council members elected in the manner provided in the Election Act. Each term of office shall begin at the first regular meeting of the City Council in December following the statewide general election. No person shall be eligible to the office of council member who is not at the time of the election an actual resident of the ward for which he/she is elected and a registered voter.

SECTION 1-604: WARDS

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

A. East Ward – everything east of 2nd Street; and
B. West Ward – everything west of 2nd Street.

(Ord. 543, 1-12-98)

SECTION 1-605: PARTISAN BALLOT; WHEN ALLOWED; REQUIREMENTS

All elective city offices shall be nominated and elected on a nonpartisan basis unless the City Council provides for a partisan ballot by ordinance. No ordinance providing for nomination and election on a partisan ballot shall permit affiliation with any party not recognized as a political party for purposes of the Election Act. Such ordinance providing for nomination and election on a partisan ballot shall be adopted and effective not less than 60 days prior to the filing deadline. (Neb. Rev. Stat. §32-557)

SECTION 1-606: PRIMARY ELECTION; NUMBER OF CANDIDATES FILING

If the names of candidates properly filed for nomination at the primary election for officers of the City do not exceed two candidates for each position to be filled, any such candidates shall be declared nominated and their names shall not appear on any primary election ballots. (Neb. Rev. Stat. §32-811)

SECTION 1-607: NOTICE

The notice of election required to be published by the county clerk no less than 40 days prior to an election shall serve as the notice requirement for all city elections which are held in conjunction with the statewide primary or general election.

SECTION 1-608: SPECIAL ELECTIONS

A. Except as provided in Neb. Rev. Stat. §77-3444, 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. Any other special election shall be subject to subsection (D) of this section.

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 ballots for early voting 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 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 County Canvassing Board shall have the same force and effect as if made by the City Council. (Neb. Rev. Stat. §32-559)

D. Any special election under the Election Act shall be held on the first Tuesday following the second Monday of the selected month unless otherwise specifically provided. No special election shall be held under the Election Act in April, May, June, October, November, or December of an even-numbered year unless it is held in conjunction with the statewide primary or general election. (Neb. Rev. Stat. §32-405)

E. All ballots for use in special elections under this chapter shall be prepared by the clerk and furnished by the City Council, unless the Council contracts with the county for such service, and shall be in form the same as provided by law for election of the mayor and City Council. When ordinances under such sections are submitted to the electors at a regularly scheduled primary or general election, they shall be placed upon the official ballots as provided in this chapter. (Neb. Rev. Stat. §18-2522)
(Am. Ord. 636, 5-17-05)

SECTION 1-609: FILING FEE

A. Except as provided in subsections (C) or (D) of this section, a filing fee shall be paid to the city treasurer by or on behalf of each candidate prior to filing for office. The filing fee shall be a sum equal to 1% of the annual salary such candidate will receive if he/she is elected and qualifies for the office for which he/she files as a candidate. The fee shall be placed in the general fund of the City. No candidate filing forms shall be filed until the proper receipt showing payment of such filing fee is presented to the filing officer.

B. All declared write-in candidates shall pay the filing fees that are required for the office at the time that they present the write-in affidavit to the filing officer. Any undeclared write-in candidate who is nominated or elected by write-in votes shall pay the filing fee required for the office within ten days after the canvass of votes by the County Canvassing Board and shall file the receipt with the person issuing the certificate of nomination or the certificate of election prior to the certificate being issued.

C. No filing fee shall be required on any candidate filing for an office in which a

per diem is paid rather than a salary or for which there is a salary of less than $500.00 per year.

D. No filing fee shall be required of any candidate completing an affidavit requesting to file for elective office *in forma pauperis*. A pauper shall mean a person whose income and other resources for maintenance are found under assistance standards to be insufficient for meeting the cost of his/her requirements and whose reserve of cash or other available resources does not exceed the maximum available resources that an eligible individual may own. Available resources shall include every type of property or interest in property that an individual owns and may convert into cash except (1) real property used as a home; (2) household goods of a moderate value used in the home; and (3) assets to a maximum value of $3,000 used by a recipient in a planned effort directed towards self-support.

E. If any candidate dies prior to an election, the spouse of the candidate may file a claim for refund of the filing fee with the City Council prior to the date of the election. Upon approval of the claim by the Council, the filing fee shall be refunded.
(Neb. Rev. Stat. §32-608)

SECTION 1-610: PETITION CANDIDATES; NUMBER OF SIGNATURES REQUIRED; PROCEDURE

A. Any registered voter who was not a candidate in the primary election may have his/her name placed on the general election ballot for a partisan office by filing petitions as prescribed in this section and in Neb. Rev. Stat. §32-621 or by nomination by political party convention or committee.

B. Any candidate who was defeated in the primary election and any registered voter who was not a candidate in the primary election may have his/her name placed on the general election ballot if a vacancy exists on the ballot under Neb. Rev. Stat. §32-626(1) and the candidate files for the office by petition as prescribed in this section.

C. The number of signatures of registered voters needed to place the name of a candidate upon the nonpartisan ballot for the general election shall be at least 10% of the total number of registered voters voting for governor or president of the United States at the immediately preceding general election in the City.

D. The number of signatures of registered voters needed to place the name of a candidate upon the partisan ballot for the general election shall be at least 20% of the total vote for governor or president of the United States at the immediately preceding general election within the City, not to exceed 2,000.

E. Petitions for nomination shall conform to the requirements of Neb. Rev. Stat. §32-628. Petitions shall state the office to be filled and the name and address of the candidate. Petitions for partisan office shall also indicate the party affiliation of the candidate. Petitions shall be signed by registered voters residing in the City and shall be filed with the filing officer in the same manner as provided for candidate filing forms in

Neb. Rev. Stat. §32-607. Petition signers and circulators shall conform to the requirements of Neb. Rev. Stat. §32-629 and §32-630. No petition for nomination shall be filed unless there is attached thereto a receipt showing payment of the required filing fee. The petitions shall be filed by September 1 in the year of the general election. (Neb. Rev. Stat. §32-616 through 32-618)

SECTION 1-611: REGISTERED VOTERS; QUALIFICATIONS

For purposes of this section, "registered voter" shall mean an elector who has a current voter registration record on file with the county clerk. All registered voters residing within the corporate limits of the City on or before election day shall be entitled to vote at all city elections. (Neb. Rev. Stat. §17-602, 32-115)

SECTION 1-612: CERTIFICATE OF NOMINATION OR ELECTION

The county clerk or city clerk shall, within 40 days after the election, prepare, sign, and deliver a certificate of nomination or a certificate of election to each person whom the County Canvassing Board has declared to have received the highest vote for each city office. No person shall be issued a certificate of nomination as a candidate of a political party unless such person has received at least 5% of the total vote cast for the office at the primary election. (Neb. Rev. Stat. §32-1033)

SECTION 1-613: INABILITY TO ASSUME OFFICE

A. If the candidate who received the highest number of votes for a nonpartisan office in a general election is ineligible, disqualified, deceased, or for any other reason unable to assume the office for which he/she was a candidate and the registered voters had reasonable notice of such disability at the time of the election, the candidate who received the next highest number of votes to the candidates who would normally receive certificates of election shall be declared elected and shall be entitled to a certificate of election if he/she received not less than 35% of the total number of votes cast for the office in the election and the number of persons to be elected for the office is not greater than two, and not less than 10% when the number of persons to be nominated for the office is greater than two. If the candidate who received the next highest number of votes received less than the required percentage, if no other person was a candidate for the office, or if the registered voters did not have reasonable notice at the time of the election of the disability of the candidate who received the highest number of votes to merit a certificate of election, a vacancy in such office shall be declared to exist at the time of commencement of the term, and the vacancy may be filled as prescribed by law for such office. (Neb. Rev. Stat. §32-626(2))

B. The determination of whether the registered voters had reasonable notice for purposes of this section shall be made by the appropriate filing officer under Neb. Rev. Stat. §32-607. The decision of the filing officer may be appealed to the district court. (Neb. Rev. Stat. §32-626(3)

SECTION 1-614: 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 by certified mail to appear at his/her office on a given day and hour to determine the same before the Canvassing Board, and the certificate of nomination or election shall be delivered accordingly. (Neb. Rev. Stat. §32-1122)

SECTION 1-615: 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)

Article 7 – Fiscal Management

SECTION 1-701: 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 City Proprietary Function Act. (Neb. Rev. Stat. §17-701) (Am. Ord. 480, 3-19-96)

SECTION 1-702: PUBLIC FUNDS DEFINED

For the purpose of this chapter, the following definition shall apply unless the context clearly indicates or requires a different meaning.

"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(7)) (Ord. 447, 4-19-95)

SECTION 1-703: DEPOSIT OF FUNDS

A. The city treasurer shall deposit and at all times keep on deposit for safekeeping in banks, capital stock financial institutions, or qualifying mutual financial institutions of approved and responsible standing all money collected, received, or held by him/her as city treasurer. Such deposits shall be subject to all regulations imposed by law or adopted by the City Council for the receiving and holding thereof. 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.

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. (Neb. Rev. Stat. §17-607)

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. §77-2362)

D. 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. Ord. 635, 5-17-05)

SECTION 1-704: CREDIT CARDS; AUTHORITY TO ACCEPT

A. The City Council may authorize city officials to accept credit cards, charge cards, or debit cards as a method of cash payment of any tax, levy, excise, duty, custom, toll, interest, penalty, fine, license, fee, or assessment of whatever kind or nature, whether general or special, as provided by Neb. Rev. Stat. §77-1702.

B. The total amount of such taxes, levies, excises, duties, customs, tolls, interest, penalties, fines, licenses, fees, or assessments of whatever kind or nature, whether general or special, paid for by credit card shall be collected by the city official.

C. The City Council may choose to accept credit cards, charge cards, or debit cards as a means of cash payment to any facility it operates in a proprietary capacity and may adjust the price for services to reflect the handling and payment costs.

D. The city official shall obtain, for each transaction, authorization for use of any credit card, charge card, or debit card used pursuant to this section from the financial institution, vending service company, credit card or charge card company, or third-party merchant bank providing such service.

E. The City Council may choose to accept the types of credit cards, charge cards, or debit cards accepted by and the services provided to the state pursuant to the contract entered into by the state with one or more credit card, charge card, or debit card companies or third-party merchant banks for services on behalf of the state and those political subdivisions that choose to participate in the state contract. The City Council may choose not to participate in the state contract and may choose types of credit cards, charge cards, and debit cards and may negotiate and contract independently or collectively as a governmental entity with one or more financial institutions, vending service companies, credit card, charge card, or debit card companies, or third-party merchant banks for the provision of such services.

F. When authorizing acceptance of credit card or charge card payments, the City Council shall be authorized but not required to impose a surcharge or convenience fee upon the person making a payment by credit card or charge card so as to wholly or partially offset the amount of any discount or administrative fees charged to the City. The surcharge or convenience fee shall be applied only when allowed by the operating rules and regulations of the credit card or charge card involved or when authorized in writing by the credit card or charge card company involved. When a person elects to make a payment to the City by credit card or charge card and such a surcharge or convenience fee is imposed, the payment of such surcharge or convenience fee shall

be deemed voluntary by such person and shall be in no case refundable.
(Neb. Rev. Stat. §13-609)

SECTION 1-705: DEBT COLLECTION; AUTHORITY TO CONTRACT WITH COLLECTION AGENCY

A. The City may contract to retain a collection agency licensed pursuant to Neb. Rev. Stat. §45-601 through §45-622, within or without this state, for the purpose of collecting public debts owed by any person to the City.

B. No debt owed pursuant to subsection (A) of this section may be assigned to a collection agency unless:

1. There has been an attempt to advise the debtor by first-class mail, postage prepaid, at the last known address of the debtor, of the existence of the debt and that the debt may be assigned to a collection agency for collection if the debt is not paid; and

2. At least 30 days have elapsed from the time the notice was sent.

C. A collection agency which is assigned a debt under this section shall have only those remedies and powers which would be available to it as an assignee of a private creditor.

D. For purposes of this section, “debt” shall include all delinquent fees or payments except delinquent property taxes or real estate. In the case of debt arising as a result of an order or judgment of a court in a criminal or traffic matter, a collection fee may be added to the debt. The collection fee shall be $25 or 4½% of the debt, whichever is greater. The collection fee shall be paid by the person who owes the debt directly to the person or agency providing the collection service.
(Neb. Rev. Stat. §45-623) (Ord. 435, 6-21-94)

SECTION 1-706: 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 City Council to be audited nor upon claims allowed in part, unless the recovery shall be for a greater sum 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 that in the event there exists 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.

SECTION 1-707: 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 payable, and for what particular object. 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 1-708: EXPENDITURES

A. 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. (Neb. Rev. Stat. §17-708)

B. 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.

SECTION 1-709: 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.

SECTION 1-710: SINKING FUNDS; IMPROVEMENTS

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 taxable 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, original equipment, or repair, not including maintenance, of the approved uses as authorized by state law. (Neb. Rev. Stat. §19-1302)

B. To initiate the sinking fund, the City Council shall declare its purpose by resolution to submit to the qualified electors of the City the proposition to provide the improvement at the next general city election. The resolution shall set forth a clear description of the improvement, the estimated cost, the amount of the annual levy, over a definite period of years (not exceeding ten years) required to pay such cost, and the specific name or designation for the sinking fund sought to be established to carry out the planned improvement, together with a statement of the proposition for placement upon the ballot at such election. Notice of the proposition shall be published in its en-

tirety three times on successive weeks before the day of the election in a legal newspaper of general circulation in the City. 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 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.

SECTION 1-711: INVESTMENT OF FUNDS

Whenever a 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 and the money in such sinking fund exceeds the amount necessary to pay the principal and interest of any such bonds which become due during the current year, the City Council may invest any such surplus in certificates of deposit, in time deposits, and in any securities in which the state investment officer is authorized by law and as provided in the authorized investment guidelines of the Nebraska Investment Council in effect on the date the investment is made. (Neb. Rev. Stat. §77-2341(1)) (Am. Ord. 339, 11-14-89)

SECTION 1-712: CERTIFICATES OF DEPOSIT; TIME DEPOSITS; CONDITIONS

A. The city treasurer may, upon resolution of the mayor and City Council authorizing the same, purchase certificates of deposit from and make time deposits in any bank or capital stock financial institution in the state of Nebraska to the extent that such certificates of deposit or time deposits are insured by the Federal Deposit Insurance Corporation. Deposits may be made in excess of the amounts so secured by the corporation, and the amount of the excess deposit shall be secured by a bond or by security given in the manner provided in this section. The provisions of Neb. Rev. Stat. §77-2366 shall apply to deposits in capital stock financial institutions. (Neb. Rev. Stat. §17-720)

B. For the security of the fund so deposited, the city treasurer shall require each depository to give bond for the safekeeping and payment of such deposits and the accretions thereof, which bond shall run to the City and be approved by the mayor. The bond shall be conditioned that such a depository shall, at the end of every quarter, render to the treasurer a statement in duplicate, showing the several daily balances, the amount of money of the City held by it during the quarter, the amount of the accretion thereto, and how credited. The bond shall also be conditioned that the depository shall generally do and perform whatever may be required by the provisions of this section and all regulations imposed by law or adopted by the City Council for the receiving and holding thereof and shall faithfully discharge the trust reposed in the depository. The bond shall be as nearly as practicable in the form provided in Neb. Rev. Stat. §77-2304. No person in any way connected with any depository as an officer or stockholder

shall be accepted as a surety on any bond given by the depository of which he/she is an officer or stockholder. The bond shall be deposited with the city clerk. (Neb. Rev. Stat. §16-714)

C. In lieu of the bond required by subsection (B) of this section, any bank or capital stock financial institution making application to become a depository may give security as provided in the Public Funds Deposit Security Act to the city clerk. The penal sum of such bond shall be equal to or greater than the amount of the deposit in excess of that portion of such deposit insured by the Federal Deposit Insurance Corporation. (Neb. Rev. Stat. §16-715)

D. The treasurer shall not have on deposit in any bank or capital stock financial institution at any time more than the amount insured by the Federal Deposit Insurance Corporation plus the maximum amount of the bond given by the bank or capital stock financial institution if the bank or capital stock financial institution gives a surety bond, nor in any bank or capital stock financial institution giving a personal bond, more than the amount insured by the FDIC plus one-half of the amount of the bond of such bank or capital stock financial institution. The amount so on deposit any time with any such bank or capital stock financial institution shall not in either case exceed the amount insured by the FDIC plus the paid-up capital stock and surplus of such bank or capital stock financial institution. The treasurer shall not be liable for any loss sustained by reason of the failure of any such bonded depository whose bond has been duly approved by the mayor as provided in subsection (B) of this section or which has, in lieu of a surety bond, given security as provided in subsection (C) of this section.
(Neb. Rev. Stat. §16-716)

SECTION 1-713: COLLECTION OF SPECIAL ASSESSMENTS; PROCEDURE

A. The City shall have the authority to collect the special assessments which it levies and perform all other necessary functions related thereto including foreclosure.

B. Notice that special assessments are due shall be mailed or otherwise delivered to the last known address of the person against whom such special assessments are assessed or to the lending institution or other party responsible for paying such special assessments. Failure to receive such notice shall not relieve the taxpayer from any liability to pay such special assessments and any interest or penalties accrued thereon.

C. The City shall (1) file notice of the assessments and the amount of assessment being levied for each lot or tract of land to the register of deeds; and (2) file a release of assessment upon final payment of each assessment with the register of deeds.
(Neb. Rev. Stat. §18-1216) (Ord. 525, 7-15-97)

SECTION 1-714: 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 whatever, unless to reimburse the City for money expended for any such improvement. (Neb. Rev. Stat. §17-710)

SECTION 1-715: 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 the Motor Vehicle Registration Act are paid. Such taxes shall be credited by the county treasurer to the Road Fund of the city. Such funds shall be used by the City for constructing, resurfacing, maintaining, or improving streets, roads alleys, public ways, or parts thereof or for the amortization of bonded indebtedness when created for such purposes. (Neb. Rev. Stat. §18-1214) (Am. Ord. 340, 11-14-89)

SECTION 1-716: 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 costing over $30,000 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, 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 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 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 or less;
2. $60,000 or less and the city electric utility has gross annual revenue from retail sales in excess of $1,000,000;
3. $90,000 or less and the city electric utility has gross annual revenue from retail sales in excess of $5,000,000;
4. $120,000 or less and the city electric utility has gross annual revenue from retail sales in excess of $10,000,000.

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 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 City, the 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. (Neb. Rev. Stat. §17-568.01)

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-

245 to §81-262; or

2. When the contract is negotiated directly with a sheltered workshop pursuant to Neb. Rev. Stat. §48-1503. (Neb. Rev. Stat. §17-568.02)

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 subsection 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 subsection of the Department of Administrative Services.

J. 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. §18-1756)

SECTION 1-717: 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 he made on a cash or accrual method at the discretion of the Council. The 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 less 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. 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, becoming a part of the public records of the city clerk's office, and will at all times thereafter be open for public inspection. One copy shall be filed with the auditor of public accounts.

B. The City Council 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. §13-606)

SECTION 1-718: GENERAL FUND

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

SECTION 1-719: BUDGET PROCEDURE

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

SECTION 1-720: APPROPRIATION BILL

The City Council shall adopt a budget statement pursuant to the Nebraska Budget Act, 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) (Am. Ord. 482, 3-19-96)

SECTION 1-721: PROPOSED BUDGET STATEMENT; CONTENTS; FILING

A. The City Council shall prepare in writing and file with the city clerk not later than August 1 of each year, on forms prescribed and furnished by the auditor of public accounts, a proposed budget statement containing the following information, except as provided by state law:

1. For the immediate two prior fiscal years, the revenue from all sources, including motor vehicle taxes, other than revenue received from personal and real property taxation, allocated to each of the several funds and separately stated as to each such source, and for each fund:

    a. The unencumbered cash balance of such fund at the beginning and end of the year;
    b. The amount received by taxation of personal and real property allocated to each year; and
    c. The amount of actual expenditure for each fund;

2. For the current fiscal year, actual and estimated revenue from all sources, including motor vehicle taxes, allocated to each of the several funds and separately stated as to each such source, and for each fund:

    a. The actual unencumbered cash balance available for such fund at the beginning of the year;
    b. The amount received from personal and real property taxation allocated to each fund; and
    c. The amount of actual and estimated expenditure, whichever is applicable;

3. Such statement shall contain the cash reserve for each such fund 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 for such fund exclusive of capital outlay items;

4. 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, to be allocated to each of the several funds, and for each fund:

    a. The actual or estimated unencumbered cash balances, whichever is applicable, to be available at the beginning of the year;
    b. The amounts proposed to be expended during the year; and
    c. 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;

5. A statement setting out separately the amount sought to be raised from the levy of a tax on the taxable value of real property for the purpose of paying the principal or interest on bonds issued by the City Council and for all other purposes;

6. A uniform summary of the proposed budget statement, which shall include a separate total for each fund, including each proprietary function fund included in a separate proprietary budget statement prepared pursuant to the City Proprietary Function Act, and a grand total of all funds maintained by the City Council; and

7. A list of the proprietary functions which are not included in the budget statement if a separate proprietary budget statement has been prepared for such proprietary functions pursuant to the City Proprietary Function Act. (Neb. Rev. Stat. §13-504(1))

B. The actual or estimated unencumbered cash balance of each fund 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. (Neb. Rev. Stat. §13-504(3))

C. 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 filed 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. Ord. 523, 7-15-97)

SECTION 1-722: PROPOSED BUDGET STATEMENT; HEARING; ADOPTION; CERTIFICATION OF AMOUNT TO BE RECEIVED FROM TAXATION

A. After the filing of the proposed budget statement with the city clerk, the City Council shall each year conduct a public hearing. 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 or by direct mailing of the notice to each resident 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 (1) the amount to be applied to the payment of principal or interest on bonds issued by the City Council and (2) 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)

SECTION 1-723: EXPENDITURES PRIOR TO ADOPTION OF BUDGET

A. On and after the first day of its fiscal year in 1993 and of each succeeding year and until the adoption of the budget by the City Council in September, the City Council may expend any balance of cash on hand for the current expenses of the City. 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. (Neb. Rev. Stat. §13-509.01)

B. The restriction on expenditures in subsection (A) of this section 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 by the Council 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 by the City in excess of that authorized by any other statutory provision. (Neb. Rev. Stat. §13-509.02)
(Ord. 448, 4-18-95)

SECTION 1-724: 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. Ord. 524, 7-15-97)

SECTION 1-725: 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 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 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 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, the City Council may, or within 30 days after notification of an error by the auditor of public accounts, the City Council 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 and with the auditor of public accounts. The City Council may then issue warrants in payment for expenditures authorized by the budget.
(Neb. Rev. Stat. §13-511) (Am. by Ord. 816, 5-6-03)

SECTION 1-726: EMERGENCY; 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 a 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 unforeseen 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. A written record shall be kept of any such hearing.

B. Notice of the 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 stating 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. Upon the conclusion of the public hearing on the proposed supplemental budget and approval by the City Council, said board shall file with the county clerk and the 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)

SECTION 1-727: PROPRIETARY FUNCTIONS; FISCAL YEAR; BUDGET STATEMENTS; FILING; HEARING; ADOPTION; RECONCILIATION

A. Pursuant to the City Proprietary Function Act, the City Council may prepare a proprietary budget statement for its proprietary functions separate and apart from its city budget statement prepared pursuant to the Nebraska Budget Act. For purposes of this section, “proprietary function” shall mean a water supply or distribution utility, a wastewater collection or treatment utility, an electric generation, transmission, or distribution utility, a gas supply, transmission, or distribution utility, an integrated solid waste management collection, disposal, or handling utility, or a hospital or a nursing home owned by the City. (Neb. Rev. Stat. §18-2803(5))

B. The City Council may establish a separate fiscal year for each proprietary function, except that any proprietary function which is subsidized by appropriations

from the City's general fund shall have the same fiscal year as the City. For purposes of this section, “subsidization” shall mean that the costs of operation of a proprietary function are regularly financed by appropriations from the City's General Fund in excess of the amount paid by the City to the proprietary function for actual service or services received. (Neb. Rev. Stat. §18-2804)

C. If the City does not include its proprietary functions in its budget statement, a proposed proprietary statement shall be prepared in writing on forms provided by the state auditor and filed with the city clerk, at least 30 days prior to the start of the fiscal year of each proprietary function, containing the following information:

1. For the immediate two prior fiscal years, the revenue from all sources, the unencumbered cash balance at the beginning and end of the year, the amount received by taxation, and the amount of actual expenditure;

2. For the current fiscal year, actual and estimated revenue from all sources separately stated as to each such source, the actual unencumbered cash balance available at the beginning of the year, the amount received from taxation, and the amount of actual and estimated expenditure, whichever is applicable;

3. For the immediately ensuing fiscal year, an estimate of revenue from all sources separately stated as to each such source, the actual or estimated unencumbered cash balance, whichever is applicable, to be available at the beginning of the year, the amounts proposed to be expended during the fiscal year, and the amount of cash reserve based on actual experience of prior years; and

4. A uniform summary of the proposed budget statement which shall include a total of all funds maintained for the proprietary function.

D. Such statement shall contain the estimated cash reserve for each fiscal year and shall note whether or not such reserve is encumbered. The cash reserve projections shall be based upon the actual experience of prior years. (Neb. Rev. Stat. §18-2805)

E. After the proposed proprietary budget statement is filed with the city clerk, the City Council shall conduct a public hearing on such statement. Notice of the time and place of the hearing, a summary of the proposed proprietary budget statement, and notice that the full proposed proprietary budget statement is available for public review with the city clerk during normal business hours shall be published at least five days prior to the hearing in a newspaper of general circulation within the City Council's jurisdiction or by mailing to each resident within the City Council's jurisdiction.

F. After such hearing, the proposed proprietary budget statement shall be adopted or amended and adopted as amended, and a written report shall be kept of such hearing. If the adopted proprietary budget statement reflects a change from the

proposed proprietary statement presented at the hearing, a copy of the adopted proprietary budget statement shall be filed with the city clerk within 20 days after its adoption and published in a newspaper of general circulation within the City Council's jurisdiction or by mailing to each resident within the City Council's jurisdiction. (Neb. Rev. Stat. §18-2806)

G. If the actual expenditures for a proprietary function exceed the estimated expenditures in the proprietary budget statement during its fiscal year, the City Council shall adopt a proprietary function reconciliation statement within 90 days after the end of such fiscal year which reflects any difference between the adopted proprietary budget statement for the previous fiscal year and the actual expenditures and revenue for such fiscal year. After the adoption of a proprietary function reconciliation statement, it shall be filed with the city clerk and published in a newspaper of general circulation within the City Council's jurisdiction or by mailing to each resident within the City Council's jurisdiction. If the difference between the adopted proprietary budget for the previous fiscal year and the actual expenditures and revenues for such fiscal year is greater than 10%, the proprietary function reconciliation statement shall only be adopted following a public hearing. (Neb. Rev. Stat. §18-2807)

H. Any income from a proprietary function which is transferred to the general fund of the City shall be shown as a source of revenue in the budget statement created pursuant to the Nebraska Budget Act. (Neb. Rev. Stat. §18-2808)
(Ord. 424, 6-21-94)

SECTION 1-728: 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. (Neb. Rev. Stat. §19-1309)

B. The amount of the all-purpose levy shall be certified as a single amount for General Fund purposes. (Neb. Rev. Stat. §19-1312)

C. 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. (Neb. Rev. Stat. §19-1310)

D. 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. (Neb. Rev. Stat. §19-1311)

E. 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)

SECTION 1-729: PROPERTY TAX LEVY AND REQUEST; AUTHORITY TO SET

A. After publication and hearing on the proposed budget statement and within the time prescribed by law, the City Council shall file with the levying board on or before October 14 of each year and file with the auditor of public accounts a certified copy of any resolution passed setting a tax levy which shall not exceed the maximum levy prescribed by state law and a statement reconciling the levy set by the Council with the adopted budget statement filed as otherwise required by law. The levy shall be set to fund property tax requirements in the adopted budget to four to eight places to the right of the decimal point. The City Council shall use the final adjusted values as provided by the county assessor pursuant to Neb. Rev. Stat. §13-509 for the current year in setting or certifying the levy. The Council may designate one of its members to perform any duty or responsibility required of such body by this subsection.

B. 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.

C. 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.

D. Any resolution setting a tax request under this subsection shall be certified and forwarded to the county clerk prior to October 14 of the year for which the tax request is to apply. Any tax levy which is not in compliance with this subsection and Neb. Rev. Stat. §77-1601 shall be construed as an unauthorized levy under Neb. Rev. Stat. §77-1606.
(Ord. 526, 7-15-97)

SECTION 1-730: PROPERTY TAX LEVY; 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)

SECTION 1-731: PROPERTY TAX LEVY; INADEQUATE VALUATION

If the valuation of the City has been reduced so that the maximum levy permitted by this article is inadequate to produce the necessary revenue, said maximum levy may be exceeded upon presentation to the City Council of petitions signed by a majority of the registered voters of the City requesting such action and specifying the extent to, and the period of time, not to exceed five years, in which such maximum may be exceeded. No signature may be withdrawn after the petitions have been filed with the City Council. The Council shall cause such petitions, accompanied by the certificate of the county clerk that he/she has examined the petitions and that they have been signed by a majority of the registered voters of the City, to be filed with the County Board. After such filing, the City Council may exceed the maximum mill levy to the extent and for the period of time specified in the petitions. (Neb. Rev. Stat. §19-1309)

SECTION 1-732: PROPERTY TAX LEVY; MAXIMUM; AUTHORITY TO EXCEED

A. Property tax levies for the support of the City for fiscal years beginning on or after July 1, 1998, shall be limited to the amounts set forth in this subsection, except as provided in subsection (C) of this section. The City may levy a maximum levy of $0.45 per $100 of taxable valuation of property subject to the levy plus an additional $0.05 per $100 of taxable valuation to provide financing for the City's share of revenue required under an agreement or agreements executed pursuant to the Interlocal Cooperation Act or the Joint Public Agency Act. The maximum levy shall include amounts levied to pay for sums to support a library pursuant to Neb. Rev. Stat. §51-301, museum pursuant to Neb. Rev. Stat. §51-501, visiting community nurse, home health nurse, or home health agency pursuant to Neb. Rev. Stat. §71-2637, or statue, memorial, or monument pursuant to Neb. Rev. Stat. §80-202. Property tax levies for judgments obtained against the City which require or obligate the City to pay such judgment, to the extent such judgment is not paid by liability insurance coverage of the City, for preexisting lease-purchase contracts approved prior to July 1, 1998, and for bonded indebtedness approved according to law and secured by a levy on property are not included in the levy limits established by this subsection. The limitations on tax levies provided in this subsection are to include all other general or special levies provided by law. Notwithstanding other provisions of law, the only exceptions to the limits in this subsection are those provided by or authorized by this section. Tax levies in excess of the limitations in this section shall be considered unauthorized levies under Neb. Rev. Stat. §77-1606 unless approved under subsection (C) of this section.

B. All city airport authorities established under the Cities Airport Authorities Act, community redevelopment authorities established under the Community Development Law, and off-street parking districts established under the Off-street Parking District

Act may be allocated property taxes as authorized by law which are authorized by the City and are counted in the City's levy limit provided by subsection (A) of this section, except that such limitation shall not apply to property tax levies for preexisting lease-purchase contracts approved prior to July 1, 1998, and for bonded indebtedness approved according to law and secured by a levy on property. The City Council shall review and approve or disapprove the levy request of the political subdivisions subject to this subsection. The City Council may approve all or a portion of the levy request and may approve a levy request that would allow a levy greater than that permitted by law. The levy allocated by the City may be exceeded as provided in subsection (C) of this section. On or before August 1, all political subdivisions subject to city levy authority under this subsection shall submit a preliminary request for levy allocation to the City Council. The preliminary request of the political subdivision shall be in the form of a resolution adopted by a majority vote of members present of the political subdivision's City Council. The failure of a political subdivision to make a preliminary request shall preclude such political subdivision from using procedures set forth in Neb. Rev. Stat. §77-3444 to exceed the final levy allocation as determined in this subsection.

1. The City Council shall (a) adopt a resolution by a majority vote of members present which determines a final allocation of levy authority to its political subdivisions and (b) forward a copy of such resolution to the chairperson of the City Council of each of its political subdivisions.

2. No final levy allocation shall be changed after September 1 except by agreement between both the City Council and the governing body of the political subdivision whose final levy allocation is at issue.

C. The City may exceed the limits provided in subsection (A) of this section by an amount not to exceed a maximum levy approved by a majority of registered voters voting on the issue in a primary, general, or special election at which the issue is placed before the registered voters. A vote to exceed the limits must be approved prior to October 10 of the fiscal year which is to be the first to exceed the limits.

1. The City Council may call for the submission of the issue to the voters:

   a. By passing a resolution calling for exceeding the limits by a vote of at least two-thirds of the members of the City Council and delivering a copy of the resolution to the county clerk; or

   b. Upon receipt of a petition by the county clerk requesting an election signed by at least 5% of the registered voters residing in the City.

2. The resolution or petition shall include the amount of levy which would be imposed in excess of the limits provided in subsection (A) of this section and the duration of the excess levy authority. The excess levy authority shall not have a duration greater than five years. Any resolution or petition calling for a special election shall be filed with the county clerk

no later than 30 days prior to the date of the election and the time of publication and providing a copy of the notice of election required in Neb. Rev. Stat. §32-802 shall be no later than 20 days prior to the election. The county clerk shall place the issue on the ballot at an election as called for in the resolution or petition which is at least 30 days after receipt of the resolution or petition. The election shall be held pursuant to the Election Act. For petitions filed with the county clerk on or after May 1, 1998, the petition shall be in the form as provided in Neb. Rev. Stat. §32-628 through §32-631. Any excess levy authority approved under this subsection shall terminate pursuant to its terms, on a vote of the City Council to terminate the authority to levy more than the limits, at the end of the fourth fiscal year following the first year in which the levy exceeded the limit, or as provided in subsection (D) of this section, whichever is earliest. The City Council may pass no more than one resolution calling for an election pursuant to this subsection during any one calendar year. There shall be no limit on the number of elections held pursuant to this subsection which are initiated by petition. The ballot question may include any terms and conditions set forth in the resolution or petition and shall include the language specified in Neb. Rev. Stat. §77-3444. If a majority of the votes cast upon the ballot question are in favor of such tax, the County Board shall authorize a tax in excess of the limits in subsection (A) of this section, but such tax shall not exceed the amount stated in the ballot question. If a majority of those voting on the ballot question are opposed to such tax, the City Council shall not impose such tax. The county clerk may set a uniform date for a special election to be held before October 10, 1998, to submit the issue of exceeding the limits provided in Neb. Rev. Stat. §77-3442 or the final levy allocation as provided in Neb. Rev. Stat. §77-3443 to the voters of political subdivisions in the county seeking additional levy authority. The City may individually or in conjunction with one or more other political subdivisions conduct a special election on a date different from that set by the county clerk, except that the City Council shall pass a resolution calling for a special election for this purpose and deliver a copy of the resolution to the county clerk no later than 30 days prior to the date of the election.

D. The City may rescind or modify a previously approved excess levy authority prior to its expiration by a majority of registered voters voting on the issue in a primary, general, or special election at which the issue is placed before the registered voters. A vote to rescind or modify must be approved prior to October 10 of the fiscal year for which it is to be effective. The City Council may call for the submission of the issue to the voters (1) by passing a resolution calling for the rescission or modification by a vote of at least two-thirds of the members of the City Council and delivering a copy of the resolution to the county clerk; or (2) upon request of a petition by the county clerk requesting an election signed by at least 5% of the registered voters residing in the City. The resolution or petition shall include the amount and the duration of the previously approved excess levy authority and a statement that either such excess levy

authority will be rescinded or such excess levy authority will be modified. If the excess levy authority will be modified, the amount and duration of such modification shall be stated. The modification shall not have a duration greater than five years. The county clerk shall place the issue on the ballot at an election as called for in the resolution or petition which is at least 30 days after receipt of the resolution or petition and the time of publication and providing a copy of the notice of election required in Neb. Rev. Stat. §32-802 shall be no later than 20 days prior to the election. The election shall be held pursuant to the Election Act.

Article 8 – Compensation

SECTION 1-801: OFFICERS

A. All elected officers shall receive such compensation as the Council shall fix by resolution. The compensation of appointive and elective officers of this city shall be neither increased nor decreased during the term for which elected or appointed, except by merger of offices or when there are other officers elected or appointed to the Council and the terms of one or more members commence and end at different times; the compensation of all members of such Council may be increased or diminished at the beginning of the full term of any member thereof. The officers' salaries shall be set by ordinance of the City Council and will be available for public inspection at the office of the city clerk.

B. No person who shall have resigned or vacated any office shall be eligible to the same during the time for which he/she was elected or appointed, if during the same time the emoluments thereof have been increased. In addition to the salaries herein provided, the various officers shall be entitled to mileage and expenses, if and when claims therefor are filed, audited and allowed. The mayor and Council may by resolution authorize clerical assistance in one or more offices when the same may be needed, and claims therefore out of the proper funds may be presented, allowed, audited and paid. All fees earned by an officer of this city in the performance of his/her duties as such shall be considered the property of this city, and shall be promptly paid over to the city treasurer and by him/her credited to the appropriate fund.
(Neb. Rev. Stat. §17-108.02, 17-612)

SECTION 1-802: CONTRACTS; CONFLICT OF INTEREST; DEFINITIONS

“Business association” shall mean a business:

A. In which the individual is a partner, limited liability company member, director, or officer; or

B. In which the individual or a member of the individual's immediate family is a stockholder of closed corporation stock worth $1,000 or more at fair market value or which represents more than a 5% equity interest or is a stockholder of publicly traded stock worth $10,000 or more at fair market value or which represents more than 10% equity interest.

C. An individual who occupies a confidential professional relationship protected by law shall be exempt from this definition. This definition shall not apply to publicly traded stock under a trading account if the filer reports the name and address of the stockbroker. (Neb. Rev. Stat. §49-1408)

“Immediate family” shall mean a child residing in an individual's household, a spouse of an individual, or an individual claimed by that individual or that individual's spouse

as a dependent for federal income tax purposes. (Neb. Rev. Stat. §49-1425)

"Officer" shall mean:

A. A member of any board or commission of the City which spends and administers its own funds, who is dealing with a contract made by such board or commission; or

B. Any elected city official.

"Officer" does not mean a volunteer firefighter or ambulance driver with respect to his/her duties as a firefighter or ambulance driver.

SECTION 1-803: CONTRACTS; CONFLICT OF INTEREST; CONDITIONS

A. Except as provided in Neb. Rev. Stat. §49-1499.04 or §70-624.04, no officer may have an interest in any contract to which his/her governing body, or anyone for its benefit, is a party. The existence of such an interest in any contract shall render the contract voidable by decree of a court of competent jurisdiction as to any person who entered into the contract or took assignment of such contract with actual knowledge of the prohibited conflict. An action to have a contract declared void under this section may be brought by the county attorney, the governing body, or any resident within the jurisdiction of the governing body and shall be brought within one year after the contract is signed or assigned. The 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 governing body has benefited thereby.

B. The prohibition in subsection (A) shall apply only when the officer or his/her parent, spouse, or child:

1. Has a business association with the business involved in the contract; or
2. Will receive a direct pecuniary fee or commission as a result of the contract.

C. Subsection (A) of this section does not apply if the contract is an agenda item approved at a meeting of the governing body and the interested officer:

1. Makes a declaration on the record to the governing 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 matters of granting the contract, making payments pursuant to the contract, or accepting performance of work under the contract, or similar matters relating to the contract, except that if the number of members of the governing body declaring an interest in the contract would prevent the body with all members present from securing a quorum on the issue, then all members may vote on the matters; and

3. Does not act for the governing body which is a party to the contract as to inspection or performance under the contract in which he/she has an interest.

D. An officer who (1) has no business association with the business involved in the contract or (2) will not receive a direct pecuniary fee or commission as a result of the contract shall not be deemed to have an interest within the meaning of this section.

E. The receiving of deposits, cashing of checks, and buying and selling of warrants and bonds of indebtedness of any such governing body by a financial institution shall not be considered a contract for purposes 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.

F. If an officer's parent, spouse, or child is an employee of the officer's governing body, the officer may vote on all issues of the contract which are generally applicable to (1) all employees; or (2) all employees within a classification and do not single out his/her parent, spouse, or child for special action.

G. Neb. Rev. Stat. §49-14,102 does not apply to contracts covered by this section. (Neb. Rev. Stat. §49-14,103.01)

H. The person charged with keeping records for the governing body shall maintain separately from other records a ledger containing the information listed in subsections (1) through (5) of this subsection about every contract entered into by the governing body in which an officer of the body has an interest and for which disclosure is made pursuant to subsection (C) of this section. 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 Council;
4. Amount of the contract; and
5. Basic terms of the contract.

I. The information supplied relative to the contract shall be provided no later than ten days after the contract has been signed by both parties. The ledger kept pursuant to subsection (H) shall be available for public inspection during the normal working hours of the office in which it is kept. (Neb. Rev. Stat. §49-14,103.02)

J. An open account established for the benefit of any governing body with a business in which an officer has an interest shall be deemed a contract subject to this section. The statement required to be filed by this section shall be filed within ten days after such account is opened. Thereafter, the person charged with keeping records for

the governing body shall maintain a running account of amounts purchased on the open account. Purchases made from petty cash or a petty cash fund shall not be subject to this section. (Neb. Rev. Stat. §49-14,103.03)

K. Notwithstanding Section 1-802 and subsections (A) through (J) of this section, the governing body may prohibit contracts over a specific dollar amount in which an officer of the body may have an interest. (Neb. Rev. Stat. §49-14,103.05)

L. The governing body may exempt from Section 1-802 and subsections (A) through (J) of this section, contracts involving $100.00 or less in which an officer of such body may have an interest. (Neb. Rev. Stat. §49-14,103.06)
(Am. Ord. 295, 9-16-86)

Article 9 – Penal Provision

SECTION 1-901: VIOLATION; PENALTY

Any person who shall violate or refuse to comply with the enforcement of any of the provisions of this chapter, set forth at full length herein or incorporated by reference shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be fined no more than $500.00 for each offense. A new violation shall be deemed to have been committed every 24 hours of such failure to comply.

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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 taxable property within the City. The revenue from the tax shall be known as the Library 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 library. The Library Fund shall at all times be in the custody of the city treasurer.

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 City Council shall appoint the members of the Library Board by a majority vote. Neither the mayor nor any member of the City 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 case of any vacancy by resignation, removal, or otherwise, the City Council shall fill the vacancy for the unexpired term. (Am. Ord. 387, 12-15-92)

SECTION 2-103: COMPENSATION; BOND

No member shall receive any pay or compensation for any services rendered as a member of the Library Board. The City 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.

SECTION 2-104: MEETINGS; OFFICERS

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 a majority of the members of the Board. A majority of the board members shall constitute a quorum for the transaction of business. At the time of the Board's first meeting in January of each year, the Board shall organize by selecting from their number a chairperson, secretary, and treasurer. No member of the Library Board shall serve in the capacity of both chairperson 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 at any reasonable time.

SECTION 2-105: POWERS AND DUTIES

The Library Board shall have the authority to appoint a director and all other employees. The Board shall have supervisory authority over all employees of the library, including the director; shall have general charge of the City library; and shall establish appropriate rules and regulations for the management, operation, and use of the library. All actions of the Board shall be subject to the review and supervision of the City Council. The Board shall be responsible for making such reports and performing such additional duties as the Council may designate from time to time.

SECTION 2-106: 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 Board. (Neb. Rev. Stat. §51-213) (Ord. 625, 2-15-05)

SECTION 2-107: LIBRARY; RULES AND REGULATIONS

The Library Board shall establish rules and regulations for the governing of the library for the preservation and efficient management thereof. It shall fix and impose by general rules, penalties, and forfeitures for injury to the library grounds, rooms, books, or other property, or for failure to return a book. The director may exclude from the use of the library and reading rooms any person who shall willfully violate or refuse to comply with the rules and regulations established for the government thereof. All fees, penalties, and forfeitures may be collected in civil action in the event of failure, neglect, or refusal to pay any assessments.

SECTION 2-108: LIBRARY; COST OF USE

The City library shall be free of charge for the use of the inhabitants of the City and any other city in Saunders County. Persons living outside the limits of any city in Saunders County shall be charged an annual usage fee.

SECTION 2-109: LIBRARY; BOOKS ISSUED

The director shall keep or cause to be kept a register of all books issued and returned at the time they shall be so issued and returned. None of the books shall be retained more than 14 days without being renewed. No book may be renewed more than two consecutive times by any person without the special permission of the director or an

authorized employee of the library.

SECTION 2-110: LIBRARY; BOOK LABELING

It shall be the duty of the director to label or cause to be labeled with a printed or stamped label proof of city ownership on each book and also to write the proof on the 30th page of each volume.

SECTION 2-111: LIBRARY; BOOK REMOVAL

It shall be unlawful for any person not authorized by the regulations made by the Library Board to take a book from the library without the consent of the director or an authorized employee of the library. Any person removing a book from the library without properly checking it out shall be deemed to be guilty of an offense.

SECTION 2-112: LIBRARY; DAMAGED AND LOST BOOKS

Any person who injures or fails to return any book taken from the library shall forfeit and pay to the library not less than the value of the book in addition to any replacement costs and penalty which the Library Board may assess.

SECTION 2-113: LIBRARY; MANAGEMENT OF COLLECTION

The Library Board may authorize the sale, exchange, or disposal of any surplus, damaged, defective, obsolete, or duplicate books in the library. Records shall be kept of any such surplus, damaged, defective, obsolete, or duplicate books so disposed of.

SECTION 2-114: LIBRARY; MONEY COLLECTED

Any money collected by the library shall be turned over monthly by the director to the city treasurer, along with a report of the sources of the revenue.

Article 2 – Planning Commission

SECTION 2-201: MEMBERS

The Planning Commission shall be funded by the City Council from time to time out of the General Fund. The Commission shall consist of seven regular members who shall represent, insofar as is possible, the different professions or occupations in the City and shall be appointed by the mayor by and with the approval of a majority vote of the City Council. Two of the regular members may be residents of the area over which the City is authorized to exercise extraterritorial zoning and subdivision regulation. When there is a sufficient number of such residents, one regular member of the Commission shall be a resident from such area. If it is determined by the City Council that a sufficient number of residents reside in the area subject to extraterritorial zoning and subdivision regulation, and no such resident is a regular member of the Commission, the first available vacancy on the Commission shall be filled by the appointment of such an individual. For purposes of this section, "a sufficient number of residents" shall mean 500 residents. (Am. Ord. 548, 7-21-98)

SECTION 2-202: TERMS; REMOVAL

The term of each regular member shall be three years. All regular members shall hold office until their successors are appointed. Any member may, after a public hearing before the City Council, be removed by the mayor, with the consent of a majority vote of the City Council for inefficiency, neglect of duty, or malfeasance in office or other good and sufficient cause. Vacancies occurring otherwise than through the expiration of term shall be filled for the unexpired portion of the term by the mayor.

SECTION 2-203: ALTERNATE MEMBER

The mayor, with the approval of a majority vote of the City Council, shall appoint one alternate member to the Commission. The alternate member shall serve without compensation and shall hold no other city office. The term of the alternate member shall be three years and he/she shall hold office until his/her successor is appointed and approved. The alternate member may be removed from office in the same manner as a regular member. If the alternate member position becomes vacant other than through the expiration of the term, the vacancy shall be filled for the unexpired portion of the term by the mayor with the approval of a majority vote of the City Council. The alternate member may attend any meeting and may serve as a voting and participating member of the Commission at any time when less than the full number of regular commission members is present and capable of voting.

SECTION 2-204: COMPENSATION; BOND

All regular members of the Commission shall serve without compensation and shall hold no other city office except when appointed to serve on the Board of Adjustment as provided in Neb. Rev. Stat. §19-908. All members of the Commission may be re-

quired, in the discretion of the mayor and City Council, to give bond in a sum set by resolution of the City Council and conditioned upon the faithful performance of their duties.

SECTION 2-205: MEETINGS; OFFICERS; QUORUM

At the time of the Commission's first meeting in January of each year, the members shall organize by selecting a chairperson and secretary. No member of the Commission shall serve in the capacity of both chairperson 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 them with the city clerk, where they shall be available for public inspection during office hours. A number of commissioners equal to a majority of the number of regular members appointed to the Commission shall constitute a quorum for the transaction of any business. Special meetings may also be held upon the call of the chairperson or any three members of the Commission.

SECTION 2-206: DUTIES

It shall be the duty of the Commission 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 mayor and City Council. Recommendations from the Commission shall be received by the Council within 60 days after the Commission begins consideration of a matter relating to the Comprehensive Development Plan, capital improvements, building codes, subdivision development, the annexation of territory, or zoning. The Commission shall be responsible for making such reports and performing such other duties as the mayor and City Council may, from time to time, designate.

SECTION 2-207: EXPENDITURES

The expenditures of the Commission, exclusive of gifts, shall be within the amounts appropriated for that purpose by the City Council and no expenditures nor agreements for expenditures shall be valid in excess of such amounts.

Article 3 – Board of Adjustment

SECTION 2-301: MEMBERS

The mayor shall appoint, with the consent of the City Council, a 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. Each member shall be appointed for a term of three years and shall be removable for cause by the mayor upon written charges and after public hearings. Vacancies shall be filled for the unexpired term of any member whose term becomes vacant. One member only of the Board of Adjustment shall be appointed from the membership of the Planning Commission and the loss of membership on the Planning Commission by such member shall also result in his/her immediate loss of membership on the Board of Adjustment and the appointment of another planning commissioner to the Board of Adjustment. If the Board does not include a member who resides in the extraterritorial zoning jurisdiction of the City, the first vacancy occurring on the Board of Adjustment after the effective date of this section shall be filled by the appointment of a person who resides in the extraterritorial zoning jurisdiction of the City at such time as more than 200 persons reside within such area. Thereafter, at all times, at least one member of the Board of Adjustment shall reside outside the corporate boundaries of the city but within its extraterritorial zoning jurisdiction. (Am. by Ord. 666, 4-22-08)

SECTION 2-302: COMPENSATION; BOND

The members of the Board 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 and conditioned upon the faithful performance of their duties.

SECTION 2-303: MEETINGS; OFFICERS

Meetings of the Board shall be held at the call of the chairperson and at such other times as the Board may determine. 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 each year after the City Council meeting when appointments are regularly made and shall elect from its membership a chairperson and secretary. No member of the Board of Adjustment shall serve in the capacity of both chairperson and secretary. It shall be the duty of the secretary to keep complete and accurate minutes of the Board's proceedings, showing the vote of each member upon each question or, if absent or failing to vote, indicating such fact, and to keep records of the Board's examinations and other official actions, all of which shall be immediately filed in the office of the Board and shall be public record. The Board shall adopt rules in accordance with the provisions of this section and Neb. Rev. Stat. §19-901 to §19-914. The chairperson, or in his/her absence the acting chairperson, may administer oaths and compel the attendance of witnesses. All meetings of the Board shall be open to the public.

SECTION 2-304: APPEALS TO BOARD

Appeals to the Board may be taken by any person aggrieved or by any officer, department, board, or bureau of the City affected by any decision of the administrative officer. Such appeal shall be taken within a reasonable time, as provided by the rules of the Board, by filing with the officer from whom the appeal is taken and with the Board a notice of appeal specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from was taken. An appeal stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the Board, after the notice of appeal shall have been filed with him/her, that by reason of facts stated in the certificate a stay would, in his/her opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board or by a court of record on application on notice to the officer from whom the appeal is taken and on due cause shown. The Board shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing, any party may appear in person or by agent or by attorney. (Neb. Rev. Stat. §19-909)

SECTION 2-305: POWERS AND DUTIES

A. The Board shall be responsible for making such reports and performing such other duties as the mayor and City Council may designate.

B. The Board shall have only the following powers:

1. To hear and decide appeals when it is alleged there is error in any order, requirement, decision, or determination made by an administrative official or agency based on or made in the enforcement of any zoning regulation or any regulation relating to the location or soundness of structures, except that the authority to hear and decide appeals shall not apply to decisions made by the City Council or Planning Commission regarding a conditional use or special exception;

2. To hear and decide, in accordance with the provisions of any zoning regulation, requests for interpretation of any map; and

3. When by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of the enactment of the zoning regulations or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of such piece of property, the strict application of any zoning regulation would result in peculiar and exceptional practical difficulties to or exceptional and undue hardships upon the owner of such property, to authorize, upon an

appeal relating to the property, a variance from such strict application so as to relieve such difficulties or hardship, if such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of any ordinance or resolution.

C. No such variance shall be authorized by the Board unless it finds that:

1. The strict application of the zoning regulation would produce undue hardship;

2. Such hardship is not shared generally by other properties in the same zoning district and the same vicinity;

3. The authorization of such variance will not be of substantial detriment to adjacent property and the character of the district will not be changed by the granting of the variance; and

4. The granting of such variance is based upon demonstrable and exceptional hardship as distinguished from variations for purposes of convenience, profit, or caprice.

D. No variance shall be authorized unless the Board finds that the condition or situation of the property concerned or the intended use of the property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the zoning regulations.

E. In exercising the powers granted in this section, the Board may, in conformity with Neb. Rev. Stat. §19-901 to §19-915, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from, and may make such order, requirement, decision, or determination as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken. The concurring vote of four members of the Board shall be necessary to reverse any order, requirement, decision, or determination of any such administrative official or to decide in favor of the applicant on any matter upon which it is required to pass under any such regulation or to effect any variation in such regulation.
(Neb. Rev. Stat. §19-910)

F. Appeals from a decision by the Board may be taken as provided in Neb. Rev. Stat. §19-912.
(Am. by Ord. 620, 2-15-05)

Article 4 – Board of Health

SECTION 2-401: MEMBERS; TERMS

The City Council shall appoint a Board of Health which shall consist of four members. The members of the Board shall include 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, a one-year term of office, unless reappointed and unless removed by the mayor with the advice and consent of the City Council. 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. (Ord. 527, 7-15-97)

SECTION 2-402: MEETINGS

The Board shall meet at such times as the City Council may designate and shall reorganize at the first meeting in January of each year. Special meetings may be held upon the call of the chairperson or any two members of the Board. 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 during office hours. A majority of the Board shall constitute a quorum for the purpose of doing business.

SECTION 2-403: DUTIES

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.

SECTION 2-404: HEALTH REGULATIONS

For the purpose of promoting the health and safety of the residents of the City, the Board of Health shall, from time to time, adopt such rules and regulations relative thereto and shall make such inspections, prescribe such penalties, and make such reports as may be necessary toward that purpose.

SECTION 2-405: ENFORCEMENT OFFICIAL

The chief of police, as the quarantine officer, shall be the chief health officer of the City. It shall be his/her duty to notify the City Council and the Board of Health of health nuisances within the City and its zoning jurisdiction.

SECTION 2-406: COUNTY HEALTH BOARD

It shall be the duty of the Board of Health to work closely with the County Health Board in protecting the health and welfare of the residents of the City.

Article 5 – Parks, Recreation, and Forestry Board

SECTION 2-501: MEMBERS

There is hereby created a Board of Parks, Recreation and Forestry, hereinafter referred to as the Board, composed of five members, all citizens and residents of the city. Members shall be appointed by the mayor with the approval of the City Council. (Am. Ord. 650, 12-20-05)

SECTION 2-502: TERMS

Each board member appointed shall serve a four-year term. Any vacancy shall be filled by appointment by the mayor with approval of the City Council for the duration of the unexpired term.

SECTION 2-503: DUTIES

The Board shall be in charge of all parks and recreational facilities belonging to the City or under control of the City, shall establish rules and regulations for the care, use, and management of the facilities and parks and provide for the needs and population of the City under the supervision and direction of the City Council. Such activities shall include, but not be limited to:

A. Proposing to the City Council an annual budget, in the form prescribed by the City Council, for all parks and recreation activities and facilities;

B. Determining and setting fees for use of parks and recreational facilities for residents and nonresidents of the City;

C. Developing recreational programs for the City for all citizens;

D. Prescribing rules and regulations for the use of existing and new parks and recreational facilities;

E. Determining recreational needs of the citizens and the City and to submit to the City Council on an annual basis a report of programs, possible improvements and repairs and possible future recreational programs and facilities for the City's consideration and planning;

F. Soliciting charitable contributions and funds from other sources for carrying out the functions of the Board and the City's recreational programs; and

G. Studying, investigating and developing a plan for the care, replacement, maintenance and removal or disposition of trees and shrubs in public parks, along streets, and in other public areas.

SECTION 2-504: COMPENSATION; REIMBURSEMENT

Board members shall serve without compensation but may be reimbursed for travel and other out-of-pocket expenses incurred in the performance of their duties.

SECTION 2-505: REVIEW BY CITY COUNCIL

The City Council shall have the right to review the conduct, acts, and decisions of the Forestry Board. Any person may appeal any ruling or order of the Forestry Board to the City Council, which may hear the matter and make a final decision.

SECTION 2-506: INTERFERENCE WITH COMMUNITY FORESTRY BOARD

A. It shall be unlawful for any person to prevent, delay, or interfere with the Community Forestry Board or any of its representatives or agencies while they are engaging in and about the planting, cultivation, mulching, pruning, spraying, or removing of any trees within the community forestry, as authorized in this chapter.

B. It shall be unlawful to prevent, delay, or interfere with access to private property by the City or its representatives in the legal performance of any section of this chapter.
(Ord. 353, 7-17-90)

SECTION 2-507: TREES; DEFINITIONS

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

“Community forestry manager” shall mean the official representative of the Community Forestry Board and as such is responsible for administration of the community program.

“Community forest” shall mean all street and park trees as a total resource.

“Park trees” shall mean trees, shrubs, 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.

“Sidewalk space” shall mean the portion of a street between curb lines and adjacent property lines.

“Street trees” shall mean trees, shrubs, and all other woody vegetation on land lying between property lines on either side of all streets, avenues, or ways within the city.
(Ord. 353, 7-17-90)

SECTION 2-508: STREET SPECIES OF TREES TO BE PLANTED

The City shall maintain an extensive list of recommended trees for planting in public areas. The purpose of this listing will be to maintain diversity in the total tree population. This list shall be available to residents for private properties. The list of recommended trees shall be updated periodically to reflect new developments or species that will affect the population of the community forest. (Ord. 353, 7-17-90)

SECTION 2-509: DISTANCES AND CLEARANCES FOR PLANTING TREES

A. Street trees may be planted in the tree lawn where there is more than 6 feet between the edge of the sidewalk and the curb of the street. Street trees shall be planted no closer than 3 feet from a sidewalk, driveway, or street.

B. No street tree shall be planted closer than 15 feet from any fire hydrant.

C. Special permission must be obtained from the Community Forestry Board and the utilities superintendent when planting street trees within 10 feet of any point on a line on the ground immediately below any overhead utility wire.

D. Spacing of street trees will not be restricted except as it may affect the aforementioned in this section.
(Ord. 353, 7-17-90)

SECTION 2-510: PLANTING; PERMITS REQUIRED

No person shall plant a street tree or any other tree in the public right-of-way without first obtaining a permit from the Forestry Board and utilities superintendent. There will be no fee for such permit. (Ord. 353, 7-17-90)

SECTION 2-511: REMOVAL AND REPLACEMENT OF PUBLIC TREES; COMPENSATORY PAYMENTS

No person shall remove any public tree without replacing such tree with a tree or trees of equivalent dollar value in the vicinity of the removed tree. The value of trees shall be determined by the community forestry manager in accordance with regulations considering species, location, size, and condition of trees adopted by the Community Forestry Board. If no suitable location exists in the vicinity of the tree removed or if the replacement tree is of lesser value, the person causing the tree to be removed shall make a compensatory payment to the City equal to the difference in value between the tree removed and any replacement tree. Such compensatory payments shall be paid into a fund established by the Tree Board secretary and used solely for the purpose of enhancing the community forestry. (Ord. 353, 7-17-90)

SECTION 2-512: TREE TOPPING AND STUMP REMOVAL

A. “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 as to remove the normal canopy and disfigure the tree.

B. 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.

C. 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 section at the determination of the City Council.
(Ord. 353, 7-17-90)

SECTION 2-513: OVERHANGING BRANCHES

A. The owner or occupant of any lot, piece, or parcel of ground abutting or adjacent to any street or sidewalk over which the branches of trees extend shall at all times keep the branches or limbs thereof trimmed to the height of at least 8 feet above the surface of the walk and at least 12 feet above the surface of the street. Whenever the limbs or branches of any tree or trees extend over streets or sidewalks contrary to the provisions herein so as to interfere with the lighting of the street from street lights or with the convenience of the public using the street or sidewalk, the City Council at any regular or special meeting may pass a resolution ordering the owner or occupant to cut or remove the obstructions within five days after having received a copy thereof from the utilities superintendent, stating that the City will remove the branches and charge the costs thereof to the owner or occupant as a special assessment for improvements as herein provided if the resolution is not complied with.

B. 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. (Neb. Rev. Stat. §17-557 and 17-557.01)

SECTION 2-514: PUBLIC TREE CARE

A. The City shall have the right to plant, prune, maintain, and remove trees, plants, and shrubs within the right-of-way or bounds of all streets, alleys, lanes, squares, and public grounds, as may be necessary to insure the public safety.

B. The City 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 sewer, water, gas, and electric power lines, or other public improvements or to the general welfare of citizens or is seriously affected with any fatal disease.
(Ord. 353, 7-17-90)

SECTION 2-515: INJURY TO TREES; PUBLIC SERVICE COMPANIES

A. It shall be unlawful for any person purposely or carelessly and without lawful authority to cut down, carry away, injure, break down, or destroy any fruit, ornamental, shade, or other tree or trees standing or growing on any land belonging to another person or persons or on any public land in the corporate limits.

B. Any public service company desiring to trim or cut down any tree, except on property owned and controlled by it, shall make an application to the City Council to do so and the written permit of the City Council in accordance with its decision to allow such an action shall constitute the only lawful authority on the part of the company to do so.

SECTION 2-516: DEAD OR DISEASED TREES; REMOVAL

A. The City shall have the right to remove or cause to be removed any dead or diseased tree within the city limits.

B. "Diseased trees" are defined as those trees that may constitute a hazard to life and property and represent a potential threat to other trees within the City due to the presence of a fatal disease (for example, Dutch elm disease or chestnut blight, spruce needle miners, saw fly, or elm leaf beetles).

C. The Tree Board will notify in writing the owners of such trees. Removal is the responsibility of the owners of such trees and shall be accomplished within 60 days of notification. In the event of failure to remove by the owner, the City shall have the authority to remove such trees and charge the costs of removal on the owner's property tax notice.

D. The Community Forestry Board shall enforce the provisions of this section.
(Ord. 353, 7-17-90)

SECTION 2-517: ARBORIST'S LICENSE; FEE AND INSURANCE

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 annual license fee shall be paid in advance, provided that no license shall be required of any public service company or city employee doing such work in the pursuit of their public service endeavors. Such fee shall be set by the City Council and filed in the office of the city clerk for public inspection during office hours. Before any license is issued, each applicant shall first file evidence of possession of liability insurance in the minimum amounts of $50,000.00 for bodily injury and $100,000.00 for property damage, indemnifying the City or any person injured or damaged resulting from the pursuit of such endeavors as herein described.

Article 6 – Community Redevelopment Authority

SECTION 2-601: MEMBERS; TERMS

There is hereby created the Community Redevelopment Authority of the City pursuant to the provisions of Neb. Rev. Stat. §18-2101.01. The affairs of the Authority shall be administered by five persons appointed by the mayor with the approval of the City Council. The mayor, with the approval of the Council, shall appoint or reappoint members for terms of five years.

SECTION 2-602: POWERS

The Community Redevelopment Authority shall have all of the powers set forth in Neb. Rev. Stat. §18-2101 through §18-2154 and any additional powers granted by the Legislature from time to time for community redevelopment authorities. The Authority shall have the power to employ counsel, a director, and such other officers and employees as may be desired. (Ord. 614, 2-17-04)

Article 8 – Penal Provision

SECTION 2-801: VIOLATION; PENALTY

Any person who shall violate or refuse to comply with the enforcement of any of the provisions of this chapter, set forth at full length herein or incorporated by reference shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be fined no more than $500.00 for each offense. A new violation shall be deemed to have been committed every 24 hours of such failure to comply.

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CHAPTER 3 – MISDEMEANORS

Article 1 – General Misdemeanors

SECTION 3-101: CRIMINAL CODE INCORPORATED BY REFERENCE

The Nebraska Criminal Code, together with all subsequent amendments thereto, as adopted by the State of Nebraska relating to crimes and punishments are incorporated by reference into this section and made a part of this chapter as though spread at large herein, except those provisions in conflict with this chapter when the City Council has the authority to alter such regulations. One copy of the Nebraska Criminal Code and amendments shall be on file with the city clerk and shall be available for public inspection at any reasonable time.

SECTION 3-102: OBSTRUCTING A PEACE OFFICER

It shall be unlawful for any person to use or threaten to use violence, force, physical interference, or obstacle or intentionally to obstruct, impair, or hinder the enforcement of the penal law or the preservation of the peace by a peace officer or judge acting under color of official authority, or a police animal assisting a peace officer acting pursuant to his/her official authority. (Neb. Rev. Stat. §28-906)

SECTION 3-103: REFUSING TO AID A PEACE OFFICER

It shall be unlawful for any person, upon a request by a person known to that person to be a peace officer, unreasonably to refuse or fail to aid such peace officer in apprehending any person charged with or convicted of any offense against any of the laws of this state or City, securing such offender when apprehended, or conveying such offender to the jail of the county. (Neb. Rev. Stat. §28-903)

SECTION 3-104: IMPERSONATING A PEACE OFFICER

It shall be unlawful for any person to falsely pretend to be a peace officer and perform any act in that pretended capacity. (Neb. Rev. Stat. §28-610)

SECTION 3-105: IMPERSONATING A PUBLIC SERVANT

It shall be unlawful for any person falsely to pretend to be a public servant other than a peace officer and perform any act in that pretended capacity. It is no defense that the office the actor pretended to hold did not in fact exist. (Neb. Rev. Stat. §28-609)

SECTION 3-106: 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) the property is an area designated by law for the disposal of such material

and the person is authorized by the proper public authority to so use the property or (2) the litter is placed in a receptacle or container installed on the property for such purpose.

B. “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 the motor vehicle or watercraft commits the offense of littering.
(Neb. Rev. Stat. §28-523)

SECTION 3-107: PROMOTING GAMBLING

It shall be unlawful for any person to (A) engage in bookmaking; (B) receive money in connection with any unlawful gambling scheme; or (C) knowingly participate in any unlawful gambling as a player by placing a bet.

SECTION 3-108: POSSESSION OF A GAMBLING DEVICE

It shall be unlawful for any person to manufacture, sell, transport, place, possess, or conduct, or negotiate any transaction affecting or designed to affect ownership, custody, or use of any gambling device knowing that it shall be used in the advancement of unlawful gambling activity. (Neb. Rev. Stat. §28-1107)

SECTION 3-109: LOITERING AND VAGRANTS

It shall be unlawful for any person to loiter on the streets, in the park, on the sidewalk, or on any other public ways and property at unreasonable hours and those persons who are unable to give a good and satisfactory reason why they should be there, including all vagrants and persons found without means of support or some legitimate business, shall be deemed to be guilty of loitering.

SECTION 3-110: PRIZE FIGHTS

It shall be unlawful for any person within the City to sponsor or engage in any fight by agreement either as principal or second, provided that nothing herein shall be construed to prohibit boxing exhibitions duly licensed by the State of Nebraska.

SECTION 3-111: DISTURBING THE PEACE

It shall be unlawful for any person intentionally to disturb the peace and quiet of any person, family, or neighborhood. (Neb. Rev. Stat. §28-1322)

SECTION 3-112: DISORDERLY CONDUCT

It shall be unlawful for any person to engage in conduct or behavior which disturbs the peace and good order of the City by clamor or noise, intoxication, drunkenness, fighting, or using of obscene or profane language in the streets or other public places or which is otherwise indecent or disorderly conduct or lewd or lascivious behavior.

SECTION 3-113: DISCHARGE OF 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 3-114: DISCHARGE OF FIREARMS AND WEAPONS

A. It shall be unlawful for any person, except an officer of the law in the discharge of official duty, to fire or discharge any gun, pistol, or other fowling piece within the City, except that nothing in this section shall be construed to apply to officially sanctioned public celebrations if the persons so discharging firearms have written permission from the City Council.

B. It shall be unlawful for any person to discharge any firearm or weapon using any form of compressed gas as a propellant from any public highway, road, or bridge in this state, unless otherwise allowed by statute.
(Neb. Rev. Stat. §28-1335)

SECTION 3-115: SHOOTING HIGHWAY SIGNS, MARKERS, OR NOTICES

It shall be unlawful for any person willfully or maliciously to shoot upon the public highway and injure, deface, damage or destroy any signs, monuments, road markers, traffic control or surveillance devices or other public notices lawfully placed upon said highways. (Neb. Rev. Stat. §60-6,130(1))

SECTION 3-116: REMOVAL AND POSSESSION OF HIGHWAY SIGNS, MARKERS, OR NOTICES

It shall be unlawful for any person, other than those authorized to do so, to remove any sign, traffic control, or traffic surveillance device placed along a public street, road, or highway for traffic control, warning, or informational purposes. Moreover, it shall be unlawful for any person to possess such a sign or device which has been removed in violation of this section. (Neb. Rev. Stat. §60-6,130(3))

SECTION 3-117: RADIO INTERFERENCE

Any person operating or causing to be operated any motor, sign, or other electrical apparatus that is connected with the light and power system shall equip the appa-

ratus with proper filtering attachments to eliminate interference, provided that the provisions herein shall not apply to the use of necessary medical equipment or apparatus where electrical interference cannot be reasonably and safely eliminated. Any person who so operates or causes to be operated any such electrical apparatus that interferes habitually with radio and television reception shall be deemed to be guilty of a misdemeanor.

SECTION 3-118: STREET GAMES

It shall be unlawful for any person to play catch, bat a ball, or kick or throw a football or to engage in any exercise or sport upon the city streets and sidewalks. Nothing herein shall be construed to prohibit or prevent the City Council from ordering from time to time certain streets and public places blocked off for the purpose of providing a safe area to engage in such exercise and sport.

SECTION 3-119: HITCHING RIDES

It shall be unlawful for any person to be found soliciting trucks, automobiles, or other vehicles to stop or slow down for the purpose of asking for a ride or riding on the said vehicle.

SECTION 3-120: POSTING

It shall be unlawful for any person, firm, or corporation to use the streets, sidewalks, or public grounds of the City for signs, signposts, or the posting of handbills or advertisements without written permission of the City Council.

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 the person first removes all doors and makes the same reasonably safe.

SECTION 3-122: CURFEW; DUTY OF PARENT OR GUARDIAN; DEFENSES

A. It shall be unlawful for any minor under the age of 18 years to loiter, idle, wander, stroll, or play in or upon any of the streets, roads, alleys or parks of the City or other places of public amusement or recreation therein after the hour of 11:00 P.M. and until the hour of 5:00 A.M. of the following day on Sunday through Thursday, and after the hour of 12:30 A.M. and until the hour of 5:00 A.M. on Saturday and Sunday.

B. It shall be unlawful for any parent, guardian, or any adult person having the legal care, custody, or control of any minor under the age of 18 years to allow or permit such minor to loiter, wander, stroll, idle or play in or about any of the places designated in subsection (A) of this section after the hour of 11:00 P.M. and until the

hour of 5:00 A.M. of the following day on Sunday through Thursday, and after the hour of 12:30 A.M. and until the hour of 5:00 A.M. on Saturday and Sunday.

C. It is a defense to prosecution under subsections (A) and (B) that the minor was:

1. Accompanied by a parent, guardian, or other adult person having the legal care, custody, or control of such minor;

2. On an errand at the direction of the minor's parent, guardian, or other adult person having the legal care, custody, or control of such minor and was using a direct route;

3. In a motor vehicle involved in interstate travel;

4. Engaged in an employment activity, including but not limited to newspaper delivery, and was using a direct route;

5. Involved in an emergency;

6. On the sidewalk abutting the minor's residence or abutting the residence of a next-door neighbor if the neighbor did not complain to the police officer about the minor's presence;

7. Attending an official school or religious activity or returning home by a direct route from an official school or religious activity;

8. Exercising first amendment rights protected by the United States constitution, such as the free exercise of religion, freedom of speech, and the right of assembly; or

9. Married or had been married or had disabilities of minority removed in accordance with the laws of the state of Nebraska.

SECTION 3-123: PARKS; INJURY TO PLANTINGS; LITTERING

It shall be unlawful for any person maliciously or willfully to cut down, injure, or destroy any tree, plant, or shrub in any park. 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 parks and recreational areas. No person shall commit any waste on or litter the city parks or other public grounds.

SECTION 3-124: 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 3-125: 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 3-126: RAISING OR PRODUCING STAGNANT WATER

It shall be unlawful for any person to build, erect, continue, or keep up any dam or other obstruction in any river or stream of water and thereby raise an artificial pond or produce stagnant waters which shall be manifestly injurious to the public health and safety. (Neb. Rev. Stat. §28-1303)

SECTION 3-127: PUTTING CARCASS OR FILTHY SUBSTANCE INTO WELL, SPRING, BROOK, OR STREAM

It shall be unlawful for any person to put any dead animal, carcass, or part thereof or other filthy substance into any well or into any spring, brook, or branch of running water which is used for domestic purposes. (Neb. Rev. Stat. §28-1304)

SECTION 3-128: EXPOSING OFFENSIVE MATTER

It shall be unlawful for any person to put the carcass of any dead animal or the offals from any slaughterhouse or packing house, any spoiled meats or spoiled fish, any putrid animal substance, or the contents of any privy vault upon or into any river, bay, creek, pond, canal, road, street, alley, lot, field, meadow, public ground, market space or common; or for any person, being the owner or owners, occupant, or occupants thereof, knowingly to permit the same to remain in any of the aforesaid situations. It shall further be unlawful for any person to neglect or refuse to remove or abate the nuisance occasioned thereby within 24 hours after knowledge of the existence of such nuisance upon any of the above-described premises owned or occupied by him/her/them or after notice in writing from the Board of Health. (Neb. Rev. Stat. §28-1305)

SECTION 3-129: AIR POLLUTION

A. 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 City in the judgment of the Board of Health. 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 of 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.

B. 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.

C. It is hereby unlawful for such person, firm, or corporation to permit or cause the escape of the aforesaid nuisances. The escape of the 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 Board of Health to the violator. The abatement may be in addition to the penalty for air pollution in the City.

SECTION 3-130: WATER POLLUTION

It shall be unlawful for any person, firm, or corporation to obstruct or impede without legal authority any river or collection of water or to corrupt and render unwholesome or impure any watercourse, stream, or other water. The standards for water quality established or adopted by the State of Nebraska shall be presumptive evidence as to when the water is deemed to be polluted under this section. Such a corruption of the water in or about the City shall constitute a nuisance and shall be summarily abated upon written notice to the violator by the Board of Health. The abatement may be in addition to the penalty for water pollution.

SECTION 3-131: UNLICENSED OR INOPERABLE VEHICLES; DEFINITION

A. No person in charge or control of any property within the City, other than city property, whether as owner, tenant, occupant, lessee, or otherwise, shall allow any partially dismantled, inoperable, wrecked, junked, or discarded vehicle to remain on such property longer than 30 days. No unlicensed vehicle shall be permitted to remain on any private or public property for any length of time; provided, this section shall not apply to a vehicle in an enclosed building; to a vehicle on the premises of a business enterprise, operated in a lawful place and manner, when such vehicle is necessary to the lawful operation of the business; to a vehicle during the legal period permitted for transition in ownership; or to a vehicle in an appropriate storage place or depository maintained in a lawful place and manner by the City. Any vehicle allowed to remain on property in violation of this section shall constitute a nuisance and shall be abated. Any person violating this section shall be guilty of a misdemeanor and subject to the penalties set forth in this chapter. (Am. Ord. 718, 3-15-16)

B. For purposes of this municipal code, “vehicle” shall mean any motorized and non-motorized vehicle, car, truck, van, scooter, trailer, boat and all other objects which are required to be registered through the Nebraska Department of Motor Vehicles, whether said vehicle is licensed or not licensed within the State of Nebraska. (Ord. 719, 4-19-16)

Article 2 – Dogs and Cats

SECTION 3-201: DEFINITIONS

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

"Animal" shall mean any live, vertebrate creature, domestic or wild.

"Animal control officer" shall mean any person designated by the State of Nebraska, city government, or a humane society as a law enforcement officer who is qualified to perform such duties under the laws of this state.

"Animal shelter" shall mean any facility operated by a humane society or city agency or its authorized agents for the purpose of impounding or caring for animals held under the authority of this ordinance or state law.

"Commercial animal establishment" shall mean any pet shop, grooming shop, auction house, riding school or stable, zoological park, circus, performing animal exhibition, or kennel.

"Dog" shall mean any canine animal, male or female, sexed or neutered.

"Grooming shop" shall mean a commercial establishment where animals are bathed, dipped, plucked, or otherwise groomed.

"Kennel" shall mean a place where four or more dogs and/or cats over the age of six months are owned, possessed, kept, or harbored. (Am. Ords. 298, 7/21/87; 661, 4/17/08)

"Licensing authority" shall mean the City.

"Owner" shall mean any person, partnership, or corporation owning, keeping, or harboring one or more animals. An animal shall be deemed to be harbored if it is fed or sheltered for three consecutive days or more.

"Pet" shall mean any licensed animal kept for pleasure rather than utility.

"Pet shop" shall mean any person, partnership, or corporation, whether operated separately or in connection with another business enterprise, except for a licensed kennel, that buys, sells, or boards any species of animal.

"Public nuisance" shall mean any animal or animals which molest passersby or passing vehicles, attack other animals, trespass on school grounds, are repeatedly at large, damage private or public property, or bark, whine, or howl in an excessive, continuous, or untimely fashion.

“Restraint” shall mean a leash or lead securing an animal or confinement within the real property limits of its owner.

“Stray animal” shall mean any unlicensed animal found roaming at large, frequenting, or remaining on private or public property without the consent of the owner or tenant of said property.

“Vicious animal” shall mean any animal that constitutes a physical threat to human beings or other animals.

“Wild animal” shall mean any live monkey (non-human primate), raccoon, skunk, fox, poisonous or dangerous snake, poisonous or dangerous insect, leopard, panther, tiger, lion, lynx, or any other warm-blooded animal which can normally be found in the wild state.

“Zoological park” shall mean any facility, other than a pet shop or kennel, displaying or exhibiting one or more species of non-domesticated animals operated by a person, partnership, corporation, or government agency. (Am. Ord. 559, 4-20-99)

SECTION 3-202: RABIES VACCINATION

Every dog or cat three months of age and older shall be vaccinated against rabies and distemper pursuant to Nebraska law. Puppies and kittens shall be vaccinated within 30 days after having reached three months of age. Unvaccinated dogs or cats acquired or brought into the City must be vaccinated within 30 days after purchase or arrival unless under three months of age as specified above. The provisions of this ordinance with respect to vaccination shall not apply to any dogs or cats owned by a person temporarily residing within this city for less than 30 days, any dog or cats brought into this city for show purposes, or any dog brought into this city for hunting purposes for a period of less than 30 days. Such dogs shall be kept under the strict supervision of the owner. (Neb. Rev. Stat. §71-4402, 71-4405, 71-4412)

SECTION 3-203: DOG LICENSES

A. Any person who shall own, keep, or harbor a dog over the age of six months within the City shall within 30 days after acquisition of the dog acquire a license for each such dog annually by or before May 1 of each year. The tax shall be delinquent on June 1, provided that the possessor of any dog brought into or harbored within the corporate limits subsequent to May 1 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 30 days thereafter. Licenses shall be issued by the city clerk upon the payment of a license fee which shall be set by the City Council and filed in the office of the village clerk for public inspection during office hours. The license shall not be transferable and no refund will be allowed in case of death, sale, or other disposition of the licensed dog.

B. The owner shall state at the time the application is made upon printed forms provided for such purpose his/her name and address and the name, breed, color, and sex of each dog owned and kept by the owner. A certificate that the dog has had rabies shot, effective for the ensuing year of the license, shall be presented when the license is applied for and no license or tag shall be issued until the certificate is shown. (Neb. Rev. Stat. §71-4412)
(Am. by Ords. 248, 6-19-84; 661, 4-17-08)

SECTION 3-204: CAT LICENSES

A. It shall be unlawful for any person in the City to own, keep, or harbor a cat over the age of six months without having licensed said cat. Application for the said license shall be made to the city clerk and shall include the name and address of the owner of the cat, such description as may be required for the purpose of identification and the number of the registration issued.

B. Upon the payment of a fee, the city clerk shall furnish to the registrant a receipt showing the proof of such payment, a metallic tag bearing the registration number and the registration year. Such fee shall be set by the City Council and filed in the office of the village clerk for public inspection. The license renewal shall be due on May 1 of each year and the renewal fee shall be delinquent on June 1 of each year. Said license shall not be transferable and no refund will be allowed in the case of the death, sale, or other disposition of the licensed cat. No license shall be issued without presentation of a certificate for a rabies shot effective for the ensuing year.
(Neb. Rev. Stat. §17-547) (Am. Ords. 222, 8-17-82; 228, 5-17-83; 6-19-84; 661, 4-17-08)

SECTION 3-205: LICENSE TAGS

A. Upon the payment of the license fee, the city clerk shall issue to the owner of a dog or cat a license certificate and a metallic tag for each animal so licensed. The metallic tags shall be properly attached to the collar or harness of all animals so licensed and shall entitle the owner to keep or harbor the said dog or cat until April 30 following such licensing.

B. 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 and shall charge and collect a fee set by resolution of the City Council for each duplicate or new tag so issued. 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 any person to remove or cause to be removed the collar, harness, or metallic tag from any licensed dog or cat without the consent of the owner, keeper, or possessor thereof.
(Am. by Ord. 248, 6-19-84)

SECTION 3-206: SERVICE DOGS; EXEMPT FROM LICENSE TAX

Every dog guide for a blind or visually impaired person, hearing aid dog for a deaf or hearing-impaired person, and service dog for a physically limited person shall be licensed as required by the municipal code but no license tax shall be charged upon a showing by the owner that the dog is a graduate of a recognized training school for dog guides, hearing aid dogs, or service dogs. Upon the retirement or discontinuance of the dog as a dog guide, hearing aid dog, or service dog, the owner of the dog shall be liable for the payment of the required license tax.

SECTION 3-207: WRONGFUL LICENSING

It shall be unlawful for the owner, keeper, or harborer of any dog or cat to permit or allow such animal to wear any license, metallic tag, or other city identification than that issued by the City nor shall the owner, keeper, or harborer wrongfully and knowingly license an unneutered dog or cat with a license prescribed for a neutered dog or cat. (Am. by Ords. 248, 6-19-84; 661, 4-17-08)

SECTION 3-208: RUNNING AT LARGE

A. *Dogs; Restrained*. All dogs shall be kept under restraint. 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 off the premises of the owner and not under control of the owner or responsible person by leash, cord, chain, wire, rope, cage, or other suitable means of physical restraint. Upon failure of the owner to comply with this section, a law enforcement officer shall issue a citation for a violation of this section. The citation shall describe the violation and instruct the owner to report to the city clerk's office in regard to the violation.

B. *Impoundment*. It shall be the duty of the animal control officer to cause any dog, uncollared domestic cat, or feral cat found to be running at large within the City to be taken up and impounded. Domestic cats shall not be restrained but shall be impounded if not wearing a collar and tag. All feral cats shall be subject to impoundment.

C. *Nuisance Prohibited*. No owner shall fail to exercise proper care and control of his/her animals to prevent them from becoming a public nuisance. Every female dog in heat shall be confined in a building or secure enclosure in such a manner that the said female cannot come into contact with another animal except for planned breeding.

D. *Fee Assessed*. The running at large fee shall be set by the City Council and filed in the office of the village clerk for public inspection during office hours.
(Am. by Ord. 661, 4-17-08)

SECTION 3-209: DAMAGE BY DOG; LIABILITY OF OWNER

It shall be unlawful for any person to allow a dog owned, kept, or harbored by the owner 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. (Am. Ord. 248, 6-19-84)

SECTION 3-210: RESPONSIBILITIES OF OWNER

The owner of every animal shall be responsible for the removal of any excreta deposited on public walks, recreation areas, or private property by his/her animal(s) or deposited as a result of the owner's cleaning of an animal cage, pen, or other animal facility. The owner of any animal shall be responsible for the removal of any trash or garbage that is scattered or removed from its rightful place by his/her animal. (Am. Ord. 248, 6-19-84)

SECTION 3-211: KILLING AND POISONING

It shall be unlawful to kill, 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. This section shall not apply to any city police officer or animal control officer acting within his/her power and duty.

SECTION 3-212: BARKING AND OFFENSIVE BEHAVIOR

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 one or more affected persons, filed with the city clerk, that any dog owned by the person named in the complaint is an annoyance or disturbance by reason of the above-described actions, the clerk shall request a law enforcement officer to investigate the complaint and, if in the officer's opinion the situation warrants, shall notify the owner to silence and restrain such dog. Upon failure of the owner to comply with such warning and remain in compliance, a law enforcement officer shall issue a citation for a violation of this section. (Am. Ord. 248, 6-19-84)

SECTION 3-213: IMPOUNDING

A. It shall be the duty of the animal control officer to capture, secure, and remove in a humane manner to any animal shelter or veterinarian any dog or cat violating any of the provisions of this chapter. The animals so impounded shall be treated in a humane manner and shall be provided with a sufficient supply of food and fresh water each day. Each impounded dog and domestic cat shall be kept and maintained

at the pound for a period of not less than five days after public notice has been given unless reclaimed earlier by the owner. Notice of impoundment of all animals, including any significant marks or identifications, shall be posted at three places in the City.

B. Any dog or domestic cat may be reclaimed by its owner during the period of impoundment by payment of the animal shelter's or veterinarian's daily boarding fee and the general impoundment fee pursuant to this section. The day on which the animal was impounded shall count as one day and any part of any day during which the animal is impounded shall also count as a full day. The impoundment fee shall be set by the City Council and filed in the office of the village clerk for public inspection during office hours.

C. Unclaimed impounded animals shall be kept for no more than five days and will become the property of the City Council or of the humane society and shall be placed for adoption in a suitable home or humanely destroyed. Stray animals that are roaming at large, remaining on private property without consent of the owner or tenant, or remaining on or frequenting public property are deemed to be the property of the City Council. If the stray animal cannot be captured by conventional means, every police or animal control officer is authorized to use any means necessary to remove the animal. Before release of the animal from impoundment, it shall have a rabies shot at the owner's expense and the owner shall pay the cost of impounding the animal. The owner shall also be required to purchase a tag from the city clerk.
(Am. Ord. 631, 3-15-05)

SECTION 3-214: INTERFERENCE WITH ANIMAL CONTROL

It shall be unlawful for any person to hinder, delay, or interfere with any city police officer or any animal control officer who is performing any duty enjoined upon that person by the provisions of this chapter 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 animals to the shelter. (Am. Ord. 248, 6-19-84)

SECTION 3-215: LAWFUL DESTRUCTION

The animal control officer shall have the authority to destroy any animals showing vicious tendencies or characteristics of rabies which make capture impossible because of the danger involved. (Am. Ord. 248, 6-19-84)

SECTION 3-216: RABIES THREAT; PROCLAMATION; INSPECTION

A. The licensing authority shall, whenever in its opinion the danger to the public safety from rabid dogs is great or imminent, 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 past. The dogs may be harbored by any good and sufficient means in a house, garage, or yard on the premises wherein the said owner re-

sides. Upon issuance of the proclamation it shall be the duty of all persons owning, keeping, or harboring any dog to confine the same as herein provided.

B. Any dog suspected of being afflicted with rabies or any dog not vaccinated in accordance with the provisions of this chapter which has bitten any person and caused an abrasion of the skin shall be seized and impounded under the supervision of the Board of Health for a period of not less than ten days. If upon examination by a veterinarian the dog has no clinical signs of rabies at the end of such impoundment, it may be released to the owner or, in the case of an unlicensed dog, it shall be disposed of in accordance with the provisions herein. If the owner of the said dog has proof of vaccination, it shall be confined by the owner or some other responsible person for a period of at least ten days, at which time the dog shall be examined by a licensed veterinarian at the owner's expense. If no signs of rabies are observed, the dog may be released from confinement.
(Am. by Ord. 248, 6/19/84)

SECTION 3-217: DANGEROUS DOGS; DEFINITIONS

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

“Animal control authority” shall mean an entity authorized to enforce the animal control laws of the City.

“Animal control officer” shall mean any individual employed, appointed, or authorized by the animal control authority for the purpose of aiding in the enforcement of this chapter or any other law or ordinance relating to the licensing of animals, control of animals, or seizure and impoundment of animals and shall include any state or local law enforcement 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 serious 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.

D. A dog shall not be defined as a dangerous dog, if the threat, any injury that is not a severe injury, or the damage was sustained by a person who, at the time, was committing a 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, who was tormenting, abusing, or assault-ing the dog, or who 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 subsection, or department possessing, harboring, keeping, or having control or custody of a dog.

“Potentially dangerous dog” shall mean:

A. Any dog that when unprovoked (1) 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 fashion or apparent attitude of attack; or

B. Any specific dog with a known propensity, tendency, or disposition to attack when unprovoked, to cause injury, or to threaten the safety of humans or domestic animals.
(Neb. Rev. Stat. §54-617) (Am. by Ords. 571, 8-24-99; 654, 9-19-06)

SECTION 3-218: DANGEROUS DOGS; REGULATIONS

A. *Proof of insurance.* Any owner of a dangerous dog shall have and maintain at least $300,000.00 in liability insurance covering any damage or injury done by said dog. The policy shall contain a provision requiring the insurance company to provide written notice to the City prior to any cancellation, termination or expiration of the policy.

B. *Restraint.* No owner of a dangerous dog shall permit the dog to be outside or beyond the property of the owner unless the dog is securely restrained and muzzled to prevent biting by a chain or leash which is no more than 3 feet in length with at least 300 pounds of tensile strength and under the physical control and restraint of a responsible person over the age of 19 years of age.

C. *Confinement.* While not restrained pursuant to subsection (B) above, a dangerous dog which is outside the owner's residence or garage shall be securely confined in a locked pen or structure suitably designed to prevent the escape of the dog and the entry of persons without the owner's consent and presence. 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 in the ground no less than one foot. The pen or structure shall protect the dog from the elements and be kept in a clean and sanitary condition. Every owner maintaining a dangerous dog and pen or structure shall have a warning sign posted that is clearly visible and that informs persons that a dangerous dog is on the property or in the pen or structure.

D. *Failure to comply/impoundment; additional penalty.*

1. The City is authorized to immediately impound any dog by an animal control officer or police officer if the owner is in violation of this article. The owner shall be responsible for the reasonable costs incurred by the City, and its animal control officer or police officers, for the care, boarding and impoundment of the dog. Upon such impoundment, the City shall provide written notice to the owner, who shall have seven days from the date of said notice to file a written petition with the city clerk for a hearing concerning the impoundment and alleged failure to comply with this article. Said hearing will be held before the City Council at any regular or special meeting within 14 days from the filing of the petition by the owner. The owner shall bear the burden of proof. Any facts that the owner wishes to consider shall be submitted under oath or affirmation, either in writing or orally at the hearing. The City Council shall make a final determination whether there has been such violation. If the impoundment is found to be proper and in accordance with this article by the City Council, or the owner does not file a written petition with the City in the requisite time, the dog impounded shall be humanely destroyed, unless the owner produces evidence that the dog will be permanently removed from the City. If the owner is not found in violation of this article, the dog shall be released to said owner.

2. In addition to the above procedures for impoundment, the owner of said dog who violates any of the provisions of this article shall be deemed guilty of an offense and, upon conviction, subject to the general penalty pursuant to Section 3-901 of this municipal code.

(Am. by Ords. 571, 8-24-99; 654, 9-19-06)

SECTION 3-219: DANGEROUS DOGS; ADDITIONAL REGULATIONS

Nothing in this chapter shall be construed to restrict or prohibit the City Council from establishing and enforcing laws or ordinances at least as stringent as the provisions of Section 3-218. (Neb. Rev. Stat. §54-624) (Ord. 344, 11-14-89)

SECTION 3-220: VIOLATIONS; FINE SCHEDULE

A. Any person having been issued a citation for a dog violation and desiring to plead guilty and waive court appearance may pay the city clerk according to a schedule based upon elapsed time from the occurrence of the violation and issuance of citation, excluding weekends and legal holidays, and previous citations issued to said person. Such schedule shall be established by the City Council and filed in the office of the village clerk for public inspection during office hours.

B. The impoundment fee for any dog captured, secured and removed by an animal control officer or police officer to any shelter shall be set by the City Council and filed in the office of the village clerk for public inspection during office hours.

C. Any dog may be reclaimed by its owner during the impoundment by payment to the shelter of its daily boarding fee.

D. The applicable fine may be paid to the city clerk in person during normal business hours. In the event that any person having been issued a citation for a dog violation fails to respond to such citation within the appropriate time, excluding weekends and holidays, said person shall be liable to prosecution in the Saunders County Court for the offense or offenses charged and subject to the penalty provided for by this code. Whenever any person, refuses, neglects or fails to comply with any of the provisions of this section as herein provided, said person shall be denied the benefits of any of the provisions of this chapter.
(Ord. 594, 11-20-01)

SECTION 3-221: ANIMAL FACILITY AND KENNEL PERMITS REQUIRED

A. No person, partnership, or corporation shall operate a commercial animal establishment or animal shelter without first obtaining a permit in compliance with this section. No kennel license shall be allowed in R-1 or R-2 residential zoning. The City shall promulgate regulations for the issuance of permits and shall include requirements for humane care of all animals and for compliance with the provisions of this chapter and other applicable laws. Upon showing by an applicant for a permit that the applicant is willing and able to comply with the regulations promulgated by the City, a permit shall be issued upon payment of the applicable fee. The permit period shall begin with the fiscal year and shall run for one year. Renewal applications for permits shall be made 30 days prior to and up to 60 days after the start of the fiscal year. Applications for a permit to establish a new commercial animal establishment under the provisions of this chapter may be made at any time. Annual permits shall be issued upon payment of the applicable fee for each pet shop and grooming shop. If there is a change in ownership of a commercial animal establishment, the new owner may have the current permit transferred to his/her name upon payment of a transfer fee. All of said fees shall be set by the City Council and filed in the office of the village clerk for public inspection during office hours.

B. Every facility regulated by this chapter shall be considered a separate enterprise and requires an individual permit. Any person or persons maintaining a dog kennel, as defined in Section 3-201, shall be required to obtain a kennel license from the city clerk. A kennel license shall be issued by the city clerk upon payment of an annual kennel license fee. Such fee shall be set by the City Council and filed in the office of the village clerk for public inspection during office hours. At the time of application for a kennel license, the owner shall state upon printed forms provided by the city clerk the owner's name and address and the name, breed, color, age, and sex of each dog owned or kept by the owner in the kennel. The person maintaining the kennel shall license the same by April 1 of each year. Nothing herein shall be construed to intend that Section 3-203 providing for the licensing of dogs shall not be complied with by any person or persons maintaining a kennel but it is herein provided and intended that the person or persons maintaining a kennel shall fully comply with said

said section in addition to provisions contained in this section. A kennel shall only be allowed in the City on property zoned to be in the agricultural district.
(Am. Ords. 248, 6-19-84; 299, 7-21-87)

SECTION 3-222: ANIMAL FACILITY AND KENNEL PERMIT REVOCATION

A. The City may revoke any permit or license if the person holding the permit or license refuses or fails to comply with this chapter, the regulations promulgated by the City, or by any law governing the protection and keeping of animals. Any person whose permit or license is revoked shall within ten days thereafter humanely dispose of all animals owned, kept, or harbored and no part of the permit or license fee shall be refunded. It shall be a condition of the issuance of any permit or license that the City shall be permitted to inspect all animals and the premises where animals are kept at any time and shall, if permission for an inspection is refused, revoke the permit or license of the refusing owner.

B. If the applicant has withheld or falsified any information on the application, the City shall refuse to issue a permit or license. No person who has been convicted of cruelty to animals shall be issued a permit or license to operate a commercial animal establishment.
(Am. Ord. 248, 6-19-84)

Article 3 – Animals Generally

SECTION 3-301: PROHIBITED ANIMALS AND FOWL

A. It shall be unlawful for any person to keep or maintain within the corporate limits any horse, mule, sheep, cow, goat, swine, or other livestock.

B. It shall be unlawful for any person to keep or maintain within the corporate limits any poultry, chickens, turkeys, geese, or any other fowls.
(Am. Ord. 248, 6-19-84)

SECTION 3-302: RUNNING AT LARGE

A. *Animals*. It shall be unlawful for the owner, keeper, or harborer 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.

B. *Fowl*. 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.
(Am. Ord. 248, 6-19-84)

SECTION 3-303: PRIZES; BUSINESS INCENTIVES

No person shall give away any live animal, fish, reptile, or bird as a prize for or as an inducement to enter any contest, game, or other competition or to offer such vertebrate as an incentive to into any business agreement whereby the offer was for the purpose of attracting trade. (Am. Ord. 248, 6-19-84)

SECTION 3-304: LEG HOLD TRAPS

No person shall set within the city any leg hold traps other than the type generally recognized as rodent control devices. (Am. Ord. 248, 6-19-84)

SECTION 3-305: WILD ANIMAL EXHIBITIONS AND PETS PROHIBITED

No person shall keep or permit to be kept on his/her premises any wild or vicious animal for display or for exhibition purposes, whether gratuitously or for a fee. No person shall keep or permit to be kept any wild animal as a pet. (Am. Ord. 248, 6-19-84)

SECTION 3-306: PITTING; DEFINITIONS

"Pitting" shall mean bringing animals together in combat.

"Bearbaiting" shall mean the pitting of any animal against a bear.

"Cockfighting" shall mean the pitting of a fowl against another fowl.

"Dogfighting" shall mean the pitting of a dog against another dog.
(Neb. Rev. Stat. §28-1004)

SECTION 3-307: PITTING; PROHIBITED

No person shall knowingly:

A. Promote, engage in or be employed at dogfighting, cockfighting, bearbaiting or pitting an animal against another;

B. Receive money for the admission of another person to a place kept for such purpose;

C. Own, use, train, sell or possess an animal for the purpose of animal pitting; nor

D. Permit any act as described in this section to occur on any premises owned or controlled by him/her.
(Neb. Rev. Stat. §28-1005) (Am. Ord. 363, 12-11-90)

SECTION 3-308: PITTING; SPECTATORS PROHIBITED

No person shall knowingly and willingly be present at and witness as a spectator dogfighting, cockfighting, bearbaiting or the pitting of an animal against another as prohibited in Section 3-307.

SECTION 3-309: ABANDONMENT, NEGLECT, AND CRUELTY; DEFINITIONS

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

“Abandon” shall mean to leave any animal for any length of time without making effective provision for its food, water, or other care as is reasonably necessary for the animal's health.

“Animal” shall mean any vertebrate member of the animal kingdom except man. The term shall not include an uncaptured wild creature.

“Cruelly mistreat” shall mean to knowingly and intentionally kill, maim, disfigure, torture, beat, mutilate, burn, scald, or otherwise set upon any animal.

“Cruelly neglect” shall mean to fail to provide any animal in one's care, whether as owner or custodian, with food, water, or other care as is reasonably necessary for the animal's health.

“Humane killing” shall mean the destruction of an animal by a method which causes the animal a minimum of pain and suffering.

“Law enforcement officer” shall mean any member of the Nebraska State Patrol, any county or deputy sheriff, any member of the police force of the City, or any other public official authorized by the City to enforce state or local animal control laws, rules, regulations, or ordinances.
(Neb. Rev. Stat. §28-1008) (Am. Ord. 364, 12-11-90)

SECTION 3-310: ABANDONMENT, NEGLECT, AND CRUELTY; VIOLATION

A person commits cruelty to animals if he/she abandons, cruelly mistreats, or cruelly neglects an animal. (Neb. Rev. Stat. §28-1009) (Am. Ord. 364, 12-11-90)

SECTION 3-311: ABANDONMENT, NEGLECT, AND CRUELTY; ENFORCEMENT POWERS; IMMUNITY

A. Any law enforcement officer who has reason to believe that an animal has been abandoned or is being cruelly neglected or cruelly mistreated may seek a warrant authorizing entry upon private property to inspect, care for, or impound the animal.

B. Any law enforcement officer who has reason to believe that an animal has been abandoned or is being cruelly neglected or cruelly mistreated may issue a citation to the owner as prescribed by law.

C. Any law enforcement officer acting under this section shall not be liable for damage to property if such damage is not the result of the officer's negligence.
(Neb. Rev. Stat. §28-1012) (Am. Ord. 364, 12-11-90)

Article 4 – Tobacco

SECTION 3-401: POSSESSION OF TOBACCO BY MINORS

It shall be unlawful for any person under the age of 18 years of age to possess any tobacco products; provided, the possession by a person under the age of 18 years under the direct supervision of the parent or guardian of such person in the privacy of the parent's or guardian's home shall not be prohibited. “Tobacco products” shall be defined to mean any substance containing tobacco leaf, including but not limited to cigarettes, cigars, pipe tobacco, snuff, chewing tobacco, or dipping tobacco.

SECTION 3-402: USE OF TOBACCO BY MINORS

It shall be unlawful for any person under the age of 18 years to smoke cigarettes or cigars or to use tobacco in any form whatever. Any minor so charged with the violation of this section may be free from prosecution when the minor shall have furnished evidence for the conviction of the person or persons selling or giving him/her the cigarettes, cigars, or tobacco. (Neb. Rev. Stat. §28-1418)

SECTION 3-403: SALE OF TOBACCO TO MINORS

It shall be unlawful for any person to sell, give, or furnish in any way any tobacco in any form whatever or any cigarettes or cigarette paper to any minor under 18 years of age. (Neb. Rev. Stat. §28-1419)

SECTION 3-404: MISREPRESENTING AGE TO OBTAIN TOBACCO

It shall be unlawful for any person under the age of 18 years to obtain cigars, tobacco, cigarettes, or cigarette material by misrepresenting his/her age. (Neb. Rev. Stat. §28-1427)

SECTION 3-405: SMOKING IN PROHIBITED AREAS

No person shall smoke in a public place or at a public meeting except in designated smoking areas; provided, this prohibition shall not apply in cases in which an entire room or hall is used for a private social function and seating arrangements are under the control of the sponsor of the function and not of the proprietor or person in charge of such room or hall. (Neb. Rev. Stat. §71-5707)

SECTION 3-406: DISPENSING OF TOBACCO PRODUCTS FROM VENDING MACHINES PROHIBITED; EXCEPTIONS

A. Except as provided in subsection (B) of this section, it shall be unlawful to dispense cigarettes or other tobacco products from a vending machine or similar device.

B. Cigarettes or other tobacco products may be dispensed from a vending

machine or similar device when such machine or device is located in an area, office, business, plant, or factory which is not open to the general public or on the licensed premises of any establishment having a license issued under the Nebraska Liquor Control Act for the sale of alcoholic liquor for consumption on the premises when such machine or device is located in the same room in which the alcoholic liquor is dispensed.
(Neb. Rev. Stat. §28-1429.02)

Article 5 – Nuisances

SECTION 3-501: JURISDICTION

The Health Board and chief of police are directed to enforce this municipal code against all nuisances, except as provided more specifically herein. In the case of unsafe buildings, the building officials, engineer and fire chief as designated therein shall have the power of enforcement. The jurisdiction of the Health Board, chief of police, City Council, hearing officer, plus building official, engineer and fire chief in the case of unsafe buildings, and court shall extend to, and the territorial application of this chapter shall include, all territory adjacent to the limits of the City within the extra-territorial zoning jurisdiction thereof and all territory within the corporate limits. (Neb. Rev. Stat. §18-1720) (Am. Ord. 719, 4-19-16)

SECTION 3-502: SPECIFICALLY DEFINED; DECLARED

The maintaining, using, placing, depositing, leaving or permitting of any of the following specific acts, omissions, places, conditions and things are hereby declared to be nuisances:

A. 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.

B. Privies, vaults, cesspools, dumps, pits or like places which are not securely protected from flies or rats, or which are foul or malodorous.

C. Filthy, littered or trash-covered cellars, house yards, barnyards, stable yards, factory yards, mill yards, vacant areas in rear of stores, granaries, vacant lots, houses, buildings or premises.

D. 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. The depositing of garbage, pet waste, meat scraps or other materials that may attract animals or vermin which may provide an obnoxious odor shall be prohibited.

E. 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 nor the dumping of non-putrefying waste in a place and manner approved by the Health Board. Grass, sod, earth, garden debris, leaves, brush, tree clippings that are ½ inch in diameter or less, other materials accumulated as the result of the maintenance of lawns, shrubbery, and vines, fruits, vegetables, eggshells, coffee grounds, houseplant materials and cut flowers are acceptable only when placed in a properly maintained compost pile. Said pile shall not be less than 25 feet from a neighboring dwelling unit nor less than 5 feet from a rear or side lot line and shall not exceed 100 square feet of ground space. In no case may a compost pile be in the front yard of a

dwelling. It shall be contained within a structure to prevent the materials within to be windblown and shall not contain any animal matter or waste.

F. 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.

G. Trash, litter, rags, accumulation of barrels, boxes, crates, packing crates, mattresses, bedding, excelsior, packing hay, straw or other packing materials, 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.

H. Any buildings or structures which have any or all of the defects described in Section 3-506 herein.

I. All places used or maintained as junkyards or dumping grounds, or for the wrecking and dissembling of automobiles, trucks, tractors or machinery of any kind, or for the storing or leaving of worn-out, wrecked or abandoned automobiles, trucks, tractors or machinery of any kind, or of any of the parts thereof, or for the storing or leaving of any machinery or equipment used by contractors or builders or by other persons, which said places are kept or maintained so as to essentially interfere with the comfortable enjoyment of life or property by others, or which are so unsightly as to tend to depreciate property values in the vicinity thereof.

J. Stagnant water permitted or maintained on any lot or piece of ground.

K. Stockyards, granaries, mills, pig pens, cattle pens, chicken pens, or any other place, building or enclosure in which animals or fowl of any kind are confined, or on which are stored tankage or any other animal or vegetable matter, or on which any animal or vegetable matter, including grain, is being processed, when said places in which said animals are confined, or said premises on which said vegetable or matter is located, are maintained and kept in such a manner that foul and noxious odors are permitted to emanate therefrom, to the annoyance of inhabitants of the City, or are maintained and kept in such a manner as to be injurious to the public health.

L. Maintenance of weeds, grasses or worthless vegetation of 12 inches or more in height. After citation, second offense will be 8 inches or more in height of weeds, grasses or worthless vegetation on any lot or piece of ground located within the corporate limits 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 such work from the owner. Weeds shall include, but not be limited to, bindweed (*Convolvulus*

arvensis), puncture vine (*Tribulus terrestris*), leafy spurge (*Euphorbia esula*), Canada thistle (*Cirsium arvense*), perennial peppergrass (*Lepidium draba*), Russian knapweed (*Centaurea picris*), Johnson grass (*Sorghum halepense*), nodding or musk thistle, quack grass (*Agropyron repens*), perennial sow thistle (*Sonchus arvensis*), horse nettle (*Solanum carolinense*), bull thistle (*Cirsium lanceolatum*), buckthorn (*Rhamnus* sp.), hemp plant (*Cannabis sativa*), and ragweed (*Ambrosiaceae*).

M. All other things specifically designated as nuisances elsewhere in this code.

(Neb. Rev. Stat. §§17-563, 17-555, 18-1720) (Am. Ord. 719, 4-19-16)

SECTION 3-503: ABATEMENT PROCEDURE

A. It shall be the duty of every owner, occupant, lessee, or mortgagee of real estate within the City or its zoning jurisdiction to keep such real estate free of public nuisances. In the event that a report of a condition that has been declared a public nuisance by city ordinance, or a Board of Health report declaring a public nuisance is filed with the city clerk, the clerk shall thereupon cause notice to be served upon the owner, his or her duly authorized agent, and to the occupant, if any, of the real estate so affected. Such notice shall describe the condition declared to be a public nuisance and that the condition must be abated and removed within no less than five days after receipt of such notice. Said notice shall state that, 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 Council to appeal the decision to abate or remove the nuisance by filing a written appeal with the office of the city clerk.

B. Notice to abate and remove such nuisance shall be given to each owner, his or her duly authorized agent, and to the occupant, if any, by the city clerk by first class mail (envelope conspicuously marked for its importance), personal service or certified mail. In all nuisance abatement actions, if notice by first class mail, personal service or certified mail is unsuccessful, notice shall be given by publication in a newspaper of general circulation in the City or by conspicuously posting the notice on the lot or ground upon which the nuisance is to be abated or removed.

C. Said notice may be in the following terms:

> “To (owner or occupant of premises) of the premises known and described as (legal description/address):
>
> “You are hereby notified that a report has been filed with the city clerk's office indicating that condition(s) exist upon the real estate you own and/or occupy which have been declared to be a public nuisance(s) by city ordinance. The causes for this decision are (here insert the facts as to the conditions found to be a public nuisance(s) as described in the report or indicate that the report is attached).

> "You must remove and abate said condition(s) within five days from the date of receipt of this notice or the City will proceed to do so. Within five days after receipt of this notice, you may request a hearing with the City to appeal the decision to abate or remove the nuisance by filing a written appeal with the office of the city clerk. In the event the City has the work done, the City may levy and assess the costs and expenses of the work upon the lot or piece of ground so benefited or recover the same in a civil action as provided by law."

D. A hearing on the appeal shall be held within 14 days after the filing of the appeal and shall be conducted by a hearing office (an elected or appointed officer) appointed by the City Council. The hearing officer 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 unless an appeal is taken to the District Court. If, within five days after receipt of such notice (or posting/publication, if necessary), 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. Upon completion of the work by the City, a statement of the cost of such work shall be transmitted to the owner. If unpaid for two months after such work is done and request for payment is sent by first class mail (envelope conspicuously marked for its importance), 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.
(Neb. Rev. Stat. §§17-563, 18-1720) (Ords. 700, 12-17-13; 719, 4-19-16)

SECTION 3-504: FAILURE TO CORRECT

In the event that the owner or occupant of said premises fails to correct and eliminate said nuisance pursuant to the notice to correct which was published, posted or delivered by the chief of police, the City may institute an action in the county court for violation of this ordinance or may bring a mandatory injunction action in district court to abate such nuisance.

SECTION 3-505: ADJOINING LAND OWNERS; INTERVENTION BEFORE TRIAL

In cases of appeal from an action of the City Council condemning real property as a nuisance or as dangerous under the police powers of the City, the owners of the adjoining property may intervene in the action at any time before trial. (Neb. Rev. Stat. §19-710)

SECTION 3-506: UNSAFE BUILDINGS; DEFINITION; DECLARATION

"Unsafe building", as used in this article, shall mean and shall include any building, shed, fence, or other manmade structure which is dangerous to the public health be-

cause of its condition and which may cause or aid in the spread of disease or injury to the health of the occupants of it or to neighboring structures; which, because of faulty construction, age, lack of proper repair, or any other cause, is especially liable to fire and constitutes or creates a fire hazard; or, which, by reason of faulty construction or any other cause, is liable to cause injury or damage by the collapse or fall of all or any part of such structure. Any such unsafe building in the City is hereby declared to be a nuisance. Any buildings or structures which have any or all of the following defects are hereby declared to be unsafe or dangerous buildings or structures:

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 Code as set forth in Section 8-201, any provision of the County Health Department rules and regulations or other applicable provisions of city ordinances, including but not limited to the Building Code, Property Maintenance Code or Residential Code adopted by the City as set forth in Chapter 9, Article 1 herein.
(Am. Ord. 719, 4-19-16)

SECTION 3-507: UNSAFE BUILDINGS; BUILDING INSPECTOR

A specially designated building inspector, the regularly appointed building inspector, his or her authorized representatives, or a 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 set forth in this article;

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

D. Appear at all hearings and testify as to the condition of the unsafe or dangerous building or structure.
(Am. Ord. 719, 4-19-16)

SECTION 3-508: UNSAFE BUILDINGS; STANDARDS

In the event that it is determined that any building or structure is unsafe or dangerous, the following standards shall be followed in substance in determining whether the structure of the 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 or structure 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 arti-

cle, it shall be demolished; and

D. 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 state statute, it shall be demolished.
(Am. Ord. 719, 4-19-16)

SECTION 3-509: UNSAFE BUILDINGS; SPECIAL ASSESSMENTS

If any owner of any building or structure fails, neglects or refuses to comply with notice by or on behalf of the City to repair, rehabilitate, or demolish and remove a building or structure which is unsafe and a public nuisance, the City may proceed with the work specified in the notice to the property owner. A statement of cost of such work shall be transmitted to the City Council. The costs and expenses of any such work shall be paid by the owner. If unpaid for two months after such work is done and request for payment is sent by first class mail (envelope conspicuously marked for its importance), the City Council may (A) levy the cost as a special assessment against the lot or real estate upon which the building or structure is located; such special assessment shall be a lien on the real estate and shall be collected in the manner provided for special assessments or (B) collect the cost from the owner of the building or structure and enforce the collection by civil action in any court of competent jurisdiction. (Neb. Rev. Stat. §§18-1720, 18-1722, 18-1722.01, 77-1725.01) (Am. Ord. 719, 4-19-16)

SECTION 3-510: UNSAFE BUILDINGS; PROHIBITION

It shall be unlawful to maintain or permit the existence of any unsafe building in the City or within its zoning jurisdiction and it shall be unlawful for the owner, occupant, or person in custody of any dangerous building to permit the same to remain in an unsafe condition or to occupy such building or permit it to be occupied while it is in an unsafe condition. (Neb. Rev. Stat. §§18-1720, 18-1722, 18-1722.01) (Am. Ord. 719, 4-19-16)

SECTION 3-511: UNSAFE BUILDINGS; DETERMINATION; NOTICE

A. Whenever the building inspector, fire official, or appointed engineer shall be of the opinion that any building or structure in the City or within its zoning jurisdiction is an unsafe building, he or she shall file a written statement to this effect with the city clerk. The clerk shall thereupon cause the property to be posted accordingly, shall file a copy of such determination in the office of the County Register of Deeds, and shall service written notice upon the owner thereof and upon the occupant thereof, if any, by certified mail or by personal service. If notice by certified mail or personal service is unsuccessful, notice shall be given by publication in a newspaper of general circulation in the City or by conspicuously posting the notice on the lot or ground upon which the nuisance is to be abated or removed.

B. Such notice shall state that the building has been declared to be in an unsafe condition; that such dangerous condition must be removed or remedied by repairing or altering the building or by demolishing it; and that the condition must be

remedied within 60 days from the date of receipt. Such notice may be in the following terms:

> "To (owner &/or occupant of premises) of the premises known and described as (here insert description/address of premises):
>
> "You are hereby notified that (describe building) on the premises above mentioned has been determined to be an unsafe building and a nuisance after inspection by (name/title of inspector). The causes for this decision are (here insert the facts as to each dangerous condition).
>
> "You must remove, remedy, or alter by repair, or demolish the building within 60 days from the date of receipt of this notice or the City will proceed to do so. Appeal of this determination may be made to the hearing officer appointed by the City Council by filing with the city clerk, within five days from the date of receipt of this notice, a request for a hearing. In the event the City has the work done, the City may levy and assess the costs and expenses of the work upon the lot or piece of ground so benefited or recover the same in a civil action as provided by law."

C. If the person receiving the notice has not complied therewith within 60 days from the date of receipt of such notice (or date of posting/publication) or taken an appeal from the determination of the hearing officer that a dangerous building exists, within five days from the time when this notice is served upon such person as provided above, the City Council may proceed to remedy the condition or demolish the unsafe building as set forth in Section 3-515 herein.
(Neb. Rev. Stat. §§18-1720, 18-1722, 18-1722.01) (Am. Ord. 719, 4-19-16)

SECTION 3-512: UNSAFE BUILDINGS; HEARING; APPEAL

Upon receiving the notice to repair or demolish the building, the owner, and occupant thereof, if any, of the building, within the time stipulated, may appeal said notice in writing to the city clerk and request a hearing. A hearing on the appeal shall be held within 14 days after the filing of the appeal and shall be conducted by a hearing officer appointed by the City Council. Said person shall sit as a hearing officer and shall render a decision on the appeal within five business days after the conclusion of the hearing and the decision shall be sent to the property owner by certified mail or personal service. If an appeal is not filed and compliance has not been met within 60 days as indicated in the notice, or, in the case a hearing was requested, if the hearing officer rejects the appeal, the owner shall have 60 days from the sending of the decision or personal service of the decision, to complete the demolition and removal. If after the 60-day period the owner has not completed the work, the City Council shall proceed to cause such work to be done; provided, the property owner may appeal such decision to the appropriate court for adjudication during which proceedings the decision of the City Council shall be stayed. Where the City has not adopted a building code, the statutes of Nebraska relating to bonded indebtedness and collection of delinquent taxes shall apply. (Neb. Rev. Stat. §§18-1720, 18-1722, 18-1722.01, 77-

1725.01) (Am. Ord. 719, 4-19-16)

SECTION 3-513: UNSAFE BUILDINGS; EMERGENCY

Where any unsafe building or structure poses an imminent danger to the health, safety, or general welfare of any person or persons, and the owner fails to remedy the situation in a reasonable time after notice by the City to do so, the City may summarily repair or demolish and remove such building or structure. (Neb. Rev. Stat. §§18-1720, 18-1722, 18-1722.01) (Am. Ord. 719, 4-19-16)

Article 6 – Rodent and Insect Control

SECTION 3-601: DEFINITIONS

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

“Business buildings” shall mean any structure, whether public or private, that is adapted for occupancy for the transaction of business, for rendering of professional services, for amusement, for display, sale or storage of goods, wares, or merchandise, or for the performance of tenement houses, rooming houses, office buildings, public elevators, abattoirs, warehouses, workshops, factories, and all outhouses, sheds, barns, and other structures on premises used for business purposes.

“Health officer” shall mean any duly authorized representative, and if no other persons are appointed by the mayor with the approval of the City Council, the chief of police shall be the health officer.

“Insect” shall mean any of the numerous small invertebrate animals generally having the body more or less obviously segmented, for the most part belonging to the class *Insecta*, comprising six-legged, usually winged forms, as, for example, beetles, bugs, bees, flies, and to other allied classes of arthropods whose members are wingless and usually have more than six legs, as, for example, spiders, mites, ticks, centipedes, and wood lice.

“Occupant” shall mean the individual, partnership, or corporation that uses or occupies any business building or part or fraction thereof, whether the actual owner or tenant. In the case of vacant business buildings or vacant portion thereof, the owner, agent or custodian shall have the responsibility as occupant.

“Owner” shall mean the actual owner, agent, or custodian of the business building, whether individual, partnership, or corporation. The lessee shall be construed as the "owner" for the purpose of this section when business building agreements hold the lessee responsible for maintenance and repairs.

“Rat eradication” shall mean the elimination or extermination of rats within buildings by any or all of the accepted measures, such as poisoning, fumigation, trapping, or clubbing.

“Rat harborage” shall mean any condition which provides shelter or protection for rats, thus favoring their multiplication and continued existence in, under, or outside of any structures.

“Rat-proofing” shall apply to a form of construction to prevent the ingress of rats into business buildings from the exterior or from one business building or establishment to another. It consists essentially of treatment with material impervious to rat gnawing,

all actual or potential openings in exterior walls, ground or first floors, basements, roofs, and foundations that may be reached by rats from the ground by climbing or by burrowing.

“Rodent” shall mean the class of animals belonging or pertaining to *Rodentia*, the order of gnawing or nibbling mammals, which includes but is not limited to mice, rats, squirrels, and beavers.

SECTION 3-602: EXTERMINATION

It shall be the duty of the owner, lessee, or occupant of any dwelling or building to be responsible for the active and continued extermination of any insects, rodents, or other pests therein or on the premises. In the event that the owner, lessee, or occupant of any dwelling or building neglects, fails, or otherwise refuses to control and actively exterminate the insects, rodents, and other pests in and about his/her premises, the Board of Health shall issue notice for that person to do so. If the owner, lessee, or occupant has not made a good faith effort to exterminate the pests within five days, the premises shall be deemed to be a nuisance and a health hazard.

SECTION 3-603: OCCUPANT

It shall be the responsibility of the occupant in a single dwelling unit, whether or not the dwelling unit is located in a multiple unit structure, to exterminate the rodents and insects infesting the premises when it is found by the Board of Health that only the occupant's dwelling is so infested.

SECTION 3-604: OWNER

The owner of a multiple dwelling unit shall have the duty to exterminate therein for rodents and insects when infestation exists in two or more units or when infestation exists in shared or public areas of a multiple unit structure, when the infestation is due to failure by the owner to maintain the dwelling in an insect- and rodent-proof condition. The owner of a single dwelling unit shall have the duty to exterminate therein, notwithstanding the occupancy of a renter or lessee, when the infestation of insects or rodents is due to the said owner's failure to construct or maintain the premises in such a manner as to make it reasonably resistant to the entrance and habitability of such pests.

SECTION 3-605: RATS; STANDARDS

A. It is hereby ordained and required that all business buildings in the City shall be rat-proofed, freed of rats, and maintained in a rat-proof and rat-free condition.

B. The owners of all rat-proofed business buildings are required to maintain the premises in a rat-proof condition and to repair all breaks or leaks that may occur

in the rat-proofing without a specific order of the Board of Health.

C. It shall be unlawful under the provisions of this section for the occupant, owner, contractor, public utility company, plumber, or any other person to remove and fail to restore in like condition the rat-proofing from any business building for any purpose. Further, it shall be unlawful for any person or agent to make any new openings that are not closed or sealed against the entrance of rats.

D. It shall be unlawful for any person, firm, or corporation hereunder to construct, repair, or remodel any building, dwelling, stable or market, or other structure whatsoever, unless such construction, repair, remodeling, or installation shall render the building or other structure rat-proof. The provisions of this section apply only to such construction, repairs, remodeling, or installation as affect the rat-proof conditions of any building or other structure.

Article 7 – Sex Offenders

(Adopted by Ord. 649, 12-20-05) (Am. by Ord. 653, 6-20-06)

SECTION 3-701: DEFINITIONS

The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

"Child care facility" shall mean a facility licensed pursuant to the child care licensing act of the State of Nebraska.

"Reside" shall mean to sleep, live, or dwell at a place, which may include more than one location, and may be mobile or transitory.

"Residence" shall mean a place where an individual sleeps, lives or dwells, which may include more than one location, and may be mobile or transitory.

"School" shall mean a public, private, denominational, or parochial school which meets the requirements for state accreditation or approval.

"Sex offender" shall mean an individual who has been convicted of a crime listed under Neb. Rev. Stat. §29-4003 and who is required to register as a sex offender pursuant to the Sex Offender Registration Act, Neb. Rev. Stat. §29-4001 to §29-4713, inclusive, or any amendments thereto.

SECTION 3-702: RESIDENCY RESTRICTIONS

It is unlawful for any sex offender to reside within 500 feet from a school or child care facility. For purposes of determining the minimum distance separation, the requirement shall be measured by following a straight line from the outer property line of the residence to the nearest outer property line of the school or child care facility.

SECTION 3-703: EXCEPTIONS

This article shall not apply to a sex offender who:

1. Resides within a prison or correctional or treatment facility;

2. Established a residence before July 1, 2006, and has not moved from that residence; or

3. 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.

Article 8 – Penal Provision

SECTION 3-801: VIOLATION; PENALTY

Any person who shall violate or refuse to comply with the enforcement of any of the provisions of this chapter, set forth at full length herein or incorporated by reference shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be fined no more than $500.00 for each offense. A new violation shall be deemed to have been committed every 24 hours of such failure to comply.

CHAPTER 4 – VEHICLES AND TRAFFIC

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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, as now existing or hereafter amended. 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. Ord. 422, 6-21-84)

SECTION 4-102: PROCEDURES APPLICABLE TO VIOLATIONS

Whenever any person is arrested for a violation of any provision of this chapter, the procedures set out in state law shall govern, except as otherwise provided herein. (Ord. 176)

SECTION 4-103: PLACING OF SIGNS AND 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. §60-6,118 through 60-6,121)

SECTION 4-104: DEFACING OR INTERFERING WITH SIGNS

It shall be unlawful for any person without lawful authority to attempt or in fact to alter, deface, injure, knock down, or remove any traffic-control device, railroad sign or signal, or any part of such a device, sign, or signal. (Neb. Rev. Stat. §60-6,129)

SECTION 4-105: STOP REQUIRED AT STOP SIGN

Every person operating any vehicle shall, upon approaching any stop sign erected in accordance with any resolution prescribed herein, 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. §60-6,118 through 60-6,121)

SECTION 4-106: STOPS; CROSSING SIDEWALKS

All vehicles, before crossing a sidewalk, emerging from a garage, alley, filling station, or other place within the congested district, shall come to a complete stop and after giving sufficient warning shall proceed slowly and with extreme caution while crossing such sidewalk or leaving such garage, alley, filling station, or other place. The term "slowly" shall be construed to mean such rate of speed as is reasonable and proper under the circumstances and the condition of the street and traffic thereon. (Neb. Rev. Stat. §60-6,149)

SECTION 4-107: UNNECESSARY STOPPING

It shall be unlawful for any person to stop any vehicle on any public street or alley other than in permitted parking areas, except when such a stop is necessary for emergency situations, to comply with traffic control devices and regulations, or to yield the right-of-way to pedestrians or to other vehicles. (Neb. Rev. Stat. §60-149)

SECTION 4-108: GENERAL SPEED LIMIT

No person shall operate a motor vehicle on any street, alley, or other place within the corporate limits at a rate of speed greater than 25 miles per hour, unless a different rate of speed is specifically permitted by ordinance. Whenever any such ordinance is passed, signs shall be erected indicating the speed zones clearly. (Neb. Rev. Stat. §60-6,185, 60-6,186, 60-6,190)

A. The following specific speed zones are hereby created:

20 miles per hour:	
On Poplar Street	From the Union Pacific railroad right-of-way to First Street
On Vine Street	From the Union Pacific railroad right-of-way to the Burlington Northern railroad right-of-way
On Second Street	From Poplar Street to 188 feet north of Oak Street
On First Street	Between Poplar Street and Maple Street
35 miles per hour:	
On County Road 5	From Vine Street to the city limits

(Am. Ord. 544, 3-17-98)

SECTION 4-109: 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 20 miles per hour past such premises. Drivers shall stop at all stop signs located at or near such school premises and it shall be unlawful for the 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 4-110: SPEED; ELECTRONIC DETECTION

A. 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 radio 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.

B. 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:

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

2. 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;

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

4. 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.

C. 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 that the officer has observed the recording of the speed of the motor vehicle by the radio microwaves or other electronic device or has 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, the radio message must be dispatched immediately after the speed of the motor vehicle has been recorded and must include a description of the vehicle and the recorded speed
(Neb. Rev. Stat. §60-6,192) (Am. Ord. 239, 9-20-83)

SECTION 4-111: 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 4-112: JAYWALKING

No pedestrian shall cross any street between adjacent intersections with traffic signals or any street designated and posted by the City Council at a place other than a crosswalk nor shall any pedestrian cross any street intersection diagonally, provided that every pedestrian who crosses any other street at any point other than a crosswalk shall yield the right-of-way to vehicles. (Neb. Rev. Stat. §60-6,154)

SECTION 4-113: SCHOOL CROSSING ZONE

A. Neb. Rev. Stat. §60-682.01 provides fines for operating a motor vehicle in violation of authorized speed limits and states that the fines are doubled if the violation occurs within a school crossing zone.

B. Neb. Rev. Stat. §60-6,134.01 makes it unlawful for a person operating a motor vehicle to overtake and pass another vehicle in a school crossing zone in which the roadway has only one lane of traffic in each direction and provides fines for violation of that prohibition.

C. The City Council may by resolution designate to the public any area of a roadway, other than a freeway, as a school crossing zone through the use of a sign or traffic control device in conformity with the *Manual on Uniform Traffic Control Devices*. Any school crossing zone so designated starts at the location of the first sign or traffic control device identifying the school crossing zone and continues until a sign or traffic control device indicates that the school crossing zone has ended.
(Neb. Rev. Stat. §60-658.01)

SECTION 4-114: 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. The driver of a vehicle shall not back such vehicle upon any roadway or shoulder of any freeway. (Neb. Rev. Stat. §60-6,169)

SECTION 4-115: CROWDING FRONT SEAT

Front seat occupancy of any automobile, while the same is in the process of being started or in motion within the corporate limits, shall be limited to one driver and not more than two persons over the age of 12 years. It shall be unlawful for any person to operate a motor vehicle upon any street when such person has in his/her lap or in his/her embrace another person, package, or other encumbrance which prevents the free and unhampered operation of such vehicle. (Neb. Rev. Stat. §60-6,179)

SECTION 4-116: 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 and as such shall be punished as provided by statute. (Neb. Rev. Stat. §60-6,213, 60-6,215, 60-4,182)

SECTION 4-117: UNNECESSARY NOISE FROM MOTOR VEHICLE

It shall be unlawful for any person to operate any motor vehicle upon any highway, street, alley, public way within the corporate limits of the City in such a manner as to cause unnecessary noise, spinning or squealing of tires, loss of traction, skidding, sliding, swaying, or abrupt turns. It shall be unlawful for any person at any time to use a horn on such a motor vehicle otherwise than as a reasonable warning or to make any unnecessary or reasonably loud or harsh sound by means of a horn or other warning device on such a motor vehicle.

SECTION 4-118: DRIVING IN SIDEWALK SPACE

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

SECTION 4-119: DRIVING ON SHOULDERS OF HIGHWAY

No person shall drive on the shoulders of highways, except that vehicles may be driven onto the shoulders of roadways by federal mail carriers while delivering the United States mail or safely removing a vehicle from traffic lanes, and implements of husbandry may be driven onto the shoulders of roadways. Bicycles may be operated on paved shoulders of highways included in the state highway system other than segments of the National System of Interstate and Defense Highways. (Neb. Rev. Stat. §60-6,142)

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, the operator shall give some unmistakable signal to the driver of all other vehicles of his/her intention to make such movement.
(Neb. Rev. Stat. §60-6,163)

SECTION 4-122: 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 an automatic signal is in operation or where a sign is posted indicating that "U" turns are prohibited. (Neb. Rev. Stat. §60-6,160)

SECTION 4-123: RIGHT-OF-WAY; GENERALLY

A. 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.

B. 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.

C. 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.

D. The driver of a vehicle emerging from or entering an alley, building, private road, or driveway shall yield the right-of-way to any pedestrian approaching on any sidewalk.

E. 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.

F. 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) (Am. Ord. 421, 6-21-94)

SECTION 4-124: RIGHT-OF-WAY; OVERTAKING VEHICLES

The driver of a vehicle about to be overtaken and passed by another vehicle approaching from the rear shall give way to the right in favor of the overtaking vehicle. (Neb. Rev. Stat. §60-6,133)

SECTION 4-125: 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. (Neb. Rev. Stat. §60-6,132)

SECTION 4-126: FUNERAL PROCESSIONS

No vehicle, except Police and Fire Department vehicles 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. (Neb. Rev. Stat. §60-6,140)

SECTION 4-127: 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. Any person so doing shall be guilty of littering. (Neb. Rev. Stat. §28-523)

SECTION 4-128: GLASS; OTHER 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, and 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.

SECTION 4-129: LOADS; PROJECTING

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 attached by day and red light after sunset at the extreme rear end of such load. (Neb. Rev. Stat. §60-6,243)

SECTION 4-130: LOADS; SPILLING

All vehicles used for carrying coal, earth, 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. §60-6,301)

SECTION 4-131: ATTACHMENT TO MOTOR VEHICLE

No person riding upon any bicycle, coaster, roller skates, roller blades, sled, skis, or toy vehicle shall attach himself, herself, or the bicycle, coaster, roller skates, roller blades, sled, skis, or toy vehicle to any vehicle upon a roadway, and it shall be unlawful for the driver of any vehicle to suffer or permit any person riding upon any bicycle, coaster, roller skates, roller blades, sled, skis, or toy vehicle to cling or attach a person or a bicycle or the like to such vehicle. (Neb. Rev. Stat. §60-6,316) (Ord. 427, 6-21-94)

SECTION 4-132: 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 City 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 4-133: ENGINE BRAKING

It shall be unlawful for any person within the city limits 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; provided, however, it shall be permitted to use engine brakes in an emergency situation. Proper notices shall be posted by the City notifying the public of such prohibition.

SECTION 4-134: 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 temporarily divert or exclude in the interest of public safety, health, and convenience the movement of pedestrian and animal and vehicular traffic of every kind in streets, in parks, and on bridges. The driver of any vehicle shall stop upon the signal of any police officer. (Neb. Rev. Stat. §60-683)

SECTION 4-135: TRAFFIC CITATIONS

A. *Forms and Records*.

1. The chief of police shall provide, in appropriate form, traffic citations, containing notices to appear, which shall be issued in books with citations in duplicate.

2. The chief of police shall be responsible for the issuance of such books and shall maintain of record of every such book, and each citation number therein issued to the city police shall require and retain a receipt for every book so issued.

B. *Disposition and Records*.

1. The city police, upon issuing a copy of the traffic citation to an alleged violator of any provision of this chapter, shall deposit the original traffic citation with the court having jurisdiction over the alleged offense, unless the citation is just a warning.

2. Upon the deposit of the original traffic citation with the court, said original citation may be disposed of only by trial in said 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.

3. 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.

4. The chief of police 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.

C. *Illegal Cancellation*.

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

2. All records of traffic citations required herein shall be audited at least biennially by a member of the City Council.

(Neb. Rev. Stat. §29-422, 29-424)

SECTION 4-136: SUMMONS DESTRUCTION

It shall be unlawful for any person to tear up or destroy a parking tag placed upon any vehicle by the city police or to disregard the summons contained on such tag and fail to appear in court as directed by said tag.

Article 2 – Parking Regulations

SECTION 4-201: REGULATION BY CITY

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. §60-6,167, 60-680)

SECTION 4-202: 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. No vehicle shall be parked upon a roadway when there is a shoulder adjacent to the roadway which is available for parking. (Neb. Rev. Stat. §60-680, 60-6,167)

SECTION 4-203: CHIEF OF POLICE; POWERS

A. It is hereby declared necessary and for the best interest, health, safety and welfare of the City that the chief of police have general powers, in addition to other authority granted herein, to order the removal of all vehicles parked in the business, industrial and residential district areas for the purposes of maintaining, repairing, cleaning, controlling traffic and parking on such streets. The chief of police may issue such order personally or through one of the regular police officers to the owner or person in charge of the vehicle or may cause notice of such order be inserted in a public newspaper published within the City prohibiting the parking or standing of vehicles on certain streets for a stated period of time or by posting said notice on said streets prohibiting the parking or standing of vehicles on said streets for a stated period of time. Violations of such order shall constitute a violation of this section. Sufficient and reasonable notice shall be given to the registered owners before the removal of the affected vehicle.

B. The chief of police and police officers, upon finding a vehicle parked or standing in violation of such order after notice as provided herein, are authorized to remove such vehicle from the streets. The registered owner shall pay the cost of towing such vehicle. This provisions of this section shall in no way be construed to detract from the City's powers to remove a vehicle or any object animate or inanimate from the streets without notice of any kind for reasons affecting the health, safety and general welfare

of the City and its citizens, if circumstances of urgency of the situation reasonably require exercise of such power. The chief of police shall further have the power to remove any object or thing that is an obstruction to the vision of vehicles or pedestrians.
(Ord. 567, 5-18-99)

SECTION 4-204: CONGESTED AREAS

A. The City Council may, by resolution, designate any street or portion thereof within the congested district where vehicles shall be parked parallel with and adjacent to the curb so as to have both right wheels within 6 inches of the curb or where vehicles shall be parked at an angle so as to have the right front wheel of the vehicle at the curb. Where stalls are designated either on the curb or pavement in the congested district, vehicles shall be parked within such stalls.

B. For the purpose of this chapter, the "congested area" shall be Vine Street from the Union Pacific railroad right-of-way to the Burlington Northern railroad right-of-way, and Second Street from Maple Street to Poplar Street.
(Ord. 198, 11-21-78)

SECTION 4-205: ANGLE PARKING PROHIBITED FOR CERTAIN VEHICLES

Vehicle having an overall length, including load, of 18 feet or more shall not be allowed to park in any location where angle parking is designated. (Neb. Rev. Stat. §60-680)

SECTION 4-206: 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 yellow to indicate such prohibition. (Neb. Rev. Stat. §60-6,166)

SECTION 4-207: STREET INTERSECTIONS

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 or curb lines or, if none, then within 15 feet of the intersection of property lines, nor where the curb lines are painted yellow to indicate such prohibition. (Neb. Rev. Stat. §60-6,166)

SECTION 4-208: OBSTRUCTING TRAFFIC

No vehicle shall, except in case of an accident or emergency, stop within any street intersection, alley entrance, or any such location as to obstruct any street, crosswalk, or alley entrance; provided, however, that vendor-type vehicles shall be permitted to park straddling the center line of the street for the purpose only of unloading their product for no longer than is actually required to complete such unloading but in any event for no longer period of time than 30 minutes. (Neb. Rev. Stat. §60-680) (Am. Ord. 221, 8-17-

82)

SECTION 4-209: CURBS PAINTED

It shall be the duty of the utilities superintendent to cause the curb space to be painted and keep the same painted as provided in this chapter. 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 chapter. 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 4-210: 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 of this City, 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 4-211: 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, streets, or district designated by such resolution. The parking, or stopping, of any vehicle in any such street, streets, or district for a period of time longer than fixed in such resolution shall constitute a violation of this chapter. (Neb. Rev. Stat. §60-680) (Ord. 246, 5-15-84)

SECTION 4-212: MAXIMUM TIME LIMIT

The parking of a motor vehicle on a public street for over 72 consecutive hours is unlawful, except where a different maximum time limit is posted. (Neb. Rev. Stat. §60-680) (Ord. 724, 2-21-17)

SECTION 4-213: LICENSE PLATES; OWNER RESPONSIBLE

Every vehicle parked or left standing upon any street, alley, public way, or public property shall have valid license plates attached thereto which are issued for the vehicle to which such license plates are attached and are registered in the name of the owner of the vehicle in accordance with the laws of this state or of the state wherein the license was issued. If any vehicle is found upon any street or alley in violation of any of the provisions of this chapter regulating the stopping, standing, or parking of vehicles, and the identity of the driver cannot be determined, the owner or person in whose name such vehicle is registered shall be held prima facie responsible for such violations. (Neb. Rev. Stat. §60-362) (Ord. 246, 5-15-84)

SECTION 4-214: CERTAIN VEHICLES PROHIBITED; EXCEPTIONS

It shall be unlawful for the owner or operator of a semi-tractor-truck with trailer attached or unattached, any trailer unattached, any other motor vehicle with trailer, bed, or box attached which exceeds nine feet in length or in excess of the gross weight of six tons or any motor home exceeding 20 feet in length measured bumper to bumper, except emergency vehicles, to park on the streets, alleys, public ways, or portions thereof, within the City, except when being used for the purpose of delivering or collecting goods, wares, merchandise, or materials, and then only for a period of time no longer than is necessary for the expeditious delivery or collecting of goods, wares, merchandise, or materials. The provisions of this section shall not apply to trucks or motor vehicles being used within the City in connection with building, repair, or service or moving operations or to trucks or motor vehicles parked off the travel lanes of the street in industrially zoned area. (Neb. Rev. Stat. §60-680) (Ord. 359, 10-16-90)

SECTION 4-215: HANDICAPPED AND DISABLED PERSONS; DEFINITIONS

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

"Access aisle" shall mean 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 regulations adopted and promulgated in response to the Act, as the Act and the rules and regulations existed on May 31, 2001.

"Handicapped or disabled person" shall mean 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.

"Handicapped parking infraction" shall mean the violation of any section of this chapter regulating:

A. The use of parking spaces designated for use by handicapped or disabled persons; or

B. The obstruction of any wheelchair ramps constructed or created in accordance and in conformity with the federal Americans with Disabilities Act of 1990.

"Temporarily handicapped or disabled person" shall mean 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)
(Neb. Rev. Stat. §18-1741.01) (Am. Ord. 531, 7-15-97)

SECTION 4-216: HANDICAPPED AND DISABLED PERSONS; DESIGNATION OF ON-STREET PARKING SPACES; 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. §60-3,113;

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 the permit specified in Neb. Rev. Stat. §18-1739.

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 described in Neb. Rev. Stat. §18-1737. In addition to such sign, the space 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, 18-1737) (Am. Ord. 562, 4-20-99)

SECTION 4-217: HANDICAPPED AND DISABLED PERSONS; DESIGNATION OF OFF-STREET PARKING STALLS OR SPACES

A. The City Council and any person in lawful possession of any off-street parking facility may designate stalls or spaces in such facility for the exclusive use of:

1. Handicapped or disabled persons whose motor vehicles display the distinguishing license plates issued to such individuals pursuant to Neb. Rev. Stat. §60-3,113;

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

3. Such other motor vehicles, as certified by the City, which display such permit.

B. Such designation shall be made by posting aboveground and immediately adjacent to and visible from each stall or space a sign which is in conformance with the *Manual on Uniform Traffic Control Devices*.
(Neb. Rev. Stat. §18-1737(1)) (Am. Ord. 530, 7-15-97)

SECTION 4-218: HANDICAPPED AND DISABLED PERSONS; PERMIT ISSUANCE

A. The city clerk may take an application 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 chapter 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. 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.

C. A person applying for a permit or for the renewal of a permit shall complete an application, shall provide proof of identity, and shall submit a completed medical form containing the statutory criteria for qualification and signed by a physician, physician 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 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.

D. 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)
(Neb. Rev. Stat. §18-1738.02) (Am. Ord. 532, 7-15-97)

SECTION 4-219: HANDICAPPED AND DISABLED PERSONS; MOTOR VEHICLE PERMIT ISSUANCE

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 provided for by this chapter 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. The city clerk shall not accept the application for a permit of any person making application contrary to Neb. Rev. Stat. §18-1738.02.

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. 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) (Am. Ord. 533, 7-15-97)

SECTION 4-220: HANDICAPPED AND 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. At the expiration of such suspension, a permit may be renewed upon the payment of the permit fee.

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. 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. Ord. 534, 7-15-97)

SECTION 4-221: HANDICAPPED AND DISABLED PERSONS; PERIOD VALID; RENEWAL

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 chapter 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 for a one-time 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. Ord. 534, 7-15-97)

SECTION 4-222: HANDICAPPED AND DISABLED PERSONS; PERMITS NON-TRANSFERABLE; VIOLATIONS; SUSPENSION

A permit issued under this chapter 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 chapter. No person shall knowingly hold more than one permit or knowingly provide false information on an application for a permit. Any violation of this section shall be cause for suspension of such permit for a period of six months. At the expiration of such period, a suspended permit may be renewed upon payment of the permit fee. (Neb. Rev. Stat. §18-1741) (Am. Ord. 536, 7-15-97)

SECTION 4-223: HANDICAPPED AND DISABLED PERSONS; REMOVAL OF UNAUTHORIZED VEHICLE; PENALTY

A. The owner or person in lawful possession of an off-street parking facility, after notifying the Police or Sheriff's Department and the City providing on-street parking or owning, operating, or providing an off-street parking facility may cause the removal from a stall or space designated exclusively for handicapped or disabled persons or temporarily handicapped or disabled persons or motor vehicles for the transportation of such persons, of any vehicle not displaying the proper permit or the distinguishing license plates specified in this chapter if there is posted aboveground and immediately adjacent to and visible from such stall or space a sign which clearly and conspicuously states the area so designated as a tow-in zone. (Neb. Rev. Stat. §18-1737(2))

B. Anyone who parks a vehicle in any on-street parking space which has been designated exclusively for handicapped or disabled persons or temporarily handicapped or disabled persons or motor vehicles for the transportation of such persons, or in any so exclusively designated parking space in any off-street parking facility, without properly displaying the proper permit or when the handicapped or disabled person to whom or for whom the license plate or permit is issued will not enter or exit the vehicle while it is parked in the designated space shall be guilty of a handicapped parking infraction and shall be subject to the penalty provided for in this chapter. 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 penalty provided for in this chapter.

C. In the case of a privately owned off-street parking facility, the owner or person in lawful possession of such facility shall not be required to inform the City of a violation of this section prior to issuance of a handicapped parking infraction citation to the violator. (Neb. Rev. Stat. §18-1737(3))
(Am. Ord. 538, 7-15-97)

SECTION 4-224: HANDICAPPED AND 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. (Neb. Rev. Stat. §18-1741.01(2))

B. When a handicapped parking citation is issued for a handicapped parking infraction, the person issuing the handicapped parking 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 handicapped parking citation. One copy of the handicapped parking 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. 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 provided for in Neb. Rev. Stat. §18-1741.03, 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.

E. A person cited for a handicapped parking violation may waive his/her right to trial. (Neb. Rev. Stat. §18-1741.04)

F. The trial of any person for a handicapped parking infraction shall be by the court without a jury.
(Neb. Rev. Stat. §18-1741.06) (Am. Ord. 537, 7-15-97)

SECTION 4-225: SNOW EMERGENCIES; DECLARATION OF EMERGENCY

Whenever the mayor or his/her designated representative shall find, on the basis of an official U.S. Weather Bureau forecast of snow, sleet, or freezing rain, that weather conditions will make it necessary that motor vehicle traffic be expedited and that parking on city streets be prohibited or restricted for snow plowing and other purposes, the mayor or his/her designated representative may place into effect a parking prohibition on all city streets by declaring that emergency conditions exist. In such declaration of emergency conditions, the mayor or his/her designated representative shall state the time that said emergency shall be in effect and from the time so designated, all parking of vehicles on city streets shall be prohibited. While the prohibition is in effect, no person shall park or allow to remain parked any vehicle on any portion of any city street. Once in effect, the parking prohibition imposed under this section shall remain in effect until terminated by declaration of the mayor or his/her designated representative. However, nothing in this section shall be construed to permit parking at any time or place where it is forbidden by any other provision of law. (Ord. 568, 5-18-99)

SECTION 4-226: SNOW EMERGENCIES; NOTIFICATION; TERMINATION

A. The mayor or his/her designated representative shall cause each declaration of snow emergency made by him/her pursuant to this section to be publicly announced by posting the declaration in three prominent places and posted on the local cable access channel. Each announcement shall describe the action taken by the mayor or his/her designated representative, including the time it became or will become effective. The mayor or his/her designated representative shall make or cause to be made a record of each time and date when any declaration is announced to the public by issuing an executive order as soon after the declaration of an emergency is feasible.

B. Whenever the mayor or his/her designated representative shall find that some or all of the conditions which rise to a parking prohibition placed in effect pursuant to the provisions of this section no longer exist, he/she may declare the prohibition terminated, in whole or in part, effective immediately upon announcement or at a later specified time.
(Ord. 568, 5-18-99)

SECTION 4-227: SNOW EMERGENCIES; VIOLATIONS

A. Members of the Police Department are hereby authorized to have removed a vehicle from a street to another place or location on a street or to a lot, garage, storage yard, or other similar facility designated by the Police Department when the vehicle is parked on a city street and a snow emergency has been declared.

B. It shall be the duty of the person or persons in charge of the lot, garage,

storage yard, or other similar facility designated by the Police Department to keep a record of the name of the owner of all vehicles towed in under the provisions hereof, together with the registration number of each vehicle, the nature and circumstances of each violation, and the amount of fees collected hereunder and to deliver a report of each day's transactions to the Chief of Police not later than one day following the day for which the report is made. Persons in violation of this section will also be issued a citation for such violation(s).
(Ord. 568, 5-18-99)

SECTION 4-228: 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 the chapter, 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) (Ord. 256, 9-18-84)

SECTION 4-229: BUREAU OF VIOLATIONS

There is hereby created the Bureau of Violations within the powers and duties of the office of the city clerk. A copy of each citation issued for nonmoving traffic violations shall be deposited with the city clerk, whose duty it shall be to collect all fines and to maintain appropriate and accurate records of all such fines paid. Fines and administrative costs shall be payable at the office of the city clerk during hours in which the office is open to the public for the transaction of business. (Neb. Rev. Stat. §18-1729) (Ord. 247, 6-19-84)

SECTION 4-230: SCHEDULE OF FINES

A. Any violator of this chapter appearing at the city hall and desiring to plead guilty and waive court appearance shall present the official police citation and pay the city clerk according a schedule which shall be based upon elapsed time from the occurrence of the violation. Such fines shall be set by the City Council and filed in the office of the village clerk for public inspection during office hours. Administrative costs shall be determined and designated from time to time by the City Council.

B. Should any such fine and administrative costs not be paid within the above-mentioned five-day period, the city clerk shall send to the owner of the motor vehicle to which the official police citation was affixed a written notice informing the owner of

the violation and warning that he/she will be held responsible for the fine and administrative costs and that in the event that the violator or owner of the vehicle to which the official police citation was attached fails to appear at the Bureau of Violations within ten days, excluding weekends and legal holidays, after the date of issuance of such written notice, a complaint will be issued.

C. In the event that a violator fails to appear in response to notice within ten days of the notice, excluding weekends and legal holidays, the violator or the owner of the offending motor vehicle shall be liable to prosecution in county court for the offense or offenses charged and subject to the penalty provided for violations of this chapter. (Ord. 247, 6-19-84)

SECTION 4-231: VIOLATION; REGISTERED OWNER

In any prosecution charging a violation of any provision of this chapter, proof that the particular vehicle described in the citation was parked in violation of this chapter, together with proof that the defendant named in the complaint was at the time of the parking the registered owner of the vehicle, shall constitute in evidence a prima facie presumption that the registered owner of the vehicle was the person who parked or placed the vehicle at the point where and for the time during which the violation occurred. (Ord. 247, 6-19-84)

SECTION 4-232: CITATION

It shall be the duty of the police officers of the City, whenever they observe a violation of this chapter, to attach to the vehicle at the time the vehicle is found in violation, a citation to the owner or operator thereof that the vehicle is or has been parked in violation of a provision of this chapter. The citation shall describe the violation and instruct the owner or operator to report to the city clerk's office in regard to the violation. (Ord. 247, 6-19-84)

Article 3 – Bicycles, Mopeds, and Motorcycles

SECTION 4-301: BICYCLES; OPERATION

A. No person shall operate a bicycle on a street or highway within the City with another person on the handlebars or in any position in front of the operator.

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

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

D. No bicycle shall be operated on any street or highway from sunset to sunrise without a headlight visible from the front thereof for not less than 500 feet on a clear night and a red reflector on the rear of a type which shall be visible on a clear night from all distances between 100 feet and 600 feet to the rear when directly in front of lawful lower beams of headlights on a motor vehicle. A red light visible from a distance of 500 feet to the rear may be used in addition to such red reflector. (Neb. Rev. Stat. §60-6,318)

E. Any person who operates a bicycle upon a street or highway shall not ride more than single file except on parts of streets or highways set aside for the exclusive use of bicycles.

F. Any person who operates a bicycle upon a roadway at less than the normal speed of traffic at the time and place and under conditions then existing shall ride as near to the right-hand curb or right-hand edge of the roadway as practicable except when:

1. Overtaking and passing another bicycle or vehicle proceeding in the same direction;

2. Preparing for a left turn onto a private road or driveway or at an intersection;

3. Reasonably necessary to avoid conditions that make it unsafe to continue along the right-hand curb or right-hand edge of the roadway, including fixed or moving objects, stopped or moving vehicles, bicycles, pedestrians, animals, or surface hazards;

4. Riding upon a lane of substandard width which is too narrow for a bicycle and a vehicle to travel safely side by side within the lane, or

5. Lawfully operating a bicycle on the paved shoulders of a highway included in the state highway system as provided in Neb. Rev. Stat. §60-6,142.

G. Any person who operates a bicycle upon a roadway with a posted speed limit of 35 miles per hour or less on which traffic is restricted to one direction of movement and which has two or more marked traffic lanes may ride as near to the left-hand curb or left-hand edge of the roadway as practicable. Whenever a person operating a bicycle leaves the roadway to ride on the paved shoulder or leaves the paved shoulder to enter the roadway, the person shall clearly signal his/her intention and yield the right-of-way to all other vehicles.

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

I. No person shall operate a bicycle on the sidewalks within the business district.
(Neb. Rev. Stat. §60-6,317)

SECTION 4-302: MOPEDS; DEFINITIONS; STATUTORY REGULATION

A. For the purpose of this chapter, the following definition shall apply unless the context clearly indicates or requires a different meaning.

"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 50 cubic centimeters 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. (Neb. Rev. Stat. §60-637)

B. Mopeds, their owners, and their operators shall be subject to the Motor Vehicle Operator's License Act but shall be exempt from the requirements of the Motor Vehicle Certificate of Title Act, the Motor Vehicle Registration Act and the Motor Vehicle Safety Responsibility Act. (Neb. Rev. Stat. §60-6,309)

SECTION 4-303: 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 Class O operator's license or a valid school or learner's permit. (Neb. Rev. Stat. §60-6,310) (Ord. 431, 6-21-94)

SECTION 4-304: MOPEDS; TRAFFIC REGULATIONS APPLICABLE

A. 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 Title VII of this code and Neb. Rev. Stat. Chapter 60, Article 6 and amendments

thereto, except for special moped regulations in the rules and 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 shall be 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. (Neb. Rev. Stat. §60-6,311)

B. 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. §60-6,313(7))
(Ord. 430, 6-21-94)

SECTION 4-305: MOPEDS; OPERATION

A. 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. (Neb. Rev. Stat. §60-6,312(1))

B. A person shall ride upon a moped only while sitting astride the seat, facing forward. 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. (Neb. Rev. Stat. §60-6,312(2) through (4)) (Ord. 429, 6-21-94)

C. No person who rides upon a moped shall attach himself, herself, or the moped to any other vehicle on a roadway.
(Neb. Rev. Stat. §60-6,313(5))

SECTION 4-306: MOPEDS; USE OF TRAFFIC LANES

A. 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(1) through (4))

B. Mopeds shall not be operated on the sidewalks.

SECTION 4-307: MOPEDS; EQUIPMENT

A. Any moped which carries a passenger shall be equipped with footrests for such passenger. (Neb. Rev. Stat. §60-6,312(5))

B. 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(6))

SECTION 4-308: MOTORCYCLES; LIGHTS

No person shall operate a motorcycle upon the streets, alleys, or highways within the City from sunset to sunrise unless the same is equipped with at least one and not more than two headlights and a taillight exhibiting a red light visible from a distance of at least 500 feet to the rear of such motorcycle. The headlights shall comply with the requirements and limitations set forth in the Nebraska Rules of the Road. (Neb. Rev. Stat. §60-6,219) (Am. Ord. 433, 6-21-94)

SECTION 4-309: MOTORCYCLES; OPERATION

Motorcycles shall only be operated upon the streets of the City and shall not be operated on any sidewalk. No motorcycles shall be left parked on any sidewalk within the City. No person operating a motorcycle shall carry another person in front of the operator.

SECTION 4-310: MOTORCYCLES; HELMET REQUIRED

A person shall not operate or be a passenger on a motorcycle or moped on any highway 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, 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 CFR 571.218, for motorcycle helmets. (Neb. Rev. Stat. §60-6,279) (Am. Ord. 432, 6-21-94)

Article 4 – Snowmobiles and All-Terrain Vehicles

SECTION 4-401: SNOWMOBILES; EQUIPMENT

A. Every snowmobile operated within the City shall be registered with the State of Nebraska as required by law. No snowmobile shall be operated upon a public street or highway unless it is equipped with at least one headlamp, one taillamp, reflector material of a minimum area of 16 square inches mounted on each side forward of the handle bars, and with brakes as prescribed by the Director of Motor Vehicles.

B. 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. §60-6,321, 60-6,335)

SECTION 4-402: SNOWMOBILES; UNLAWFUL ACTS

A. It shall be unlawful for any person to drive or operate any snowmobile on ice, snow, public land, right-of-way, trail, or course or in a park in the following unsafe or harassing ways:

1. At a rate of speed greater than reasonable or proper under the surrounding circumstances.

2. In a careless, reckless or negligent manner so as to endanger person or property.

3. While under the influence of alcoholic liquor or any drug.

4. Without a lighted headlight and taillight when such would be required by conditions.

5. In any tree nursery or planting in a manner which damages or destroys growing stock.

6. Upon any private lands without first having obtained permission of the owner, lessee or operator of such lands. (Neb. Rev. Stat. §60-6,337)

B. It shall be deemed a misdemeanor for any person to allow a snowmobile, either owned or operated by that person, to be operated 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.
(Neb. Rev. Stat. §60-6,337)

SECTION 4-403: SNOWMOBILES; 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. §60-6,338)

SECTION 4-404: SNOWMOBILES; ENFORCEMENT; PENALTY

Any peace officer, including a conservation officer, may enforce the provisions relating 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 or imprisonment not to exceed 90 days. (Neb. Rev. Stat. §60-6,362)(2) (Ord. 309, 9-15-87)

SECTION 4-405: ALL-TERRAIN VEHICLES, UTILITY-TYPE VEHICLES AND GOLF CAR VEHICLES; DEFINITIONS

A. For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning. “All-terrain vehicle” shall mean any motorized off-highway vehicle which:

1. Is 50 inches or less in width;

2. Has a dry weight of 1,200 pounds or less;

3. Travels on three or more non-highway tires; and

4. Is designed for operator use only with no passengers or is specifically designed by the original manufacturer for the operator and one passenger.

B. All-terrain vehicles which have been modified or retrofitted with after-market parts to include additional equipment not required by Section 4-407 of this article shall not be registered under the Motor Vehicle Registration Act nor shall such modified or retrofitted vehicles be eligible for registration in any other category of vehicle defined in the act. (Neb. Rev. Stat. §60-6,355) (Ord.742, 12-18-18).

SECTION 4-406: ALL-TERRAIN VEHICLES, UTILITY-TYPE VEHICLES AND GOLF CAR VEHICLES; DEFINITIONS

A. ATVs, UTVs and Golf Car Vehicles may not be operated upon any city streets, sidewalks, public right-of-ways and highways within the corporate limits of the City EXCEPT as follows:

1. By an employee of the City in their official capacity for the City and while operating a City owned ATV or UTV;

2. A contractor or other authorized representative of the City may also use ATV or UTV in furtherance of a City contracted purpose if expressly allowed to do so by the City Administrator or supervising Department manager;

3. During parades which have been authorized by the State or the City;

4. If the operator is removing snow from the road or sidewalk within 48 hours after cessation of a snow storm (ATV and UTV only);

5. If the operator is addressing storm damage within 48 hours after an emergency event as declared by the Mayor (ATV and UTV only); or

6. On public trails, sidewalks or public right-of-ways while engaged by the City for snow removal (ATV and UTV only).

7. Or, as permitted by the rules set forth in this Article, with an ATV, UTV or Golf Car Vehicle that is registered and abides by the rules set forth herein and state law.

B. ATVs, UTVs and Golf Car Vehicles shall not be operated on any controlled-access highway with more than two (2) marked traffic lanes, and the crossing of any controlled-access highway with more than two (2) marked traffic lanes shall not be permitted.

C. For the purpose of this Article, the crossing of a non-controlled access highway shall be permitted only if:

1. The crossing is made at an angle of approximately ninety degrees (90°) perpendicular to the direction of travel being made on such highway and at a place where no obstruction prevents a timely and safe crossing;

2. The vehicle is brought to a complete stop before crossing the shoulder or roadway of said highway;

3. The operator yields the right of way to all traffic which constitutes an immediate or potential hazard;

4. In crossing a highway, the crossing shall only be made at an intersection of another roadway; and,

5. Both the headlights and taillights must be on when the crossing is made (applies to only ATV and UTV).

D. If permitted, said vehicles shall only be allowed to operate on the streets, alleys, and roads, not on the sidewalks of the City (except for the purposes set forth above for snow removal and utility work).

E. Golf Car Vehicles may only be operated on streets with a posted speed limit of thirty-five miles per hour or less and the Golf Car Vehicle shall not operate in excess of 20 miles per hour and may at no time be operated on a state or federal highway, except to cross at an intersection. (Neb. Rev. Stat. §60-6,356) (Ord. 742, 12-18-18)

SECTION 4-407: ALL-TERRAIN VEHICLES, UTILITY-TYPE VEHICLES AND GOLF CAR VEHICLES; OPERATOR AND EQUIPMENT REQUIREMENTS

A. Any person operating a ATV or UTV as authorized by this code section shall:

1. Be at least eighteen (18) years of age;
2. Reside within the corporate limits of Yutan;
3. Have a valid Class O operator's license or a farm permit as provided for in Neb. Rev. Stat. § 60-4,126;
4. Have proof of liability insurance coverage for the ATV or UTV while in operation upon a street or highway and provide such insurance proof of coverage upon the demand of any peace officer requesting such proof within five (5) days of such request; such insurance shall be within the limits stated in Neb. Rev. Stat. § 60-509, as amended from time to time;
5. If operating or riding on an ATV or UTV, utilize manufacturer installed seat belts or wear a helmet approved for lawful operation of a motorcycle in the State of Nebraska; and,
6. Only operate such ATV, UTV or Golf Car Vehicle between sunrise and sunset as required by Neb. Rev. Stat §60-6,356 and §60-6,381.

B. Every ATV and UTV shall be equipped with:

1. A braking system maintained in good operating condition;
2. An adequate muffler system in good working condition and without a cutout, bypass or similar device, or any modifications to the muffler system which increases the volume of the noise of the exhaust system. No portion of the system shall be permitted to contact the ground when weighted by its operator;
3. A United States Forest Service-qualified spark arrester;
4. Headlights and taillights;
5. A reflective sign must be affixed to the rear of the vehicle; and,
6. Equipped with a safety flag which extends no less than five (5) feet above the ground and is attached to the rear of such vehicle. The flag shall be day-glow in color, triangular in shape, and of a size with an area of not less than thirty (30) square inches.

C. No person shall:

1. Equip the exhaust system of an ATV or UTV with a cutout, bypass, or similar device;

2. Operate an ATV or UTV with an exhaust system so modified; or

3. Operate an ATV or UTV with the spark arrester removed or modified except for use in closed-course competition events.

(Neb. Rev. Stat. §60-6,358) (Ord. 742, 12-18-18)

SECTION 4-408: ALL-TERRAIN VEHICLES, UTILITY-TYPE VEHICLES AND GOLF CAR VEHICLES; ACCIDENT REPORT

If an accident involving an ATV, UTV or Golf Car Vehicle results an injury to any person resulting in the examination or treatment of the injured person by a physician, or results in the death of any person, then the operator of each ATV, UTV or Golf Car Vehicle involved in the accident shall give notice of the accident in the same manner as provided in Chapter 60 of the Nebraska Revised Statutes. (Neb. Rev. Stat. §60-6,359) (Ord. 742, 12-18-18)

SECTION 4-409: ALL-TERRAIN VEHICLES, UTILITY-TYPE VEHICLES AND GOLF CAR VEHICLES; PENALTY; IMPOUNDMENT

Any person who violates any provision of this Article or violates the provisions defined by Chapter 60 of the Revised Statutes of Nebraska while operating an ATV, UTV or Golf Car Vehicle shall be subject to the penalties under the provisions of Chapter 60 of the Revised Statutes of Nebraska and additionally impoundment of the vehicle is hereby authorized and all City-issued registrations for all of the operators and the owners of ATVs, UTVs and Golf Car Vehicles shall be revoked as follows:

A. For the first offense, the owner and/or operator shall be guilty of a Class III misdemeanor which is carries a possible maximum penalty of $500 fine and/or three (3) months in jail or both; the vehicle may be impounded until it is validly registered (if registration is the basis of the violation) or for 10 days (for all other violations) and stored in a privately operated facility or other place designated by or maintained by the City with all impoundment costs payable by the owner. The operator shall be prohibited from operating ATVs, UTVs and Golf Car Vehicles within the City for a period of ten (10) days from the date of the offense.

B. For a second offense, the owner and/or operator shall be guilty of a Class III misdemeanor, (if within the same year as the prior offense, then a Class II misdemeanor, which carries a maximum penalty of a $1,000 fine and/or six (6) months in jail or both.) All City-issued registrations of both shall be revoked for a period of one (1) year from the date of the offense; and the vehicle shall be impounded for fourteen (14) days and stored in a privately operated facility or other place designated by or maintained by the City with all impoundment costs payable by the

owner.

C. In the event of a third offense under this Article, the registration for the ATV, UTV or Golf Car Vehicle shall be permanently revoked and the owner prohibited from registering another vehicle permanently. An operator's third offense shall prohibit the operator for operating such vehicles in the City permanently. The offense shall be a Class III misdemeanor, unless committed within one year of a prior offense, and then it shall be a Class II misdemeanor.
(Neb. Rev. Stat. §60-6,360) (Ord. 742, 12-18-18)

SECTION 4-410: ALL-TERRAIN VEHICLES, UTILITY-TYPE VEHICLES AND GOLF CAR VEHICLES; PERMIT AND REGISTRATION

A. All ATVs, UTVs and Golf Car Vehicles shall be registered by filing application with the City Clerk and paying an initial fee of $150 per vehicle. Upon filing and payment, the vehicle shall be inspected by law enforcement and law enforcement will issue the permit which shall be evidenced with a sticker affixed to the vehicle. After the vehicle's initial licensing period, the renewal fee charged on an annual basis shall be $50.

B. The permit period shall be from January 1 to December 31 each year. There shall be no proration of the annual permit fee for any permits issued after January 1. The full shall be required regardless of the time of year paid and will expire on December 31 of the year issued. A new application is required each calendar year.

C. Permit sticker must be posted on the vehicle in a conspicuous place.

D. Operators of the vehicle must comply with the rules set forth in this article. Owners shall be subject to impoundment and other penalties if the vehicle is entrusted to an operator who is not the owner. (Neb. Rev. Stat. §60-6,361)

SECTION 4-411: ALL-TERRAIN VEHICLES, ENFORCEMENT; PENALTY SECTION REPEALED

Article 5 – Abandoned Vehicles

SECTION 4-501: 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:

1. "Public property" means any public right-of-way, street, highway, alley, or park or other state, county, or municipally owned property; and

2. "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 4-502: 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 4-503: TITLE; VEST IN LOCAL AUTHORITY OR STATE AGENCY; WHEN

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 4-506 (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 4-504: LOCAL AUTHORITIES; POWERS AND DUTIES

A. Except for vehicles governed by Section 4-503, 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 City Council has determined that the vehicle should be retained for use, the Board 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 City 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 4-505: 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 4-506: CUSTODY; WHO ENTITLED

If a state agency caused an abandoned vehicle described in Section 4-501 (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 4-501 (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 Village. (Neb. Rev. Stat. §60-1904)

SECTION 4-507: 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 Board 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 Council. (Neb. Rev. Stat. §60-1905)

SECTION 4-508: LIABILITY FOR REMOVAL

Neither the owner, lessee, nor occupant of the premises from which any abandoned vehicle is removed nor the Village shall be liable for any loss or damage to such vehicle which occurs during its removal or while in the possession of the Village or its contractual agent or as a result of any subsequent disposition. (Neb. Rev. Stat. §60-1906)

SECTION 4-509: 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 4-510: 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 6 – Penal Provision

SECTION 4-601: VIOLATION; PENALTY

Any person who shall violate or refuse to comply with the enforcement of any of the provisions of this chapter, set forth at full length herein or incorporated by reference shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be fined no more than $500.00 for each offense. A new violation shall be deemed to have been committed every 24 hours of such failure to comply.

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CHAPTER 5 – BUSINESS REGULATIONS

Article 1 – Alcoholic Beverages

SECTION 5-101: DEFINITIONS

For purposes of this chapter, the definitions found in Neb. Rev. Stat. §53-103 shall be used. (Neb. Rev. Stat. §53-103)

SECTION 5-102: 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 5-103: LICENSEES AND APPLICANTS; CITY POWERS AND DUTIES

A. The City Council is authorized to regulate by ordinance not inconsistent with the provisions of the Nebraska Liquor Control Act, the business of all retail and bottle club licensees carried on within the corporate limits.

B. The City Council shall further have the power and duties with respect to retail and bottle club licenses within its corporate limits:

1. To cancel or revoke for cause retail or bottle club licenses to sell or dispense alcoholic liquors 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 of the provisions of the Act or any city laws are being violated, and at such time to examine the premises of such licensee in connection therewith;

3. To receive a signed complaint from any citizen within its jurisdiction that any of the provisions of the Act or any city laws have been or are being violated and to act upon such complaints in the manner herein provided;

4. To receive retail or bottle club license fees and pay the same forthwith, after applicant has been delivered his or her retail or bottle club license, to the city treasurer;

5. To examine, or cause to be examined, any applicant or any retail or bottle club licensee upon whom notice of cancellation or revocation has been served, and to examine or cause to be examined, the books and records of any such applicant or licensee; to hear testimony and to take proof for its information in the performance of its duties. For the purpose of obtaining any of the information desired, the City Council may authorize its agent, the city clerk or city 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 herein, it determines that the licensee has violated any of the provisions of the Nebraska Liquor Control Act or any valid and subsisting ordinance or regulation duly enacted relating to alcoholic liquors. Such order of cancellation or revocation shall be subject to appeal to the Commission as other orders or actions of the City Council.

(Neb. Rev. Stat. §53-134(1), (2) and (3), 53-134.03) (Ord. 241, 9-20-83)

SECTION 5-104: LICENSEE REQUIREMENTS

A. No license shall be issued to:

1. A person who is not a resident of Nebraska, except in case of railroad, airline, or boat licenses;

2. A person who is not of good character and reputation in the community in which he or she resides;

3. A person who is not a citizen of the United States;

4. A person who has been convicted of or has pleaded guilty to a felony under the laws of this state, any other state, or the United States;

5. A person who has been convicted of or has pleaded guilty to any Class I misdemeanor pursuant 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, except that any additional requirements imposed by this subsection on May 18, 1983, shall not prevent any person holding a license on such date from retaining or renewing such license if the conviction or plea occurred prior to May 18, 1983;

6. A person whose license issued under the Nebraska Liquor Control Act has been revoked for cause;

7. A person who at the time of application for renewal of any license issued under the act would not be eligible for such license upon initial application;

8. A partnership, unless one of the partners is a resident of Nebraska and unless all the members of such partnership are otherwise qualified to obtain a license;

9. A limited liability company, unless one of the members is a resident of Nebraska and unless all the members of such company are otherwise qualified to obtain a license;

10. A corporation, if any officer, manager, or director of the corporation or any stockholder owning in the aggregate more than 25% of the stock of such corporation would be ineligible to receive a license under this section for any reason other than the reasons stated in subsections (1) and (3) of this subsection, except that a manager of a corporate licensee shall be a resident of Nebraska. This subsection shall not apply to railroad licenses;

11. A person whose place of business is conducted by a manager or agent unless such manager or agent possesses the same qualifications required of the licensee;

12. A person who does not own the premises for which a license is sought or does not have a lease or combination of leases on such premises for the full period for which the license is to be issued;

13. Except as provided in this subsection, an applicant whose spouse is ineligible under this section to receive and hold a liquor license. Such applicant shall become eligible for a liquor license only if the Nebraska Liquor Control Commission finds from the evidence that the public interest will not be infringed upon if such license is granted. It shall be prima facie evidence that when a spouse is ineligible to receive a liquor license, the applicant is also ineligible to receive a liquor license. Such prima facie evidence shall be overcome if it is shown to the satisfaction of the Commission that the licensed business will be the sole property of the applicant and that such licensed premises will be properly operated;

14. A person seeking a license for premises which do not meet standards for fire safety as established by the state fire marshal;

15. A law enforcement officer, except that this subsection shall not prohibit a law enforcement officer from holding membership in any nonprofit organization holding a liquor license or from participating in any manner in the management or administration of a nonprofit organization; or

16. A person less than 21 years of age.

B. When a trustee is the licensee, the beneficiary or beneficiaries of the trust shall comply with the requirements of this section, but nothing in this section shall prohibit any such beneficiary from being a minor or person who is mentally incompetent.
(Neb. Rev. Stat. §53-125) (Am. Ord. 241, 9-20-83)

SECTION 5-105: LICENSE APPLICATIONS; CITY EXAMINATION

A. Any person desiring to obtain a new license to sell alcoholic liquor at retail or a craft brewery license shall file an application with the Nebraska Liquor Control Commission, which shall then notify the city clerk by registered or certified mail. The Commission shall set for hearing any application for a retail license relative to which it has received, within 30 days from the date of receipt of the application by the City, a recommendation of denial from the City.

B. Upon receipt of the notice and copy of the application, the City Council shall fix a time and place at which a hearing will be held and at which the City Council shall receive evidence, either orally or by affidavit, from the applicant or any other person, bearing upon the propriety of the issuance of such license. Notice of the time and place of the hearing shall be published in a legal newspaper in or of general circulation in the City one time not less than seven nor 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 protest against the issuance of the license may do so at the time of the hearing. The hearing shall be held not more than 21 days after the receipt of the notice from the Commission.

C. In determining what recommendation to make to the Commission, the City Council shall consider:

1. Whether the applicant is fit, willing, and able to properly provide the service proposed within the City;

2. Whether the applicant can conform to all provisions, requirements, rules, and regulations provided for in the Nebraska Liquor Control Act;

3. Whether the applicant has demonstrated that the type of management and control exercised over the licensed premises will be sufficient to insure that the licensed business can conform to all provisions, requirements, rules, and regulations provided for in the Nebraska Liquor Control Act; and

4. Whether the issuance of the license is or will be required by the present or future public convenience and necessity.

D. After the hearing, the City Council shall cause to be spread at large in the minute record of its proceedings a resolution recommending either issuance or re-

fusal of the license. The city clerk shall thereupon 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 herewith shall not render void any license issued by the Commission. In the event the Commission refuses to issue such a license, the cost of publication of notice as herein required shall be paid by the Commission from the security for costs.
(Neb. Rev. Stat. §53-131 through 53-134) (Ord. 241, 9-20-83) (Am. Ords. 258, 9-18-84; 287, 9-16-86; 323, 9-20-88; 346, 11-14-89; 380, 3-17-92)

SECTION 5-106: LOCATION

It shall be unlawful for any person to own, maintain, manage, or hold open to the public any establishment for the purpose of selling at retail any alcoholic liquor within 150 feet of any church, school, hospital, or home for aged or indigent persons or for veterans, their wives or children. This prohibition shall not apply to any location within such distance when the establishment has been licensed by the Nebraska Liquor Control Commission at least two continuous years and to hotels offering restaurant service, regularly organized clubs, or to restaurants, food shops, or other places where the selling of alcoholic liquors is not the principal business carried on, if the place of business was established for such purposes 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 or university within the City. (Neb. Rev. Stat. §53-177)

SECTION 5-107: ACCESS TO DWELLINGS

Except in the case of hotels and clubs, no alcoholic liquor shall be sold at retail upon any premises which have any access which leads from such premises to any other portion of the same building or structure used for dwelling or lodging purposes and which is permitted to be used or kept accessible for use by the public. This provision shall not prevent any connection between such premises and such other portion of the building or structure which is used only by the licensee, his/her family, or personal guests. (Neb. Rev. Stat. §53-178)

SECTION 5-108: DISPLAY OF LICENSE

Every licensee under the Nebraska Liquor Control Act shall cause his/her license to be framed and hung in plain view in a conspicuous place on the licensed premises. (Neb. Rev. Stat. §53-148)

SECTION 5-109: HOURS OF SALE

A. For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

"Off sale" shall mean alcoholic beverages sold at retail in the original container for consumption off the premises of the licensed establishment.

"On sale" shall mean alcoholic beverages sold at retail by the drink for consumption on the premises of the licensed establishment.

B. It shall be unlawful for any licensed person or persons or their agents to sell any alcoholic beverages within the City except during the hours provided herein, provided that such limitations shall not apply after 12:00 noon on Sunday to a licensee which is a nonprofit corporation holding a license pursuant to Neb. Rev. Stat. §53-124(5)(C) and (H).

Alcoholic Liquors (except Beer and Wine)	
Monday through Saturday	
Off Sale	6:00 A.M. to 1:00 A.M.
On Sale	6:00 A. M. to 1:00 A.M.
Sunday	
Off Sale	12:00 noon to 1:00 A.M.
On Sale	12:00 noon to 1:00 A.M.
Beer and Wine	
Daily	
Off Sale	6:00 A.M. to 1:00 A.M.
On Sale	6:00 A.M. to 1:00 A.M.

C. 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.

D. Nothing in this section shall be construed to prohibit licensed premises from being open for 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. Ord. 375, 10-15-91)

SECTION 5-110: LICENSE RENEWAL; CITY POWERS AND DUTIES

A. Outstanding retail or bottle club licenses issued by the Nebraska Liquor Control Commission may be automatically renewed in the absence of a written request by the City Council to require the licensee to submit an application for renewal. Any licensed retail or bottle club 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, is canceled, or is 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.

B. The city clerk, upon notice from the Commission, 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 Class C license renewal notices 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.
(Neb. Rev. Stat. §53-135 and 53-135.01) (Am. Ords. 200, 1-25-80; 241, 9-20-83)

SECTION 5-111: OWNER OF PREMISES OR AGENT; LIABILITY

If the owner of the licensed premises or any person from whom the licensee derives the right to possession of such premises, or the agent of such owner or person, knowingly permits the licensee to use such licensed premises in violation of the terms of the Nebraska Liquor Control Act or any city ordinance, such owner, agent, or other person shall be deemed guilty of a violation of the Act or ordinance to the same extent as such licensee and be subject to the same punishment. (Neb. Rev. Stat. §53-1,101)

SECTION 5-112: OFFICER, AGENT, OR EMPLOYER; LIABILITY

Every act or omission of whatsoever nature constituting a violation of any of the provisions of the Nebraska Liquor Control Act or any city ordinance by any officer, director, manager, or other agent or employee of any licensee, if such act is committed or omission is made with the authorization, knowledge, or approval of the licensee, shall be deemed and held to be the act of such employer or licensee and such employer or licensee shall be punishable in the same manner as if such act or omission had been done or omitted by the licensee personally. (Neb. Rev. Stat. §53-1,102)

SECTION 5-113: MINORS OR INCOMPETENTS

No person shall sell, give away, dispose of, exchange, or deliver, or permit the sale, gift, or procuring of any alcoholic liquors to or for any minor or to any person who is mentally incompetent. (Neb. Rev. Stat. §53-180, 17-135)

SECTION 5-114: HIRING MINORS

It shall be unlawful for any person to hire a minor regardless of sex under the age of 19 years to serve or dispense alcoholic liquors, including beer, to said licensee's customers. (Neb. Rev. Stat. §53-102)

SECTION 5-115: MINOR'S PRESENCE RESTRICTED

It shall be unlawful for any person who owns, manages, or leases an establishment selling alcoholic beverages at retail to allow any minor under the age of 18 years of age to frequent or otherwise remain in the establishment unless the minor is accom-

panied by his/her parent or legal guardian and unless the minor remains seated with and under the immediate control of the parent or legal guardian. (Neb. Rev. Stat. §53-134.03)

SECTION 5-116: SPIKING BEER PROHIBITED

It shall be unlawful for any person or for any licensee to sell or offer for sale in this City any beer to which there has been added any alcohol or to permit any person to add alcohol to any beer on the licensed premises of such person or licensee. (Neb. Rev. Stat. §53-174)

SECTION 5-117: ORIGINAL PACKAGE REQUIRED

No person, except a manufacturer or wholesaler, shall fill or refill, in whole or in part, any original package of alcoholic liquor with the same or any other kind or quality of alcoholic liquor. It shall be unlawful for any person to have in his or her possession for sale at retail any bottles, casks, or other containers containing alcoholic liquor except in original packages. Nothing in this section shall prohibit the refilling of original packages of alcoholic liquor for strictly private use and not for resale. (Neb. Rev. Stat. §53-184) (Am. Ord. 378, 3-17-92)

SECTION 5-118: CREDIT SALES PROHIBITED

No person shall sell or furnish alcoholic liquor at retail to any person on credit of any kind, barter, or services rendered, provided that 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 by-laws of such club and provided further that nothing in this section shall prevent any hotel or restaurant holding a retail license from permitting checks or statements for liquor to be signed by regular guests residing in the hotel or eating at the restaurant and charged to the accounts of such guests. (Neb. Rev. Stat. §53-183)

SECTION 5-119: 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. The 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 sanitary conditions shall be made at all hearings concerning the application for or renewal of a liquor license. (Neb. Rev. Stat. §53-118, 53-134.03)

SECTION 5-120: INSPECTIONS

The City Council shall cause frequent inspections to be made on the premises of all retail and bottle club licensees. If it is found that any such licensee is violating any provision of this chapter, the Nebraska Liquor Control Act, or the regulations of the Nebraska Liquor Control Commission or is failing to observe in good faith the purposes of this chapter or the Act, the license may be suspended, canceled, or revoked after the licensee has been given an opportunity to be heard in his or her defense by the City Council. (Neb. Rev. Stat. §53-116.01)

SECTION 5-121: CATERING LICENSE

A. The holder of a Class C, Class D, or Class I license issued under Neb. Rev. Stat. §53-124(5) or a craft brewery license, may obtain an annual catering license as prescribed in this section. Any such licensee desiring to obtain a catering license shall file an application with the Liquor Control Commission. (Neb. Rev. Stat. §53-124.12(1))

B. Upon receipt from the Commission of the notice and 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.

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 the license is issued. Any person whose catering license is canceled may appeal to the District Court.
(Neb. Rev. Stat. §53-124.12(4)) (Am. Ords. 322, 9-20-88; 379, 3-17-92; 457, 4-18-95; 539, 7-15-97)

SECTION 5-122: KEG SALES; REQUIREMENTS; 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 the 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 identification 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. The 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 and 53-167.03)

SECTION 5-123: CITIZEN COMPLAINTS

A. Any five residents of the City shall have the right to file a complaint with the City Council stating that any retail or bottle club 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.

B. 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 ten 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. The resolution shall be deemed the final order for purposes of appeal to the Nebraska Liquor Control Commission as provided by law. (Neb. Rev. Stat. §53-134.04)

SECTION 5-124: REVOCATION OR SUSPENSION OF LICENSE

A. A retail license to sell alcoholic liquors, which the City is legally empowered to revoke, may be revoked by the City Council whenever it shall find, after notice and hearing as provided by law, that the holder of any such license has violated any of the provisions of the Nebraska Liquor Control Act, of this chapter, of any rule or regulation of the State Liquor Control Commission; or of any statutory provision or ordinance of the City now existing or hereafter passed, enacted in the interest of good morals and decency; or for any one or more of the following causes:

1. The licensee, manager or agent in charge of the premises licensed, has been convicted of or has plead guilty to a felony under the laws of this state or of any other state.

2. The licensee, manager or agent in charge of the premises licensed, has been convicted of or has plead guilty to being the proprietor, manager or agent in charge of a gambling house, or of pandering or other crime or misdemeanor opposed to decency and morality.

3. The licensee, manager or agent in charge of the premises licensed, has been convicted of or plead guilty to violation of any federal or state law concerning the manufacture, possession or sale of alcoholic liquors.

4. The licensee either swore falsely to any question in his application for said license or has failed to comply with the statements and representations made by the answer to any question or questions in said application; or has failed to perform in accordance with any other statement or representation or keep any promise, oral or written, made to the Council in connection with such licensee's request for said license.
5. The licensee, manager or agent in charge of the licensed premises shall have forfeited bond to appear in court to answer charges for any one of the violations of law or ordinances referred to in this section.

6. The licensee, manager or agent shall have allowed any live person to appear, or have reasonable cause to believe that any live person shall appear in any licensed premises in a state of nudity to provide entertainment, to provide service, to act as hostess, manager or owner, or to serve as an employee in any capacity.

B. For the purposes of this subsection, the term "nudity" shall mean the showing of the human male or female genitals, pubic area or buttocks or the human female breast including the nipple or any portion below the nipple with less than a full opaque covering.
(Ord. 475, 3-1-94)

SECTION 5-125: ACQUISITION AND POSSESSION; RESTRICTIONS

A. It shall be unlawful for any person to purchase, receive, acquire, accept, or possess any alcoholic liquor acquired from any other person other than one duly licensed to handle alcoholic liquor under this chapter and the Nebraska Liquor Control Act unless within specific exemptions or exceptions provided in this chapter or the Act. (Neb. Rev. Stat. §53-175)

B. It shall be unlawful for any person to transport, import, bring, ship, or cause to be transported, imported, brought, or shipped into the State of Nebraska for the personal use of the possessor, his/her family, or guests a quantity of alcoholic liquor in excess of nine liters in any one calendar month. (Neb. Rev. Stat. §53-194.03)

SECTION 5-126: MANUFACTURE, SALE, DELIVERY, AND POSSESSION; GENERAL PROHIBITIONS; EXCEPTIONS

A. No person shall manufacture, bottle, blend, sell, barter, transport, deliver, furnish, or possess any alcoholic liquor for beverage purposes except as specifically provided in this chapter and Nebraska Liquor Control Act.

B. Nothing in this chapter or the Act shall prevent:

1. The possession of alcoholic liquor legally obtained as provided in this chapter or the Act for the personal use of the possessor and his or her family and guests;

2. The making of wine, cider, or other alcoholic liquor by a person from fruits, vegetables, or grains, or the product thereof, by simple fermentation and without distillation, if made solely for the use of the maker and his/her family and guests;

3. Any duly licensed practicing physician or dentist from possessing or using alcoholic liquor in the strict practice of his or her profession, any hospital or other institution caring for the sick and diseased persons from possessing and using alcoholic liquor for the treatment of bona fide patients of such hospital or other institution, or any drug store employing a licensed pharmacist from possessing or using alcoholic liquor in the compounding of prescriptions of licensed physicians;

4. 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;

5. Persons who are 16 years old or older from carrying alcoholic liquor from licensed establishments when they are accompanied by a person not a minor;

6. Persons who are 16 years old or older from handling alcoholic liquor containers and alcoholic liquor in the course of their employment;

7. Persons who are 16 years old or older from removing and disposing of alcoholic liquor containers for the convenience of the employer and customers in the course of their employment; or

8. Persons who are 19 years old or older from serving or selling alcoholic liquor in the course of their employment.

(Neb. Rev. Stat. §53-168.06) (Am. Ord. 500, 3-19-96)

SECTION 5-127: CONSUMPTION IN PUBLIC PLACES OR PLACES OPEN TO THE PUBLIC; RESTRICTIONS

A. Except as provided in Neb. Rev. Stat. §53-186(2), it shall be unlawful for any person to consume alcoholic liquor:

1. In the public streets, alleys, parking areas, roads, or highways;
2. Inside vehicles while upon the public streets, alleys, parking areas, roads, or highways; or
3. Upon property owned or controlled by the City unless authorized by the City Council. (Neb. Rev. Stat. §53-186(1))

B. It shall be 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 shall be 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 shall not apply to a retail licensee while lawfully engaged in the catering of alcoholic beverages.
(Neb. Rev. Stat. §53-186.01, 53-186 and 53-186.01)

SECTION 5-128: 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 or 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 doctor which 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.

B. 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.

C. The law enforcement officer who acts in compliance with this section shall be deemed to be acting in the course of his or her official duty and shall not be criminally or civilly liable for such actions.

D. 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.

E. For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

F. Definitions:

“Public property” shall mean any public right-of-way, street, highway, alley, park, or other state, county, or City owned property.

“Quasi-public property” shall mean 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)

Article 2 – Occupation Tax

SECTION 5-201: 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 City Council. Said ordinance shall be on file in the city clerk's office and shall be available for public inspection during office hours. (Neb. Rev. Stat. §17-525)

SECTION 5-202: FIRE DEPARTMENT FUND

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. §35-96)

SECTION 5-203: COLLECTION DATE

All occupation taxes shall be due and payable on May 1 of each year, except in the event that the tax is levied daily, and upon the payment thereof by any person or persons to the city clerk, he/she shall give a receipt, properly dated, and specifying the person paying the tax and the amount paid. The revenue collected shall then be immediately deposited into the General Fund by the city treasurer, who shall keep an accurate account of all revenue turned over. All forms and receipts herein mentioned shall be issued in duplicate. One copy shall then be kept by each party in the transaction.

SECTION 5-204: CERTIFICATES

The receipt issued after the payment of any occupation tax shall be the occupation tax certificate. The certificate shall specify the amount of the tax and the name of the person and business that paid the tax. The occupation tax certificate shall then be displayed in a prominent place or carried in such a way as to be easily accessible while business is being conducted.

SECTION 5-205: FAILURE TO PAY

If any person, company, or corporation fails or neglects to pay the occupation taxes as provided herein on the day they become due and payable, the City shall then proceed by civil suit to collect the amount due. All delinquent taxes shall bear interest at the rate of 1% per month until paid.

Article 3 – Railroads

SECTION 5-301: SAFE CROSSING

It shall be the duty of every railroad company doing business in or traveling through the City to keep in a suitable and safe condition the crossings and rights-of-way in the City. If any such crossing shall at any time fall into disrepair and become unsafe or inconvenient for public travel, the City Council may by resolution call upon the company to make whatever repairs that it may deem necessary to correct the dangerous condition. Notice of the resolution shall be served upon the local agent of the company. In the event that the railroad shall fail or neglect to repair and correct the condition as aforesaid within 48 hours, neglect for each 24 hours thereafter shall be deemed and is hereby made a separate and distinct offense against the provisions herein.

SECTION 5-302: SPEED LIMIT; PROCEDURE

A. It shall be unlawful for any railroad company, its employees, agents, or servants to operate a railroad engine, locomotive, or other vehicle on its tracks within or through the City at a speed in excess of 25 miles per hour.

B. No speed limitation ordinance which would directly affect the operations of an interstate railroad shall be valid or enforceable unless its adoption is in compliance with this subsection. Before the first reading of the proposed ordinance, the railroad whose operations would be directly affected by the ordinance shall be given written notice by United States mail of the proposed ordinance and the date, time, and place of such reading. Such notice shall be given at least ten days prior to the reading. The affected railroad or railroads shall have an opportunity to be heard at the first reading. After enactment, the railroad or railroads whose operations would be directly affected shall be provided a written or printed copy of the ordinance by United States mail.

SECTION 5-303: OBSTRUCTING TRAFFIC; TIME LIMIT

It shall be unlawful for any railroad company, its employees, agents, or servants operating a railroad through the City to obstruct traffic on any public street, except in the event of an emergency, for a longer period at one time than five minutes.

SECTION 5-304: OBSTRUCTING VIEW AT CROSSINGS PROHIBITED

It shall be unlawful for any railroad company to obstruct or obscure the traveling public's view by storing or parking any railroad car on a railroad track within 100 feet of the crossing of any such railroad track and a public road within the corporate limits of the City; provided, however, in no instance shall any person who is authorized to control the movement of such railroad car or cars within such distance be prevented from reasonably conducting his or her business. (Neb. Rev. Stat. §74-1323)

SECTION 5-305: LIGHTING AND SIGNALS

It shall be the duty of every railroad company owning, operating, and maintaining a railroad through the City to sufficiently light all crossings and to install as many signal systems as the City Council shall deem necessary at the expense of the company.

Article 4 – Solicitors and Peddlers

SECTION 5-401: DEFINITIONS

"Peddler" shall mean an uninvited person offering products for immediate sale and delivery in residential areas.

"Products" shall mean all goods, chattels, wares, merchandise, and services of any kind whatsoever.

"Solicitor" shall mean an uninvited person offering products for future delivery or seeking donations in return for products.
(Am. Ord. 687, 10-18-11)

SECTION 5-402: PERMIT REQUIRED

All peddlers and solicitors, other than persons exempted by Section 5-408, shall be required to obtain a city sales and solicitation permit prior to making sales or solicitations within the City. Such permits shall be valid for 30 days and shall be issued by the city clerk upon compliance with the requirements of this article. (Neb. Rev. Stat. §17-134) (Am. Ord. 687, 10-18-11)

SECTION 5-403: APPLICATION

Application for a city sales and solicitation permit shall be made between the hours of 8:00 a.m. and 3:00 p.m., Monday through Friday, excluding holidays, to the Yutan Police Department on a form furnished by the department. Incomplete applications shall be rejected. Before issuance of any permit, the department shall conduct a background investigation on each applicant. Convicted felons and persons convicted of crimes involving dishonesty or moral turpitude shall not be issued permits. Background investigations shall be completed within seven working days. (Am. Ord. 687, 10-18-11)

SECTION 5-404: PERMIT FEE; BOND

A. All peddlers and solicitors, other than those exempted by Section 5-408, are required to pay an administrative fee to the city clerk for each peddler or solicitor to defray the cost of issuing the permit and investigating the applicant. Such fee shall be as set by resolution of the City Council and placed on file in the office of the city clerk.

B. Solicitors shall also be required to post a license permit bond in the principal amount of $2,000.00, guaranteeing future delivery of products ordered. Such bond shall be written by an approved surety company and shall be effective for at least six months from the date of the sales and solicitation permit. Organizations employing or utilizing solicitors as independent contractors may purchase a single license permit bond in the amount of $5,000.00 for up to ten solicitors. Any such bond posted by an organization employing or utilizing solicitors as independent contractors

shall identify by name all persons covered by such bond.
(Ord. 687, 10-18-11)

SECTION 5-405: PERMIT REVOCATION

A. A sales and solicitation permit may be revoked by the city clerk or chief of police for the following reasons:

1. Complaints of high pressure sales;
2. Providing incomplete or false information about the company or its sales agent, supervisors, products or services;
3. After hours operation violations;
4. Indicating a fictitious affiliation with groups or companies;
5. Entering upon any private premises posted with a sign stating, "No Peddlers Allowed", "No Solicitation Allowed", or other words to that effect;
6. Conviction of a felony or other crime involving dishonesty or moral turpitude;
7. Improper transfer of a permit; or
8. Other solicitor misconduct as determined by the Police Department.

B. A denial or revocation of a sales and solicitation permit may be appealed to the City Council within ten days of such revocation. Such appeal must be in writing and shall be considered and decided by the Council within 30 days. The Council may consider such appeals at any regular or specially called meeting and may conduct a hearing according to such rules as the Council may establish.

C. The City may seek forfeiture of a license permit bond posted by a solicitor or organization where products ordered are not delivered as promised or in the event of fraud, misrepresentation, or deceit by a solicitor. Funds recovered by such action shall first be applied to the City's cost of recovery, if any, and thereafter to parties injured by the wrongful actions of the solicitor. If the amount of the funds recovered from such forfeiture is insufficient to pay all claims, such claims shall be paid proportionately as determined by the City Council.
(Ord. 687, 10-18-11)

SECTION 5-406: HOURS

It shall be unlawful for an uninvited peddler or solicitor to visit any house, dwelling or residence for the purpose of making sales or soliciting orders or donations before 8:00 a.m. or after sunset. (Ord. 687, 10-18-11)

SECTION 5-407: DISPLAY OF PERMIT

Every peddler and solicitor must carry on his/her person and shall display the sales and solicitation permit issued by the city clerk while engaged in sales or solicitations. Sales and solicitation permits are not transferable. (Ord. 687, 10-18-11)

SECTION 5-408: EXCEPTIONS

Volunteers or other individuals who are not paid or otherwise compensated to sell or solicit on behalf of non-profit organizations, such as schools, scout troops, churches and other non-profits, shall be exempt from the requirements set forth herein. Organizations sponsoring or directing such sales or solicitations shall, upon request, provide documentation of the non-profit status of the organization. (Ord. 687, 10-18-11)

Article 5 – Bingo and Lotteries

SECTION 5-501: BINGO; REGULATION; PERMIT REQUIRED

Games of bingo shall be conducted within the City in accordance with all laws of the City and the State of Nebraska if the game of bingo is played for or involves profit or gain. Any association duly licensed by the State of Nebraska to conduct the game of bingo shall obtain a written permit from the City Council before commencing operation of the game. Application shall be made to the city clerk for such permit. The 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 determination that granting the application would be proper, the City Council shall immediately direct the city clerk to issue the license to the applicant upon the payment of an annual permit fee. The license shall be subject to revocation at any time for good cause. 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. The fee for each new license or renewal as described herein shall be set by the City Council and filed in the office of the village clerk for public inspection during office hours.. All fees shall be credited to the General Fund. The permit shall be on display at any place where a game of bingo is conducted. (Neb. Rev. Stat. §9-236) (Am. Ord. 259, 9-18-84)

SECTION 5-502: BINGO; INCORPORATED REGULATIONS

All applicable state statutes governing bingo as they now exist or may hereafter be amended shall be and will constitute a part of this chapter 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 an offense. (Neb. Rev. Stat. §9-201 through 9-266)

SECTION 5-503: LOTTERIES; REGULATION

A. The lottery operator with whom the City Council contracts to conduct its lottery shall not operate the lottery at a sales outlet location other than the location of the lottery operator without prior approval of the sales outlet location by the City Council. The City Council shall approve or disapprove each sales outlet location and individual, sole proprietorship, partnership, limited liability company, or corporation which desires to conduct the lottery at its sales outlet location solely on the basis of the qualification standards prescribed in subsection (B) of this section.

B. Any individual, sole proprietorship, partnership, limited liability company, or corporation which seeks to have its location approved as an authorized sales outlet location shall:

1. First obtain a retail liquor license for consumption on the premises pursuant to Neb. Rev. Stat. Chapter 53, Article 1;

2. Not have been convicted of, forfeited bond upon a charge of, or pleaded guilty to forgery, larceny, extortion, conspiracy to defraud, willful failure to make required payments or reports to a governmental agency at any level, filing false reports with any such agency, or any similar offense or offenses or any crime, whether felony or misdemeanor, involving gambling activity or moral turpitude;

3. Not have had a gaming license revoked or canceled under the Nebraska Bingo Act, the Nebraska Pickle Card Lottery Act, the Nebraska Lottery and Raffle Act, or the Nebraska County and City Lottery Act; and

4. Be fit, willing, and able to provide properly the service proposed in conformance with all provisions and requirements of the Nebraska County and City Lottery Act and the rules and regulations adopted and promulgated pursuant to the act.

C. If the person seeking to have its location approved as an authorized sales outlet location is a partnership, limited liability company, or corporation, the qualification standards shall apply to every partner of such partnership, every member of such limited liability company, every officer of such corporation, and every stockholder owning more than 10% of the stock of such corporation.

D. The City Council shall notify the Department of Revenue of all approved lottery locations within 30 days of approval.
(Neb. Rev. Stat. §9-642.01)

SECTION 5-504: LOTTERIES; PARTICIPATION; RESTRICTIONS

A. No person under 19 years of age shall play or participate in any way in the lottery established and conducted by the City. (Neb. Rev. Stat. §9-646(1))

B. No owner or officer of a lottery operator with whom the City contracts to conduct its lottery shall play the lottery conducted by the City. No employee or agent of the City, lottery operator, or authorized sales outlet location shall play the lottery of the City for which he/she performs work during such time as he/she is actually working at such lottery or while on duty. (Neb. Rev. Stat. §9-646(3))

C. No person or employee or agent of any person or the City shall knowingly permit an individual less than 19 years of age to play or participate in any way in the lottery conducted by the City. (Neb. Rev. Stat. §9-646(4))

D. Nothing shall prohibit:

1. Any member of the City Council, a city official, or the immediate family of such member or official; or

2. An owner or officer of an authorized sales outlet location for the City from playing the lottery conducted by the City as long as such person is 19 years of age or older.

E. For purposes of this section, “immediate family” of a member of the City Council or a city official shall mean a person who is related to the member or official by blood, marriage, or adoption and resides in the same household; or a person who is claimed by the member or official or the spouse of the member or official as a dependent for federal income tax purposes.

(Neb. Rev. Stat. §9-646)

SECTION 5-505: LOTTERIES; KENO; QUALIFICATION STANDARDS

A. The following qualification standards are hereby established by the City and shall be met by any individual, sole proprietorship, partnership, limited liability company, or corporation seeking to have its location qualify as an authorized sales outlet location for conducting the Yutan keno lottery.

B. Each applicant for a keno location shall submit to the City:

1. A copy of the completed Nebraska Schedule II/Form 50g-County/City Lottery Sales Outlet Location application as required by the Subsection of Charitable Gaming of the Nebraska Department of Revenue.

2. A copy of the written agreement between the lottery operator and the sales outlet location, hereinafter referred to as satellite location.

3. Any other information reasonably requested by the City.

C. The City shall be immediately notified of any interruption or cessation of operations at any keno satellite location. The City Council shall approve all satellite locations subject to the procedures and criteria set forth herein by resolution prior to the licensing of said satellite location and the conducting of any keno lottery operation there.

D. The direct or indirect transfer of any financial interest in the satellite location shall automatically terminate the City's approval of said satellite location; provided, however, the satellite operator shall be permitted to remain in operation for a period not to exceed 120 days under an agency agreement with the existing satellite operator. During said 120-day period, the applicant shall diligently pursue the application process and procedure. Also during said 120-day period, the City may revoke continued operation of the proposed application for due cause. Conduct of the keno lottery at said satellite location shall thereafter continue only upon application to the City and approval thereof to the terms and conditions of this section.

E. Satellite keno location criteria:

1. All locations shall provide the number of off-street parking stalls required by the zoning regulations of the City.

2. All locations shall provide seating capacity sufficient to accommodate persons who may wish to come to the location to observe or play keno or to engage in any other activities conducted on the premises.

3. All locations shall have sufficient facilities to permit the sale of keno tickets.

4. All locations shall have a board or other monitor, clearly visible to players, on which the winning numbers are displayed.

5. All locations shall have proper security for the keno lottery operations and associated activities.

6. All persons with any direct or indirect financial interest in the operation of keno at any location must be of good character and financially responsible.

7. The operation of the keno lottery at any satellite location must not create any undue impact on the surrounding neighborhood due to noise, congestion, or other circumstances.

8. The lottery operator shall not be in material default under the Lottery Operator Agreement at the time the application is acted upon by the City Council.

9. All locations and operations at all locations must meet all requirements of applicable federal, state and local law.

(Ord. 612, 2-17-04)

Article 6 – Bowling

SECTION 5-601: DEFINITIONS

For the purpose of this chapter, the following definition shall apply unless the context clearly indicates or requires a different meaning.

“Bowling alley” shall mean any room, building, or structure in which a game consisting of rolling a heavy ball down a wooden lane in an attempt to knock over wooden pins set upright at the opposite end of the lane is played, whether or not it is in connection with any other business.

SECTION 5-602: REGULATION; LICENSE REQUIRED

It shall be unlawful for any person or persons to own, maintain, or operate any bowling alley for profit without having first obtained a license from the City. Any person desiring a license to operate, maintain, or own a bowling alley shall file a written application with the city clerk. The 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 determination that the granting of the license would be beneficial to the City, the Council shall immediately direct the city clerk to issue the license to the applicant upon the payment of a fee set by resolution. The license shall be subject to revocation at any time for good and sufficient cause by the Council upon the issuance of proper notice and a hearing if the licensee should make such a request. Any person or persons so licensed shall be subject to any bond, fees, or other rules and regulations as may be set by resolution of the City Council for the benefit of the City.

Article 7 – Pool and Billiards

SECTION 5-701: DEFINITION

For the purpose of this chapter, the following definition shall apply unless the context clearly indicates or requires a different meaning.

“Pool and billiards” shall mean a game played on a table in which the object is to drive balls into the pockets and which is conducted for profit or gain. All ordinances relating to pool and billiards shall apply to any such game whether or not it is conducted in connection with any other business.

SECTION 5-702: REGULATION; LICENSE REQUIRED

It shall be unlawful for any person or persons to own, maintain, or operate any game of pool or billiards for profit or gain without having first obtained a license from the City. Any person desiring a license to operate, maintain, or own a pool or billiard game or hall shall file a written application with the city clerk. The 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 the granting of the license would be beneficial to the City, the City Council shall immediately direct the city clerk to issue the license to the applicant upon the payment of a fee set by resolution. The license shall be subject to revocation at any time for good and sufficient cause by the Council upon the issuance of proper notice, and a hearing if the licensee should make such a request. Any person or persons so licensed shall be subject to any bond, fees, or other rules and regulations as may be set by resolution of the City Council for the benefit of the City.

SECTION 5-703: OPERATOR'S RESPONSIBILITY

It shall be unlawful for the owner or operator of a pool and billiards establishment to allow or permit any disturbance of the peace, fighting, gambling, drunkenness, use of profanity, or obscene books and pictures.

Article 8 – Pinball and Jukebox Machines

SECTION 5-801: PINBALL; REGULATION; LICENSE REQUIRED

It shall be unlawful for any person or persons to display for public use, own, maintain, or operate any pinball machine, game, or other mechanical amusement device which, upon the insertion of a coin, may be operated for amusement, without first obtaining a license from the City. Application shall be made to the city clerk and shall contain all information and documents which the City Council may deem necessary to determine whether to grant or reject the application. Upon the determination that it would be proper to grant such application, the Council shall immediately direct the city clerk to issue the license to the applicant upon the payment of the appropriate fee. Nothing herein shall be construed to authorize or legalize any machine or device prohibited by law. Any license so granted shall be subject to revocation by the City Council for good cause after proper notice has been served and the licensee has been allowed a hearing.

SECTION 5-802: PINBALL; GAMBLING PROHIBITED

It shall be unlawful for any person to allow any patron of his or her business, in which pinball machines or other mechanical devices used for amusement purposes are present, to use the machines for gambling purposes.

SECTION 5-803: JUKEBOX; REGULATION; LICENSE REQUIRED

It shall be unlawful for any person or person to own, maintain, or operate any jukebox machine for profit or gain without first having obtained a license. Any person desiring a license shall file an application with the city clerk, supplying such information as the City Council deems necessary to determine whether to grant or reject the application. Upon the determination that the granting of the license would be beneficial and proper, the City Council shall immediately direct the city clerk to issue the license to the applicant upon the payment of a fee set by resolution. The license shall be subject to revocation at any time for good and sufficient cause by the Council. Any person or persons so licensed shall be subject to any fees or other rules and regulations as the City Council may set for the benefit of the City.

Article 9 – Trailer Camps

SECTION 5-901: DEFINITIONS

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

"Board of Health" shall mean the Board of Health as created in Section 2-401 of this code.

"Fire prevention authority" shall mean the City Fire Department.

"Permit" shall mean a written permit issued by the city clerk, permitting the trailer court to operate under this code and any regulations promulgated thereunder.

"Street" shall mean any public street, avenue, road, alley, or highway located in the City and established for the use of vehicles, the boundaries of which are hereby determined to be the outer boundaries of the street, avenue, road, or alley as platted and dedicated as shown by the official records of the City and the County as shown on the official records in the office of the county clerk as official streets, avenues, roads, or alleys within the corporate limits.

"Trailer or trailer coach" shall mean any vehicle or structure so designed and constructed in such manner as will permit occupancy thereof as sleeping quarters for one or more persons or the conduct of any business or profession, occupation, or trade (or use as a selling or advertising device), and so designed that it is or may be mounted on wheels and used as a conveyance on highways or city streets, propelled or drawn by its own or other motive power, excepting a device used exclusively upon stationary rails or tracks.

"Trailer camp" shall mean any park, trailer park, trailer court, court, camp, site, lot, parcel, or tract of land designed, maintained, or intended for the purpose of supplying a location or accommodations for any trailer coach or trailer coaches and upon which any trailer coach or trailer coaches are parked, including all buildings used or intended for use as part of the equipment thereof, whether a charge is made for the use of the trailer camp and its facilities or not but not including automobile or trailer sales lots on which unoccupied trailers are parked for purposes of inspection and sale.

"Trailer space" shall mean a plot of ground within a trailer court, designated for the accommodation of one trailer coach.

"Travel trailer, camper, and converted bus" shall mean any portable structure or vehicle supported upon its own axle or axles, used or so constructed as to permit its being used as a conveyance upon the public streets or highways and duly licensable as such and constructed in such a manner as will permit occupancy thereof as a dwelling or sleeping place for one or more persons for a limited or temporary time or basi-

cally designed for travel or camping purposes, propelled or drawn by its own or other motive power.

SECTION 5-902: PERMIT REQUIRED

A. It shall be unlawful for any person to construct, maintain, operate, or alter any trailer camp within the corporate limits unless the person holds a valid permit in the name of that person for the specific trailer camp. All applications for permits shall be made to the city clerk, who shall issue a permit upon compliance by the applicant with provisions of this code relative to trailer camps.

B. No permit shall be transferable.

C. Every person holding such a permit shall give notice in writing to the city clerk within 72 hours after having sold, transferred, given away, or otherwise disposed of any interest in or control of any trailer court. The notice shall include the name and address of the person succeeding to the ownership or control of the trailer court.

D. Applications for permits shall be in writing, signed by the applicant, and accompanied by an affidavit of the applicant as to the truth of the application and shall contain the following:

1. The name and address of the applicant.
2. The location and legal description of the trailer court.
3. A complete plan of the trailer court, showing compliance with all applicable provisions of this code and regulations promulgated thereunder.
4. Such further information as may be requested by the Board of Health to enable the Board to determine that the proposed trailer court will comply with legal requirements.

SECTION 5-903: MAINTENANCE

All trailer camps shall be maintained under the management and supervision of the owner or person in control of the premises on which the same is located or of a duly authorized representative of such owner, who shall be personally responsible for the maintenance of such trailer camp in accordance with all sanitary and fire protection rules and regulations of the City and the State of Nebraska.

SECTION 5-904: REVOCATION OF PERMIT

A permit to establish and maintain a trailer camp may be revoked by the City Council for cause at any time for a violation of the provisions of this code or of the rules and regulations relating to trailers or for any other cause or conduct, reasonably deemed by the City Council as sufficient cause of revocation of such permit. Before the revocation of a permit, the City shall cause to be served on the operator of the trailer

camp a notice to appear and show cause on a specified day and at a specified time why his/her permit for the trailer camp should not be revoked. The notice to show cause may be served by mailing the same in the United States mails to the address of the operator given in his/her application for permit, with sufficient postage affixed thereto. The operator of the trailer camp involved shall be given reasonable opportunity to be heard at the time fixed for the appearance to show cause and no permit for a trailer camp shall be revoked until the operator involved has been heard at the designated time if the operator desires to be heard.

SECTION 5-905: PROHIBITED PARKING

It shall be unlawful for any person to park any trailer coach, travel trailer, camper, or converted bus on any official street, avenue, road, alley, or highway within the corporate limits for a period of time in excess of two hours and then only between the hours of sunrise and sunset, subject to any other and further prohibitions, regulations, or limitations imposed by the traffic and parking regulations and as any resolution of the City Council may provide relating thereto.

SECTION 5-906: AUTHORIZED CAMP

A. Trailer camps shall be located on well-drained sites and shall be so located that drainage will not endanger any water supply. All trailer courts shall be in areas free from marshes, swamps, or other potential breeding places for insects or rodents.

B. The area of the trailer camp shall be large enough to accommodate the following:

1. The designated number of trailer court spaces.
2. Necessary streets and roadways.
3. Parking areas for motor vehicles.
4. Service areas and playgrounds for trailer camps in which independent trailer coaches only are parked.

C. The number of trailers to be accommodated in any trailer camp shall not exceed the number obtained by dividing the total square foot area of the trailer camp site by 2,600. Each trailer space shall be clearly defined and shall be laid out in such a manner that a minimum of 20 feet of space exists between any two trailers or 10 feet between any trailer and any building. No trailers shall be less than 5 feet from any adjacent property of the trailer court. Each trailer space shall abut on a driveway with unobstructed access to a public street. No trailer camp shall be licensed unless the same is large enough to accommodate a minimum of 15 trailers.

D. It shall be illegal to park a trailer coach less than 2 feet from any street or highway right-of-way or so that any part of the trailer will obstruct any roadway or walkway.

E. It shall be illegal to allow any trailer coach to remain while being occupied for dwelling or sleeping purposes in a trailer camp unless a trailer space is available.

F. Access roads shall be provided to each trailer coach space. Each access road shall be continuous, shall connect with a street or highway, and shall have a minimum width of 20 feet.

G. Areas shall be provided for the parking of motor vehicles. Such areas shall have motor vehicle parking spaces in a number equal to or in excess of the number of trailer coach spaces provided.

H. Playground areas, when required, shall be provided and shall be restricted to such use. These areas shall be protected from the main highway and from parking areas. A minimum of 100 square feet per coach space shall be made available in one or more places for such playground areas.

SECTION 5-907: ALTERATIONS AND ADDITIONS

A. No permanent enclosed additions of any kind shall be built onto nor become a part of any trailer coach. Skirting of coaches is permissible but skirting shall not attach the trailer permanently to the ground, provide a harborage for rodents, or create a fire hazard.

B. The wheels of the trailer shall not be removed except temporarily when necessary for repairs. Jacks or stabilizers may be placed under the frame of the trailer to prevent movement on the springs while the trailer is parked and occupied. Four anchors shall be provided for each trailer coach space. Each trailer shall be anchored as soon as possible after location on space.

SECTION 5-908: WATER SUPPLY

An adequate supply of pure water shall be provided, furnished through a pipe distribution system connected directly with a city water main with supply outlets located at every trailer space.

SECTION 5-909: APPLICABILITY OF PLUMBING, ELECTRICAL, AND BUILDING CODES

All plumbing, electrical, building, and other work on or at any camp shall be in accordance with the laws of the City regulating such work.

SECTION 5-910: PERMITTED EXCEPTIONS

A. Trailers commonly referred to as "double-wide" or any other trailer coach or coaches having a minimum outside width of 20 feet and containing 800 square feet or more of living space, when placed upon permanent foundation or support with ax-

le, wheels, and towing apparatus removed, on premises owned or leased by the owner of the trailer coach, when used as a residence or a trade or business, shall be exempt and excepted from the provisions of this chapter.

B. Any trailer coach which qualified under the exceptions herein shall be so located and placed in such a manner that the same shall comply with the building code and, further, shall comply and be so placed in such a manner as to safeguard the health and safety of the occupants of the trailer and of the general public.

SECTION 5-911: TEMPORARY STORAGE

It shall be lawful for any person to store or otherwise keep on any premises travel trailers or campers propelled or drawn by their own or other motive power, provided that the trailer or camper be stored as nearly as possible to the back of the premises. It further shall be lawful for any person to keep and maintain upon any premises a travel trailer or camper propelled or drawn by its own or other motive power to be used for occupancy as dwelling or sleeping space for any period not to exceed two weeks in duration. Any travel trailer or camper propelled or drawn by its own or other motive power so temporarily placed shall be placed upon the premises or portion thereof as far away as possible from the street abutting the premises.

Article 10 – Junkyards

SECTION 5-1001: DEFINITIONS

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

“Junk” shall mean scrap metals, scrap materials, whether they are liquids, solids, or gases, branches of trees, and dismantled or wrecked automobiles, tractors, and machinery or parts thereof.

“Junk collector” shall mean any person going from place to place or house to house collecting or buying iron, copper, brass and zinc scraps, rags, bottles, or old paper and selling the same to a junk dealer.

“Junk dealer” shall mean any person engaged in the business of buying, selling, receiving, collecting, or dealing in metal scraps, scrap iron, metals of any kind and in any form, bottles, rags, and used tires; the dismantling or taking apart of automobiles, other than for repair, or the wrecking of automobiles; the storage of automobiles unfit for operation; the storage of automobile bodies and parts thereof; the storage of automobiles or parts thereof kept for salvage; the storage of scraps from automobiles; or the storage of iron, metals, or junk.

“Junkyard” shall mean any place in the City where or from which any person shall conduct, engage in, or carry on the business of junk dealer as herein defined.
(Neb. Rev. Stat. §69-201 et seq.)

SECTION 5-1002: REGULATION; LICENSE REQUIRED

It shall be unlawful for any person to own, operate, or hold open for public use any junkyard as herein defined without first obtaining a license to do so from the City. Application for a license to own, operate, or hold open for public use any junkyard shall be made in writing to the city clerk and shall require such information and documents, or copies thereof, that the City Council deems necessary to determine whether to grant or reject the application. Upon approval of the application, the city clerk shall issue the license upon the payment of a fee set by resolution of the City Council. The licensee shall then be subject to any occupation taxes, bond requirements, and other rules and regulations which the Council may determine to be beneficial to the City. Any such bond shall be set by resolution of the City Council and will be conditioned upon the faithful observance of the provisions of this code. The bond shall be held for the benefit of any person who may suffer damage by the improper management of the junkyard.

SECTION 5-1003: OWNER'S RESPONSIBILITY

The owner of the premises upon which a junkyard is located shall be equally responsible with the operator, director, or employees thereof to see that the provisions of

this code will not be violated. In the event the provisions of this code are violated, the owner shall be equally liable with the operator, director, or employee for the said violation of the provisions herein.

SECTION 5-1004: INSPECTIONS

The city police, health officials, and the City Council shall have the power and authority to inspect and examine the premises on which a junkyard is located, provided that the said inspection is carried out at a reasonable time. Upon a finding that the owner, operator, director, or employee has allowed a health or safety hazard to develop, the City Council shall give written notice to the owner to remove the said health hazard within 30 days. (Neb. Rev. Stat. §69-204)

SECTION 5-1005: NUISANCE

Any junkyard that becomes a danger to the public health or is not operated in the manner herein provided shall be deemed to be a public nuisance after the said 30-day period of grace. The City Council shall then request the city attorney to prosecute the owner, operator, director, or employee of the said nuisance for violation of the provisions of this chapter. (Neb. Rev. Stat. §18-1720)

Article 11 – Sidewalk Cafes

SECTION 5-1101: SIDEWALK CAFES PERMISSIBLE

The City Council may permit the public streets and sidewalks within the city limits to be occupied and used under a lease, license, or other permission by a person, business, or others for the sale of services or goods and to permit the placement of non-permanent sidewalk cafes, tables, chairs, benches, and other temporary improvements from which such sales can be transacted on the public streets and sidewalks. (Neb. Rev. Stat. §19-4301)

Article 12 – Penal Provision

SECTION 5-1201: VIOLATION; PENALTY

Any person who shall violate or refuse to comply with the enforcement of any of the provisions of this chapter, set forth at full length herein or incorporated by reference shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be fined no more than $500.00 for each offense. A new violation shall be deemed to have been committed every 24 hours of such failure to comply.

CHAPTER 6 – PUBLIC WAYS AND PROPERTY

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CHAPTER 6 – PUBLIC WAYS AND PROPERTY

Article 1 – Municipal Property

SECTION 6-101: DEFINITIONS

For the purpose of this chapter, the following definition shall apply unless the context clearly indicates or requires a different meaning.

"Sidewalk space" 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 and in repair and free from nuisances. (Neb. Rev. Stat. §17-567 (1))

SECTION 6-103: OBSTRUCTIONS REGULATED

A. Trees and shrubs growing upon or near the lot line or upon public ground interfering with the use or construction of any public improvements shall be deemed an obstruction under this chapter. The roots may be removed by the City at the expense of the owner of the property upon which the tree is located should the owner fail, or neglect, after notice, to do so.

B. The public ways and property shall be considered to be obstructed when the owner or occupant of the adjacent property shall permit or suffer to remain on any premises owned or controlled by him/her any hedge, shrubbery, bush, or similar growth within two feet adjacent to the lot line whether there is a sidewalk abutting or adjoining such premises or not. It shall be the duty of owners and occupants to at all times keep trimmed and pruned all such similar growth. Whenever any such growth is allowed to grow within two feet of the lot line contrary to the provisions of this chapter, the City Council may pass a resolution ordering the owner or occupant to remove such obstructions within five days after having been served with a copy of the resolution stating that the City will do so and will charge the costs thereof to the owner or occupant as a special assessment for improvements as herein provided or shall collect the same by civil suit brought in the name of the City against the owner or occupant.

C. Trees and shrubs growing upon the lot line partially on public ground and partially upon the abutting property or wholly upon the abutting property but so close to the lot line as to interfere with the making of any public improvement or so that the roots thereof interfere with any utility wires or pipe shall be deemed an obstruction, and such trees, shrubs, and roots may be removed by the City pursuant to the pro-

cedure prescribed above. 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.

D. 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. §17-555, 17-557 and 17-557.01)

SECTION 6-104: OBSTRUCTIONS; BARRICADES AND LIGHTS

It shall be the duty of an owner or occupant engaged in construction of any building or improvement upon or near the public ways and property to have all excavations or exposures of any kind protected and guarded by suitable guards or barricades by day and by warning lights at night. In the event of failure, neglect, or refusal to comply with the provisions of this subsection, it shall be the duty of the City to stop all work upon the buildings and improvements until suitable guards are erected and kept in the manner aforesaid. (Neb. Rev. Stat. §17-142)

SECTION 6-105: OBSTRUCTIONS; BUILDING MATERIALS AND EQUIPMENT

Persons engaged in the erection, construction, reconstruction, wrecking, or repairing of any building or the construction or repair of a sidewalk along any street may occupy the public street space with such building material and equipment as long as is necessary if such persons shall make application to and receive a permit in writing from the City official in charge of City streets to do so, provided that no permit for the occupancy of the sidewalk space and more than one-third of the roadway of the public space adjacent to the real estate on which said building is to be constructed, erected, reconstructed, wrecked, or repaired shall be granted, and provided further that a suitable shall be protected and lighted in the manner required by the official issuing the permit. (Neb. Rev. Stat. §17-142)

SECTION 6-106: CUTTING CURB; PERMIT, DEPOSIT, BOND

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 a written permit from the City Council therefor. Before any person shall obtain a permit, the person shall inform the city clerk of the place where such cutting is to be done and it shall be the utilities superintendent's duty to inspect the place of entry into the paving, sidewalk, or curb, before the same is cut.

B. Before any permit is issued by the City Council the applicant for such permit shall deposit with the city treasurer a sum set by resolution of the City Council for all paving, curb, or sidewalk to be cut. Such sum shall be set on a per square foot cost

of construction basis. The deposit shall be retained by the City for the purpose of replacing the paving, curb, or sidewalk, in the event that the work is done by the City. In the event that the City elects to require the applicant to replace the paving, curb, or sidewalk, the deposit shall be retained by the City until the work is completed to the satisfaction of the utilities superintendent or of the committee of the City Council on streets and alleys. In addition to making the deposit above set forth, the applicant shall, before any permit is issued, execute a bond to the City with a good and sufficient surety or sureties to be approved by the City Council in a sum set by resolution.

C. When cutting into any paving, it shall be the duty of the party 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, the applicant 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 utilities superintendent or the committee of the City Council on the streets and alleys, to do the work of cutting and closing the paving and charge the costs thereof to the party who obtained such permit. The City Council may consent to having the cutting and closing of the paving done by the party holding such permit.
(Neb. Rev. Stat. §17-567)

SECTION 6-107: EAVE 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 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 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 the eave spouts into the alley. (Neb. Rev. Stat. §17-557)

SECTION 6-108: HEAVY EQUIPMENT; SPECIAL TIRES

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 curb, gutter, bridge, culvert, sidewalks, crosswalk, or crossing with heavy plank sufficient in strength to warrant against the breaking or damaging of such curb, gutter, bridge, culvert, sidewalk, crosswalk, or crossing. Hereafter, it shall be unlawful to run, 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 the pavement, with wheels having cutting edges, with wheels having lugs, any 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, provided that, where heavy vehicles, structures, and machines move along paved or unpaved streets, the city police are hereby authorized and empowered to choose the route over which the moving of such vehi-

cles, structures, or machines will be permitted and allowed.

B. Nothing in this section shall be construed to apply to pneumatic tires with metal or metal-type studs not exceeding five-sixteenths of an inch in diameter inclusive of the stud-casting with an average protrusion beyond the tread surface of not more than seven-sixty fourths of an inch between November 1 and March 15; provided, (1) school buses and emergency vehicles shall be permitted to use metal or metal-type studs all year; (2) it shall be permissible to use farm machinery with tires having protuberances which will not injure the streets; (3) it shall be permissible to use tire chains of reasonable proportions upon any vehicle when required for safety because of snow, ice, or other condition tending to cause a vehicle to slide or skid; and (4) it shall be permissible to use a rubber-tired crane with a fixed load when such vehicle will be transported on a state highway or on any road within the corporate limits of the City, if the City Council has authorized a one-day permit for the transportation of the crane, specified the route to be used and the hours during which the crane can be transported, such vehicle is escorted by another vehicle or vehicles assigned by the City, and such vehicle's gross weight does not exceed the limits set out in Neb. Rev. Stat. §60-6,294(10).
(Neb. Rev. Stat. §60-6,250, 60-6,288(2) (j))

SECTION 6-109: ACQUISITION OF REAL PROPERTY; CONSTRUCTION; ELECTIONS, WHEN REQUIRED

A. The City is authorized and empowered to purchase, accept by gift or devise, purchase real estate upon which to erect, and 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 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. (Neb. Rev. Stat. §17-953)

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 be-

fore 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 subsection (1) above 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. §17-953.01) (Ord. 498, 3-19-96)

SECTION 6-110: ACQUISITION OF REAL PROPERTY; AUTHORIZATION

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) (Am. Ord. 455, 4-18-95)

SECTION 6-111: ACQUISITION OF REAL PROPERTY; 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) (Am. Ord. 456, 4-18-95)

SECTION 6-112: SALE AND CONVEYANCE OF REAL PROPERTY

A. Except as provided in subsection (H) of this section, the power of the City 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 property and the manner and terms thereof, except that such 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.

B. The City Council may establish a minimum price for real property at which bidding shall begin or shall serve as a minimum for a sealed bid.

C. After the passage of the resolution directing the sale, notice of all proposed

sales of 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.

D. If within 30 days after the third publication of the notice a remonstrance against such sale is signed by registered voters of the city equal in number to 30% of the registered voters of the city voting at the last regular city election held therein and is filed with the City Council, 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.

1. Upon the receipt of the remonstrance, the City Council, with the aid and assistance of the county clerk, shall determine the validity and sufficiency of signatures on the remonstrance. The Council shall deliver the remonstrance to the county clerk by hand carrier, by use of law enforcement officials, or by certified mail, return receipt requested.

2. Upon receipt of the remonstrance, the county clerk shall issue to the City Council a written receipt that the remonstrance is in his/her custody. The county clerk shall compare the signature of each person signing the remonstrance with the voter registration records to determine if each signer was a registered voter on or before the date on which the remonstrance was filed with the City Council. The county clerk shall also compare the signer's printed name, street and number or voting precinct, and city or post office address with the voter registration records to determine whether the signer was a registered voter. The signature and address shall be presumed to be valid only if the county clerk determines that the printed name, street and number or voting precinct, and city or post office address matches the registration records and that the registration was received on or before the date on which the remonstrance was filed with the City Council. The determinations of the county clerk may be rebutted by any credible evidence which the City Council finds sufficient. The express purpose of the comparison of names and addresses with the voter registration records, in addition to helping to determine the validity of the remonstrance, the sufficiency of the remonstrance, and the qualifications of the signer, shall be to prevent fraud, deception, and misrepresentation in the remonstrance process.

3. Upon completion of the comparison of names and addresses with the voter registration records, the county clerk shall prepare in writing a certification under seal setting forth the name and address of each signer found not to be a registered voter and the signature page number and line number where the name is found and if the reason for the invalidity of the signature or address is other than the non-registration of the signer, the county clerk shall set forth the reason for the invalidity of the

signature. If the county clerk determines that a signer has affixed his/her signature more than once to the remonstrance and that only one person is registered by that name, the county clerk shall prepare in writing a certification under seal setting forth the name of the duplicate signature and shall count only the earliest dated signature.

4. The county clerk shall certify to the City Council the number of valid signatures necessary to constitute a valid remonstrance and shall deliver the remonstrance and the certifications to the Council within 40 days after the receipt of the remonstrance from the Council. The delivery shall be by hand carrier, by use of law enforcement officials, or by certified mail, return receipt requested. Not more than 20 signatures on one signature page shall be counted.

5. The City Council shall, within 30 days after the receipt of the remonstrance and certifications from the county clerk, hold a public hearing to review the remonstrance and certifications and receive testimony regarding them. The Council shall, following the hearing, vote on whether or not the remonstrance is valid and shall uphold the remonstrance if sufficient valid signatures have been received.

E. 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, shall be conveyed strictly in accordance with the conditions of Neb. Rev. Stat. §18-1001 to §18-1006.

F. Following passage of the resolution directing a sale, publication of the notice of the proposed sale, and passage of the 30-day right-of-remonstrance period, the property shall then be sold.

G. Such sale shall be confirmed by passage of an ordinance stating the name of the purchaser and terms of the sale. (Neb. Rev. Stat. §17-503)

H. Subsections (A) through (G) of this section shall not apply to the sale of real property if the authorizing resolution directs the sale of real property having a total fair market value of less than $5,000. 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. The notice shall give a general description of the property offered for sale and state the terms and conditions of sale. Confirmation of the sale by passage of an ordinance may be required.
(Neb. Rev. Stat. §17-503.01) (Ord. 440, 9-20-94) (Am. Ords. 497, 3-19-96; 642, 5-17-05)

SECTION 6-113: SALE AND CONVEYANCE OF PERSONAL PROPERTY

The power of the City to convey any personal property owned by it shall be exercised by resolution directing the sale and the manner and terms thereof. 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, notice of the sale shall also be published once in a legal newspaper published in or of general circulation in the 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) (Ord. 642, 5-17-05)

SECTION 6-114: 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. The Council shall contract therefor and shall levy 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 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. 233, 9-20-83)

SECTION 6-115: 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 street, alley, 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. 302, 9-15-87)

SECTION 6-116: SPECIAL IMPROVEMENT DISTRICT; OBJECTIONS

A. Whenever the City Council deems it necessary to make any improvements allowed by statute which are to be funded by a levy of special assessment on the property especially benefited, the Council shall by ordinance create a paving, gravel-

ing, or other improvement district and, after the passage, approval, and publication or posting of such ordinance, shall publish notice of the creation of any such district for six days in a legal newspaper of the City, if a daily newspaper, or for two consecutive weeks if it is a weekly newspaper. If no legal newspaper is published in the City, the publication shall be in a legal newspaper of general circulation in the City.

B. If the owners of record title representing more than 50% of the front footage of the property directly abutting on the street or alley to be improved file with the city clerk within 20 days after the first publication of such notice written objections to the creation of such district, such improvement shall not be made as provided in such ordinance but such ordinance shall be repealed. If objections are not filed against the district in the time and manner prescribed in this section, the City Council shall immediately cause such work to be done or such improvement to be made, shall contract for the work or improvement, and shall levy assessments on the lots and parcels of land abutting on or adjacent to such street or alley especially benefited in such district in proportion to such benefits to pay the cost of such improvement.
(Neb. Rev. Stat. §17-511) (Ord. 499, 3-19-96)

SECTION 6-117: SPECIAL 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 district, such as a sewer, paving, 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 6-118. (Neb. Rev. Stat. §19-2427) (Am. Ord. 304, 9-15-87)

SECTION 6-118: DEFERRAL FROM SPECIAL ASSESSMENTS

A. Whenever the City Council of a City creates an improvement district as specified in Section 6-115 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 meaning specified in Neb. Rev. Stat. §77-1343. (Neb. Rev. Stat. §19-2428)

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 6-115. 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 Council.

C. The City Council shall approve the application of any owner of record title upon determination that the property:

1. Is within an agricultural use zone and is used exclusively for agricultural use; and
2. The owner has met the requirements of this section. (Neb. Rev. Stat. §19-2429)

D. 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 this subsection;
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. (Neb. Rev. Stat. §19-2430)

E. 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 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. Interest upon the special assessments shall be deferred and shall accrue from the time the property becomes disqualified for deferral. The interest rate shall be the same as was charged to other property owners within the special assessment district in question and amortized over a term to coincide with the original amortization period. (Neb. Rev. Stat. §19-2431(1))

F. In cases where the deferral provided by this section is terminated as a result of a sale or transfer described in subsection (D) (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. §19-2431(2)) (Ord. 237, 9-20-83) (Am. Ord. 308, 9-15-87)

SECTION 6-119: PUBLIC WORKS INVOLVING ARCHITECTURE OR ENGINEERING; REQUIREMENTS

A. Except as provided in subsection (B) of this section, the City shall not engage in the construction of any public works involving architecture or engineering unless the plans, specifications, and estimates have been prepared and the construction has been observed by an architect, a professional engineer, or a person under the direct supervision of an architect, professional engineer, or those under the direct supervision of an architect or professional engineer.

B. Subsection (A) of this section shall not apply to the following activities:

1. Any public works project with contemplated expenditures for the completed project that do not exceed $86,000;

2. Any alteration, renovation, or remodeling of a building if the alteration, renovation, or remodeling does not affect architectural or engineering safety features of the building;

3. Performance by the City of professional services for itself if the City appoints a city engineer or employs a full-time person licensed under the Engineers and Architects Regulation Act who is in responsible charge of architectural or engineering work;

4. The practice of any other certified trade or legally recognized profession;

5. Earthmoving and related work associated with soil and water conservation practices performed on any land owned by the City that is not subject to a permit from the Department of Natural Resources;

6. The work of employees and agents of the City performing, in accordance with other requirements of law, their customary duties in the administration and enforcement of codes, permit programs, and land use regulations and their customary duties in utility and public works construction, operation, and maintenance;

7. Those services ordinarily performed by subordinates under direct supervision of a professional engineer or those commonly designated as locomotive, stationary, marine operating engineers, power plant operating engineers, or manufacturers who supervise the operation of or operate machinery or equipment or who supervise construction within their own plant;

8. The construction of water wells as defined in Neb. Rev. Stat. §46-1212, the installation of pumps and pumping equipment into water wells, and the decommissioning of water wells, unless such construction, installation, or decommissioning is required by the City to be designed or supervised by an engineer or unless legal requirements are imposed upon the City as a part of a public water supply; and

9. Any other activities described in Neb. Rev. Stat. §81-3449 to §81-3453.

(Neb. Rev. Stat. §81-3423, 81-3445, 81-3449, and 81-3453) (Am. Ord. 627, 2-15-05)

Article 2 – Sidewalks

SECTION 6-201: REQUIREMENT TO KEEP CLEAN

A. 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 sub- stance to remain upon the 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 8:30 A.M. the following day, provided that 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)

B. If the occupant or owner of the lot refuses or neglects, after five days' notice by publication or, in place thereof, personal service of such notice, to remove all encroachments from sidewalks, the City may cause such encroachments to be removed. The City shall assess the cost of the notice and removal of the encroachment against the abutting property as a special sidewalk assessment or lien. (Neb. Rev. Stat. §17-557.01) (Am. Ord. 770, 3-16-21)

SECTION 6-202: REPAIRS

A. The mayor and City Council may construct and repair sidewalks or cause the construction and repair of sidewalks in such manner as the mayor and City Council deem necessary and assess the expense thereof on the property in front of which such construction or repairs are made, after having given notice:

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 or construction. (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 ten 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 ten 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 to be assessed against the property.

C. Before the City imposes any special assessments for sidewalk repair, 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)

1. The city clerk shall mail the notice by certified mail with return receipt requested. (Neb. Rev. Stat. §13-312)

2. For purposes of this subsection, “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.
(Neb. Rev. Stat. §17-522) (Am. Ord. 628, 2-15-05)

SECTION 6-203: CONSTRUCTION BY OWNER; PERMIT

A. 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 a permit.

B. The owner shall make application in writing for a permit and file such application in the office of the city clerk. The permit shall give a description of the lot or piece of land along which the sidewalk is to be constructed. The official in charge of sidewalks shall issue the desired permit unless good cause shall appear why the permit should be denied, provided that if it is desired to construct the sidewalk at any other than the regularly prescribed location, grade, or elevation, the city official in charge of sidewalks shall submit the application to the City Council, which shall determine whether the permit should be granted or denied. It shall be unlawful for any person to construct or cause to be constructed the sidewalk at any other location, grade, or elevation than so designated 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 city official in charge of sidewalks.
(Neb. Rev. Stat. §17-522)

SECTION 6-204: CONSTRUCTION BY THE CITY

A. The City Council may, by resolution, order the construction of a sidewalk on any lot or piece of ground within the City. Notice of the Council's intention to construct the sidewalk shall be given by the city clerk by publication of notice one time in a legal newspaper of general circulation in the City.

B. A copy of the notice shall be personally served upon the occupant in possession of such property, or, when personal service is not possible, the notice shall be posted upon such premises ten days prior to the commencement of construction. The notice required in this section shall be prepared by the city attorney in accordance with the provisions of this section. Such service shall include a form of return evidencing personal service or posting as herein required.

C. The notice shall notify the owner of the premises of the passage of the resolution ordering him to construct or cause to be constructed a sidewalk within 30 days after the date of publication and further, that if he fails to construct the sidewalk or cause the same to be done within the time allowed, the City will cause the sidewalk to be constructed and the cost thereof shall be levied and assessed as a special tax against the premises, provided that the notice shall contain the official estimate of the cost of the construction and no special assessment in excess of this estimate shall be assessed against the property. 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.
(Neb. Rev. Stat. §17-522 and 17-523)

SECTION 6-205: 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 City 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 chapter upon the freeholder making, executing, and delivering to the City an agreement to the effect that the petitioning freeholder will pay the engineering service fee, that all other incidental construction costs until paid shall be a perpetual lien upon the real estate along which the freeholder desires such sidewalk to be constructed, and that the petitioner gives and grants to the City the right to assess and levy the costs of such construction against the freeholder's real estate abutting the sidewalk improvement and 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. (Neb. Rev. Stat. §17-510)

Article 3 – Streets

SECTION 6-301: NAMES AND NUMBERS

The City Council may at any time by ordinance rename any street or provide a name for any new street. Buildings used for residence or business purposes and located along such streets shall retain such numbers as the City Council may require. It shall be the duty of the city official in charge of streets, upon the erection of any new building, to assign the proper number to the said building and give notice to the owner or owners and occupant or occupants of the same. (Neb. Rev. Stat. §17-509)

SECTION 6-302: SNOW, DEBRIS, AND THE LIKE ON STREET PROHIBITED

It shall be unlawful to place, push, or deposit snow, sleet, ice, or mud or any debris, including leaves, grass, and branches, from private property onto the streets of the City. (Neb. Rev. Stat. §17-557) (Am. Ord. 507, 3-18-97)

SECTION 6-303: PROTECTION FROM DAMAGE

No person shall remove, destroy, or tear down any signal, barricade, fence, railing, or other device erected or constructed for the purpose of protecting paving, or any other work while in course of construction or after it has been constructed on any of the streets, alleys, or public grounds. No person shall drive over or upon or go upon any paving or other public works in any of the streets, alleys, or public grounds while the same is protected by any signal, barrier, fence, or railing, or until the same has been removed by the contractors or by the duly authorized officials of the City. It is hereby declared to be unlawful for any person to mar, deface, destroy, remove, or carry away any street sign or highway marker erected either by authority of the City or by the State of Nebraska within the corporate limits.

SECTION 6-304: DRIVEWAY APPROACHES

A. The utilities superintendent may require the owner of property served by a driveway approach constructed or maintained upon the street right-of-way to repair or replace any such driveway 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.

B. The city clerk shall give the property owner notice by registered letter or certified mail 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 utilities superintendent may cause such work to be done and assess the cost upon the property served by such approach.
(Neb. Rev. Stat. §18-1748) (Ord. 257, 9-18-84)

SECTION 6-305: PIPELINES AND WIRES

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 of the City. Application for location of the above shall be made to the City Council in writing. Approval by that body shall be issued in writing. Any public service company granted a right-of-way for the erection and maintenance of poles, conduits, gas mains, pipelines, and wires shall at all times erect and locate its poles, wires, gas mains, pipelines, and other appurtenances at such places and in such manner as shall be designated by the Council. Such poles, wires, gas mains, pipelines, and other appurtenances shall be removed or relocated by the companies at their own expense when requested to do so by the Council. Any such relocation shall be ordered by resolution of the City Council and the city clerk shall notify any and all companies affected. The companies shall, within 24 hours after receiving notice, at their own expense, cause the poles, wires, gas mains, pipelines, or other appurtenances to be removed. The City Council shall designate another location as closely as possible where the poles, wires, gas mains, pipelines, or other appurtenances, may be reset or placed. All poles, wires, gas mains, pipelines, or other appurtenances shall be reset, placed, or erected in such a manner that they will not interfere with the water system, sewerage system, poles, wires, and mains of any public utility, adjacent buildings, or with travel on the public ways and property. Whenever possible, all pole lines, wires, gas mains, pipelines, or appurtenances shall be confined to the alleys of the City.

SECTION 6-306: PAVING OR REPAVING; CONSTRUCTION NOTICE

The chief street official 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. The 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 the 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 the street or alley and the formal final acceptance thereof by the proper officials of the City. (Neb. Rev. Stat. §17-522)

SECTION 6-307: CONSTRUCTION ASSESSMENT

A. To defray the costs and expenses of street improvements, as may be authorized by law, the City Council shall have power and authority to levy and collect special taxes and assessments upon the lots and pieces of ground adjacent to, abutting upon, or especially benefiting from, the street, avenue, alley, or sidewalk in whole or in part opened, widened, curbed, curbed and guttered, graded, paved, repaired,

graveled, macadamized, parked, extended, constructed, or otherwise improved or repaired. The City Council, sitting as the Board of Equalization, shall review all such improvements in accordance with the procedure provided by law.

B. All special assessments shall be made by the City Council at a regular or special meeting by resolution, taking into account the benefits derived or injuries sustained in consequence of such improvements and the amount charged against same. The vote shall be recorded in the minutes. Notice of the time of holding such meeting and the purpose for which it is to be held shall be published in some legal newspaper published or of general circulation in the City at least four weeks before the same shall be held. In lieu of such aforementioned notice, personal service may be had upon the persons owning or occupying the property to be assessed. Such assessments shall be known as "special assessments for improvements" and, with the cost of notice, shall be levied and collected as a special tax in addition to the taxes for general revenue purposes, subject to the same penalties and collected in like manner as other city taxes and shall be certified to the county clerk by the city clerk forthwith after the date of levy for collection by the county treasurer unless otherwise specified.

C. After it shall have become delinquent, said assessment shall draw interest at the legal interest rate per annum. 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.
(Neb. Rev. Stat. §17-511, 17-524)

SECTION 6-308: VACATING PUBLIC WAYS; DAMAGES; PROCEDURE

A. “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 such street, avenue, alley, lane or similar public way.

B. “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, damages, or injuries suffered by the property owner are greater in degree that the rest of the City or public at large.

C. 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’s vacation of such street, avenue, alley, lane or similar public way. The appointees of the special commission shall be approved by the Council. Only special damages as herein defined shall be awarded to the abutting property owners.

D. In determining the amount of compensation to award the abutting property

owners as special damages, the aforementioned commission shall use the following rule:

> *The abutting property owner is entitled to recover as compensation the difference between the value of such property immediately before and immediately after the vacating of such street, avenue, alley, lane, or similar public way. However, if no difference in value exists, the abutting property owner is entitled to no compensation.*

E. 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*. 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 will 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. *Consent; Waiver*.

    a. 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 has no effect on claims for special damages, as defined in subsections (A) through (D) of this section by the abutting property owners but does create the presumption that the City Council's action was proper.

    b. However, if all the abutting property owners do not sign the consent/waiver form, the City Council may still proceed with vacating such street, avenue, alley, lane, or similar public way under the authority granted by Neb. Rev. Stat. §17-558 and §17-559.

3. *Ordinance*. The City Council shall pass an ordinance that shall state essentially the following:

    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 shall have an easement for maintaining all utilities.
    c. A method or procedure for ascertaining special damages to abutting property owners.

4. *Filing*. The clerk shall file a copy of the ordinance with the county register of deeds to ensure that abutting property owners can gain title to their share of the vacated street, avenue, alley, lane, or similar public way and so that such land will be drawn to the attention of the county assessor.

(Neb. Rev. Stat. §17-558 and 17-559) (Ord. 289, 9-16-86)

SECTION 6-309: OPENING, WIDENING, IMPROVING, OR VACATING; TITLE

A. The City shall have power to open, widen, or otherwise improve or vacate any street, avenue, alley, or lane within the limits of the City and also to create, open, and improve any new street, avenue, alley, or lane. All damages sustained by the citizens of the City or by the owners of the property therein shall be ascertained in that manner as shall be provided by ordinance.

B. 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.

C. When the City vacates all or any portion of a street, avenue, alley, or lane, it shall, within 30 days after the effective date of the vacation, file a certified copy of the vacating ordinance with the register of deeds for the county in which the vacated property is located to be indexed against all affected lots.

D. 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 enter upon the premises to accomplish such purposes at any and all reasonable times. (Neb. Rev. Stat. §17-558)

E. The City shall have power to create, open, widen, or extend any street, avenue, alley, off-street parking area, or other public way or annul, vacate, or discontinue the same. (Neb. Rev. Stat. §17-559, 17-558 and 17-559, 76-704 through 76-724)

Article 4 – Penal Provision

SECTION 6-401: VIOLATION; PENALTY

Any person who shall violate or refuse to comply with the enforcement of any of the provisions of this chapter, set forth at full length herein or incorporated by reference shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be fined no more than $500.00 for each offense. A new violation shall be deemed to have been committed every 24 hours of such failure to comply.

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CHAPTER 7 – PUBLIC UTILITIES

Article 1 – Utilities Generally

SECTION 7-101: UTILITY BILLS; COLLECTION

A. Bills for the water use and sewer use charges made by this chapter shall be rendered on the first day of each month, January through December. All water use and sewer use charges levied by this chapter which are not paid by the 18th day of each respective calendar month billed shall be deemed delinquent and a delinquent fee will be added to the charges levied by this chapter. All delinquent accounts shall be discontinued for charges not paid after written notice pursuant to Section 7-103 and shall be charged a posting fee when a work order to discontinue service is posted at the property. An additional administrative disconnect/reconnect fee shall be charged at the time of expiration of the notice period pursuant to Section 7-103, to be paid together with the delinquent account charges. Upon the expiration of the notice period, a work order to discontinue services shall be issued by the City and said fees shall be due and payable. The payment of the delinquent account(s) after issuance of the work order shall not waive the administrative disconnect/reconnect fee, notwithstanding the actual progress of the City in performing the work order. All of said fees shall be set by the City Council and filed in the office of the village clerk for public inspection during office hours.

B. There shall be a service charge on all insufficient funds and/or no account checks. Such service charge shall be set by the City Council and filed in the office of the village clerk. No partial payment of any water use account shall be accepted by the city clerk unless said partial payment exceeds one-half of the total of the current and accrued water use charge for said account.
(Am. by Ords. 613, 2-17-04; 669, 7-15-08)

SECTION 7-102: LIEN

In addition to all other remedies, if a customer shall for any reason remain indebted to the City for utility service furnished, such amount due, together with any rents and charges in arrears, shall be considered a delinquent utility rent which is hereby declared to be a lien upon the real estate for which the same was furnished. The city clerk shall notify in writing or cause to be notified in writing all owners of premises or their agents whenever the owner, or the owner's tenants or lessees are 60 days or more delinquent in the payment of the utilities rent. It shall be the duty of the city clerk to report to the City Council a list of all unpaid accounts due for utilities service, together with a description of the premises served. The report shall be examined and, if approved by the Council, may be certified by the city clerk to the county clerk to be collected as a special tax in the manner provided by law, and/or a lien filed with the Saunders County Register of Deeds. (Neb. Rev. Stat. §17-538, 17-925.01, 18-503) (Ord. 752, 12-17-19)

SECTION 7-103: 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 to the City as a client of 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 telephone 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 prevented upon presentation of a duly licensed physician's certificate which shall certify that the domestic subscriber or a resident within such subscriber's 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 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 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 clients of HHS may qualify for assistance in payment of their utility bill and that they should contact their caseworker 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. §70-1602 et seq.) (Am. Ord. 528, 7-15-97)

SECTION 7-104: DIVERSION OF SERVICES, METER TAMPERING, UNAUTHORIZED RECONNECTION; EVIDENCE

A. Any person who connects any instrument, device, or contrivance with any wire supplying or intended to supply electricity or electric current or connects 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 electricity, electric current, or water may be consumed without passing through the meter provided for measuring or registering the amount or quantity passing through it, and any person who knowingly uses or knowingly permits the use of electricity, electric current, or water obtained in the above mentioned unauthorized ways, shall be deemed guilty of an offense.

B. Any person who willfully injures, alters, or by any instrument, device, or contrivance in any manner interferes with or obstructs the action or operation of any meter made or provided for measuring or registering the amount or quantity of electricity or

water passing through it, without the knowledge and consent of the City shall be deemed guilty of an offense.

C. When electrical or water service has been disconnected by the City, any person who reconnects such service without the knowledge and consent of the City shall be deemed guilty of an offense.

D. Proof of the existence of any wire, pipe, or conduit connection or reconnection or of any injury, alteration, or obstruction of a meter, as provided in this section, shall be taken as prima facie evidence of the guilt of the person in possession of the premises where such connection, reconnection, injury, alteration, or obstruction is proved to exist.
(Neb. Rev. Stat. §86-329 through 86-331)

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 is susceptible of reasonable calculation; or

2. Liquidated damages of $750.00 if the amount of actual damage or loss is not susceptible of reasonable calculation.

D. In addition to damage or loss under subsection (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. (Neb. Rev. Stat. §25-21,276)

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:

1. 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

2. 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)

Article 2 – Water Department

SECTION 7-201: OPERATION AND FUNDING

The City owns and operates the Water Department through the City Council or its authorized agent. The 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 taxable value of all taxable property in the City. The revenue from the 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. The City Council shall have the authority to adopt rules and regulations for the sanitary and efficient management of the Water Department. The Council shall set the rates to be charged for services rendered by ordinance and shall file a copy of the rates in the office of the city clerk for public inspection during office hours.

SECTION 7-202: DEFINITIONS

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

“Main” shall mean 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.

“Service pipe” shall mean 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.

“Separate premises” shall mean 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.

“Supply pipe” shall mean 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.

“Utilities superintendent” shall mean the city official designated by the City Council to be in charge of city utilities or any person or service designated through private contract to perform the duties of the utilities superintendent.

SECTION 7-203: CONSUMER'S APPLICATION

Every person desiring a supply of water must make application therefor to the city clerk. The clerk may require any applicant to make a service deposit in such amount as has been set by the City Council and placed on file at the office of the city clerk. Water may

not be supplied to any house or private service pipe except upon the order of the utilities superintendent. (Neb. Rev. Stat. §17-537)

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 SERVICE 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 and may also furnish water to persons whose premises are situated outside the corporate limits of the City as and when, according to law, the City Council may see fit to do so.

B. The rules, regulations, and water rates hereinafter named in this chapter 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. 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.

C. If the consumer violates 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 except by order of said superintendent or agent.

D. 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 is destroyed by fire or other casualty, he/she shall at once inform the utilities superintendent or his agent, who shall cause the water service to be shut off at the said premises. If the consumer should fail to give such notice, the consumer shall be charged for all water used on the premises until the utilities superintendent or his agent 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 24 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 two inspections by the utilities superintendent. The first inspection shall be made when connections or repairs are completed and before the pipes are covered. The second inspection shall be made after the dirt work is completed and the service is restored. 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 that the said rules, regulations, and specifications have been reviewed and approved by the City Council.
(Neb. Rev. Stat. §17-537)

SECTION 7-207: INSTALLATION EXPENSE

A. The expense of providing water service from the main to the place of distribution shall be paid by the customer. In addition to the expense of procuring the services of a plumber and paying all expenses of furnishing and installing the necessary pipe, trenching, and other labor to bring water service from the main to the place of dispersal, the consumer shall also pay a tap fee which shall compensate the City for the expense of tapping the main and installing the meter. Such fee shall be set by resolution of the City Council and filed in the office of the city clerk, where it shall be available for public inspection during office hours. The City shall furnish a suitable meter. All materials supplied by the customer shall be subject to rejection by the utilities superintendent if he determines that the same are unsuitable or of a poor quality. It shall be unlawful for any person other than the superintendent or his duly authorized agent to tap the main.

B. All underground connections to the municipal water system shall be K-type copper pipe to be either flared or brazed. Any pipe, solders or flux used in the installation or repair of any residential or nonresidential facility which is connected to the public water supply system shall be lead-free. For purposes of this section, "lead-free" shall mean (1) solders and flux, not more than .2% lead, and (2) pipe and pipe fittings, not more than 8% lead.
(Neb. Rev. Stat. §§17-542, 71-5301) (Am. Ords. 577, 8-24-99; 714, 2-16-16)

SECTION 7-208: WATER BILLS

The utilities superintendent shall read or cause to be read water meters monthly between the 15th day and the last day of the month during which service is used. For the convenience of the customers and of the Water Department, the superintendent and his agents and employees shall be entitled to read or cause to be read the readout devices located on the exterior of customers' homes and buildings; however, the actual main meter located within the house or building shall be controlling in the event of any discrepancy between the readout device on the exterior of said house and building and the actual meter. It shall be the duty of the customers of the Water Department to present themselves monthly at the office of the city clerk to pay their bills in net cash. The utilities 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. (Am. Ord. 511, 6-17-97)

SECTION 7-209: FEES AND COLLECTIONS

The City Council has the power and authority by resolution to fix the rates to be paid by water consumers for the use of water from the Water Department. All such fees shall be on file for public inspection at the office of the city clerk, who shall bill the consumers and collect all money received by the City on the account of the Water Department. The clerk shall faithfully account for and pay to the city treasurer all revenue collected, making receipt therefor in duplicate, filing one and keeping the other on file in the Water Department's official records. (Neb. Rev. Stat. §17-540, 17-542) (Am. Ords. 191, 4-19-77; 677, 10-20-09)

SECTION 7-210: MINIMUM RATES; CONSUMER'S LIABILITY

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 the consumer shall not be liable thereafter for water rental until the water is turned on again. (Neb. Rev. Stat. §17-542)

SECTION 7-211: REPAIRS AND MAINTENANCE; DEFECTIVE METER

A. The City shall repair or replace, as the case may be, the water meter, provided no water piping needs to be altered and the City has full access to the water meter area. The City shall not be responsible for the removal of anything blocking access to the meter. For property placed in service after October 1, 2006 or for property upon which the service and supply pipe, including the stop box and valve, has been repaired and updated after January 1, 1996, the customer, at his/her own expense, shall replace and keep in repair all service and supply pipe from the main to the place of dispersal, which includes the stop box and valve. When leaks occur in service pipes, the utilities superintendent shall shut off water service until the leak is repaired at the expense of the customer to his satisfaction. All water meters shall be kept in repair by the City at its expense. When meters are worn out or need to be serviced, the City

shall furnish the meter at its expense; however, the cost of the labor to install the meter by the City or licensed plumber shall be the customer's responsibility. The City or licensed plumber shall need full access to the water meter area. The City shall not be responsible for the removal of anything blocking access to the water meter area, i.e. drywall, paneling, cabinets, or shelving. 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 and expense any reasonable number of times; provided, if the test shows the water meter to be running 2% or more fast, the expense of such test shall be borne by the City. 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. §17-537) (Am. Ords. 460, 10-18-95; 714, 2-16-16)

SECTION 7-212: SINGLE PREMISES

No consumer shall supply water to other families or allow them to take water from his/her 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 7-213: RESTRICTED USE

The City Council 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 7-214: 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, assistant fire chief, or members 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. (Neb. Rev. Stat. §17-539)

SECTION 7-215: INSPECTION

The utilities superintendent or his agent shall have free access at any reasonable time to all parts of each premises and building to or in which water is delivered for the purpose of examining the pipes, fixtures, and other portions of the system to ascertain whether there is any disrepair or unnecessary waste of water. (Neb. Rev. Stat. §17-537)

SECTION 7-216: 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 7-217: BACKFLOW PREVENTION DEVICE REQUIRED; CUSTOMER INSTALLATION AND MAINTENANCE; TESTING

A. A customer of the Water Department may be required by the utilities superintendent to install and maintain a properly located backflow prevention device at his/her expense, appropriate to the potential hazards set forth in Title 179, Nebraska Department of Health and Human Services Regulation and Licensure, and approved by the superintendent.

B. The customer shall make application to the utilities superintendent on a form provided by the City to install a required backflow prevention device. The application shall contain at a minimum the name and address of the applicant, the type of potential hazard required, protection, and the type of backflow device to be installed, including brand and model number.

C. The utilities superintendent shall approve or disapprove the application based on his opinion of whether such installation will protect the city water distribution system from potential backflow and backsiphonage hazards.

D. The installation of the device shall be subject to all other sections of this code dealing with installation of plumbing.

E. The customer shall also certify to the City at least one time annually that the backflow prevention device has been tested by a Nebraska Department of Health and Human Services Regulation and Licensure Grade VI certified water operator if the device is equipped with a test port. Such certification shall be made on a form available at the office of the city clerk.

F. Any decision of the utilities superintendent may be appealed to the City Council.
(Ord. 388, 1-19-93)

SECTION 7-218: DRILLING AND OPERATION OF WELLS AND OTHER FACILITIES; PERMIT REQUIRED

A. 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 plan, or sewage wet well.

B. In order to obtain a permit to drill and/or operate any of the facilities listed above, 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, then the City Council must approve or deny said permit.
(Ord. 313, 1-19-88) (Am. by Ord. 502, 4-16-96)

SECTION 7-219: DRILLING AND INSTALLATION OF WELLS AND OTHER FACILITIES WITHIN DESIGNATED DISTANCE FROM 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 the City water wells:

Non-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 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. 502, 4-16-96)

SECTION 7-220: VIOLATION; NUISANCE; PENALTY

In the event any of the facilities described in Section 7-218 or 7-219 are installed without first having obtained a permit from the City or operated within a designated number of feet from the city water supply, then every such facility shall be deemed a nuisance and the City Council shall abate such facility as a public nuisance. In addition thereto, any person violating any of the terms of Sections 7-218 and 7-219 is hereby determined to be guilty of an offense. The penalty for such violation shall be as set forth in Section 7-501.

SECTION 7-221: WELLHEAD PROTECTION; DEFINITION

For the purpose of this article, the following definition shall apply unless the context clearly indicates or requires a different meaning.

"Wellhead protection area" shall mean the surface and subsurface area surrounding a water well or well field supplying a public water system, through which contaminants are reasonably likely to move toward and reach such water or well field.
(Ord. 546, 6-16-98)

SECTION 7-222: WELLHEAD PROTECTION; BOUNDARIES DESIGNATED

The City Council designates a wellhead protection area for the purpose of protecting the public water supply system. The boundaries of the wellhead protection area are legally described as follows:

> All of Section 21, Township 15 North, Range 9 East; all of Section 22, except the Northeast Quarter which is east of the Burlington Northern Railroad tracks of Township 15 North, Range 9 East; all of Section 27, Township 15 North, Range 9 East; and the North Half of Section 28, Township 15 North, Range 9 East, all in Saunders County, Nebraska.

(Am. Ord. 598, 9-17-02)

SECTION 7-223: FLUORIDE PROHIBITED

On November 10, 2009, a majority of voters of the City adopted an ordinance to prohibit the addition of fluoride to the water supply per Neb. Rev. Stat. §71-3305 and the rules and procedures outlined by LB245, 2008 Nebraska Legislature. (Ord. 681, 5-18-10)

Article 3 – Sewer Department

SECTION 7-301: OPERATION AND FUNDING

The City owns and operates the city sewer system through the City Council or its authorized agent. For the purpose of defraying the cost of the maintenance and repairing of the Sewer Department, the City Council may each year levy a tax not exceeding the maximum limit prescribed by state law on the taxable value of all the taxable property in the City. The revenue from the tax shall be known as the Sewer Fund and shall be used exclusively for the purpose of maintenance and repairs of the sewer system. The utilities superintendent shall have the direct management and control of the Sewer Department, shall faithfully carry out the duties of the office, and 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. The Council shall set the rates to be charged for services rendered by ordinance and shall file a copy of the rates in the office of the city clerk for public inspection during office hours.

SECTION 7-302: DEFINITIONS

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

“Biological oxygen demand” shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days at 20° C, expressed in milligrams per liter.

“Building drain” shall mean 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 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.

“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.

“Inspector” shall mean the person or persons duly authorized by the City Council to inspect and approve the installation of building sewers and their connection to the public sewer system.

“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 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 one-half inch 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 a sewer which carries sewage and to which storm, surface, and ground waters are not intentionally admitted.

“Sewage” shall mean 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 drain” or “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, authorized deputy, agent, or

representative appointed by the City Council.

“Suspended solids” shall mean solids that either float on the surface of or are in suspension in water, sewage, or other liquids and are removable by laboratory filtering.

“Watercourse” shall mean a channel in which a flow of water occurs, either continuously or intermittently.
(Am. Ord. 190, 4-19-77)

SECTION 7-303: 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 or in any area under the jurisdiction of said City any human or animal excrement, garbage, or other objectionable waste. (Am. Ord. 190, 4-19-77)

SECTION 7-304: UNLAWFUL DISCHARGE OF UNTREATED SEWAGE

It shall be unlawful to discharge to any natural outlet within the City 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 chapter.
(Am. Ord. 190, 4-19-77)

SECTION 7-305: CESSPOOLS 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. (Am. Ord. 190, 4-19-77)

SECTION 7-306: MANDATORY HOOKUP

A. The owner of all houses, buildings, or properties 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 the owner's 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 chapter within 60 days after date of written notice from the City to do so, provided that said public sewer is within 100 feet of the property line. The private sewage disposal system, if there be one, shall be cleaned of sludge and lined with clean bank-run gravel or dirt.

B. In the event that any property owner, occupant, or lessee shall neglect, fail, or refuse within the period of time specified in this section to make such connection, the City Council shall have the power to cause the same to be done, to assess the costs thereof against the property, and to collect the assessment thus made in the manner provided for collection of other special taxes and assessments.
(Am. Ord. 190, 4-19-77)

SECTION 7-307: SERVICE TO NONRESIDENTS; PERMIT

The City shall not supply sewer service to any person outside the corporate limits without permission from the City Council. Any person whose premises is located outside the corporate limits of the City and who desires to install a house or building sewer that will be connected with the city sewer system shall file a written application with the superintendent for a permit for such connection and setting forth the name of the owner, occupant, or lessee of the premises, the use to which the premises is devoted, and such other information as the City Council may require. The entire cost of pipe and other installation charges shall be paid by such consumer. Nothing herein shall be construed to obligate the City to provide sewer service to nonresidents. (Neb. Rev. Stat. §17-149 and 19-2701) (Am. Ord. 190, 4-19-77)

SECTION 7-308: SEWER CONTRACT; NOT TRANSFERABLE

A. The City through the Sewer Department shall furnish sewer services to persons within its corporate limits whose premises abut a street or alley in which a commercial main is now or may be hereafter laid. The rules, regulations, and sewer rental rates hereinafter named in this article shall be considered a part of every application hereafter made for sewer service and shall be considered a part of the contract between every customer now or hereafter served. Without further formality, the making of the application on the part of any applicant or the use of sewer service by present customers thereof shall constitute a contract between the customer and the City to which said contract both parties are bound. If the customer shall violate any of the provisions of said contract or any reasonable rules and regulations that the City Council may hereafter adopt, the sewer superintendent or his agent may cut off or disconnect the sewer service from the building or premises of such violation. No further connection for sewer service to said building or premises shall again be made save or except by order of the superintendent or agent.

B. Contracts for sewer 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 customer 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 sewer superintendent, who shall cause the sewer service to be shut off from the said premises. If the customer should fail to give notice, he/she shall be charged for that period of time until the sewer superintendent is otherwise advised of such circumstances.

SECTION 7-309: 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 a written permit from the superintendent. (Am. Ord. 190, 4-19-77)

SECTION 7-310: INSTALLATION; CLASSIFICATION; PERMIT APPLICATION; FEE

A. No person shall do any work upon any building or house sewer either within or without a building in an amount of $100.00 or more without first securing a permit from the superintendent to do such work.

B. There shall be two classes of building sewer permits:

1. For residential and commercial service; and
2. For service to establishments producing industrial wastes.

C. In either case, the owner or his/her agent shall make application on a special 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 for a residential or commercial building sewer permit and for an industrial building sewer permit shall be paid to the superintendent at the time the application is filed, said fee to be set by resolution of the City Council. (Am. Ord. 190, 4-19-77)

SECTION 7-311: INSTALLATION; EXPENSE; INDEMNIFICATION

All costs and expenses incident to the installation and connection of the building sewer shall be borne by the owner. 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. Ord. 190, 4-19-77)

SECTION 7-312: INSTALLATION; PLUMBERS

A. It shall be unlawful for any person, firm or corporation to engage in or conduct the business of sewer connection and house drainage, excavate any trenches for sewer pipe, open, uncover or in any manner make connection with or lay any sewer drain, or attach to, modify or repair any appurtenances without complying with the rules and regulations of the sewer superintendent, provided that nothing herein shall be construed to apply to persons, firms or corporations under special contract with the City for the construction, extension or repair of the city sewer system.

B. The licensed plumber or drainlayer who connects with the public sewer shall be held responsible for any damage caused to the sewers or the public ways and property. He/she shall restore all streets that have been excavated to the complete satisfaction of the sewer superintendent and make good any settlement of the ground or pavement caused by the excavation.

SECTION 7-313: 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 the house sewer is laid, the public ways and property shall be restored to good condition. If the excavation in the public ways and property is left open or unfinished for a period of 24 hours or more, the City Council or its agent 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 two inspections by the City Council or its agent. The first inspection shall be made when connections or repairs are complete and before the pipes are covered. The second inspection shall be made after the dirt work is completed and the service restored. It is the customer's responsibility to notify the City Council or its agent 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 for such installation prescribed by the City Council or its agent, provided that the said rules, regulations, and specifications have been reviewed and approved by the Council.
(Neb. Rev. Stat. §18-503) (Am. Ord. 190, 4-19-77)

SECTION 7-314: 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. (Am. Ord. 190, 4-19-77)

SECTION 7-315: 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 chapter. (Am. Ord. 190, 4-19-77)

SECTION 7-316: 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.

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 codes or other applicable rules and regulations of the City. All such connections shall be made gastight and watertight. Any deviation from the prescribed procedures and materials must be approved by the superintendent before installation.
(Am. Ord. 190, 4-19-77)

SECTION 7-317: CONSUMER CLASSIFICATION

A. The word "consumer" is used in this chapter to include all users of the city sanitary sewerage system, including all persons, firms, or corporations whose premises are served thereby; all owners and tenants of real estate and buildings connected with said sanitary sewerage system or served thereby; and all users of said system who in any way use the same or discharge sanitary sewage, industrial wastewater, or other liquid, either directly or indirectly, into the sanitary sewerage system of the City.

B. Consumers shall be classified as "single family residential," "multiple family residential," "commercial," and "industrial."

1. "Single-family residential consumers" are hereby defined as one-family dwellings, including mobile and modular houses where the primary purpose of the facility is for residential purposes. Single-family residential consumers shall include funeral homes and churches.

2. "Multiple-family residential consumers" are hereby defined as multiple dwellings or apartment buildings where the primary purpose of the facility is to provide residential quarters for more than one family.

3. "Commercial consumers" are hereby defined as all business establishments whose primary purpose is to provide goods and services to consumers. Commercial consumers do not include industrial consumers.

4. "Industrial consumers" are hereby defined as all business establishments whose primary purpose is the manufacturing, processing, packaging, or assembling of a product for resale, distribution, or custom ordering.

C. The City Council reserves the right to determine which classification is applicable for present and future sewer users and the Council further reserves the right to amend this chapter by addition and deletion of classifications of sewer users and any and all necessary rate changes.
(Am. Ord. 190, 4-19-77)

SECTION 7-318: MINIMUM RATES

A. *Generally Applicable Rates*. The City Council has the power and authority by resolution to fix the rates to be paid by all sewer consumers for the services provided

directly or indirectly by the sanitary sewerage system of the Sewer Department. All such fees shall be on file for public inspection at the office of the city clerk, who shall bill the consumers and collect all money received by the City on the account of the Sewer Department. The clerk shall faithfully account for and pay to the city treasurer all revenue collected, making receipt therefor in duplicate, filing one and keeping the other on file in the Sewer Department's official records.

B. *Multiple-Family Residential Consumers*. Each dwelling unit shall be considered a separate single-family residential consumer and the rate for sewer service shall be computed for each dwelling unit based on the minimum rate and overage charges as established for single-family residential consumers.
(Am. Ords. 576, 8-24-99; 677, 10-20-09)

SECTION 7-319: SURCHARGES

The City shall have the right to increase the monthly billing rate when it is determined that the strength of the consumer's wastewater is significantly greater than other consumers. The City may require any consumer at the consumer's expense to provide flow measurement and sample analysis of its wastewater. Surcharges shall be arrived at by establishing a base rate per pound for biochemical oxygen demand and suspended solids and comparing the consumer's wastewater strength and volume to the base rate. (Am. Ord. 190, 4-19-77)

SECTION 7-320: DETERMINATION OF INEQUITABLE AND UNFAIR RATES

Where, in the judgment of the City Council, by reason of special conditions or in the event a consumer is not a user of water supplied by the City or where water is supplied by private source in addition to the water supplied by the City and said water is discharged into the sanitary sewer system, and the application of the use charges hereinbefore set forth would be inequitable or unfair to either the City or the user, a special rate may be established by contract or by resolution of the Council. To assist the Council in determining whether or not special conditions exist, any consumer shall, upon request of the City, provide at the consumer's expense a satisfactory means of measuring the sewage flow from the consumer and obtaining a representative sample of the sewage. (Am. Ord. 190, 4-19-77)

SECTION 7-321: RATE SAVING CLAUSE

If for any reason any of the rates of any consumer hereinbefore set forth should be invalid or unenforceable, the City shall be entitled to receive and collect from such consumer a reasonable rate or charge for the use of its sanitary sewerage system, the same to be collected in an action of law. (Am. Ord. 190, 4-19-77)

SECTION 7-322: SEWER EXTENSION DISTRICTS

The extension of sewer service into unsupplied territory within the corporate limits may

be made by means of sewer extension districts. (Am. Ord. 190, 4-19-77)

SECTION 7-323: REPAIRS AND REPLACEMENT

A. 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.

B. 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.
(Am. Ord. 254, 9-18-84)

SECTION 7-324: 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. (Am. Ord. 190, 4-19-77)

SECTION 7-325: PRIVATE SEWAGE DISPOSAL; WHEN APPLICABLE

Where a public sanitary or combined sewer is not available, the building sewer shall be connected to a private sewage disposal system complying with the provisions of this chapter. 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 in compliance with this chapter and any septic tanks, cesspools, and similar private sewage disposal facilities shall be abandoned and filled with suitable material. (Am. Ord. 190, 4-19-77)

SECTION 7-326: PRIVATE SEWAGE DISPOSAL; PERMIT REQUIRED; FEE

Before commencement of construction of a private sewage disposal system, the owner shall first obtain a written permit signed by the 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 are deemed necessary by the superintendent. A permit and inspection fee shall be paid to the City at the time the application is filed, said fee to be set by resolution of the City Council. (Am. Ord. 190, 4-19-77)

SECTION 7-327: PRIVATE SEWAGE DISPOSAL; 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 superintendent, who 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. (Am. Ord. 190, 4-19-77)

SECTION 7-328: PRIVATE SEWAGE DISPOSAL; SPECIFICATIONS

The type, capacities, location, and layout of a private sewage disposal system shall comply with all recommendations of the Department of Health and Human Services Regulation and Licensure and the Department of Environmental Quality of the state of Nebraska. 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 20,000 square feet. No septic tank or cesspool shall be permitted to discharge to any natural outlet. (Am. Ord. 190, 4-19-77)

SECTION 7-329: PRIVATE SEWAGE DISPOSAL; MAINTENANCE

The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times at no expense to the City. (Am. Ord. 190, 4-19-77)

SECTION 7-330: PRIVATE SEWAGE DISPOSAL; ADDITIONAL REQUIREMENTS

No statement contained in Section 7-325 through 7-329 shall be construed to interfere with any additional requirements that may be imposed by the health inspector. (Am. Ord. 190, 4-19-77)

SECTION 7-331: PROHIBITED DISCHARGES; STORM, SURFACE, GROUND, COOLING AND PROCESS WATERS

A. No person shall discharge or cause to be discharged to any sanitary sewer any stormwater, surface water, groundwater, roof runoff, subsurface drainage, including interior and exterior foundation drains, uncontaminated cooling water, or unpolluted industrial process waters.

B. 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 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.
(Am. Ord. 190, 4-19-77)

SECTION 7-332: HAZARDOUS AND PROHIBITED DISCHARGES; FLAMMABLE, TOXIC, CORROSIVE AND OBSTRUCTIVE SUBSTANCES; PRELIMINARY TREATMENT

A. No person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewers:

1. Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid, or gas.

2. 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 sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of tile, wastewater treatment plant, including but not limited to cyanides in excess of two mg/l as CN in the wastes as discharged to the public sewer.

3. 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.

4. 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 works, such as but not limited to ashes, cinders, sand, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails, and paper dishes, cups, milk containers, and the like, either whole or ground by garbage grinders.

B. Any waters or wastes having the following shall be subject to the review of the superintendent:

1. A five-day BOD greater than 300 parts per million by weight; or
2. Containing more than 350 parts per million by weight of suspended solids; or
3. Having an average daily flow greater than 2% of the average sewage flow of the City.

C. 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; or
2. Reduce the suspended solids to 350 parts per million by weight; or
3. Control the quantities and rates of discharge of such waters or wastes.

D. 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.
(Am. Ord. 190, 4-19-77)

SECTION 7-333: HAZARDOUS AND PROHIBITED DISCHARGES; SPECIFIC PROHIBITIONS AS DETERMINED BY SUPERINTENDENT

A. No person shall discharge or cause to be discharged the substances, materials, waters, or wastes described in subsection (B) if it appears likely in the opinion of the 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 the 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.

B. The substances prohibited are:

1. Any liquid or vapor having a temperature higher than 150° F.

2. 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.

3. Any garbage that has not been properly shredded. The installation and operation of any garbage grinder equipped with a motor three-fourths horsepower or greater shall be subject to the review and approval of the superintendent.

4. Any waters or wastes containing strong acid iron pickling wastes, or concentrated plating solutions whether neutralized or not.

5. 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.

6. 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.

7. Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the superintendent in compliance with applicable state or federal regulations.

8. Any waters or wastes having a pH in excess of 9.5.

9. Materials which exert or cause:

   a. 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).

   b. Excessive discoloration (such as but not limited to dye wastes and vegetable tanning solutions).

   c. Unusual BOD, chemical oxygen demand, or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment works.

   d. Unusual volume of flow or concentration of wastes constituting slugs, as defined herein.

10. Waters or wastes containing substances which are not amenable to treatment 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.

(Am. Ord. 190, 4-19-77)

SECTION 7-334: HAZARDOUS AND PROHIBITED DISCHARGES; REJECTION, PRETREATMENT, CONTROL OF DISCHARGE RATE OR USE FEE SURCHARGE

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 7-332 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 to 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 provi-

sions of Section 7-335 (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 the review and approval of the superintendent and subject to the requirements of all applicable codes, ordinances, and laws.
(Ord. 189, 4-19-77) (Am. Ord. 190, 4-19-77)

SECTION 7-335: HAZARDOUS AND PROHIBITED SUBSTANCES; SPECIAL EXCEPTIONS PERMITTED; USE FEE SURCHARGE

No statement contained in this chapter 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. (Am. Ord. 190, 4-19-77)

SECTION 7-336: 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. (Am. Ord. 190, 4-19-77)

SECTION 7-337: 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. (Am. Ord. 190, 4-19-77)

SECTION 7-338: CONTROL MANHOLES/SAMPLING STATIONS; WHEN REQUIRED; INSTALLATION AND MAINTENANCE; METHOD

A. *When Required; Installation and Maintenance*. When required by the 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 by him/her so as to be safe and accessible at all times by the superintendent or his representative.

B. *Method*. All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in this chapter 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 is determined from periodic grab samples.)
(Am. Ord. 190, 4-19-77)

SECTION 7-339: 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 the system in accordance with the provisions of this chapter. The superintendent or his/her 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. (Am. Ord. 190, 4-19-77)

SECTION 7-340: 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. (Am. Ord. 190, 4-19-77)

SECTION 7-341: INSPECTIONS; INJURY LIABILITY

While performing inspections on private properties, the superintendent or duly authorized employees of the City shall observe all safety rules applicable to the premises established by the company and the company shall be held harmless for injury or death to any 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 7-337. (Am. Ord.

190, 4-19-77)

SECTION 7-342: HEARING BOARD

A hearing board shall be appointed as needed for arbitration of differences between the superintendent and sewer users on matters concerning interpretation and execution of the provisions of this chapter by the superintendent. The cost of the arbitration will be divided equally between the City and the sewer user. One member of the board shall be a registered professional engineer; one member shall be a practicing sanitary engineer; one member shall be a representative of industry or manufacturing enterprise; one member shall be a lawyer; and one member shall be selected at large for his/her interest in accomplishing the objectives of this chapter. (Am. Ord. 190, 4-19-77)

SECTION 7-343: VIOLATION; NOTICE AND LIABILITY

Any person found to be violating any provision of the Hazardous and Prohibited Discharges Regulations, Sections 7-331 through 7-341, 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 said sections shall become liable to the City for any expense, loss, or damage occasioned the City by reason of such violation. (Am. Ord. 190, 4-19-77)

Article 4 – Solid Waste and Garbage Disposal

SECTION 7-401: DEFINITIONS

A. For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

"Garbage" shall mean kitchen refuse, decayed waste, dead animals, or anything that may decompose and become offensive to the public health.

"Rubbish" shall mean discarded machinery, chips, pieces of wood, sticks, dead trees, branches, bottles, broken glass, crockery, tin cans, boxes, papers, rags, or any other litter or debris that is not an immediate hazard to the health of the residents of the City.

"Waste" shall mean cinders, ashes, plaster, brick, stone, sawdust, or sand.

"Yard waste" shall mean grass and leaves.

B. For definitions pertaining to the Integrated Solid Waste Management Act, see Neb. Rev. Stat. §13-2003 through §13-2016.01.
(Ord. 452, 4-18-95)

SECTION 7-402: GARBAGE, RUBBISH, AND WASTE PROHIBITED

A. It shall be unlawful for any person to keep in, on, or about any dwelling, building, or premises or any other place in the City any decayed vegetable or animal substance, garbage, or refuse matter of any kind that may be injurious to the public health or offensive to the residents of the City unless the same is kept in receptacles having a capacity of not less than ten gallons nor more than 32 gallons for residences and a capacity of not more than 40 gallons for commercial establishments and as nearly airtight as may be practical.

B. It shall be unlawful to throw or sweep into the streets, alleys, parks, or other public grounds any dirt, paper, nails, pieces of glass, refuse, waste, or rubbish of any kind. No person may permit garbage, rubbish, waste, or refuse to accumulate and all persons shall remove the same from their property within 24 hours after being notified to do so by the chief of police, who shall represent the Board of Health.

C. Any person having garbage, rubbish, waste, or refuse that is subject to decay or fermentation within a short period of time shall be required to place the same in a standard garbage can with a tight cover or a durable plastic container that is securely tied at its opening. It shall be unlawful to permit the accumulation or residue of liquids, solids, or a combination of such material on the bottom or sides of containers, so that the interiors of containers shall be kept as clean as is reasonable.

D. All persons shall have the contents of their garbage cans removed at least every two weeks. Hotels, restaurants, institutions, and commercial establishments may be required to have more frequent collections if determined by the City Council to be essential to protect the public health.

SECTION 7-403: COLLECTION

All refuse shall be drained free of liquids before disposing in a required container. Garbage shall be wrapped in paper or similar material. All cans, bottles, or other food containers shall be rinsed free of food particles and drained before disposal. Rubbish shall be placed in approved containers or cut and baled, tied, bundled, stacked, or packaged so as not to exceed 36 inches in length and 50 pounds in weight. Refuse containers shall, for the purpose of collection, be placed at ground level and be made readily accessible to the collector. They shall be placed on the side of the street from which collection is to be made. Notwithstanding the provisions of this section, householders, commercial establishments, or other persons may, by contract with collectors, be permitted to place containers at agreed places upon their premises. (Neb. Rev. Stat. §17-123)

SECTION 7-404: 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 and which constitutes a public nuisance. The City may require the owner, his/her agent, or the tenant of such lot or land to remove the garbage or refuse from such lot or land and streets, roads, or alleys. (Ord. 328, 9-20-88)

SECTION 7-405: NOTICE; REMOVAL

Notice that removal of garbage or refuse is necessary shall be given to each owner or owner's 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, in addition to other proper remedies shall remove the garbage or refuse or cause it to be removed from such lot or land and streets, roads, or alleys. (Ord. 328, 9-20-88)

SECTION 7-406: 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 by the owner or tenant in accordance with Section 7-405 if such garbage or refuse has not been removed. (Ord. 328, 9-20-88)

SECTION 7-407: 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. (Ord. 328, 9-20-88)

SECTION 7-408: HAZARDOUS ITEMS AND ITEMS REQUIRING SPECIAL HANDLING OR DISPOSAL

A. No person shall put out any of the items specified below to be collected by the City's solid waste collector for land disposal:

1. Yard waste from April 1 through November 30 of each year, unless such yard waste has been separated from its source and is put out for separate collection and delivery to the landfill for the purpose of soil conditioning or composting under the conditions otherwise specified.

2. Lead-acid batteries.

3. Waste oil.

4. Waste tires in any form except tires that are nonrecyclable. Tires are not considered disposed if they meet the requirements of Neb. Rev. Stat. §13-2039.

5. Discarded household appliances.

6. Unregulated hazardous wastes, except household hazardous wastes, which are exempt from the regulations under the Environmental Protection Act.

B. Any such items shall be disposed of only as permitted under the Nebraska Integrated Solid Waste Management Act or any amendments thereof. (Neb. Rev. Stat. §13-2039)

C. For purposes of this section the following definitions shall apply unless the context clearly indicates or requires a different meaning:

"Land disposal" shall include, but is not limited to, incineration at a landfill.

"Nonrecyclable tire" shall mean a press-on solid tire, a solid pneumatic shaped tire, or a foam pneumatic tire. (Neb. Rev. Stat. §13-2039)

"Waste tire" shall mean a tire that is no longer suitable for its original intended purpose because of wear, damage, or defect. (Neb. Rev. Stat. §13-2013.02)

"Yard waste" shall mean grass and leaves. (Neb. Rev. Stat. §13-2016.01)
(Ord. 640, 5-17-05)

Article 5 – Penal Provision

SECTION 7-501: VIOLATION; PENALTY

Any person who shall violate or refuse to comply with the enforcement of any of the provisions of this chapter, set forth at full length herein or incorporated by reference shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be fined no more than $500.00 for each offense. A new violation shall be deemed to have been committed every 24 hours of such failure to comply.

CHAPTER 8 – FIRE REGULATIONS

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CHAPTER 8 – FIRE REGULATIONS

Article 1 – Fire Department

SECTION 8-101: FIRE PROTECTION DISTRICT

The mayor shall be authorized to execute any and all documents, including a joint resolution with the Yutan Rural Fire Protection District No. 12, for the accomplishment of the inclusion of the area within the corporate limits of the City within the boundaries of Yutan Rural Fire Protection District No. 12.

SECTION 8-102: INTERFERING WITH FIREFIGHTER

A person commits the offense of interfering with a firefighter if, at any time and place where any firefighter is discharging or attempting to discharge any official duties, the person willfully:

A. Resists or interferes with the lawful efforts of any firefighter in the discharge or attempt to discharge an official duty; or

B. Disobeys the lawful orders given by any firefighter while performing his/her duties; or

C. Engages in any disorderly conduct which delays or prevents a fire from being extinguished within a reasonable time; or

D. Forbids or prevents others from assisting or extinguishing a fire or exhorts another person, as to whom he/she has no legal right or obligation to protect or control, not to assist in extinguishing a fire.
(Neb. Rev. Stat. §28-908)

SECTION 8-103: EQUIPMENT; DRIVING OVER HOSE

A. 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. (Neb. Rev. Stat. §28-519)

B. It shall be unlawful for any person, without the consent of the fire chief or assistant chief, to drive any vehicle over the unprotected hose of the Fire Department. (Neb. Rev. Stat. §60-6,184)

SECTION 8-104: 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 city firefighters 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 8-105: OBSTRUCTION OF HYDRANT

It shall be unlawful for any person to obstruct the use of a fire hydrant or have or place any material within 15 feet of the 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. §60-6,166)

SECTION 8-106: ASSISTANCE

It shall be unlawful for any person to refuse, after the command of the fire chief or assistant fire chief, to aid in extinguishing a fire or to assist in the removal and protection of property. (Neb. Rev. Stat. §28-908)

SECTION 8-107: 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 fire 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. §60-6,183)

SECTION 8-108: 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. (Neb. Rev. Stat. §28-908)

SECTION 8-109: FALSE ALARM

It shall be unlawful for any person intentionally and without good and reasonable cause to raise any false alarm of fire. (Neb. Rev. Stat. §28-907, 35-520)

Article 2 – Fire Prevention

SECTION 8-201: 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 chapter as though spread at large herein, together with all subsequent amendments thereto. One copy of the Uniform Fire Code shall be on file with the city clerk and shall be available for public inspection during office hours. (Neb. Rev. Stat. §18-132, 19-901 through 19-933, 81-502) (Am. Ord. 400, 7-20-93)

SECTION 8-202: 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. (Neb. Rev. Stat. §17-549)

SECTION 8-203: FIRE LIMITS DEFINED

The current, existing city limits shall be and constitute the fire limits. (Am. Ord. 722, 12-20-16)

SECTION 8-204: FIRES PROHIBITED ON PAVEMENT

It shall be unlawful for any person to set out a fire on the pavement, or near any curb, now built or hereafter to be built, within the City.

SECTION 8-205: FIRES REGULATED

A. It shall be lawful to build or set out certain fires, provided that the person building such fires shall have the substance to be burned in a fireproof trash burner or incinerator with a metal fireproof screen of not more than one inch mesh and located at least ten feet from any building. The incinerator shall be built in such a way that it does not permit the escape of burning paper or other substance.

B. If any person shall require a fire in the course of his/her trade as a blacksmith or mechanic, such fire shall be built and maintained in the manner prescribed by the fire chief.

C. All fires shall be built after 7:00 A.M. and completely extinguished by 8:00 P.M., except the aforesaid fires used in the course of a trade, which shall be allowed during such hours as the fire chief shall prescribe.

D. It shall be unlawful for any person to set fire to, burn, or cause to be burned any garbage, animal matter, or vegetable matter.

E. The burning of straw, hay, leaves, or brush in the open air is hereby permitted

and allowed anywhere outside the fire limits, provided that the person setting out the same requests permission and receives an open burning permit in writing, signed by the local fire chief, on a form provided by the state fire marshal, and provided further, that any such burning shall be done while the fire is attended at all times by the person setting out the same, and provided further, that the said fire shall be located at least ten feet from any building.
(Neb. Rev. Stat. §17-549, 17-556, 81-520.01)

SECTION 8-206: 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. (Neb. Rev. Stat. §81-512)

SECTION 8-207: PUBLIC BUILDINGS; MONITORING SYSTEM OR SPRINKLER SYSTEM

In an effort to avoid duplication of efforts in fire protection and to maintain public safety and uniformity of the building codes and fire regulations of the City, public buildings within the City's territory shall have either a 24-hour monitoring system approved by the building inspector or a sprinkler system which meets all requirements of any applicable code, regulation, or law. (Ord. 405, 5-17-94)

SECTION 8-208: OPEN BURNING BAN; PERMIT; 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 of a local fire department may waive an open burning ban under subsection (1) of this section for an area under the local fire department’s jurisdiction by issuing an open burning permit to a person requesting permission to conduct open burning. The permit issued by the fire chief to a person desiring to conduct open burning shall be in writing, signed by the fire chief, and on a form prescribed by the State Fire Marshal. The State Fire Marshal shall provide local fire departments with such forms.

C. The fire chief of a local fire department may waive the open burning ban in the local fire department’s jurisdiction when conditions are acceptable to the chief. Anyone intending to burn in such jurisdiction when the open burning ban has been waived shall notify the fire chief of his or her intention to burn prior to starting the burn.

D. The fire chief of a local fire department may adopt standards listing the conditions acceptable for issuing a permit to conduct open burning under subsection (2) of this section.

E. The local fire department may charge a fee, not to exceed ten dollars, for each such permit issued. This fee shall be remitted to the governing body for inclusion in the general funds allocated to the fire department. Such funds shall not reduce the tax requirements for the fire 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 (2) of this section in the course of such state's or political subdivision's official duties.

F. For the purposes of this section, Open Fire shall mean burning under such conditions that the products of combustion are emitted directly into the ambient air.

G. No person shall cause or permit any open fire within the limits of the City.

1. It shall be unlawful to conduct any burning of waste materials, wood, paper, cardboard, rakings, leaves, grass, weeds, litter, sweepings either on public or private property within the City limits.

H. Exceptions:

1. Fires set solely for the outdoor cooking of food for human consumption

2. Fires contained in incinerators that are an integral part of a building and installed to meet all applicable national and local codes and standards

3. For the purpose of training public or firefighting personnel

4. Outdoor fireplaces as defined below

I. *Outdoor Fireplaces*. The term "outdoor fireplaces" shall include portable fire pits, chimineas, and fire rings. These outdoor fireplaces use wood as a fuel and are used for contained recreational fires for the purpose of outdoor cooking and personal enjoyment. Outdoor fireplaces do not include barbeque grills that use propane or charcoal as a fuel and used primarily for outdoor cooking. Portable fire pits are defined as being commercially designed and intended to confine and control outdoor wood fires. Chimineas are defined as an outdoor patio fireplace, usually made from clay, intended to confine and control outdoor wood fires. All outdoor fireplaces shall meet the following requirements:

1. *Construction*. The fire fuel area and openings shall be completely enclosed by steel screening or an approved non-combustible screening material with openings in screening to be not larger than one half-inch square. Vent stacks and chimneys shall have a steel screen cover made of heavy wire mesh or other non-combustible material with openings not larger than one half-inch square. Fire fuel areas shall be covered with a steel screen cover made of heavy wire mesh or other non-combustible material with openings not larger than one half-inch square. Not permitted are barrels, half-barrels, drums, or similarly constructed devices;

2. *Size*. The fuel area for a fire pit shall not be larger than three (3) feet in diameter and a height of more than two (2) feet;

3. *Location*. Outdoor fireplaces shall be placed on a stable, non-combustible surface such as a concrete pad. All outdoor fireplaces will be placed on a firm, non-combustible surface while in use and it is recommended that they be fifteen (15) feet from the property line and ten (10) feet from the nearest structure. Outdoor fireplaces shall not be located on combustible balconies or decks or on any balcony above the first floor. Outdoor fireplaces shall not be located under any combustible balcony or any overhanging part of a structure.

J. *Types of Materials Being Burnt*. Outdoor fireplaces shall only burn commercial logs and untreated wood; natural sawn dry wood will be allowed to be burned. Petroleum products, rubbish, grass, leaves, cardboard, plastics, rubber or any material that may flow out of the containment or cause excessive heat, smoke, or offensive smell shall not be permitted.

K. *Amount of Materials Being Burnt*. The amount of material being burnt shall be limited to ensure the flames are confined inside the fuel area of the outdoor fireplace and the flames do not extend into the chimney or above the pit. The manufacturer's recommendation on the maximum amount of fuel to be used at one time shall be followed.

L. *Supervision*. Outdoor fireplaces shall be under constant supervision by at least one (1) responsible person or age eighteen (18) or older from the ignition of the fire until the fire is completely extinguished and embers are cool and the fire will not rekindle.

M. *Provisions for Protection*. A garden hose connected to a water supply or other approved fire extinguishing equipment shall be readily available for use.

N. *Wind and Weather Conditions*. Outdoor fireplaces shall not be operated when winds are blowing over ten (10) mph and wind direction will cause smoke, embers, or other burning materials to be carried by the wind toward any building or other combustible materials. Outdoor fireplaces shall not be operated when weather conditions are extremely dry.

O. *Maintenance*. The owner is responsible to ensure proper maintenance and care is accomplished in accordance with manufacturer's instructions. The outdoor fireplace will be checked regularly for the appearance of cracks and other physical deterioration or loose parts.

P. *Smoke Nuisance*. Smoke from any outdoor fireplace shall not create a nuisance for neighboring property owners. The fire shall be extinguished immediately upon the complaint of the neighboring property owner of any smoke nuisance. Outdoor fireplace use will be immediately discontinued if the use of the outdoor fireplace

is determined to constitute a hazardous or unpleasant condition to occupants of surrounding property.
(Neb. Rev. Stat. §81-520.01) (Ord. 725, 5-16-17)

SECTION 8-209: DAMAGED BUILDINGS; REPAIR OR REMOVAL

In the event that any wooden or combustible building or structure or any non-combustible building 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.

SECTION 8-210: STACKING COMBUSTIBLES; NUISANCE

It shall hereafter be unlawful for any person, firm, or corporation to have or keep any hay, straw, stalks, excelsior, empty boxes, barrels, or other combustible materials, which are hereby designated as nuisances, scattered, stacked, or piled up or exposed, unenclosed by a building, upon any street, alley, or lot within the fire limits.

SECTION 8-211: STOVES, FURNACES, AND CHIMNEYS

A. All furnaces, stoves, and other heating devices shall be installed at a proper distance from combustible materials and portions of the building. Any combustible materials or portions of the building that are dangerously close to such heating devices shall be protected by non-combustible material.

B. All chimneys hereafter constructed shall be lined continuously on the inside with flue lining. It shall be made smooth on the inside from the bottom of the flue or from the throat of the fireplace, if the flue starts from the latter, and shall be carried up continuously to the extreme height of the flue. The ends of all lining pipes shall be made to fit close together; the pipe shall be built in as the flue or flues are carried up and shall extend at least 6 inches above the cap of the chimney. Each flue shall be enclosed on all sides with not less than 4 inches of solid brickwork properly banded together and the withes or brickwork between the lined flues on the inside of the chimney shall be 4 inches in thickness.

C. This section shall apply both to existing structures and those which may hereafter be erected.

Article 3 – Poisonous and Flammable Gases and Explosives

SECTION 8-301: POISONOUS AND FLAMMABLE GASES; STORAGE

In addition to notifying the Fire Department pursuant to Neb. Rev. Stat. §28-1233(3), any person, firm, or corporation desiring to store or keep in the City for any period of time explosive materials, as defined in Neb. Rev. Stat. §28-1213, or any form of poisonous or flammable gas or liquefied petroleum gas 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 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. Ord. 406, 6-21-94)

SECTION 8-302: GASOLINE CONTAINERS

Every person within the City retailing gasoline, benzene, kerosene and other similar types of high explosives in less than carload lots shall deliver the same to the purchaser only in containers or portable tanks painted vermillion red and having the word "gasoline," "benzene," or whatever name such explosive is known by plainly printed on it in English. All such words shall be in letters sufficiently large to attract attention. (Neb. Rev. Stat. §66-103)

SECTION 8-303: EXPLOSIVES; STORAGE

A. In addition to notifying the City Fire Department pursuant to Neb. Rev. Stat. §28-1233(3), any person, firm, or corporation desiring to store or keep for any period of time explosive materials, as defined in Neb. Rev. Stat. §28-1213, shall register such information with the city clerk 24 hours prior to such storage. The transfer of such explosive materials to another person within the City shall require the person receiving the explosive materials to register the transfer and new location of the explosive materials with the city clerk. The transfer of explosive materials to a new location by the owner shall require registration of the new location with the city clerk.

B. All explosive materials shall be stored in proper receptacles made of cement, metal, or stone and shall 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.
(Am. Ord. 408, 6-21-94)

SECTION 8-304: DYNAMITE, BLACK POWDER AND OTHER EXPLOSIVES

It shall be unlawful for any dynamite, black powder, or any other explosive to be stored in any residence or place of business in any quantity of five pounds or more. Violation of this section shall be deemed an offense.

SECTION 8-305: BULLETS

Cartridges, shells, percussion caps and materials for making shells and cartridges shall be kept in their original containers away from flame, flammable materials and high explosives.

SECTION 8-306: BLASTING PERMITS

In addition to notifying the Fire Department pursuant to Neb. Rev. Stat. §28-1233(3), any person, firm, or corporation 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 and shall discharge such explosive materials 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. (Am. Ord. 407, 6-21-94)

SECTION 8-307: UNLAWFUL POSSESSION OF EXPLOSIVE MATERIALS

It shall be unlawful for any person who is eligible to obtain a permit from the Nebraska State Patrol or has a valid or legitimate need for a permit to possess or store explosive materials without such a permit, provided that this section shall not be applicable to a federal licensee or permittee or to any person who has obtained a permit from the Nebraska State Patrol to store or use such explosive materials or, in the case of a business enterprise, a permit to purchase such explosive materials.

Article 4 – Fireworks

SECTION 8-401: DEFINITIONS

For the purpose of this chapter, the following definition shall apply unless the context clearly indicates or requires a different meaning:

"Fireworks" shall mean any composition or device designed for the purpose of producing a visible or audible effect by combustion, deflagration, or detonation and which meets the definition of common or special fireworks set forth by the United States Department of Transportation in Title 49, Code of Federal Regulations. (Neb. Rev. Stat. §17-556, 28-1241) (Ord. 331, 9-20-88)

SECTION 8-402: PERMITTED FIREWORKS

A. It shall be unlawful for any person to ignite or cause to be exploded fireworks or firecrackers of any description whatsoever, except sparklers, Vesuvius fountains, spray fountains, torches, color fire cones, star- and comet-type color aerial shells without explosive charges for the purpose of making a noise, color wheels, lady fingers, not exceeding seven-eighths inch in length or one-eighth inch in diameter, total explosive composition not to exceed 50 milligrams each in weight, color wheels, and any other fireworks approved under Neb. Rev. Stat. §28-1247. (Neb. Rev. Stat. §28-1241(7))

B. The provisions of this section shall not apply to 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, 28-1244, 28-1245) (Ord. 324, 9-20-88)

SECTION 8-403: SALE; PERMIT REQUIRED

A. It shall be unlawful for any person to sell, hold for sale, or offer for sale as distributor, jobber, or retailer any fireworks without first obtaining a license from the state fire marshal for that calendar year. (Neb. Rev. Stat. §28-1246)

B. Licensees shall only sell fireworks that have been approved by the state fire marshal (Neb. Rev. Stat. §28-1247)

C. Permissible fireworks may be sold at retail only between June 24 and July 5 of each year. (Neb. Rev. Stat. §28-1248, 28-1249)

D. Applications for said permits may be obtained and applicable fees may be paid to the city clerk in person during normal business hours. The license fees shall be set by the City Council and filed in the office of the village clerk.

E. In the event that any person violates the provisions of this chapter, then said person shall be liable to prosecution in the Saunders County Court for the offense or

offenses charged and subject to the penalty provided for by Section 8-501.
(Neb. Rev. Stat. §28-1246, 28-1250) (Ord. 582, 11-16-99) (Am. Ords. 605, 6-17-03; 626, 2-15-05)

SECTION 8-404: PERMISSIBLE FIREWORKS; HOURS AND RESTRICTIONS OF USE

Fireworks shall not be discharged, exploded or used within the Municipality except under the following terms and times:

A. Permitted fireworks may be discharged, exploded, or used within the Municipality only from June 25th through July 4th of each year and from December 31 through and including January 1; provided, it shall be unlawful to discharge, explode, or use permitted fireworks on June 25th through July 4th before 8:00 a.m. and after 11:00 p.m. On December 31 through January 1, permitted fireworks may only be discharged, exploded or used between the hours of 9:00 p.m. on December 31st and 12:30 a.m. on January 1st.

B. By permit granted and approved by the City Council at times and dates not set forth above. A special permit may be granted by the City Council after an application is filed with the Yutan City Office.

C. Any fireworks to be used for the 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, shall be permitted

D. That all debris which results from the discharge, explosion or use of fireworks shall be the responsibility of those person(s) who discharge, explode or use the same and said person(s) shall clean all debris from public property, sidewalk spaces, alleys and rights-of-way immediately upon the conclusion of the activity.

(Neb. Rev. Stat. §17-556) (Ord. 739, 8-21-18)

Article 5 – Penal Provision

SECTION 8-501: VIOLATION; PENALTY

Any person who shall violate or refuse to comply with the enforcement of any of the provisions of this chapter, set forth at full length herein or incorporated by reference shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be fined no more than $500.00 for each offense. A new violation shall be deemed to have been committed every 24 hours of such failure to comply.

CHAPTER 9 – BUILDING REGULATIONS

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CHAPTER 9 – BUILDING REGULATIONS

Article 1 – Building Codes Adopted

SECTION 9-101: INTERNATIONAL BUILDING CODE; ADOPTED BY REFERENCE

To provide certain minimum standards, provisions, and requirements for safe and stable design, methods of construction, and uses of materials in buildings hereafter erected, constructed, enlarged, altered, repaired, relocated and converted, the International Building Code (IBC), 2015 edition, published by the International Code Council, printed in book or pamphlet form, is hereby incorporated by reference in addition to all future or amended editions as though printed in full herein, insofar as such code does not conflict with state statutes or the provisions of this code. One copy of the International Building Code, 2015 edition is on file at the office of the City Clerk and is available for public inspection during office hours. An additional copy shall be available for public dissemination at the office of the chief building official. The provisions of the International Building Code shall be controlling throughout the city and within the one-mile building and zoning jurisdiction. (Am. by Ords. 262, 9-18-84; 401, 7-20-93; 611, 12-16-03; 652, 6-20-06; 689, 11-15-11; 723, 2-21-17)

SECTION 9-102: INTERNATIONAL RESIDENTIAL CODE; ADOPTED BY REFERENCE

A. To provide minimum requirements to safeguard life or limb, health and public welfare in the construction, alteration, movement, enlargement, replacement, repair, equipment, use, and occupancy, location, removal and demolition of detached one- and two-family dwellings and multiple single-family dwellings, the International Residential Code (IRC), 2015 edition, published by the International Code Council, printed in book or pamphlet form is hereby incorporated by reference in addition to all future and amended editions as though printed in full herein, insofar as such code does not conflict with the state statutes or the provisions of this code. One copy of the International Residential Code, 2015 edition, is on file at the office of the city clerk and is available for public inspection during office hours. An additional copy shall be available for public dissemination at the office of the chief building official. The provisions of the International Residential Code shall be controlling throughout the city and within the one-mile building and zoning jurisdiction.

B. The International Residential Code, 2015 Edition, is amended with the following changes.

1. Section R313 Automatic Fire Sprinkler Systems – The entire section, including all subsections, is eliminated.

(Ords. 652, 6-20-06; 689, 11-15-11; 723, 2-21-17)

SECTION 9-103: INTERNATIONAL FUEL GAS CODE; ADOPTED BY

REFERENCE

To provide certain minimum standards, provisions and requirements for safe and proper installation, methods of connection and installation of gas piping from the point of delivery, gas appliances, and related accessories, the International Fuel Gas Code, 2015 edition, published by the International Code Council, printed in book or pamphlet form is hereby incorporated by reference in addition to all future and amended editions as though printed in full herein, insofar as such code does not conflict with the state statutes or the provisions of this code. At least one copy of the International Fuel Gas Code, 2015 edition, shall be on file in the office of the city clerk and shall be available for public inspection during office hours. An additional copy shall be available for public dissemination at the office of the chief building official. The provisions of the International Fuel Gas Code shall be controlling throughout the city and within the one-mile building and zoning jurisdiction. (Ords. 652, 6-20-06; 689, 11-15-11; 723, 2-21-17)

SECTION 9-104: INTERNATIONAL MECHANICAL CODE; ADOPTED BY REFERENCE

To provide certain minimum standards, provisions and requirements for safe and proper installation, methods of connection and installation of gas piping from the point of delivery, gas appliances, and related accessories, the International Fuel Gas Code, 2015 edition, published by the International Code Council, printed in book or pamphlet form is hereby incorporated by reference in addition to all future and amended editions as though printed in full herein, insofar as such code does not conflict with the state statutes or the provisions of this code. At least one copy of the International Fuel Gas Code, 2015 edition, shall be on file in the office of the city clerk and shall be available for public inspection during office hours. An additional copy shall be available for public dissemination at the office of the chief building official. The provisions of the International Fuel Gas Code shall be controlling throughout the city and within the one-mile building and zoning jurisdiction. (Ords. 652, 6-20-06; 689, 11-15-11; 723, 2-21-17)

SECTION 9-105: INTERNATIONAL PLUMBING CODE; ADOPTED BY REFERENCE

To provide certain minimum standards, provisions, and requirements for safe and stable installation, methods of connection, and uses of materials in the installation of plumbing and heating, the International Plumbing Code, 2015 edition, published by the International Code Council, printed in book or pamphlet form is hereby incorporated by reference in addition to all future and amended editions as though printed in full herein, insofar as such code does not conflict with state statutes or the provisions of this code. At least one copy of the International Plumbing Code, 2015 edition, shall be on file in the office of the city clerk and available for public inspection during office hours. An additional copy shall be available for public dissemination at the office of the chief building official. The provisions of the International Plumbing Code shall be controlling throughout the city and within the one-mile building and zoning jurisdiction. (Am. by Ords. 269, 9-18-84; 402, 7-20-93; 652, 6-20-06; 689, 11-15-11; 723, 2-21-17)

SECTION 9-106: INTERNATIONAL EXISTING BUILDING CODE; ADOPTED BY REFERENCE

To regulate and govern the repair, alteration, change of occupancy, addition and relocation of existing buildings including historic buildings. The International Existing Building Code, 2015 edition, published by the International Code Council, printed in book or pamphlet form is hereby incorporated by reference in addition to all future or amended editions as though printed in full herein, insofar as such code does not conflict with the state statutes or the provisions of this code. At least one copy of the International Existing Code, 2015 edition, shall be on file in the office of the city clerk and shall be available for public inspection during office hours. An additional copy shall be available for public dissemination at the office of the chief building official. The provisions of the International Existing Building Code shall be controlling throughout the city and within the one-mile building and zoning jurisdiction. (Ords. 652, 6-20-06; 689, 11-15-11; 723, 2-21-17)

SECTION 9-107: INTERNATIONAL PROPERTY MAINTENANCE CODE; ADOPTED BY REFERENCE

A. To provide certain standards, provisions, and requirements for regulating the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of building systems and providing for the issuance of permits and collection of fees therefor, each and all of the regulations, provisions, conditions and terms of such International Property Maintenance Code, 2015 edition, published by the International Code Council, printed in book or pamphlet form is hereby incorporated by reference in addition to all future or amended editions as though printed in full herein, insofar as such code does not conflict with state statutes or the provisions of this code. At least one copy of the International Property Maintenance Code, 2015 edition shall be on file at the office of the city clerk and available for public inspection during office hours. An additional copy shall be available for public dissemination at the office of the chief building official. The provisions of International Property Maintenance Code shall be controlling throughout the City and within one-mile building and zoning jurisdiction.

B. In the event of a conflict between the provisions of the International Property Maintenance Code and any existing municipal ordinance for the City of Yutan that have not been specifically repealed, the provisions of the municipal code shall survive.
(Ords. 667, 7-15-08; 689, 11-15-11; 723, 2-21-17)

SECTION 9-108: NATIONAL ELECTRICAL CODE; ADOPTED BY REFERENCE

To provide certain minimum standards, provisions, and requirements for safe and fire proof installation, methods of connection, and uses of materials in the installation of electrical wiring and appliances, the most recent edition of the National Electrical Code, as recommended and published by the National Fire Protection Association and printed in book or pamphlet form, is hereby incorporated by reference in addition to all amended editions as though printed in full herein, insofar as said code does not conflict

with state statutes or the provisions of this code. One copy of the Electrical Code shall be on file at the office of the city clerk and available for public inspection during office hours. The provisions of the Electrical Code shall be controlling throughout the City and within one-mile building and zoning jurisdiction. (Neb. Rev. Stat. §17-1001, 18-132, 19-902, 19-922) (Ord. 689, 11-15-11; 723, 2-21-17)

Article 2 – Building Inspector

SECTION 9-201: POWER AND AUTHORITY

The building inspector shall be the city official who shall have the duty of enforcing all building and housing regulations as herein prescribed. He shall inspect all buildings repaired, altered, built, or moved in the City as often as necessary to insure compliance with all city ordinances. He shall have the power and authority to order, at the direction of the City Council, all work stopped on any construction, alteration, or relocation which violates any provisions prescribed herein. He shall, at the direction of the Council, issue permission to continue any construction, alteration, or relocation when the Council is satisfied that no provision will be violated. If the stop order is an oral one, it shall be followed by a written stop order within one hour. Such written order may be served by any city police officer. In the event that the City Council fails to appoint a building inspector, the chief of police shall be the building inspector ex officio. (Am. Ord. 292, 1-20-87)

SECTION 9-202: RIGHT OF ENTRY

It shall be unlawful for any person to refuse to allow the building inspector entry into any building or structure where the work of construction, alteration, repair, or relocation is taking place, for the purpose of making official inspections at any reasonable hour.

SECTION 9-203: PERMIT CARD

Upon the issuance of a building permit, the building inspector shall furnish to the applicant a permit card which shall be a distinctive color and shall contain the nature of the work, the location of the building, the number of the permit, and the date of issuance. The said card shall be prominently displayed on the principal frontage of the building site close to or upon the building or structure and shall so remain until the final inspection has been made.

SECTION 9-204: TIME OF INSPECTION

The building inspector, upon notification from the permit holder or his/her agent, shall make the following inspections of the building or structure and shall either approve that portion of the construction as completed or shall notify the permit holder or his/her agent that the work fails to comply with the requirements of the municipal code: (A) foundation inspection shall be made after trenches are excavated and the necessary forms erected; (B) frame inspection shall be made after the roof, framing, fire-blocking, and backing is in place and all pipes, chimneys, and vents are complete; and (C) final inspection shall be made after the building is completed and ready for occupancy. It shall be unlawful for any person to do work or cause work to be done beyond the point indicated in each successive inspection without the written approval of the building inspector.

SECTION 9-205: APPEAL FROM DECISION

In the event it is claimed that the true intent and meaning of this chapter has been wrongly interpreted by the building inspector, that the time allowed for compliance with any order of the building inspector is too short, or that conditions peculiar to a particular building make it unreasonably difficult to meet the literal requirements prescribed by this chapter and by the building inspector, the owner, his/her agent, or the occupant may file a notice of appeal within ten days after the decision or order of the building inspector 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 building inspector. Such a decision shall be final, subject only to any remedy which the aggrieved person may have at law or equity. Applications for review shall be in writing and shall state the reasons why the variance should be made. A variance shall be granted only where it is evident that reasonable safety and sanitation is assured and may include conditions not generally specified by this code to achieve that end. A copy of any variance so granted shall be sent to both the building inspector and the applicant.

Article 3 – Building Permits

SECTION 9-301: REQUIREMENT

A. Any person desiring to commence or proceed to erect, construct, repair, enlarge, demolish, or relocate any building or dwelling or cause the same to be done shall file with the city clerk an application for a building permit. The application shall be in writing on a form to be furnished by the city clerk. Every such application shall set forth the legal description of the land upon which the construction or relocation is to take place, the nature of the use or occupancy, the principal dimensions, the estimated cost, the names of the owner, architect, and contractor, and such other information as may be requested thereon. The application, plans, and specifications so filed with the city clerk shall be checked and examined by the building inspector, or city administrator if the building inspector position is vacant, and if they are found to be in conformity with the requirements of this chapter and all other ordinances applicable thereto, the building inspector, or city administrator if the building inspector position is vacant, shall authorize the city clerk to issue the said applicant a permit upon the payment of the permit fee set by resolution. Whenever there is a discrepancy between permit application procedures contained herein and those contained in any building code adopted by reference, the provisions contained herein shall govern.

B. Any person desiring to erect, enlarge or construct any building or dwelling or cause the same to be done shall at the time of filing the application for building permit provide to the City a preliminary plan, specifications and/or drawing for review by the city building inspector.
(Am. Ords. 293, 1-20-87; 296, 4-21-87; 604, 5-20-03; 744, 6-18-19)

SECTION 9-302: TIME LIMITATION

If the work for which a permit has been issued shall not have begun within six months of the date thereof or if the construction is discontinued for a period of 90 days, the permit shall be void. Before work can be resumed, a new permit shall be obtained in the same manner and form as an original permit.

SECTION 9-303: DUPLICATE TO COUNTY ASSESSOR

Whenever a building permit is issued for the erection, alteration, or repair of any building within the City's jurisdiction and the improvement is $2,500.00 or more, a duplicate of such permit shall be issued to the county assessor. (Neb. Rev. Stat. §18-1743) (Am. Ord. 645, 5-17-05)

SECTION 9-304: REMEDIES

A. In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained or any building, structure, or land is used in violation of this chapter, the appropriate authorities of the City may issue a cease and

desist order for the work performed in violation of this chapter and institute any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use; to restrain, correct, or abate such violation; to prevent the occupancy of the building, structure or land; or to prevent any illegal act, conduct, business, or use in or about such premises.

B. Not withstanding subsection (A) above, any person having been issued a citation for violations of this chapter and desiring to plead guilty and waive court appearance may make application for such required building permit and pay the city clerk a fine in the amount of $100.00.
(Ord. 608, 7-15-03)

SECTION 9-305 KEY LOCK BOX REQUIREMENT

A. The following newly constructed structures or structures undergoing any modification requiring a building permit, shall be equipped with an approved key lock box at or near the main entrance to the structure or such other location as designated by the fire chief:

1. Commercial or industrial structures that are required by the State Fire Marshall to be equipped with a fire alarm system or sprinklers; or

2. Buildings or areas that are restricted by way of a security gate or door or have a similar restricted entry; or

3. Multi-Family Residential structures that have restricted access through locked doors but have a common corridor for access to the living units;

4. Public or private schools.

B. The following structures are exempt from the requirement of a key lock box system:

1. Single-family structures and multi-family structures that do not meet the requirements set forth in Section A(3).

2. Structures that have 24 hours, 365 day on-site security personnel, or have other personnel on site.

3. Businesses that are open and staffed 24 hours, 365 days per year (which may include but are not limited to, Nursing Homes, Hospitals, Police Stations. etc.).

4. Rental storage facilities where there is a single lock on the separate storage pods that are enter supplied; provided, however, the entry security gates(s) will require a key lock box system if electronically controlled, or locked with a master key issued by the landlord to all tenants.

C. The fire chief, working with the city's building inspector or city administrator, shall designate the type of key lock box system and system code to be implemented within the city.

D. The owner or operator of a structure required to have a key lock box shall at all times keep a key in the lock box that will allow for access to the structure.

E. The fire chief shall implement and enforce rules and regulations for the authorized use of the lock box system by fire department personnel and volunteers. Such rules and regulations shall be approved by the city council.

F. All structures subject hereto shall be required to install a key lock box system prior to the issuance of any occupancy permit.

G. The operator of the building shall immediately notify the fire chief and provide the new keys when a lock is changed or rekeyed. The key to such lock shall be secured in the key lock box.
(Ord. 747, 10-15-19)

Article 4 – Contractors

SECTION 9-401: REGISTRATION; APPLICATION PROCEDURE

A. No person shall engage in the business of contracting within the City's corporate limits or extraterritorial jurisdiction unless he/she shall have first registered with the city building inspector.

B. Engaging in the business of contracting consists of contracting for a certain price, fee, percentage, or other compensation with the owner or tenant of any property to build, construct, alter, repair, remodel, demolish any building or structure upon such property or any portion thereof for which a building permit is required.

C. Registration with the city building inspector shall require:

1. Completion of contractor registration application form as provided by the City.

2. Submission of a current certificate of insurance which provides coverage for bodily injury and property damage in a minimum amount of $300,000.00.

3. A certificate or policy of insurance written by an insurance carrier duly authorized to do business in this state which gives the effective dates of worker's compensation insurance coverage indicating it is in force.

4. Payment of the registration fee as provided herein.

SECTION 9-402: REGISTRATION; DURATION AND RENEWAL

Registration shall be from the date of issuance up to and including the next December 31, unless sooner revoked. Registration shall be renewed before the expiration date thereof by submitting the required application form, documentation and fee.

SECTION 9-403: FEES; FINE

A. The annual fee for any contractor working within the Yutan City limits and extraterritorial limits shall be set by the City Council and filed in the office of the village clerk for public inspection during office hours. There shall be no prorating of the fee for the passage of a portion of the year.

B. Any contractor who does not comply with the Yutan municipal code regarding registration will be charged a fine for noncompliance and for the registration fee as set in subsection (A) herein. The amount of such fine shall be set by the City Council and filed in the office of the village clerk.
(Ord. 668, 5-20-08)

Article 5 – Satellite Dish Antennas

SECTION 9-501: GENERAL PROVISIONS; PERMIT

A. In the interest of public safety and protection of existing city structures, a permit shall be required for the erection of a satellite dish antenna bigger than 39 inches. 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 and structures of the City. Said applicant shall be required to pay any fees as set by the City Council. Any person or persons granted a permit shall be subject to the limitations as provided for in this article. Any permit so granted shall be subject to revocation for good and sufficient cause by the city police.

B. All satellite-receiving antennas shall comply with FCC requirements.

C. The construction and installation of all satellite-receiving antennas shall conform to applicable city building codes and electrical code regulations and requirements.

D. Each satellite-receiving antenna shall be filtered and/or shielded so as to prevent the emission of radio-frequency energy that would cause any harmful interference with radio and/or television broadcasting or reception or adjacent properties. In the event that harmful interference is caused subsequent to the granting of a building permit, the owner of the dish antenna shall promptly take steps to eliminate the harmful interference in accordance with all applicable regulations.

E. Each satellite-receiving antenna shall serve only the building located upon the zoning lot on which said satellite-receiving antenna is constructed pursuant to this article.

F. Satellite-receiving antenna shall be constructed of noncombustible and corrosive-resistant material.

G. Satellite-receiving antennas shall be constructed and erected in a secure and wind-resistant manner. Every antenna shall be wind-resistant enough to withstand 85 mile-per-hour winds normally and 70 mile-per-hour winds when combined with ice without sustaining damage.

H. The satellite-receiving antenna must be adequately grounded for protection against a direct strike of lightning.

I. Roof-mounted satellites shall have a certification from a structural engineer regarding the location stating that the structure is capable of handling the antenna and that said antenna does not provide any additional stress. Roof-mounted satellites shall be to a maximum height of 35 feet. Said satellites will not be permitted in residential districts.

J. It shall be unlawful for any satellite dish antenna to be located over or under

existing electric lines, telephone lines, water lines, gas lines, sewer lines, cable television lines or similar structures.

K. It shall be unlawful for any satellite dish antenna to be located where said dish will obstruct the impaired viewing of traffic or interfere with public safety. The City Council shall have the power to define setback requirements for front yards, back yards and side yards.
(Ord. 560, 4-20-99)

SECTION 9-502: ZONING DISTRICT REGULATIONS

A. In all zoning districts, the satellite dish shall be neutral in color and bear no advertising emblem or information other than the manufacturer in letters not to exceed 2 inches in height.

B. All dishes shall be compatible with the appearance and character of the neighborhood.

C. Satellite dishes shall be limited to three per lot.

D. Satellite dishes shall not exceed three feet in diameter in residential districts.

SECTION 9-503: DEFINITIONS

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

“Dish-type satellite signal-receiving antennas,” also referred to as “earth stations” or “ground stations,” shall mean one or a combination of two or more of the following:

A. A signal-receiving device (antenna, dish antenna, or dish-type antenna), the purpose of which is to receive communication or other signals from satellites in earth orbit and other extraterrestrial sources.

B. A low-noise amplifier (LNA) which is situated at the focal point of the receiving component, the purpose of which is to magnify, store, transfer, and/or transmit electronic or light signals.

C. A coaxial cable, the purpose of which is to carry or transmit said signals to a receiver.

“Dish” shall mean that part of a satellite signal-receiving antenna characteristically shaped like a saucer or dish.

“Grounding rod” shall mean a metal pole permanently positioned in the earth to serve as an electrical conductor through which electrical current may safely pass and dissipate.

“Receiver” shall mean a television set or radio receiver.
(Ord. 560, 4-20-99)

Article 6 – Moving Buildings

SECTION 9-601: PERMIT REQUIRED; APPLICATION; BOND

It shall be unlawful for any person, firm, or corporation to move any building or structure within the City without a written permit to do so. Application may be made to the city clerk and shall include the present and future location of the building to be moved, the proposed route, the equipment to be used, and such other information as the City Council may require. The application shall be accompanied by a certificate issued by the county treasurer to the effect that all provisions regulating the moving of buildings have been complied with on the part of the owner of the real estate upon which the building is presently located. The city clerk shall refer the application to the chief of police for approval of the proposed route over which the building is to be moved. Upon approval of the City Council, the city clerk shall then issue the permit, provided that a good and sufficient corporate surety bond, check, or cash in an amount set by motion of the Council and conditioned upon moving the building without doing damage to any private or city property is filed with the city clerk prior to the granting of any permit.

SECTION 9-602: UTILITIES

A. In the event it will be necessary for any licensed building mover to interfere with the telephone or electrical poles and wires or a gas line, the company or companies owning, using, or operating the poles, wires, or line shall upon proper notice of at least 24 hours, be present and assist by disconnecting the poles, wires, or line relative to the building moving operation. All expense of the disconnection, removal, or related work shall be paid in advance by the licensee unless such disconnection or work is furnished on different terms as provided in the company's franchise.

B. Whenever the moving of any building necessitates interference with a water main, sewer main, pipes, or wire belonging to the City, notice in writing of the time and route of the building moving operation shall be given to the utilities superintendent, who shall proceed on behalf of the City and at the expense of the mover to make such disconnections and do such work as is necessary.

SECTION 9-603: COMPLETION OF MOVE; DEPOSIT

At such time as the building moving has been completed, the city police shall inspect the premises and report to the city clerk as to the extent of damages, if any, resulting from the relocation and whether any city laws have been violated during the operation. Upon a satisfactory report from the city police, the city clerk shall return the corporate surety bond, cash, or check deposited by the applicant. In the event the basement, foundation, or portion thereof is not properly filled, covered, or in a clean and sanitary condition, the City Council may apply the money deposited for the purpose of defraying the expense of correcting the conditions. If the expense of correcting the hazardous condition is greater than the amount of the deposit set by the City Council as required herein, the City Council may recover such excess expense by civil suit or otherwise as

prescribed by law.

SECTION 9-604: EXCEPTION

No moving permit shall be required to move a building that is ten feet wide or less and 20 feet long or less, and when in a position to move, 15 feet high or less.

Article 7 – Penal Provision

SECTION 9-701: VIOLATION; PENALTY

Any person who shall violate or refuse to comply with the enforcement of any of the provisions of this chapter, set forth at full length herein or incorporated by reference shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be fined no more than $500.00 for each offense. A new violation shall be deemed to have been committed every 24 hours of such failure to comply.

CHAPTER 10 – MUNICIPAL PLANNING

ARTICLE 1 – COMPREHENSIVE PLAN

10-101 ADOPTED BY REFERENCE

ARTICLE 2 – ZONING REGULATIONS AND MAP

10-201 ZONING REGULATIONS; ADOPTED BY REFERENCE
10-202 ZONING MAP; ADOPTED BY REFERENCE

ARTICLE 3 – SUBDIVISION REGULATIONS

10-301 ADOPTED BY REFERENCE

ARTICLE 4 – FLOODPLAIN REGULATIONS

10-401 ADOPTED BY REFERENCE

ARTICLE 5 – PENAL PROVISION

10-501 VIOLATION; PENALTY

CHAPTER 10 – MUNICIPAL PLANNING

Article 1 – Comprehensive Plan

SECTION 10-101: ADOPTED BY REFERENCE

In order to accommodate anticipated long-range future growth, a Revised Comprehensive Development Plan for the City of Yutan was adopted by Ord. 726 on May 16, 2017. One copy of the adopted plan shall be kept on file with the city clerk and available for inspection by any member of the public during office hours.

Article 2 – Zoning Regulations and Map

SECTION 10-201: ZONING REGULATIONS; ADOPTED BY REFERENCE

For the purpose of setting minimum standards to promote the public health, safety, morals, convenience, order, prosperity, and general welfare of the community, and to lessen congestion in the streets; to secure safety from fire, panic, and other dangers; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; and to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements, the Zoning Regulations for the City of Yutan were adopted by Ord. 716 on December 15, 2015. One copy of the adopted Zoning Regulations shall be kept on file with the city clerk and available for inspection by any member of the public during office hours. (Am. Ord. 716, 12-15-15)

SECTION 10-202: ZONING MAP; ADOPTED BY REFERENCE

The official Zoning Map for the City of Yutan was adopted by Ord. 715 on October 20, 2015. The map shall be posted in a prominent place within the City for review by the citizens of the community. (Am. Ord. 715, 10-20-15)

Article 3 – Subdivision Regulations

SECTION 10-301: ADOPTED BY REFERENCE

To provide for harmonious development of the City and its environs; for the integration of new subdivision streets with other existing or planned streets or with other features of the Comprehensive Plan; for adequate open spaces for traffic, recreation, light and air; for the distribution of population and traffic in a manner which will tend to create conditions favorable to health, safety, convenience, or prosperity; to insure conformance of subdivision plans with the capital improvement program of the City; and, to secure equitable handling of all subdivision plats by providing uniform procedures and standards for observance by subdividers and the Planning Commission and City Council, Subdivision Regulations for the City of Yutan were adopted by Ord. 721 on Nov. 15, 2016. One copy of the adopted Subdivision Regulations shall be kept on file with the city clerk and available for inspection by any member of the public during office hours. (Am. Ord. 721, 11-15-16)

Article 4 – Floodplain Regulations

SECTION 10-401: ADOPTED BY REFERENCE

To promote the public health, safety, and general welfare and to minimize loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary expenditures for flood protection and relief, and impairment of the tax base, Floodplain Regulations for the City of Yutan were adopted by Ord. 680 on January 19, 2010. One copy of the adopted Floodplain Regulations shall be kept on file with the city clerk and available for inspection by any member of the public during office hours. (Am. Ord. 680, 1-19-10)

Article 5 – Penal Provision

SECTION 10-501: VIOLATION; PENALTY

Any person who shall violate or refuse to comply with the enforcement of any of the provisions of this chapter, set forth at full length herein or incorporated by reference, shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be fined no more than $500.00 for each offense. A new violation shall be deemed to have been committed every 24 hours of such failure to comply.