

CITY OF GERING, NEBRASKA

CODE OF ORDINANCES

2010 S-6 Supplement Contains:
Local Legislation current though Ordinance No. 1910, passed 4-12-10
State Legislation though 2009

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§ 10.01 TITLE OF CODE

This codification of ordinances by and for the City of Gering, Nebraska, shall be designated as the Code of Gering and may be so cited.

§ 10.02 INTERPRETATION.

Unless otherwise provided herein, or by law or implication required, the same rules of construction, definition, and application shall govern the interpretation of this code as those governing the interpretation of state law.

§ 10.03 APPLICATION TO FUTURE ORDINANCES.

All provisions of Title I compatible with future legislation, shall apply to ordinances hereafter adopted amending or supplementing this code unless otherwise specifically provided.

§ 10.04 CAPTIONS.

Headings and captions used in this code other than the title, chapter, and section numbers are employed for reference purposes only and shall not be deemed a part of the text of any section.

§ 10.05 DEFINITIONS.

(A) *General rule.* Words and phrases shall be taken in their plain, or ordinary and usual sense. However, technical words and phrases having a peculiar and appropriate meaning in law shall be understood according to their technical import.

(B) *Definitions.* For the purpose of this code, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

CITY, MUNICIPAL CORPORATION, or MUNICIPALITY. The City of Gering, Nebraska.

CITY COUNCIL, COUNCIL, or GOVERNING BODY. The legislative body of the City of Gering.

CODE, THIS CODE, or THIS CODE OF ORDINANCES. This city code as modified by amendment, revision, and adoption of new titles, chapters, or sections.

COUNTY. Scotts Bluff, Nebraska.

MAY. The act referred to is permissive.

MONTH. A calendar month.

OATH. An affirmation in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the words **SWEAR** and **SWORN** shall be equivalent to the words **AFFIRM** and **AFFIRMED**.

OFFICER, OFFICE, EMPLOYEE, COMMISSION, or DEPARTMENT. An officer, office, employee, commission, or department of this city unless the context clearly requires otherwise.

PERSON. Includes bodies politic and corporate, societies, communities, the public generally, individuals, partnerships, limited liability companies, joint-stock companies, and associations. (Neb. RS 49-801(16))

PRECEDING or ***FOLLOWING***. Next before or next after, respectively.

SHALL. The act referred to is mandatory.

SIGNATURE or ***SUBSCRIPTION***. Includes a mark when the person cannot write.

STATE. The state of Nebraska.

SUBCHAPTER. A division of a chapter, designated in this code by a heading in the chapter analysis and a capitalized heading in the body of the chapter, setting apart a group of sections related by the subject matter of the heading. Not all chapters have subchapters.

WRITTEN. Any representation of words, letters, or figures, whether by printing or otherwise.

YEAR. A calendar year, unless otherwise expressed.

§ 10.06 RULES OF INTERPRETATION.

The construction of all ordinances of this city shall be by the following rules, unless such construction is plainly repugnant to the intent of the Mayor and City Council or of the context of the same ordinance:

(A) ***AND*** or ***OR***. Either conjunction shall include the other as if written “and/or,” if the sense requires it.

(B) *Acts by assistants*. When a statute or ordinance requires an act to be done which, by law, an agent or deputy as well may do as the principal, such requisition shall be satisfied by the performance of such act by an authorized agent or deputy.

(C) *Gender; singular and plural; tenses*. Words denoting the masculine gender shall be deemed to include the feminine and neuter genders; words in the singular shall include the plural, and words in the plural shall include the singular; the use of a verb in the present tense shall include the future, if applicable.

(D) *General term*. A general term following specific enumeration of terms is not to be limited to the class enumerated unless expressly so limited.

§ 10.07 SEVERABILITY.

If any provision of this code as now or later amended or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions that can be given effect without the invalid provision or application.

§ 10.08 REFERENCE TO OTHER SECTIONS.

Whenever in one section reference is made to another section hereof, such reference shall extend and apply to the section referred to as subsequently amended, revised, recodified, or renumbered unless the subject matter is materially altered by the amendment or revision.

§ 10.09 REFERENCE TO OFFICES.

Reference to a public office or officer shall be deemed to apply to any office, officer, or employee of this city exercising the powers, duties, or functions contemplated in the provision, irrespective of any transfer of functions or change in the official title of the functionary.

§ 10.10 ERRORS AND OMISSIONS.

If a manifest error is discovered, consisting of the misspelling of any words; the omission of any word or words necessary to express the intention of the provisions affected; the use of a word or words to which no meaning can be attached; or the use of a word or words when another word or words was clearly intended to express such intent, such spelling shall be corrected and such word or words supplied, omitted, or substituted as will conform with the manifest intention, and the provisions shall have the same effect as though the correct words were contained in the text as originally published. No alteration shall be made or permitted if any question exists regarding the nature or extent of such error.

§ 10.11 OFFICIAL TIME.

The official time, as established by applicable state/federal laws, shall be the official time within this city for the transaction of all city business.

§ 10.12 REASONABLE TIME.

(A) In all cases where an ordinance requires an act to be done in a reasonable time or requires reasonable notice to be given, reasonable time or notice shall be deemed to mean the time which is necessary for a prompt performance of such act or the giving of such notice.

(B) The time within which an act is to be done, as herein provided, shall be computed by excluding the first day and including the last. If the last day is Sunday, it shall be excluded.

§ 10.13 ORDINANCES REPEALED.

This code contains all of the provisions of a general nature pertaining to the subjects enumerated and embraced in this code. All prior ordinances pertaining to the subjects treated by this code are repealed,

except that nothing shall affect any rights acquired under, actions involving, or fines, penalties, forfeitures, or liabilities incurred pursuant to such ordinances prior to repeal.

§ 10.14 ORDINANCES UNAFFECTED.

All ordinances of a temporary or special nature and all other ordinances pertaining to subjects not embraced in this code, including ordinances specified in this section, shall remain in full force and effect unless repealed expressly or by necessary implication:

- (1) Vacating or setting the boundaries of streets, alleys, or other public places.
- (2) Annexing or detaching territory.
- (3) Granting or accepting easements, plats, or dedication of land to public use.
- (4) Providing for the acquisition or conveyance of real or personal property.
- (5) Authorizing or directing public improvements to be made.
- (6) Levying taxes or special assessments.
- (7) Appropriating money.
- (8) Granting franchises or special licenses.
- (9) Providing for the issuance of bonds or other instruments of indebtedness.

§ 10.15 REPEAL OR MODIFICATION OF ORDINANCE.

(A) Whenever any ordinance or part of an ordinance shall be repealed or modified by a subsequent ordinance, the ordinance or part of an ordinance thus repealed or modified shall continue in force until the publication of the ordinance repealing or modifying it to give effect thereto.

(B) No suit, proceedings, right, liability, fine, forfeiture, or penalty instituted, created, given, secured, or accrued under any ordinance previous to its repeal shall in any way be affected, released, or discharged, but may be prosecuted, enjoyed, and recovered as fully as if the ordinance had continued in force unless it is otherwise expressly provided.

(C) When any ordinance repealing a former ordinance, clause, or provision is itself repealed, the repeal shall not be construed to revive the former ordinance, clause, or provision, unless it is expressly provided.

Statutory reference:

Requirements for amendments and revisions, see Neb. RS 16-404

§ 10.16 SECTION HISTORIES; STATUTORY REFERENCES.

(A) As histories for the code sections, the specific number and passage date of the original ordinance, and the most recent three amending ordinances, if any, are listed following the text of the code section. Example: (Prior Code, § 1-1-1) (Ord. 10, passed 5-13-60; Am. Ord. 15, passed 1-1-70; Am. Ord. 20, passed 1-1-80; Am. Ord. 25, passed 1-1-85)

(B) (1) A statutory cite included in the history indicates that the text of the section reads substantially the same as the statute. Example: (Neb. RS 16-100)

(2) A statutory cite set forth as a “statutory reference” following the text of the section indicates that the reader should refer to that statute for further information. Example:

§ 39.01 PUBLIC RECORDS AVAILABLE.

This municipality shall make available to any person for inspection or copying all public records, unless otherwise exempted by state law.

Statutory reference:

*For provisions concerning the inspection of public records,
see Neb. RS 84-712 et seq.*

(C) If a section of this code was derived from the previous code of ordinances of the city published in the Prior Code, as subsequently amended, the Prior Code section number shall be indicated in the history by “(Prior Code, § ____).”

§ 10.17 SUPPLEMENTATION OF CODE OF ORDINANCES.

(A) *Discretion.* When preparing a supplement to this municipal code, the codifier (that is, the person, agency, or organization authorized to prepare the supplement) may make formal nonsubstantive changes in ordinances and parts of ordinances included in the supplement as necessary to embody them into a unified code. For example, the codifier may:

(1) Organize the ordinance material into appropriate sections and subdivisions;

(2) Provide appropriate catchlines, headings, and titles for sections and other subdivisions of the ordinance printed in the supplement and make changes in such catchlines, headings, and titles;

(3) Assign appropriate numbers to sections and other subdivisions to be inserted in the code and, where necessary to accommodate new material, change existing section or other subdivision numbers;

(4) Change the words “this ordinance” or words of the same meaning to “this chapter,” “this article,” “this section,” and the like, as may be appropriate, or to “sections __ to __” (inserting section numbers to indicate the sections of the code which embody the substantive sections of the ordinance incorporated into the code);

(5) Insert appropriate section numbers in references to code sections such as “section __” or “sections __ to __” which are not filled in prior to adoption of an ordinance;

(6) Correct the spelling of words, correct obvious typographical errors, correct erroneous division and hyphenation of words, capitalize or decapitalize words, and make other similar changes in accordance with accepted usage or for consistency with other provisions of the code;

(7) Change terminology for consistency with terminology used in other provisions of the code; and

(8) Make other nonsubstantive changes necessary to incorporate ordinance material into the code while preserving the original meaning of the ordinance sections.

(B) *Prohibition.* In no case shall the codifier make any change in the meaning or effect of ordinance material included in the supplement or already embodied in the code and not repealed by any ordinance.

§ 10.99 GENERAL PENALTY.

(A) Any person who violates any of the provisions of this municipal code, unless otherwise specifically provided herein, shall be deemed guilty of an offense and upon conviction thereof shall be fined in any sum not exceeding \$1,000. A new violation shall be deemed to have been committed every 24 hours of failure to comply with the provisions of this code.

(B) (1) Whenever a nuisance exists as defined in § 94.30, the municipality may proceed by a suit in equity to enjoin and abate the same, in the manner provided by law.

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

(C) Classification of penalties, costs, sentences and where served.

(1) For the purposes of this municipal code and any subsequent amendments thereto, violations are divided into the following classes which are distinguished from one another by the following penalties which are authorized upon conviction:

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(a) Class I violation: Maximum - seven days imprisonment or \$1,000 dollar fine, or both
Minimum-None

(b) Class II violation: Maximum - \$1,000 dollar fine
Minimum-None

(2) In all cases, the convicted defendant shall pay the costs of prosecution.

(3) All sentences of imprisonment shall be served in the Scotts Bluff County Detention Center.

(4) Any violation defined anywhere in the municipal code without specification of its class shall be punished as provided in that portion of the municipal code which defines the violation(s). If no specific penalty is provided, the violation is a Class II violation.

(Prior Code, § 1-3-3) (Ord. 1786, passed 12-13-04; Am. Ord. 1901, passed 9-28-09)

Cross-reference:

Arrests; appearance before county court, see § 130.90

Statutory reference:

Authority to impose fines and penalties, see Neb. RS 16-246

Authority to abate nuisances, see Neb. RS 18-1720 and 18-1722

CHAPTER 11: CITY STANDARDS

Section

- 11.01 Official corporate seal
- 11.02 Wards

§ 11.01 OFFICIAL CORPORATE SEAL.

There shall be owned by the city and kept in the office the Clerk, a common seal of the corporation, having engraved thereon the words “City of Gering, Nebraska. Incorporated March 14, 1916.” The Clerk shall affix an impression of the seal to all warrants, licenses, occupation tax receipts, ordinances, and resolutions and all papers issued by order of the Mayor and Council and countersigned by the Clerk.

(Prior Code, § 1-19-1)

§ 11.02 WARDS.

The territory now embraced in the City of Gering shall stand divided into four wards as follows:

(A) First Ward.

(1) All that portion of the City of Gering lying within the following described boundary, to-wit: Beginning at the intersection of the center line of the North Platte River and the east city limits line; thence south along the east city limits line to the intersection of the center line of Morrison Road; thence west along the said centerline to the intersection of the center line of Pacific Boulevard; thence south along said center line to the intersection of the center line of “U” Street; thence east along said center line to the intersection of the center line of 13th Street; thence south along said center line to the intersection of the center line of “S” Street; thence west along said center line to the intersection of the center line of 21st Street; thence north along said center line to the intersection of the center line of the alley way between Lots 16 and 17, Blk. 1 of the Brandt Subdivision; thence west along said center line to the east R.O.W. line of Highway 71; thence north along said R.O.W. line to the intersection of the center line of Country Club Road; thence east along said center line to the intersection of the center line of the alley way on the west property line of the Red Barn Subdivision; thence north along said center line to the northwest corner of said subdivision; thence southeast along the north property line of said subdivision to the intersection of the center line of 10th Street; thence north along said center line to the intersection of the center line of the North Platte River; thence southeast along said center line to the intersection of the center line of 7th Street.

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(2) All that portion of the City of Gering lying within the following prescribed boundary, to-wit: Beginning at the intersection of the city limits line at the northeast corner of Lot 1 of the Steele Tracts Subdivision; thence south along the east property line of Lot 1 along the west R.O.W. line of Highway 71 along the east boundary of the Monument Shadows Phase III Subdivision; thence along the east and south property lines of the Canyon Estates Subdivision; thence in a straight line west across to the west R.O.W. line of the Gering/Fort Laramie irrigation canal; thence south along said R.O.W. line to the intersection off the center line of "U" Street; thence west along said center line to the city limits line; thence north along the city limits line to the northeast corner of the city limits; thence southeast along the city limits line to the northeast corner of Lot 1 of the Steele Tracts Subdivision.

(B) *Second Ward.*

(1) All that portion of the City of Gering lying within the following boundary, to-wit: Beginning at the northeast corner of the "M" Street R.O.W. and the Highway 71 R.O.W.; thence south along the city limits line encompassing the Central Church of Christ Addition, the Rejoice Lutheran Church Addition, Ag Estates, and the Holcomb-Subdivision.

(2) All that portion of the City of Gering lying within the following boundary, to wit: Beginning at the intersection of the center line of "S" Street and the center line of 12th Street; thence south along the center line of 12th Street to the intersection of the center line of "M" Street; thence west along said center line to the intersection of the center line of 13th Street; thence south along said center line to the intersection of the center line of "K" Street; thence west along said center line to the intersection of the center line of 17th Street; thence south along said center line to the intersection of the center line of Yucca Drive; thence west along said center line to the intersection of the city limits line; thence north and west along said city limits line to the southwest corner of the Meadows Subdivision; thence north along said city limits line to the intersection of the center line of "U" Street; thence east along said center line to the intersection of the west county property line; thence southeast along said property line; thence north along said property line to the intersection of the center line of the alley way between Lots 14 and 19, Blk. 1 of Brandts Subdivision; thence east along said center line to the intersection of the center line of 21st Street; thence south along said center line to the intersection of the center line of "S" Street; thence east along said center line to the intersection of the center line of 12th Street.

(C) *Third Ward.* All that portion of the City of Gering lying within the following boundary, to-wit: Beginning at the intersection of the center line of 7th Street and the center line of "U" Street; thence east and south along the city limits line to the intersection of the center line of "M" Street; thence west along said center line to the intersection of the center line of 6th Street; thence south along said center line to the intersection of the center line of "K" Street; thence west along said center line to the intersection of the center line of 13th Street; thence north along said center line to the intersection of the center line of "M" Street; thence east along said center line to the intersection of the center line of 12th Street; thence north along said center line to the intersection of the center line of "S" Street; thence west along said center line to the intersection of the center line of 13th Street; thence north along said center line to the intersection of the center line of "U" Street; thence west along said center line to the intersection of the

center line of Pacific Boulevard; thence north along said center line to the intersection of the north property line of Lot 18, Blk. 7, Northfield 1st Addition; thence east along said property line to the east city limits line; thence south along said city limits line to the intersection of 7th Street and "J" Street.

(D) *Fourth Ward.*

(1) All that portion of the City of Gering lying south of a line beginning at the intersection of the center line of "M" Street and the east city limits; thence west on the center line of "M" Street to 6th Street; thence south on the center line of 6th Street to "K" Street; thence west on the center line of "K" Street to 17th Street; thence South on the center line of 17th Street to Yucca Drive; thence west on the center line of Yucca Drive to the west city limits; thence south along the city limits line to the southwest corner of the city limits; thence north and east along the city limits line to the intersection of "M" Street excluding those portions owned by the County of Scottsbluff.

(2) All that portion of the City of Gering that encompasses the Pathfinder Subdivision and the Replat of Pathfinder Subdivision.

(3) All that portion of the City of Gering that encompasses the Gering 3rd Industrial Tract, Gering 4th Industrial Tract, the Gibbs Sale, and the Guerdon Sale.

(4) All that portion of the City of Gering located in the N½ of the NE¼ of Section 10, T21N, R55W.

(Ord. 1462, passed 9-23-91; Am. Ord. 1700, passed 1-14-02)

TITLE III: ADMINISTRATION

Chapter

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- 31. APPOINTED CITY OFFICIALS**
- 32. DEPARTMENTS, BOARDS, AND COMMISSIONS**
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CHAPTER 30: ELECTED OFFICIALS; ORDINANCES

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GENERAL PROVISIONS

§ 30.01 VACANCIES.

(A) Any vacancy on the council resulting from causes other than expiration of the term shall be filled by appointment by the Mayor with the consent of the City Council to hold office for the remainder of the term. The appointment guidelines shall be established by resolution.

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(B) In addition to the events listed in Neb. RS 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. RS 19-3101)

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

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

(E) At the hearing, the council member shall have the right to present information on why one or more of the absences should be excused. If the council does not excuse one or more of the member's absences by a majority vote at the conclusion of the hearing, there shall be a vacancy on the Council.
(Prior Code, § 1-7-4) (Am. Ord. 1850, passed 6-11-07)

MAYOR**§ 30.10 ELECTION.**

The Mayor shall be elected for a term of four years at the general election held in the city and shall serve until his or her successor is elected and qualified.
(Prior Code, § 1-6-1) (Ord. 682, passed 2-23-70)

§ 30.11 DUTIES.

(A) The Mayor shall have charge over all the property belonging to the city and not in the particular charge of any officer. He or she shall preside over all meetings of the Council. He or she shall require of all city officers a receipt for any and all articles belonging to the city now in their charge, and all that may hereafter come under their charge, and shall be receipted for in like manner. All outgoing city officers shall deliver over to him or her or account for all such articles whenever their terms of office expire. He or she shall also examine into and satisfy himself or herself as to the correctness of each and

every appropriation ordinance before approving the same. He or she shall have a casting vote when the Council is equally divided and not otherwise. He or she shall have superintendence and control of all officers and affairs of the city.

(B) All financial reports of the Treasurer shall be audited by the Mayor and Council, and if found correct, the same shall be endorsed and shall be filed in the office of the Clerk. The Mayor shall sign the Clerk's minutes of all meetings after they have been spread at large upon the journal when the same have been approved by the action or acquiescence of the Council. He or she shall sign all warrants for the payment of money when ordered by the Council. He or she shall issue, or cause to be issued, all permits in writing which are required by the provisions of this code. He or she shall sign all ordinances, resolutions and orders which have been passed, approved and declared to be the law of this city. He or she shall from time to time communicate to the Council such information and recommend such measures as, in his or her opinion, may tend to the improvement of the finances of the city, and the safety, health, security, ornament, comfort and general prosperity thereof. He or she shall cause the laws of the city to be carried into effect, and shall be vigilant and active to promote the peace and welfare of the city.

(C) The Mayor shall have the power to approve or veto any ordinance passed by the City Council, and to approve or veto any order, bylaw, resolution, award or vote to enter into any contract, or the allowance of any claim; provided, any ordinance, order, bylaw, resolution, award 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 all the members elected to the Council, notwithstanding his or her veto. If the Mayor neglects or refuses to sign any ordinance, order, bylaw, resolution, award or vote to enter into any contract, or the allowance of any claim, and returns the same with his or her objection in writing at the next regular meeting of the Council, the same shall become a law without his signature. The Mayor may veto any item or items of any appropriation bill, and approve the remainder thereof, and the item or items so vetoed may be passed by the Council over the veto as in other cases.

(Neb. RS 16-313)

(D) He or she shall have the power to remit fines and forfeitures, to grant reprieves and pardons for all offenses arising under the laws of the city, and shall have jurisdiction and power in any other matters which the statutes of this state repose in him or her.

(E) The Mayor shall, from time to time, communicate to the City Council such information and recommend such measures as in his or her opinion may tend to the improvement of the finances of the city, the police, health, comfort, and general prosperity of the city, and may have such jurisdiction as may be invested in him or her by ordinance over all places within two miles of the corporate limits of the city, for the enforcement of health or quarantine ordinances and the regulation thereof.

(Neb. RS 16-314) (Prior Code, § 1-6-2)

CITY COUNCIL**§ 30.20 NUMBER AND QUALIFICATIONS.**

Each ward of the city shall be entitled to two Councilmembers, who shall be registered voters of the city. Each Councilmember at the time of his or her election shall be an actual resident of the ward from which he or she is elected.

(Prior Code, § 1-5-1)

Cross-reference:

Wards, see § 11.02

§ 30.21 CHANGE IN OFFICE.

The City Council shall meet on the first regular meeting of the Council in December of each even numbered year and the outgoing officers and the outgoing members of the City Council shall present their reports. The outgoing members of the Council shall surrender their offices to the incoming members. Each outgoing officer shall thereupon surrender to his or her successor in office all property, records, papers, and moneys belonging to the same. After such surrender, the outgoing Council shall adjourn *sine die*. The newly elected Council shall then convene and proceed to organize itself for the ensuing year.

(Prior Code, § 1-5-2) (Ord. 1489, passed 12-14-92)

§ 30.22 COUNCIL ORGANIZATION.

(A) City Councilmembers of this city shall take office, and commence their duties on the first regular meeting of the Council in December following their election.

(B) The newly elected Council shall convene at the regular place of meeting in the city on the first regular meeting of the Council in December of each even numbered year in which a city election is held immediately after the prior Council adjourns and proceed to organize themselves for the ensuing year. The Mayor elected for the new municipal term 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.

(C) 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 his or her candidates for appointive offices. He or she shall then proceed with the regular order of business.

(D) It is hereby made the duty of each and every member of the Council, or his or her successor in office, and to each officer elected to any office, to qualify prior to the first regular meeting in December following his or her election. All appointive officers shall qualify within two weeks following their appointments. Qualifications for each officer who is not required to give bond shall consist in his

or her subscribing and taking an oath to support the Constitution of the United States, the Constitution of the State of Nebraska, the laws of the city and to perform faithfully and impartially the duties of his or her office, the oath to be filed in the office of the City Clerk. Each officer who is required to give 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 or her office, with the oath endorsed thereon.

(Prior Code, § 1-5-3) (Ord. 980, passed 11-22-76; Am. Ord. 1489, passed 12-14-92)

§ 30.23 PRESIDENT; ACTING PRESIDENT.

The Council , on the first regular meeting in December, shall select one of their own body who shall be styled the “President of the Council” and who shall preside at all meetings of the Council in the absence of the Mayor. In the absence of the President, the Council shall elect one of their own body to occupy the place temporarily, who shall be styled, “Acting President of Council”. The President and Acting President, when occupying the place of Mayor shall have the same privileges as other members of the Council. All acts of the President and Acting President while so acting shall be as binding upon the Council and the city as if done by the Mayor.

(Prior Code, § 1-5-5) (Ord. 682, passed 2-23-70)

§ 30.24 STANDING COMMITTEES.

(A) At the organizational meeting of the City Council, the Mayor shall appoint members of such standing committees as the City Council may by ordinance create. The membership of such standing committees may be changed at any time by the Mayor. The Mayor shall be a member ex officio of each standing committee. The members of the standing committees shall serve a term of two years and may be reappointed.

(B) The following standing committees shall be appointed or reappointed every two years: Personnel, Public Works; Public Safety; Recreation, Amusement and Cultural and Administrative, Office and Economic Development.

(Prior Code, § 1-7-1(B)) (Ord. 980, passed 11-22-76; Am. Ord. 1397, passed 11-14-88; Am. Ord. 1891, passed 6-22-09)

ORDINANCES, RESOLUTIONS, AND MOTIONS

§ 30.40 GRANT OF POWER.

The City Council may make all ordinances, bylaws, rules, regulations, and resolutions not inconsistent with the general laws of the State of Nebraska as may be necessary or expedient, in addition to the special powers otherwise granted by law, for maintaining the peace, good government, and welfare of the city and its trade, commerce, and manufactures, for preserving order and securing persons or

property from violence, danger, and destruction, for protecting public and private property, and for promoting the public health, safety, convenience, comfort, and morals and the general interests and welfare of the inhabitants of the city.

(Neb. RS 16-246)

Statutory reference:

Adoption of standard codes, see Neb. RS 18-132

§ 30.41 PROCEDURE FOR RESOLUTIONS AND MOTIONS.

Resolutions and motions shall be introduced in one of the methods prescribed for the introduction of ordinances. After their introduction, they shall be fully and distinctly read one time in the presence and hearing of a majority of the members elected to the City Council. The issue raised by the resolution or motion shall be disposed of in accordance with the usage of parliamentary law adopted for the guidance of the City Council. A majority vote shall be required to pass any resolution or motion. The vote on any resolution or motion shall be by roll call vote.

§ 30.42 ORDINANCES; STYLE, TITLE.

(A) *Style.* The style of all municipal ordinances shall be: “Be it ordained by the Mayor and Council of the City of Gering, Nebraska:....”

(Neb. RS 16-405)

(B) No ordinance shall contain a subject which is not clearly expressed in the title.

(Neb. RS 16-404)

§ 30.43 READING AND PASSAGE OF ORDINANCES, RESOLUTIONS, ORDERS, BYLAWS.

(A) Ordinances of a general or permanent nature shall be read by title on three different days unless $\frac{3}{4}$ of the Council members vote to suspend this requirement, except that such requirement shall not be suspended for any ordinance for the annexation of territory. In the case such requirement is suspended, the ordinance shall be read by title or number and then moved for final passage. Three-fourths of the Council members may require a reading of any such ordinance in full 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 all members elected to the City Council.

(Neb. RS 16-404)

(B) On the passage or adoption of every resolution or order to enter into a contract, or accepting of work done under contract, by the Mayor or Council, the yeas and nays shall be called and entered upon the record. To pass or adopt any bylaw or ordinance or any such resolution or order, a concurrence of a majority of the whole number of the members elected to the Council shall be required.

The requirements of a roll call or viva voce vote shall be satisfied by a city which utilizes an electronic voting device which allows the yeas and nays of each Council member to be readily seen by the public. (Neb. RS 16-503)

§ 30.44 PUBLICATION OR POSTING.

All ordinances of a general nature shall, within 15 days after they are passed, be published in some newspaper published within the city, or in pamphlet form, to be distributed or sold, as may be provided by ordinance. Every ordinance fixing a penalty or forfeiture for its violation shall, before the same takes effect, be published for at least one week in some manner prescribed in this section.

(Neb. RS 16-405)

Statutory reference:

Emergency ordinance, see Neb. RS 16-405

Additional provisions, see Neb. RS 18-131

§ 30.45 CERTIFICATE OF PUBLICATION OR POSTING.

The passage, approval, and publication 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.

(RS Neb. 16-403)

Statutory reference:

Emergency ordinance, see Neb. RS 16-405

Additional provisions, see Neb. RS 18-131

§ 30.46 EFFECTIVE DATE; EMERGENCY ORDINANCES.

(A) Except as provided in § 30.45 and division (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. RS 19-3701)

(B) In cases of riots, infectious diseases, or other impending danger, or any other emergency requiring its immediate operation, an ordinance shall take effect upon the proclamation of the Mayor immediately upon the first publication of the ordinance.

(Neb. RS 16-405)

§ 30.47 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 municipality and modifications to zoning or building districts may be adopted as otherwise provided by law.

(Neb. RS 16-404)

Statutory reference:

Ordinance revising all the ordinances of the city, see Neb. RS 16-247 and 16-404

Modifications to zoning or building districts, see Neb. RS 19-915

CHAPTER 31: APPOINTED CITY OFFICIALS

Section

- 31.01 Appointive officers; selection
- 31.02 Residency
- 31.03 Clerk; duties
- 31.04 Treasurer
- 31.05 Warrant register
- 31.06 Treasurer's reports
- 31.07 Municipal Attorney
- 31.08 Administrator
- 31.09 Engineer

Cross-reference:

Building Inspector, see § 150.901

Electrical Inspector, see § 150.902

Fire Chief, see § 32.41

Fire Marshal, see § 32.56

Director of Civil Defense, see § 32.70

§ 31.01 APPOINTIVE OFFICERS; SELECTION.

(A) All appointive officers of this city shall be nominated and appointed by the Mayor with the approval of the City Council. The vote thereon shall be recorded in the minutes of the meeting by the Clerk, together with the names of the members voting for and against the appointment.
(Prior Code, § 1-7-3)

(B) There shall be appointed by the Mayor at the beginning of their term on the first regular meeting in December, appointive officers as follows: Clerk, Treasurer, Engineer, Attorney, and such other officers as may from time to time be established by ordinance or by resolution of the Mayor and Council
(Prior Code, § 1-7-1(A))

§ 31.02 RESIDENCY.

Any citizen of the United States, regardless of sex, race, national origin or religion, shall be eligible to be the head of any administrative department or to hold any other office or employment of the city, except as otherwise provided by statute, ordinance or regulation.
(Prior Code, § 1-7-8) (Ord. 1496, passed 2-8-93)

§ 31.03 CLERK; DUTIES.

(A) It shall be the duty of the Clerk to attend every meeting of the Council and keep a record of the proceedings thereof.

(B) The Clerk shall keep and carefully preserve all papers and books which may come into his or her possession as Clerk, filing and arranging them in a manner convenient for reference. He or she shall keep a record of all bonds outstanding against the city showing the number and amount of each, and for and to whom the bonds were issued and when any bonds are purchased, paid or cancelled, the records shall show the fact, and in his or her annual report he or she shall describe particularly the bonds issued and sold during the past year and the terms of the sale with each and every item of expense thereof.

(C) The Clerk shall keep the seal of the city and shall duly attest thereby the Mayor's signature to all ordinances and all deeds and papers required to be attested, when ordered by the Mayor and Council, and all orders for money or warrants for the payment of money, and shall enter the same in numerical order in a book to be kept for that purpose.

(D) The Clerk shall keep a register of all licenses granted in the city and the purpose for which they were issued, and report to the Council at every meeting and at the beginning of each month, shall, if required by the Police Department, furnish them with a true copy of the register of all licenses then in force.

(E) Within 30 days after any meeting of the Council, the Clerk shall prepare and publish the proceedings of the Council in a legal newspaper, designated by the Mayor and Council, or more than one legal newspaper if directed by the Council, within the county; provided however, the charge for the publication shall not exceed one-third of the legal rate. The publication charge shall be paid and allowed as other claims against the general fund.

(F) The Clerk shall hereafter keep and preserve the proceedings of the Mayor and Council in two separate and distinct record books:

(1) "Minute Record," wherein shall be recorded the miscellaneous and informal doings of the Mayor and Council.

(2) "Ordinance Record," wherein shall be recorded the formal proceedings of the Mayor and Council in the matter of passing, approving, publishing or posting and certifying to ordinances. The ordinance minutes shall be recorded in the "Ordinance Record" book on printed forms to be designated by the Mayor and Council. Hereafter when single ordinances are introduced, appropriate reference shall be made in the "Minute Record."

(G) The Clerk shall perform such other duties as the Mayor and Council shall from time to time provide.

(Prior Code, § 1-8-1)

§ 31.04 TREASURER.

The Treasurer shall be required to give bond in not less than \$25,000, or he or she may be required to give bond in double the sum of money estimated by the Council at any time to be in his or her hands belonging to the city and school district, and he or she shall be the custodian of all money belonging to the corporation. The City Council shall pay the actual premium of the bond of the Treasurer. The Treasurer shall keep a separate account of each fund or appropriation, and the debts and credits belonging thereto. He or she shall give every person paying money into the treasury a receipt therefor, specifying the date of payment and on what account paid. He or she shall also file copy of such receipts, except tax receipts, with his or her monthly reports; and he or she shall at the end of every month, and as often as may be requested, render an account to the City Council, under oath, showing the state of the treasury at the date of such account, the amount of money remaining in each fund and the amount paid therefrom, and the balance of money in the treasury. He or she shall also accompany such account with a statement of all receipts and disbursements, together with all warrants redeemed and paid by him or her, which warrants, with all vouchers held by him or her, shall be filed with his or her account in the Clerk's office. He or she shall produce and show all funds shown by such report to be on hand, or satisfy the Council or its committee that he or she has such funds in his or her custody or under his or her control. If the Treasurer fails to render his or her account within 20 days after the end of the month, or by a later date established by the governing body, the Mayor with the advice and consent of the City Council may use this failure as cause to remove the Treasurer from office. The Treasurer may employ and appoint a delinquent tax collector, who shall be allowed a percent upon his or her collections to be fixed by the Council not to exceed the fees allowed by law to the County Treasurer for like services, and upon taxes collected by such delinquent tax collector, the City Treasurer shall receive no fees. The City Treasurer shall prepare all paving and curbing tax lists and shall collect all paving and curbing taxes.

(Neb. RS 16-318) (Prior Code, § 1-9-1)

§ 31.05 WARRANT REGISTER.

The Treasurer shall procure and keep a warrant register which shall show in columns arranged for that purpose the number, date and amount of each warrant presented and registered as hereinafter provided, the particular fund in which the same is drawn, the date of presentation, the name and address of the person in whose name the same is registered, the date of payment, the amount of interest, and the total amount paid thereon, with the date when the notice to such person in whose name such warrant is registered is mailed. Whenever a warrant is presented for payment to the Treasurer and there is not sufficient money on hand to the credit of the proper fund to pay the same, it shall be the duty of the Treasurer to enter such warrant in his or her warrant register for payment in the order of its presentation, and upon every warrant so presented and registered, he or she shall endorse registered for payment, with the date of registration, and shall sign such endorsement.

(Prior Code, § 1-9-2) (Ord. 682, passed 2-23-70)

§ 31.06 TREASURER'S REPORTS.

It shall be the duty of the Treasurer to prepare and publish annually within 60 days following the close of its municipal fiscal year, a statement of the receipts and expenditures by funds of the city for the preceding fiscal year. Not more than the legal rate provided for in Neb. RS 33-141 shall be charged and paid for such publication.

(Neb. RS 19-1101) (Prior Code, § 1-9-3)

§ 31.07 MUNICIPAL ATTORNEY.

The City Attorney shall be the legal advisor of the Council and city officers. The City Attorney shall commence, prosecute, and defend all suits and actions necessary to be commenced, prosecuted, or defended on behalf of the city, or that may be ordered by the Council. He or she shall attend meetings of the Council and give them his or her opinion upon any matters submitted to him or her, either orally or in writing as may be required. The Mayor and City Council shall have the right to pay the City Attorney additional compensation for legal services performed by him or her for the city or to employ additional legal assistance and to pay for such legal assistance out of the funds of the city. Whenever the Mayor and City Council have by ordinance so authorized, the Board of Public Works shall have the right to pay the City Attorney additional compensation for legal services performed by him or her for it or to employ additional legal assistance other than the City Attorney and pay such legal assistance out of funds disbursed under the orders of the Board of Public Works.

(Neb. RS 16-319) (Prior Code, § 1-10-1)

§ 31.08 ADMINISTRATOR.

(A) *Office created.* For the purpose of providing for the centralization of administrative responsibilities, there is hereby created and established the office of City Administrator. The City Administrator will be appointed by the Mayor and a majority of the elected members of the Council. The Mayor and Council shall determine all municipal policies, adopt ordinances, and resolutions, and vote all appropriations. The Mayor and Council are the governing body of the city, and the City Administrator is its agent in carrying out the policies and directions which the Mayor and Council shall determine. The City Administrator shall serve at the pleasure of the Mayor and Council and may be removed at any time by the Mayor and a majority of the elected members of the Council.

(Prior Code, § 1-20-1)

(B) *Responsibilities and duties.* The City Administrator shall be responsible to the Mayor and Council for the efficient administration of all departments and affairs of the city which are under the Mayor and Council's control. The City Administrator shall work within the policies set forth by the Mayor and Council. The City Administrator shall be the administrative head of the city government under the direction and control of the Mayor and Council. In addition to his or her general authority as administrative head, and not as a limitation thereon, it shall be the duty of the City Administrator, and he or she shall have the following duties and powers:

(1) Take charge of and direct the operations of all city departments. Administer, supervise, be responsible for and coordinate all departments, divisions, and services of the city government which are under the control and jurisdiction of the Mayor and City Council, as provided by law, specifically including civil service laws; provided however, the office of City Physician shall not come under the administration and supervision or be the responsibility of the Administrator, although the Administrator shall be available to and shall assist the office in any administrative matter that may arise, and the office shall be available to and shall assist the Administrator in the discharge of the duties, responsibilities and powers of the Administrator as set forth in this section.

(2) Recommend to the Mayor and Council appointments to, and dismissals from, the offices of City Treasurer, City Clerk, City Engineer and City Attorney as provided in Neb. RS 16-308.

(3) Employ, discipline, transfer, and remove all subordinate, non-elected employees of the city including all departments heads with the exception of those positions identified in subdivision (2) above, in concurrence with the classification and pay plan as adopted by the Mayor and Council.

(4) Recommend to the Mayor and Council for the adoption such measures and ordinances as are deemed necessary or expedient.

(5) Prepare and submit to the Mayor and Council the annual city budget; and after its adoption, he or she is responsible for the execution and administration of the budget; he or she will also act as the purchasing agent for the city for the purchase of all material and supplies.

(6) Keep the Mayor and Council, at all times, fully advised as to the financial conditions and needs of the city.

(7) Make investigations into the affairs of the city and any department or division thereof, and any contract, or the proper performance of any obligation running to the city.

(8) Exercise general supervision and control over all real and personal property and other public property under the control and jurisdiction of the Mayor and City Council.

(9) Prepare and submit to the Mayor and Council at the end of the fiscal year a complete report on the finances and administrative activities of the city for the preceding year.

(10) Serve in any appointed office or head of department within the city government to which he or she may be qualified, if the need arises and when appointed thereto by the Mayor and Council and to hold and perform the duties thereof at the pleasure of the Mayor and City Council.

(11) Attend all regularly scheduled meetings of the City Council and such other meetings of the City Council and city departments, divisions, service, boards, commissions, committees and officers as the Administrator's duties may require; to report at such meetings any matter concerning city affairs within the jurisdiction and under the control of the Administrator, and to recommend to the Mayor and City Council for passage and adoption such measures, resolutions and ordinances which may be deemed necessary or expedient.

(12) Serve as public relations officer of the city government; to endeavor to investigate and adjust all complaints made or filed against the city government or against any department, division, service, officer or employee thereof; and to cooperate with all community organizations whose aim and purpose is to advance the best interest of the city and its citizens.

(13) Properly manage the affairs of the city and any department, division or service thereof and any contract or obligation running to the city.

(14) Perform such other duties and exercise such other powers as may be delegated to the Administrator from time to time by ordinance or resolution; and to delegate any duty, responsibility, or power set forth herein upon approval of the Mayor and City Council by proper ordinance.
(Prior Code, § 1-20-2)

(C) Mayor and Council; rights and duties.

(1) The Mayor and Council (body) reserve the right to make inquiries of city personnel relative to municipal activities.

(2) The Mayor and Council (individual members) shall deal with the administrative service through the office of the City Administrator and any direction to municipal officials shall be given through the office of the City Administrator. The Mayor and individual members of the Council may require reports from the office of the City Administrator on any municipal activity.
(Prior Code, § 1-20-4)

(D) Residency required. The City Administrator must reside within the corporate limits of the city.
(Prior Code, § 1-20-6) (Ord. 1495, passed 2-8-93; Am. Ord. 1644, passed 9-27-99)

§ 31.09 ENGINEER.

The Engineer shall make a record of the minutes of his or her surveys and of all work done for the city, which shall be public records and belong to the city. He or she shall accurately make all plats, sections, profiles and maps that may be necessary in any work for the city. He or she shall, upon request of the Mayor and Council, 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 for the establishment of grades, bridges or culverts and for the building, constructing or repairing of any public improvement of the city and file the same with the Clerk. He or she shall inspect all works of public improvement, and if found to be properly done, shall accept the same and forthwith report his or her acceptance to the Council. He or she shall estimate the cost of all proposed municipal utilities and public improvements, together with any extensions thereof, which the Council proposes to construct or improve. The Mayor and Council whenever they deem it expedient, may employ a special engineer to make or assist in making any particular estimate or survey. The Engineer may be ex officio Plumbing Inspector and Sewer Commissioner.
(Prior Code, § 1-12-1)

CHAPTER 32: DEPARTMENTS, BOARDS, AND COMMISSIONS

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Boards and Commissions

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BOARDS AND COMMISSIONS**§ 32.01 LIBRARY BOARD.**

(A) (1) The Library Board shall consist of five appointed members who shall be residents of the city and who shall serve terms of five years. The Board members shall be appointed by a majority vote of the members of the City Council. 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 cases of vacancies by resignation, removal, or otherwise, the City Council shall fill the vacancy for the unexpired term. No member shall receive any pay or compensation for any services rendered as a member of the Library Board.

(Neb. RS 51-202)

(2) 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.

(B) (1) The members of the Library Board shall immediately after their appointment meet and organize by electing from their number a President, a Secretary, and such other officers as may be necessary. A majority of the members of the Library Board shall constitute a quorum for the transaction of business.

(Neb. RS 51-204)

§ 32.02 PLANNING COMMISSION.

(A) *Established.* There shall hereby be created and established a Planning Commission for the city.

(Prior Code, § 2-7-1)

(B) *Purpose.* It shall be the function and duty of the Commission to make and adopt plans for the physical development of the municipality, including any areas outside its boundaries which, in the Commission's judgment, bear relation to the planning of such municipality.

(Prior Code, § 2-7-5)

(C) *Membership.* The Commission shall consist of nine members who shall represent insofar as is possible different professions or occupations in the city who shall be appointed by the Mayor, by and with the approval of a majority vote of the Council. All members of the Commission shall serve as such without compensation and shall hold no other municipal office. The term of each member shall be three years, except that three members of the first Commission to be so appointed shall serve for the term of one year, three for the term of two years, and three for a term of three years. All members may, after a public hearing before the Council, be removed by the Mayor, by and with the consent of a three-fourths vote of the Council for inefficiency, neglect of duty or malfeasance in office or other good and sufficient cause. Three successive unexcused absences shall be deemed a resignation by such member and upon such occurrence the office shall be deemed vacant. Vacancies occurring otherwise than through expiration of term shall be filled for the unexpired term by the Mayor.

(Prior Code, § 2-7-2)

(D) *Duties.* The Commission shall, from time to time, recommend to the appropriate public officials programs for public structures and improvements and for the financing thereof. It shall be part of its duties to consult and advise with public officials and agencies, public utility companies, civic, educational, professional and other organizations and with citizens with relation to the projection or carrying out of the plan.

(Prior Code, § 2-7-6)

(E) *Organization; meetings.* The Commission shall elect its chairperson from its members and create and fill such other of its offices as it may determine. The term of chairperson shall be one year, and he or she shall be eligible for re-election. The Commission shall hold at least one regular meeting in each month. It shall adopt rules for transaction of business and shall keep a record of its resolutions, transactions, findings and determinations, which record shall be a public record.

(Prior Code, § 2-7-3)

(F) *Funds.* The Council may provide the funds, equipment and accommodations necessary for the work of the Commission, but the expenditures of the Commission, exclusive of gifts, shall be within the amounts appropriated for that purpose by the Council; and no expenditures nor agreements for expenditures shall be valid in excess of such amounts.

(Prior Code, § 2-7-4) (Ord. 455, passed 5-5-64; Am. Ord. 575, passed 5-16-67)

§ 32.03 BOARD OF ADJUSTMENT.

(A) The Mayor shall appoint, with the approval 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, with the

approval of a majority of the City Council, 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 or 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. Neither the Mayor nor any member of the City Council shall serve as a member of the Board of Adjustment.

(B) 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 of the City Council and conditioned upon the faithful performance of their duties. 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 of the Board.

(C) The Board shall adopt rules in accordance with the provisions of this section and Neb. RS 19-901 to 19-914. 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 chairperson, or in his or 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. 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 be responsible for making such reports and performing such other duties as the Mayor and City Council may designate. (Neb. RS 19-908)

(D) 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 or her, that by reason of facts stated in the certificate a stay would, in his or 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. RS 19-909)

(E) 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.

(F) 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 reason of demonstrable and exceptional hardship as distinguished from variations for purposes of convenience, profit, or caprice.

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.

(G) In exercising the powers granted in this section, the Board may, in conformity with Neb. RS 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. RS 19-910)

(H) Appeals from a decision by the Board may be taken as provided in Neb. RS 19-912.

§ 32.04 BOARD OF HEALTH.

A Board of Health is hereby created consisting of five members who shall serve terms of three years. The Board members shall consist of the Mayor, who shall be chairperson; a physician, who shall be medical advisor; the Chief of Police, who shall be secretary and quarantine officer; and two other members. A majority of such Board shall constitute a quorum and shall enact rules and regulations, having the force and effect of law, to safeguard the health of the people of such city and prevent nuisances and unsanitary conditions, enforce the same, and provide fines and punishments for the violation thereof.

(Ord. 1868, passed 6-23-08)

Cross-reference:

Health and safety, see Ch. 94

§ 32.05 PARK, CEMETERY AND TREE BOARD.

(A) *Established.* There is hereby established a Park, Cemetery, and Tree Board for the city. Such Board shall be composed of six members who shall be residents of the city, and shall be appointed by the Mayor with the advice and consent of the City Council. The members shall be appointed at the first regular meeting in December of each year, except for the original Board. At the time of the original appointments, one-third of the number to be appointed shall be appointed for a term of one year, one-third of the number to be appointed shall be appointed for a term of two years, and one-third of the number to be appointed shall be appointed for a term of three years, which terms shall be computed from the first meeting in the preceding December. After the appointment of the original Board, it shall be the duty of the Mayor with the advice and consent of the Council to appoint or reappoint one-third of the Board for a term of three years to commence at the time of appointment at the first meeting in December. Each member shall serve until his or her successor is appointed and qualified. A vacancy occurring on such Board by death, resignation, or disqualification of a member shall be filled for the remainder of such term at the next regular meeting of the Mayor and City Council. A majority of the members of the Park, Cemetery and Tree Board shall constitute a quorum. Any reference in the city code of the city to the Board of Park Commissioners, Park Board, Park and Cemetery Board, Tree Board, or Cemetery Board shall be construed to mean and shall refer to the Park, Cemetery and Tree Board.

(B) *Organization.* The members of the Park, Cemetery and Tree Board at their first meeting in each year following the appointment of members by the Mayor and City Council shall elect one of their own members as Chairman of the Board and another member to be Secretary of the Board. Before entering upon their duties, each member of the Board shall take an oath to be filed with the City Clerk that he or she will faithfully perform the duties of his or her office and will not in any manner be actuated or influenced therein by personal or political motives. No member shall receive any compensation for his or her service as a member of the Park, Cemetery and Tree Board. The Board shall make such rules as it deems expedient for the regulation of its own organizational business.

(C) *Duties.*

(1) The Park, Cemetery and Tree Board shall act in an advisory capacity to the City Council and City Administrator pertaining to the proper care, maintenance, improvement, development, and use of the city park and tree systems and the cemetery. The Board shall also, upon the request of the City Council or City Administrator, consider, investigate, make findings, reports, and recommendations concerning any manner or question involving parks, trees, or the cemetery in the city together with any other duties vested in the Board by this code or by a resolution of the City Council.

(2) The Park, Cemetery and Tree Board shall develop and recommend to the City Council and City Administrator appropriate rules, regulations, and policies for the use, care, and general operation of the park and tree systems and the cemetery.

(3) The Park, Cemetery and Tree Board shall make recommendations to the City Council and City Administrator concerning the park, cemetery, and tree budget expenditures and revenues including fees and charges and may make recommendations to the City Council and City Administrator on contracts of any nature involving expenditures in accordance with the policies and procedures of the city and to the extent that funds may be provided for such purpose.

(Ord. 1728, passed 6-23-03; Am. Ord. 1732, passed 7-28-03)

§ 32.06 CIVIL SERVICE COMMISSION.

(A) *Membership.* The members of the Civil Service Commission created by Neb. RS Chapter 19, Article 18, shall be appointed by the Mayor and approved by the City Council. Vacancies in the membership of the Commission shall be filled by appointments made in the same manner. The Commission shall be composed of three members.

(Prior Code, § 2-8-1)

(B) *Terms.* The term of office of such Commissioners shall be for six years.

(Prior Code, § 2-8-2)

(C) *Duties.* The duty and power of the Commission is as set forth in Neb. RS Chapter 19, Article 18, as amended.

(Prior Code, § 2-8-3) (Ord. 859, passed 11-25-74)

§ 32.07 COMMUNITY DEVELOPMENT AGENCY.

(A) *Created.* There is hereby created a community development agency, which agency shall be known as the Community Development Agency.

(Prior Code, § 2-9-1)

(B) *Purpose.* The purposes for which the Agency is formed will be to formulate for the city a workable program for utilizing appropriate private and public resources to eliminate or prevent the development or spread of urban blight, to encourage needed urban rehabilitation, to provide for the redevelopment of substandard and blighted areas, or to undertake such of the aforesaid activities or other feasible municipal activities as may be suitably employed to achieve the objectives of such workable program. Such workable program may include without limitation, provision for the prevention of the spread of blight into areas of the municipality which are free from blight through diligent enforcement of housing, zoning and occupancy controls and standards; the rehabilitation or conservation of substandard or blighted areas or portions thereof by replanning, removing congestion, providing parks, playgrounds, and other public improvements by encouraging voluntary rehabilitation and by compelling the repair and rehabilitation of deteriorated or deteriorating structures; and the clearance and redevelopment of substandard and blighted areas or portions thereof.

(Prior Code, § 2-9-4)

(C) *Membership.*

(1) Such Agency shall consist of the Mayor and Council of the city.

(Prior Code, § 2-9-2)

(2) No member or employee of the Community Development Agency shall voluntarily acquire any interest, direct or indirect, in any redevelopment project or in any property included or planned by the Agency to be included in any project or in any contract or proposed contract in connection with any such project. Where the acquisition is not voluntary, such member or employee shall immediately disclose such interest in writing to the Agency and such disclosure shall be entered into the minutes of the Agency. If any member or employee of the Agency presently owns or controls or owned or controlled within the preceding two years, an interest, direct or indirect, in any property, included or planned by the Agency to be included in any redevelopment project, they shall immediately disclose such interest in writing to the Agency and such disclosure shall be entered upon the minutes of the Agency. Upon such disclosure, such member or employee of the Agency shall not participate in any action by the Agency affecting such property.

(Prior Code, § 2-9-5)

(D) *Function; authority.* The Agency shall function in a manner prescribed in this section and may exercise all of the power and authority granted to a community redevelopment authority pursuant to Neb. RS 18-2101 through 18-2144 and 18-2147 through 18-2151 and 18-2154.

(Prior Code, § 2-9-3)

(Ord. 1314, passed 12-10-84)

POLICE DEPARTMENT**§ 32.20 DEPARTMENT ESTABLISHED.**

There shall be and is hereby established a Police Department in and for the city, which 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.

(Prior Code, § 3-4-1)

§ 32.21 CHIEF OF POLICE; DUTIES.

The Chief of Police shall, subject to the direction of the Mayor, have control and management of all matters relating to the Police Department, its officers and members, and shall have the custody and control of all property and books belonging to the Department. He or she shall devote his or her whole time to the municipal affairs and interests of the city and to the preservation of peace, order, safety and cleanliness thereof, and to this end he or she shall execute and enforce all provisions of this code, and also the orders of the Mayor. It shall be his or her duty to protect the rights of persons and property. He or she shall provide a proper police force at fires. He or she shall take notice of all nuisances, impediments, obstructions and defects in the streets, alleys, business places and/or residences of the city. He or she shall execute, or cause to be executed, the processes issued from the Police Court of this city, and shall cause all persons arrested to be brought before a judge for trial as speedily as possible, and shall have control of the city jail, and custody of the prisoners therein. The Chief of Police and all regular and special police officers shall become thoroughly conversant with the laws of this city, shall see that the same are strictly enforced and shall make sworn complaint against any person for violation of the same.

(Prior Code, § 3-4-2)

§ 32.22 POLICE OFFICERS; BADGES.

Every member of the police force shall wear a suitable badge, to be furnished by the city, and any member who shall lose or destroy the same shall be required to pay the costs of replacing it. Whenever any member shall leave the force he or she shall immediately deliver his or her badge to the Chief of Police.

(Prior Code, § 3-4-3)

§ 32.23 REFUSAL TO AID IN MAKING ARREST.

In the execution of his or her powers and duties in arresting any person accused or suspected of any crime or in the suppression of any riot or unlawful assembly, or in preventing the commission of any offense against this city or the state, he or she shall have the power, whenever the same shall be

necessary, to require the aid of citizens or of one citizen, and any person who shall refuse or willfully neglect to obey the summons of the officer in such case, shall be deemed guilty of an offense.

(Prior Code, § 3-4-4) Penalty, see § 10.99

§ 32.24 POLICE RESERVE; ESTABLISHED.

(A) *Generally.* There is hereby established a law enforcement reserve force for the city, which shall be known as Police Reserve.

(B) *Manual.* A reserve force manual setting forth minimum qualifications, training standards, and standard operating procedures for the members of the Police Reserve, and such higher qualifications, standards, and operating procedures as may actually be used, shall be adopted by the City Council by resolution.

(C) *Training standards.* All members of the Police Reserve shall meet the minimum qualifications and training standards as set forth in the reserve force manual, adopted by resolution of the City Council.

(D) *Appointment of Mayor.* All members of the Police Reserve shall be appointment of the Mayor of city, subject to approval by the Chief of Police of the city.

(E) *Salary.* Each member of the Police Reserve shall be paid a salary of \$1 per year, and shall be provided a uniform consisting of a shirt, pants, collar brass and badge to be worn while on duty.

(F) *Rights, privileges, obligations and duties.* Members of the Police Reserve upon being activated by the Mayor and Chief of Police, and while on assigned duty shall be vested with the same rights, privileges, obligations and duties of any regular officer of the Police Department, subject to the provisions of the reserve force manual, and the provisions of the statutes of the state, governing law enforcement reserve forces.

(Prior Code, § 3-4-6) (Ord. 1217, passed 10-27-80)

§ 32.25 RETIREMENT COMMITTEE.

(A) The City Council hereby establishes the Police Department Retirement Committee which shall supervise the general operation of the Police Department's retirement system. The Retirement Committee shall consist of six members of which four members shall be selected by the active paid police officers. Two members shall be designated by the City Council. The members who are not participants in such retirement system shall have a general knowledge of retirement plans. Members of the City Council, active members of the Police Department, and members of the general public may serve on the Retirement Committee. The Committee members shall be appointed to four year terms. Vacancies shall be filled for the remainder of the term by a person with the same representation as his or her predecessor. Members of the Retirement Committee shall receive no salary and shall not be compensated for expenses.

(B) The funds of the retirement system shall be invested by the Retirement Committee. The municipality or Committee shall contract with an insurance company, trust company, or other financial institution including, but not limited to, brokerage houses, investment managers, savings and loan associations, banks, credit unions, or Farmers Home Administration or Veterans' Administration approved lenders. Such funds shall be invested pursuant to the policies established by the Nebraska Investment Council.

(C) It shall be the duty of the Retirement Committee to:

(1) Provide each employee a summary of plan eligibility requirements and benefit provisions;

(2) Provide, within 30 days after a request is made by a participant, a statement describing the amount of benefits such participant is eligible to receive;

(3) Make available for review an annual report of the system's operations describing both the amount of contributions to the system from both employee and employer sources and an identification of the total assets of the retirement system; and

(4) Have an analysis made of the investment return that has been achieved on the assets of the retirement system administered by the Committee. Such analysis shall be prepared as of January 1, 1989, and each five years thereafter. The analysis shall be prepared by an independent private organization which has demonstrated expertise to perform this type of analysis and which is unrelated to any organization offering investment advice or which provides investment management services to the retirement system.

(Prior Code, § 3-4-7) (Ord. 1291, passed 12-12-83)

§ 32.26 PENSION.

The city shall provide pension to police officers in accordance with state law and the plan adopted by City Council, which is hereby adopted by reference. Copies of the police pension plan shall be available for public inspection at the City Clerk's office.

FIRE DEPARTMENT

§ 32.40 ORGANIZATION.

All volunteer fire companies which have heretofore been, or shall hereafter be, organized according to law, in this city shall be and constitute the Fire Department of the city. The compensation of officers and/or members of the Fire Department shall be such as may from time to time be fixed by the Mayor and Council.

(Prior Code, § 3-1-1)

§ 32.41 CHIEF.

The members of the Fire Department shall, at the time of each annual meeting of the Department elect some person for the Office of the Fire Department, who, on being confirmed by the Mayor and Council, shall hold such office until his or her successor shall be appointed and qualified. The officer shall be subject to removal by the Mayor and Council at any time.

(Prior Code, § 3-1-2)

§ 32.42 OFFICERS; DUTIES.

It shall be the duty of the Chief of the Fire Department, the Assistant Chief or the firefighters of any fire company lawfully acting in his or her stead, in all cases of fire, to take and have control of all members of the Fire Department and of all proper means for the extinguishment of fires, the protection of property, the preservation of order at and in the vicinity of fires, and to secure the observance of all laws and regulations respecting fires.

(Prior Code, § 3-1-3)

§ 32.43 EQUIPMENT; CARE OF.

All apparatus and appliances for the extinguishment of fire belonging to or used by this city shall be under direct and immediate control of the Chief of the Fire Department and of the several fire companies to which such appliances have been delivered. No person shall, under any pretense whatsoever, remove any of such appliances from the place or house where it is kept by its respective company except the members of such company, without the order of one of the properly authorized officers of such company, the Chief of the Department or someone authorized to act in his or her stead. It shall be the duty of the aforesaid fire companies to keep all apparatus and hose furnished by the city in a serviceable and clean condition and in such a state as to be of immediate use in case of fire.

(Prior Code, § 3-1-4)

§ 32.44 MEMBERSHIP AND VACANCIES.

The membership of the Department shall have the authority to approve members of the Department as provided by law at any regular meeting of the Fire Department. The Mayor and City Council will ratify the new members and active roster at a regular meeting of the City Council. All vacancies that may occur in the membership shall be filled in the same manner.

(Prior Code, § 3-1-5)

§ 32.45 CONTROL.

The exclusive control of the Fire Department in all matters except expenditures, shall be in the Chief of the Fire Department.

(Prior Code, § 3-1-6)

§ 32.46 APPARATUS.

The Chief of the Fire Department shall have the custody of all apparatus and property used in fire protection either belonging to or used by the city. He or she shall have authority to direct how it shall be cared for, and shall be responsible for its safe and proper keeping.

(Prior Code, § 3-1-7)

§ 32.47 INSPECTION OF PREMISES.

It shall be the duty of the Chief of the Fire Department, when directed to do so by the Mayor and Council, to inspect or cause to be inspected by Fire Department officers, members or some officer of the city chosen by the Mayor and Council, as often as may be necessary in the closely built portions of the city, all buildings, premises and public thoroughfares, except the interiors of private dwellings for the purpose of ascertaining and causing to be corrected any conditions liable to cause fire, or affecting the fire hazard. The Chief of the Fire Department shall report in detail to the State Fire Marshal, the owners or occupants of buildings or premises who shall fail or neglect to correct within five days any condition found by him or her upon inspection liable to cause fire.

(Prior Code, § 3-1-8)

§ 32.48 FIRE INVESTIGATIONS; REPORTS.

The Chief of the Fire Department shall investigate the cause, origin and circumstances of every fire hereafter occurring in the city. Such investigation shall begin immediately after the occurrence of the fire. The officer making such investigations shall forthwith notify the State Fire Marshal and shall furnish to the State Fire Marshal a written report of all facts relating to the cause and origin of the fire and such other information as may be called for by the blank provided by the Fire Marshal.

(Prior Code, § 3-1-9)

§ 32.49 RECORDS.

The Chief of the Fire Department shall keep a list of all members of the Fire Department, showing the nativity, age and occupation of each, the date he or she entered the service, and such other data as the Council may require. The Chief shall also keep a record of all fires and fire alarms, of their location, of the class of building or structure damaged or destroyed, of the purpose for which it was used, of the cause of the fire, the amount of loss, the amount of insurance, and such other information as to him or

her or the Council seems important. The Chief shall include in such report a record of any injury that may have been sustained by any person on account thereof. Such record shall at all times be available for the inspection of the Mayor and Council. The Chief shall report to the Council each year, the operation of the Department for the preceding year.

(Prior Code, § 3-1-10)

§ 32.50 FIRE POLICE.

The Chief of the Fire Department shall, at fires, have control of the police and of all other persons present. He or she may appoint persons to assist in the protection of property, who may, on his or her recommendation, be compensated by the Council for any services rendered.

(Prior Code, § 3-1-11)

§ 32.51 FUNDS; EXPENDITURE OF.

No obligations, except in emergencies and with regard to minor expenditures, shall be incurred on behalf of the Fire Department unless authorized by the Council.

(Prior Code, § 3-1-12)

§ 32.52 TRAFFIC; PEDESTRIANS AT FIRE; REGULATION.

No person, without the specific consent of the Chief of the Fire Department or his or her assistant in command, shall drive any vehicle over any unprotected hose of the Fire Department. Pedestrians shall not loiter within 150 feet from where fire apparatus has stopped in answer to a fire alarm until the fire apparatus shall have left.

(Prior Code, § 3-1-13) (Ord. 549, passed 2- -68) Penalty, see § 10.99

§ 32.53 EQUIPMENT; DISTURBING PROHIBITED.

No person other than the Fire Chief and members of the Fire Department shall, at any time, molest, handle or interfere with any of the fire apparatus belonging to the city.

(Prior Code, § 3-1-14) Penalty, see § 10.99

§ 32.54 TAX; LEVY.

The city shall have power and authority to levy a tax annually of not more than one mill on the dollar upon the assessed value of all the taxable property within the city, except intangible property, for the maintenance and benefit of the Fire Department. The amount of the tax shall be established at the beginning of the year and shall be published in the "Annual Estimate" and included in the "Annual

Appropriation Bill". Upon collection of such tax, the Treasurer shall disburse the same upon the order of the Fire Chief with the approval of the Mayor and Council.

(Prior Code, § 3-1-15)

§ 32.55 FIRE DRILL; RIGHT-OF-WAY.

All fire companies of the city shall hold training drills at least six times per year at such times as the companies shall by their own rules fix. The Fire Department shall have the right-of-way upon any street, alley or highway when going to or returning from fires or drill had under the direction or by order of the Fire Chief. When fires occur, the Fire Chief, Chief of Police or any officer specially deputized, shall have the power to close any street or highway or public place adjacent to such fire.

(Prior Code, § 3-1-16)

§ 32.56 FIRE MARSHAL; DUTIES.

(A) The Fire Marshal shall, subject to the direction and control of the Mayor, have the immediate control and be charged with the maintenance and management of the fire equipment of the city. Such duties shall be concurrent with the general authority vested in the Fire Chief, provided however, that the Fire Chief shall be exclusively in charge at fires and the Fire Marshal's authority shall not be concurrent with the Fire Chief at fires.

(B) The Fire Marshal shall devote time and effort toward the fire safety of the city and the residents thereof. Such duties shall include but not be limited to training the various members and prospective members of the Volunteer Fire Department in fire fighting techniques, fire safety, detection of fire hazards, new developments and technology related to fire fighting and fire safety, inspection of fire hazards and potential fire hazards and the general welfare and safety of the city generally. The Fire Marshal shall take notice of all fire hazards and potential fire hazards and report the same to the City Administrator and Fire Chief in such form and manner as may be prescribed by the Mayor and Fire Chief. The Fire Marshal shall become thoroughly familiar with the ordinances of the city and statutes of the state relating to fire safety, fire hazards, fire fighting and fire departments generally. The same person may occupy the position of Fire Chief and Fire Marshal. Candidates for the position of Fire Marshal shall be recommended to the Mayor by the Fire Department. The Fire Marshal shall then be appointed by the Mayor with the advice and consent of the City Council.

(Prior Code, § 3-1-17) (Ord. 847, passed 10-14-74)

§ 32.57 RETIREMENT COMMITTEE.

(A) The City Council hereby establishes the Fire Department Retirement Committee which shall supervise the general operation of the Fire Department's retirement system. The Retirement Committee shall consist of six members of which four members shall be selected by the active paid firefighters. Two members shall be designated by the City Council. The members who are not participants in such retirement system shall have a general knowledge of retirement plans. Members of the City Council,

active members of the Fire Department, and members of the general public may serve on the Retirement Committee. The Committee members shall be appointed to four year terms. Vacancies shall be filled for the remainder of the term by a person with the same representation as his or her predecessor. Members of the Retirement Committee shall, subject to approval by the City Council, be reimbursed for their actual and necessary expenses incurred in carrying out their duties.

(B) (1) The funds in the Firefighters Retirement System Fund shall be invested by the Retirement Committee. The city, subject to the approval of the Retirement Committee, shall contract with a funding agent or agents to hold or invest the assets of the retirement system and to provide for the benefits provided by Neb. RS 16-1020 to 16-1042. The Retirement Committee, subject to the approval of the city, may also select an investment manager. The city, subject to approval of the Retirement Committee, may contract with investment managers registered under the Investment Advisers Act of 1940 to invest, reinvest, and otherwise manage such portion of the assets of the retirement system as may be assigned by the city or Retirement Committee.

(2) The Retirement Committee shall establish an investment plan which allows each member of the retirement system to allocate all contributions to his or her employee account and, if he or she commenced his or her employment after January 1, 1984, his or her employer account to the various investment options or combinations of investment options described in such plan. Each firefighter shall have the option of investing his or her employee account and, if he or she commenced his or her employment after January 1, 1984, his or her employer account in any proportion, including full allocation, in any investment option offered by the plan. Upon the direction of the city, firefighters employed on January 1, 1984, may have the option to allocate their employer account to various investment options or combinations of investment options in any proportion, including full allocation, in any investment option offered by the plan. Each firefighter shall be given a summary of the investment plan and a detailed current description of each investment option prior to making or revising his or her allocation.

(3) The funds in the Firefighters Retirement System Fund shall be invested pursuant to the policies established by the Nebraska Investment Council.

(C) It shall be the duty of the Retirement Committee to:

(1) Provide each employee a summary of plan eligibility requirements and benefit provisions;

(2) Provide, within 30 days after a request is made by a participant, a statement describing the amount of benefits such participant is eligible to receive;

(3) Make available for review an annual report of the system's operations describing both the amount of contributions to the system from both employee and employer sources and an identification of the total assets of the retirement system; and

(4) The analysis shall be prepared by an independent private organization or public entity employing actuaries who are members in good standing of the American Academy of Actuaries, and which organization or entity has demonstrated expertise to perform this type of analysis and is unrelated

to any organization offering investment advice or which provides investment management services to the retirement plan.

(Prior Code, § 3-1-18) (Ord. 1292, passed 12-12-83)

CIVIL DEFENSE ORGANIZATION

§ 32.70 DIRECTOR.

(A) *Created.* The office of Director of Civil Defense is hereby created. The Director shall be appointed and shall serve at the will of the Mayor and Council. The Clerk shall be the assistant Director of Civil Defense.

(Prior Code, § 2-6-1)

(B) *Duties.* The duties of the Director of Civil Defense shall include the following:

(1) The recommendation for adoption by the Mayor and Council of a Civil Defense Plan.

(2) The maintenance of necessary liaison between the Council and the Civil Defense Organization and with other civil defense organizations.

(3) The control and direction of the training of the Civil Defense Organization.

(4) Such other duties as prescribed by law or by regulation adopted by the Mayor and Council.

(Prior Code, § 2-6-2)

§ 32.71 FUNCTIONS AND DUTIES.

The Civil Defense Organization shall consist of the officers and employees of the city designated by regulations as well as all volunteer defense workers. The functions and duties of the Organization shall be distributed among such divisions and services as shall be prescribed by regulation of the Mayor and Council.

(Prior Code, § 2-6-3)

§ 32.72 OBSTRUCTION; IMPERSONATION.

It shall be unlawful for any person to wilfully obstruct, hinder or delay any member of the Civil Defense Organization in carrying out his or her duties under this subchapter. It shall also be unlawful for any person to wear, carry or display any emblem, insignia or other means of identification as a member of the Civil Defense Organization unless so authorized by the proper officials.

(Prior Code, § 2-6-4) Penalty, see § 10.99

§ 32.73 USE OF CITY EQUIPMENT.

The Director of Civil Defense is hereby empowered in case of natural disaster, subversive action or enemy action to use any city equipment of any kind or description and he or she may call upon any or all employees of the city to assist him or her, particularly those in charge of maintenance and operation of such equipment; and no further authority shall be required for such Director of Civil Defense to act.

(Prior Code, § 2-6-5)

§ 32.74 MUTUAL AID.

The Director of Civil Defense shall, in collaboration with other public and private agencies within this county or within the state, develop or cause to be developed mutual aid arrangements for reciprocal civil defense aid and assistance in case of a disaster too great to be dealt with unassisted. Such arrangements shall be consistent with the State Civil Defense Plan, and in time of emergency it shall be the duty of the Civil Defense Organization to render assistance in accordance with the provisions of the mutual aid arrangements.

(Prior Code, § 2-6-6)

CHAPTER 33: GENERAL PROVISIONS

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MEETINGS**§ 33.01 DEFINITIONS.**

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

MEETINGS. 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. RS 84-1409(2))

PUBLIC BODY.

(1) (a) The City Council of the municipality;

(b) 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

(c) Advisory committees of the bodies listed above.

(2) This subchapter shall not apply to subcommittees of such bodies 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. RS 84-1409(1))

§ 33.02 PUBLIC.

(A) All public meetings as defined by law shall be held in a municipal public building which shall be open to attendance by the public. All meetings shall be held in the public building in which the City Council usually holds such meetings unless the publicized notice required by this section designates some other public building or other specified place.

(B) The advance publicized notice of all public convened meetings shall be simultaneously transmitted to all members of the City Council and to the public by a method designated by the City Council or by the Mayor if the City Council has not designated a method. The 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 that is kept continually current shall be readily available for public inspection at the office of the Municipal Clerk during normal business hours. Except for items of an emergency nature, the agenda shall not be altered later than 24 hours before the scheduled commencement of the meeting or 48 hours before the scheduled commencement of a meeting of the City

Council scheduled outside the corporate limits of the municipality. The City Council shall have the right to modify the agenda to include items of an emergency nature only at such public meetings.

(C) The minutes of the Municipal Clerk shall include the record of the manner and advance time by which the advance publicized notice was given, a statement of how the availability of an agenda of the then known subjects was communicated, the time and specific place of the meetings, the names of each member of the City Council present or absent at each convened meeting, and the substance of all matters discussed. The minutes of the City Council shall be a public record open to inspection by the public upon request at any reasonable time at the office of the Municipal Clerk.

(D) 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 Municipal Clerk shall show how each member voted or that the member was absent and did not vote.

§ 33.03 WHEN; WHERE; QUORUM.

(A) Meetings are at the City Hall Council Chambers on the 2nd and 4th Mondays of each month at 7:00 p.m.

(B) A majority of all the members elected to the City Council shall constitute a quorum for the transaction of any business, except as otherwise required by law, but a less number may adjourn from time to time 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) An affirmative vote of not less than one-half of the elected members shall be required for the transaction of any business.

(Neb. RS 16-401)

(D) At the hour appointed for the meeting, the Municipal Clerk shall proceed to call the roll of members and announce whether a quorum is present. If a quorum is present, the Council shall be called to order by the Mayor, if present, or if absent, by the President of the Council. In the absence of both the Mayor and the President of the Council, the City Councilmembers shall elect an acting president of council.

(Ord. 1694, passed - -)

§ 33.04 SPECIAL MEETINGS.

Special meetings may be called by the Mayor or by four 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 Councilmembers of the special meeting, stating the time and its purpose.

§ 33.05 VIDEOCONFERENCING.

(A) A meeting of an organization created under the Interlocal Cooperation Act, the Joint Public Agency Act, or the Municipal 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 was 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 City Council 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 the Open Meetings Act.
(Neb. RS 84-1411)

(C) City Council may allow a member of the public or any other witness other than a member of the City Council to appear before the City Council by means of video or telecommunications equipment.
(Neb. RS 84-1411(6))

(D) For the purpose of this section, the following definition applies.

VIDEOCONFERENCING. 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. RS 84-1409)

§ 33.06 TELECONFERENCING.

(A) A meeting of the City Council 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 the Open Meetings Act.

(Neb. RS 84-1411)

§ 33.07 CLOSED SESSIONS.

(A) (1) 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:

(a) 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;

(b) Discussion regarding deployment of security personnel or devices;

(c) Investigative proceedings regarding allegations of criminal misconduct; or

(d) 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.

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

(B) The vote to hold a closed session shall be taken in open session. The entire motion, the vote of each member on the question of holding the 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 means a collective decision or a collective commitment or promise to make a decision on any question, motion, proposal, resolution, order, or ordinance or formation of a position or policy but shall not include negotiating guidance given by members of the public body to legal counsel or other negotiators in closed sessions authorized under division (A)(1)(a) of this section.

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

(D) Nothing in this section shall be construed to require that any meeting be closed to the public. 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 provisions of this subchapter or the Open Meetings Act. No closed session, informal meeting, chance meeting, social gathering, or electronic communication shall be used for the purpose of circumventing the provisions of this subchapter or the Act.

(E) The provisions of this subchapter and the Act do 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. RS 84-1410)

§ 33.08 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 § 33.11 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. RS 84-1411(5))

§ 33.09 MINUTES.

(A) Each public body shall keep minutes of all meetings showing the time, place, members present and absent, and the substance of all matters discussed.

(B) The minutes of all meetings and evidence and documentation received or disclosed in open session shall be public records and open to public inspection during normal business hours.

(C) Minutes shall be written and available for inspection within ten working days or prior to the next convened meeting, whichever occurs earlier, except that the city may have an additional ten working days if the employee responsible for writing the minutes is absent due to a serious illness or emergency.

(Neb. RS 84-1413(1), (4), and (5))

§ 33.10 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 municipality 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. RS 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. RS 84-1413(3))

§ 33.11 NOTICE TO NEWS MEDIA.

The Municipal 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. RS 84-1411(4))

§ 33.12 PUBLIC PARTICIPATION.

(A) Subject to the provisions of this subchapter, the public shall have the right to attend and the right to speak at meetings of public bodies, and all or any part of a meeting of a public body, except for closed sessions called pursuant to § 33.07, 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.

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

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

(E) 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.

(F) No public body shall be deemed in violation of this section if it holds a meeting outside of this state if, but only if, a member entity of the public body is located outside of this state and the other requirements of Neb. RS 84-1412 are met.

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

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

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

(Neb. RS 84-1412)

§ 33.13 ORDER OF BUSINESS.

Promptly at the hour set by law on the day of each regular meeting, the members of the City Council, the Municipal Clerk, the Mayor, and such other municipal officials that may be required shall take their regular stations in the meeting place, and the business of the municipality shall be taken up for consideration and disposition in the manner prescribed by the official agenda on file at the office of the Municipal Clerk.

§ 33.14 EXEMPT EVENTS.

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

§ 33.15 MANNER OF ADDRESSING THE COUNCIL; TIME LIMIT.

(A) Any individual who desires to address the Council concerning an agenda item will be recognized by the Mayor and be asked to state their name and address and the subject about which they want to speak.

(B) In order to conduct an orderly meeting, the Mayor is allowed to limit the amount of time a speaker may address the Council. The time limit shall be five minutes per person unless further time is granted by the Council.

(C) All remarks shall be addressed to the Council as a body and not to any member thereof. No person, other than the members of the Council and the person having the floor, shall be permitted to enter into any discussion, either directly or through a member of the Council, without the permission of the presiding officer. No questions shall be asked a Councilmember except through the presiding officer.

(Ord. 1872, passed 7-28-08)

§ 33.16 DECORUM; GENERALLY.

(A) *By Councilmembers.* While the City Council is in session, the members shall preserve decorum and order, and no member shall, by conversation or otherwise, delay or interrupt the proceedings or the peace of the Council, nor disturb any members while speaking, or refuse to obey the orders of the Council or its presiding officer, except as otherwise provided in this section.

(B) *By other persons.* No person shall make personal, impertinent or slanderous remarks, nor otherwise disturb the order and decorum of any Council meeting. Defamatory or abusive remarks will not be allowed. Undue interruption or other interference with the orderly conduct of business will not be allowed. A speaker's privilege to address the Council may be terminated if a speaker persists in improper conduct or remarks. A police officer summoned for that purpose at the direction of the presiding officer, shall remove any person violating the provisions of this section.

(Ord. 1872, passed 7-28-08)

(B) This section 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. RS 84-1410)

BONDS AND OATHS

§ 33.30 BONDS; FORM.

(A) The following officers and employees shall each give bond for their respective offices with good and sufficient sureties or a surety bond to be approved by the Mayor and Council in sums as follows:

Clerk	\$500
Councilmembers	2,000
Treasurer	15,000

Provided, the Mayor and Council, by resolution may require the Treasurer if they deem it advisable, to give additional bond equal to double the amount of money passing through his hands.

(B) The Mayor and Council may require a bond from any other officer or employee conditioned in such sum as they may by resolution designate. The premium, if any, on all bonds required by this section, if surety bonds be given, shall be paid out of the general fund, or such other funds of the city as the Mayor and Council shall designate. The bonds of all officers and employees required by law to be given shall be filed with and remain in the custody of the Clerk; provided, the bond of the Clerk shall be filed with and remain in the custody of the Treasurer.

(Prior Code, § 1-7-5)

§ 33.31 OATH OF OFFICE; MUNICIPAL OFFICIALS.

(A) All officials of the municipality, 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 with the Municipal Clerk.

(Neb. RS 11-101)

COMPENSATION

§ 33.45 MUNICIPAL OFFICIALS.

(A) The officers and employees of the city shall receive such compensation as the Mayor and Council shall fix by ordinance.

(Neb. RS 16-310)

(B) All officers and employees of the city shall receive such compensation as the Mayor and City Council may fix at the time of their appointment or employment, subject to the limitations on the salary or compensation of merged and combined offices or employments.

(Neb. RS 16-305)

(C) The emoluments of any elective officer shall not be increased or diminished during the term for which he was elected, except that in the case of the City Council and when there are officers elected to a board or commission having more than one member and the terms of one or more members commence and end at different times, the compensation of all members of the Council or such board or commission may be increased or diminished at the beginning of the full term of any member thereof. No person who shall have resigned or vacated any office shall be eligible to the same during the time for which he or she was elected when, during the same time, the emoluments have been increased.

(Neb. RS 16-326)

(D) No officer shall receive any pay or perquisites from the city other than his or her salary, as provided by ordinance and state law, and the City Council shall not pay or appropriate any money or any valuable thing to any person not an officer for the performance of any act, service, or duty, the doing or performance of which shall come within the proper scope of the duties of any officer of the city,

unless the same is specifically appropriated and ordered by a vote of three-fourths of all the members elected to the Council.

(Neb. RS 16-502)

§ 33.46 CONFLICT OF INTEREST INVOLVING CONTRACTS.

(A) (1) **BUSINESS ASSOCIATION** means 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.

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. RS 49-1408)

(2) **IMMEDIATE FAMILY** means 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. RS 49-1425)

(3) **OFFICER** means:

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

(b) Any elected municipal official.

Officer does not mean volunteer firefighters or ambulance drivers with respect to their duties as firefighters or ambulance drivers.

(B) (1) Except as provided in Neb. RS 49-1499.04 or 70-624.04, no officer may have an interest in any contract to which his or her City Council, 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 City Council, or any resident within the jurisdiction of the City Council 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 City Council has benefited thereby.

(2) The prohibition in this division (B) shall apply only when the officer or his or her parent, spouse, or child:

(a) Has a business association with the business involved in the contract; or

(b) Will receive a direct pecuniary fee or commission as a result of the contract.

(C) Division (B) of this section does not apply if the contract is an agenda item approved at a meeting of the City Council 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 or 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 City Council 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 City Council which is a party to the contract as to inspection or performance under the contract in which he or 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 or her parent, spouse, or child for special action.

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

(H) (1) The person charged with keeping records for the governing body shall maintain separately from other records a ledger containing the information listed in subdivisions (a) through (e) of this division (H)(1) 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 division (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:

- (a) Names of the contracting parties;
- (b) Nature of the interest of the officer in question;
- (c) Date that the contract was approved by the governing body;
- (d) Amount of the contract; and
- (e) Basic terms of the contract.

(2) 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 this division (H) shall be available for public inspection during the normal working hours of the office in which it is kept.
(Neb. RS 49-14,103.02)

(I) 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 division (H) of 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. RS 49-14,103.03)

(J) Notwithstanding divisions (A) through (I) of this section, the governing body may prohibit contracts over a specific dollar amount in which an officer of the governing body may have an interest.
(Neb. RS 49-14,103.05)

(K) The governing body may exempt from divisions (A) through (I) of this section, contracts involving \$100 or less in which an officer of such body may have an interest.
(Neb. RS 49-14,103.06)

§ 33.47 PENSION.

The city shall provide pension to employees in accordance with state law and the plan adopted by City Council, which is hereby adopted by reference. Copies of the pension plan shall be available for public inspection at the City Clerk's office.

CHAPTER 34: ELECTIONS

Section

- 34.01 Election procedures
- 34.02 Certifications required

§ 34.01 ELECTION PROCEDURES.

(A) All municipal 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 municipal offices or issues can reasonably be combined with the non-partisan ballot and state law does not require otherwise. All municipal 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. RS 32-556)

(B) When the municipality 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 municipality shall be held as provided in the Election Act unless otherwise provided by Neb. RS 19-3001 through 19-3052.

(Neb. RS 32-404) (Prior Code, § 1-18-1) (Ord. 809, passed 11-26-73)

§ 34.02 CERTIFICATIONS REQUIRED.

No later than January 5 of each even-numbered year, the City Council shall certify to the Election Commissioner or 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. RS 32-404)

CHAPTER 35: FINANCE AND REVENUE

Section

General Provisions

- 35.01 Classification of funds
- 35.02 Contracts and purchases; bidding and other requirements
- 35.03 Claims; warrants
- 35.04 Deposit of funds
- 35.05 Judgments; satisfaction of

Annual Budget

- 35.20 Fiscal year
- 35.21 Annual budget
- 35.22 Appropriation bill
- 35.23 Reappropriation of unexpended balances
- 35.24 Emergency expenditures

Tax Levies

- 35.40 Certification of levy

GENERAL PROVISIONS

§ 35.01 CLASSIFICATION OF FUNDS.

(A) All moneys in the hands of the Treasurer and all moneys hereafter coming into the possession of the city, or received by the Treasurer, shall be kept and disbursed under the following heads and allocated and accounted for under a system of bookkeeping adopted by the Mayor and Council:

(1) Fire.

(a) Maintenance.

Gering - Administration

- (b) Equipment.
- (c) Fire hydrant rental.
- (2) Free music and amusement. (.6 mill, unless increased to 1 mill by special vote.)
- (3) Funding bonds.
 - (a) Sinking.
 - (b) Interest.
- (4) General.
 - (a) Road fund (1.7 mills for grading and repair; poll tax and gasoline tax, no levy).
 - (b) Salaries of city officers and employees.
 - (c) Printing and stationery.
 - (d) General occupation tax (no levy).
 - (e) City publicity (1/5 of 1 mill).
 - (f) Insurance (city officers only).
 - (g) City jail and maintenance.
 - (h) Purposes not specifically enumerated (special counsel, judgments, contingent, ordinance revision, auditing city books).
- (5) Library.
- (6) Park.
- (7) Paving (gravel, curb and/or gutter).
 - (a) Intersection.
 - 1. Sinking.
 - 2. Interest.
 - (b) District. Sinking for delinquent special assessments and interest.

(8) Refunding bonds.

(a) Sinking.

(b) Interest.

(9) Special Occupation Tax Fund, Fire Department (no levy).

(10) Street lighting.

(11) Water.

(a) Sinking.

(b) Interest.

(c) Maintenance.

(12) Light.

(a) Sinking.

(b) Interest.

(c) Maintenance.

(13) Sewer.

(a) Interest.

(b) Sinking.

(c) Maintenance.

(B) Any unexpended balances in the several funds mentioned shall be reappropriated according to law for municipal purposes at the time the annual estimate and the annual appropriation bill are made at the beginning of each municipal year; provided, however, the Treasurer may invest and transfer without reappropriation, upon resolution of the Mayor and Council, surplus funds as permitted by state statute.

(Prior Code, § 1-17-1)

(C) All other moneys of this city not belonging to or included in the annual appropriation bill and not otherwise designated shall be held, kept and disbursed from the general fund and shall be used for

payment of all expenses and liabilities of the city as provided by this code or by resolution or order of the Council.

(Prior Code, § 1-17-2)

§ 35.02 CONTRACTS AND PURCHASES; BIDDING AND OTHER REQUIREMENTS.

(A) No contract shall hereafter be made by the Mayor and Council or any committee or member thereof, and no expense shall be incurred by any of the officers or departments of the city, whether the object of the expenditure shall have been ordered by the Mayor and Council or not, unless an appropriation therefor shall have been previously made, except as otherwise provided by state statute.

(Prior Code, § 1-16-4)

(B) Before the Council shall make any contract for building bridges or sidewalks, or for any work on the streets, or for any other work or improvement, an estimate of the cost thereof shall be made by the Engineer and submitted to the Council, and no contract shall be entered into for any work or improvement for a price exceeding such estimate; and in advertising for any such work the Council shall cause the amount of such estimate to be published therewith. Where the estimate aforesaid shall not exceed the sum of \$2,000 it shall not be necessary for the Mayor and Council to advertise for bids except in those cases specifically directed by the state statutes. Such advertisement shall be published in at least two issues of a legal weekly newspaper published in or of general circulation in the city, said newspaper to be designated by motion of the Council.

(Prior Code, § 1-16-5)

§ 35.03 CLAIMS; WARRANTS.

(A) *Procedure.* All claims against the city shall be presented to the Mayor and Council, in writing, with a full account of the items, verified by the oath of the claimant, or his or her agent, that the claims are correct, reasonable and just, and no claim or demand shall be audited or allowed unless the same shall be presented and verified as provided by this chapter, and 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 Mayor and Council to be audited, nor upon claims allowed in part, unless the recovery shall be for a greater sum than the amount allowed with interest due.

(Prior Code, § 1-16-1)

(B) *Allowance of claims; payment.* Upon the allowance of claims by the Mayor and Council, the order for their payment must specify the particular fund or appropriation, and 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 Treasury to the credit of the proper fund for its payment, and no claim shall be audited or allowed except an order or warrant for the payment thereof may legally be drawn.

(Prior Code, § 1-16-2)

(C) *Audit and approval.* No claim against the city shall be presented for allowance or refusal by the Mayor and Council until the same shall have been audited and approved by the Audit Committee. (Prior Code, § 1-16-3)

§ 35.04 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 or 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 shall also be serving as Mayor, as a member of the City Council, or as any other officer of the Municipality shall not disqualify such bank, capital stock financial institution, or qualifying mutual financial institution from acting as a depository for such municipal funds. Neb. RS 77-2366 shall apply to deposits in capital stock financial institutions. Neb. RS 77-2365.01 shall apply to deposits in qualifying mutual financial institutions. (Neb. RS 16-712)

(B) The City Treasurer may deposit the funds received and held by him or her, by virtue of such office, with a cooperative credit association situated within the boundaries of the county, or a county adjoining thereto, where the city is situated, if the city is the depositor, as well as in a commercial state or national bank if the cooperative credit association performs all the conditions precedent required by the laws of this state of commercial state and national banks to qualify them to receive deposits of such public funds. It shall not be necessary for the city, in making such a deposit of public funds, to purchase shares in such cooperative credit association or become a member thereof, and such a cooperative credit association is hereby authorized and empowered to receive such money under such conditions.

(Neb. RS 21-1316.01) (Prior Code, § 1-17-4)

§ 35.05 JUDGMENTS; SATISFACTION.

Should any judgment be obtained against the city, the Mayor and Audit Committee, under the sanction of the Council, may borrow a sufficient amount of money to pay the same, for a space of time not exceeding the close of the next fiscal year, which sum and interest shall, in like manner be added to the amount authorized to be raised in the general tax levy of the next year, and embraced therein.

(Prior Code, § 1-17-9)

*ANNUAL BUDGET***§ 35.20 FISCAL YEAR.**

The fiscal year in this city shall commence on October 1 in each year insofar as revenue, fiscal management and liability are concerned.
(Prior Code, § 1-7-6)

§ 35.21 ANNUAL BUDGET.

Before the annual appropriation bill, as provided for in § 35.22, shall be passed, the Mayor and Council shall prepare an estimate of the probable amount of money necessary for all purposes to be raised by taxation in the city during the fiscal year for which appropriation is to be made, including interest and principal due on the bonded debt and sinking fund, itemizing and classifying the different objects and branches of expenditure, as nearly as may be, with a statement of the entire revenue of the city for the previous fiscal year. The annual estimate or yearly budget shall be presented to the Mayor and Council in the form of a resolution, shall be passed, approved and entered at large upon the minutes of the proceedings of the Council and thereafter a copy thereof published by the Clerk for four weeks in some legal newspaper published or of general circulation in the city.
(Prior Code, § 1-17-5)

§ 35.22 APPROPRIATION BILL.

(A) During the second 30 days of the first quarter of the fiscal year subsequent to the passage and approval of the estimate of expense or budget for the fiscal year, as prescribed in § 35.21, but within the first quarter of each fiscal year, the Mayor and Council shall pass, approve, record and publish an ordinance, to be termed, "The Annual Appropriation Bill," in which such corporate authorities may appropriate such sums of money as may be deemed necessary to defray all necessary expenses and liabilities of the city, not exceeding in the aggregate the amount of tax authorized to be levied during that year. In such ordinance the Mayor and Council shall specify the objects and purposes for which such appropriations are made, and the amount appropriated for each object or purpose. No further appropriation shall be made at any other time within such fiscal year, unless the proposition to make such appropriation has been first sanctioned by a majority of the legal voters of the city; either by a petition signed by them or at a general or special election duly called therefor. All appropriations shall end with the fiscal year for which they are made.

(B) (1) Unless otherwise provided by law, whenever during the current fiscal year or biennial period it becomes apparent to the City Council that there are circumstances which could not reasonably have been anticipated at the time the budget for the current year or biennial period was adopted; the budget adopted violated Neb. RS 13-518 to 13-522, that the revenue of the current fiscal year or biennial period 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. RS 13-518 to 13-522; or the City

Council has been notified by the auditor of a mathematical or accounting error or noncompliance with the Nebraska Budget Act, the City Council may propose to revise the previously adopted budget statement and shall conduct a public hearing on such proposal.

(2) 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. The published notice shall set forth the time and place of the hearing, the amount in dollars of additional or reduced money required and for what purpose, 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 or biennial period to meet the need for additional money in that manner, a copy of the summary of the originally adopted budget previously published, and a copy of the summary of the proposed revised budget.

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

(4) Upon conclusion of the public hearing on the proposed revised budget and approval of the proposed revised budget by the City Council, the City Council shall file with the Clerk and with the Auditor, 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 or biennial period from funds derived from taxes levied therefor.

(5) Within 30 days after the adoption of the budget under Neb. RS 13-506, the City Council may, or within 30 days after notification of an error by the auditor, 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 Clerk and with the auditor. The City Council may then issue warrants in payment for expenditures authorized by the budget.

(Prior Code, § 1-17-6)

§ 35.23 REAPPROPRIATION OF UNEXPENDED BALANCES.

At the time of making the annual appropriation bill, the Mayor and Council may, if notice shall have been given in the annual estimate or yearly budget, reappropriate any unexpended balance in any fund mentioned in § 35.01 for the use of some other fund if there be no outstanding bonds, warrants or claims against such fund whose unexpended balance or portion thereof is sought to be reappropriated. No sinking funds or interest funds on outstanding bonds or moneys in any fund required to meet depreciation, replacements or betterments reasonably contemplated shall ever be reappropriated. In the event that no reappropriation of funds is authorized, unexpended balances shall be carried forward and placed to the credit of the funds to which they belong when the books of the Treasurer are opened at the commencement of each fiscal year on October 1.

(Prior Code, § 1-17-3)

§ 35.24 EMERGENCY EXPENDITURES.

(A) Neither the Mayor and Council nor any department of this city shall add to the corporate expenditures in any one year anything over and above the amount provided for in the annual appropriation bill for that year except, as herein otherwise specifically provided. No expenditures for any improvement, to be paid out of the general fund of the city shall exceed in any one year, the amount provided for such an improvement in the annual appropriation bill; provided, however, that nothing herein contained shall prevent the Council from ordering, by a two-thirds vote, the repair or restoration of any improvement, the necessity for which is caused by any casualty or accident happening after such annual appropriation is made.

(B) The Council may, by a two-thirds vote of the members, order the Mayor and the Audit Committee to borrow a sufficient sum to provide for the expense necessary to be incurred in making any repairs or restorations of improvements, the necessity of which has arisen, as mentioned in this section, for a space of time not exceeding the close of the next fiscal year, which sum, and the interest, shall be added to the amount authorized to be raised in the next general tax levy, and embraced therein. (Prior Code, § 1-17-8)

TAX LEVIES**§ 35.40 CERTIFICATION OF LEVY.**

The Mayor and Council shall annually, on or before October 1, certify to the County Clerk, the several amounts which are shown by the assessment roll for the year, including all amounts due upon legal and valid bonds outstanding against such corporation. The certificate shall contain the percentage or number of mills on the dollars of tax levied for all city purposes on the taxable property within the corporation for the year ensuing, as shown by the assessment roll for the year, including all special assessments and other taxes authorized by law. The amount of other taxes which may be certified, assessed, and collected shall not exceed five mills on the dollar to defray the general and incidental expenses thereof, together with any special assessments or special taxes, or amounts which may be assessed as taxes according to law, and such sum as may be authorized by law for the payment of outstanding bonds and debts.

(Prior Code, § 1-17-7)

TITLE V: PUBLIC WORKS

Chapter

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CHAPTER 50: GENERAL PROVISIONS

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- 50.02 Utility bills; collection
- 50.03 Discontinuance of service; notice procedure
- 50.04 Diversion of services, meter tampering, unauthorized reconnection, prohibited; evidence
- 50.05 Diversion of services; penalty
- 50.06 Lien

§ 50.01 DENIAL OF SERVICE; WHEN PROHIBITED.

No applicant for the services of a public or private utility company furnishing water, natural gas, or electricity at retail in this municipality shall be denied service because of unpaid bills for similar service which are not collectible at law because of statutes of limitations or discharge in bankruptcy proceedings.

(Neb. RS 70-1601)

§ 50.02 UTILITY BILLS; COLLECTION.

Charges for utility services provided by or through the city shall be billed jointly on a monthly basis. The Utilities Superintendent shall read, or cause to be read, water and electric meters on or around the 15th day of each month. Utility bills shall be mailed on the first day of each month, and shall be due upon receipt and payable by the tenth day of each month. Bills paid after the tenth day of each month shall have a penalty charge added thereto in an amount set by resolution of the City Council and on file in the office of the Municipal Clerk or Utilities Superintendent. Bills not paid by the 25th day of each month shall be deemed to be delinquent. Upon being deemed to be delinquent, the city may discontinue service pursuant to § 50.03. Once discontinued, service shall not be recommenced except upon payment of a reconnection fee in an amount set by resolution of the City Council. The city may also take any action authorized by law to effect collection of the delinquent charges.

§ 50.03 DISCONTINUANCE OF SERVICE; NOTICE PROCEDURE.

(A) The municipality shall have the right to discontinue water and electrical 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 municipality shall first give notice by first-class

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mail or in person to any domestic subscriber whose service is proposed to be terminated. If notice is given by first-class mail, such mail shall be conspicuously marked as to its importance. Service shall not be discontinued for at least seven days, weekends and holidays excluded, after notice is sent or given. As to any subscriber who has previously been identified as a welfare recipient to the municipality by the Department of Health and Human Services, such notice shall be by certified mail, and notice of such proposed termination shall be given to the Department of Health and Human Services.

(Neb. RS 70-1605)

(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 municipality 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 municipality 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 the municipality's service to that household. Such certificate shall be filed with the municipality within five days of receiving notice under this section and will prevent the disconnection of the municipality's service for a period of 30 days from such filing. Only one postponement of disconnection shall be allowed under this subsection for each incidence of nonpayment of any past-due account;
- (8) The cost that will be borne by the domestic subscriber for restoration of service;
- (9) A statement that the domestic subscriber may arrange with the municipality for an installment payment plan;
- (10) A statement to the effect that those domestic subscribers who are welfare recipients may qualify for assistance in payment of their utility 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.
(Neb. RS 70-1606)

(C) A domestic subscriber may dispute the proposed discontinuance of service by notifying the municipality 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 municipality may discontinue services.
(Neb. RS 70-1609)

(D) The procedures adopted by the City Council for resolving utility bills, three copies of which are on file in the office of the Municipal 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 municipality for reasons of repair or maintenance or to protect the health or safety of the domestic subscriber or of the general public.
(Neb. RS 70-1615)

§ 50.04 DIVERSION OF SERVICES, METER TAMPERING, UNAUTHORIZED RECONNECTION, PROHIBITED; 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 municipality, 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 made or 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 any such unauthorized way, 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, electric current, or water passing through it, without the knowledge and consent of the municipality shall be deemed guilty of an offense.

(C) When electrical or water service has been disconnected pursuant to Neb. RS 70-1601 to 70-1615 or § 50.03, any person who reconnects such service without the knowledge and consent of the municipality 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, interference, or obstruction of a meter is prima facie evidence of the guilt of the person in possession of the premises where such connection, reconnection, injury, alteration, interference, or obstruction is proved to exist.
(Neb. RS 28-515.02) Penalty, see § 10.99

§ 50.05 DIVERSION OF SERVICES; PENALTY.

(A) The municipality 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 municipal utility. A municipality 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.

(B) In any civil action brought pursuant to this section, the municipality 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 if the amount of actual damage or loss is not susceptible of reasonable calculation.

(C) In addition to damage or loss under subdivisions (B)(1) or (2) of this section, the municipality 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 attorneys' fees in cases within the scope of Neb. RS 25-1801.

(Neb. RS 25-21,276)

(D) 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.

(E) 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. RS 25-21,277)

(F) The remedies provided by this section shall be deemed to be supplemental and additional to powers conferred by existing laws, and 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. RS 25-21,278)

(G) For purposes of this section, the definitions in Neb. RS 25-21,275 shall apply.

§ 50.06 LIEN.

In addition to all other remedies, if a customer shall for any reason remain indebted to the municipality for utilities 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 Municipal Clerk shall notify in writing or cause to be notified in writing, all owners of premises or their agents whenever their tenants or lessees are 60 days or more delinquent in the payment of the utilities rent. It shall be the duty of the Municipal 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 City Council, shall be certified by the Municipal Clerk to the County Clerk to be collected as a special tax in the manner provided by law.

CHAPTER 51: WATER

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GENERAL PROVISIONS

§ 51.001 CONTRACT.

The rules and regulations and water rates hereinafter named shall be considered a part of the contract with every person who is supplied with water through the waterworks of this city, and every such person, by taking water shall be considered and held to be bound thereby; and whenever any of the rules of this chapter, or such other rules as the city or its Public Works Director may hereafter adopt, are violated, the water shall be cutoff from the building or place of such violation, even though two or more parties may receive water through the same pipe, and shall not be let on again except by order of the Public Works Director, and on payment of the expense of shutting it off and turning it on again; and after the cause for such suspension has been removed, and upon such other terms as the Public Works Director shall determine, and a satisfactory understanding with the parties that no further cause of complaint shall arise. In case of such violation, the city shall have the right to declare payment made for the water by the person committing such violation to be forfeited, and the same shall thereupon be forfeited.

(Prior Code, § 3-2-1)

§ 51.002 APPLICATION.

Every person desiring a supply of water must make application therefor to the water office upon blanks to be supplied by the city for that purpose. The application must state truly and fully for what purpose and all uses to which the water is to be applied and no different or additional use will be allowed except by permission of the Public Works Director. Not more than one house shall be supplied from one tap except by special permission.

(Prior Code, § 3-2-2)

§ 51.003 WATER, WHEN TURNED ON.

Water will not be turned on in any house or private service pipe except upon the order of the Public Works Director or his or her duly authorized agent, nor until the applicant shall have paid the water rent, if any, due for the current term. Plumbers are strictly prohibited from turning the water into any service pipe, except on the order or permission of the Public Works Director or his or her duly authorized agent. This rule shall not be construed to prevent any plumber admitting water to test pipes, and for that purpose only.

(Prior Code, § 3-2-3)

§ 51.004 WATER NOT TO BE SUPPLIED TO OTHER FAMILIES BY CONSUMER.

No consumer shall supply water to other families or suffer them to take or in any manner use the same off his or her premises. After water has been introduced into any building or upon any premises, no person shall make or employ any plumber or other person to make any tap or connection with the pipe upon the premises for alteration, extension, or attachment, without the permission of the Public Works Director. It is hereby declared unlawful for any person not a consumer of the water system of this city habitually to take or draw water for domestic use from taps or facilities not his or her own.

(Prior Code, § 3-2-4) Penalty, see § 51.99

§ 51.005 FIRES; WATER USE DURING.

All persons using water shall keep the hydrant, hose, water closets, urinals, fountains, baths and all other fixtures allotted to their use, closed during fire, and shall be responsible for any damage or injury that may result to others from the improper use of the water.

(Prior Code, § 3-2-5)

§ 51.006 BOILERS; CITY NOT LIABLE FOR DAMAGE.

All house boilers shall be constructed with one or more air holes near the top of the inlet pipe and sufficiently strong to bear the pressure of the atmosphere under vacuum. The stop cocks and other appurtenances must be sufficiently strong to bear the pressure and run off the water in the mains. All persons taking water shall keep their own service pipes, stop cocks and apparatus in good repair and protect them from frost at their own expense, and shall prevent all unnecessary waste of water. It is stipulated by the city and Public Works Director that no claim shall be made against them, by reason of the breaking of any service cock, or if from any cause the supply of water fails, or from damage arising from shutting off water to repair mains, making connections, extensions, or from any other purpose that may be deemed necessary, and the right is hereby reserved to cut off the supply of water at any time, any permit granted to the contrary notwithstanding.

(Prior Code, § 3-2-6)

§ 51.007 TURNING WATER ON AFTER SHUT OFF.

When the water has been turned off from any consumer, he or she shall not turn it on, or permit it to be turned on, without the written consent of the Public Works Director or his or her authorized agent. Whenever any water shall have been shut off by reason of the nonpayment of water rent, or from any other violation of this chapter, the same shall not be turned on again until payment has been made of all rent due, or until the removal of the cause for which the water was shut off, and the further payment to the city as a fee for turning the water on again as adopted by the City Council and on file with the Clerk.

(Prior Code, § 3-2-7)

§ 51.008 RIGHT OF ENTRY.

Everyone using the water system of this city shall permit the Public Works Director or his or her duly authorized agent, at all hours of the day between 7:00 a.m. and 6:00 p.m. to enter his or her premises or buildings to examine the pipes and fixtures, and the manner in which the water is used, and must at all times, frankly and without concealment, answer all questions relative to consumption of water.

(Prior Code, § 3-2-8)

§ 51.009 LIMITATIONS ON WATER USE; HOSES.

Hoses larger than three-fourths inch will not be permitted. No hose shall be used unless water is furnished through a meter. The right is reserved to suspend the use of fountains and hoses for sprinkling yards and gardens whenever in the opinion of the Public Works Director, the public exigency may require.

(Prior Code, § 3-2-9)

§ 51.010 HYDRANTS; FOUNTAINS.

No hydrants, except for public drinking fountains, shall be placed within the limits of any street, and no drinking fountain shall be erected for general use which has openings by which it can be used as a source of domestic supply; provided, the city may place fire hydrants at such points in streets and other public areas as the Mayor and Council deem necessary.

(Prior Code, § 3-2-18) Penalty, see § 51.99

§ 51.011 FIRE MAINS; INDIVIDUAL.

If proprietors of lumber yards, manufactories, halls, stores, elevators, warehouses, hotels or public buildings, regular consumers of water from the water system, wish to lay large pipes with hydrants and hose couplings to be used only in case of fire, they will be permitted to connect with street mains at their

own expense upon application to the Council and Public Works Director, and under his or her directions, and will be allowed the use of water for fire purposes only, free of charge.

(Prior Code, § 3-2-19)

§ 51.012 CONTAMINATION PROHIBITED.

No person shall place in or near the waterworks system of this city any dirt, filth, or impure substance whatever, or any substance or fluid by which the water shall be rendered impure, unpalatable or dangerous for human or animal consumption. No abandoned well shall hereafter be used as a cesspool. Any cesspool contaminating the water supply shall be cleaned out, filled up and discontinued upon ten days' notice in writing served upon the owner or occupant by the Chief of Police pursuant to order of the Mayor and Council.

(Prior Code, § 3-2-25) Penalty, see § 51.99

§ 51.013 NONLIABILITY OF CITY.

The city shall in no manner 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 caused by the freezing of the main or the breaking of any pipe or service cock, or by a shortage of water due to accident, to circumstances over which the city has no control, or to an act of God.

(Prior Code, § 3-2-27)

§ 51.014 COMPLAINTS BY CONSUMERS.

Any consumer feeling himself or herself aggrieved by reason of any controversy with the Public Works Director or Cashier may appear before the Mayor and Council and present his or her grievance. Any consumer who considers himself or herself aggrieved by being required to pay the charge demanded for the use of water, or for the resumption of water service after the same shall have been shut off, shall pay such charge under protest, in which event the Public Works Director or Cashier shall write on the receipt given such consumer the words "Paid Under Protest." Such consumer may then present verified claim in the manner provided for presenting claims to the Mayor and Council for a refund of the amount so paid under protest. Such claims shall then be considered by the Mayor and Council in the same manner as other claims against the city.

(Prior Code, § 1-14-2)

§ 51.015 RESERVATIONS; ALTERATIONS.

The Mayor and Council reserve the right at all times to shut off the water for necessary repairs or extensions, and the right to amend or alter these rules and regulations when by them deemed advisable.

(Prior Code, § 3-2-24)

CONNECTIONS

§ 51.030 CONNECTIONS TO MAIN.

(A) *Application required; fees.* Before any residential or commercial property is connected to a water main of the city, application must be made by the owner, or his or her agent, of the property on which such water is to be used, giving the location of the property and the size of tap and service line required. Before any tap is authorized, the applicant shall pay a fee according to the following schedule:

Inside corporate limits: residential and commercial premiseNo fee

Outside corporate limits: residential and commercial premise\$100

For service lines and/or meters outside the corporate limits and larger than one-inch, the Mayor and Council shall fix the application fees. Nothing herein shall be construed to obligate the city to furnish water service to non-residents.

(B) *Service line installation: meter pits; responsibility; cost.*

(1) *City responsibility.* The city will tap the water main, furnish and install a corporation and service pipeline to the right-of-way line where the city will install a curb stop and box. The consumer shall pay to the city the reasonable cost as determined by the city, for the materials, equipment and labor furnished by the Water Department to install the service lines; including the removal and replacement of boring any paving curb, gutter, sidewalk or other improvements.

(2) *Applicant responsibility.* The applicant, at his or her own expense, shall connect to the city's curb stop and install the water service line from the curb stop in and upon his or her premise. When meters are not set in basements, a meter pit shall be constructed by the applicant or consumer at his or her own expense at a point near the property line, and shall be in accordance with city standards and approved by the city prior to meter installation.

(Prior Code, § 3-2-15) (Ord. 1476, passed 6-8-92; Am. Ord. 1624, passed 9-28-98)

§ 51.031 METERS; DEPOSIT; TESTING.

(A) *Meters.*

(1) All water service connected with the water system of the city shall have placed thereon a water meter with a remote reading device. The city will furnish to the user a five-eighths inch water meter with a remote reading device and meter setter, or in the event a larger meter is requested by the user, then the user will pay to the city the difference in cost between the five-eighths inch meter and the meter size requested. The meter and remote shall remain the property, at all times, of the city, and will not be removed from the premises except by employees of the city.

(2) New customers shall pay to the city the reasonable cost for meter setter with valve, meter with remote and miscellaneous materials, equipment and labor associated with the installation of the metering system.

(3) No person other than the city or a duly licensed and registered plumber shall be allowed to set meters and make connections to the water service of the city. The meters hereafter placed, replaced or repaired shall be connected with the mains by copper service and no other materials shall be used in making the connection. In the event a meter larger than five-eighths inch is installed at the request of the user, the amount of the difference in cost shall be assessed to the user for the larger meter, and will not be refundable in the event that the meter is removed.

(B) *Customer deposits.* The city, when application for water service is made, shall require applicant to pay a fee, which is adopted by the City Council and on file with the Clerk, as a service deposit to protect the city from loss arising out of water service furnished; the city is hereby empowered to demand and collect the service deposit from any consumer at any time.

(C) *Remote reading device required; cost.*

(1) All water meters installed for new water services connected to the water system of the city shall have installed as part thereof, a remote reading device which will allow the meter to be read from the outside of the building or premises. The remote reading device shall be furnished by the city along with the five-eighths inch water meter. The cost of the remote reading device shall be collected at the time the service deposit is collected.

(2) Consumers having water meters without remote reading devices shall be required to have such a device installed upon receiving written notice by the city. The city shall furnish and install the reading devices at a fee which is adopted by the City Council and on file with the Clerk, the fee may be paid by the consumer upon installation of the reading device or the fee shall be billed on the consumer's monthly water use bill. Failure to pay the fee may result in the same discontinuance of water service as provided for in failure to pay a water use bill.

(D) *Testing; repair; replacement.* All meters and remote reading devices so set and installed will be kept in repair at the expense of the city unless the damage done was caused by the negligence or the willful conduct or the act of the user. When the meters or remote meter readers shall be entirely worn out, they will be replaced by the city. Hereafter, all meters shall be sealed in three places, once on the burr connection on each side and on the cover of the registering dial, and no person shall deface, injure or break the seal unless authorized to do so by the city. All water meters may be tested at the expense of the city at any reasonable time. Remote reading devices shall be the property of the city and shall not be removed from the premises by the owner of the premises. The requirement of remote meter reading devices shall apply to all existing meters and all future installations.

(Prior Code, § 3-2-21) (Ord. 1121, passed 12-11-78; Am. Ord. 1476, passed 6-8-92) Penalty, see § 51.99

§ 51.032 DEPOSIT FUND.

Service deposits when received by the Treasurer from the Cashier shall be held separate and apart in a fund to be known as "Water Service Deposit Fund", which is in the nature of a trust fund. When for any reason water service is no longer required, the service deposit shall, upon demand, be returned to the customer with proper deductions, if any, for unpaid rentals, or arrearages due the water system and reasonable depreciation on the meter surrendered, as fixed by the Public Works Director. The Public Works Director or Cashier shall give each applicant or consumer separate receipt for all service deposits received by him or her and the receipt shall be surrendered for cancellation by the consumer when seeking repayment of the service deposit. The funds shall be put out at interest and the income therefrom shall be expended solely for the repair and the testing of water meters and for the purchase of new water meters.

(Prior Code, § 1-15-2)

§ 51.033 SERVICE PIPE SPECIFICATIONS.

(A) All service pipes from the point of union with the commercial main to the meter shall be of copper of such strength and quality as prescribed by the Public Works Director. Should any such consumer fail, neglect or refuse to replace his or her service pipe with copper pipe after ten days' notice in writing to do so, such service pipe may be cut off at the corporation cock until the copper service pipe is installed. Copper service pipe shall not be less than 16 gauge whether three-fourths inch or one inch pipe is laid.

(B) Every copper service pipe must be sufficiently waving to allow not less than one foot extra length, and laid in such manner as to prevent rupture by settling.

(Prior Code, § 3-2-10)

(C) In lieu of copper pipe, 200 PSI - SDR9 polyethylene or better, will be allowed, with the following conditions:

(1) Copper pipe O.D. size only no insert fitting size.

(2) One pipe size larger than copper pipe or other material specified in the Uniform Plumbing Code.

(Ord. 1447, passed 4-8-91)

(D) Water service lines shall be a minimum of ¾" Type K copper line.

(Ord. 1531, passed 6-13-94)

§ 51.034 DEPTH OF TRENCH.

All service pipe must be laid as much under the surface of the ground as the main in the street, unless otherwise ordered by the Public Works Director and in all cases be so protected so as to prevent rupture by freezing.

(Prior Code, § 3-2-11)

§ 52.035 STOP COCKS.

(A) Every pipe must be provided with a stop cock for each consumer, easily accessible and so situated that the water can be conveniently shut off, stop cocks to be known as inverted key Minneapolis pattern round way curved stops, "Mueller's", or any other equally as good, to be determined by the Public Works Director.

(B) Unless otherwise permitted, stop cocks shall be placed over the service pipe near the curb line, and protected by a standard stop box, Minneapolis pattern, or other equally as good, to be determined by the Public Works Director, the same to screw to curb cock. The stop box shall reach from the top of the ground to the stop cock in the service pipe and shall be of suitable size to admit a stop key for turning on and off the stop. The stop box shall be equipped with a cast iron covering having the word "Water" or the letter "W" marked thereon, and shall be adjustable to regulate distance from curb cock to the top of the stop box, and shall be so placed as to be level with the top cover of the meter box, and shall in each instance be placed uniformly at a point at or near the curb line.

(Prior Code, § 3-2-12)

§ 51.036 STOP AND WASTE.

There shall be a stop and waste cock attached to every supply pipe at a point in the building so as to admit water being shut off in frosty weather and the pipes being emptied.

(Prior Code, § 3-2-13)

§ 32.037 EXCAVATIONS; REQUIREMENTS.

(A) In making excavations in streets or highways for the laying of service pipes or making repairs, the planks or paving, stones and earth removed must be deposited in a manner that will occasion the least inconvenience to the public and provide for passage of water along gutters.

(B) No person shall leave any excavation made in a street or highway open at any time without barricade, and during the night, warning lights must be maintained at such excavation.

(C) After service pipes are laid, in filling the opening, the earth must be laid in layers of not more than nine inches in depth, and each layer shall be thoroughly tamped and puddled. The streets, sidewalks and pavements must be restored to as good condition as previous to making the excavation.

All dirt, stones and rubbish must be removed immediately after completion of the work. If an excavation in any street, alley or highway shall be left open or unfinished for the space of 24 hours, or if the work shall be improperly done, or if the rubbish shall not be removed, the Public Works Director shall have the right to finish or correct the work, and the expenses incurred shall be charged to the consumer and shall be paid by the plumber, drain layer or other person authorized by the consumer to do the excavating work or by the consumer before the water is turned on. No main shall be tapped or connections made when the ground is frozen, except by special permission of the Public Works Director.

(Prior Code, § 3-2-14) Penalty, see § 51.99

§ 51.038 EXCAVATIONS.

Excavations in streets or alleys of the city in connection with its waterworks system shall be made only by bonded and registered plumbers after issuance to them of written permits by the Public Works Director or Cashier and Bookkeeper of the Water and Electric Department upon written application for water service.

(Prior Code, § 3-2-2)

§ 51.039 WATER EXTENSION.

Extension of commercial mains into unsupplied territory within the corporate limits, may be made by means of Water Extension Districts, as provided by law, by resolution of the Mayor and Council.

(Prior Code, § 3-2-16)

§ 51.040 NEW SUBDIVISIONS.

The city may require the subdivision developer or owner in a new subdivision to furnish and install service lines to the property line (including curb stop and box) at the time of the water main installation. When such service line is installed to the property line by the developer or owner, the service line fee set forth in § 51.062 will not be assessed to the property.

(Prior Code, § 3-2-33) (Ord. 1531, passed 6-13-94)

§ 51.041 CONNECTION OUTSIDE CITY LIMITS.

(A) *Permit.* Persons desiring to connect to the sewer or water system of the city outside the corporate limits of the city shall make application therefor to the Engineer in writing. Such application shall state the location of the proposed connection and the size of pipe used in making such connection. Upon payment of the fees for such connection, the Engineer may, if he or she approves such proposed connection, issue a permit therefor. No connection shall be made until such permit is issued.

(B) *Cost.* All costs of construction and connection to either sewer or water system shall be borne by the person desiring such connection.

(C) *Area*. No connection shall be made to either sewer or water system of the city except in the industrial site north of the city limits, except connections may be made outside the city limits outside the industrial area where the property lies adjacent to the city limits and circumstances exist so that the Mayor and Council do not deem it advisable to annex the property to the city; and in the case of any proposed connection, the connection will not be made until special permission to connect has been granted by the Mayor and Council meeting in a regular meeting or a special meeting called for that purpose.

(D) *Limitations on use*. No more than one property owner shall be connected to the sewer or water lines of the city for each sewer or water line connected. Homeowners shall not be granted a permit to connect if the home is located outside the city limits, except in cases where the home owners are able to qualify under the provisions of division (C) when the Mayor and Council grant special permission because the property is adjacent to the city limits but it is not deemed advisable to annex the property to the city.

(E) *Fees*. Fees for connection outside the city limits shall be as set by the City Council from time to time. Copies of the fees shall be available for public inspection at the City Clerk's office.
(Prior Code, § 3-2-23) (Ord. 318, passed 2-20-51) Penalty, see § 51.99

RATES AND CHARGES

§ 51.060 ACCOUNTS.

When the city shall enter upon any contract as provided in § 51.001 and water is supplied to such applicant thereunder, it shall be the duty of the Public Works Director, or the Cashier and Bookkeeper of the Water and Electric Department under the direction of the Public Works Director, to keep a separate, detailed and accurate account of all water rents and charges due from each consumer with all debits and credits as the case may be.
(Prior Code, § 3-2-17)

§ 51.061 DEPOSITS.

(A) When application for water service is made, the city shall require the applicant to pay a minimum deposit or fee which is adopted by the City Council and on file with the Clerk, as a service deposit to protect the city from losses arising out of water services furnished.
(Prior Code, § 3-2-34)

(B) The city may demand and collect a service deposit from any consumer at any time regardless of the length of time water services have been furnished; provided, however, no such deposit shall exceed the above amount.
(Prior Code, § 3-2-35) (Ord. 1531, passed 6-13-94)

§ 51.062 WATER RATES AND CONNECTION FEES.

Water rates, charges and connection fees shall be as set by the City Council from time to time. Copies of the rates, charges and connection fees shall be available for public inspection at the City Clerk's office.

(Prior Code, § 3-2-22) (Ord. 1624, passed 9-28-98; Am. Ord. 1673, passed 9-25-00; Am. Ord. 1690, passed 9-24-01; Am. Ord. 1740, passed 9-22-03; Am. Ord. 1781, passed 9-27-04)

§ 51.063 METER IN DISREPAIR.

When for any reason a water meter is not registering accurately the volume of water passing through it, the consumer shall be charged for the month or months in which the meter is inaccurate a sum equal to the charge for the amount of water used on the premises during the corresponding period for the preceding year; provided, that if no basis for such comparison exists, or if in the opinion of the Public Works Director such basis is unfair, the consumer shall pay such reasonable sum for water rent during such period as the Public Works Director shall fix.

(Prior Code, § 3-2-26)

§ 51.064 LIEN.

(A) If a consumer shall for any reason order the service discontinued, or shall remove from the premises, or for any reason shall be indebted to the city for water service furnished, such amount due under the terms of this chapter, together with any rents and charges in arrears shall be considered as delinquent water rent, which is hereby declared to be a lien upon the premises or real estate for which or upon which the same was used or supplied, and upon the refusal of the consumer to pay the delinquent water rents, they shall be collected by being placed upon the assessment roll and tax books for collection like other taxes.

(Prior Code, § 3-2-28)

(B) All accounts due from water consumers for water rent shall be a lien upon the premises or real estate upon which or for which the same was used or supplied from and after the time the amounts become due for water rent, as hereinbefore provided, are delinquent and from and after the date the owner shall have been notified in writing of such delinquency by the city. It shall be the duty of the Clerk on the first day of June of each year to report to the Council a list of all unpaid accounts due for water together with a description of the premises or real estate, upon or for which the same was used or supplied. The report shall be examined, and if approved by the Council, shall be certified by the Clerk to the County Clerk, giving the amounts due and the description of the premises or real estate upon or for which water from the waterworks system of the city was used or supplied, the same to be collected as other taxes, by the County Treasurer.

(Prior Code, § 3-2-29)

§ 51.065 FIRE PREVENTION OUTSIDE CITY; WATER PROVIDED FOR.

(A) There is hereby established rates and regulations relating to the delivery of water by the city for the purpose of fire protection outside the city limits thereof. There is established connection charges for connecting any fire prevention water line to the water mains of the city outside the city limits which is adopted by the City Council and on file with the Clerk.

(B) In addition to the foregoing connection charge, any consumer using water for fire prevention purposes as aforesaid shall pay a fee which is adopted by the City Council and on file with the Clerk for each fire hydrant maintained or operated by the person on the line connected to the water mains of the city, which sum shall become due and payable upon the installation of the fire hydrants and each year thereafter on the same date.

(C) In addition to the charges, there is hereby established the rates for the use of water through the connections for the fire prevention purposes which is adopted by the City Council and on file with the Clerk.

(D) For each consumer of water for fire prevention purposes as aforesaid, the city shall furnish and install a water meter which shall be and remain the property of the city. All other materials including fire hydrants and all expenses in connection with installation, except the installation of such meter shall be furnished by the customer.

(E) This section shall not affect the right of the city to contract with any person to supply water for fire prevention purposes at other or different rates for the purpose of securing an easement or right-of-way through or upon the lands of such person.

(Prior Code, § 3-2-20) (Ord. 237, passed 9-16-41)

§ 51.066 AVAILABILITY OF SERVICE FEE.

(A) Division (B) of this section shall apply if all of the following conditions are met: premises abuts a street or alley in which the water is located; premises have not previously been included within a district created for the purpose of construction of the water; no part of the cost of construction of the water has been paid by the owner or previous owners) of the premises (the cost of construction shall not include the furnishing of a right-of-way or payment of general taxes or water charges; and the cost, or a part of the cost, has been paid by the city (to include non payment of water district assessments).

(B) No permit shall be issued until for water constructed between January 1, 1970 and December 31, 1999, until there is paid a fee of \$4 per running foot of the premises abutting the street or alley in which the water is located. This fee shall be in addition to the connection fees. No permit shall be issued for water constructed after December 31, 1999, until there is paid a fee of \$8 per running foot of the premises abutting the street or alley in which the water is located. This fee shall be in addition to the connection fees. All amounts paid pursuant to this section shall be placed in the water fund of the city and shall not be refundable.

(Prior Code, § 3-2-36) (Ord. 1573, passed 9-23-96; Am. Ord. 1809, passed 9-26-05)

CROSS CONNECTION CONTROL DEVICES**§ 51.080 PURPOSE.**

This section is intended to protect the public water supply system of the city from the possibility of contamination by isolating real or potential sources of contamination or pollution which may backflow into the public water supply system, in accordance with the Nebraska Department of Health Regulations, Title 179, Chapter 2.

(Prior Code, § 3-2-30(A)(1)) (Ord. 1493, passed 1-25-93)

§ 51.081 DEFINITIONS.

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

AIR GAP SEPARATION. The unobstructed vertical distance through the free atmosphere between the lowest opening of any pipe or faucet supplying water to a tank, plumbing fixture, or other device and the flood level rim of the receptacle. An approved air gap shall be at least double the diameter of the supply pipe, measured vertically, above the top of the rim of the receptacle and, in no case less than one inch.

ATMOSPHERIC VACUUM BREAKER. A device which restricts the backflow of water into a potable water system by a simple check valve. The vacuum is broken by allowing air to enter upstream of the check valve.

APPROVED BACKFLOW PREVENTION DEVICE. A backflow prevention device that has been manufactured in full conformance of standards established by the American Water Works Association and by the American Society of Sanitary Engineers, and tested by the Foundation for Cross Connection Control and Hydraulic Research, University of California Los Angeles, California.

AUXILIARY WATER SYSTEM. Any water supply system available to the premises other than the public water supply system and includes the water supplied by such system. These auxiliary water systems may include water from another consumer's public water supply system; polluted or contaminated water, process fluids; used water; or other sources of water which the consumer of the public water supply system does not have sanitary control.

BACKFLOW. The flow of water or other liquids, mixtures, or substances into the water distribution system from any other source than the intended source of the potable water supply.

BACKFLOW PREVENTION DEVICE. Any device, method or type of construction intended to prevent backflow into a potable water system.

CONSUMER. The owner or person in control of any premises supplied by or in any manner connected to a public water supply system.

CONSUMER'S WATER SUPPLY SYSTEM. Any water supply system, located on the consumer's premises, supplied by or in any manner connected to a public water supply system. A household plumbing system is considered to be a consumer's water supply system. A fire suppression system is also considered a consumer's water supply system.

CONTAMINATION. An impairment of the quality of the water by sewage, or waste to a degree which could cause an actual hazard to the public health through poisoning or through spread of disease by exposure.

CROSS-CONNECTION. Any arrangement whereby contamination due to backflow or back-siphonage can occur.

DEGREE OF HAZARD. A term derived from an evaluation of the potential risk to health and the adverse effects upon the potable water system.

DOUBLE CHECK VALVE ASSEMBLY. An assembly composed of two single, independently acting, check valves including 100% closing shutoff ball valves or resilient seat gate valves located at each end of the assembly and suitable connections for testing the water-tightness of each check valve.

HEALTH HAZARD. Any condition, device, or practice in a water system or its operation that creates, a real or potential danger to the health and well being of the consumer.

LICENSED PLUMBER. A person which has obtained the appropriate license from the city.

PLUMBING HAZARD. A plumbing type cross-connection in a consumer's potable water system that has not been properly protected by air-gap separation or backflow prevention devices.

POLLUTION. The presence in water of any foreign substance (organic, inorganic, or biological) that degrades the quality of water to a degree which does not necessarily cause an actual hazard to the public health but which does adversely and unreasonably affect such waters for any desired use.

POLLUTION HAZARD. A condition through which an aesthetically objectionable or degrading material not dangerous to health may enter the public water supply system or the consumer's water supply system.

POTABLE WATER. Water which is satisfactory for drinking, culinary, and domestic purposes and meets the requirements of the Nebraska Department of Health and Human Services Regulation and Licensure.

PUBLIC WATER SUPPLY SYSTEM. A water supply system designed and intended to provide potable water to designated customers. The water supply shall include the water supply source and distribution piping network. The water supply source is defined as any artificial or natural

accumulation of water used to supply the potable water system. The distribution piping network includes all piping, plumbing, pumping and treatment devices used to convey an adequate quality and quantity of potable water to the consumers property line where a curb stop is normally located.

REDUCED PRESSURE ZONE BACKFLOW PREVENTION DEVICE. A device containing a minimum of two independently acting check valves together with an automatically operated pressure differential relief valve located between two check valves. During normal flow and at the cessation of normal flow, the pressure between these two checks shall be less than the supply pressure. In case of leakage of either check valve, the differential relief valve, by discharging to the check valves at less than the supply pressure. The unit must include 100% closing shutoff ball valves or resilient seat gate valves located at each end of the device, and each device shall be fitted with properly located test cocks.

SERVICE CONNECTION. The end of the public water system. The service connection is the property line.

SYSTEM HAZARD. A condition posing an actual or potential threat of damage to the physical properties of the public or the consumer's water supply system.

USED WATER. Any water supplied by the public water supply system to a consumer's water supply system after it has passed through the service connection and is no longer under the sanitary control of the city.

(Prior Code, § 3-2-30(A)(2)) (Ord. 1493, passed 1-25-93)

§ 51.082 IMPLEMENTATION.

(A) The city shall be responsible for the implementation of this subchapter. If the city determines that an approved backflow prevention device is required for the safety of the public water supply system, then the city shall give notice in writing to the consumer to install the device at each designated location. The city shall inspect and approve all installations of the required backflow prevention devices. The costs of purchasing, installing, testing, and maintaining a backflow prevention device shall be the responsibility and sole expense of the consumer. The installation of backflow prevention devices, except for hose bibb vacuum breakers, shall be by a licensed plumber. Annual testing of pressure vacuum breakers, double check valves and reduced pressure zone devices shall be performed by a certified backflow tester (approved by the state of Nebraska and the city). If the city determines that maintenance or repairs are necessary, the consumer shall be contacted and issued an order to make all necessary repairs or maintenance. The consumer shall complete all installation, maintenance or repairs within 30 days after being ordered to do so. Any consumer who fails to comply with such an order shall be considered in violation of this section and will be subject to disconnection of service as provided in this section.

(B) The city shall keep a current list of all supplies of approved backflow prevention devices and an appropriate list of makes and models of backflow prevention devices which meet the requirements of this section.

(Prior Code, § 3-2-30(B)) (Ord. 1493, passed 1-25-93)

§ 51.083 SURVEY AND INVESTIGATIONS.

(A) It shall be the responsibility of the consumer to conduct or cause to be conducted, periodic surveys of water use practices on his or her premises as necessary to determine whether there are actual or potential cross-connections in the consumer's water supply system. The city shall have the authority to conduct or cause to be conducted periodic surveys and investigations, of a frequency as determined by the city, of water use practices within a consumer's premises to determine whether there are actual or potential cross connections to the consumer's water supply system through which contaminants or pollutants could backflow into the public water supply system. The city may conduct these surveys to provide information in determining what level of protection will be necessary to protect the public health and safety.

(B) On request by the city, the consumer shall furnish the city information on water use practices within the consumer's premises. If the consumer within a reasonable time refuses to submit the proper information or to cooperate in obtaining the proper information, the city shall treat the premises as if no appropriate cross-connection survey has been completed. In such event the consumer shall be required to install an approved backflow prevention device within the time stipulated by the city.

(C) The city shall have the right to enter a premises served by the public water supply system at all reasonable times for the purpose of making surveys and investigations of water use practices within the premises. In order to inspect such premises, the city shall give notice setting forth a proposed date and time to the consumer at least ten days in advance. If the consumer cannot make the premises available for inspection at the proposed date and time, the consumer shall contact the city and arrange for another date and time for the inspection. If the city and the consumer cannot agree on a date and time, then the city shall treat the premises as if no appropriate cross-connection survey has been completed. In such event, the consumer shall be required to install an approved backflow prevention device as required in this section or water service shall be discontinued by the city.

(Prior Code, § 3-2-30(E)) (Ord. 1493, passed 1-25-93)

§ 51.084 DISCONTINUANCE OF NONCOMPLIANCE.

(A) The city may discontinue, seven days after mailing written notice to the consumer thereof, the water service to any premises where:

(1) Any backflow prevention device required by this section is not installed or maintained in a manner which complies with the terms of this section;

(2) It is found that the backflow prevention device has been removed or by-passed;

(3) An unprotected cross-connection exists on the premises;

(4) A low pressure cut-off required by the city is not installed and maintained in working order; or

(5) The city is denied entry to determine compliance with this section.
(Prior Code, § 3-2-30(F))

(B) The city shall immediately discontinue, without notice to the consumer thereof, the water service to any premises where a cross-connection exists which constitutes an immediate threat to the safety of the public water system. Within 24 hours after such discontinuation, the city shall send to the consumer by certified mail notice of the discontinuation.
(Prior Code, § 3-2-30(G)) (Ord. 1493, passed 1-25-93)

§ 51.085 RESTORATION OF SERVICE; CONDITIONS OF.

Where water service has been discontinued as provided in § 51.084, it shall not be restored until the consumer has corrected or eliminated such conditions or defects in conformance with such section to the satisfaction of the city and paid a reconnect fee.
(Prior Code, § 3-2-30(H)) (Ord. 1493, passed 1-25-93)

§ 51.086 DESIGNATED RESPONSIBLE PARTY.

If requested by the city, the consumer shall designate an individual or individuals who shall be responsible for contact and communications with the city in matters relating to the system alteration and construction monitoring and sampling, maintenance, operation, record keeping, and reporting, as required by law and this section. Any change in assigned responsibilities or designated individuals shall be promptly reported to the city.
(Prior Code, § 3-2-30(D)) (Ord. 1493, passed 1-25-93)

§ 51.087 INTERPRETATION; APPEAL; PROCEDURE.

(A) For the purpose of this section, whenever the city is to make a decision or interpretation, or whenever reference is made to the fact that the city is to exercise judgment, such decision, interpretation or judgment shall be in accordance with the provisions of this section, and any other applicable provisions of the municipal code, and state and federal law.

(B) Any consumer aggrieved by any decision or action of the city may request a hearing before the License Examining Board. Such request must be in writing and shall be delivered to the City Clerk not more than ten days after the decision or action in question. A request for a hearing shall stay all orders and actions until the conclusion of the hearing, except a discontinuation of water service under § 51.084(B). At such hearing, the action or order of the city shall have the burden of establishing the contrary. After such hearing, the License Examining Board may modify or affirm the decision of the city.
(Prior Code, § 3-2-30(C)) (Ord. 1493, passed 1-25-93)

§ 51.088 CITY EMPLOYEES; LIABILITY LIMITED.

All city employees shall be relieved from personal liability for acts taken under this section. The city shall hold harmless all city employees when acting in good faith and without malice, from all personal liability for any damage that may occur to any person or property as a result of any act required or authorized by this section, or by reason of any act or omission of any city employee in the discharge of his duties hereunder.

(Prior Code, § 3-2-30(I)) (Ord. 1493, passed 1-25-93)

BACKFLOW PREVENTION**§ 51.100 CROSS-CONNECTIONS PROHIBITED.**

No person shall install or maintain a water service connection containing cross-connections to a public water supply system or a consumers' potable water supply system unless such cross-connections are abated or controlled in accordance with this section, and as required by the laws and the state of Nebraska and the regulations of the Nebraska Department of Health and Human Services Regulation and Licensure.

(Prior Code, § 3-2-30.1(A)) (Ord. 1493, passed 1-25-93) Penalty, see § 51.99

§ 51.101 HOSE BIB VACUUM BREAKERS; WHERE REQUIRED.

All premises served by the public water supply shall have installed approved hose bib (connection) vacuum breakers on all fixtures that are threaded to accept standard garden hose fittings. These include all outside sill cocks, utility sink faucets, and fixtures that are determined to be a potential hazard by the city.

(Prior Code, § 3-2-30.1(B)) (Ord. 1493, passed 1-25-93)

§ 51.102 INSTALLATION.

Any approved backflow prevention device required by the city shall be installed at a location and in a manner approved by the city. The consumer, at his or her sole expense, shall obtain and install the approved backflow prevention device(s) within 30 days of notice and as directed by the city.

(Prior Code, § 3-2-30.1(C)) (Ord. 1493, passed 1-25-93)

§ 51.103 CONDITIONS WHERE REQUIRED.

Backflow prevention devices shall be required under the following conditions:

(A) Where a substance is handled in such a fashion as to create an actual or potential hazard to a public water supply system. This shall include premises having sources or systems containing process fluids or waters originating from a public water supply system which are no longer under the sanitary control of the city;

(B) Where internal cross-connections are not correctable in the judgment of the city, or there exists intricate plumbing arrangements which make it impracticable to determine whether or not cross-connections exist;

(C) Where, because of security requirements or other prohibitions or restrictions, it is impossible or impractical to make a complete cross-connection survey;

(D) Where cross-connections have been established or reestablished within the preceding three years;

(E) There is more than one customer service connection which could constitute a potential cross-connection.

(Prior Code, § 3-2-30.1(D)) (Ord. 1493, passed 1-25-93)

§ 51.104 FACILITIES WHERE REQUIRED.

An approved backflow prevention device shall be installed on each service line to a customer's water supply system serving the following types of facilities unless the city determines that no health, pollution, or system hazard to the public water supply system exists: (See Appendix, Table II)

(A) Hospitals, mortuaries, dental clinics, nursing and convalescent homes, medical buildings;

(B) Testing laboratories, film laboratories, film development facilities;

(C) Sewage treatment plants, sewage pumping stations, or storm water pumping stations;

(D) Food or beverage processing plants;

(E) Chemical plants;

(F) Metal de-greasing, plating industries, machine tool plants, dye and metal processing or productions;

(G) Chemical and petroleum processing or storage plants;

(H) Car washes, automobile servicing facilities;

(I) Lawn irrigation systems and swimming pools;

(J) Laundries and dry cleaners;

(K) Packing houses;

(L) Power plants;

(M) Premises having radioactive materials such as laboratories, industries, hospitals;

(N) Rendering plants;

(O) Premises having water recirculating system as used for boilers or cooling systems and water softeners; softeners may be isolated with a double check valve assembly, or factory manufactured internal backflow protection, and approved by the city;

(P) Veterinary establishments, kennels, feedyards, stables, rodeo grounds, stockyards, pet grooming salons;

(Q) Beauty salons, barbershops, massage parlors, health clubs;

(R) Fire suppression systems;

(S) Multi-storied buildings greater than three stories in height;

(T) Schools, universities, colleges;

(U) Other commercial or industrial facilities which may constitute potential cross-connection.
(Prior Code, § 3-2-30.1(E)) (Ord. 1493, passed 1-25-93)

§ 51.105 OTHER CIRCUMSTANCES WHERE REQUIRED.

In all situations for which no special provision has been made in this section an approved backflow prevention device shall be installed between the service connection and the point of potential backflow into a consumer's water supply system when in the judgment of the city, a health, plumbing, pollution or system hazard exists.

(Prior Code, § 3-2-30.1(F)) (Ord. 1493, passed 1-25-93)

§ 51.106 TYPE OF PROTECTION REQUIRED.

The type of protection required under this section shall depend on the degree of hazard that exists as follows: (See Appendix, Table II)

(A) An approved air gap separation or an approved reduced pressure principle backflow prevention device shall be installed where a public water supply system may be contaminated with any substance that could cause a system hazard or health hazard;

(B) An approved double check valve assembly shall be installed where a public water supply system may be contaminated with any substance that could cause a pollution hazard;

(C) An approved reduced pressure principle backflow prevention device shall be installed at the service connection where there exists a plumbing hazard;

(D) In the case of any premises where, because of security requirements or other prohibitions it is impossible or impractical to make a complete cross-connection survey of the consumer's potable water system, a reduced pressure principle backflow prevention device shall be installed at the service connection.

(Prior Code, § 3-2-30.1(G)) (Ord. 1493, passed 1-25-93)

§ 51.107 ATMOSPHERIC VACUUM BREAKER; WHERE PERMISSIBLE.

An approved atmospheric vacuum breaker may be used as a backflow prevention device where it is not subject to back pressures. This device shall not be used for applications where water flow is expected to be continuous for 12 or more hours. The device shall be installed ahead of the potential source of contamination on the discharge side of the last control valve. It shall be placed at least six inches above the highest point reached by any water passing through the potential source of contamination.

(Prior Code, § 3-2-30.1(H)) (Ord. 1493, passed 1-25-93)

§ 51.108 EXISTING BACKFLOW PREVENTION DEVICES.

Existing backflow prevention devices approved by the city prior to the effective date of this rule and which are properly installed and maintained shall, except for inspection, testing, and maintenance requirements, be excluded from the requirements of this section but only if the city determines that the devices will satisfactorily protect the public water supply system. One hundred percent closing shut off ball valves or resilient seat gate valves for testing shall be provided on existing backflow prevention devices, if deemed necessary for proper testing by the city. If the city determines that an existing backflow prevention device requires replacement, it shall be replaced with an approved backflow prevention device.

(Prior Code, § 3-2-30.1(I)) (Ord. 1493, passed 1-25-93)

§ 51.109 STRAINERS; WHEN REQUIRED.

The city may require a strainer of approved type and size to be installed in conjunction with required backflow prevention devices. The strainers shall be installed in such a manner as to preclude

the fowling of the backflow prevention device(s) due to such circumstances as water main repairs, water main breaks, fires and periodic cleaning and flushing of mains.

(Prior Code, § 3-2-30.1(J)) (Ord. 1493, passed 1-25-93)

§ 51.110 BOOSTER PUMPS; LOW PRESSURE CUTOFF; REQUIRED.

(A) No person shall install or maintain a water service connection to any premises where a booster pump has been installed on the service line to or within such premises, unless such booster pump is equipped with a low pressure cutoff designed to shut-off the booster pump when the pressure in the service line on the suction side of the pump drops to 20 pounds per square inch gauge or less.

(B) It shall be the duty of the water customer to maintain the low pressure cut-off device in proper working order.

(Prior Code, § 3-2-30.1(K)) (Ord. 1493, passed 1-25-93) Penalty, see § 51.99

§ 51.111 YARD HYDRANTS.

Yard hydrants or hose bibs which would be used by the consumer to provide water to mix pesticides, fertilizer, or other chemicals, for direct use or aerial application to surface areas shall be equipped with an atmospheric vacuum breaker.

(Prior Code, § 3-2-30.1(L)) (Ord. 1493, passed 1-25-93)

§ 51.112 UNDERGROUND SPRINKLERS.

All underground lawn and garden sprinklers shall be equipped with an approved backflow prevention device.

(Prior Code, § 3-2-30.1(M)) (Ord. 1493, passed 1-25-93)

§ 51.113 FIRE SUPPRESSION SYSTEMS.

(A) All proposed installations of fire suppression systems shall be reviewed by the city to determine the appropriate type of backflow prevention device(s) required.

(Prior Code, § 3-2-30.1(N))

(B) All proposed fire suppression systems requiring an antifreeze solution shall use pharmaceutical grade antifreeze. The consumer shall provide to the city a certification identifying the type of pharmaceutical grade antifreeze which shall be used. Any reduced pressure vacuum breaker backflow prevention device shall be installed in an approved manner.

(Prior Code, § 3-2-30.1(O))

(C) A double check valve of an approved type shall be installed on all proposed fire suppression systems not utilizing antifreeze, but this may be done only when there are no other cross-connections. An inspection by a certified fire suppression specialist shall be done prior to installation.

(Prior Code, § 3-2-30.1(P))

(D) (1) All existing fire suppression systems shall meet the requirements of this section.

(2) In the event cross-connections, such as those found in using auxiliary water supply systems or in providing other water additives such as foaming agents are necessary for the proper operation of the fire suppression system, then a reduced pressure zone backflow prevention device shall be installed in an approved manner.

(Prior Code, § 3-2-30.1(Q)) (Ord. 1493, passed 1-25-93)

WATER CONSERVATION, DROUGHT, AND EMERGENCY CONTINGENCY PLAN

§ 51.125 PURPOSE.

The purpose of this subchapter is to adopt a plan for the declaration of a water supply watch, warning or emergency and the implementation of voluntary and mandatory water conservation measures throughout the city in the event such a watch, warning or emergency is declared. The plan shall be named the City Water Conservation, Drought and Emergency Contingency Plan.

(Ord. 1721, passed 3-10-03)

§ 51.126 CLASS OF USES OF WATER ESTABLISHED.

The following classes of water use are hereby established for users of water on the city water system:

(A) *Class 1.* Water used for outdoor watering; either public or private, for gardens, lawns, trees, shrubs, plants, parks, golf courses, playing fields, swimming pools or other recreational areas; or the washing of motor vehicles, boats, trailers, sidewalks, driveways, or the exterior of any building or structure.

(B) *Class 2.* Water used for any commercial or industrial purpose, including agricultural; except water actually necessary to maintain the health and personal hygiene of bona fide employees while such employees are engaged in the performance of their duties at their place of employment.

(C) *Class 3.* Domestic usage, other than that which would be included in either Class 1 or 2. Water necessary only to sustain human life and the lives of domestic pets and maintain standards of hygiene and sanitation.

(Ord. 1721, passed 3-10-03)

§ 51.127 DEFINITIONS.

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

CONSUMER. The customer of record using water for any purpose from the city distribution system and for which either a regular charge is made or, in the case of coin sales, a cash charge is made at the site of delivery.

DRAW DOWN. The distance between the static water level and the pumping water level.

PLAN. Refers to the City Water Conservation, Drought and Emergency Contingency Plan.

PUMPING WATER LEVEL. The level of water in a well when the pump is pumping.

STATIC WATER LEVEL. The level of water in a well when the pump is not pumping.

TRIGGERS. Significant events which indicate the implementation of the different stages of this plan.

WASTE OF WATER. Includes but is not limited to permitting water to escape down a gutter, ditch, or other surface drain; failure to repair a controllable leak of water due to defective plumbing; or as determined by the water system operator.

WATER. Water available to the city by virtue of its water introduced by the city into its water distribution system including water offered for sale at any coin-operated site.

WATER SYSTEM CAPACITY. For the purposes of this plan, water system capacity is determined by aggregate production of all wells in gallons per minute times 60 minutes in an hour times 24 hours per day.

WATER SYSTEM DEMAND. Water meters on each well must be read daily. Daily consumption is calculated by subtracting the previous day reading from the current day and added together for each well.

(Ord. 1721, passed 3-10-03)

§ 51.128 WATER PLAN ESTABLISHED.

In order to assure the continued supply of safe drinking water to the citizens of the city, the City Council adopts the following plan addressing conservation, drought and emergency contingencies. The plan is based upon demand on the system and implements a series of stages depending upon the severity of the demand.

(A) *Stage 1: water watch.*

(1) *Triggers.* This stage is triggered by any one of the following conditions:

(a) When the calculated water system demand equals 60% of the calculated water system capacity.

(b) When the draw down of the wells is more than normal for that time of year as determined by the water operator.

(c) When the system storage reservoir cannot be filled to 100% of capacity by 5:00 a.m. each morning.

(2) *Goals.* The goals of this stage are to heighten awareness of the public regarding water conditions and to maintain the integrity of the water supply system and may reduce overall weekly consumption by 7%.

(3) *Education actions.*

(a) The city may make occasional news releases to the local media, as well as posting at the city hall, describing present conditions and indicating the regulatory action.

(b) The triggers necessitating the Stage 1: water watch may also be made available to the news media along with an explanation of terms.

(4) *Management action.*

(a) The city will ascertain that each well is operating at peak efficiency.

(b) Leaks detected will be repaired within 48 hours.

(c) The city shall curtail weekly use of Class 1 uses by 7%.

(5) *Regulatory action.* The public may be asked to voluntarily reduce the use of water as defined in Class 1.

(6) *Declaration of a water watch.*

(a) Whenever the City Administrator or Public Works Director finds that conditions exist as described in the plan under Stage 1: water watch, triggers, the City Administrator or Public Works Director shall declare a Stage 1: water watch, and implement the steps outlined under this section. The implementation declaring the existence and end of a Stage 1: water watch shall be effective upon issuing of news releases and posting at city hall.

(b) After the aforementioned water watch declaration and at the next scheduled Council meeting, the Council will declare a Stage 1: water watch by resolution.

(B) *Stage 2: water warning.*

(1) *Triggers.* This stage is triggered by any one of the following conditions:

(a) When the calculated water system demand equals 70% of the calculated water system capacity.

(b) When the draw down of the wells increases significantly over and above the level determined in stage 1.

(c) When the system storage reservoir cannot be filled to 90% of capacity by 5:00 a.m. each morning.

(2) *Goals.* The goal of this stage is to reduce overall weekly consumption by 15%.

(3) *Education actions.*

(a) The city may make weekly news releases to the local media and by posting, describing present conditions and projecting the outlook for the coming week.

(b) The triggers necessitating the Stage 2: water warning may also be made available to the public through news releases and posting at city hall along with an explanation of terms.

(c) Water conservation articles may be provided to the local newspaper and posted at city hall.

(4) *Management actions.*

(a) The city will continue to monitor water supplies on a daily basis.

(b) Leaks shall be repaired within 48 hours or a violation notice shall be issued.

(c) The city shall curtail weekly use of Class 1 by 15%.

(d) The city may terminate its usage of water classified in Class 1 and Class 2.

(5) *Regulation action.*

(a) Water classified as Class 1 shall be terminated except as follows:

1. An odd/even lawn watering system will be imposed on city residents. Residents with odd numbered address will water on odd days; even numbered address will water on even days,

such as, 1025 P Street will water on odd numbered days and 1020 P Street will water on even numbered days.

2. Outdoor water use, including lawn watering and car washing will be restricted to before 11:00 a.m. and after 7:00 p.m.

3. Waste of water is strictly prohibited.

(b) The city may also terminate Class 2 uses.

(6) *Declaration of a water warning.*

(a) Whenever the City Administrator or Public Works Director finds that conditions exist as described in the plan under Stage 2: water warning, triggers, the City Administrator or Public Works Director shall declare a Stage 2: water warning, and implement the steps outlined under this section. The implementation declaring the existence and end of a Stage 2: water warning shall be effective upon a news release and posting at city hall.

(b) After the aforementioned water warning declaration and at the next scheduled Council meeting, the Council will declare a Stage 2: water warning by resolution.

(C) *Stage 3: water emergency.*

(1) *Triggers.* This stage is triggered by any one of the following conditions:

(a) When the calculated water system demand equals 80% of the calculated water system capacity.

(b) When the draw down of the wells increases significantly over and above the level determined in stage 2.

(c) When the system storage reservoir cannot be filled to 80% of capacity by 5:00 a.m. each morning.

(2) *Goals.* The goals of this stage are to reduce the overall weekly consumption by 25% and maintain the integrity of the system.

(3) *Education actions.*

(a) The city may make weekly news releases to the local media and by posting, describing present conditions and projecting the outlook for the coming week.

(b) The triggers necessitating the Stage 3: water emergency may also be made available to the public through news releases and posting at city hall along with an explanation of terms.

(c) Water conservation articles may be provided to the local newspaper and posted.

(d) The city may conduct public meetings to discuss the emergency; the status of the city water supply and further actions, which may needed to be taken.

(4) *Management actions.*

(a) The city water supplies shall be monitored daily.

(b) Leaks shall be repaired within 24 hours.

(c) The city may seek additional emergency supplies from other sources.

(5) *Regulation actions.*

(a) Uses of water in Class 1 and 2 shall be prohibited.

(b) Waste of water shall be prohibited.

(6) *Declaration of a water emergency.* Whenever the City Council finds that conditions exist as described in this plan under Stage 3: water emergency, triggers, it shall be empowered to declare, by resolution, that a Stage 3: water emergency exists and implement the steps outlined under this plan. The resolution declaring the existence of a Stage 3: water emergency shall be effective upon news release and/or posting at city hall. In the event of a system failure, or natural disaster, the City Administrator or the Public Works Director shall have the authority to declare a Stage 3: water emergency. Within 24 hours after the aforementioned water emergency declaration, the City Council shall declare a Stage 3: water emergency by resolution. The City Administrator or Public Works Director shall declare the end of a Stage 3: water emergency.
(Ord. 1721, passed 3-10-03; Am. Ord. 1726, passed 5-12-03)

§ 51.129 ADMINISTRATIVE ENFORCEMENT PROVISIONS.

(A) *Warning.* The City Council hereby appoints, in addition to police officers, the City Administrator, the Public Works Director or his or her agent(s) to issue written warnings and/or citations to any consumer violating Stage 2: water warning and Stage 3: water emergency. Such warning shall advise the consumer that a second violation at the same premise within a six-month period shall result in the issuance of an administrative notice of violation for which a penalty of doubling of the water rate to such premises shall be imposed for six months. The City Clerk shall weekly post the names of the consumers issued a written warning during the previous week. The names of the consumers given a warning shall be posted in the same locations as the declaration.

(B) *Administrative notice of violation.* The City Council hereby appoints, in addition to police officers, the City Administrator and the Public Works Director or agent(s) to issue a written administrative notice of violation to any consumer violating Stage 2: water warning and Stage 3: water

emergency for a second time. Such notice shall advise the consumer that his or her water rate to the premises shall be double for the next six months and that a subsequent violation at the same premise within a six-month period shall result in the immediate termination of all water service to the premise. The consumer shall further be notified that they have a right to appeal the issuance of the administrative notice of violation by filing a notice of appeal with the City Clerk within ten days of the issuance of the notice. The action shall be final if no appeal is filed within the ten-day period. The City Administrator and Public Works Director shall hear the appeal within ten days.

(C) *Notice of termination of service.* The City Council hereby appoints, in addition to police officers, the City Administrator and Public Works Director on his or her agent(s) to issue a written notice of termination of service to any consumer violating Stage 2: water warning and Stage 3: water emergency for a third time. Such notice shall advise the consumer that all water service to the premises in violation shall be discontinued, beginning not less than 48 hours after the notice and not more than 72 hours after the notice, unless a further violation is found to have occurred at which time termination shall be immediate for the protection of the municipal water system. The consumer may appeal the decision by filing a notice of appeal with the City Clerk within the 48-hour period after notice of termination of service is given. The appeal shall stay the action of termination for up to 48 hours or until a meeting with the City Administrator and Public Works Director shall be called unless the City Administrator or Public Works Director determines that a further violation has occurred, at which time termination shall be immediate for the protection of the municipal water system. If service is terminated, then service may be reconnected only upon the filing for water service reconnection with the city and the payment of the \$40 reconnection fee. Additionally, the applicant must file a written statement advising that they are aware that a water warning or water emergency is in effect and that a subsequent violation of its provisions will result in the termination of water service for a period of not less than 30 days unless such termination would pose a health hazard to the occupants of the premises as determined by the Public Works Director. The Public Works Director or his or her agent(s) shall cause the termination of water service of the violating consumer as provided above or directed by the City Council.

(Ord. 1721, passed 3-10-03)

§ 51.130 EMERGENCY TERMINATION.

Nothing in this subchapter shall limit the ability of the City Administrator or Public Works Director from terminating the supply of water to any or all customers upon the determination of the officials that emergency termination of water service is required to protect the health and safety of the public.

(Ord. 1721, passed 3-10-03)

§ 51.131 EXEMPTIONS BY PERMIT.

Customers may apply for and be granted permits for:

(A) New turf sod application for up to three weeks.

(B) New grass seed application for up to four weeks. However the city strongly discourages new grass seed between July 1 and August 31.

(C) Landscape in large common or public areas that, because of irrigation system limitations, cannot be sustained by following mandatory drought restrictions in this subchapter.

(D) The above may be canceled by the city in the event a Stage 3: water emergency is declared.
(Ord. 1721, passed 3-10-03)

§ 51.999 PENALTY.

(A) Any person who violates any provision of this chapter for which no other specific penalty is provided shall be subject to § 10.99

(B) Any person who shall violate or refuse to comply with any of the provisions of this §§ 51.125 through 51.131 shall be deemed guilty of an offense and upon conviction thereof, shall be fined not more than \$100 for each offense. A new violation shall be deemed to have been committed every 24 hours of such failure to comply. In addition to police officers, the City Council hereby appoints the City Administrator, Public Works Director or his or her agent(s) to issue citations for violation of the provisions of this §§ 51.125 through 51.131.

(Ord. 1721, passed 3-10-03)

APPENDIX

- I. Cross-connections rated by degree of hazard
- II. Permitted backflow assemblies, devices and methods

TABLE I. CROSS-CONNECTIONS RATED BY DEGREE OF HAZARD.

Direct or Indirect Potable Water Connections	Hazard	
	High	Low
I. Subject to Back Pressure		
A. Pumps, tanks and lines handling:		
1. Sewage	X	
2. Toxic substances	X	
3. Nontoxic substances		X
B. Water connection to steam and steam boiler:		
1. Boiler or steam connection to toxic substances	X	
2. Boiler or steam connection to nontoxic substances (boiler blownoff through air gap)		X
II. Not Subject to Back Pressure		
A. Sewer-connected water line (not subject to waste stoppages)	X	
B. Low inlets to receptacles containing:		
1. Toxic substances	X	
2. Nontoxic substances		X
C. Coils or jackets used as heat exchangers in compressors in lines carrying:		
1. Sewage	X	
2. Toxic substances	X	
3. Nontoxic substances		X
D. Flush value toilets or urinals	X	

Direct or Indirect Potable Water Connections	Hazard	
	High	Low
E. Toilet, urinal tanks and approved bathtubs		X
F. Bidets, sitz tanks, or spas, therapy and roman pools not otherwise isolated by design or backflow protectors	X	
G. Trough urinals		X
H. Valved outlets or fixtures with hose attachments that may constitute a cross-connection to:		
1. Toxic substances	X	
2. Nontoxic substances		X
I. Aspirators that may continue a cross-connection to:		
1. Toxic substances	X	
2. Nontoxic substances		X
III. Other Equipment and Facilities Subject to a Variety of Backflow Conditions		
A. Lawn sprinkling systems that may constitute a cross-connection to:		
1. Toxic substances including lawn chemicals	X	
2. Nontoxic substances		X
B. Fire suppression systems employing toxic chemicals	X	
C. Soft drink dispenser or bar carbonators	X	
D. Radiological, photographic, dental, medical, biological or chemical laboratories or facilities	X	
E. Swimming pools	X	
F. Tank truck loading station	X	

TABLE II. PERMITTED BACKFLOW ASSEMBLIES, DEVICES AND METHODS.

Assembly, Device or Method	Degree of Hazard				Installation
	Low		High		
	Backsi- phonage	Back Pressure	Backsi- phonage	Back Pressure	
Air gap	X	X	X	X	Shall be a minimum of one inch but not less than two times the diameter of the effective spout opening when not affected by side walls, and eight times the diameter of the effective opening when affected by side walls. Side walls will be assumed to not affect air gaps when they are spaced horizontally a distance greater than four times the effective opening from the spout opening.
Atmospheric vacuum breaker	X		X		Upright position. No valves downstream. Minimum of six inches or listed distance above all downstream piping and flood level rim of receptor.
Double check valve assembly	X	X			Horizontal unless otherwise listed. Requires one foot below and sufficient side and head room for testing and maintenance within a maximum of five feet above the ground, work floor, or a permanently installed working platform with stairs or ladder affixed. Does not discharge water.
Pressure vacuum breaker assembly	X		X		Upright position. May have valves downstream. Minimum of 12 inches above all downstream piping and flood level rim of receptor. May discharge water.

Assembly, Device or Method	Degree of Hazard				Installation
	Low		High		
	Backsi- phonage	Back Pressure	Backsi- phonage	Back Pressure	
Reduced pressure principle backflow prevention assembly	X	X	X	X	Same as Double Check Valve Assembly above except may discharge water and wherever installed; provision for draining away at least two times the rated gallons per minute of the device shall be made.
<p>NOTE: Atmospheric</p> <p>Hose bib vacuum breaker: non-removable or integral, frost-proof, self-draining, not subject to continuous operating pressure (12 hours of 24 hours)</p> <p>Cash-Acme Type VB 222 or approved</p>					

CHAPTER 52: SEWERS

Section

General Provisions

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- 52.02 Use of public sewers required
- 52.03 Private wastewater disposal
- 52.04 Sanitary sewers, building sewers and connections
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GENERAL PROVISIONS

§ 52.01 DEFINITIONS.

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

BIOCHEMICAL OXYGEN DEMAND (BOD). The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days at 20^o C., expressed in milligrams per liter.

BUILDING DRAIN. That part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the sewer service line, beginning five feet outside the inner face of the building wall.

BUILDING INSPECTOR. The inspector of buildings for the city or his or her duly authorized agent or representative.

COMBINED SEWER. A sewer intended to receive both wastewater and storm or surface water.

EASEMENT. An acquired legal right for the specific use of land owned by others.

FLOATABLE OIL. Oil, fat, or grease in a physical state such that it will separate by gravity from wastewater by treatment in an approved pretreatment facility. Wastewater shall be considered free of floatable fat if it is properly pretreated and the wastewater does not interfere with the collection system.

GARBAGE. The animal and vegetable waste resulting from the handling, preparation, cooking, and serving of foods.

INDUSTRIAL WASTES. Any contributor to the city's treatment works with an average daily waste volume greater than 10,000 gallons and a waste strength greater than or equal to 170 mg/l BOD and 185 mg/l suspended solids.

NATURAL OUTLET. Any outlet, including storm sewers and combined sewer overflows, into a watercourse, pond, ditch, lake, or other body of surface or groundwater.

pH. The logarithm of the reciprocal of the hydrogen ion concentration. The concentration is the weight of hydrogen ions, in grams, per liter of solution. Neutral water, for example, has a pH value of seven and a hydrogen ion concentration of 10^{-7} .

PROPERLY SHREDDED GARBAGE. 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. A common sewer controlled by a governmental agency or public utility.

SANITARY SEWER. A sewer that carries liquid and water-carried wastes from residences, government and commercial buildings, industrial plants, and institutions together with minor quantities of ground, storm, and surface waters that are not admitted intentionally.

SEWER. A pipe or conduit that carries wastewater or drainage water.

SEWER SERVICE LINE. The extension from the building drain to the public sewer or other place of disposal.

SLUG. Any discharge of water or wastewater 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 and shall adversely affect the collection system and/or performance of the wastewater treatment works.

STORM DRAIN. A drain or sewer for conveying water, groundwater, subsurface water, or unpolluted water from any source.

SUPERINTENDENT. The Superintendent of Wastewater Treatment Works and Water Facilities of the city, or his or her authorized deputy, agent, or representative.

SUSPENDED SOLIDS (SS). Solids that either float on the surface of or are in suspension in water, sewage, or other liquids and which are removable by laboratory filtering.

TREATMENT WORKS. Any devices and systems for the storage and treatment of municipal, domestic, or industrial wastewater. These include intercepting sewers, outfall sewers, and their appurtenances; extension improvements, remodeling, and additions; and site acquisition of the land that will be an integral part of the treatment process; or any other method or system for preventing, abating, reducing, storing, treating, separating, or disposing of municipal waste or industrial waste, including waste in combined storm water and sanitary sewer systems.

UNPOLLUTED WATER. The water of quality equal to or better than the effluent criteria in effect or water that would not cause violation of receiving water quality standards and would not be benefitted by discharge to the sanitary sewers and wastewater treatment facilities provided.

WASTEWATER. The spent water of a community.

WATERCOURSE. A natural or artificial channel for the passage of water either continuously or intermittently. (Prior Code, § 8-5-1)

§ 52.02 USE OF PUBLIC SEWERS REQUIRED.

(A) 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 the city, any human or animal excrement, garbage, or other objectionable waste.

(B) It shall be unlawful to discharge to any natural outlet within the city or in any area under the jurisdiction of the city, any sewage or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this chapter.

(C) 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 wastewater.

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(D) The owner(s) of all houses, buildings, or properties used for human occupancy, 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 at owner's expense to connect such facilities directly with the proper public sewer in accordance with the provisions of this chapter, within 30 days after date of official notice in writing to do so, provided that the public sewer is within 300 feet of the property line. No privy vault, water closet, cesspool or septic tank shall hereafter be built, constructed, repaired or allowed to remain on the premises after the notice in writing as aforesaid shall have been given to the owner. In case the property owner on whose property is located any privy vault, water closet, cesspool, or septic tank in violation of this section shall neglect or refuse to fill up and discontinue the privy vault, water closet, cesspool or septic tank and properly connect with the sewer main, as required in the notice, the Mayor and Council shall have the power to cause the privy vault, water closet, cesspool or septic tank to be filled up or removed from the premises, the cost of which shall be a lien upon the premises and real estate of the property, and if not paid when due, such charge shall be certified to the City Treasurer and may be recovered by the city in an action at law from the owner or it may be certified to the tax assessor and assessed against the premises served and collected or returned in the same manner as other municipal taxes are certified; assessed, collected and returned. Services of the notice herein required shall be either by registered mail or by publication one time in a legal newspaper published in or of general circulation in the city. (Prior Code, § 8-5-2) Penalty, see § 52.99

§ 52.03 PRIVATE WASTEWATER DISPOSAL.

(A) Where a public sanitary or combined sewer is not available under the provisions of § 52.02(D) of this chapter, the sewer service line shall be connected to a private wastewater disposal system complying with the provisions of this section.

(B) Before commencement of construction of a private wastewater disposal system, the owner(s) shall first obtain a written building permit signed by the city. 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 city. A permit and inspection fee shall be paid to the city at the time the application is filed.

(C) A permit for a private wastewater disposal system shall not become effective until the installation is completed to the satisfaction of the Building Inspector. The Building Inspector shall be allowed to inspect the work at any stage of construction, and, in any event, the applicant for the permit shall notify the Building Inspector 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 Building Inspector.

(D) The type, capacities, location, and layout of a private wastewater disposal system shall comply with all requirements of the Nebraska Department of Environmental Quality and County Department of Health. Where requirements of the two agencies differ, the most stringent requirement shall apply. No permit shall be issued for any private wastewater disposal system employing subsurface soil absorption

facilities where the area of the lot is less than one acre or where the absorption facility is within 100 feet of a municipal or private water well. No septic tank or cesspool shall be permitted to discharge to any natural outlet.

(E) At such time as a public sewer becomes available to a property served by a private wastewater disposal system, as provided in division (D) hereof, a direct connection shall be made to the public sewer within 30 days in compliance with this chapter, and any septic tanks, cesspools, and similar private wastewater disposal facilities shall be cleaned of sludge and filled with suitable material.

(F) The owner(s) shall operate and maintain the private wastewater disposal facilities in a sanitary manner at all times, at no expense to the city. (Prior Code, § 8-5-3) Penalty, see § 52.99

§ 52.04 SANITARY SEWERS, BUILDING SEWERS AND CONNECTIONS.

(A) No unauthorized person(s) shall uncover, make any connections with or open into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the city.

(B) Sewer service line building permits shall be obtained by the owner by making 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 city. A permit and inspection fee shall be paid to the city at the time the application is filed.

(C) All costs and expense incidental to the installation and connection of the sewer service line shall be borne by the owner(s). The owner(s) shall indemnify the city from any loss or damage that may directly or indirectly be occasioned by the installation of the sewer service line.

(D) A separate and independent sewer service line shall be provided for every building except where more than one building stands on an interior lot and no private sewer is available or can be constructed to any building through an adjoining alley, court, yard, or driveway. In this case, the sewer service line may be extended to the other building and the whole considered as one sewer service line, but the city does not and will not assume any obligation or responsibility for damage caused by or resulting from any such single connection aforementioned.

(E) Old sewer service lines may be used in connection with new buildings only when they are found, on examination and tested by the Building Inspector to meet all requirements of this chapter.

(F) The size, slope, alignment, materials of construction of all sanitary sewers including sewer service lines, 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 and the state. In the absence of suitable code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the A.S.T.M. and W.P.C.F. Manual of Practice No. 9 shall apply.

(G) Whenever possible, the sewer service line 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.

(H) No person shall engage in or conduct business of sewer connections, or excavate any trenches for sewer pipe, or open, uncover, or in any manner make connection with, or lay any sewer or drain, or attach to, modify or repair any appurtenances to sewer connections in streets or alleys, or other grounds of the city or with any private sewer or drain without being properly registered for such work and without holding a license. The connection of the sewer service line into a public sewer shall conform to the requirements of the building and plumbing code or other applicable rules of the Nebraska Department of Environmental Quality. All such connections shall be made gastight and watertight and verified by proper testing. Any deviation from the prescribed procedures and materials must be approved by the city before installation.

(I) The applicant for the sewer service line permit shall notify the Building Inspector when the service line is ready for inspection and connection to the public sewer. The connection and testing shall be made under the supervision of the Building Inspector or his or her representative.

(J) All excavations for sewer service line installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the Building Inspector at the owner's expense.

(K) Sewer service lines shall not connect directly into a manhole of the treatment works without prior written permission from the city. (Prior Code, § 8-5-4) Penalty, see § 52.99

§ 52.05 PROHIBITED DISCHARGES.

(A) No person(s) shall discharge or cause to be discharged to any sewer unpolluted waters such as stormwater, surface water, groundwater, roof runoff, subsurface drainage, or cooling water, except stormwater runoff from limited areas which may be polluted at times, to be discharged to the sanitary sewer without prior permission of the city.

(B) Stormwater other than that exempted under division (A) hereof, and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as combined sewers or storm sewers, or to natural outlet approved by the city. Unpolluted industrial cooling water or process waters may be discharged, on approval of the city, to a storm sewer, combined sewer, or natural outlet.

(C) No person(s) shall discharge or cause to be discharged any of the following described water or wastes to any public sewers:

(1) Any gasoline, benzene, naphtha fuel oil, or other flammable or explosive liquid, solid, or gas.

(2) (a) Any waters containing toxic or poisonous solids, liquids, or gases in sufficient quantity, either singly or by interaction with other wastes, to contaminate the sludge of any municipal system, 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 or have an adverse effect on the waters receiving any discharge from the treatment works.

(b) Each user which discharges any toxic pollutants which cause an increase in the cost of managing the effluent or the sludge of the city's treatment works shall pay for such increased costs.

(3) 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 wastewater facilities such as, but not limited to ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, 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.

(D) The following described substances, materials, waters or wastes shall be limited in discharges to municipal systems to concentrations or quantities which will not harm either the sewers, the sludge of any municipal system, the wastewater treatment process or equipment, will not have an adverse effect on the receiving stream, or will not otherwise endanger lives, limb, public property, or constitute a nuisance. The city may set limitations lower than the limitations established in the regulations below if, in his or her opinion, such more severe limitations are necessary to meet the above objectives. In forming his or her opinion as to the acceptability, the city will give consideration to such factors as the quantity of subject waste in relation to flows and velocities in the sewers, materials of construction of the sewers, the wastewater treatment process employed, capacity of the wastewater treatment plant, and other pertinent factors. The limitations or restrictions on materials or characteristics of waste or wastewaters discharged to the sanitary sewer which shall not be violated without approval of the city are as follows:

(1) Wastewater having a temperature higher than 150° F.

(2) Wastewater containing more than 25 milligrams per liter of petroleum oil, non-biodegradable cutting oils, or product of mineral oil origin.

(3) Wastewater from industrial plants containing floatable oils, fat, or grease.

(4) Any garbage that has not been properly shredded (see § 52.01). Garbage grinders may be connected to sanitary sewers from homes, hotels, institutions, restaurants, hospitals, catering establishments, or similar places where garbage originates from the preparation of food in kitchens for the purpose of consumption on the premises or when served by caterers.

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(5) Any waters or wastes containing iron, chromium, copper, zinc and similar objectionable or toxic substances to such degree that any such material received in the composite wastewater at the wastewater treatment works exceeds the limits established by the city for such materials.

(6) Any waters or wastes containing odor-producing substances exceeding limits which may be established by the city.

(7) Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the city in compliance with applicable state or federal regulations.

(8) Quantities of flow, concentrations, or both which constitute a "slug" as defined herein.

(9) Waters or wastes containing substances which are not amenable to treatment or reduction by the wastewater treatment processes employed, or are amenable to treatment only to such degree that the wastewater treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.

(10) Any water or wastes which, by interaction with other water or wastes in the public sewer system, release obnoxious gases, form suspended solids which interfere with the collection system, or create a condition deleterious to structures and treatment processes.

(E) (1) 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 division (D) of this section, and which in the judgment of the city, may have a deleterious effect upon the wastewater facilities, processes, equipment, or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the city may:

- (a) Reject the wastes;
- (b) Require pretreatment to an acceptable condition for discharge to the public sewers;
- (c) Require control over the quantities and rates of discharge; and/or
- (d) Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges under the provisions of division (K) of this section.

(2) If the city 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 city and Nebraska Department of Environmental Quality.

(F) Grease, oil and sand interceptors shall be provided when, in the opinion of the city, they are necessary for the proper handling of liquid wastes containing floatable grease in excessive amounts as specified in division (D)(3) hereof, 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 city and the American National Standards Institute

Uniform Plumbing Code, ANSI A40-1993 and shall be located as to be readily and easily accessible for cleaning and inspection. In the maintaining of these interceptors, the owner(s) shall be responsible for the proper removal and disposal by appropriate means of the captivated material and shall maintain records of the dates and means of disposal which are subject to review by the city.

(G) Where pretreatment or flow-equalization facilities are provided or required for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner(s) at his or her expense.

(H) When required by the city, the owner(s) of any property serviced by a sewer service line carrying industrial wastes shall install a suitable structure together with such necessary meters and other appurtenances in the sewer service line to facilitate observation, sampling, and measurement of wastes. Such structures, when required, shall be accessibly and safely located, and shall be constructed in accordance with plans approved by the city. The structure shall be installed by the owner at his or her expense, and shall be maintained by him or her so as to be safe and accessible at all times to the city.

(I) The city may require a user of sewer services to provide information needed to determine compliance with this chapter. These requirements may include:

- (1) Wastewater's discharge peak rate and volume over a specified time period.
- (2) Chemical analyses of wastewaters.
- (3) Information on raw materials, processes, and products affecting wastewater volume and quality.
- (4) Quantity and disposition of specific liquid, sludge, oil, solvent, or other materials important to sewer use control.
- (5) A plot plan of sewers of the user=s property showing sewer and pretreatment facility location.
- (6) Details of wastewater pretreatment facilities.
- (7) Details of systems to prevent and control the losses of materials through spills to the municipal sewer.

(J) 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 AStandard Methods for the Examination of Water and Wastewater≡, published by the American Public Health Association and shall be paid for by the owner. Sampling methods, location, times, durations, and frequencies are to be determined on an individual basis subject to approval by the city.

(K) No statement contained in this section 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. (Prior Code, § 8-5-5) Penalty, see § 52.99

§ 52.06 DAMAGE TO SEWAGE WORKS PROHIBITED.

No person(s) shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance or equipment which is a part of the wastewater facilities. Any person(s) violating this provision shall be subject to immediate arrest under charge of disorderly conduct.

(Prior Code, § 8-5-6) Penalty, see § 52.99

§ 52.07 INSPECTORS; POWERS AND AUTHORITY.

(A) 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 pertinent to discharge to the community system in accordance with the provisions of this chapter.

(B) The Superintendent or other duly authorized employees are authorized to obtain information concerning industrial processes which have a direct bearing on the kind and source of discharge to the wastewater collection system. The industry may withhold information considered confidential. The industry must establish that the revelation to the public of the information in question might result in an advantage to competitors.

(C) While performing the necessary work on private properties referred to in division (A) above, 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 city employees, and the city shall indemnify the company against loss or damage to its property by the city employees and against liability claims and demands for personal injury or property damage asserted against the company 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 § 52.05(H).

(D) 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 wastewater facilities lying within the easement. All entry and subsequent work, if any, on the easement shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

(Prior Code, § 8-5-7)

§ 52.20 DEFINITIONS.

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

BOD (BIOCHEMICAL OXYGEN DEMAND). The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days at 201 C., expressed in milligrams per liter (mg/l).

COMMERCIAL and INSTITUTIONAL CONTRIBUTOR. Any contributor not defined in definitions **RESIDENTIAL CONTRIBUTOR** and **INDUSTRIAL CONTRIBUTOR** in this section.

INDUSTRIAL CONTRIBUTOR. Any contributor to the city's treatment works with an average daily waste volume greater than 10,000 gallons and a waste strength greater than or equal to 170 mg/l BOD and 185 mg/l suspended solids.

MEASUREMENTS and TESTS. Determined in accordance with the latest edition of "Standard Methods for Examination of Water and Wastewater" published by the American Public Health Association.

NORMAL DOMESTIC WASTEWATER. Wastewater that has a BOD concentration of less than 170 mg/l and a suspended solids concentration of less than 185 mg/l.

OPERATION AND MAINTENANCE. All expenditures during the useful life of the treatment works for materials, labor, utilities, and other items which are necessary for managing and maintaining the sewage works to achieve the capacity and performance for which such works were designed and constructed.

REPLACEMENT. Expenditures for obtaining and installing equipment, accessories, or appurtenances which are necessary during the useful life of the treatment works to maintain the capacity and performance for which such works were designed and constructed. The term **OPERATION AND MAINTENANCE** includes **REPLACEMENT**.

RESIDENTIAL CONTRIBUTOR. Any contributor to the city's treatment works whose lot, parcel of real estate, or building is used for domestic dwelling purposes only.

SS (SUSPENDED SOLIDS). Solids that either float on the surface of or are in suspension in water, sewage, or other liquids and which are removable by laboratory filtering.

TREATMENT WORKS. Any devices and systems for the storage and treatment of municipal, domestic, or industrial wastewater. These include intercepting sewers, outfall sewers, lift stations and treatment equipment and their appurtenances; extension improvements, remodeling, and additions; and

site acquisition of the land that will be an integral part of the treatment process; or any other method or system for preventing, abating, reducing, storing, treating, separating, or disposing of municipal waste or industrial waste, including waste in combined storm water and sanitary sewer systems.

USEFUL LIFE. The estimated period during which a treatment works will be operated.

USER CHARGE. The total wastewater service charge which is levied in a proportional and adequate manner for the cost of operation, maintenance, replacement, and debt retirement of bonded capital.

WATER METER. A water volume measuring and totalizing device furnished and/or installed by the city.

(Prior Code, § 8-3-2)

§ 52.21 USER CHARGES; PROCEEDS.

It is determined and declared to be necessary and conducive to the protection of the public health, safety, welfare and convenience of the city to collect charges from all users who contribute wastewater to the city's treatment works. The proceeds of such charges so derived will be used for the purpose of operating, maintaining and retiring the debt for such public wastewater treatment works.

(Prior Code, § 8-3-1)

§ 52.22 FUNDS; USE OF.

(A) The user charge system shall generate sufficient annual revenues to pay all costs of annual operation and maintenance including replacement and costs associated with debt retirement of bonded capital for financing the treatment works which the city may by ordinance designate to be paid by the user charge system. The total user charge collected shall be recorded in the "sanitary sewer fund".

(B) Fiscal year-end balances in the sanitary sewer fund shall be carried over to the same fund in the subsequent fiscal year, and shall be used for no other purposes than those designated for the fund. Monies which have been transferred from other sources to meet temporary shortages in the fund shall be returned to their respective accounts upon appropriate adjustment of the user charge rates. The user charge rate(s) shall be adjusted such that the transferred monies will be returned to their respective accounts within the fiscal year following the fiscal year in which the monies were borrowed.

(Prior Code, § 8-3-3)

§ 52.23 USER RATES.

Sewer rates, charges and connection fees shall be as set by the City Council from time to time. Copies of the rates, charges and connection fees shall be available for public inspection at the City Clerk's office.

(Prior Code, § 8-3-4) (Ord. 1466, passed 12-21-91; Am. Ord. 1674, passed 9-25-00; Am. Ord. 1691, passed 9-24-01; Am. Ord. 1739, passed 9-22-03; Am. Ord. 1780, passed 9-27-03)

§ 52.24 AVAILABILITY OF SERVICE FEE.

(A) Division (B) of this section shall apply if all of the following conditions are met: premises abuts a street or alley in which the sewer is located; premises have not previously been included within a district created for the purpose of construction of the sewer; no part of the cost of construction of the sewer has been paid by the owner or previous owner(s) of the premises (the cost of construction shall not include the furnishing of a right-of-way or payment of general taxes or sewer charges); and the cost, or a part of the cost, has been paid by the city (to include non-payment of sewer district assessments).

(B) No permit shall be issued for sewers constructed between January 1, 1970 and December 31, 1999, until there is paid a fee of \$4 per running foot of the premises abutting the street or alley in which the sewer is located. This fee shall be in addition to the connection fees. No permit shall be issued for sewers constructed after December 31, 1999, until there is paid a fee of \$8 per running foot of the premises abutting the street or alley in which the sewer is located. This fee shall be in addition to the connection fees. All amounts paid pursuant to this section shall be placed in the sewer fund of the city and shall not be refundable.

(Prior Code, § 8-3-7(A)) (Ord. 1140, passed 1-14-91; Am. Ord. 1811, passed 9-26-05)

§ 52.25 SEWER SYSTEM INVESTMENT FEE.

Before a sewer tap permit shall be issued, the owner of the premises shall pay to the Utility Office for each connection a tap fee which is adopted by the City Council and on file with the Clerk and a sewer system investment fee which is adopted by the City Council and on file with the Clerk for each connection/service line.

(Prior Code, § 8-3-7(B)) (Ord. 1140, passed 1-14-91)

§ 52.26 BILLING PROCEDURES.

(A) All user charges provided for by this chapter shall be billed and collected at the same time and in the same manner and by the same employees as water charges are billed and collected by the city.

(B) All sewer use charges prescribed by the ordinance shall be a lien upon the premises and real estate for which the sewer service is supplied and used, and if not paid when due, such charge shall be

certified to the City Treasurer and may be recovered by the city in an action at law from the owner or the person requesting the service or it may be certified to the tax assessor and assessed against the premises served and collected or returned in the same manner as other municipal taxes are certified, assessed, collected and returned. Bills for the sewer use charges made by this chapter shall be rendered at the same time that bills are rendered for water service of the city and all sewer use charges levied by this chapter which are not paid at or before water service charges of the city are required to be paid, shall be deemed to be delinquent and water service of such consumer may be discontinued.

(Prior Code, § 8-3-5)

§ 52.27 REVIEW.

The city will review the user charge system at least every two years and revise user charge rates as necessary to ensure that the system generates adequate revenues to pay the costs of operation and maintenance including replacement and that the system continues to provide for the proportional distribution of operation and maintenance including replacement costs among users and user classes.

(Prior Code, § 8-3-6) (Ord. 1267, passed 8-9-82)

§ 52.99 PENALTY.

(A) Any person who violates any provision of this chapter for which no other specific penalty is provided shall be subject to § 10.99

(B) (1) Any person found to be violating any provisions of this chapter except § 52.06 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.

(2) Any person who shall continue any violation beyond the time limit provided for in division (B)(1) hereof shall be guilty of an offense, and on conviction thereof shall be fined in the amount not exceeding \$100 for each violation. Each day in which any such violation shall continue shall be deemed a separate offense.

(3) Any person violating any of the provisions of this chapter shall become liable to the city for any expense, loss, or damage occasioned by the city by reason of such violation.

(Prior Code, § 8-5-8) (Ord. 1268, passed 8-9-82)

CHAPTER 53: SOLID WASTE

Section

General Provisions

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GENERAL PROVISIONS

§ 53.01 DEFINITIONS.

Shall be the same as Nebraska Department of Environmental Quality (NDEQ) Title 132, Chapter 1.
(Prior Code, § 8-2-1) (Ord. 1525, passed 4-25-94)

§ 53.02 CITY SANITATION LANDFILL.

The Mayor and Council shall, from time to time, by resolution or order, designate, regulate and control the landfill, either within or without the corporate limits of this city, upon which shall be dumped at the city sanitary landfill. The city will follow the Nebraska Department of Quality (NDEQ) Title 132, Chapter 1, approved permit. (Prior Code, § 8-4-1)

§ 53.03 SOLID WASTE COLLECTION FRANCHISE SANITATION CONTRACTOR; DUTIES AND RESPONSIBILITIES.

Sanitation Contractor shall mean the city designated Sanitation Contractor. The terms and conditions of the Sanitation Contractor are listed in the Request for Proposal of May 1996 and the Associated Agreement, which are incorporated by reference. The City has granted an exclusive franchise for solid waste collection and roll-off containers for special collection within the city planning jurisdiction; generally two miles from the city limits and shown on the official planning jurisdiction map.

(Prior Code, § 8-2-11) (Ord. 1604, passed 1-26-98)

RATES AND CHARGES**§ 53.20 SOLID WASTE COLLECTION AND DISPOSAL FEES; DEPOSIT.**

Solid waste collection and disposal fees and deposit shall be as set by the City Council from time to time. Copies of the rates and fees shall be available for public inspection at the City Clerk's office. The city reserves the right to require deposits on services provided, also to apply a surcharge to loads brought to the landfill not covered, by the Sanitation Department.

(Prior Code, § 8-2-13) (Ord. 1538, passed 8-8-94; Am. Ord. 1604, passed 1-26-98; Am. Ord. 1692, passed 9-24-01; Am. Ord. 1738, passed 9-22-03; Am. Ord. 1779, passed 9-27-04)

§ 53.21 LICENSED REQUIRED; FEES.

(A) No person shall deposit any material at the city landfill facility without first obtaining a license or franchise for the purpose from the city, or by paying the applicable disposal fees.

(B) Disposal fees shall be as set by the City Council from time to time. Copies of the disposal fee shall be available for public inspection at the City Clerk's office.

(Prior Code, § 8-2-16) (Ord. 1470, passed 4-13-92; Am. Ord. 1513, passed 9-27-93; Am. Ord. 1738, passed 9-22-03; Am. Ord. 1779, passed 9-27-04) Penalty, see § 10.99

SOLID WASTE LANDFILL DISPOSAL REGULATIONS**§ 53.40 LANDFILL SITE.**

(A) It shall be unlawful, except as set forth herein, to unload or deposit any solid waste, yard waste hauled from any premises within the corporate limits of the city, and destined for disposal within the state, at any place other than the city landfill or baler building.

(B) The operator of the city landfill shall, at his or her sole and absolute discretion, have the right to refuse disposal if in his or her judgment the material to be disposed of will create potential problems. (Prior Code, § 8-2-17) (Ord. 1604, passed 1-26-98) Penalty, see § 10.99

§ 53.41 CONTAINERS; SPECIFICATIONS.

Approved containers shall mean the solid waste container(s) provided by the city. (Prior Code, § 8-2-2) (Ord. 1604, passed 1-26-98)

§ 53.42 WASTE; CARE AND DISPOSAL.

Residential and commercial waste shall be deposited in the container designated for such, the containers to be located in the alley behind and adjacent to the premises served, or in such other place as may be designated by the Sanitation Department. As a rule, four residential homes per one to three cubic yard brown container for solid waste and six residential homes per one to three cubic yard green container for yard waste. Containers damaged due to customers neglect or loss will be charged for repairs or replacement.

(Prior Code, § 8-2-3) (Ord. 1525, passed 4-25-94) Penalty, see § 10.99

§ 53.43 BURNABLE TRASH; INCINERATION REGULATIONS.

All Nebraska Department of Environmental Quality (NDEQ) requirements must be met and will have to be inspected and obtain a permit from the City Fire Marshal. Customers will be required to renew permit yearly.

(Prior Code, § 8-2-4) (Ord. 1238, passed 4-13-81) Penalty, see § 10.99

§ 53.44 YARD WASTE; CARE AND DISPOSAL.

(A) Yard waste shall be deposited in the green colored container marked “Yard Waste Only” or “Yard Debris Only”.

(B) The city operates a composting facility for yard waste. The only materials allowed are grass and leaves to be disposed in the green yard waste containers.

(Prior Code, § 8-2-6) (Ord. 1525, passed 4-25-94) Penalty, see § 10.99

§ 53.45 ALLEYS; USE OF.

Alleys are public thoroughfares and are to be kept clear of obstructions at all times. Containers must be placed in such a way that it will not obstruct the use of the alley as a public thoroughfare at any time, and provided that no permanent bases or foundations for such containers be permitted in the city alleys or street. If other collection facilities are to be used, they must be placed within the boundary of the private property, and immediately adjacent to the alley used by the Sanitation Contractor for pick-up service. It shall be the duty of the property owner adjacent to the alley to keep the alley clear of weeds, and to prevent obstruction of the alley by overhanging shrubs and trees.

(Prior Code, § 8-2-12)

§ 53.46 SPECIAL PROVISIONS; DISTRICTS AND AREAS WITHOUT ALLEYS.

In districts or areas where there are no alleys behind or adjacent to premises served, all collection containers must be placed next to the curb on the scheduled day or days of collection only.

(Prior Code, § 8-2-7)

§ 53.47 SPECIAL REFUSE; CARE AND DISPOSAL.

(A) Special refuse must not be placed or piled in the streets or alleys of the city, but must be kept on the premises of the person responsible for the refuse until it can be properly hauled away. Such refuse must be kept piled as neatly as possible, and under no circumstances be allowed to blow or scatter over adjacent areas. Extra pick-ups will be collected within 48 hours of request. Waste must be placed into solid waste containers. Materials larger than what will fit in trash containers must be hauled directly to the landfill and pay disposal fees at the gate, or contract the Sanitation Department and rent a roll-off box.

(B) Special refuse must not be permitted to accumulate over long periods of time. The Police Department will notify the owner of such refuse by regular mail to remove the refuse. Upon receipt of such notice, the owner shall be given 72 hours to remove the refuse. If the refuse is not removed at the end of this period, the city shall issue orders to hire a contractor to remove the refuse, and the owner will be billed by the city for the cost of such services. Special refuse as defined in division (C) and § 53.01 may be hauled, collected, and/or disposed of by private persons or companies. If this is done, it shall be covered with a tarp to insure there is no scattering or blowing of refuse while it is being hauled to the ultimate place of disposal.

(Prior Code, § 8-2-8)

(C) Special refuse is considered to be all manner of waste materials which, due to weight, bulk, quantity or composition of the material renders it impractical or impossible to handle in the garbage packer trucks. Some examples of special refuse are: building materials waste such as lumber, plaster, concrete, stone, brick and tile; large metal objects such as car bodies or stoves; limbs, branches or tree trunks over two and one-half inches in diameter; sod, dirt and all other refuse when the quantity exceeds 100 pounds at any one pick up or where dimensions exceed four feet in length or two feet in girth, regardless of weight.

(Prior Code, § 8-2-1) (Ord. 1831, passed 8-14-06) Penalty see § 10.99

CHAPTER 54: ELECTRIC

Section

General Provisions

- 54.01 Contract
- 54.02 Contracts not transferable
- 54.03 Application for service; deposit
- 54.04 Connections; by whom made
- 54.05 Meters
- 54.06 Electric Commissioner; access to premises
- 54.07 Trees near lines
- 54.08 Destruction of property
- 54.09 Installation of apparatus
- 54.10 Underground service; installation; costs
- 54.11 City not guarantor of delivery

Rates and Charges

- 54.30 Rates
- 54.31 Meters in disrepair; charges
- 54.32 Accounts kept by Cashier
- 54.33 Electric Fund

GENERAL PROVISIONS

§ 54.01 CONTRACT.

The city shall furnish electric current for light, heating, cooking, and power purposes to persons whose premises abut on any supply wire of the distributing system of this city. The rules and regulations and rates for electric service, hereinafter named, shall be considered a part of the contract with every person who is supplied with electric service through the electric distribution system of this city and every such person by taking electric service therefrom shall be considered and held to consent to be bound thereby, and whenever any of such rules and regulations are violated, or such other as the city may hereafter adopt, the electric current shall be cut off from the building or place of such violation, even

though two or more parties may receive current through the same line, and shall not be turned on again except by order of the city, and on payment of the fee for shutting off and turning on, and upon such other terms as the city shall determine, and upon a satisfactory understanding with the party that no further cause for complaint shall arise and in case of violation, the city shall have the right to declare any payment made for electric current by the person committing such violation forfeited and the same shall thereupon be forfeited. (Prior Code, § 3-3-1) (Ord. 337, passed 3-18-52)

§ 54.02 CONTRACTS NOT TRANSFERABLE.

Contracts for electric 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 sell, dispose of or remove from the premises where service is furnished, he or she shall at once so inform the city, who shall cause the electric current to be shut off from the premises. If such consumer shall fail to give notice, he or she shall be charged for all electric current used on the premises until the city is otherwise advised of such change. (Prior Code, § 3-3-7)

§ 54.03 APPLICATION FOR SERVICE; DEPOSIT.

(A) Every person desiring a supply of electric current must make application therefore to the city office, which application shall be on designated forms to the Utility Office at city hall. The application must state truly and fully all the uses to which the electric current is to be applied and no additional use will be allowed except by permission of the city.

(B) When such application shall be made for electric services to the Utility Office, the city will run or cause to be run, supply wires or wires to the buildings of the consumer, if the same are located on premises abutting the distribution system of this city.

(C) New applicants for electric service shall be required to accompany their application with a service deposit in an amount set by City Council.

(D) All meters required for providing applicant with electric service shall be furnished, shall be set in place, and shall remain the property of the city. All service deposits shall be refunded to the consumer when service is no longer desired subject to the conditions as hereinafter provided. All such supply wires shall be considered the property of the city. Not more than one house or building shall be supplied from one connection except by special permission. No consumer shall be permitted to take current for residence or commercial electric purposes at power rates, nor shall any electrical apparatus be attached or suffered to remain attached to any power meter. It shall be unlawful for any person to employ any scheme, device or contrivance for the purpose of evading the proper service and registration for any meter or to employ any scheme or device whereby he or she may obtain current which does not pass through the meter furnished him or her by the city. Finding electrical apparatus attached to a power meter or any device in or near any meter which causes the same to register incorrectly shall be prima

facie evidence of the intent of the occupier of the premises, or of the consumer, to convert electric current to his or her own use, which is hereby declared unlawful, and the person convicted of a violation of the same shall be punished as hereinafter provided; and, in it shall appear to the Electric Commissioner that any electrical meter shall have been tapped or tampered with, he or she is hereby empowered to install or cause to be installed, at the consumer's expense, a meter installed in iron conduit mechanically sealed in closed meter box accessible only to the Electric Commissioner or his or her agents.

(Prior Code, § 3-3-2) (Ord. 626, passed 3-24-69; Am. Ord. 1530, passed 6-13-94; Am. Ord. 1737, passed 9-22-03)

§ 54.04 CONNECTIONS BY WHOM MADE.

No person, except those authorized by the Mayor and Council, shall connect or make any changes in the switches, motors, meters, wire or wiring, or any electrical apparatus of any description where the electrical current is used, or in any way interfere with or injure same, or any connection, when the same are connected with the supply wires of the electric distribution system of this city. The city reserves the right to cut off or disconnect the supply or electric current to any consumer, without any preliminary notice, for any violation of the rules and requirements. (Prior Code, § 3-3-5) Penalty, see § 10.99

§ 54.05 METERS.

All electric current furnished consumers by the electric distribution system of the city shall be measured by meters furnished and set by the city. No person except an authorized agent of the city, shall be allowed to set meters or make connections to the electric service of the distribution system of this city. The city will furnish all necessary meters to consumers under the conditions prescribed in § 54.03, and will keep all meters clean and in repair at the expense of the city. The owner or tenant of premises where a meter is located shall provide ready and convenient access to the meter so that it may easily be examined and read by authorized agents of the city. Any consumer of current from the electric distribution system of this city shall have the right to request the Electric Commissioner to test, a reasonable number of times, his or her current meter which the consumer may have reason to believe is not registering the true amount of current. It shall be the duty of the Electric Commissioner to test the meter as requested and any other meter which needs to be tested. All meters now in use or hereafter installed in connection with the electric light plant and system of the city, shall be and remain the property of the city. When a meter is entirely worn out and a replacement is necessary, a new meter will be furnished and set by the city for such consumer at the expense of the city; provided, however, in cases where meter repair or meter replacements are made necessary on account of the willful neglect or recklessness on the part of consumer, then the city shall require the customer to pay for installing the new meter or making the repairs and collect the same as for light service furnished. (Prior Code, § 3-3-10) Penalty, see § 10.99)

§ 54.06 ELECTRIC COMMISSIONER; ACCESS TO PREMISES.

The Electric Commissioner or the authorized agent of the Mayor and Council of this city shall have access at all reasonable hours to premises in which electric light, power or current is being used to determine if it is being carried, distributed and used in the proper manner.

(Prior Code, § 3-3-6)

§ 54.07 TREES NEAR LINES.

Any person desiring to cut or remove trees or branches thereof, or to fell same, in close proximity to the lines of the electric distribution system of the city, and which the work might cause injury or damage to the lines thereof, shall, before doing the work, give reasonable written notice to the city, and shall secure a permit in writing from the Electric Commissioner so to do and shall seek the assistance of the city to do the work so that electric service shall not be interrupted or damage done to the lines or property of the city. Any person felling or removing such trees, or branches of trees, resulting in the interruption of electric service or damage to the lines or property of the city, without having given notice to the city, as aforesaid, and without having received the permit in writing from the Electric Commissioner so to do, as aforesaid, shall be guilty of an offense.

(Prior Code, § 3-3-12) Penalty, see § 10.99

§ 54.08 DESTRUCTION OF PROPERTY.

No person shall willfully or carelessly break, injure or deface, interfere with or disturb any building, machinery, apparatus, insulator, transformer, fixture, attachment, appurtenance, electroliner, white-way pole, suspension lights or light globes in the street lighting system of the electric light plant or of the distribution system of this city, and if any person shall do any of the acts herein prohibited, he or she shall be deemed guilty of an offense. (Prior Code, § 3-3-15) Penalty, see § 10.99

§ 54.09 INSTALLATION OF APPARATUS.

All poles, overhead wires, transformers and other aerial construction, equipment or apparatus shall hereafter be erected in a substantial manner and shall be placed in the alleys of the city insofar as it is practical to do so. All wires shall be erected and maintained at such height as shall interfere as little as possible with other wires or business interests and all such wires shall be placed so as not to interfere with the common, ordinary public travel upon the streets and alleys.

(Prior Code, § 3-3-16) (Ord. 337, passed 3-18-52)

§ 54.10 UNDERGROUND SERVICE; INSTALLATION; COSTS.

(A) When an underground electrical service is to be constructed within the city electrical distribution system, it is hereby declared that the following is city policy:

(1) The city shall calculate the actual cost of construction of an overhead primary electrical service of sufficient capacity for the reasonably projected requirements of the area to be served. The actual cost of the installation of the underground primary system shall be calculated, and the difference in cost of the underground primary system over and above what the actual costs of the overhead primary system would have been, shall be paid by the developer (or owner) of the area benefitted by the underground primary service. Thereafter, it will be the responsibility of the city to maintain the underground primary service so installed. It shall be the responsibility of the developer (or owner) to install the underground service from the transformer or pedestal to the meter loop or service entrance of the building to be served. The city shall make all connections at the transformer or pedestal and thereafter it will be the responsibility of the owner to maintain that part of the underground service installed from the transformer or pedestal.

(2) The developer (or owner) shall furnish the city permanent right of ingress at all times for construction and maintenance of the underground facilities, including, individual customer services. All areas shall be brought to final grade before the underground facilities are installed. In the event a change in grade is made after the start of placing underground facilities, then such changes will be an additional cost to developer (or owner).

(3) Construction power will be supplied from the underground system and if overhead power is required, such will be furnished at the total expense to the owner.

(4) Individual customer services shall not cross the side lot line of ten adjacent lots and shall be of size to conduct 200 amps at 120/240 volts.

(5) Telephone lines, television cable lines and other services, if any, may use the same underground trench for their services at a cost to be agreed upon between the parties.

(6) The cost as set forth above (on construction or materials by the city) shall be paid one-half before the beginning of construction and the balance shall be paid upon completion.

(7) All installation, construction, modification or repairs of the systems above described that are the responsibility of the developer (or owner) are of the owner or developer. This will all be done subject to prior, in the course of, and subsequent approval by inspectors authorized and/or employed by the city.

(B) The city will require that all new residential additions or present residential additions which have not been hooked up to the electrical system will be constructed with an underground electrical distribution system. (Prior Code, § 3-3-17) (Ord. 1001, passed 2-14-77; Am. Ord. 1062, passed 10-24-77)

§ 54.11 CITY NOT GUARANTOR OF DELIVERY.

(A) The city does not guarantee the delivery of electric current over the lines of its distribution system at any time, to any person, except when its power and connections are in good working order, and it has sufficient power, current, equipment and machinery so to do.

(B) The city expressly reserves the right to disconnect or discontinue such service for any of the following reasons: for repairs necessary to be made on any part of its plant, powerhouse, equipment, system or distribution system; for nonpayment of bills when due; for fraudulent representations in regard to the consumption of current for light, cooking, heat and power; for the protection of persons or property for violation of any of the rules and requirements of this chapter, of the subsequent amendments thereto. This city shall use due and reasonable diligence to provide and supply uninterrupted service to consumers, but shall not be liable for damages resulting from interruption of service due to causes over which the city has no control, and the city expressly reserves the right to discontinue or disconnect consumer's service without any preliminary notice.

(Prior Code, § 3-3-9)

RATES AND CHARGES**§ 54.30 RATES.**

Electric rates and fees shall be as set by the City Council from time to time. Copies of the rates and fees shall be available for public inspection at the City Clerk's office.

(Prior Code, § 3-3-4) (Ord. 1623, passed 9-28-98; Am. Ord. 1655, passed 12-13-99; Am. Ord. 1672, passed 9-25-00; Am. Ord. 1689, passed 9-24-01; Am. Ord. 1737, passed 9-22-03; Am. Ord. 1778, passed 9-27-04)

§ 54.31 METERS IN DISREPAIR; CHARGES.

Should a consumer's meter get out of repair or fail to register properly, the consumer will be charged for electric current during the time such meter is out of order or repair on the basis of monthly consumption during the same month of the preceding year; provided, however, if no such basis for comparison exists, then such consumer shall pay such amount as reasonably fixed by the Electric Commissioner.

(Prior Code, § 3-3-8)

§ 54.32 ACCOUNTS KEPT BY CASHIER.

The account of each patron of the lighting system shall be separately kept by the Treasurer under the general supervision of the Mayor and Council, and all monies paid on account in connection with

the electric system shall be receipted for by the employee receiving such payment and a duplicate of such receipt shall be kept on file in the City Utility Office. The Treasurer shall perform such other duties as the Mayor and Council may from time to time by resolution prescribe. He or she shall be held responsible for all work so assigned to him or her and shall be accountable to the Mayor and Council at all times.

(Prior Code, § 3-3-11)

§ 54.33 ELECTRIC FUND.

The funds received by the Treasurer from the Utility Office, as aforesaid, arising out of income from the electric distribution system, shall be kept by the Treasurer in a separate fund known as the “Electric Fund”, which shall be allocated for accounting and other purposes as the Mayor and Council shall, by resolution, from time to time direct.

(Prior Code, § 3-3-14)

TITLE VII: TRAFFIC CODE

Chapter

- 70. GENERAL PROVISIONS**
- 71. TRAFFIC REGULATIONS**
- 72. PARKING REGULATIONS**
- 73. SNOWMOBILES, BICYCLES AND TOY VEHICLES**
- 74. TRAFFIC SCHEDULES**
- 75. PARKING SCHEDULES**
- 76. EMERGENCY SNOW REMOVAL**

CHAPTER 70: GENERAL PROVISIONS

Section

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- 70.01 Definitions
- 70.02 Motor vehicle liability certificate
- 70.03 Traffic control devices; arterial streets
- 70.04 Glass, nails and the like
- 70.05 Jaywalking
- 70.06 License plates
- 70.07 Operator's license required
- 70.08 Front seat; number of persons allowed

Equipment

- 70.20 Equipment required
- 70.21 Lug wheels prohibited
- 70.22 Engine brakes; mufflers; unnecessary noise
- 70.23 Child restraint systems
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- 70.25 Projecting loads; lights required

Administration and Enforcement

- 70.90 Enforcement
- 70.91 Traffic citation; destruction of prohibited
- 70.92 Vehicle impoundment
- 70.93 Vehicle storage

- 70.99 Penalty

GENERAL PROVISIONS**§ 70.01 DEFINITIONS.**

For the purpose of this chapter, the definitions listed in Neb. RS 60-605 et seq. shall apply.
(Prior Code, § 10-1-2)

§ 70.02 MOTOR VEHICLE LIABILITY CERTIFICATE.

(A) No motor vehicle may be operated within the corporate limits of the city unless the operator can produce upon request a certificate of any insurance carrier, duly authorized to do business in this state, certifying that there is in effect a motor vehicle liability policy for the benefit of the person required to furnish proof of financial responsibility. Such certificate shall give the effective date of such motor vehicle liability policy, which date shall be the same as the effective date of the certificate, and designate, by explicit description or appropriate reference all motor vehicles covered thereby unless the policy is issued to a person who is not the owner of the vehicle.

(B) It shall be unlawful for the owner of a motor vehicle licensed in the state to operate that motor vehicle or allow any other person to operate the motor vehicle unless the person at all times during operation of the vehicle has current and effective proof of financial responsibility as required by Neb. RS 60-302, or by any successor provisions. Any operator who shall be unable to produce this proof upon the request of a law enforcement officer shall have ten days from the date of such request to produce proof that such financial responsibility was in effect at the time of the request.
(Prior Code, § 10-7-6) (Ord. 1666, passed 7-24-00) Penalty, see § 70.99

§ 70.03 TRAFFIC CONTROL DEVICES; ARTERIAL STREETS.

(A) Stop signs or other traffic control devices shall be erected at intersections of arterial streets and all other streets.

(B) The following streets are designated as arterial streets:

- (1) Seventh Street;
- (2) Tenth Street;
- (3) "M" Street;
- (4) "Q" Street from 10th Street west to 20th Street;
- (5) "U" Street from 10th Street west to the city limits;

(6) Pacific Boulevard.

(Prior Code, § 10-2-1(C)) (Ord. 1110, passed 9-25-78)

§ 70.04 GLASS, NAILS AND THE LIKE.

No person shall throw, cast, lay or place upon any street within this city any tacks, nails, 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 such 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.

(Prior Code, § 10-7-3) Penalty, see § 70.99

§ 70.05 JAYWALKING.

It shall be unlawful for any pedestrian to cross any street at a place other than a crosswalk, or cross any street intersection diagonally.

(Prior Code, § 10-8-1) Penalty, see § 70.99

§ 70.06 LICENSE PLATES.

All letters, numbers, printing, writing, and other identification marks upon license plates and certificates shall be kept clear and distinct and free from grease, dust, or other blurring matter, so that they shall be plainly visible at all times during daylight and under artificial light in the nighttime. If a plate or certificate of registration is lost or mutilated or has become illegible, the person to whom such plate and certificate has been furnished shall immediately apply to the County Treasurer or designated county official as provided in Neb. RS 60-302 for a duplicate certificate or for new license plates, accompanying his or her application with a fee of \$1 for a duplicate certificate and a fee of \$2.50 for a duplicate or replacement license plate.

(Neb. RS 60-324) (Prior Code, § 10-8-3) Penalty, see § 70.99

§ 70.07 OPERATOR'S LICENSE REQUIRED.

No person shall operate any motor vehicle upon any street or public highway without first having registered the same and displaying the registration on the vehicle or without first having obtained a motor vehicle operator's license and carrying the license on their person or in or upon the motor vehicle.

(Prior Code, § 10-8-5) (Ord. 1079, passed 2-27-78) Penalty, see § 70.99

§ 70.08 FRONT SEAT; NUMBER OF PERSONS ALLOWED.

(A) No person shall drive a motor vehicle when it is so loaded, or when there is in the front seat such a number of persons, exceeding three, as to obstruct the view of the driver to the front or sides of the vehicle or to interfere with the driver's control over the driving mechanism of such vehicle.

(B) No passenger in a vehicle shall ride in such a position as to interfere with the driver's view ahead or to the sides or to interfere with the driver's control over the driving mechanism of such vehicle.

(Neb. RS 60-6,179) (Prior Code, § 10-8-4) Penalty, see § 70.99

EQUIPMENT**§ 70.20 EQUIPMENT REQUIRED.**

Every motor vehicle while in use on the streets of this city shall be equipped with efficient brakes adequate to control the movement of and to stop and hold such vehicle, including two separate means of applying the brakes, and shall be further equipped with a good and sufficient horn in good working order or other efficient signal devices, and shall have, from one-half hour after sunset until one-half hour before sunrise, two or more whitish lights on the front thereof, one on each side, which lights shall be plainly visible from the direction in which such vehicle is proceeding; which lights and all other lighting devices used on such vehicles shall be in compliance with the laws of the state. No person shall operate any vehicle which is equipped with electric lights which give off light which confuses other motorists or pedestrians on streets or crosswalks. Every vehicle having a width of 80 inches or more shall display clearance lights as required by the laws of the state. All vehicle brakes shall be maintained in good working order. Vehicles while in operation between the hours of one-half hour after sunset and one-half hour before sunrise shall have a red light plainly visible from the rear of the vehicle.

(Prior Code, § 10-7-1) Penalty, see § 70.99

§ 70.21 LUG WHEELS PROHIBITED.

(A) It shall be unlawful for tractors with wheels injurious to pavement to be permitted upon the public thoroughfares unless the operator of such vehicle shall first plank such streets.

(Prior Code, § 6-1-21)

(B) It shall hereafter be unlawful for any person to move or operate any steam engine, gas or kerosene tractor or road roller across any curb, gutter, bridge, culvert, sidewalk or crosswalk or crossing in any unpaved street within the corporate limits of the city without first having protected such curb, gutter, bridge, culvert, sidewalk, crosswalk or crossing with heavy plank sufficient in strength to warrant against breaking or damaging of such curb, gutter, bridge, culvert, sidewalk, crosswalk or crossing.

(C) It shall be unlawful to run, drive, move, operate or convey over or across or upon any paved street in the city any truck, wagon, vehicle, machine or implement with sharp discs or sharp wheels that bear upon the pavement, or with wheels having cutting edges, or with wheels having lugs or any protruding parts or bolts thereon that extend beyond a plain tire so as to cut, mar, indent or otherwise injure or damage the curb, gutter or pavement, or any vehicle, tractor, machine or implement of such weight or proportions or carrying any load that will cut, mar, indent or otherwise injure or damage any pavement, gutter or curb within the city without planking the same as provided herein; provided, where vehicles above mentioned are permitted or allowed to move along paved or unpaved streets of the city, the Chief of Police is hereby authorized and empowered to choose the route over which the moving of such structures will be permitted or allowed.

(Prior Code, § 9-2-7) Penalty, see § 70.99

§ 70.22 ENGINE BRAKES; MUFFLERS; UNNECESSARY NOISE.

(A) It shall be unlawful for any person to use engine brakes, or any other device which creates excessive noise, on any vehicle within the city limits.

(B) It shall be unlawful for any person to operate a motor vehicle which shall not at all times be equipped with a muffler upon the exhaust thereof in good working order and in constant operation to prevent excessive or unusual noise and it shall be unlawful for any person operating any motor vehicle to use a cutout, by-pass or similar muffler elimination appliance.

(Prior Code, § 6-1-22) (Ord. 1556, passed 11-27-95) Penalty, see § 70.99

§ 70.23 CHILD RESTRAINT SYSTEMS.

(A) For purposes of this section, occupant protection system has the meaning provided in Neb. RS 60-6,265.

(B) (1) Any person who drives any motor vehicle which has or is required to have an occupant protection system shall ensure that:

(a) All children up to six years of age being transported by such vehicle use a child passenger restraint system of a type which meets Federal Motor Vehicle Safety Standard 213 as developed by the National Highway Traffic Safety Administration, as such standard existed on January 1, 2009, and which is correctly installed in such vehicle; and

(b) All children six years of age and less than 18 years of age being transported by such vehicle use an occupant protection system.

(2) Division (B)(1) shall apply to every motor vehicle which is equipped with an occupant protection system or is required to be equipped with restraint systems pursuant to Federal Motor Vehicle

Safety Standard 208, as such standard existed on January 1, 2009, except taxicabs, mopeds, motorcycles, and any motor vehicle designated by the manufacturer as a 1963 year model or earlier which is not equipped with an occupant protection system.

(C) Whenever any licensed physician determines, through accepted medical procedures, that use of a child passenger restraint system by a particular child would be harmful by reason of the child's weight, physical condition, or other medical reason, the provisions of division (B) shall be waived. The driver of any vehicle transporting such a child shall carry on his or her person or in the vehicle a signed written statement of the physician identifying the child and stating the grounds for such waiver.

(D) The drivers of authorized emergency vehicles shall not be subject to the requirements of division (B) when operating such authorized emergency vehicles pursuant to their employment.

(E) A driver of a motor vehicle shall not be subject to the requirements of division (B) if the motor vehicle is being operated in a parade or exhibition and the parade or exhibition is being conducted in accordance with applicable state law and local ordinances and resolutions.

(F) The Department of Roads shall develop and implement an ongoing statewide public information and education program regarding the use of child passenger restraint systems and occupant protection systems and the availability of distribution and discount programs for child passenger restraint systems.

(G) All persons being transported by a motor vehicle operated by the holder of a provisional operator's permit or a school permit shall use such motor vehicle's occupant protection system.
(Neb. RS 60-6,267)

(H) (1) A person violating any provision of division (B) is guilty of an offense. The failure to provide a child restraint system for more than one child in the same vehicle at the same time, as required in division (B), shall not be treated as a separate offense.

(2) Enforcement of division (B)(1)(b) shall be accomplished only as a secondary action when an operator of a motor vehicle has been cited or charged with a violation of some other offense unless the violation involves a person under the age of 18 years riding in or on any portion of the vehicle not designed or intended for the use of passengers when the vehicle is in motion.

(Neb. RS 60-6,268) (Prior Code, § 10-7-4) (Ord. 1666, passed 7-24-00) Penalty, see § 70.99

§ 70.24 OCCUPANT PROTECTION SYSTEMS.

(A) Except as provided below, no driver shall operate a motor vehicle on the streets located within the corporate limits of the city unless the driver and each front seat occupant in the vehicle are wearing occupant protection systems and all occupant protection systems are worn properly adjusted and fastened.

(B) The following persons shall not be required to wear an occupant protection system:

(1) Any person who possesses written verification from a licensed physician that the person is unable to wear an occupant protection system for medical reasons;

(2) A rural letter carrier of the United States Postal Service while performing his or her duties as a letter carrier between the first and last delivery points; and

(3) A member of an ambulance or rescue service while involved in patient care.

(C) This is a secondary offense and may only be charged when the driver of a motor vehicle has been cited or charged with a violation of some other offense.

(Prior Code, § 10-7-5) (Ord. 1666, passed 7-24-00) Penalty, see § 70.99

§ 70.25 PROJECTING LOADS; LIGHTS REQUIRED.

Whenever the load on any vehicle extends more than four feet beyond the rear of the bed or body thereof, there shall be displayed at the end of such load in such position as to be clearly visible at all times from the rear of such load a red flag not less than 12 inches both in length and width, except that between sunset and sunrise, there shall be displayed at the end of any such load a red light plainly visible under normal atmospheric conditions at least 200 feet from the rear of such vehicle.

(Neb. RS 60-6,243) (Prior Code, § 10-8-6) Penalty, see § 70.99

ADMINISTRATION AND ENFORCEMENT

§ 70.90 ENFORCEMENT.

The Chief of Police and all regular or special police officers 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, and regulate, and, when necessary, temporarily divert or exclude, in the interest of public safety, health, and convenience, the movement of pedestrians, animals and vehicular traffic of every kind, in streets, parks, and on bridges in this city.

(Prior Code, § 10-1-1)

§ 70.91 TRAFFIC CITATION; DESTRUCTION OF PROHIBITED.

No person shall tear up or destroy any parking tag placed upon any vehicle by any police officer of this city or disregard the summons contained on such tag and fail to appear in court as directed by such tag.

(Prior Code, § 10-8-2) Penalty, see § 70.99

§ 70.92 VEHICLE IMPOUNDMENT.

The city police are hereby authorized to remove or to have removed, a vehicle to the nearest place of safety or to a garage designated or maintained by the Police Department of the city or by the city, under the circumstances hereinafter enumerated:

(A) When any vehicle is left unattended upon any bridge, causeway or viaduct or in any subway or underpass, where such vehicle constitutes an obstruction to traffic within the city.

(B) When a vehicle upon a public street or highway is so disabled as to constitute an obstruction to traffic or the person or persons in charge of the vehicle are by reason of physical injury, or otherwise incapacitated to such extent as to be unable to provide for its custody and removal.

(C) When a vehicle is found being driven upon the streets or highways of the city, and is in such a defective condition as to constitute an immediate hazard to the safety of its occupants and other persons, pedestrians or motor vehicles being lawfully operated on the streets.

(D) When a vehicle is left unattended upon a street and is so parked illegally to constitute a definite hazard or obstruction to the normal movement of traffic or proper street or highway maintenance.

(E) When a vehicle constitutes a public nuisance as defined by Chapter 94 or is left unattended upon any street, highway or public property for a period of 72 hours or more.

(F) When the driver of such vehicle is taken into custody by the Police Department, and such vehicle would thereby be left unattended upon a street.

(G) When removal is necessary in the interest of public safety because of fire, flood, storm and other emergency reason.

(H) When a vehicle has been left for a period of seven days or more on private property within this city other than public rights of way without the expressed consent of the owner of such property, and the owner of such property notifies the Police Department of his or her desire to have the vehicle removed.

(I) Any vehicle failing to display number plates or failing to display the proper number plates or plates assigned to such vehicle under the provisions of Neb. RS Chapter 60 as amended, or displaying number plates in such a manner as to reasonably indicate a violation of any provisions of the statutes of the state with respect to motor vehicle number plates, while parked attended or unattended or traveling upon the streets, highways or alleys of the city.
(Prior Code, § 6-11-1) Penalty, see § 70.99

§ 70.93 VEHICLE STORAGE.

Whenever an officer removes or impounds or stores a vehicle as authorized by § 70.92, such vehicle will be stored or disposed of and in accordance with the provisions of Neb. RS 60-1903 and 60-1911 as amended or pursuant to provisions of the ordinances of the city.
(Prior Code, § 6-11-2) (Ord. 1207, passed 6-30-80)

§ 70.99 PENALTY.

(A) *General.* Any person violating any provisions of this chapter for which no other penalty is set forth shall be subject to § 10.99.

(B) *Liability certificate.* Failure to produce the certificate required under § 70.02 shall subject the operator of such motor vehicle to a fine not to exceed \$100.
(Prior Code, § 10-7-6) (Ord. 1666, passed 7-24-00)

(C) *Occupant protection systems.* Any person operating a motor vehicle in violation of § 70.24 shall be guilty of a traffic infraction and shall be fined \$25, but no court costs shall be assessed against him or her, nor shall any points be assessed against the driving record of such person. Regardless of the number of persons in such vehicle not wearing an occupant protection system pursuant to this provision, only one violation shall be assessed against the driver of such motor vehicle for each time the motor vehicle is stopped and a violation of this provision is found.
(Prior Code, § 10-7-5) (Ord. 1666, passed 7-24-00)

CHAPTER 71: TRAFFIC REGULATIONS

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GENERAL PROVISIONS**§ 71.01 RECKLESS DRIVING.**

Any person who operates a motor vehicle with indifferent regard or wanton disregard for the safety of persons or property, or in such a manner as to endanger life, limb, person, or property, or as to interfere with the lawful traffic or use of the streets, shall be deemed guilty of reckless driving and, upon conviction thereof, shall be deemed guilty of reckless driving.

(Prior Code, § 10-3-1) (Ord. 340, passed 4-15-52) Penalty, see § 71.99

§ 71.02 CARELESS DRIVING.

Any person who drives any motor vehicle within the city limits carelessly or without due caution so as to endanger a person or property shall be guilty of careless driving.

(Prior Code, § 10-3-3(A)) (Ord. 1302, passed 6-11-84) Penalty, see § 71.99

§ 71.03 NEGLIGENT DRIVING.

Any person who shall operate a motor vehicle in a negligent manner shall be deemed guilty of negligent driving.

(Prior Code, § 10-3-4) (Ord. 496, passed 6-15-65) Penalty, see § 71.99

§ 71.04 PASSING.

(A) Every vehicle passing another vehicle in the same direction shall, except in four-lane streets, pass at a safe distance to the left of the vehicle overtaken. The driver of the overtaking vehicle, before passing, shall indicate his or her desire to do so by sounding a clearly audible horn. When such a signal to pass is given, the driver of the vehicle in front shall turn to the right in favor of the overtaking vehicle until the overtaking vehicle has completed passing and the overtaking vehicle is back in the lane of traffic.

(B) Except in four-lane streets, no vehicle shall pass or attempt to pass, another vehicle going in the same direction while traversing any street intersection or at any railway crossing unless directed to do so by a traffic or police officer.

(C) In four-lane streets only, vehicles may pass one another going in the same direction on either the right or the left side, having due regard for the provisions of § 71.08. Streets on which passing on either the right or the left is permitted shall be appropriately marked by a sign or standard clearly visible to the driving public.

(Prior Code, § 10-4-4) (Ord. 340, passed 4-15-52) Penalty, see § 71.99

§ 71.05 FOLLOWING TOO CLOSELY.

The operator of a vehicle shall not follow another vehicle more closely than is reasonable and prudent having regard for the speed of such vehicle and the traffic upon and the condition of the street.

(Prior Code, § 10-4-5) Penalty, see § 71.99

§ 71.06 DRIVING ON RIGHT SIDE OF.

It shall be unlawful for any person operating a motor vehicle on the streets and highways of the city to allow or permit the same to remain stationary at any place in the streets, to propel the same or to cause such vehicle to be propelled along the streets and highways unless the vehicles are standing or moving along the right side of the highways, depending in each case upon the direction in which the motor vehicle is proceeding.

(Prior Code, § 10-4-6) Penalty, see § 71.99

§ 71.07 DRIVING TO LEFT; RESTRICTIONS.

The driver of a vehicle shall not drive to the left side of the center line of a street in overtaking and passing another vehicle proceeding in the same direction, or a vehicle parked at the curb, unless such left side is clearly visible and is free of oncoming traffic for a sufficient distance ahead to permit such overtaking and passing to be made in safety.

(Prior Code, § 10-4-7) Penalty, see § 71.99

§ 71.08 FOUR-LANE STREETS.

(A) 10th Street from the north city limits to M Street is hereby declared to be a four-lane street with two lanes of vehicular traffic on each side of the center thereof. The two lanes in the west one-half thereof are for southbound traffic; the two lanes in the east one-half thereof are for northbound traffic. A double yellow line shall be painted along the center of 10th Street and the two lanes of travel on each side thereof shall be separated with a white line.

(B) It shall be unlawful for the operator of any vehicle at any time to cross the double yellow line except at intersections.

(C) It shall be unlawful for the operator of any vehicle to travel astraddle the white lines herein provided except as may be necessary for the purpose of changing from one lane to the other as hereinafter provided.

(D) It shall be unlawful for the operator of any vehicle to change the course of travel of his or her vehicle from the inside lane to the outside lane or vice versa at any time unless the vehicle so changing is at least 35 feet distant from all other vehicles in either lane.

(Prior Code, § 10-9-1) (Ord. 340, passed 4-15-52) Penalty, see § 71.99

§ 71.09 FUNERAL PROCESSIONS.

No vehicle shall be driven through any funeral procession or any authorized parade.
(Prior Code, § 10-4-10) Penalty, see § 71.99

§ 71.10 BACKING; WARNING REQUIRED.

The driver of any vehicle equipped with white reverse lights that are visible from the rear of such vehicle shall ensure that the lights are functioning so as to provide ample warning of the driver's intention to back up or necessity to drive backward.

(Prior Code, § 10-4-11) Penalty, see § 71.99

§ 71.11 ONE-WAY STREETS.

It shall be unlawful for any vehicle, at any time, to travel in a direction opposite from the direction designated for the orderly flow of traffic on any street in the city which has been designated as a "one-way street" and where appropriate signs have been erected in a manner so as to give adequate notice of the direction of travel to any vehicle entering the "one-way street".

(Prior Code, § 10-4-12) (Ord. 560, passed 9-6-66) Penalty, see § 71.99

§ 71.12 EMERGENCY VEHICLES; STOP REQUIRED; FOLLOWING.

Upon the approach of any police, fire department, civil defense, rescue vehicle or any other type of emergency vehicle which is giving audible signal, fire bell, siren or exhaust whistle, or when directed to do so by a police officer, fire fighter, military personnel, or any other person designated by the aforementioned individuals to direct traffic, the driver of every other motor vehicle shall immediately drive the same to a position as near as possible and parallel to the right hand edge or curb of the street, clear of any intersections of streets, and shall stop and remain in such position unless otherwise directed by a police officer or fire fighter, until the police, fire department, civil defense, or other emergency vehicle shall have passed, or until directed to proceed by a police officer, fire fighter, military personnel, or any other person designated by the aforementioned individuals to direct traffic. It shall be unlawful for the driver of any vehicle, other than one on official business to follow any fire apparatus traveling in response to a fire alarm closer than 500 feet or to drive into or park such vehicle within 300 feet where the fire apparatus has stopped in answer to a fire alarm.

(Prior Code, § 10-4-13) (Ord. 1079, passed 2-27-78) Penalty, see § 71.99

§ 71.13 TRUCK ROUTES.

(A) It shall be unlawful for any person to operate or cause or permit to be operated or moved any truck, truck/tractor or semi-trailer unit, or any combination thereof (except those classified as recreational vehicles) which exceed 30 feet in length or exceed 20,000 pounds gross vehicle weight on any public street, road, highway or alley within the city, except those streets or portions of streets as designated in Ch. 74, Sch. III; provided, however, such vehicles may be operated or moved upon or otherwise used upon streets, roads, highways and alleys of the city, in such a manner and to such an extent as reasonable necessary for the following purposes:

(1) To pick up or deliver articles of merchandise or commodities at a location within the city not otherwise prohibited;

(2) To refuel or secure repair services upon such vehicle;

(3) To park or place such vehicles upon private property;

(4) To park or place such vehicles within authorized truck parking zones or other places not otherwise prohibited;

(5) To carry on any legitimate business purpose reasonably requiring the use of a truck as described in this section.

(B) The departure from and return to the truck routes designated in Ch. 74, Sch. III shall be by the most direct routes.

(Prior Code, § 10-4-15(B)) (Ord. 1475, passed 6-8-92)

§ 71.14 CITY PARKS.

(A) It shall be unlawful for any person to operate or park any motor vehicle, minibike, motorcycle, off-road recreational vehicle of any and all types or any other powered vehicle in the city park of the city, except on roadways, thoroughfares, streets, motor vehicle parking areas or other areas designated by the city for use by the motor vehicles.

(B) Any person who shall violate this section shall upon conviction thereof be fined a sum not less than \$1 nor more than \$100 and shall pay the costs of prosecution.

(Prior Code, § 10-8-7) (Ord. 1297, passed 2-13-84) Penalty, see § 71.99

§ 71.15 RAILROADS; OBSTRUCTING STREETS.

It is hereby declared unlawful for any railroad company operating a railroad into or through the city to obstruct any of the public streets within the city by leaving trains or cars standing thereon so as to prevent the public from crossing the railroad tracks for a longer period at one time than five minutes except in cases of inevitable accident. Any person violating the provisions of this section shall be deemed guilty of an offense.

(Prior Code, § 9-5-1) Penalty, see § 71.99

§ 71.16 PARADES.

(A) *Parades; definition.* For the purposes of this section, the word “**PARADE**” shall mean and include any parade, organized march, demonstration, procession, race or motorcade consisting of persons, animals, or vehicles or a combination thereof upon the streets, parks or other public grounds within the city that interferes with the normal flow or regulation of pedestrian or vehicular traffic upon city right-of-way, parks or other public grounds in the city.

(B) *Permit; required.* No person shall engage in or conduct any parade unless a permit for such purpose is first issued pursuant to this section. This section shall not apply to:

(1) Funeral processions;

(2) Students going to and from school classes or participating in educational activities, providing such conduct is under the immediate direction and supervision of the proper school authorities; and

(3) A governmental agency acting within the scope of its functions.

(C) *Permit; application; time.* A person seeking issuance of a parade permit shall file an application with the City Clerk on forms provided by such office. The application shall be filed not less than 15

days before the date on which it is proposed to conduct the parade. The City Administrator may, if good cause is shown by the organization or individual, consider an application which has been filed less than 15 days before the date of the proposed parade.

(D) *Permit; application; contents.* The application for a parade permit shall set forth on a form to be furnished by the City Clerk:

- (1) The name, address and telephone number of the person seeking to conduct such parade;
- (2) If the parade is proposed to be conducted for, on behalf of, or by an organization, the name, address and telephone number of the headquarters of the organization, and of the authorized and responsible heads of such organization;
- (3) The name, address and telephone number of the person who will be the parade chairman and who will be responsible for its conduct;
- (4) The date when the parade is to be conducted;
- (5) The route to be traveled, the starting point and the termination point;
- (6) The approximate number of persons who, and animals and vehicles which, will constitute such parade; the type of animals, and description of the vehicles;
- (7) The hours when such parade will start and terminate;
- (8) A statement as to whether the parade will occupy all or only a portion of the width of the streets proposed to be traversed;
- (9) The location by streets of any assembly areas for such parade;
- (10) The time at which units of the parade will begin to assemble at any such assembly area or areas; and
- (11) Any additional information which the Police Chief shall find reasonably necessary to a fair determination as to whether a permit should issue.

(12) If the parade is designed to be held by, and on behalf of or for, any person other than the applicant, the applicant for such permit shall file with the City Clerk a communication in writing from the person proposing to hold the parade, authorizing the applicant to apply for the permit on his or her behalf.

(E) *Permit; standards for issuance.* The City Administrator (or in his absence, the City Clerk or Police Chief) may approve a permit as provided for hereunder when, from a consideration of the application and from such other information as may otherwise be obtained, it is found that:

(1) The conduct of the parade will not substantially interrupt the safe and orderly movement of other traffic contiguous to its route;

(2) The conduct of the parade will not require the diversion of so great a number of police officers of the City to properly police the line of movement and the areas contiguous thereto as to prevent normal police protection to the city;

(3) The conduct of the parade will not require the diversion of so great a number of ambulances as to prevent normal ambulance service to portions of the city other than that to be occupied by the proposed line of march and areas contiguous thereto;

(4) The concentration of persons, animals and vehicles at assembly points of the parade will not unduly interfere with proper fire and police protection of, or ambulance service to, areas contiguous to such assembly areas;

(5) The conduct of the parade will not interfere with the movement of firefighting equipment enroute to a fire;

(6) The conduct of the parade is not reasonably likely to cause injury to persons or property, to provoke disorderly conduct or create a disturbance;

(7) The parade is scheduled to move from its point of origin to its point of termination expeditiously and without unreasonable delays enroute; and

(8) The parade is not to be held for the sole purpose of advertising any product, goods or event, and is not designed to be held purely for private profit.

(F) *Permit; decision on application.* The City Administrator shall act upon the application for a parade permit within five days after the filing thereof.

(G) *Permit; denial.* If the City Administrator denies the application, a notice of the denial shall be mailed or delivered to the applicant stating the reasons therefor.

(H) *Permittee; parade chairman; duties.* A permittee hereunder shall comply with all permit directions and conditions and with all applicable laws, including applicable provisions of this municipal code. The parade chairman or other person heading or leading such activity shall carry the parade permit upon his or her person during the conduct of the parade.

(I) *Permit; insurance.*

(1) An organization or individual should name the city as additional insured on general liability policy effective on the requested use date(s) covering any acts of negligence on the part of person or

organization or by any of his, her or its agents, officers, servants, employees, or by persons on city property because of city property use request in the amount of \$500,000 in bodily injury liability and \$500,000 property damage liability or a combined limit of \$1,000,000.

(2) Upon written showing of good cause, the above insurance requirement may be waived in the discretion of the City Administrator.

(J) *Permit; revocation.* The City Administrator or Police Chief may revoke a permit for an activity referred to if it finds that the standards for issuance set forth in this section will not, or probably will not, be substantially met, or that the permittee has willfully or negligently failed to comply with the requirements of this section in any substantial respect. The City Clerk, within 24 hours after revocation of a permit, shall deliver or mail to the permittee a notice in writing of the revocation, stating the reason therefor.

(K) *Permit; appeal.* Any person aggrieved shall have the right to appeal the denial or revocation of a parade permit to the City Council. The appeal shall be taken by filing a notice thereof with the City Clerk within ten days after the mailing or delivery of the notice of denial or revocation. The City Council shall act upon the appeal within ten days after its receipt.

(L) *Public conduct during parades.*

(1) No person shall unreasonably hamper, obstruct or impede, or interfere with any parade or parade assembly or with any person, vehicle or animal participating or used in a parade.

(2) No operator of any vehicle shall drive between the vehicles or persons comprising a parade when such vehicles or persons are in motion and are conspicuously designated as a parade.

(3) The Police Chief shall have the authority, when reasonably necessary, to prohibit or restrict the operation or parking of vehicles along a street constituting a part of the route of a parade. The Police Chief shall post signs to such effect, or cause police officers to direct traffic at such locations, and it shall be unlawful for any person to operate or to park or leave unattended any vehicle in violation of such sign or directions given by such officers.

(4) No candy or other items shall be thrown from a moving float or other vehicle, including horseback, bicycle, hand-pulled carts, or any other vehicle occupying part of the parade route. Candy or items to be given away will only be allowed by people walking as near to the curb as possible along the parade route. Parade participants walking along the parade route may hand out candy or items to spectators, but not other participants.

(5) No liquid of any kind may be thrown, sprayed or otherwise dissipated to spectators from anyone who is a parade participant. No liquid of any kind may be thrown, sprayed or otherwise dissipated from spectators. This includes, but is not limited to, anyone traveling in the parade in vehicles described in division (4) above.

(6) No alcoholic beverages of any kind shall be consumed while participating in the parade.

(M) *Violations.*

(1) Violators of parade regulations shall be escorted to the nearest intersection and directed out of the parade. Violators shall wait in areas designated by the city until traffic clears, spectators clear or as otherwise directed by a city police officer. The failure to leave the parade when directed will result in citations being issued to violators for disorderly conduct.

(2) The city shall have the authority to revoke a permit under this article instantly upon violation of the conditions and standards for issuance as set forth in the article of when a public emergency arises where the police or other resources required for that emergency are so great that deployment of city services for the parade or public assembly would have an immediate and adverse effect upon the welfare and safety of persons or property, or other unforeseen conditions exist that may render the event unsafe.

(Ord. 1864, passed 4-14-08; Am. Ord. 1905, passed 11-23-09)

TRAFFIC SIGNS AND SIGNALS

§ 71.30 STOP SIGNS.

(A) The operator of every motor vehicle shall, upon approaching any stop sign, unless otherwise directed by a traffic officer, bring his or her vehicle to a complete stop with the front wheels of his or her vehicle even with or not more than ten feet behind the stop sign before passing the sign.

(Prior Code, § 10-5-1) (Ord. 597, passed 2-6-68)

(B) The Mayor and City Council shall designate, by resolution, the location for installation and removal of stop signs in the city. Upon the passage and approval of any such resolution, a copy of the same shall be placed on file and available for public inspection at all reasonable hours in the City Office Building.

(Prior Code, § 10-5-1.1) (Ord. 840, passed 7-22-74)

§ 71.31 TRAFFIC SIGNALS.

(A) Traffic control signals equipped with red, yellow and green lights electrically operated shall be installed in such places and in the manner that the Council shall designate. A traffic control signal is

defined as any device, whether manually, electrically or mechanically operated, by which traffic is alternately directed to stop and to proceed.

(Prior Code, § 10-5-2) (Ord. 340, passed 4-15-52)

(B) No person or motor vehicle shall enter an intersection at any time when the traffic control signal light facing the direction of approach of such person or motor vehicle is red, but such person or motor vehicle shall stop and wait until the light is green before proceeding into the intersection.

(Prior Code, § 10-5-3) (Ord. 612, passed 7-8-68) Penalty, see § 71.99

§ 71.32 CROSSWALK; STOPPING IN PROHIBITED.

Motor vehicles stopping in obedience to a stop sign or traffic control signal shall not obstruct the crosswalk passing in front of them.

(Prior Code, § 10-5-4) (Ord. 340, passed 4-15-52)

§ 71.33 YIELD SIGNS.

The driver of a vehicle approaching a “yield” sign shall slow to a speed of not more than ten miles per hour and yield the right-of-way to all vehicles approaching from the right or left on the intersecting street when such vehicles are so close as to constitute an immediate hazard. If a driver is involved in a collision at an intersection or interferes with the movement of other vehicles on the preferential street after driving past a “yield” sign, such collision or interference shall be deemed prima facie evidence of the driver's failure to yield the right-of-way.

(Prior Code, § 10-5-5) (Ord. 374, passed 3-26-56)

§ 71.34 YIELD TO PEDESTRIAN SIGNS.

Traffic control signs designated as “yield right-of-way to pedestrians” or similar markings conveying the same meaning shall be erected in such places and in the manner designated by the Council. The operator of every vehicle shall, upon approaching any such sign where pedestrians are present within a marked crosswalk, bring the motor vehicle to a complete stop and shall remain stopped until the pedestrians are no longer present in the crosswalk.

(Prior Code, § 10-5-6) (Ord. 585, passed 9-19-67)

§ 71.35 ONE-WAY STREET, ALLEY SIGNS.

The Mayor and City Council may designate certain streets and/or certain alleys within the city as one-way streets and/or alleys by resolution. Such resolution shall provide for adequate sign placement designating such street and/or alley as one-way and indicating the direction of traffic flow thereon. Upon

the passage and approval of any such resolution, a copy of the same shall be placed on file and be available for public inspection at all reasonable hours in the city office building.
(Prior Code, § 10-5-7) (Ord. 1519, passed 12-13-93)

RIGHT OF WAY

§ 71.50 INTERSECTIONS.

(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 except where directed otherwise by a traffic officer or by a traffic direction device.

(B) The driver of any vehicle traveling at an unlawful speed shall forfeit any right of way which he or she might otherwise have hereunder.

(C) The driver of a vehicle approaching but not having entered an intersection shall yield the right of way to a vehicle within such intersection and turning therein to the left across the line of travel of such first mentioned vehicle, provided the driver of the vehicle turning left has given a plainly visible signal of his or her intention to turn.

(Prior Code, § 10-4-8(A)-(C)) (Ord. 586, passed 9-19-67)

§ 71.51 PEDESTRIANS.

(A) The driver of any vehicle upon a street within the city shall yield the right of way to a pedestrian crossing the street within any clearly marked crosswalk or any regular pedestrian crossing included in the prolongation of the lateral boundary line of the adjacent sidewalk at the end of a block, except at intersections where the movement of traffic is being regulated by traffic officers or traffic direction devices.

(B) Every pedestrian crossing a street within the city at any point other than a pedestrian crossing, crosswalk, or intersection shall yield the right of way to vehicles upon the street.

(Prior Code, § 10-4-8(D),(E)) (Ord. 586, passed 9-19-67)

§ 71.52 EMERGENCY VEHICLES.

Vehicles of the Police and Fire Departments shall have the right of way in any street and through any procession.

(Prior Code, § 10-4-9)

SPEED RESTRICTIONS

§ 71.60 SPEED LIMITS.

(A) No person shall drive a motor vehicle upon any street or public highway at a speed greater than is reasonable or prudent under the conditions and having regard for the actual and potential hazards then existing. Any person shall drive a motor vehicle at a safe and appropriate speed when special hazards exist which affect pedestrians or other traffic or by reason of weather or street and highway conditions.

(Prior Code, § 10-2-1(A))

(B) No person shall operate a motor vehicle at a speed in excess of 25 miles per hour within the corporate limits of the city unless otherwise provided.

(Prior Code, § 10-2-1(B))

(C) Signs or standards shall be posted so as to be clearly visible to the driving public on streets wherein the maximum speed limit is different from that provided by division (B).

(Prior Code, § 10-2-1(E)) Penalty, see § 71.99

Cross-reference:

Speed limits, see Ch. 74, Sch. I

§ 71.61 ALLEYS.

No vehicle shall be operated in an alley in the city at a rate of speed in excess of ten miles per hour.

(Prior Code, § 10-2-1(H)) (Ord. 1552, passed 9-25-95) Penalty, see § 71.99

§ 71.62 SPEED LIMITS; EXCEPTIONS.

The speed limits herein provided shall not apply to physicians, surgeons, police or Fire Department vehicles or ambulances when answering emergency calls demanding excessive speed.

(Prior Code, § 10-2-1(G))

§ 71.63 SCHOOL ZONES.

(A) On a school day when children are present in the school grounds or on sidewalks adjacent to the school or school crossings, no person shall drive a motor vehicle at a speed in excess of 15 miles per hour while passing a school speed zone. For the purpose of this section, a school day shall begin at 7:00 a.m. and conclude at 4:00 p.m.

(B) This section shall not be applicable unless appropriate signs are posted upon streets wherein the school speed zone is located. Such signs shall indicate the school speed zone and the speed limit in effect during school days when children are present.

(Prior Code, § 10-2-1) (Ord. 1703, passed 2-11-02; Am. Ord. 1799, passed 8-8-05)

Cross-reference:

School zones, see Ch. 74, Sch. I

§ 71.64 SPEED CONTESTS.

No person shall operate any motor vehicle upon any street or public highway in any race, speed competition or contest, drag race or acceleration contest, test the physical endurance, exhibition of speed, or acceleration, or for the purpose of making a speed record, and no person shall in any manner participate in any such race, competition, contest, test or exhibition.

(Prior Code, § 10-2-2) (Ord. 1079, passed 2-27-78) Penalty, see § 71.99

TURNING

§ 71.70 TURNING AT INTERSECTIONS.

A driver of a vehicle intending to turn at an intersection shall do so as follows:

(A) Both the approach for a right turn, and a right turn shall be made as closely as practicable to the right-hand curb or edge of the highway;

(B) The driver of a vehicle intending to turn left at any intersection shall approach the intersection in the extreme left-hand lane lawfully available to traffic moving in the direction of travel of such vehicle, and after entering the intersection, the left turn shall be made so as to leave the intersection in a lane lawfully available to traffic moving in such direction upon the roadway being entered. Whenever practicable, the left turn shall be made in that portion of the intersection to the left of the center line of the intersection;

(C) At any intersection where traffic is restricted to one direction on one or more of the roadways, the driver of a vehicle intending to turn left at any such intersection shall approach the intersection in the extreme left-hand lane lawfully available to traffic moving in the direction of travel of such vehicle and after entering the intersection, the left turn shall be made so as to leave the intersection, as nearly as practicable, in the left-hand lane lawfully available to traffic moving in such direction upon the roadway being entered; and

(D) The Mayor and Council may by resolution, cause markers, buttons or signs to be placed within or adjacent to intersections and thereby require and direct that a different course from that specified in this section be traveled by vehicles turning at an intersection, and when markers, buttons or signs are

so placed, no driver of a vehicle shall turn at an intersection other than as directed and required by such markers, buttons or signs.

(Prior Code, § 10-4-2) (Ord. 558, passed 9-6-66; Am. Ord. 726, passed 10-11-71)

§ 71.71 U TURNS.

(A) It shall be unlawful for any vehicle at any time to make a U turn in any of the following intersections:

(1) All intersections of two or more streets, one or more of which is a through street.

(2) All intersections listed in Chapter 74, Schedule II.

(3) Appropriate signs with the words “No U Turn” imprinted thereon shall be placed at each of the intersections.

(B) It shall be unlawful for any vehicle to make a U turn at any point in any street of this city other than at intersections, except intersections as to which such turns are prohibited in this section.

(Prior Code, § 10-4-3) (Ord. 558, passed 9-6-66)

DRIVING UNDER THE INFLUENCE

§ 71.80 DRIVING UNDER THE INFLUENCE OF DRUGS OR ALCOHOL; PENALTIES.

(A) It shall be unlawful for any person to operate or be in the actual physical control of any motor vehicle:

(1) While under the influence of alcoholic liquor or of any drug;

(2) When such person has a concentration of 0.08 of one gram or more by weight of alcohol per 100 milliliters of his or her blood; or

(3) When such person has a concentration of 0.08 of one gram or more by weight of alcohol per 210 liters of his or her breath.

(Neb. RS 60-6,196(1))

(B) Any person who operates or has in his or her actual physical control a motor vehicle in this municipality shall be deemed to have given his or her consent to submit to a chemical test or tests of his or her blood, breath, or urine for the purpose of determining the concentration of alcohol or the presence of drugs in such blood, breath, or urine.

(Neb. RS 60-6,197(1))

(C) Any peace officer who has been duly authorized to make arrests for violations of traffic laws of this state or of ordinances of this municipality may require any person arrested for any offense arising out of acts alleged to have been committed while the person was driving or was in actual physical control of a motor vehicle while under the influence of alcoholic liquor or drugs to submit to a chemical test or tests of his or her blood, breath, or urine for the purpose of determining the concentration of alcohol or the presence of drugs in such blood, breath, or urine when the officer has reasonable grounds to believe that such person was driving or was in the actual physical control of a motor vehicle in this municipality while under the influence of alcoholic liquor or drugs in violation of division (A) of this section.

(Neb. RS 60-6,197(2))

(D) Any person arrested as provided in this section may, upon the direction of a peace officer, be required to submit to a chemical test or tests of his or her blood, breath or urine for a determination of the concentration of alcohol or the presence of drugs. If the chemical test discloses the presence of a concentration of alcohol in violation of division (A) of this section, the person shall be subject to the administrative revocation procedures provided in Neb. RS 60-498.01 to 60-498.04, and upon conviction shall be punished as provided in Neb. RS 60-6,197.02 to 60-6,197.08. Any person who refuses to submit to such test or tests required pursuant to this section shall be subject to the administrative revocation procedures provided in Neb. RS 60-498.01 to 60-498.04 and shall be guilty of a crime and upon conviction punished as provided in Neb. RS 60-6,197.02 to 60-6,197.08.

(Neb. RS 60-6,197(3))

(E) Upon the conviction of any person for violation of this section, there shall be assessed as part of the court costs the fee charged by any physician or any agency administering tests pursuant to a permit issued in accordance with Neb. RS 60-6,201 for the test administered and the analysis thereof if such test was actually made.

(Neb. RS 60-6,203) (Prior Code, § 10-3-2(A)) (Ord. 1270, passed 10-25-82)

§ 71.99 PENALTY.

(A) Any person violating any provisions of this chapter for which no other penalty is set forth shall be subject to § 10.99.

(B) Operation of a motor vehicle in excess of the speed limits set forth in this chapter and Chapter 74 shall be a violation and subject to the following fines:

- (1) One to five miles per hour over posted limit: \$10.
- (2) Six to ten miles per hour over posted limit: \$25.
- (3) Eleven to fifteen miles per hour over posted limit: \$75.

(4) Sixteen to twenty miles per hour over posted limit: \$125.

(5) Twenty-ones miles per hour and over posted limit: \$200.

(6) In the event that such violations should occur in a construction zone as identified and designated by state law, all fines double.

(Prior Code, § 10-2-1(I)) (Ord. 1667, passed 7-24-00)

(C) Any person violating § 71.01 shall be fined not less than \$10 nor more than \$100 and the police may, in its discretion, suspend the license of such convicted person to operate a motor vehicle for any purpose for a period of not less than ten days and not more than one year.

(Prior Code, § 10-3-1) (Ord. 340, passed 4-15-52)

CHAPTER 72: PARKING REGULATIONS

Section

General Provisions

- 72.01 Parking; generally
- 72.02 Parking; Congested District
- 72.03 Loading zones; no parking zones
- 72.04 Alleys; restrictions
- 72.05 Truck parking; zones where prohibited
- 72.06 One-hour parking
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- 72.08 Parking; where prohibited
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Parking for Persons with Disabilities

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GENERAL PROVISIONS**§ 72.01 PARKING; GENERALLY.**

On all other streets, except in the “Congested District” and on cul-de-sacs, vehicles when parked shall stand parallel with and adjacent to the curb in such a manner as to have both right wheels within 12 inches of the curb or curb line and so as to leave at least four feet between the vehicle so parked and any other parked vehicle.

(Prior Code, § 10-6-1) (Am. Ord. 1851, passed 7-9-07)

§ 72.02 PARKING; CONGESTED DISTRICT.

(A) All motor vehicles left standing upon any of the streets of the city within the “Congested District”, shall be parked by the operator thereof at the curb on each side of the street headed in the direction of the traffic. Parking places in the area shall be marked at the curb at about an angle of 45 degrees or where parallel parking is required, parking places shall be marked on pavement or curb and all persons desiring to park their motor vehicles in the area shall park same between the designated marks, upon the curb and pavement. Where side parking is indicated, vehicles shall be parked with the right front wheels thereof at the curb. No motor vehicle shall be parked therein more than one tier deep or within 15 feet of the intersections of streets or within 15 feet of any fire hydrant for a period of time whatever, or at any place designated by the sign “No Parking”.

(B) It shall be unlawful for any person to use a designated parking space in the area herein described for sale purposes at any time whatsoever.

(C) No automobile truck or commercial motor vehicle with an overall length of more than 17 feet and less than 20 feet shall be parked or left standing upon any street within the “Congested District”, except on N Street where they shall be parked parallel with the curb.

(D) No motor vehicle shall be permitted to park or stop in any alley which connects with any street in the “Congested District”.

(Prior Code, § 10-6-1) Penalty, see § 72.99

§ 72.03 LOADING ZONES; NO PARKING ZONES.

The Council may establish, alter or abolish by resolution, loading zones and no parking zones. It shall be unlawful for any person to park in such zones, duly established and duly marked. No parking zones shall be marked by painting the curb red; loading zones shall be marked by painting the curb orange and posting a sign or standard on which shall appear the words “Loading Zone” and shall specify the hours during which such zone may be used for loading or unloading only.

(Prior Code, § 10-6-2) (Ord. 340, passed 4-15-52) Penalty, see § 72.99

§ 72.04 ALLEYS; RESTRICTIONS.

No motor vehicle shall be parked in any alley in the city except for the purpose of loading or unloading, or of repairing a building or equipment that cannot be removed from a building. Such parking shall be done in a manner that will cause the least possible obstruction in the alley, shall not continue longer than necessary for the purpose of loading or unloading, or of making repairs; and the Police Chief shall have power to prohibit such parking in any particular instance in which such parking substantially interferes with the movement of traffic in the alley or creates a public danger. This section shall not be construed to authorize parking that is prohibited by any other section of this chapter. (Prior Code, § 10-6-4) (Ord. 559, passed 9-6-66) Penalty, see § 72.99

§ 72.05 TRUCK PARKING; ZONES WHERE PROHIBITED.

It shall be unlawful for any motor vehicle truck with a gross vehicle weight of 10,000 pounds or more to park on any street or alley, unless loading or unloading, anywhere within the city where the applicable zoning regulations classify the area to be:

- (A) RL Residential Low Density District.
- (B) RM Residential Medium Density District.
- (C) RML Multi-Family Residential Low Density District.
- (D) RMH Multi-Family Residential High Density District.
- (E) BNC Neighborhood Commercial District.
- (F) BCB Central Business District.
- (G) BHC Highway Commercial District.

(Prior Code, § 10-6-5) (Ord. 1335, passed 9-9-85; Am. Ord. 1556, passed 11-27-95) Penalty, see § 72.99

§ 72.06 ONE-HOUR PARKING.

(A) The Mayor and Council may establish one-hour parking zones on designated streets and parts of streets by resolution.

(B) When such street or part of street has been declared a one-hour parking zone by resolution, it shall be unlawful for any person to park or leave any vehicle in any one-hour parking zone for a period of time in excess of one hour between the hours of 8:00 a.m. and 6:00 p.m., Sundays and legal holidays excepted.

(C) Such one-hour parking zone shall be clearly marked with appropriate signs or standards plainly indicating such limitations on the use of the public street.
(Prior Code, § 10-6-10) (Ord. 865, passed - -)

§ 72.07 CITY PARKING LOTS.

(A) The following shall be designated as city parking lots:

(1) The north half of Block Nine, Gardner's Addition to the city.

(2) Such other designated parking lots as the Mayor and Council may designate by resolution.

(B) It shall be unlawful to park any vehicle in any designated city parking lot except automobiles, pickups, vans, motorcycles, campers and travel homes not exceeding three-fourths ton capacity or 20 feet in length including their load.

(C) It shall be unlawful to park any vehicle in any designated city parking lot continuously for a period in excess of 24 hours.

(D) Such designated city parking lots shall be clearly marked with appropriate signs or standards plainly indicating that parking therein is restricted to a 24-hour period.

(E) Vehicles parked in designated city parking lots for a period of time in excess of 24 hours or in violation of the size or length restrictions shall be marked with a parking ticket. Payment of this ticket shall be in the amount of \$.50 if paid within 48 hours of the time the ticket is written, Sunday and legal holidays excepted, payment to be made at the Police Department.

(F) If payment of the ticket is not made within 48 hours from the date of its issuance, a warrant may be issued for failure to comply with division (E).

(G) Upon failure to comply by payment of the ticket, and upon conviction thereof, the person found guilty shall be fined in an amount not to exceed \$100, and pay the costs of prosecution and be committed to jail until such fine or costs are paid or secured or otherwise discharged according to law.
(Prior Code, § 10-6-13) (Ord. 1099, passed 6-12-78; Am. Res. 11-80-2, passed 10-10-80) Penalty, see § 72.99

§ 72.08 PARKING; WHERE PROHIBITED.

No person shall park a vehicle or permit it to stand, whether attended or unattended:

(A) Parked facing traffic.

(B) Within five feet of any driveway.

(C) Within 15 feet in either direction of a fire hydrant or the entrance to a fire station.

(D) Within 30 feet from the intersection of curb lines or, if none, within 15 feet of the intersection of property lines at an intersection of streets.

(Ord. 1765, passed 6-28-04)

§ 72.09 PARKING, STORAGE, OR USE OF TRAILERS, CAMPER TRAILERS, TRAILER WITH BOATS, AND MOTOR HOMES.

Described vehicles shall be: trailers, camper trailers, trailers with boats, and motor homes. Described vehicles are not allowed to park within five feet of any driveway or 30 feet from any corner. Described vehicles shall be no wider than eight and one-half feet. Described vehicles must have tires that are fully inflated with air and the vehicle must be usable and properly licensed. All non-motorized vehicles must have reflectors at least three feet above the ground on the street or left side of the trailer. All trailers must also be secured with blocks or a locking device so the trailer cannot be moved. All trailers in such a position must have a tongue lock that reduces the chance of theft. Described vehicles cannot be parked on the street to store junk, unusable items, or items defined as nuisances. Any trailer with sharp, dangerous, or protruding objects cannot be parked on the street. This includes any objects that protrude from the trailer bed, frame, and any objects the trailer is designed to carry. Any objects determined to be dangerous by the Police Department or City Council are not allowed within any described vehicle. All described vehicles are authorized to park along the street so as not to in any way impede the flow of traffic and to park on the street only within the lot lines of property where the owners of such vehicles live.

(Ord. 1765, passed 6-28-04)

§ 72.10 PARKING REGULATIONS OF TRAILERS, CAMPER TRAILERS AND MOTOR HOMES IN ROBIDOUX R.V PARK DURING CONCERTS AT FIVE ROCKS AMPHITHEATER.

Described vehicles shall be park registered trailers, camper trailers and motor homes and their guests. Parking of non-authorized vehicles of any type is prohibited in the Robidoux Recreational Vehicle Park at 140180 Highway 71 on the days of concerts between the hours of 6:00 p.m. to 1:00 a.m.. Non-authorized vehicles found parked in the recreational park after 6:00 p.m. on the day of a concert shall be towed at the owner's expense. Appropriate signs shall be posted at the Recreational Vehicle Park before 6:00 a.m. on the day of a concert. The signs shall advise that there shall be no parking of non-authorized vehicles designated in this section and that violator's vehicles will be towed away.

(Ord. 1771, passed 8-23-04)

§ 72.11 PARKING ON SIDEWALKS, PEDESTRIAN CROSSWALKS OR PARKWAYS PROHIBITED.

It shall be unlawful for any person to park a motor vehicle in such a manner as to have any portion thereof on or extending over a public sidewalk or a designated pedestrian crosswalk or on or extending over any parkway which is hereby defined to be that distance between the public sidewalks and the curb.

(Prior Code, § 10-6-8) (Ord. 1845, passed 4-9-07)

PARKING FOR PERSONS WITH DISABILITIES**§ 72.20 DEFINITIONS.**

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

ACCESS AISLE. A space adjacent to a handicapped parking space or passenger loading zone which is constructed and designed in compliance with the federal Americans with Disabilities Act of 1990 and the federal rules and regulations adopted and promulgated in response to the act.
(Neb. RS 18-1736)

HANDICAPPED OR DISABLED PERSON.

(1) 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 or 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.

(2) ***TEMPORARILY HANDICAPPED OR DISABLED PERSON.*** Any handicapped or disabled person whose personal mobility is expected to be limited in such manner for no longer than one year.
(Neb. RS 18-1738)

HANDICAPPED PARKING INFRACTION. The violation of any section of this subchapter regulating the use of parking spaces, including access aisles, designated for use by handicapped or disabled persons, the unauthorized possession, use, or display of handicapped or disabled parking permits, or the obstruction of any wheelchair ramps constructed or created in accordance and in conformity with the federal Americans with Disabilities Act of 1990.
(Neb. RS 18-1741.01)

**§ 72.21 DESIGNATION OF ONSTREET PARKING SPACES AND ACCESS AISLES;
DISPLAY
OF PERMITS.**

(A) The City Council may designate parking spaces, including access aisles, for the exclusive use of handicapped or disabled persons whose motor vehicles display the distinguishing license plates issued to handicapped or disabled persons pursuant to Neb. RS 60-6,113, handicapped or disabled persons whose motor vehicles display a distinguishing license plate issued to a handicapped or disabled person by another state, 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. RS 18-1739,

and such other motor vehicles, as certified by the city, which display such permit. 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.

(B) If the City Council so designates a parking space or access aisle, it shall be indicated by posting aboveground and immediately adjacent to and visible from each space or access aisle a sign as described in Neb. RS 18-1737. In addition to such sign, the space or access aisle may also be indicated by blue paint on the curb or edge of the paved portion of the street adjacent to the space or access aisle. (Neb. RS 18-1736)

§ 72.22 DESIGNATION OF OFFSTREET PARKING STALLS, SPACES, AND ACCESS AISLES.

The city and any person in lawful possession of any offstreet parking facility may designate stalls or spaces, including access aisles, in such facility owned or operated by the city or person for the exclusive use of handicapped or disabled persons whose motor vehicles display the distinguishing license plates issued to such individuals pursuant to Neb. RS 60-6,113; 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. RS 18-1739; and such other motor vehicles, as certified by the city, which display such permit. Such designation shall be made by posting aboveground and immediately adjacent to and visible from each stall or space, including access aisles, a sign which is in conformance with the requirements in Neb. RS 18-1737. (Neb. RS 18-1737)

§ 72.23 PERSONAL PERMIT; ISSUANCE; RENEWAL.

(A) The City Clerk may take an application, on a form provided by the Department of Motor Vehicles, from a handicapped or disabled person or temporarily handicapped or disabled person or his or 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 subchapter when the holder of the permit will enter or exit the motor vehicle while it is parked in such spaces or access aisles. For purposes of this section, the handicapped or disabled person or temporarily handicapped or disabled person shall be considered the holder of the permit.

(B) A person applying for a permit or for the renewal of a permit shall complete an application, 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 or 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.

(C) A person may hold only one permit under this section and may hold either a permit under this section or a permit under § 72.24 but not both.

(D) A copy of the completed application form shall be given to each applicant. 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.

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

(Neb. RS 18-1738)

(F) The City Clerk shall not accept the application for a permit of any person making application contrary to the provisions of Neb. RS 18-1738.02.

(Neb. RS 18-1738.02)

§ 72.24 MOTOR VEHICLE PERMIT; ISSUANCE; RENEWAL.

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

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

(C) No more than one such permit shall be issued for each motor vehicle. A person may hold either a permit under this section or a permit under § 72.23, but not both.

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

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

(F) The City Clerk shall not accept the application for a permit of any person making application contrary to Neb. RS 18-1738.02.
(Neb. RS 18-1738.02)

§ 72.25 PERMITS; PROHIBITED ISSUANCE; DUPLICATE PERMITS.

(A) No permit shall be issued to any person or for any motor vehicle if any parking permit has been issued to such person or for such motor vehicle and such permit has been suspended pursuant to § 72.27. At the expiration of such suspension, a permit may be renewed in the manner provided for renewal in this subchapter.

(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 Municipal Clerk or the Department of Motor Vehicles. A duplicate permit shall be valid for the remainder of the period for which the original permit was issued.
(Neb. RS 18-1739) Penalty, see § 72.99

§ 72.26 PERMITS; PERIOD VALID; RENEWAL OF TEMPORARY PERMITS.

(A) Permanently issued permits for handicapped or disabled parking authorized by this section issued prior to August 1, 2005, shall be valid for a period ending on September 30 of the third year after the date of issuance and shall expire on that date. Permanently issued permits issued on or after August 1, 2005, shall be valid for a period ending on the last day of the month of the third year after the date of issuance and shall expire on that date.

(B) All permits authorized under this subchapter for temporarily handicapped or disabled parking shall be issued for a period ending not more than six months after the date of issuance but may be renewed one time for a period not to exceed six months. For the renewal period, there shall be submitted an additional application with proof of a handicap or disability.
(Neb. RS 18-1740)

§ 72.27 PERMITS NONTRANSFERABLE; VIOLATIONS; SUSPENSION.

(A) Permits issued under this subchapter 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 subchapter. No person shall knowingly hold more than one permit or knowingly provide false information on an application for a permit.

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

(C) No person who is the holder of a handicapped or disabled parking permit issued for the use of such person when transporting a handicapped or disabled person shall display his or her handicapped or disabled parking permit and park in a space or access aisle designated for the exclusive use of a handicapped or disabled person unless a handicapped or disabled person is actually in the vehicle displaying the permit at the time it is parked, has left the vehicle while it was parked, and will return to the vehicle before it leaves the designated space or access aisle.

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

(E) Any violation of this section shall constitute a handicapped parking infraction and shall be cause for suspension of such permit for a period of six months and imposition of the penalty provided for violation of this chapter. In addition, the trial court shall impose a fine of not more than \$250 which may be waived by the court if, at the time of sentencing, all handicapped parking permits issued to or in the possession of the offender are returned to the court. At the expiration of such six-month period, a suspended permit may be renewed in the manner provided for renewal in this subchapter. (Neb. RS 18-1741) Penalty, see § 72.99

§ 72.28 REMOVAL OF UNAUTHORIZED VEHICLE; PENALTY.

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

(B) A person who parks a vehicle in any onstreet parking space or access aisle which has been designated exclusively for handicapped or disabled persons or temporarily handicapped or disabled persons or motor vehicles for the transportation of handicapped or disabled persons or temporarily handicapped or disabled persons, or in any so exclusively designated parking space or access aisle in any offstreet parking facility, without properly displaying the proper permit or when the handicapped or disabled person to whom or for whom, as the case may be, the license plate or permit is issued will

not enter or exit the vehicle while it is parked in the designated space or access aisle shall be guilty of a handicapped parking infraction and shall be subject to the penalties and procedures. The display on a motor vehicle of a distinguishing license plate or permit issued to a handicapped or disabled person by and under the duly constituted authority of another state shall constitute a full and complete defense in any action for a handicapped parking infraction. If the identity of the person who parked the vehicle in violation of this section cannot be readily determined, the owner or person in whose name the vehicle is registered shall be held prima facie responsible for such violation and shall be guilty and subject to the penalties and procedures described in this section.

(C) In the case of a privately owned offstreet parking facility, the city shall not require the owner or person in lawful possession of such facility to inform the city of a violation of this section prior to the city issuing the violator a handicapped parking infraction citation.
(Neb. RS 18-1737)

§ 72.99 PENALTY.

(A) *General.* Any person violating any provisions of this chapter for which no other penalty is set forth shall be subject to § 10.99.

(B) *One-hour parking; ten-minute parking; city lots.*

(1) Vehicles parked in violation of §§ 72.06, 72.07, or Chapter 75, Sched. II shall be marked with a parking ticket. Payment of this ticket shall be in the amount of \$.50 if paid within 48 hours of the time the ticket is written, Sundays and legal holidays excepted, payment to be made at the Police Department.

(2) If payment of the ticket is not made within 48 hours from the date of its issuance, a warrant may be issued for failure to comply with subsection (1).

(3) Upon failure to comply by payment of the ticket, and upon conviction thereof, the person found guilty shall be fined in an amount not to exceed \$100 and pay the cost of prosecution and be committed to jail until such fine or costs are paid or secured, or otherwise discharged according to law. (Prior Code, §§ 10-6-10, 10-6-12, 10-6-13) (Ord. 865, passed - - ; Am. Ord. 1084, passed - - ; Am. Ord. 1099, passed 6-12-78)

CHAPTER 73: SNOWMOBILES, BICYCLES AND TOY VEHICLES

Section

General Provisions

- 73.01 Definitions
- 73.02 Bicycles, skates, and the like; operation restricted

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- 73.20 Registration and license required; fee
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- 73.23 Parking on sidewalks
- 73.24 Lights and brakes
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GENERAL PROVISIONS

§ 73.01 DEFINITIONS.

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

BICYCLES. Every device propelled solely by human power upon which any person may ride, and having two tandem wheels either of which is more than 14 inches in diameter.

SCOOTER. Any device upon which any person may ride, having two tandem wheels either of which is less than 14 inches in diameter and is either human powered or powered by any mechanical device of any type to include, but not limited to, motorized power or electrical power.

SKATEBOARD. A single platform mounted on wheels, which is propelled solely by human power and which has no mechanism or other device with which to steer or to control the movement or direction of the platform.

SKATES. Any device worn on the feet or shoes which has one or more wheels attached and which is propelled solely by human power.

SNOWMOBILE. A self-propelled motor vehicle designed to travel on snow, ice or on a natural terrain steered by wheels, skis or runners and propelled by a belt driven track with or without steel cleats.

(Prior Code, § 10-9-1, 10-10-1) (Ord. 1296, passed 2-13-84; Am. Ord. 1682, passed 6-11-01)

§ 73.02 BICYCLES, SKATES, AND THE LIKE; OPERATION RESTRICTED.

(A) Skates and skateboards shall not be operated on the streets of the city except for the purpose of crossing a street within a crosswalk or designated street crossing area. The rules relating to pedestrians crossing streets shall apply to persons crossing streets on skates or a skateboard.

(Prior Code, § 10-10-5)

(B) (1) No person shall operate a bicycle, scooter, skateboard or skates on a public sidewalk or city-owned or operated parking lot situated in whole or in part within the area bounded by “J” Street on the South, “U” Street on the North, 9th Street on the East and 11th Street on the West.

(2) Bicycles may be parked in bicycle racks within the restricted area; provided, that the operator walk the bicycle on the sidewalks to the bicycle racks.

(Prior Code, § 10-10-6) (Ord. 1682, passed 6-11-01) Penalty, see § 73.99

SNOWMOBILES

§ 73.10 OPERATION PROHIBITED; EXCEPTIONS.

No person shall operate a snowmobile on any street, alley or any city property located within or without the corporate limits of this city, except:

(A) The Mayor or in case of his or her absence or disability, the Chief of Police may in an emergency prescribe in the manner, time and areas in which, and the minimum age of persons by which snowmobiles may be operated; and

(B) The City Council, whenever it shall by resolution determine that the public safety, convenience or welfare require or warrant, by resolution may permit operation of snowmobiles on particular streets, alleys or city property or parts thereof.

(Prior Code, § 9-9-2) (Ord. 1296, passed 2-13-84) Penalty, see § 73.99

BICYCLES AND SCOOTERS

§ 73.20 REGISTRATION AND LICENSE REQUIRED; FEE.

It shall be unlawful for any person to operate a bicycle or scooter upon any street or public way within the city without first having registered the bicycle or scooter with the Chief of Police and obtaining a license therefore. Licenses will be issued free of charge.

(Prior Code, § 10-10-2) (Ord. 1682, passed 6-11-01; Am. Ord. 1806, passed 9-26-05) Penalty, see § 73.99

§ 73.21 TRAFFIC LAWS APPLY.

(A) Bicycle and scooter operators will be subject to all traffic regulations and privileges as other vehicles operated in the streets and alleys of the city.

(B) Bicycles and scooters shall be operated on the streets and alleys as near to the right of the street or alley as practicable, and operators shall at no time carry another person on the bicycle, scooter, skateboard or skates, unless it is equipped to carry another person, or ride more than two abreast.

(C) No bicycle or scooter will be attached to another vehicle nor shall the operator thereof hold to another vehicle while either vehicle is moving.

(Prior Code, § 10-10-3) (Ord. 1682, passed 6-11-01) Penalty, see § 73.99

§ 73.22 PEDESTRIAN RIGHT-OF-WAY.

Any person operating a bicycle or scooter upon a public sidewalk or other public way shall yield the right-of-way to pedestrians.

(Prior Code, § 10-10-4) (Ord. 1682, passed 6-11-01)

§ 73.23 PARKING ON SIDEWALKS.

No person shall obstruct a public sidewalk with a bicycle or scooter.

(Prior Code, § 10-10-7) (Ord. 1682, passed 6-11-01) Penalty, see § 73.99

§ 73.24 LIGHTS AND BRAKES.

(A) Each bicycle or scooter, or bicycle or scooter operator, shall be equipped with a white light or reflector on the front which shall emit a white light visible from a distance of at least 500 feet to the front 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 light emitting a red light visible from a distance of 500 feet to the rear may be used in addition to such red reflector.

(B) Each bicycle or scooter shall be equipped with a brake which will enable the operator to make the braked wheel skid on dry, level, clean pavement.
(Prior Code, § 10-10-8) (Ord. 1682, passed 6-11-01)

§ 73.99 PENALTY.

Any person violating any of the provisions of this chapter shall upon conviction be subject to any one or more of the following: a fine in an amount not to exceed \$100, and/or an order to surrender his or her bicycle, scooter, snowmobile, skateboard or skates to the Police Chief for impounding for a period not to exceed six months. Provided, in the case of an apparent violation of any provision of the chapter by a person under 14 years of age who has neither been convicted nor received a warning of a violation of any provision of this chapter during the preceding 12 months, a written warning may be issued and a copy shall be mailed to the parents or guardians of the apparent violator at their last known address.

(Ord. 1682, passed 6-11-01)

CHAPTER 74: TRAFFIC SCHEDULES

Section

- I. Speed Limits
- II. Turns Prohibited
- III. Truck Routes

SCHEDULE I. SPEED LIMITS.

(A) *General.*

(1) The maximum speed limit on the following streets shall be as follows:

<i>Street</i>	<i>Speed Limit</i>	<i>Location</i>	<i>Ord. No.</i>	<i>Date Passed</i>
7th Street	30	Between “M” Street and south city limits	1343	12-23-85
7th Street	45	Between County Club Road and Morrison Road	1318	1-28-85
7th Street	35	Between Morrison Road and “U” Street	1318	1-28-85
7th Street	30	Between “U” Street and “M” Street	1110	9-25-78
10th Street	25	Between “S” Street and “M” Street		
10th Street	40	Between the central ditch and 100 yards north of the Union Pacific Railroad tracks	1703	2-11-02
10th Street	35	Between “M Street and “J” Street	1660	3-27-00
10th Street	30	Between 100 yards north of the Union Pacific Railroad tracks and “S” Street	1703	2-11-02
Country Club Road	30	Between 10th Street and 21st Street	1164	6-25-79

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<i>Street</i>	<i>Speed Limit</i>	<i>Location</i>	<i>Ord. No.</i>	<i>Date Passed</i>
Country Club Road	35	Between 21st Street and the west city limits	1110	9-25-78
“D” Street	25	Between 7th Street and Kimball Avenue	1789	2-7-05
“D” Street	40	Between Rundell Road and Lockwood Road	1787	1-24-05
Highway No. 71	45	On those portions of lying within the city corporate limits	1214	9-8-80
Kimball Avenue (formerly Highway No. 71)	35	Southwest from the intersection of “J” Street to the intersection of Aspen Street	1407	5-8-89
Kimball Avenue (formerly Highway No. 71)	45	From the intersection of Aspen Street to Highway No. 71	1407	5-8-89
Morrison Road	35	Between 7th Street and 10th Street	1110	9-25-78
“M” Street	35	Between the east city limits and the west city limits	1339	11-11-85
“U” Street	20	Between 13th Street and 17th Street when the safety lights are flashing	1656	12-13-99

(2) In the event that any of the streets mentioned in this division are not in the city limits of the city at the time of passage of this schedule, that fact shall not invalidate this division and if any of such streets should be incorporated into the city limits at a later date, the above speed limits shall apply to the street.

(Prior Code, § 10-2-1(D) (Ord. 1407, passed 5-8-89; Am. Ord. 1611, passed 4-13-98; Am. Ord. 1656, passed 12-13-99; Am. Ord. 1660, passed 3-27-00; Am. Ord. 1703, passed 2-11-02; Am. Ord. 1787, passed 1-24-05; Am. Ord. 1789, passed 2-7-05)

Traffic Schedules

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(B) *School zones.* The following are designated as school speed zones:

<i>School</i>	<i>Street</i>	<i>Location</i>	<i>Ord. No.</i>	<i>Date Passed</i>
<i>Elementary Schools</i>				
Geil Elementary School	17th Street	From 100 feet north of Mitchell Pass Boulevard to "D" Street	1703 1799	2-11-02 8-8-05
	"D" Street	From 100 feet west of 17th Street to 100 feet east of 16th Street	1703 1799	2-11-02 8-8-05
Lincoln Elementary School	"R" Street	From 100 feet west of 14th Street to 13th Street	1703 1799	2-11-02 8-8-05
	14th Street	From "R" Street to "Q" Street	1703 1799	2-11-02 8-8-05
	"Q" Street	From 100 feet west of 14th Street to 100 feet east of 13th Street	1703 1799	2-11-02 8-8-05
	13th Street	From "Q" Street to "R" Street	1703 1799	2-11-02 8-8-05
Northfield Elementary School	Nelson Avenue	From 100 feet west of Ponder Place to 100 feet east of Donna Drive	1703 1799	2-11-02 8-8-05
	Donna Drive	From 100 feet south of Flaten Avenue to Nelson Avenue	1703 1799	2-11-02 8-8-05
	Flaten Avenue	From 100 feet east of Donna Drive to Ponder Place	1703 1799	2-11-02 8-8-05
	Ponder Place	From 100 feet south of Flaten Avenue to Nelson Avenue	1703 1799	2-11-02 8-8-05
<i>Junior High School and High School</i>				
Gering Junior High School	"S" Street	From 100 feet west of 8th Street to 7th Street	1703 1799	2-11-02 8-8-05
	7th Street	From 100 feet north of "S" Street to 100 feet south of "Q" Street	1703 1799	2-11-02 8-8-05
	"Q" Street	From 9th Street to 7th Street	1703 1799	2-11-02 8-8-05
	9th Street	From 100 feet north of "R" Street to "Q" Street	1703 1799	2-11-02 8-8-05

Gering - Traffic Code

<i>School</i>	<i>Street</i>	<i>Location</i>	<i>Ord. No.</i>	<i>DatePassed</i>
<i>Junior High School and High School (Cont'd)</i>				
Gering Junior High School (Cont'd)	"R" Street	From 100 feet west of 9th Street to 8th Street	1703	2-11-02
			1799	8-8-05
	8th Street	From "S" Street to "R" Street	1703	2-11-02
			1799	8-8-05
Gering High School	17th Street	From Gentry Boulevard to "U" Street	1703	2-11-02
			1799	8-8-05
	"U" Street	From 100 feet west of 17th Street to 100 feet east of 13th Street	1703	2-11-02
			1799	8-8-05
	Pacific Boulevard	From Gentry Boulevard to "U" Street	1703	2-11-02
			1799	8-8-05

(Ord. 1703, passed 2-11-02; Am. Ord. 1799, passed 8-8-05) Penalty, see § 10.99

Cross-reference:

School zones, see § 71.63

SCHEDULE II. TURNS PROHIBITED.

(A) *U-turns prohibited.* The following u-turns shall be prohibited:

<i>Street</i>	<i>Location</i>	<i>Ord. No.</i>	<i>Date Passed</i>
9th Street	All intersections between “M Street and “S” Street	558	9-6-66
10th Street	All intersections	558	9-6-66
11th Street	All intersections between “M” Street and “U” Street	558	9-6-66
“M” Street	All intersections	558	9-6-66
“U” Street	All intersections	558	9-6-66

(Prior Code, § 10-4-3) (Ord. 558, passed 9-6-66)

(B) *Left turns prohibited.*

(1) The following left turn shall be prohibited:

<i>Street</i>	<i>Direction</i>	<i>Location</i>	<i>Ord. No.</i>	<i>Date Passed</i>
10th Street	Northbound or southbound	At its intersection with “O” Street	875	3-24-75

(2) The intersection shall be clearly marked with appropriate signs or standards plainly indicated “no left turn” for northbound or southbound traffic.

(Prior Code, § 10-4-14) (Ord. 875, passed 3-24-75) Penalty, see § 10.99

SCHEDULE III. TRUCK ROUTES.

(A) *Routes designated.* The following streets and parts of streets of the city are hereby established as routes to be used by trucks, truck/tractors or semi-trailers, or any combination thereof, exceeding 30 feet in total length or exceeding 20,000 pounds gross vehicle weight (but not including vehicles classified as recreational vehicles):

<i>Street</i>	<i>Location</i>	<i>Ord. No.</i>	<i>Date Passed</i>
7th Street	All	1475	6-8-92
10th Street	North of Country Club Road	1475	6-8-92
Country Club Road	East of Highway No. 71	1475	6-8-92
“M” Street	All	1475	6-8-92
State Highway No. 71	All	1475	6-8-92
“U” Street	East of 7th Street	1475	6-8-92

(B) *Trucks prohibited.* No trucks of a type described in division (A) shall be operated on the following streets unless the operator of the truck shall be making a lawful delivery to any business, government entity, or other agency requiring commercial delivery of merchandise or food:

<i>Street</i>	<i>Location</i>	<i>Ord. No.</i>	<i>Date Passed</i>
10th Street	“J” Street to Country Club Road	1788	1-24-05
Kimball Avenue	Highway No. 71 to “J” Street	1788	1-24-05
“D” Street	Between Kimball Avenue to Highway No. 71	1788	1-24-05
“U” Street	Highway No. 71 to 10th Street	1788	1-24-05

(Prior Code, § 10-4-15) (Ord. 1475, passed 6-8-92; Am. Ord. 1788, passed 1-24-05) Penalty, see § 10.99

CHAPTER 75: PARKING SCHEDULES

Section

- I. Parking prohibited
- II. Ten-minute parking
- III. Special event parking

SCHEDULE I. PARKING PROHIBITED.

The following streets shall be designated as “no parking zones”:

<i>Street</i>	<i>Side</i>	<i>Location</i>	<i>Ord. No.</i>	<i>Date Passed</i>
Lockwood Road	Both	All	968	8-26-76
“Q” Street	South	Between 10th and 11th Streets more particularly described as 20 feet, the length of one parallel parking space, on the east and west sides of the dedicated alleyway entering “Q” Street from the south between 10th and 11th Streets	Res. 12-00-1	12-11-00

(Prior Code, § 10-6-2) (Ord. 968, passed 8-26-76; Am. Res. 12-00-1, passed 12-11-00) Penalty, see § 72.99

SCHEDULE II. TEN-MINUTE PARKING.

(A) The following streets shall be ten-minute parking zones:

(1) The first two parking stalls east of 11th Street on the north side of “P” Street.

(2) Such other designated streets or parts of streets or parking spaces as the Mayor and Council may designate by resolution.

(B) When such street or part of street has been declared a ten minute parking zone, it shall be unlawful for any person to park or leave any vehicle in any ten minute parking zone for a period of time in excess of ten minutes.

(C) Such ten minute parking zones shall be clearly marked with appropriate signs or standards plainly indicating such limitations on the use of the public street.

(Prior Code, § 10-6-12) Penalty, see § 72.99

SCHEDULE III. SPECIAL EVENT PARKING.

(A) The following streets shall be prohibited from parking on the Annual Oregon Trail Days Parade:

<i>Street</i>	<i>Location</i>	<i>Times</i>	<i>Ord. No.</i>	<i>Date Passed</i>
10th Street	Between "M" Street and "U" Street	From 6:00 a.m. to 1:00 p.m.	1391	6-27-88

(B) Motor vehicles found parked along the street after 6:00 a.m. on the day of the parade shall be towed from 10th Street at the owner's expense.

(C) Appropriate signs shall be posted along the route between "M" Street and "U" Street at least 24 hours before 6:00 a.m. on the day of the parade. The signs shall advise that there shall be no parking along the area between the times designated in this schedule and that violators' vehicles will be towed away.

(Ord. 1391, passed 6-27-88) Penalty, see § 72.99

CHAPTER 76: EMERGENCY SNOW REMOVAL

Section

- 76.01 Introduction
- 76.02 Snow emergency declaration
- 76.03 Snow emergency routes
- 76.04 Driveways and snow removal from private property
- 76.05 Vehicle towing during declared snow emergencies

- 76.99 Penalty

§ 76.01 INTRODUCTION.

Due to the location of the city, snow, ice, or freezing rain can be expected between September through April each year. Snow and ice control is basically emergency work in which city streets must be cleared at any time of the day or night. Since snow and ice removal is considered an emergency service by the city, the city shall undertake operations using the methods, resources, and equipment necessary to keep access to the city as open as possible during snow events.
(Ord. 1882, passed 2-9-09)

§ 76.02 SNOW EMERGENCY DECLARATION.

(A) A snow emergency is defined as a special condition of a snowfall event requiring residents to move their vehicles off the snow emergency routes to accommodate emergency snow removal.

(B) A snow emergency declaration allows for the towing of vehicles from the emergency snow routes. A snow emergency is normally declared after a measurable snowfall of two inches or more; however, any amount of snow combined with ice, rain, and/or wind can also require a snow emergency to be declared

(C) The City Administrator or Public Works Director may declare a snow emergency. A snow emergency may be declared in advance of an anticipated storm, to start at a specific time; or a snow emergency may be declared anytime during or after a storm. A snow emergency will normally not last more than 72 hours past the end of the last snowfall.

(D) That a snow emergency has been declared will be communicated to the public through mass media outlets as deemed appropriate by the City Administrator or Public Works Director.
(Ord. 1882, passed 2-9-09)

§ 76.03 SNOW EMERGENCY ROUTES.

(A) A system of marked snow emergency routes has been established to maintain the flow of traffic, goods and services to the city on thoroughfare streets. The marked snow emergency routes are established as follows:

EMERGENCY SNOW ROUTES

10th Street from “J” Street to “U” Street

10th Street (Scottsbluff/Gering Highway) from “U” Street to the river bridge

“M” Street/Old Oregon Trail from the cemetery road east to Highway 71 bypass

Kimball Avenue from Five Rocks Road to “J” Street

Five Rocks Road from Robidoux Road to Country Club Road

“U” Street from Five Rocks Road to 10th Street

“U” Street from 7th Street east to city limits

“S” Street from 10th Street to 7th Street

7th Street from “M” Street to Country Club Road

Country Club Road from 10th Street to 7th Street

(B) Modifications to ban. The foregoing prohibition shall be modified within the area of the Downtown Business District designed for parking and more particularly described as follows:

(1) 10th Street from “K” Street to “S” Street;

(2) “M” Street from 9th Street to 14th Street.

(C) The foregoing prohibition shall not apply to the above described area during the business hours of 6:00 a.m. to 7:00 p.m.

(Ord. 1882, passed 2-9-09)

§ 76.04 DRIVEWAYS AND SNOW REMOVAL FROM PRIVATE PROPERTY.

(A) City snowplows will not clear private driveways. The snow placed in driveways by city plows is a natural result of clearing the streets and is the responsibility of the property owner to remove.

(B) Only on emergency snow routes, when plowed windrows exceed 24 inches, if time and conditions allow, the city will attempt to plow open private driveways at the curb line.

(C) Snow from a private driveway, private sidewalk, business driveway, or parking lot may not be placed on a city street.

(D) City equipment will not be used to remove piled snow or push snow away from private property or businesses. Snow will only be removed from city facilities. Using city equipment to clear snow from private property is a violation of this code unless it is necessary to allow emergency vehicles access to the private property for ambulance, fire or police calls.

(Ord. 1882, passed 2-9-09) Penalty see § 10.99

§ 76.05 VEHICLE TOWING DURING DECLARED SNOW EMERGENCIES.

Vehicles parked on a designated snow emergency route street during a declared snow emergency are subject to tow without notice to the owners, and at the owners' expense. In addition, if a vehicle is left on a public street or alley on a designated snow route in such a fashion as to hinder snow removal, that vehicle may be towed at the expense of the owner of the vehicle, provided that an attempt was made to contact the owner to have the vehicle moved; and that either the owner could not be located, or the owner was contacted, that the owner of the vehicle failed to move the vehicle within 15 minutes after being contacted.

(Ord. 1882, passed 2-9-09)

§ 76.99 PENALTY.

A violation of this chapter shall be punishable by a \$50 fine.

(Ord. 1882, passed 2-9-09)

TITLE IX: GENERAL REGULATIONS

Chapter

- 90. LEISURE AND RECREATION**
- 91. CEMETERY**
- 92. FIRE REGULATIONS**
- 93. JUNKED AND ABANDONED MOTOR VEHICLES**
- 94. HEALTH AND SAFETY**
- 95. PUBLIC WAYS AND PROPERTY**
- 96. ANIMALS**
- 97. TREES**
- 98. ALARM SYSTEMS**

CHAPTER 90: LEISURE AND RECREATION

Section

Library

- 90.01 Operation and funding
- 90.02 General powers and duties
- 90.03 Grounds and building
- 90.04 Sale and conveyance of real estate
- 90.05 Mortgages; release or renewal
- 90.06 Cost of use
- 90.07 Discrimination prohibited
- 90.08 Annual report
- 90.09 Penalties; recovery; disposition
- 90.10 Donations
- 90.11 Improper book removal

Parks

- 90.20 Rules and regulations
- 90.21 Destruction of park property
- 90.22 Hours

LIBRARY

§ 90.01 OPERATION AND FUNDING.

(A) The city owns and manages the municipal library through the Library Board.

(B) The City Council, for the purpose of defraying the cost of the management, purchases, improvements, and maintenance of the library may each year levy a tax not exceeding the maximum limit prescribed by state law, on the taxable value of all the taxable property within the city. The amount collected from the levy shall be known as the Library Fund.

(Neb. RS 51-201)

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(C) The fund shall also include all gifts, grants, deeds of conveyance, bequests, or other valuable income-producing personal property and real estate from any source for the purpose of endowing the municipal library.

(D) All taxes levied or collected and all funds donated or in any way acquired for the erection, maintenance, or support of the municipal library shall be kept for the use of the library separate and apart from all other funds of the municipality, shall be drawn upon and paid out by the City Treasurer upon vouchers signed by the President of the Library Board and authenticated by the Secretary of the Board, and shall not be used or disbursed for any other purpose or in any other manner. The City Council may establish a public library sinking fund for major capital expenditures.
(Neb. RS 51-209)

(E) Any money collected by the library shall be turned over monthly by the Librarian to the City Treasurer along with a report of the sources of the revenue.

§ 90.02 GENERAL POWERS AND DUTIES.

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

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

(C) The Library Board shall have the power to appoint a suitable librarian and assistants, to fix their compensation, and to remove such appointees at pleasure. It shall have the power to establish rules and regulations for the government of the library as may be deemed necessary for its preservation and to maintain its usefulness and efficiency. It shall have the power to fix and impose, by general rules, penalties and forfeitures for trespasses upon or injury to the library grounds, rooms, books, or other property, for failure to return any book, or for violation of any bylaw, rule, or regulation. The Board shall have and exercise such power as may be necessary to carry out the spirit and intent of Neb. RS 51-201 through 51-219 in establishing and maintaining the library and reading room.
(Neb. RS 51-211)

§ 90.03 GROUNDS AND BUILDING.

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

(B) The Board may erect, lease, or occupy an appropriate building for the use of the library.
(Neb. RS 51-211)

§ 90.04 SALE AND CONVEYANCE OF REAL ESTATE.

The Library Board may, by resolution, direct the sale and conveyance of any real estate owned by the Board or by the municipal library, which is not used for library purposes, or of any real estate so donated or devised to the Board or to the library upon such terms as the Board may deem best and as otherwise provided in Neb. RS 51-216.
(Neb. RS 51-216)

§ 90.05 MORTGAGES; RELEASE OR RENEWAL.

The President of the Library Board shall have the power to release, upon full payment, any mortgage constituting a credit to the Library Fund and standing in the name of the Library Board. The signature of the President on any such release shall be authenticated by the Secretary of the Board. The President and Secretary in like manner, upon resolution duly passed and adopted by the Board, may renew any such mortgage.
(Neb. RS 51-206)

§ 90.06 COST OF USE.

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

(B) The library shall make its basic services available without charge to all residents of the municipality. The Library Board may fix and impose reasonable fees, not to exceed the library's actual cost, for nonbasic services.
(Neb. RS 51-211)

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(C) For purposes of this section:

(1) Basic services shall include, but not be limited to, free loan of circulating print and nonprint materials from the local collection and general reference and information services; and

(2) Nonbasic services shall include, but not be limited to, use of:

(a) Photocopying equipment;

(b) Telephones, facsimile equipment, and other telecommunications equipment;

(c) Media equipment;

(d) Personal computers; and

(e) Videocassette recording and playing equipment.

(Neb. RS 51-201.01)

§ 90.07 DISCRIMINATION PROHIBITED.

No library service shall be denied to any person because of race, sex, religion, age, color, national origin, ancestry, physical handicap, or marital status.

(Neb. RS 51-211)

§ 90.08 ANNUAL REPORT.

The Library Board shall, on or before the second Monday in February in each year, make a report to the City Council of the condition of its trust on the last day of the prior fiscal year. The report shall show all money received and credited or expended; the number of materials held, including books, video and audio materials, software programs, and materials in other formats; the number of periodical subscriptions on record, including newspapers; the number of materials added and the number withdrawn from the collection during the year; the number of materials circulated during the year; and other statistics, information, and suggestions as the Library Board may deem of general interest or as the City Council may require. The report shall be verified by affidavit of the President and Secretary of the Library Board.

(Neb. RS 51-213)

§ 90.09 PENALTIES; RECOVERY; DISPOSITION.

Penalties imposed or accruing by any bylaw or regulation of the Library Board and any court costs and attorney's fees may be recovered in a civil action before any court having jurisdiction, such action to be instituted in the name of the Library Board. Money, other than any court costs and attorney's

fees, collected in such actions shall be placed in the treasury of the municipality to the credit of the Library Fund. Attorney's fees collected pursuant to this section shall be placed in the treasury of the municipality and credited to the budget of the Municipal Attorney's office.

(Neb. RS 51-214)

§ 90.10 DONATIONS.

Any person may make donation of money, lands, or other property for the benefit of the municipal library. The title to property so donated may be made to and shall vest in the Library Board and their successors in office, and the Board shall thereby become the owners thereof in trust to the uses of the municipal library.

(Neb. RS 51-215)

§ 90.11 IMPROPER BOOK REMOVAL.

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

PARKS

§ 90.20 RULES AND REGULATIONS.

The Board of Commissioners is hereby empowered to establish rules and regulations for the management, care and use of all land now owned by the city for park purposes, and land which shall hereafter be acquired for park purposes. It shall be the duty of the Board to see that the parks are properly cared for. They shall have the power to incur bills for park improvements, within the limits of the appropriation therefor made by the Mayor and Council. All accounts drawn against the Park Fund shall be audited by the Board of Park, Cemetery and Tree Commissioners and shall be paid by warrants drawn against the Park Fund by the Chairman of the Board of Park, Cemetery and Tree Commissioners. Warrants so drawn shall be paid by the Treasurer.

(Prior Code, § 2-4-4)

§ 90.21 DESTRUCTION OF PARK PROPERTY.

Any person who shall cut down, injure, or destroy any tree, plant, or shrub, or who shall injure or destroy and building, equipment, or paraphernalia belonging to the city, and installed in its parks, or

who shall commit any waste of any kind therein, shall, upon conviction thereof, be deemed guilty of an offense.

(Prior Code, § 2-4-5) Penalty, see § 10.99

§ 90.22 HOURS.

(A) All public parks within the city which are under the control and supervision of the city shall be closed between the hours of 11:00 p.m. and 6:00 a.m., local time.

(Prior Code, § 9-10-1)

(B) The skate park shall be closed between the hours of 10:00 p.m. and 6:00 a.m.

(Prior Code, § 9-10-2) (Ord. 1641, passed 7-26-99)

CHAPTER 91: CEMETERY

Section

- 91.01 Burial prohibited in other places
- 91.02 Perpetual care fund
- 91.03 Care of lots
- 91.04 Records
- 91.05 Commission prohibited

- 91.99 Penalty

§ 91.01 BURIAL PROHIBITED IN OTHER PLACES.

No burial shall be permitted in any church yard, or any other place within the limits of this city except a cemetery, and any person violating the provisions of this section shall be deemed guilty of an offense.

(Prior Code, § 2-5-15; Am. Ord. 1728, passed 6-23-03) Penalty, see § 91.99

§ 91.02 PERPETUAL CARE FUND.

Of the amount arising from the sale of lots or burial spaces in the cemetery, the Treasurer shall allocate and set apart 33 1/3% as a permanent fund to be known as the “West Lawn Cemetery Perpetual Care Fund”, which shall be a permanent fund, and as it accumulates shall be invested and kept invested in such interest bearing securities as the Board of Commissioners of Educational Lands and Funds is authorized by law to invest the educational funds of the state and the income therefrom shall be used in the care, upkeep, ornamentation or maintenance of such lots and burial spaces and the cemetery in general. The city may receive money by donation, bequest or otherwise to be held in trust in perpetuity, and the money so received shall be invested as the “West Lawn Cemetery Perpetual Care Fund” is herein required to be invested and the income derived therefrom shall be expended as the West Lawn Cemetery Perpetual Care Fund is expended or as the donor may designate. The Treasurer shall be the custodian of the “West Lawn Cemetery Perpetual Care Fund” which shall be invested by a Board composed of the Mayor, Clerk and Treasurer; and whenever investments are made by the Board, the nature and character of the same shall be reported to the Mayor and City Council and the investment report shall be made a matter of record by the Clerk in City Council proceedings. All other moneys, including income from the West Lawn Cemetery Perpetual Care Fund, accruing to the

Cemetery Fund shall be credited, allocated, kept and disbursed by the Treasurer under the head of "Cemetery General Fund".

(Ord. 1728, passed 6-23-03)

§ 91.03 CARE OF LOTS.

The city agrees to care for all lots, parts of lots or burial spaces in the cemetery, now platted or to be platted, through its Park, Cemetery and Tree Board.

(Prior Code, § 2-5-17) (Ord. 1728, passed 6-23-03; Am. Ord. 1732, passed 7-28-03)

§ 91.04 RECORDS.

The cemetery shall keep its records in the office of the City Clerk or at such other convenient place in the city as may be determined as best suited for the economical administration of the affairs of the cemetery.

(Ord. 1728, passed 6-23-03)

§ 91.05 COMMISSION PROHIBITED.

It shall be unlawful for any person to accept or contract to accept any commission or fee arising out of a transaction on the sale of a lot, part of a lot, or burial space in the cemetery.

(Ord. 1728, passed 6-23-03) Penalty, see § 91.99

§ 91.99 PENALTY.

Any person who violates any of the provisions of this chapter, unless otherwise specifically provided, shall be deemed guilty of an offense and, upon conviction thereof, shall be fined in any sum not exceeding \$100. A new violation shall be deemed to have been committed every 24 hours of failure to comply with the provisions of this chapter.

Statutory reference:

Authority to impose penalties, see Neb. RS 16-245

CHAPTER 92: FIRE REGULATIONS

Section

Fire Limits

- 92.01 Limits designated
- 92.02 Building restrictions within limits
- 92.03 Special permits
- 92.04 Moving buildings into limits; permit
- 92.05 Ironclads
- 92.06 Removal when damaged by fire

Fireworks

- 92.20 Definition
- 92.21 Prohibited fireworks
- 92.22 Permit required
- 92.23 Sales and discharges; times permitted

Fire Hazards; Explosives

- 92.30 Stacking combustibles
- 92.31 Public buildings; requirements
- 92.32 Chimneys; construction
- 92.33 Explosives; storage; permit
- 92.34 Burning; restrictions

FIRE LIMITS

§ 92.01 LIMITS DESIGNATED.

The following described territory in the city shall constitute the fire limits of the city: commencing at a point 150 feet east of the southeast corner of Tenth Street in the city, thence north on a line 150 feet east of the east side of Tenth Street to the center of “K” Street; thence east to the center of Ninth Street, thence north along the center line of Ninth Street to the center of “S” Street; thence east along the center line of “S” Street to the center of Seventh Street; thence south along the center line of Seventh Street to the center line of “R” Street; thence east along the center line of “R” Street to the center line of Fifth

Street; thence north along the center line of Fifth Street to the south side of U.P. right-of-way; thence northwesterly along the U.P. right-of-way to the center line of Seventh Street; thence north along the center line of Seventh Street to the city limits; thence west along the north boundary of the city limits to a point 340 feet west of the west line of Tenth Street; thence south along the line to the city limits, thence east to the center line of Tenth Street; thence south to the city limits; thence to the point of beginning, all of which described property is within the corporate limits of the city.
(Prior Code, § 7-1-1)

§ 92.02 BUILDING RESTRICTIONS WITHIN LIMITS.

No combustible building except as hereinafter provided, shall hereafter be built, or moved within, or to, the herein described fire limits and any building to be constructed, or moved within, or to, this area shall be built under the following limitations: outside walls and interior supporting members shall be of at least one hour fire resisting construction; and between ceiling and roof there shall be a layer of at least one-half hour fire resistant insulation; the exterior roof material to be at least as fire resistant as asphalt roofing.
(Prior Code, § 7-1-2) Penalty, see § 10.99

§ 92.03 SPECIAL PERMITS.

In all that portion of the fire limits not included within the following description: All property 190 feet east of the center line of Eleventh Street and 190 feet west of the center line of Ninth Street; the Council may upon application of any land owner within the fire limits grant a special permit for the construction of buildings of a kind and quality different than that heretofore set forth in § 92.02 of this chapter. Such application shall be filed with the Clerk and shall be accompanied by plans of the proposed building showing the size and height thereof; the type of materials to be used and the location where it is proposed to erect such structure. Granting of such special permit may be done by motion passed by a majority of the Council.
(Prior Code, § 7-1-3)

§ 92.04 MOVING BUILDINGS INTO LIMITS; PERMIT.

No building of any kind shall be constructed, or moved within or to, the fire limits until a permit therefor shall be granted upon action of the Mayor and Council. The action shall be based upon an application for a permit submitted by the proposed builder or mover, which application shall include complete plans, specifications and materials to be used in the construction of the proposed building and the same must be approved by an action of the Mayor and Council.
(Prior Code, § 7-1-4) (Ord. 270, passed 5-1-48) Penalty, see § 10.99

§ 92.05 IRONCLADS.

All buildings, sheds and structures known as ironclads, that is, buildings, sheds, or structures constructed of wood and covered with sheet iron or tin attached to a frame work or posts or any skeleton support constructed of wood or other combustible material, shall be considered and deemed for all purposes within every section of this chapter to be constructed of combustible materials and the erection of such buildings, sheds, and structures is hereby prohibited.

(Prior Code, § 7-1-5) Penalty, see § 10.99

§ 92.06 REMOVAL WHEN DAMAGED BY FIRE.

Whenever any wooden or combustible building or structure or any noncombustible building stands within the fire limits and it shall be damaged by fire or other casualty to the extent of 50% or more of its value (exclusive of 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, and it shall be unlawful for any person to repair or rebuild any such damaged building or structure or for any owner thereof to fail to remove any such damaged building or structure within 30 days after notice to do so from the Mayor and Council.

(Prior Code, § 7-1-6) Penalty, see § 10.99

FIREWORKS**§ 92.20 DEFINITION.**

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

PERMISSIBLE FIREWORKS. Only sparklers, vesuvius fountains, spray fountains, torches, color fire cones, star and comet type color aerial shells without explosive charge for the purpose of making a noise, lady fingers, not to exceed seven-eighths of an inch in length or one-eighth inch in diameter, total explosive composition not to exceed 50 milligrams in weight, color wheels, and any other fireworks approved under Neb. RS 28-1247.

(Neb. RS 28-1241) (Prior Code, § 7-2-1(C))

§ 92.21 PROHIBITED FIREWORKS.

(A) Except as provided herein, it shall be unlawful for any person to possess, sell, offer for sale, bring into this city, or discharge any pyrotechnics commonly known as fireworks other than permissible fireworks.

(Prior Code, § 7-2-1(D))

(B) It shall be unlawful for any person to throw any firecracker, or any object which explodes upon contact with another object:

- (1) From or on to a motor vehicle;
- (2) On to any street, highway, or sidewalk;
- (3) At or near any person;
- (4) Into any building; or
- (5) Into or at any group of persons.

(Prior Code, § 7-2-1(A)) Penalty, see § 10.99

§ 92.22 PERMIT REQUIRED.

It shall be unlawful for any person to sell, hold for sale, or offer for sale any fireworks in this city unless such person has first obtained a permit. Application for such permit shall be made to the City Clerk on forms to be prescribed by the Clerk. Each application shall be accompanied by the required fee, which shall be \$50. The license shall be good only for the period in which issued and shall at all times be displayed at the place of business of the holder thereof.

(Prior Code, § 7-2-1(E)) (Ord. 1648, passed 10-25-99) Penalty, see § 10.99

§ 92.23 SALES AND DISCHARGES; TIME PERMITTED.

(A) It shall be unlawful to light, ignite or discharge any fireworks except during the allowable days of sale as identified in division (B) of this section. It shall also be unlawful for any person to possess or light, ignite or discharge any fireworks on, within or onto any city recreational facility or park at any time, except professional fireworks shows authorized under a permit from the State Fire Marshal.

(Prior Code, § 7-2-1(G))

(B) It shall be unlawful to sell any permissible fireworks at retail within this city except between the dates of June 25 and July 4 of each year.

(Prior Code, § 7-2-1(F))

(C) It shall be unlawful to light, ignite or discharge any fireworks after 10:30 p.m. or before 8:00 a.m., except on July 4, when fireworks may be discharged until 12:00 midnight.

(Prior Code, § 7-2-1(H)) (Ord. 1568, passed 8-12-96; Am. Ord. 1729, passed 7-14-03) Penalty, see § 10.99

FIRE HAZARDS; EXPLOSIVES**§ 92.30 STACKING COMBUSTIBLES.**

It shall be unlawful for any person 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, enclosed by a building, or upon any street, alley or lot within the fire limits. (Prior Code, § 7-3-1) Penalty, see § 10.99

§ 92.31 PUBLIC BUILDINGS; REQUIREMENTS.

The doors of all exits from buildings occupied as apartment houses, churches, school buildings, theatres for dramatic, operatic or similar performances, or as picture shows, or used for any public gatherings or meetings, shall swing outward, or be double acting. They shall, during every performance, meeting or gathering within the building, be and remain unbarred and unlocked. For every departing gathering they shall be fastened open. The exits of all such buildings shall be not less than three feet wide by six and one-half feet high. No temporary seats or obstructions of any character shall, while such building is in use; be permitted to be or remain in any aisle, passageway, exit, entrance or stairway. No obstructions of any character, either movable or immovable, shall, while any such building is in use, be placed or left in any lobby or in front of any outer door or exit. No person shall be permitted to remain in any aisle or on any stairway of the building while it is in use. Every theatre shall be equipped with an asbestos curtain which shall be lowered between each act while shows or rehearsals are in progress. All operating booths for apparatus involving the use of combustible film more than ten inches in length shall be constructed of galvanized iron or other metal lined with asbestos and otherwise constructed according to the regulations of the State Fire Marshal. The hallways and stairways in public buildings shall be well lighted. Every occupant or tenant of any such building who shall fail, neglect or refuse to comply with any of the provisions of this section shall be deemed guilty of an offense.

(Prior Code, § 7-3-2) Penalty, see § 10.99

§ 92.32 CHIMNEYS, CONSTRUCTION.

It shall be unlawful for any person to enter, or cause to be entered, any stovepipe into an outlet other than a brick chimney constructed with what is known as flue lining, well burnt clay or terra cotta pipe, nor shall any person run a stovepipe through any partition, floor or roof, except through a ventilator in the partition, floor or roof. All chimneys hereafter constructed shall be lined continuously on the inside with such materials as hereinbefore provided, 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 is carried up and shall extend at least six inches above the cap of the chimney. Each flue shall be enclosed on all sides with not less than four inches of solid brickwork properly banded together, and the withes or brickwork between the lined flues on the inside of the chimney shall be four inches in thickness. All chimneys, flues and fireplaces shall be kept

at all times clean and free from accumulation of soot, ashes and cinders, and in good and proper repair, and no metal flues or stovepipes shall pass through any wooden partition, ceiling, floor or roof of any house or building.

(Prior Code, § 7-3-3) Penalty, see § 10.99

§ 92.33 EXPLOSIVES; STORAGE; PERMIT.

It shall be unlawful for any person to erect any buildings or tanks for storage of large quantities of dynamite, nitroglycerin, giant powder, explosives or inflammable oils or to store kerosene, gasoline or other petroleum products in large quantities in barrels for the purpose of carrying on the oil business or to erect or construct any building, apparatus, structure or equipment, used or useful in the operation of any petroleum refinery or skimming plant, unless the persons secure a permit so to do from the Mayor and Council, in writing. The permit shall specify the exact location where such petroleum refinery, skimming plant or storage tanks may be placed or where and under what conditions such kerosene, oil and gasoline in barrels may be stored. The Mayor and Council is hereby empowered, at any time the public good demands to order the removal of kerosene tanks, gasoline tanks, inflammable oil tanks, explosives, petroleum refinery, skimming plant or any building or house containing any of such products. Underground tanks, when hereafter built for the storage of any gasoline or petroleum products shall be constructed in accordance with the rules and regulations of the National Board of Fire Underwriters which, according to law, are hereby incorporated and made a part of this section the same as though set out at length herein.

(Prior Code, § 7-4-1) Penalty, see § 10.99

§ 92.34 BURNING; RESTRICTIONS.

It shall be unlawful for any person, firm or corporation to burn any material substance, article, trash, rubbish or waste on any lot, tract of land, street or alley, except as otherwise provided in this section. This section shall not be construed to prohibit:

(A) Burning done in a furnace or fireplace solely for the purpose of heating the building in which the furnace or fireplace is situated, or burning done in a space heater, water heater or cooking stove, if the furnace, fireplace, space heater, water heater or cooking stove is so constructed that the smoke and fumes are vented into a masonry or metal flue of a type which complies with all provisions of the Municipal Code.

(B) Burning done in a furnace, stove or incinerator incidental to a business, commercial or industrial process, or for the purpose of disposing of business, commercial or industrial waste, if the furnace, stove or incinerator is installed according to the Fire Prevention Code. It shall be the responsibility of the owner of said furnace, stove or incinerator to comply with all state and federal standards applicable to said furnace, stove or incinerator;

(C) Burning done by the Volunteer Fire Department in the course of the training of members of such department; or

(D) Burning of weeds, brush, grass, or debris or caused to be done, by the owner or occupant of premises pursuant to a permit issued by the Fire Chief upon a written application of such person, if the Fire Chief shall in writing determine that the applicant has shown that removal of the growth or accumulated debris cannot reasonably be accomplished by other means, that the safety of all persons and property will be assured. No such permit shall be required for burning irrigation and drainage canals or ditches. The preceding sentence shall not be construed to exempt any person or other entity doing such burning from obtaining the necessary permits required by the statutes of Nebraska. Provided, furnaces, stoves or incinerators in which the burning of rubbish or other readily combustible solid waste material is otherwise permissible hereunder shall not be used for such purposes unless such furnace, stove or incinerator meets the requirement of the Fire Prevention Code. It shall be the responsibility of the owner of said furnace stove or incinerator to make sure that the device meets or exceeds all laws of the State of Nebraska or the United States of America applicable to such device.

(Ord. 1826, passed 4-24-06) Penalty, see § 10.99

CHAPTER 93: JUNKED AND ABANDONED MOTOR VEHICLES

Section

- 93.01 Definitions
- 93.02 Abandonment prohibited

§ 93.01 DEFINITIONS.

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

ABANDONED VEHICLES. The following shall constitute an ***ABANDONED VEHICLE***:

- (1) Any vehicle that is left unattended upon any street, highway, sidewalk or alley, where such vehicle constitutes an obstruction to traffic.
- (2) Any vehicle that is left unattended upon a street and so parked illegally as to constitute a definite hazard or obstruction to the normal movement of traffic or proper street or highway maintenance.
- (3) Any vehicle left unattended upon any street, highway, or public property for a period of 72 hours or more, except in areas where parking is legally permitted for periods greater than 72 hours.
- (4) Any vehicle that has been left for a period of seven days or more on private property located within the city, other than public rights of way without the express consent of the owner of such property, and where the owner of such private property has so notified the Police Department of his or her desire to have the vehicle removed.
- (5) Any vehicle failing to display number plates, when left for more than six hours on any public property, street, highway, sidewalk or alley, or failing to display number plates of the current year or the proper number plate or plates assigned to such vehicle under the circumstances of the revised statutes of the state of Nebraska as amended; or displaying number plates in such a manner as to reasonably indicate a violation of any provision of the statutes of the state of Nebraska or the ordinances of the city or any other provision of state law with respect to motor vehicle number plates while parked attended or unattended or traveling upon the streets, highways, or alleys of the city.
- (6) Any vehicle that has been left for a period of seven days or more on a public right of way, street, highway, sidewalk or alley with one or more tires or wheels removed, propped up on jacks,

blocks or other support, or having one or more tires with insufficient air to allow the vehicle to be operated.

PROPERTY. Any real property located within the city or any city property within or without the corporate limits.

STREET, HIGHWAY, SIDEWALK or ALLEY. The entire distance between the boundary lines of every public way.

VEHICLE. A machine propelled by power other than human power designed to travel along the ground by use of wheels, treads, runners or slides and transport persons or property or pull machinery and shall include, without limitation, automobiles, airplanes, trucks, trailers, motorcycles, motor scooters, tractors, recreational vehicles, and in addition thereto, shall include such nonpowered vehicles such as boat trailers and camper trailers or any part or portion thereof.

(Prior Code, § 6-10-01)

§ 93.02 ABANDONMENT PROHIBITED.

No person shall abandon any vehicle within the city and no person shall leave any vehicle at any place within the city for such time and under such circumstances as to cause such vehicle reasonably to appear to have been abandoned.

(Prior Code, § 6-10-02) Penalty, see § 10.99

CHAPTER 94: HEALTH AND SAFETY

Section

General Provisions

- 94.01 Property Maintenance Code adopted by reference; amendments
- 94.02 Health officer
- 94.03 Board of Health; jurisdiction; duties

General Regulations

- 94.10 Contagious disease; notice
- 94.11 Minors; medical attention
- 94.12 Privies; cesspools
- 94.13 Stagnant water
- 94.14 Refuse in streets
- 94.15 Vacant lots; filth
- 94.16 Dead animals
- 94.17 Feed lots; stock pens
- 94.18 Food service; sterilization required
- 94.19 Littering
- 94.20 Owner of lot; duties

Nuisances

- 94.30 Definition
- 94.31 Abatement procedure
- 94.32 Jurisdiction
- 94.33 Adjoining land owners; intervention before trial
- 94.34 Dead or diseased trees
- 94.35 Noxious odors; unclean premises
- 94.36 Abandoned refrigerators and containers
- 94.37 Plastic bags; warning required; nuisance

GENERAL PROVISIONS**§ 94.01 PROPERTY MAINTENANCE CODE ADOPTED BY REFERENCE; AMENDMENTS.**

(A) That a certain document, a copy of which is on file in the office of the City Clerk of the City of Gering, being marked and designated as Chapter 2, "Definitions" and Chapter 3, "General Requirements" of the "International Property Maintenance Code", current edition, as published by the International Code Council, Inc., be and is hereby adopted by the City of Gering, in the State of Nebraska; for the maintenance of property, buildings, and structures. Each and all of the regulations, provisions, conditions and terms of said chapters of the "International Property Maintenance Code" are hereby referred to, adopted, and made a part hereof, as if fully set out in this section, with the additions, insertions, deletions and changes, if any, prescribed in division (B). It is hereby declared to be a public nuisance to permit inoperative vehicles, junk, stagnant water, litter, noxious weeds, unlicensed vehicles, or any other condition described in division (B) within the corporate or jurisdictional limits of the city.

(Prior Code, § 9-4-1)

(B) The "International Property Maintenance Code", current edition, is amended and revised in the following respects:

- (1) Section 202. Amend the following definition:

EXTERIOR PROPERTY: The open space of the premises and adjoining property under the control of owners or operators of such premises. This definition shall also include the property between the alley and/or paved edge of the roadway and the property line of the property that abuts the right-of-way and/or alley.

- (2) Section 202. Insert the following definitions:

INOPERATIVE VEHICLE: A vehicle that cannot be legally operated or drawn by a motor vehicle on the streets and highways of the State of Nebraska in accordance with the statutes of the State of Nebraska including, but not limited to, any motor vehicle which does not have its major component parts so as to be fully operable, i.e. an engine in running condition, all tires inflated to their proper pressure capable of supporting the motor vehicle independently, a battery with operative electrical and ignition system, etc.

JUNK: Junk shall include, but not be limited to: (a) any iron, glass, paper, rags, cordage, wood, machinery parts, cloth or other waste or discarded material of any nature of any substance whatsoever which is so placed or strewn about as to give a reasonably prudent person the impression that the owner thereof no longer intends to keep such material for any immediate useful purpose or has demonstrated from a lengthy period of disuse that he does not intend to use said material for a useful purpose; (b) any machine or machines, vehicle or vehicles or parts of a machine or vehicle which have lost their identity, character, utility, or serviceability as such through deterioration, dismantling or the ravages of time except a vehicle on the premises of a licensed enterprise when necessary to the operation of such enterprise.

LITTER: Garbage, trash, rubbish, tires, tire carcasses, waste materials, debris, or like substances placed or allowed to be placed or to remain on the ground in any manner; and any articles or materials that may be likely to accumulate stale or stagnant water so as to be a breeding ground for mosquitoes or other insects or that provides a haven for rodents or insects.

NOXIOUS WEEDS: Noxious weeds include, but are not 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 (*rahmnus sp. tourn*), hemp plant (*cannabis sativa*), and ragweed (*ambrosiaceae*).

STAGNANT WATER: Any and all lots or pieces of ground within the municipality shall be drained, filled, or covered so as to prevent stagnant water from accumulating on any lot or property, including the accumulation of such water, tires, and tire carcasses on any lot or properties.

UNLICENSED VEHICLE: A vehicle that does not properly display current registration as required for said vehicle to legally operate or to be legally drawn by a motor vehicle on the streets and highways of the State of Nebraska.

VEHICLE: A motor vehicle or trailer as defined by the statutes of the State of Nebraska.

(3) Section 302.1. Insert after last line: No owner or occupant shall permit or allow any garbage, manure, offal, rubbish, rubble, refuse, junk, or waste paper to collect or lie upon or within any premises that such owner or occupant owns or controls including the use of exterior property areas for the storage or accumulation of wood and other used materials, or for the dumping, disposal, or storage of junk, scrap metal, slag or other industrial wastes or by-products.

(4) Section 302.4. Insert the following section:

302.4.1 Notice: The City Administrator of the City of Gering or his designee shall notify by certified mail and first class mail that the owner, as listed in the most recent Scotts Bluff County property records, shall destroy or cut all weeds in violation of Section 302.4. The notice shall inform the owner that if such owner fails to destroy or cut said weeds in violation of Section 302.4 within ten (10) days from the date of mailing of the notice, the City of Gering or its contractor may enter upon the property to destroy or cut such weeds as many times as is necessary to protect the public health, safety and welfare, in the current calendar year. The cost and expenses of any such work plus an administrative fee shall be paid by the owner and the City may levy and assess the costs and expenses of the work upon the lot or property so benefitted in the same manner as other special taxes for improvements are levied and assessed.

(5) Section 302.8. Amend to read as follows:

302.8 Vehicles. No inoperative or unlicensed vehicle shall be parked, kept or stored outside on any premises, and no vehicle shall at any time be in a state of major disassembly, disrepair,

or in the process of being stripped or dismantled. Painting of vehicles is prohibited unless conducted inside an approved spray booth.

Exception: A vehicle of any type is permitted to undergo major overhaul, including body work, provided that such work is performed inside a structure or similarly enclosed area designed and approved for such purposes.

(6) Section 303.14 (first line). Insert: April 1.

(7) Section 303.14 (second line). Insert: October 1.

(Prior Code, § 9-4-2) (Ord. 1686, passed 8-13-01; Am. Ord. 1760, passed 5-10-04; Am. Ord. 1862, passed 3-10-08)

§ 94.02 HEALTH OFFICER.

The Chief of Police shall be the Health Officer of the city. As such it shall be his or her duty to enforce the provisions of this chapter, to execute all the orders of the Board of Health, to notify the Mayor and the Superintendent of the city schools of the existence within the city of every case of contagious, infectious or malignant disease, and to see to the posting of the notices required by § 94.10. He or she shall have authority to arrest and confine any person who may violate any of the rules or regulations prescribed by the Board of Health or by the Mayor and Council.

(Prior Code, § 2-1-6)

§ 94.03 BOARD OF HEALTH; JURISDICTION; DUTIES.

(A) The jurisdiction of the Board of Health shall be coextensive with the corporate limits of the city.

(Prior Code, § 2-1-7)

(B) It shall be the duty of the Board of Health from time to time to examine the sanitary conditions of the city, and whenever the Board shall ascertain that any accumulations of filth, vegetable or animal substance exists at any place within the city or its jurisdiction, which on account of its decomposition or foulness the Board shall find tends to produce disease, or facilitates the multiplication of germs of any disease, or in anywise infects or contaminates any cistern or water supply, the Board shall issue its order commanding the owner of the premises on which the filth or substance may be found, to immediately remove the same and make a complete disposal of the same; and if such owner fails forthwith to obey such order, such removal and disposal shall be made by the Board and the expense thereof paid by such owner. If any structure or building by the accumulation of filth and decay of its substance be found by the Board within the city to be the source or center of infection or spreading of the germs of any infections or contagious disease, or be found by the Board to constitute a public health nuisance, the Board of Health shall order its immediate removal and destruction, such order to be addressed to the owner of the premises, whereupon such building or structure shall be found, and on his or her refusal

or neglect to forthwith remove the same from the jurisdiction of the city, the same shall be destroyed and removed by the Board and such owner shall pay the cost of such removal and destruction. It is hereby made the duty of every person who may have knowledge of the existence of any such accumulation of

filth, vegetable or animal matter or any such structure or building, as specified in this section, immediately upon obtaining such knowledge, to notify the Board of Health thereof.

(Prior Code, § 8-4-9) (Ord. passed 9-19-39)

Cross-reference:

Board of Health, see § 32.04

GENERAL REGULATIONS

§ 94.10 CONTAGIOUS DISEASE; NOTICE.

It shall be the duty of each householder in the city to notify the Superintendent of the city schools, physician or the Chief of Police of any case of contagious disease in the house occupied by him or her, and it shall also be his or her duty to post in a conspicuous place upon the premises a notice that can be read from the street, of the existence of such disease, naming the same. It shall be unlawful for any such householder in any manner to conceal the existence of any such disease upon his or her premises.

(Prior Code, § 2-1-8) Penalty, see § 10.99

§ 94.11 MINORS; MEDICAL ATTENTION.

It shall be unlawful for any parent or guardian or person having custody of any child, to fail or neglect to secure proper medical attendance at the illness of any such child from any contagious or infectious disease.

(Prior Code, § 2-1-9) Penalty, see § 10.99

§ 94.12 PRIVIES; CESSPOOLS.

All privies, cesspools, or outhouses now existing or hereafter suffered to remain within the corporate limits of the city must be kept clean. All privies, outhouses or cesspools must be cleaned whenever their condition is, by the Board of Health, deemed detrimental to the public health. The contents of privy vaults when covered must be buried under at least two feet of earth. All cesspools, when abandoned, shall be cleaned to the bottom and be filled with earth, ashes, brickbats or other similar substances. Covers attached to cesspools shall be maintained in a safe condition and shall be airtight. Any person who shall refuse or neglect to clean or remove the contents of any privy, cesspool or outhouse on premises owned or occupied by him within 48 hours after notice from the Chairman of the Board of Health so to do, shall be deemed guilty of an offense.

(Prior Code, § 8-4-2) Penalty, see § 10.99

§ 94.13 STAGNANT WATER.

It shall be unlawful for the owner or occupant of any lot or parcel of land within the corporate limits and zoning jurisdiction of the city to permit any stagnant water or other deleterious substance to collect or remain thereon. It is unlawful to allow any articles or materials that may be likely to accumulate stale or stagnant water so as to be a breeding area for mosquitoes or other insects or that provides a haven for rodents or insects. Every owner or occupant of such lot or parcel of land, when the same is necessary, shall drain, fill, or otherwise eliminate the condition so as to prevent any such accumulation thereon.

(Prior Code, § 8-4-3) (Ord. 1760, passed 5-10-04) Penalty, see § 10.99

§ 94.14 REFUSE IN STREETS.

It shall be unlawful for any person to cast or pour, or cause to be cast or poured, upon any lot, street, alley, avenue or public ground within the limits of the city any slop, refuse, matter, papers, old clothes, straw, manure or other substance, matter or liquid, calculated to befoul the air.

(Prior Code, § 8-4-4) Penalty, see § 10.99

§ 94.15 VACANT LOTS; FILTH.

It shall be unlawful for any person within the limits of the city to wilfully, maliciously or negligently place or throw, or cause to be placed or thrown upon vacant lots or on the premises of another, any filth, refuse, matter, or other things to the annoyance of the owner or occupant thereof and any person so offending, shall be deemed guilty of an offense.

(Prior Code, § 8-4-5) Penalty, see § 10.99

§ 94.16 DEAD ANIMALS.

It shall be unlawful for any person to place dead animals or fowls or permit the same, which are his or hers, or under his or her control, to be placed on any street, avenue, alley, park or other public grounds, but such person shall forthwith bury the same; provided, the dead animals or fowls shall not be placed on the municipal dumping ground without permission of the Chief of Police.

(Prior Code, § 8-4-6) Penalty, see § 10.99

§ 94.17 FEEDS LOTS; STOCK PENS.

It shall be unlawful for any person within the corporate limits of the city to use or employ any building or premises, now or hereafter erected or existing in this city, as a stockyards, animal weighing pen, whether temporarily used for weighing, loading or unloading during transportation or not, or as a commercial cattle, hog, sheep or animal feed lot. No cattle, hogs, sheep, or other animals shall be kept or suffered to remain within the corporate limits of this city unless the pens or other enclosures in which the animals are kept shall at all times be maintained in a clean and sanitary condition so that no

deleterious or offensive odor is emitted therefrom which taints the air or renders it unwholesome or offensive to the smell; provided, no live swine or place for feeding or keeping swine shall hereafter be kept, maintained or suffered to remain at any place within the corporate limits of this city which is nearer or closer than 200 feet to any building, the property of another or used by another for business or residential purposes. None of above is prohibited if it is located in the industrial area north and northeast of the Union Pacific Railroad right of way.

(Prior Code, § 8-4-7) (Ord. 554, passed 7-19-66) Penalty, see § 10.99

§ 94.18 FOOD SERVICE; STERILIZATION REQUIRED.

Every person, serving food or drinks to the public shall hereafter sterilize all glasses, dishes, or other receptacles employed or used in connection with the business before serving food or drink therein to each patron or customer.

(Prior Code, § 8-4-8)

§ 94.19 LITTERING.

The throwing or depositing of litter on any property within the city is prohibited.

(Prior Code, § 9-4-3) (Ord. 1686, passed 8-13-01) Penalty, see § 10.99

§ 94.20 OWNER OF LOT; DUTIES.

The owner or occupant of any lot or piece of ground within the municipality shall keep the lot or piece of ground and the adjoining streets and alleys free of any growth of eight inches or more in height of weeds, grasses or worthless vegetation.

(Ord. 1870, passed 7-14-08)

NUISANCES

§ 94.30 DEFINITION.

(A) *General definition.* For the purpose of this subchapter, the following definition shall apply unless the context clearly indicates or requires a different meaning.

NUISANCE. Consists in doing any unlawful act, or omitting to perform a duty, or suffering or permitting any condition or thing to be or exist, which act, omission, condition, or thing either:

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- (a) Injures or endangers the comfort, repose, health, or safety of others;
- (b) Offends decency;
- (c) Is offensive to the senses;
- (d) Unlawfully interferes with, obstructs, tends to obstruct, or renders dangerous for passage any stream, public park, parkway, square, street, or highway in the city;
- (e) In any way renders other persons insecure in life or the use of property; or
- (f) Essentially interferes with the comfortable enjoyment of life and property, or tends to depreciate the value of the property of others.

(B) *Specific definition.* 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***:

- (1) Any odorous, putrid, unsound, or unwholesome grain, meat, hides, skins, feathers, vegetable matter, or the whole or any part of any dead animal, fish, or fowl;
- (2) Privies, vaults, cesspools, dumps, pits, or like places which are not securely protected from flies or rats, or which are foul or malodorous;
- (3) Filthy, littered, or trash-covered cellars, houseyards, barnyards, stableyards, factory yards, mill yards, vacant areas in rear of stores, granaries, vacant lots, houses, buildings, or premises;
- (4) 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;
- (5) 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, that nothing herein contained shall prevent the temporary retention of waste in receptacles in a manner provided by the health officer of the city, nor the dumping of non-putrefying waste in a place and manner approved by the health officer;
- (6) 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;
- (7) Trash, litter, rags, accumulations of barrels, boxes, crates, packing crates, mattresses, bedding, excelsior, packing hay, straw, or other packing material, lumber not neatly piled, scrap iron,

tin, or other metal not neatly piled, old automobiles or parts thereof, or any other waste materials when any of the articles or materials create a condition in which flies or rats may breed or multiply, or which may be a fire danger, or which are so unsightly as to depreciate property values in the vicinity thereof;

(8) Any unsightly building, billboard, or other structure, or any old, abandoned, or partially destroyed building or structure or any building or structure commenced and left unfinished, which buildings, billboards, or other structures are either a fire hazard, a menace to the public health or safety, or are so unsightly as to depreciate the value of property in the vicinity thereof;

(9) All places used or maintained as junk yards, or dumping grounds, or for the wrecking and disassembling 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 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;

(10) Stagnant water permitted or maintained on any lot or piece of ground;

(11) 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 is stored tankage or any other animal or vegetable matter, or on which any animal or vegetable matter including grain is being processed, when the places in which the animals are confined, or the premises on which the vegetable or animal 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;

(12) It is hereby declared to be a nuisance to permit, allow or maintain any growth of eight inches or more in height of weeds, grasses or worthless vegetation or to litter or cause junk or litter to be deposited or remain thereon except in proper receptacles; or

(13) All other things specifically designated as nuisances elsewhere in this code.
(Ord. 1870, passed 7-14-08) Penalty, see § 10.99

§ 94.31 ABATEMENT PROCEDURE.

(A) It shall be the duty of every owner or occupant of real estate in the city to keep that real estate free of public nuisances. Upon determination by the City Council that the owner or occupant has failed to keep the real estate free of public nuisances, notice to abate and remove the nuisance and notice of the right to a hearing before the City Council and the manner in which it may be requested shall be given to the owner or occupant, or the owner's or occupant's duly authorized agent, by personal service or

certified mail. This notice shall describe the condition as found by the City Council and state that the condition has been declared a public nuisance and that the condition must be remedied at once. Within ten days after the receipt of the notice, if the owner or occupant of the real estate does not request a hearing or fails to comply with the order to abate and remove the nuisance, the city shall have the work done and may levy and assess the costs and expenses of the work upon the real estate so benefitted in the same manner as other special taxes for improvements are levied and assessed.

(B) If the owner or occupant requests in writing a hearing with the City Council, the City Council shall fix a time and place at which a hearing will be held. Notice of the hearing shall be given by personal service or certified mail and require the owner or occupant to appear before the City Council to show cause why the condition should not be found to be a public nuisance and remedied. This notice shall be given not less than seven nor more than 14 days before the time of the hearing. Upon the date fixed for the hearing and pursuant to the notice, the City Council shall hear all objections made by the owner or occupant and shall hear evidence submitted. If, after consideration of all the evidence, the City Council finds that the condition is a public nuisance, it shall, by resolution, order and direct the owner or occupant to remedy the public nuisance at once. If the owner or occupant refuses or neglects to promptly comply with the order of the City Council, the City Council shall proceed to cause the abatement of the described public nuisance and may levy and assess the costs and expenses of the work upon the real estate so benefitted in the same manner as other special taxes for improvements are levied and assessed.

(C) If after the City Council has determined that a public nuisance exists in accord with the provisions and procedures set forth herein above, and the property owner and or tenant fails or refuses to comply with the City Council's order to remedy the public nuisance within the time proscribed by the City Council, and the City Council is forced to abate and remedy the nuisance, the City Council may, in its discretion, employ the following procedure in its abatement of the nuisance.

(1) Personal property which is reasonably estimated to have a value of less than \$250 or less shall be disposed of in any manner deemed appropriate by the City Council or its agents. Personal property reasonably estimated to have a value in excess of \$250 shall be disposed of at public auction by competitive bidding.

(2) Notice of the time and place of the public sale shall be given by publishing the same once a week for no less than two consecutive weeks in a newspaper of general circulation in the county where the public sale is to be held. The sale shall be held at the nearest suitable place to the place where the subject property is held or stored. The advertisement shall include a description of the property to be sold, the name of the owner of the property, and the time and place of the sale. The sale shall take place no sooner than ten days after the first publication. The last publication shall be no less than five days before the sale is to be held.

(3) In addition to the notice provided for herein, notice of public sale shall be served personally or by first-class mail, postage prepaid, upon the owner of the subject property prior to the first published notice of the sale, and shall contain one of the following statements, as appropriate:

(a) "You are hereby notified that the Gering City Council has elected to abate the public nuisance by public sale. If you fail to remedy or remove the nuisance property, it will be sold at public sale after notice of the sale has been given by publication. You have the right to bid on the property at this sale. After the property is sold and the costs of storage, advertising, and sale are deducted the remaining money will be turned over to the State Treasurer pursuant to the Uniform Disposition of Unclaimed Property Act. You may claim the remaining money from the office of the State Treasurer as provided in such act;" or

(b) "Because the property subject to abatement is believed to be worth less than \$250, it may be kept, sold or destroyed without further notice if you fail to remove the subject property within the time indicated in this notice."

(4) Any such notice of sale shall describe all or a portion of the property to be sold in a manner reasonably adequate to permit the owner of the property to identify the subject property.

(5) After deduction of the reasonable costs of storage, advertising, and sale, any proceeds from the sale not claimed by the person(s) having an interest in the sale proceeds shall, not later than 30 days after the date of said sale, be remitted to the State Treasurer for disposition pursuant to the Uniform Disposition of Unclaimed Property Act.

(6) Nothing in this section shall be construed to prevent the property owner from bidding on the property which is subject to sale. The successful bidder's title shall be subject to the ownership rights, liens, and security interests, if any, which have priority by law.
(Am. Ord. 1894, passed 7-27-09)

§ 94.32 JURISDICTION.

The Mayor and Police Department are directed to enforce this municipal code against all nuisances. The jurisdiction of the Mayor, Police Department, and court shall extend to and the territorial application of this chapter shall include all territory adjacent to the limits of the city within one mile thereof and all territory within the corporate limits.

Statutory reference:

Zoning jurisdiction, see Neb. RS 17-1001

§ 94.33 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. RS 19-710)

§ 94.34 DEAD OR DISEASED TREES.

(A) It is hereby declared a nuisance for a property owner to permit, allow, or maintain any dead or diseased trees within the right-of-way of streets within the corporate limits of the city.

(B) It is hereby declared a nuisance for a property owner to permit, allow, or maintain any dead or diseased trees on private property within the corporate limits of the city. For the purpose of carrying out the provisions of this section, the Police Department shall have the authority to enter upon private property to inspect the trees thereon.

(C) Notice to abate and remove such a nuisance and notice of the right to a hearing and the manner in which it may be requested shall be given to each owner or owner's duly authorized agent and to the occupant, if any, by personal service or certified mail. Within 30 days after the receipt of this notice, if the owner or occupant of the lot or piece of ground does not request a hearing or fails to comply with the order to abate and remove the nuisance, the city may have the work done and may levy and assess all or any portion of the costs and expenses of the work upon the lot or piece of ground so benefitted in the same manner as other special taxes for improvements are levied or assessed.

§ 94.35 NOXIOUS ODORS; UNCLEAN PREMISES.

It shall be unlawful for any person to permit to be emitted from any premises, including buildings, structures and grounds, owned, leased or otherwise controlled by such person within the city, any noxious, noisome or offensive exhalations, odors, smells or fumes which are injurious or dangerous to the health, comfort or property of any persons within the city, or to permit any such premises to be or become unclean, nauseous, foul or offensive, to the injury of or danger to the health, comfort or property of any persons within the city. Each day that such a violation continues shall constitute a separate offense. Any act of omission prohibited by this section shall constitute a nuisance.

(Prior Code, § 6-1-23) (Ord. 1170, passed 7-23-79) Penalty, see § 10.99

§ 94.36 ABANDONED REFRIGERATORS AND CONTAINERS.

It shall be unlawful for any person to leave or permit to remain outside of any dwelling, building, or other structure, or within any abandoned building, structure or dwelling under his or her control, any abandoned, unattended or discarded ice box, refrigerator or similar appliance or any other container which has a door or lid, snap lock or other locking device which may not be released from the inside of the ice box, refrigerator, similar appliance or other container, without either removing the door or lid from the ice box, refrigerator or similar appliance or other container, or affixing a lock thereon so that the same cannot be opened without the key and, further, keeping the same locked when unattended.

(Prior Code, § 6-6-1) (Ord. 647, passed 7-14-69) Penalty, see § 10.99

§ 94.37 PLASTIC BAGS; WARNING REQUIRED; NUISANCE.

(A) *Definition.* **PLASTIC COVERINGS, PLASTIC BAG, or PLASTIC PACKAGE.** Any covering, package or bag made of plastic material sufficiently thin and pliable to respond to static electricity created by contact with the human body to the extent that it clings to the human skin or body.

(Prior Code, § 6-7-1)

(B) *Warning required.* It shall be unlawful for any person to have in his or her possession, or to deliver as a cover or wrapper, any plastic bag that is of sufficient size to fit over a child's head, or any bag which, when open, has an opening larger than twenty 25 inches or a capacity of more than 125 cubic inches, unless there is at all times clearly printed on such bag or covering, or on a paper attached to such bag or covering, words in letters at least one-quarter inch high as follows: Warning: To avoid danger of suffocation keep this bag (or covering) away from babies and children. Do not use in cribs, beds, carriages or play pens. This is not a toy.

(Prior Code, § 6-7-2)

(C) *Certain bags a nuisance.* Any plastic bag, covering or package not carrying or accompanied by the printed warning as provided in division (B) is hereby declared a nuisance.

(Prior Code, § 6-7-3) Penalty, see § 10.99

CHAPTER 95: PUBLIC WAYS AND PROPERTY

Section

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GENERAL PROVISIONS

§ 95.01 NATURAL ACCUMULATIONS; DUTY OF OWNER TO REMOVE.

(A) It shall be unlawful for the occupant of any lot or the owner of any vacant lot within the corporate limits of the city to suffer snow, sleet, mud, ice or other substance to accumulate on the sidewalk contiguous thereto, or to permit any hard trodden snow, sleet, ice, mud or other substance to remain upon the sidewalk; but such sidewalk shall be cleaned within five hours after the cessation of the storm, unless the storm or fall of snow shall have taken place in the nighttime, in which case the sidewalk shall be cleaned before 8:30 a.m. the following day.

(Prior Code, § 9-3-1)

(B) (1) Notice to remove such substance shall be made upon the owner of the premises, or his or her agent, the notice to demand the removal of the substance forthwith. If the person owning or occupying such premises be unknown or cannot be found, or if any reasonable service cannot be had upon any such owner, within this city, then and in that case such service of the notice shall be made by posting a typewritten copy thereof in some conspicuous place on the premises; and in case the owner shall fail to remove the ice, snow, mud or other substance forthwith, then and in that case it shall be the duty of the Street Superintendent or other agent of the city to remove such substance, and the expense thereof shall be charged against the property and the owner thereof, and may be recovered by proper action in the name of the city or be chargeable against the property as a special assessment for improvements.

(2) In addition to the owners of any lot, or parcels of land being liable for the immediate removal of such snow, ice, sleet, mud or other substance from the walks or paths abutting their property, they may be charged upon complaint of the Street Superintendent, or other officer of the city, with committing an offense.

(Prior Code, § 9-3-2) Penalty, see § 10.99

§ 95.02 MERCHANDISE ON SIDEWALKS.

It shall be unlawful for any person to erect, maintain or suffer to remain on any street or public sidewalk or on any portion of the area between the lot line and the curb line of any street, any stand, wagon, merchandise, machinery or any other obstruction injurious to, inconvenient or inconsistent with the public use of the same; provided, that a reasonable time shall be allowed to remove goods, wares and merchandise being received and shipped.

(Prior Code, § 9-6-1) Penalty, see § 10.99

§ 95.03 RIDING OR DRIVING ON SIDEWALKS.

It is hereby declared unlawful for any person to ride, drive or permit to pass, any animal or motor vehicle, bicycle or motorcycle, or to coast with express wagons or any other kindred pedaled vehicles over, upon or across any sidewalk or sidewalk space between the lot line and the curb, parked plot or parking on or along any public street.

(Prior Code, § 9-6-2) Penalty, see § 10.99

§ 95.04 OVERHANGING BRANCHES.

(A) It shall be unlawful for the owner or occupant of any lot or parcel of ground within the city to allow the branches or limbs of any trees growing thereon to extend over any sidewalk, street or alley abutting or adjacent to the lot or parcel of ground below a height of eight feet from the ground. The owner or occupant of the lot or parcel of ground shall at all times keep the branches or limbs of the trees trimmed to the height of at least eight feet above the surface of the sidewalk, street or alley.

(B) Whenever the limbs or branches of any tree extends over the sidewalk, street or alley contrary to the provisions of this section so as to interfere with the convenience or safety of the public using the sidewalk, street or alley, it shall be the duty of the Street Superintendent or other appointive officer designated by the Mayor to notify in writing the owner or occupant whose lot or lands abut the sidewalk, street or alley to cut, trim and remove the limbs or branches, and if the limbs or branches are not cut, trimmed and removed within five days after the notice is given, the limbs and branches shall be cut, trimmed and removed at the expense of the city. The money thus expended shall be recovered by the city from the owner or occupant of aforesaid before any court of competent jurisdiction, or shall be assessed as a special tax upon the property owner and be collected as a special tax assessment.

(Prior Code, § 9-6-3) (Ord. 467, passed 8-18-64)

(C) Branches of trees, whether the tree is a street tree or is on private property abutting the right-of-way of a public street or alley, shall be kept pruned in such manner as not to obstruct light from any street light on the street, or the view from any street intersection on the part of the operator of a vehicle approaching the intersection. Branches overhanging the sidewalk, a portion of the street used by vehicles, or an alley shall be kept pruned to a height not less than ten feet above the surface of the sidewalk, and not less than 12 feet above the surface of such portion of the street and of alleys. Any tree which, because of an unsafe condition is hazardous to persons or property on a sidewalk or portion of a street used by vehicles; any tree which by its nature is injurious to utility, sewer, water or gas lines or other public improvements situated within the right-of-way of a street or alley; and any tree, whether a street tree or a tree situated on private property, which is affected by any injurious insect, disease, dead or dying shall be removed. Any branches referred to herein above which are not pruned as herein above provided, and any trees referred to in the immediately preceding sentence, are hereby declared to be a public nuisance.

(Prior Code, § 2-4-6(4)(A))

(D) It shall be the duty of any person who owns, occupies or has the control or management of any lot or tract of land on which is situated, or which abuts a portion of the right-of-way of a public street or alley on which is situated, a tree having branches referred to in § 97.04(A), to cause all such branches to be pruned as required in such section, or any tree that is unsafe or injurious or affected by an insect or disease, dead or dying as provided in such section, to cause such tree to be removed. (Prior Code, § 2-4-6(4)(B)) (Ord. 1417, passed 10-24-89) Penalty, see § 10.99

§ 95.05 BASEMENT ENTRANCES; OUTSIDE STAIRWAYS.

It shall be unlawful for any person to construct, maintain or suffer to remain any cellarway, window, door area, basement entrance or outside stairway in, through, over or upon any sidewalk, pavement, street or alley within the corporate limits. (Prior Code, § 9-6-4) Penalty, see § 10.99

§ 95.06 AWNINGS.

All awnings hereafter erected or suffered to remain in the sidewalk space shall be of canvas on iron frames. All awnings shall be elevated at least six and one half feet at their lowest part from the top of the public sidewalk and shall not project over the sidewalk to exceed three-fourths of the width thereof. They shall be supported without posts by iron brackets or by an iron framework attached firmly to the building, so as to leave the sidewalk wholly unobstructed thereby; provided, nothing herein shall be construed to prevent the owner of any building from constructing a substantial awning or marquee of noncombustible material supported without posts over the sidewalk space if located flush with the outer edge thereof and if permission in writing shall have first been secured from the Mayor and Council. (Prior Code, § 9-6-5) Penalty, see § 10.99

§ 95.07 UTILITY RIGHT-OF-WAY; REQUIREMENTS.

(A) Poles, wires, gas mains, pipe lines and other appurtenances of public service companies shall be erected or located over, upon or under the streets, alleys and common grounds, or elsewhere, within the corporate limits of this city, only after application shall have been made to the Committee on Streets and Alleys thereof and permission in writing shall have been given by the Mayor and Council so to do. Public service companies heretofore or hereafter granted right-of-way for the erection and maintenance of poles, conduits, gas mains, pipe lines, and wires, and all appurtenances thereto, for the purpose of transacting their business upon, under and over the streets, alleys and public grounds of the city shall at all times, when requested by the Mayor and Council, erect, locate or relocate their poles, wires, gas mains, pipe lines and other appurtenances to such places and in such manner as designated by the Mayor and Council of the city. Such poles, wires, gas mains, pipe lines and other appurtenances shall be removed or relocated by the companies at their own expense when requested to do so by the Mayor and Council.

(B) Whenever it becomes necessary for the Mayor and Council to use the ground where the poles, wires, gas mains, pipe lines and other appurtenances are located, or whenever reasonable means of ingress or egress to private or public property or the public safety or convenience requires the relocation of the poles, wires, gas mains, pipe lines or other appurtenances of public service companies which now occupy any portion of the public street or alley from lot line to lot line, the Mayor and Council shall notify the company and the company shall, within 24 hours after receiving the notice, at their own expense, cause the poles, wires, gas mains, pipe lines or other appurtenances to be removed. The Mayor and Council of this city shall designate some place as close as possible where the poles, wires, gas mains, pipe lines and/or other appurtenances may be reset or placed.

(C) All poles, wires, gas mains, pipe lines and/or other appurtenances shall be erected in such a manner that they will not interfere with the light system or water system of the city located on the same street or alley, or with the travel through the streets and alleys of the city, or with the buildings now erected or which may be hereafter erected. When permitted, such pole lines, wires, gas mains, pipe lines and/or other appurtenances shall be confined to the alleys, where possible.

(Prior Code, § 9-7-1) Penalty, see § 10.99

§ 95.08 FENCES.

No fence shall be erected in the area between the abutting lot line and the curb line of any public street without first obtaining a permit granted by the city upon an application in writing. Such permits shall be granted on the conditions that the owner of the fence or the lot abutting the street shall remove the fence whenever ordered to do so by the City Engineer, and that in the event the owner does not comply with such order the city may remove the fence without liability of any nature, kind or description to the owner.

(Prior Code, § 9-8-1) Penalty, see § 10.99

STREETS

§ 95.20 MAINTENANCE; NUMBERING.

The Mayor and Council may, by resolution, order the grading, draining, or ditching of streets within the corporate limits of this city whenever deemed necessary and tax the cost thereof to the general fund or road fund. All streets within the corporate limits of this city shall be designated by appropriate name or number.

(Prior Code, § 9-2-1)

§ 95.21 OPENING; IMPROVING; VACATING.

The Mayor and Council, whenever a majority of the Council may deem it necessary, may open, widen or otherwise improve or vacate any street, avenue, alley or lane, or otherwise create, open and improve any new street, avenue, alley or lane within the corporate limits of this city in accordance with procedure established by law.

(Prior Code, § 9-2-2)

§ 95.22 PAVING; PROTECTION; STREET SIGNS.

No person shall remove, destroy or tear down any barricade, fence, railing or other device erected or constructed for the purpose of protecting paving or any other work while in the course of construction or after it has been constructed on any of the streets, alleys or public grounds of the city. 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 of the city while the same is protected by any barrier, fence or railing, or until such barrier, fence or railing has been removed by the contractors having such work in charge, or by the duly authorized officials of the city. It is hereby declared to be unlawful for any person to mark, deface, destroy, remove or carry away any street sign or highway marker erected either by authority of the city or by the state within the corporate limits of the city.

(Prior Code, § 9-2-3) Penalty, see § 10.99

§ 95.23 CURB; DRIVING OVER PROHIBITED.

It shall hereafter be unlawful for any person to drive, propel or haul any truck, tractor, or other vehicle over any curb in any street or alley within the corporate limits.

(Prior Code, § 9-2-4)

§ 95.24 EXCAVATIONS; PERMIT REQUIRED.

It shall be unlawful for any person to make any cut or excavation in or upon any paved street or alley in this city without having received a permit in writing from the Public Works Director; provided, no such permit shall be granted except upon the written application of the party desiring the same, which application shall have the written approval of the Public Works Director endorsed thereon, shall specify the location of the proposed cut or excavation, the superficial area of the surface to be displaced and an estimate of time required for the completion of the work, and the permit shall be limited to the facts stated in the application. No person shall cut down, remove or tear away any sidewalk or curb abutting premises owned or occupied by him or her unless he or she shall likewise receive a written permit from the Public Works Director with the written approval of the Public Works Director endorsed thereon; and such permit shall include a written condition to the effect that such person shall replace or restore the curb at any time upon order of the Public Works Director. Before any permit is issued by the Public Works Director, the applicant shall deposit with the Treasurer a sum as set by the City Council per square foot for all paving, curb or sidewalk to be cut. The deposit shall be retained by the Treasurer until

the Engineer certifies to the Treasurer the fact that the curb, sidewalk or paving has been replaced in a workmanlike manner by the applicant; whereupon the deposit shall be returned to the applicant, otherwise as much thereof as necessary shall be retained by city to reimburse it for the cost of replacing the curb, sidewalk or paving in a satisfactory manner.

(Prior Code, § 9-2-5) Penalty, see § 10.99

§ 95.25 BARRICADES AND LIGHTS.

It shall be the duty of the owner, tenant, lessee or contractor, during the construction of any building or improvement upon or near the line of any public street, highway, alley, or sidewalk, to have all excavations or exposures of any kind protected and guarded by suitable guards or barricades by day, and by warning red lights at night. In case of the failure, neglect, or refusal of the persons, to erect such guards and keep the street, highway, or sidewalk well and securely guarded, it shall be lawful for the Street Superintendent or any police officer of the city forthwith to stop all work upon the building and improvements until the guards are erected and kept in the manner aforesaid.

(Prior Code, § 9-2-6) Penalty, see § 10.99

§ 95.26 HOUSE NUMBERING.

The houses and buildings situated within the corporate limits of the city shall be numbered, as follows: beginning with "K" Street in the city, 100 numbers shall be set apart for each and every block on all streets north therefrom, beginning with 1,000 in the first block on all of the streets; provided however, that five units shall be allowed and reserved for each lot of 50 feet, or parcel of land of 50 feet; and provided further that all odd numbers shall be given to the buildings on the west side of the streets, and all even numbers shall be given to the buildings on the east side of the streets. Beginning with "5th" Street 100 numbers shall be set apart for each and every block on all streets west thereof commencing with 500 in the first block on all of the streets; provided however, that five units shall be allowed and reserved for each lot of 50 feet or parcel of land of 50 feet, and provided further, that all odd numbers shall be given to the buildings on the south side of the streets, and all even numbers shall be given to the buildings on the north side of the streets. It shall be the duty of the Engineer to designate the correct number of any house or building when applied to for the same. Property owners shall number, cause to be numbered and keep numbered such houses or buildings as they may own in this city, using figures of substantial materials, not less than three inches in height; and the numbers shall be placed in a conspicuous place on the side of or above the front door of the house or building to which the same is attached.

(Prior Code, § 9-2-8) Penalty, see § 10.99

§ 95.27 RAILROAD GRADE CROSSINGS.

(A) Railroad grade crossings shall conform to the general grade of Tenth Street, Seventh Street and Country Club Road. The grade shall be established by surveying the grade elevation at the crown of the road of the intersecting street for a minimum distance of 100 feet on both sides of the railroad tracks,

but not including the railroad right-of-way portions for determining elevation, and determining the mean elevation. The grade for the intersecting railroad tracks shall be consistent with the mean grade of the intersecting street and approved by the city.

(B) If the railroad tracks are not level because of curve banking, the grade and design shall conform with the Nebraska Department of Roads, Roadway Design Manual, latest edition, for the existing motor vehicle traffic speed and approved by the city.

(C) Railroad grades shall not be raised to an elevation greater than they exist at the time of the approval of this section. A no-fee permit from the city is required for any construction on the railroad crossings. Applications for a permit must be accompanied by plans and profile of the grade crossing for 100 feet each side of the railroad tracks; geometric alignments; a reference to the design standard in the Nebraska Department of Roads, Roadway Design Manual, latest edition, used to design the crossing. (Prior Code, § 9-2-9) (Ord. 1669, passed 8-28-00)

SIDEWALKS; CURBS

§ 95.40 PROPERTY OWNERS; DUTY.

The owner of any lot, or pieces of land within the corporate limits of this city shall at all times keep and maintain the sidewalks along and contiguous to the lot, or pieces of land, as the case may be, in good and proper repair, and in condition reasonably safe for all travelers thereon, and in case the owner of any lot, or land abutting on any street or avenue or part thereof shall fail to construct or repair any sidewalk in front of his or her lot or land within the time and in the manner as directed and required by this subchapter, after having received due notice to do so, they shall be liable for all damages or injury occasioned by reason of the defective or dangerous condition of any sidewalk, and the Mayor and Council shall have the power to cause such sidewalks to be constructed or repaired and assess the costs thereof against such property. All sidewalks and curbs hereafter erected within the city shall be constructed in accordance with plans and specifications thereof, prepared by the City Engineer, and now on file in the office of the Clerk, except as herein after specifically provided. All persons hereafter desiring to erect sidewalks or curbs shall, at their own expense, procure and cause the Engineer to establish the grade of such sidewalk or curb, and to indicate the same by stakes, and the whole work or constructing such sidewalk or curb shall be under the supervision of the Engineer. In the event any person constructs or attempts to construct sidewalks or curbs not in accordance with this subchapter or with these specifications, the Engineer shall have the authority to order such work stopped, and to order that the work already done shall be changed to conform to legal requirements. (Prior Code, § 9-1-1)

§ 95.41 NEW SIDEWALK; NOTICE.

(A) Whenever three-fourths of the Council shall deem it necessary that a sidewalk should be constructed, reconstructed, repaired, or widened in front of any lot or piece of ground in the city in a place where there is no sidewalk, they shall so order by resolution and the Street Superintendent or other agent of the Council shall thereupon serve on the owner of such lot or piece of ground, or his or her agent, a copy of the resolution, which shall be substantially in form as follows:

“RESOLUTION

Gering, Nebraska

_____, 20

Be It Resolved by the Mayor and Council of the City of Gering, Nebraska:

1. That a sidewalk be within 30 days from and after the service or publication of the within resolution constructed (reconstructed, repaired, widened) and laid to the established grade on the side of _____ Street in the City of Gering, Scotts Bluff County, Nebraska, adjoining the following described premises, to-wit:

in accordance with the following specifications, to-wit:

under the supervision of the Mayor and Council of the City of Gering, Scotts Bluff County, Nebraska, its City Engineer or other agent, and in accordance with the provisions of §§ 95.40 through 95.54.

2. That in the event of the failure of the owner or his or her agent to have such walk constructed (reconstructed, repaired, widened), the Mayor and Council of the city will cause the same to be constructed (reconstructed, repaired, widened) and the entire cost of construction thereof will be taxed as a special assessment against the within described premises as provided by law.

3. The City Engineer's estimate for the construction of the work of improvement is Dollars.

Attest:

Mayor

Gering - General Regulations

City Clerk

(SEAL)”

RETURN**I**

“I (or we), the undersigned owner or owners of the within described premises, acknowledge receipt of a copy of the within resolution.

Dated at _____, this _____, day of _____, 20____,

” or

II

“State of Nebraska,)
County of Scotts Bluff)

I, _____, City Engineer, or _____ of the City of Gering, Scotts Bluff County, Nebraska, hereby certify that I served a copy of the within resolution on by delivering to _____ personally a true and correct copy of the within resolution with all the endorsements thereon on the _____ day of _____, 20____.

_____”

(B) If the owner of such lot or piece of ground, or his or her agent, be a resident of the city, personal service of the resolution on the owner or his or her agent shall be deemed sufficient notice. If the owner or his or her agent be a nonresident of the city, or if a resident thereof and cannot be found, or if the Council shall elect to serve notice on the owner or his or her agent by publication, the Clerk shall cause a copy of the resolution to be addressed to “_____,” legal owners of the following described property; “_____,” to be published in a legal newspaper, designated by the Mayor and Council, and of general circulation in the city, one publication. The publisher of such legal newspaper, or his or her agent, shall file with the Clerk an affidavit of the publication of the resolution as soon as the publication herein required is completed. Such publication shall be deemed good and sufficient notice to the owners of property, resident or nonresident, in front of, abutting, or adjacent to which the sidewalk is to be constructed (reconstructed, repaired, widened). The affidavit of the printer or his or her agent shall be prima facie evidence of the publication herein required and shall be preserved and made a part of the records of the city.

(Prior Code, § 9-1-2)

§ 95.42 RECONSTRUCTION; NOTICE.

When three-fourths of the Council shall deem it necessary that an old sidewalk be replaced or reconstructed, it shall order the same to be done and the Street Superintendent or other agent of the city shall give notice in the manner and form as provided in § 95.41, to replace or reconstruct the same within 30 days from and after such notice; provided, however, that if three-fifths of the resident owners of property, subject to the assessment of such sidewalk improvements, shall petition the Council to make the same, the Council shall have no discretion in the matter, but shall order the improvements to be made as by the statutes of this state provided, without delay.

(Prior Code, § 9-1-3)

§ 95.43 REPAIRING SIDEWALK; NOTICE.

Whenever the Engineer or Street Superintendent shall deem it necessary that any sidewalk be repaired, or it shall be required by the Council or other agent of the Council, he or she shall notify the owner of the lot or piece of land along and contiguous to which such sidewalk is situated, to repair the same within 24 hours from and after the giving of such notice; provided, that oral notice to the owner shall be deemed sufficient. If the owner cannot be found by the Engineer or Street Superintendent, then a written notice left in the house situated on such lot or piece of ground or posted upon the premises shall be sufficient and the 24 hours shall begin to run from the leaving or posting of such notice as the case may be. The 24-hour notice shall apply for emergency situations only.

(Prior Code, § 9-1-4)

§ 95.44 FAILURE TO CONSTRUCT.

If any such owner whose duty it is to construct, rebuild, or repair such walk shall neglect or refuse, or shall have failed after notice shall have been given as provided in this subchapter, to construct, replace, reconstruct, or repair any sidewalk within the time limited in the notice given in such cases, then the Engineer, Street Superintendent or other officer empowered herein to act shall proceed at once without further notice against such owner or person to have such sidewalk constructed, repaired, reconstructed or rebuilt, as the case may be, by the persons who have agreed with the Council to perform the work and furnish all necessary materials therefor in accordance with § 95.45 and the expense of such work shall be assessed to such lot or parcel of land, and collected as provided by law.

(Prior Code, § 9-1-5)

§ 95.45 CONTRACTS.

At the first regular meeting, or at any regular or special meeting of the Mayor and Council in each municipal year, or at any regular or special meeting thereafter, the Clerk shall be instructed to advertise for bids to perform all work and furnish material necessary for laying such sidewalks within the corporate limits as the Mayor and Council may order from time to time laid during the current municipal year. The work shall be performed and material furnished strictly in accordance with the

terms and provisions of this subchapter. The contractor shall, unless otherwise ordered by the Council, receive his or her compensation for such work and material from the assessments against the real estate in front of which the work is done, and shall accept in full payment thereof city warrants issued against such assessments. The contract for laying all sidewalks ordered by the Mayor and Council during the municipal year shall be let by the Council to the lowest bidder, after advertising for such bids for ten days in a legal newspaper of general circulation in the city. The Council reserves the right to reject any and all bids. The Engineer or other agent of the Council shall, before letting the contract, make an estimate of the cost of the work and no contract for a sum in excess of the estimate shall be made. The notice shall require bids per square foot for sidewalks constructed of concrete, including the performance of work and the furnishing of materials; provided, however, where the work of sidewalk improvement does not exceed \$20,000 in cost, advertisement for bids may be dispensed with and the Mayor and Council may let sidewalk contracts to any person bidding within the amount of the estimate of the Engineer.

(Prior Code, § 9-1-6)

§ 95.46 MATERIALS.

All sidewalks and curbs on either side of the streets and avenues of this city, in front of or along any lot, or lands abutting upon the same, which shall be hereafter constructed, reconstructed or replaced, shall be of concrete stone, brick, asphalt, or approved hard surface. No person shall construct, reconstruct, or replace any sidewalk or curb of any other material within the limits of this city. Whenever any person shall desire to construct or repair any sidewalk or curb, he or she shall secure a permit from the Public Works Director before such work shall be undertaken.

(Prior Code, § 9-1-7) Penalty, see § 10.99

§ 95.47 PARKING; LOT LINES.

Hereafter, there shall be reserved on each side of every street in the residence section outside the "fire limits" in the city for sidewalks and the cultivation of trees and grass, such space as the Mayor and Council by resolution or ordinance shall fix, taking into consideration the matter of uniformity with respect to sidewalks and curbs in same and in adjoining blocks. No park space shall be cultivated and no plantings shall be made therein by any property owner or his or her agent, without the written permission of the Engineer, approved by action of the Mayor and Council pursuant to written application of the property owner.

(Prior Code, § 9-1-8) Penalty, see § 10.99

§ 95.48 NONCONFORMANCE; POWER OF CITY.

In case any lot owner or the owners of a piece of land within the corporate limits, under notice given or otherwise, shall construct a sidewalk in violation of this subchapter, the Public Works Director or the officer in charge of streets and highways may stop the work such construction and order the same to be constructed in accordance with this subchapter, and the work already done to be changed,

and on the failure of such owner to change any such work, the Public Works Director, Street Superintendent or other officer shall forthwith change such work, and the expense of same shall be assessed and taxed to the lot as a special assessment and collected as if taxed, as provided by law.

(Prior Code, § 9-1-9)

§ 95.49 ASSESSMENT SHEETS.

The Public Works Director shall certify to the Council a detailed schedule of all walks laid, widened or rebuilt and the cost of same against each lot or piece of ground, and such other facts as may be necessary to enable it to make the proper levy; and shall also certify to the Council the acceptance of any walk so improved, or what other action he or she has taken with reference to the walk. The Public Works Director with the aid of the Street Superintendent, and the Committee on Public Works Director shall allocate the cost of sidewalk improvement to the adjoining lots or parcels of land and prepare all necessary data for assessment sheets.

(Prior Code, § 9-1-10)

§ 95.50 SPECIAL ASSESSMENTS.

In case of corner lots, such lots shall not be charged with the costs of so much additional walk as was required to be laid for the intersection of the walks abutting the frontage of such lots, but all walks beyond the outer edge of the sidewalk line shall be laid at the cost of the city. The cost of construction, widening, repairing, or rebuilding any sidewalks shall be levied by resolution, upon the lot or parcel of ground fronting and adjoining which such sidewalks are laid, widened, repaired, or rebuilt, which resolution shall specify the street upon which such walk had been so constructed, widened, repaired, or rebuilt, and the length and width of each walk constructed, widened, repaired, or rebuilt fronting on any lot or piece of ground. Such assessment shall be made by the Council, sitting as a Board of Equalization, at a special meeting by resolution, fixing the valuation of the lots assessed, taking into account the benefits derived or injuries sustained in consequence of such improvement, and the amount charged against the same, which, with the vote thereon, by “yeas” and “nays” shall be spread upon the minutes. Notice of the time and place of holding such meeting and the purpose for which it is to be held shall be published in a legal newspaper published or of general circulation in the city, at least four weeks before the same shall be held or in lieu thereof, personal service may be made upon the person owning the property to be assessed. All such assessments shall be known as “Special Assessments for Improvement” and shall be levied and collected as a separate tax in addition to the tax for general purposes, to be placed upon the tax roll for collection, subject to the same penalties and collected in like manner as other city taxes. Whenever any such special tax is levied, the Clerk shall forthwith deliver a certified copy of such resolution to the County Clerk who shall place the same on the tax list to be collected by law as in such cases made and provided.

(Prior Code, § 9-1-11)

§ 95.51 UNIFORMITY REQUIRED.

All sidewalks in the “fire limits” shall be laid with the inner edges thereof plumb with the lot line and of such width as the Mayor and Council shall, by resolution, from time to time, fix. All other sidewalks within the city shall be at least five feet in width and the inner edge of the walk shall be placed at such distance from the lot line as the Mayor and Council by resolution, shall, from time to time, fix; provided, however, nothing herein shall be construed to apply to walks along public buildings outside the “fire limits” which may be ordered by the Mayor and Council to be constructed of greater width, and provided further, where sidewalks are hereafter constructed outside the “fire limits” adjoining sidewalks previously put in place and not in accordance with the requirements of this section, the Public Works Director in his or her discretion, may authorize the placing of such new sidewalks so as to conform insofar as possible with previous structures; and the Public Works Director is hereby vested with authority to waive the requirements of this section and to direct the width and location of sidewalks in such manner as he or she may deem feasible to secure uniformity as to sidewalks in the same block.

(Prior Code, § 9-1-12)

§ 95.52 CONSTRUCTION REGULATIONS.

All sidewalks and curbs or combination curb and gutter hereafter constructed in the city shall be composed of concrete or artificial stone, and shall be composed and constructed as follows: In the construction of all concrete walks, the surface of the ground shall be reduced to the proper grade and solidly tamped so as to give the walk when finished a slope toward the abutting street of one inch, if possible, to every four feet in width. In this, a foundation not less than four inches thick shall be laid, which shall be evenly and smoothly troweled. All cement walks shall be laid with a cutoff in at least every 50 feet of walk by inserting a strip of wood or an asphalt expansion joint, one-half inch thick extending through to the ground. One-course cement construction in building sidewalks shall only be permitted and allowed.

(Prior Code, § 9-1-13)

§ 95.53 CURBS; SPECIFICATIONS.

All curbs in the corporate limits, until established curb lines shall have been run and adopted by action of the Council shall be constructed with the inner edges thereof at such distance from the lot line as the Public Works Director shall fix in the permit for their construction, as this subchapter required; provided, whenever paving districts shall hereafter be created, the curbs on such streets included therein shall be constructed at such distance from the lot line as the plans and specifications for such street improvement indicate. All curbs, combination curbs and gutters and sidewalks hereafter constructed shall be placed on lines established by and at the elevations provided in such official table of grades as may hereafter be provided for and adopted by the Council; provided, that in all cases where curbs on unpaved streets are to be erected adjoining curbs previously put in place, and not in accordance with the requirements of this section, the Public Works Director, in his or her discretion, may authorize the placing of such new curbs so as to conform in the best possible manner to previous

structures, and the Public Works Director shall have authority to waive the requirements of this section and to direct the location of curbs in such manner as he or she may deem feasible.

(Prior Code, § 9-1-14)

§ 95.54 SUPERVISION OF CONSTRUCTION.

The construction of all sidewalks and curbs shall be in accordance with plans and specifications prepared by the Engineer and their construction shall be supervised by and under the control of the Engineer, Street Superintendent and/or Committee on Public Works Director. It shall be unlawful to construct any sidewalk or curb until stakes have been set for line and grade by the Engineer.

(Prior Code, § 9-1-15) Penalty, see § 10.99

CHAPTER 96: ANIMALS

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GENERAL PROVISIONS**§ 96.01 DEFINITION.**

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

DOG. Shall apply to both male and female dogs of all ages.
(Prior Code, § 6-2-1)

§ 96.02 OWNERSHIP OF DOGS.

Any person who shall harbor or permit any dog to be for ten days or more, or let the same habitually remain and be fed for the period of ten days or more in or about his or her house, store, or enclosure shall be deemed the owner of such dog, and shall be liable to the penalties prescribed for the violation of this chapter.

(Prior Code, § 6-2-2) (Ord. 312, passed 1-5-50)

§ 96.03 CONTROL OF DOGS.

(A) Any dog, while on a street, sidewalk, public way, park, or other public space shall be secured by a leash or chain of not more than six feet in length and sufficient tensile strength to restrain the dog.

(B) All owners of any dog shall exercise care and control of such animal necessary to prevent the same from becoming a public nuisance and to prevent the same from entering upon any private property without the consent of the owner or occupant of the property.

(Prior Code, § 6-2-3.1) (Ord. 1685, passed 7-23-01; Am. Ord. 1852, passed 7-9-07)

§ 96.04 RUNNING AT LARGE.

(A) All persons possessing, harboring or having the care, custody or control of any animal within the city, shall at all times, keep such animal confined within an enclosure, or secured by tying or on a leash and shall not allow the animal to run loose. Upon conviction of violation of this section, it shall be the duty of the court to assess a fine of at least \$10 for the first offense within a 12-month period; a minimum fine of at least \$25 for a second offense within a 12-month period; and a minimum fine of at least \$50 for a third and subsequent offenses within a 12-month period.

(Prior Code, § 6-2-8) (Ord. 1188, passed 2-11-80; Am. Ord. 1852, passed 7-9-07)

(B) The owner or owners of any dog or dogs shall be liable for any and all damages that may accrue to any person not in the act of a crime, by reason of having been bitten by any such dog or dogs, and to any person, firm or corporation by reason of such dog or dogs killing, wounding, or chasing any person or persons, or any sheep or other domestic animals belonging to or cared for by any such person, firm, or corporation. Such damage may be recovered in any court having jurisdiction of the amount claimed. If two or more dogs owned by different persons shall kill, wound, chase, or worry any sheep or other domestic animal, such person shall be jointly and severally liable for all damage done by such dogs. Nothing in this chapter shall be construed to impose any liability upon the city, its officers, agents or employees, for any damages to persons or property caused by any dog or its owner.

(Prior Code, § 6-2-3) (Ord. 1685, passed 7-23-01)

§ 96.05 LIVESTOCK; FOWL RUNNING AT LARGE.

(A) The running at large or herding of horses, mules, cattle, hogs, sheep or goats upon the streets, avenues, alleys, parks or public grounds within the corporate limits of this city; or the picketing, lariatting, tying, or securing by a rope or otherwise, of any animal upon any public street, alley, park, railroad right-of-way, private grounds of another, or vacant lot without the consent of the owner thereof, or the herding or running at large of any such animals upon open grounds within the city, is hereby prohibited and declared to be a nuisance.

(Prior Code, § 6-3-1)

(B) It shall be unlawful for the owner or keeper of chickens, ducks, geese, turkeys, guinea fowls, or any other fowls to permit the same to run at large within the corporate limits of the city at any time.

(Prior Code, § 6-3-2) Penalty, see § 10.99

§ 96.06 DOGS OR CATS IN HEAT.

The owner of any female dog or cat in heat shall keep that dog or cat confined in such a manner that such animal cannot come into contact with any other animal except for planned breeding purposes. The owner of any female dog or cat that permits such dog or cat to run at large while in heat shall be deemed guilty of an offense. The Chief of Police or other officer designated by the Mayor and Council is hereby authorized to apprehend and confine such dog or cat if found running at large in such condition.

(Prior Code, § 6-2-4) Penalty, see § 10.99

§ 96.07 DOG AND CAT TAX; TAG.

(A) Every possessor of a dog or cat in this city shall pay to the agent designated by the Mayor and Council as a dog and cat tax, the following annual fee:

- (1) A neutered or spayed animal: \$5.
- (2) Any unneutered or unspayed animal: \$10.

(B) The dog and cat tax shall be an annual fee. The dog and cat taxes shall be collected on an annual basis and shall expire one year from the date of issue. No owner of a spayed female dog or cat or neutered male dog or cat shall be entitled to pay the tax assessed against such animal aforesaid, unless he or she shall exhibit to the City Clerk or other officer designated for that purpose, a sworn certificate by a veterinarian surgeon, duly licensed and practicing in the state, to the effect that the dog or cat has been properly spayed or neutered; provided, further, that each person so paying shall have a metallic tag attached to the collar of the dog or cat showing the number and no dog or cat shall be permitted to roam at large without such tag being affixed to the collar worn by such animal; such tag shall be furnished by the city or its designated agent; and provided further, that the possessor of any animal brought into or harbored within the corporate limits of the city shall be liable for a dog or cat tax levy provided for herein.

(C) A 10% discount of the animal tax may be given to the owner of any animal covered by this section upon verification with a photo identification indicating the purchaser is 60 years of age or older.

(D) No license tax may be charged for certain dog guides, hearing and aid dogs, and service dogs.
(Neb. RS 54-603)
(Prior Code, § 6-2-5) (Ord. 1599, passed 1-12-98) Penalty, see § 10.99

§ 96.08 DOGS; BARKING.

It shall be unlawful for any person who is the owner of a dog to permit, suffer or allow any dog to bark continually or repeatedly with such frequency and volume that such barking shall disturb the peace and quiet of any other person within the city. Such barking of such dog is hereby declared to be a nuisance.

(Prior Code, § 6-2-15) (Ord. 1389, passed 6-13-88) Penalty, see § 10.99

§ 96.09 DOG FIGHTING PROHIBITED.

It shall be unlawful for any person or persons within the city to set dogs to fighting by agreement or otherwise, or in any manner to urge, forward or encourage the same.

(Prior Code, § 6-2-16) Penalty, see § 10.99

§ 96.10 DOG KENNELS.

(A) *License required.* No person shall conduct a dog kennel within the city without first having secured a license therefor in accordance with the provisions of this section; and when so licensed, such person shall operate such dog kennel only during the term of the license.

(B) *Application.* An application for a license to operate a dog kennel shall be made to the City Clerk by the owner or operator of the kennel. The application shall state the name of the person desiring to operate the kennel, the kind of breed, the number of dogs to be kept, the location of the kennel and such additional information as may be required by the Clerk. No license shall be issued until the Clerk has ascertained that the location of the kennel complies with applicable zoning regulations.

(C) *Term.* Such license, if granted, shall remain in effect, unless revoked, for a period of one year from the date of issuance.

(D) *Regulations; general.* For the purpose of regulating the operation and conduct of dog kennels with the city, the following rules are hereby established:

(1) All dogs shall be kept clean and sanitary at all times;

(2) All kennels shall be thoroughly disinfected with a recognized disinfectant, not less than every 30 days during the months of November, December, January, February, March and April and not less than every 15 days during the months of May, June, July, August, September and October; and

(3) All dogs kept in kennels shall, at all times, be securely penned up, except when in charge of the owner of the kennel or some employee thereof.

(E) *Definition.* For the purpose of this subchapter, a dog kennel shall be defined as an enclosure where dogs are kept for the purpose of sale or an enclosure where three or more dogs are confined for any purpose.

(Prior Code, § 6-2-17) Penalty, see § 10.99

§ 96.11 ABANDONMENT, NEGLECT AND CRUELTY.

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

ABANDON. To leave any animal in one's care, whether as owner or custodian, 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.

- (a) Any vertebrate member of the animal kingdom, except man.
- (b) The term shall not include an uncaptured wild creature.

BOVINE. A cow, an ox, or a bison.

CRUELLY MISTREAT. To knowingly and intentionally kill, maim, disfigure, torture, beat, mutilate, burn, scald, or otherwise set upon any animal.

CRUELLY NEGLECT. 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.

EQUINE. A horse, pony, donkey, mule, hinny, or llama.

HUMANE KILLING. The destruction of an animal by a method which causes the animal a minimum of pain and suffering.

LAW ENFORCEMENT OFFICER. Any member of the Nebraska State Patrol, any county or deputy sheriff, any member of the police force of the municipality, or any other public official authorized by the municipality to enforce state or local animal control laws, rules, regulations, or ordinances. **LAW ENFORCEMENT OFFICER** also includes any inspector under the Commercial Dog and Cat Operator Inspection Act to the extent that such inspector may exercise the authority of a law enforcement officer under Neb. RS 28-1012 while in the course of performing inspection activities under the Commercial Dog and Cat Operator Inspection Act.
(Neb. RS 28-1008)

(B) *Enforcement powers; immunity.*

(1) 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.

(2) 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.

(3) 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. RS 28-1012)

(C) *Violation.* A person who intentionally, knowingly, or recklessly abandons, cruelly mistreats, or cruelly neglects an animal is guilty of an offense.
(Neb. RS 28-1009) (Prior Code, § 6-3-3) Penalty, see § 10.99

§ 96.12 PROHIBITIONS AND DUTIES.

The definition of “owner” in § 96.30 shall apply to this section.

(A) No person shall aid or cause any animal whether owned by such person or not, to escape confinement or impoundment, whether such confinement or impoundment be upon such person's property or that of another, by opening any gate, door, window, or by making any opening in any fence, enclosure, or structure, or by unleashing the animal.

(B) It shall be prohibited for any person to permit or allow an animal owned by that person or under that person's custody or control to defecate upon public property, park property, public right-of-way, or the property of another, unless such person shall immediately thereafter clean up, remove and dispose of the feces so deposited.

(C) It shall be the duty of every person owning or having the custody or control of an animal to clean up, remove, and dispose of the feces deposited by such animal upon public property, park property, public right-of-way, or the property of another.

(D) No person, owning or having an animal under his or her control or within his or her care or custody, shall permit such animal to bark or make any loud or unusual noises during times when such owner knows or should expect that such noises will disturb one or more neighbors, or otherwise disturb the peace.

(E) It shall be prohibited for any person in any manner to interfere with any employee or designee of the city so as to hinder, delay or prevent his or her executing his or her duties pursuant to this subchapter.

(F) No person may set traps in the city for purpose of apprehending wild or domesticated animals. The section does not prohibit:

(1) Trapping mice, rats or other household vermin;

(2) The setting of traps to destroy moles and other underground pests so long as the traps used may be triggered only by subsurface action; or

(3) The setting of traps in the line of duty by an Animal Control Officer or with written permission from and under supervision of an Animal Control officer or with written permission from and under supervision of an Animal Control officer or licensed pest control operators.

(Ord. 1372, passed 8-24-87; Am. Ord. 1852, passed 7-9-07) Penalty, see § 10.99

Cross-reference:

Dangerous animals, see §§ 96.30 through 96.33

§ 96.13 EQUINE; BOVINE; PROHIBITED ACTS.

(A) (1) No person shall intentionally trip or cause to fall, or lasso or rope the legs of, any equine by any means for the purpose of entertainment, sport, practice, or contest.

(2) The intentional tripping or causing to fall, or lassoing or roping the legs of, any equine by any means for the purpose of entertainment, sport, practice, or contest shall not be considered a commonly accepted practice occurring in conjunction with sanctioned rodeos, animal racing, or pulling contests.

(B) (1) No person shall intentionally trip, cause to fall, or drag any bovine by its tail by any means for the purpose of entertainment, sport, practice, or contest.

(2) The intentional tripping, causing to fall, or dragging of any bovine by its tail by any means for the purpose of entertainment, sport, practice, or contest shall not be considered a commonly accepted practice occurring in conjunction with sanctioned rodeos, animal racing, or pulling contests.
(Neb. RS 28-1009.02, 28-1009.03, 28-1013.01, 28-1013.02) Penalty, see § 10.99

RABIES PREVENTION**§ 96.20 RABIES SHOTS.**

No dog or cat shall be licensed as provided in § 96.07 unless the owner or applicant thereof shall first provide satisfactory proof from the office of a veterinary surgeon, duly licensed and practicing in the state, to the effect that the dog or cat has been vaccinated for rabies and that such vaccine is regarded by such veterinary surgeon to be effective throughout the full licensing period sought by the applicant as described by Neb RS 71-4403.

(Prior Code, § 6-2-10) (Ord. 1340, passed 1-13-86) Penalty, see § 10.99

§ 96.21 DOGS SUSPECTED OF RABIES.

Any dogs suspected by the Animal Warden or any officer of the Police Department, of being affected with rabies, or any dog that has bitten any person, causing an abrasion of the skin of the person, and for which a valid certificate of rabies vaccination is not exhibited, shall be impounded by such officer, under the supervision of a veterinarian or public health authority designated by the City

Administrator, for a period of not less than ten days. Any dog that has bitten any person, causing an abrasion of the skin of the person, but for which a valid certificate of rabies vaccination is exhibited, shall be confined by the owner or some other responsible person as required by the Animal Warden or police officer for a period of not less than ten days. At the expiration of such period, the dog shall be examined by a veterinarian. If no symptoms of rabies then are observed by the veterinarian, the dog, upon payment of fees and charges, may be released; otherwise, the dog shall be destroyed. Fees shall be paid and, if the dog has not been licensed or a valid certificate of rabies vaccination is not exhibited, the person to whom the dog is to be released shall first make the necessary arrangements and obtain a valid license and a valid certificate of rabies vaccination prior to the release. In addition, the person shall either exhibit to the Animal Warden, a receipt from the veterinarian of payment in full of the charges of the veterinarian for his or her service in examining the dog or pay to the Animal Warden an amount equal to the charges made by the veterinarian.
(Prior Code, § 6-2-7.1) (Ord. 884, passed 4-28-75)

DANGEROUS ANIMALS

§ 96.30 DEFINITIONS.

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

DANGEROUS ANIMAL. Any animal which is not naturally tamed or gentle, or which is of a naturally wild disposition, or which is capable of inflicting serious injury upon or killing human beings and having known tendencies, individually or as a species, to do so, or which because of its size or other characteristics, would constitute a danger to human life or property if it is not kept or maintained in a safe manner or in secure quarters, including but not limited to the following animals which shall be deemed to be dangerous per se: bears, wolves, lions, tigers, panthers, bobcats, elephants, bison, poisonous snakes and spiders, alligators, crocodiles, anacondas, pythons, boa constrictors, and piranhas.

OWNER. Any person or persons, firm, association, or corporation owning, keeping, sheltering, harboring, or in immediate control of the property where an animal is kept or allowed to stay.
(Ord. 1372, passed 8-24-87)

§ 96.31 CONTROL OF DANGEROUS ANIMALS; DUTY OF OWNER.

(A) All persons owning or having custody of, or control over an animal or animals, whether licensed or unlicensed, which attack, bite or attempt to bite a person or persons, or domestic animals or fowl, or is dangerous, or chases, maims or kills domestic animals or fowl, are required to keep such animal or animals from running at large and from going into the streets and other public places within the city unless muzzled and on a leash, and shall keep such animal or animals under control and prevent such animal or animals from attacking or injuring persons lawfully on the premises of the owner.

(B) The City Administrator or his or her designee, upon being satisfied that there is a dangerous animal or animals at large, shall, if practicable, notify in writing the owner or person in control or in charge of such animal or animals to restrain the same from going at large and to control them on the premises of the owner and he or she may or may not at his or her discretion institute a prosecution for violation of division (A) occurring before such notice is given. The right of the City Administrator or his or her designee to prosecute for the violation of division (A) granted herein, shall not be exclusive. (Ord. 1372, passed 8-24-87)

§ 96.32 DESTRUCTION OF DANGEROUS ANIMALS; PROSECUTION OF OWNER.

If satisfied that an animal is dangerous and has without provocation actually bitten or attacked a person or a domestic animal or fowl, the City Administrator may, if the animal is found at large within the city, cause the animal to be destroyed without previous notice to the owner, or he or she may, if he or she sees fit, without killing the animal, notify the owner as provided in § 96.31(B) and prosecute the owner for violation of § 96.31(A). (Ord. 1372, passed 8-24-87)

§ 96.33 KEEPING DANGEROUS ANIMALS.

(A) Every person, firm or corporation owning, keeping, sheltering, or harboring a dangerous animal shall report such fact to the Animal Control Officer at the Police Department and to the City Administrator together with the following information:

- (1) The species name of each such animal.
- (2) The number of such animal of each such species kept on the premises.
- (3) A physical description of each such animal, including any pet name to which it might respond.
- (4) The location of such animal or animals within the city, including the location of the cage or place of confinement upon or in the premises wherein the animal or animals are kept.
- (5) In the case of poisonous dangerous animals, the location of the nearest source of anti-venom for that species.

(B) Every person, firm or corporation keeping, sheltering or harboring a dangerous animal shall at all times keep such animals securely confined within a cage or other enclosure.

(C) No person, firm or corporation owning, keeping, harboring, or sheltering a dangerous animal shall permit or allow such animal to enter upon or traverse any public property, park property, public right-of-way, or the property of another, except when such animal is being transported while caged or confined.

(D) In the event that a dangerous animal is found at large and unattended upon public property, park property, public right-of-way, or on the property of someone other than its owner, such animal may, in the discretion of the City Administrator or his or her designee, or the Chief of Police, be destroyed if it cannot be confined or captured thereby creating a hazard to life or property. The city, its officers, employees and designees shall be under no duty to attempt the confinement or capture of a dangerous animal found at large, nor shall they have a duty to notify the owner of such animal prior to its destruction.

(Ord. 1372, passed 8-24-87) Penalty, see § 10.99

ADMINISTRATION AND ENFORCEMENT

§ 96.90 ENFORCEMENT; BY WHOM.

The Animal Warden, the police and any other special officer designated by the Mayor and City Council to enforce provisions of this chapter shall have concurrent authority to enforce this chapter. (Prior Code, § 6-2-18)

§ 96.91 IMPOUNDING; RELEASE.

(A) It shall be the duty of the Chief of Police to cause to be captured and impounded in the city pound or some other appropriate place, all animals found running at large in the city, not having a tag on their collar showing them to be licensed. Upon the capture and impounding of any animal, it shall be the duty of the Chief of Police to notify the owner thereof, if such owner can be ascertained, which notice shall advise of the fact of the capture and the date of the impounding and the amount of the license tax due and penalty due thereon; and that in case the tax and penalty be not paid within three days after service of such notice, the animal impounded shall be destroyed. In case the owner cannot be ascertained, a notice containing a description of the animal taken; the date of impounding, and the amount of the license, tax and penalty thereon shall be posted in the office of the City Clerk, which shall advise all whom it may concern that in case the tax due upon such animal and the penalty due be not paid within three days from the date of the notice, the animal shall be destroyed. At the expiration of three days, in any case, if the license and penalty be not paid, it thereupon shall become the duty of the Chief of Police to cause such animal to be destroyed. In case payment be made of such license, tax and penalty, the owner of the animal taken and impounded under this chapter shall be entitled to a delivery of such animal. In case it be shown that a license tax for the current year has in fact been paid upon any animal, though it has no tag, the animal, upon proof of such fact, shall be delivered to its owner; provided, the owner secures a tag for the animal and affixes the tag to a collar worn by the animal.

(B) Prior to any animals impounded under the provisions of this section being surrendered to its owner, the owner shall first pay an impoundment fee as follows:

- (1) Dogs, cats and similarly sized domestic animals:

Impoundment charge.....\$20.00
Boarding fee\$7.50 per day

- (2) All other animals, including but not limited to horses, goats, mules, asses, cattle, sheep or swine:

Impoundment charge.....\$75.00
Boarding fee\$17.50 per day

(Prior Code, § 6-2-7) (Ord. 1450, passed 4-29-91)

§ 96.92 CLERK; DUTIES.

The Clerk shall keep a record of such plates or tags furnished by him or her containing the date when and to whom delivered and the number of the same, and shall on the first day of each month turn over the dog tax collected, as herein provided, to the Treasurer, who shall credit the moneys so received to the "General Fund" of the city. It shall be the duty of the Clerk to keep a book in which shall be recorded the name of the owner and the name, description and sex of each dog upon which the tax has been paid, and the number thereof.

(Prior Code, § 6-2-6)

§ 96.93 CHIEF OF POLICE; COMPENSATION.

For each and every dog killed, buried or otherwise disposed of under the authority of this chapter, the Chief of Police or other authorized person shall receive, as compensation for the disposal of each dog, such compensation being in addition to any other compensation due such officer from the city. Such additional compensation shall be paid from the general fund of the city upon the presentation and allowance of a claim made therefor.

(Prior Code, § 6-2-9) (Ord. 312, passed 1-5-50)

§ 96.94 ANIMAL WARDEN; DUTIES.

The Animal Warden shall have concurrent authority with that of the police officers for the city in the control, impounding and destruction of dogs, cats and other animals within the corporate limits of the city. The Animal Warden shall receive complaints of and make an investigation concerning any domestic animal running at large, injuring property or otherwise, creating a danger or annoyance for the citizens of the city. The Animal Warden shall make periodic reports to the Chief of Police in writing of complaints received, investigations made, and his or her activities in carrying out the duties of his or her position. The Animal Warden shall at all times be under the direct supervision and control of the Chief of Police. He or she shall notify the Clerk of any dog or cat not licensed in compliance with the city

code, and shall assist the official in the collection of dog and cat license tags. The Animal Warden shall have such further authority and duties as the Mayor and City Council may, from time to time, prescribe.

(Prior Code, § 6-2-14) (Ord. 862, passed 12-9-74)

CHAPTER 97: TREES

Section

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§ 97.01 DEFINITIONS.

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

DEPARTMENT. The Department of Parks and Recreation.

PARK TREES. Trees and shrubs in public parks of the city and other areas in the city which are owned by the city or in which the city owns an interest (not including public streets and alleys), or which are leased to the city.

SHRUBS. Bushes or other woody vegetation used in landscaping which by their nature do not normally attain heights in excess of 15 feet.

SMALL, MEDIUM AND LARGE TREES. Trees which by their nature normally attain heights at maturity of:

- (1) Small trees: Not in excess of 25 feet.
- (2) Medium trees: From 25 to 45 feet.
- (3) Large Trees: In excess of 45 feet.

STREET TREES. All trees and shrubs situated within the right-of-way of any public street or alley of the city. A tree shall be deemed to be so situated if the trunk, or any part thereof, is situated within the right-of-way. A shrub shall be deemed to be so situated if any stem thereof, at the level of emergence from the ground, is situated within the right-of-way. Trees and shrubs which in the course of normal growth will become so situated shall be deemed to be so situated at the time of planting.

TOPPING. Cutting back 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.

(Prior Code, § 2-4-6(2)) (Ord. 1417, passed 10-24-89; Am. Ord. 1728, passed 6-23-03; Am. Ord. 1732, passed 7-28-03)

§ 97.02 CITY TREE PLAN.

(A) The Park, Cemetery and Tree Board shall develop a written plan for the care, preservation, pruning, planting, replanting, removal or disposition of park and street trees, which it shall recommend to the City Council for adoption by the City Council. Upon adoption of such a plan by the City Council by ordinance, with or without amendments, the plan shall constitute the official comprehensive City Tree Plan of the city. The Board shall review the plan not less often than annually, and shall recommend to the City Council amendments, if any, which the Board deems to be in the public interest, and the City Council shall by ordinance enact such amendments, if any, as the Council deems to be in the public interest.

(B) The Park, Cemetery and Tree Board shall recommend to the City Council for adoption a list of tree and shrub species for planting as park trees, and a list of tree and shrub species for planting as street trees. The trees and shrubs shall be listed by common name and include species recommended by the Nebraska Forester's Office for planting in this geographical area. The lists shall include small, medium and large trees and include spacing requirements for each species of street trees. Upon adoption of such lists by the City Council by ordinance, with or without amendments, the lists shall constitute comprehensive official lists of permissible park and street trees. Copies of such lists shall be available at the office of the Director of Public Works, who also shall distribute such copies to nurseries and other businesses in the city which sell trees to the general public. The official lists shall be updated on a regular basis by the Park, Cemetery and Tree Board and City Council in the manner herein provided for the original lists.

(C) It shall be unlawful for any person to plant any species of tree or shrub other than those included on the official list of street trees in any location such that the tree or shrub, upon planting, shall constitute a street tree within the meaning of § 97.01.

(Prior Code, § 2-4-6(1)) (Ord. 1417, passed 10-24-89; Am. Ord. 1728, passed 6-23-03) Penalty, see § 10.99

§ 97.03 SPACING OF TREES, SHRUBS; HEIGHT.

(A) Trees constituting street trees may be planted no closer together than 15 feet for small trees, 20 feet for medium trees, and 25 feet for large trees; provided, the Park, Cemetery and Tree Board may approve proposals for alternative spacing as part of an application for a special exception that is proposed to be included in a formal landscape plan, if the Board shall determine that such spacing will not be substantially inconsistent with the purpose of the City Tree Plan.

(B) Street and park trees shall be planted not less than 35 feet from any street corner, measured from the point of nearest intersecting curbs or curb lines, three feet from any curb or sidewalk, and eight feet from any hydrant. No street or park tree shall be allowed to grow in such a manner that it shall interfere with any private or public utility line either above or below ground. A public or private utility may trim or remove, if necessary, any street or park tree which obstructs its lines, wires or pipes, including house service lines, wires or pipes.

(C) Shrubs constituting street trees shall be trimmed to a height not greater than 30 inches above the top of the curb (or, if there be no curb, the surface of the street or alley), unless the Park, Cemetery and Tree Board determines that a greater height would not constitute a hazard to pedestrians or vehicular traffic.

(Prior Code, § 2-4-6(3)) (Ord. 1417, passed 10-24-89); Am. Ord. 1728, passed 6-23-03

§ 97.04 PRUNING; NOTICE.

(A) Routine pruning performed by the city of a tree located in the right-of-way or in the utility easement or interfering with utility lines can be done after giving notice. The notice will be in the form of a door hanger at the lot or tract of land occupied by the residence or business at least five days prior to the trimming. In an emergency situation where the tree or branch is obstructing the road, alley, sidewalk, and/or interfering with utility service it can be pruned or removed without notice.

(B) If any branches have not been pruned or trees removed on private property or in the right-of-way or utility easements, the Director of Public Works, or his or her designated official, shall give notice by certified mail or personal service to each owner or owner's duly authorized agent at the last known address, and to the occupant, if any, to abate and remove such nuisance, and notice of the right to a hearing and the manner in which it, the hearing may be requested. Within 30 days after the receipt of such notice, if the owner or occupant of the lot or piece of ground does not request a hearing or fails to comply with the order to abate and remove the nuisance, the city may have such work done and may levy and assess all or any portion of the costs and expenses of the work upon the lot or piece of ground so benefitted in the same manner as other special taxes for improvements are levied and assessed.

(Prior Code, § 2-4-6(4)(C)) (Ord. 1417, passed 10-24-89; Am. Ord. 1542, passed 9-12-94; Am. Ord. 1728, passed 6-23-03)

§ 97.05 STUMPS; REMOVAL.

All stumps of street trees shall be removed to a depth of at least seven inches below the surface of the ground, and the hole refilled with good top soil so that the top of the stump shall not project above the surface of the ground.

(Prior Code, § 2-4-6(5)) (Ord. 1417, passed 10-24-89; Am. Ord. 1728, passed 6-23-03)

§ 97.06 OBSTRUCTION OF STREETS; REQUIREMENTS.

(A) *Obstruction of street; permit; bond.* No person shall remove any tree which may obstruct a street, alley or sidewalk during removal without obtaining a permit from the Director of Public Works. No permit may be issued until a bond is filed with the City Clerk, in an amount to be fixed by the Director of Public Works, signed by such person and an approved surety company and conditioned that such person will indemnify and keep harmless the city from any and all liability from accidents, injuries and damage suits caused by the removal of such tree.

(B) *Closure of street; permit barricades; markers.* If, for public safety, it shall be necessary to close any street, sidewalk or alley during the removal of any trees, a permit shall be issued by the Director of Public Works for such closure after due application therefore is endorsed by the Fire Chief and the Police Chief, or their authorized representative. The person in charge of such work shall furnish all barricades, red flags, and flares necessary for the closing of such street, sidewalk or alley, with a sign posted signifying such closure, and shall display the name of the person doing the work.

(Prior Code, § 2-4-6(6)) (Ord. 1417, passed 10-24-89; Am. Ord. 1728, passed 6-23-03) Penalty, see § 10.99

§ 97.07 CUTTING, INJURING PROHIBITED.

It shall be unlawful for any person to wilfully, maliciously or wantonly cut down, destroy or injure, by topping, girdling, tapping or otherwise, any street or park trees within the city except in compliance with requirements in the chapter, provided, trees severally damaged by storms or other causes, or trees under utility wires or other obstructions where other pruning practices are impractical may be exempted from this prohibition by rules and regulations prescribed by the Park, Cemetery and Tree Board, or by an order entered by such Board pursuant to a written application.

(Prior Code, § 2-4-6(8)) (Ord. 1417, passed 10-24-89; Am. Ord. 1728, passed 6-23-03) Penalty, see § 10.99

§ 97.08 STREET TREES; PLANTING; PERMIT REQUIRED.

No person, other than an employee of the city acting in the course of such person's employment, shall plant a street tree without obtaining a permit for such planting not less than 48 hours before

planting from the City Clerk on a form provided for that purpose. The terms of the permit, if granted, shall be strictly followed.

(Prior Code, § 2-4-6(7)(C)) (Ord. 1417, passed 10-24-89; Am. Ord. 1474, passed 5-28-92; Am. Ord. 1728, passed 6-23-03) Penalty, see § 10.99

§ 97.09 TREE TRIMMERS; LICENSE REQUIRED.

(A) (1) It shall be unlawful for any person for hire to plant, prune, treat or remove any street or park tree within the city unless the person holds a tree trimmer's license issued by the City Clerk. No license shall be required of any utility company doing this work in the course of its business, except that a license shall be required of a person that contracts to do this work for a utility. All applications for a tree trimmer's license shall be made to the City Clerk on forms approved for that purpose. In order to be issued a license, an applicant must:

(a) Pay an annual license fee of \$10.

(b) Provide a certificate of insurance evidencing liability insurance covering acts performed in connection with such activities in the minimum amounts of \$500,000 for bodily injury and \$300,000 for property damage.

(c) Attend a tree care and preservation class as required by the city.

(2) All licenses shall expire one year from the date they are issued.

(B) Every person who is the holder of a license for the immediately preceding year may renew the license for an additional year upon:

(1) Filing an application for renewal with the City Clerk on forms provided for that purpose.

(2) Providing evidence of continuing insurance coverage as required by division (A).

(3) Payment of a \$10 license fee.

(4) Attend a tree care and preservation course, as required by the city.

(Prior Code, § 2-4-6(7)(A),(B)) (Ord. 1417, passed 10-24-89; Am. Ord. 1474, passed 5-28-92; Am. Ord. 1728, passed 6-23-03) Penalty, see § 10.99

§ 97.10 INSPECTIONS.

In order to accomplish the purpose of this chapter, the Director of Public Works or his or her designated official is hereby authorized to go upon any property in the city for the purpose of inspecting trees, shrubs and other plants.

(Prior Code, § 2-4-6(9)) (Ord. 1417, passed 10-24-89; Am. Ord. 1728, passed 6-23-03)

CHAPTER 98: ALARM SYSTEMS

Section

- 98.01 Definitions
- 98.02 Classifications of alarm systems
- 98.03 Class I alarm systems
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- 98.05 Class III alarm systems
- 98.06 Alarm system requirements, generally
- 98.07 Permits required
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- 98.15 Current information required
- 98.16 Alarms and response by Police Department and owner or lessee
- 98.17 False alarms, fees, penalties, and billing
- 98.18 Administration of provisions and violations

§ 98.01 DEFINITIONS.

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

AGENT. A natural person, who is designated by the principal to be responsible for the premises protected by an alarm system during the principal's absence or unavailability.

ALARM SYSTEM. A device or system of interconnected devices, including hardware and related appurtenances, designed to give warning of activities indicative of felony or criminal conduct.

ANNUCIATOR. That part of an alarm system, other than an automatic dialer, which communicates the fact that the system has been triggered.

AUDIBLE ANNUCIATOR. An annunciator which gives alarm by means of a bell, siren, busing, or similar sound producing device mounted at some location other than wholly within a building; or which, when activated, is clearly audible at a distance of 50 feet or more outside of any building in which it is mounted.

AUTOMATIC DIALER. A device which is programmed to select a telephone number and deliver a warning message or signal over standard telephone lines using telephone voice communication equipment.

CHIEF. The Chief of Police of the city or any member under his jurisdiction designated by him to exercise any power or duty conferred under this chapter.

CITY OF GERING TELEPHONE LINES. A telephone line which rings or terminates on a municipal premise of the City of Gering.

CONSOLIDATED COMMUNICATION CENTER. That Department of the County of Scotts Bluff established by an interlocal cooperation agreement between the City of Scottsbluff, City of Gering, and the County of Scotts Bluff dated October 1, 1990, and any subsequent amendments thereto.

DIRECTOR. The Director of the Consolidated Communications Center.

FALSE ALARM.

(1) An activation of an alarm system upon or following which communication is made to the city Police Department, that an alarm has been triggered, except alarms, resulting from one of the following causes:

- (a) Criminal activity or unauthorized entry;
- (b) Earthquake causing structural damage to the protected premises;
- (c) Tornado winds causing structural damage to the protected premises;
- (d) Flooding of the premises due to an overflow of natural drainage;
- (e) A lightning bolt causing physical damage to the protected premises;
- (f) Fire causing structural damage to the protected premises verified by the Fire Department;

(g) Telephone line malfunction verified in writing to the Chief by at least a first line telephone company supervisor within seven days of the occurrence.

(2) If an alarm, when communicated to the city Police Department before an officer is dispatched to investigate, is clearly identified as resulting from authorized entry, authorized system test, or other noncriminal cause, it shall not be considered as a false alarm. If police units, responding to an alarm and checking the protected premises according to standard Department operating procedure, do not discover any evidence of unauthorized entry or criminal activity, there shall be a rebuttable presumption that the alarm is false. Entries on the city Police Department dispatcher's record shall be prima facie evidence of the facts stated therein with regard to alarms and responses.

ON-PREMISE ANNUNCIATOR. An annunciator which is designed to give warning only to a person or persons on the protected premises, and which is neither an audible or remote annunciator as those terms are defined in this section.

OWNER/LESSEE. Any person, firm, corporation, partnership, or entity who or which purchases, leases, contracts for or obtains an alarm system.

PRINCIPAL. The person, firm, or corporation whose premises are protected by an alarm system. In the event that a building having more than one tenant is protected by a single alarm system, the **PRINCIPAL** means the building owner.

PROTECTED PREMISES. All of that contiguous area, including building, protected by a single alarm system and under common ownership and use.

PUBLIC SAFETY PERSONNEL. Officers and other members of law enforcement.

REMOTE ANNUNCIATOR. An annunciator located at a terminal on the premises of a burglar alarm company, or other location not a part of the protected premises.

SENSOR. That part of an alarm system which is designated to detect the happenings of some event or existence of some condition indicative of criminal activity or unauthorized entry.

VENDOR. Any person, firm, corporation, partnership, or entity associated with an alarm business or company, either indirectly or directly, whose duties include but are not limited to, any of the following: selling, replacing, moving, repairing, maintaining, and/or installing an alarm system on or in any structure, building, or facility.
(Ord. 1853, passed 7-9-07)

§ 98.02 CLASSIFICATIONS OF ALARM SYSTEMS.

Alarm systems shall be classified as follows:

(A) *Class I.* Class I alarm systems incorporate a remote annunciator installed at a place other than on the protected premises, and which does not incorporate an automatic dialer.

(B) *Class II.* Class II alarm systems incorporate an automatic dialer.

(C) *Class III.* Class III alarm systems have only an audible annunciator located at the protected premises, and which does not incorporate an automatic dialer.

(D) *Exempt alarm systems.* Exempt alarm systems are:

(1) Those which incorporate only an on-premises annunciator, a visible annunciator, or any combination thereof;

(2) Alarms systems owned, maintained, or monitored by any government law enforcement agency to protect their premises; and

(3) Alarm systems protecting property of the city.
(Ord. 1853, passed 7-9-07)

§ 98.03 CLASS I ALARM SYSTEMS.

(A) Any person reporting to the Director of the Consolidated Communications Center on any alarm from a Class I alarm system shall provide and regularly update the following information.

(1) The alarm system permit number and principal or business name;

(2) The type of premises and the name, if any, by which the premises are known;

(3) The address of the protected premises, which shall be repeated a second time at the end of the message;

(4) The name and telephone number of some local responsible person having ready access to the protected premises; and

(5) The type of criminal activity indicated.

(B) If the Class I alarm system incorporates an audible annunciator, it shall be subject to the requirements specified in § 98.05.
(Ord. 1853, passed 7-9-07)

§ 98.04 CLASS II ALARM SYSTEMS.

Any person reporting to the Director of the Consolidated Communications Center on any alarm from a Class II alarm system shall provide and regularly update the following information:

(A) Information specified in § 98.03.

(B) No Class II alarm system shall be programmed to select any telephone line the user of which has not previously given consent to such programming.

(C) If the Class II alarm system incorporates an audible annunciator, it shall be subject to the requirements in § 98.05.
(Ord. 1853, passed 7-9-07)

§ 98.05 CLASS III ALARM SYSTEMS.

Any person reporting to the Director of the Consolidated Communications Center on any alarm from a Class III alarm system shall provide and regularly update the following information:

(A) Each Class III alarm system shall be so programmed that each audible annunciator will automatically silence within 15 minutes after being activated, and will not sound again unless a new act or circumstance triggers a sensor.

(B) No test of a Class III alarm system shall be conducted between the hours of 8:00 p.m. of any day and 7:00 a.m. of the following day.

(C) The application for a Class III alarm system permit shall list the name and phone number of at least one person responsible (other than the principal or a member of his household) having access to the premises who may be notified and assist the police in the event the alarm is activated. The principal shall immediately notify the Director of the Consolidated Communications Center of any changes in this information.

(D) The Chief of Police of the city by written notice may require the posting of the information required by division (C) above on the protected premises.
(Ord. 1853, passed 7-9-07)

§ 98.06 ALARM SYSTEM REQUIREMENTS, GENERALLY.

(A) No alarm system shall be installed, used, or maintained in violation of any of the requirements of this code, or of any applicable statute, law or administrative regulation of the United States of America, the State of Nebraska, or any administrative rule-making body thereof.

(B) The holder of an alarm system permit shall be responsible for training and re-training all employees, family members, and other persons who may make regular use of the protected premises and who may, in the normal course of their activities, be in a position to accidentally trigger a sensor. Such training shall include procedures and practices to avoid accidental alarms and steps to follow in the event the system is accidentally triggered.

(C) The holder of an alarm system permit shall, at all times, be responsible for the proper maintenance and repair of the system, and for the repair or replacement of any component, method of installment, design feature or like condition which may give rise to a false alarm.

(Ord. 1853, passed 7-9-07)

§ 98.07 PERMITS REQUIRED.

(A) It shall be unlawful for any person to use maintain any alarm system, within the city limits of the city, without a current valid permit.

(B) No permit shall be required for an exempt alarm system as defined in § 98.02, and the provisions of this section shall not apply to such systems.

(C) Each day during which a violation of this provision shall continue shall be deemed a separate violation.

(Ord. 1853, passed 7-9-07)

§ 98.08 PERMIT APPLICATION.

Each application for an alarm system shall be made by submitting a form designated by the Director and shall contain the following information:

(A) The name, address, and current contact phone number of the owner or lessee, who shall be an adult occupant of the protected premises;

(B) The type of premises, whether home, office, business, other, and any business name by which the premises are known;

(C) The address of the protected premises, including, if the premises are in a multiple unit residential, commercial, or the industrial structure or complex, any name by which the structure or complex is commonly known;

(D) The name, addresses, and current contact phone numbers, of all agents having authority or responsibility with respect to the structure or complex;

(E) If the alarm system component consists of automatic dialers, the number and type, location of all remote annunciators, and the names and current phone numbers of all persons or businesses which are or may be preselected for automatic dialer contact;

(F) The name, address, and current contact phone numbers of the person with whom the owner or lessee has contracted for maintenance of the alarm system;

(G) The name, addresses, and current contact phone numbers of those persons (not less than two) who can be contacted by the Director or his/her designee 24 hours a day, 7 days a week to turn off and/or deactivate the alarm system;

(H) A statement that the owner or lessee, in consideration of the issuance of the requested permit, has read and agrees to be bound by the terms of this section.
(Ord. 1853, passed 7-9-07)

§ 98.09 PERMIT FEES.

If an alarm system component is to be connected to an alarm panel in the Consolidated Communications Center:

(A) The application for an alarm system permit shall be accompanied by a connection fee of \$120.

(B) In addition, the owner or lessee shall pay annually a maintenance and monitoring fee.

(C) If the alarm component is an automatic dialer to be interconnected to the telephone system in the Consolidated Communications Center, or is a system which provides for a third party relay of calls to such a telephone, the owner or lessee shall pay to the Consolidated Communications Center annually a monitoring fee in the amount of \$75.

(D) If a permit is to be issued, fees which accompany the application shall be retained, otherwise, the fees will be refunded. This section shall not apply to alarm systems owned or leased by the city, and state or federal agency, or other public law enforcement officials or department.
(Ord. 1853, passed 7-9-07)

§ 98.10 ISSUANCE OF PERMIT.

Upon receipt of a permit application and fees, if any, the Director shall request an investigation as he/she deems necessary. If it appears to the Director that the proposed system will comply with the provisions of this chapter, he/she shall issue a permit bearing an identifying number and specifying the applicant and alarm for which it is issued.

(Ord. 1853, passed 7-9-07)

§ 98.11 TERM OF PERMIT AND RENEWAL.

Alarm systems shall not be extendable or renewable as a matter of right beyond the period for which a maintenance or monitoring fee has been paid as provided in this chapter.

(Ord. 1853, passed 7-9-07)

§ 98.12 ALARM SYSTEM INSPECTION, INSTALLATION AND MAINTENANCE.

(A) The Director may inspect, or cause to be inspected, any alarm system for which a permit has been applied for and/or issued, for the purpose of ascertaining that information furnished by the application or permittee is correct, and that a system for which a permit has been applied for and/or issued is being maintained.

(B) Any vendor installing or maintaining an alarm system shall cause such installation or maintenance to conform to the requirements of this chapter.

(C) The holder of an alarm system permit shall, at all times, be responsible for the proper installation, maintenance, and/or repair of the system, including, but not limited to, design features, method of installation, the repair or replacement of any component, or any condition which may activate false alarms.

(Ord. 1853, passed 7-9-07)

§ 98.13 PERMIT SUSPENSION AND APPEAL.

If the Director or Chief of Police determines that there is a cause for suspension of a permit, he/she shall mail a notice of suspension to the owner or lessee at the last known address, stating that the suspension will be effective 30 days after the date contained in the letter, unless a notice of appeal is filed with the Director or city Police Department on or before the effective date. The Notice of Suspension shall be signed by both the Director and the Chief of Police. The following will be grounds for suspension by the Director or Chief of Police, for any permit issued pursuant to this chapter:

(A) Any false or incomplete statement made on the permit application;

(B) Programming an automatic dialer to select any City of Gering, City of Scottsbluff, or Consolidated Communications Center phone number without prior approval;

(C) Failure to pay an annual maintenance or monitoring fee as established in this chapter;

(D) Failure to pay a false alarm charge within the time required, maintenance, installation, and/or use of the alarm system in violation of any applicable law, ordinance, or regulation, including the requirements of this chapter;

(E) Failure to provide current information as required;

(F) *Appeal.* Any owner or lessee given notice of a permit suspension as provided in this chapter, may appeal the suspension to the Director and/or city Police Department. The filing of a notice of appeal shall stay the suspension until disposition of the appeal by the Director and/or city Police Department after notice and hearing.
(Ord. 1853, passed 7-9-07)

§ 98.14 REGULATIONS OF AUTOMATIC DIALERS TO SELECT ANY CITY OF GERING AND/OR CONSOLIDATED COMMUNICATIONS CENTER PHONE NUMBERS.

Alarm systems that automatically dial or call a phone number that has been designated by the City of Gering and/or the Consolidated Communications Center as provided in this chapter shall comply with the following requirements:

(A) The total length of the recorded message being transmitted shall not exceed 30 seconds, including repetition of message;

(B) The recorded message shall be repeated no less than two times and not more than three times;

(C) The recorded message shall specifically identify the message as a recording and identify the street number and address, name of the location, and the nature of emergency for which the alarm has been activated. If the location of the alarm is in a multifamily dwelling, a multi-unit office, and/or a commercial building, the message shall also identify the unit by number, floor, and/or section of the building in which the event occurred;

(D) The recorded message being transmitted shall be appropriate for the purpose for which the alarm was installed and the message in its entirety shall be intelligible and spoken in the English language.
(Ord. 1853, passed 7-9-07)

§ 98.15 CURRENT INFORMATION REQUIRED.

Any owner or lessee is required to submit information as provided in §§ 98.02, 98.03, 98.04, and 98.05. This information must be current and updated regularly with each change or to confirm on file information at least annually:

(A) Within ten days following any change of circumstances which render obsolete any of the information submitted on an application or renewal for an alarm system permit, the holder of the permit shall file an amendment to his/her application;

(B) No additional fee shall be required, unless the change is such that the information of the original application and permit is no longer applicable for the guidelines under which the original application and permit were issued.

(Ord. 1853, passed 7-9-07)

§ 98.16 ALARMS AND RESPONSE BY POLICE DEPARTMENT AND OWNER OR LESSEE.

(A) The Consolidated Communications Center may elect not to respond to an alarm from an alarm system which does not comply with all of the provisions set forth in this chapter.

(B) The issuance of an alarm system permit under this chapter shall not impose an obligation to respond, liability for failure to respond, and shall not require priority to any alarm.

(C) Upon receiving an emergency alarm signal, the Director or his/her designee, shall promptly notify the owner or lessee, or his/her authorized representative, by information received for current contact information on applications and application amendments, and instruct him/her to come to the protected premise in person.

(Ord. 1853, passed 7-9-07)

§ 98.17 FALSE ALARMS, FEES, PENALTIES, AND BILLING.

(A) In the event that, within a calendar year, an excess of two false alarms as provisioned in § 98.01 under the definition for **FALSE ALARMS**, are transmitted by an alarm system component in the Consolidated Communications Center, automatic dialer, and/or a third party relay to a phone in the Consolidated Communications Center or city Police Department, and such alarms result in response from law enforcement personnel, the following fees will be assessed:

<i>Number of False Alarms</i>	<i>Fee Assessed</i>
3 to 10	\$25 each
11 to 20	\$50 each
21 or more	\$100 each

(B) The first two false alarms are not billable. If a third false alarm occurs in a calendar year, an invoice for penalty fees assessed for that alarm will be issued to the owner or lessee with payment due within 60 days. Any subsequent alarms will result in a final billing in January following the completion of the calendar year.

(Ord. 1853, passed 7-9-07)

§ 98.18 ADMINISTRATION OF PROVISIONS AND VIOLATIONS.

The Director, the Director's designee, Chief of Police, and/or any designated City of Gering Official shall administer the provisions of this chapter. Any violation of any provisions of this chapter is a Class II violation. Each day a violation continues shall constitute a separate offense.

(Ord. 1853, passed 7-9-07)

TITLE XI: BUSINESS REGULATIONS

Chapter

- 110. BUSINESS LICENSING**
- 111. ALCOHOLIC BEVERAGES**
- 112. HOTELS**
- 113. SPECIAL EVENTS**
- 114. PEDDLERS, ITINERANT MERCHANTS,
AND SOLICITORS**
- 115. JUNK SHOPS, PAWNBROKERS
AND SECONDHAND STORES**
- 116. PLUMBERS**
- 117. CABLE TELEVISION FRANCHISES**

CHAPTER 110: BUSINESS LICENSING

Section

Occupation Taxes

110.01 Fire Insurance Companies

Pool Halls, Bowling Alleys, Arcades

110.20 Definitions

110.21 License required; application

110.22 Disturbing the peace prohibited

110.23 View of premises; locked rooms

110.24 Hours of operation

Slaughterhouses

110.30 Definitions

110.31 Building requirements

110.32 License

110.33 Certificate of approval required

110.34 License fee; revocation

110.35 Inspections

Cross-reference:

Tree trimmer's license, see § 97.09

Occupation taxes, see § 111.02

Solicitors and peddlers; occupation tax, see § 114.04

Plumber's license, see Ch. 116

*OCCUPATION TAXES***§ 110.01 FIRE INSURANCE COMPANIES.**

(A) *Tax imposed.* For the use, support and maintenance of the Volunteer Fire Department of the city regularly organized under the laws of the state, an occupation tax of \$5 per annum shall be and is hereby levied upon each and every fire insurance company, doing business in this city.

(Prior Code, § 5-5-1)

(B) *When due.* Such occupation tax shall be due and payable on the first day of May of each year, and upon the payment thereof by any person to the Clerk, the Clerk shall give a receipt therefor, properly dated and specifying the person paying, the name of the fire insurance company, the amount and for what time the tax is paid.

(Prior Code, § 5-5-2)

(C) *Funds; use.* The money paid to the Clerk under the provisions of this section shall be paid over to the Treasurer, shall constitute and be known as the "Special Occupation Tax Fund of the Volunteer Fire Department of the City of Gering, Nebraska," and the same shall be used exclusively for the purposes and support of such Department.

(Prior Code, § 5-5-3)

(D) *Payment to Fire Department; conditions.* The Treasurer, on the first day of October, in each year, shall upon proper receipt being given, pay to the Chief of the Volunteer Fire Department all moneys collected from such special occupation tax; provided, however, that before the Treasurer shall pay over the fund to the Chief of the Volunteer Fire Department, a copy of a motion or resolution passed by the Mayor and Council and authenticated by the Clerk, shall be presented to him or her authorizing such payment. The Chief of the Volunteer Fire Department shall be entitled to the order for the payment of the money when he or she shall show to the satisfaction of the Council, at its regular meeting in September, or within three months thereafter, that the fire hose has been pressure tested at least twice during the preceding 12 months, and that fire drills have been held as required in § 32.55.

(Prior Code, § 5-5-4)

(E) *Failure to pay tax.* Should any fire insurance company fail to pay the tax provided for in division (A) on the day it becomes due and payable, the city may recover the same in a civil action brought against such fire insurance company.

(Prior Code, § 5-5-5)

POOL HALLS, BOWLING ALLEYS, ARCADES**§ 110.20 DEFINITIONS.**

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

ARCADE. Any room or place in which electronic or mechanical games or amusements are kept and maintained for profit or hire, including but not limited to video games, pinball machines and other similar devices, either kept separately or in connection with any other existing business.

BOWLING ALLEY. Any room or place in which bowling is conducted for profit or hire or kept in connection with any other business.

POOL and BILLIARDS. A game played on a table in which the object is to drive balls into pockets, and which is conducted for profit or gain.

POOL HALL or BILLIARD HALL. Any room or place in which any pool or billiard tables shall be kept in connection with any other business or shall be used or offered for hire, profit or gain.
(Prior Code, § 5-2-1)

§ 110.21 LICENSE REQUIRED; APPLICATION.

It shall be unlawful for any person to own, maintain or operate any pool hall, billiard hall, bowling alley, or arcade for profit or gain without first having obtained a license from the city. Any person desiring a license to operate, maintain or own a pool hall, billiard hall, bowling alley or arcade shall file a written application with the City Clerk. The application form shall contain such information and documents, or copies thereof, as the Mayor and Council deem 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 Mayor and Council shall immediately direct the City Clerk to issue the license to the applicant upon the payment of a fee set forth by resolution of the Mayor and City Council. The license shall be subject to revocation at any time for good and sufficient cause by the Mayor and Council upon the issuance of a proper notice, and a hearing if the licensee should make a request. Any person so licensed shall be subject to any bond, fees, or other rules and regulations as may be set by resolution or ordinance of the Mayor and Council of the city.

(Prior Code, § 5-2-2) Penalty, see § 10.99

§ 110.22 DISTURBING THE PEACE PROHIBITED.

It shall be unlawful for the owner or operator of any pool hall, billiard hall, bowling alley or arcade to allow or permit any disturbance of the peace, fighting, gambling, drunkenness, use of profanity, obscene books or pictures on the premises.

(Prior Code, § 5-2-3) Penalty, see § 10.99

§ 110.23 VIEW OF PREMISES; LOCKED ROOMS.

It shall be unlawful for the owner or operator of any pool hall, billiard hall, bowling alley or arcade to obstruct the view from the outside into the establishment by the use of screens, blinds, paint or other means. It shall further be unlawful for the owner or operator of a pool hall, billiard hall, bowling alley or arcade to close or lock any room or rooms, except rooms used for storage purposes only, while the establishment is open and available for public use.

(Prior Code, § 5-2-4)

§ 110.24 HOURS OF OPERATION.

It shall be unlawful for the owner or operator of any pool hall, billiard hall, bowling alley or arcade to be open or available for public use between the hours of 1:00 a.m. and 7:00 a.m. on any day of the week, except Sunday when the pool hall, billiard hall, bowling alley or arcade shall not be open or available to the public use from 1:00 a.m. until one 1:00 p.m.

(Prior Code, § 5-2-5) Penalty, see § 10.99

SLAUGHTERHOUSES**§ 110.30 DEFINITIONS.**

Definitions of words used in the terms of this subchapter shall be the same as those set out in the statutes of the state as they are now in force or may hereafter be amended insofar as they apply to the city; the same shall include the definitions of words set by the Department of Agriculture and the Bureau of Animal Industry of the state.

(Prior Code, § 8-1-2)

§ 110.31 BUILDING REQUIREMENTS.

(A) No license for the operation of any slaughterhouse or abattoir within the city shall be granted outside of the fire limits as established in § 92.01 of this code; and a building in which the same shall

be housed shall not only conform with the regulations creating the fire limits but must also conform with the regulations set out by the Bureau of Agricultural and Industry Inspection.

(Prior Code, § 8-1-3)

(B) All operations in connection with the loading, unloading, processing of livestock and refuse shall be conducted completely within the confines of one building. Live animals shall not be held more than 12 hours and in no case after 9:00 p.m. in the building, and there shall be no open pens permitted outside of the confines of the building.

(Prior Code, § 8-1-4) Penalty, see § 10.99

§ 110.32 LICENSE.

The Mayor and Council shall be authorized to issue licenses for the operation and maintenance of slaughterhouses and abattoirs within the city limits; the license shall run and be in full force and effect from the first day of July in which the same is issued until the first day of July following, unless the same be revoked or surrendered or rescinded according to the terms of this subchapter.

(Prior Code, § 8-1-1)

§ 110.33 CERTIFICATE OF APPROVAL REQUIRED.

Applications of licenses or for the renewal of same shall be made not more than 30 days prior to July first of each year, and shall be acted upon by the Mayor and Council at the next regular meeting thereof; provided however, that all applications for licenses or for a renewal shall be accompanied by a certificate approving the issuance of the license by the County Health Department and the City Physician.

(Prior Code, § 8-1-5)

§ 110.34 LICENSE FEE; REVOCATION.

The license fee for the operation of the slaughterhouse, or abattoir shall be \$10 per year, from July 1 to July 1 of following year, payable when the application is made. In case of any violation of this subchapter, the Physician shall have the right and power immediately to suspend all operations conducted under the license, and such suspension shall be enforced by the Chief of Police upon notice to him or her of the action of the Physician. At the next regular meeting of the Council or at a special meeting called for such purpose, a hearing shall be had before the Council to determine whether or not the license granted shall be revoked, at which hearing the licensee shall have the right to be heard in his or her own behalf.

(Prior Code, § 8-1-7) (Ord. 271, passed 7-6-48)

§ 110.35 INSPECTIONS.

It shall be the duty of the Physician to inspect such premises monthly, and at such times as he or she may be called upon to do so by the Mayor and Council, and he shall submit a written report of the inspection to the Mayor and Council.

(Prior Code, § 8-1-6)

CHAPTER 111: ALCOHOLIC BEVERAGES

Section

- 111.01 Definitions
- 111.02 Occupation tax
- 111.03 Hours of sale
- 111.04 Consumption on public property prohibited
- 111.05 Nudity; sexual or simulated sexual acts; prohibited
- 111.06 Licensee or employees; drinking while on duty

§ 111.01 DEFINITIONS.

Unless the context otherwise requires, the words and phrases used in this chapter shall have the meaning as defined in the Nebraska Liquor Control Act.
(Prior Code, § 5-3-1) (Ord. 1348, passed 7-28-86)

§ 111.02 OCCUPATION TAX.

(A) For the purpose of raising revenue within the city, there is hereby levied upon the following described businesses conducted in the city, the following described occupation taxes:

- (1) Manufacturing of alcohol and spirits.....\$1,000
- (2) For a license to manufacture beer and wine or to operate a farm winery or craft brewery:
 - (a) Manufacture of beer, excluding beer produced by a craft brewery:
 - 1 to 100 barrel daily capacity, or any part thereof200
 - 100 to 150 barrel daily capacity400
 - 150 to 200 barrel daily capacity700
 - 200 to 300 barrel daily capacity1,000
 - 300 to 400 barrel daily capacity1,300
 - 400 to 500 barrel daily capacity1,400
 - 500 barrel daily capacity, or more.....1,600

For the purpose of division (a), daily capacity shall mean the average daily barrel production for the previous 12 months of manufacturing operation. If no such basis for comparison exists, the manufacturing licensee shall pay in advance for the first year's operation a fee of \$500.

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(b) Operation of a craft brewery	500
(c) Manufacture of wines.....	500
(d) Operation of a farm winery	500
(3) Alcoholic liquor wholesale license for the first and each additional wholesale place of business operated in this state by the same licensee and wholesaling alcoholic liquor, except beer and wines produced from farm wineries	1,000
(4) Beer wholesale license, for the first and each additional wholesale place of business operated in this state by the same licensee and wholesaling beer only	500
(5) For a retail license:	
(a) Class A: Retailer of beer only, for consumption on premises.....	200
(b) Class B: Retailer of beer only, for consumption off premises (sale in original packages only).....	200
(c) Class C: Retailer of alcoholic liquors for consumption on premises and off premises (Sale in original packages only)	600
Class C: Retailer of alcoholic liquors, including beer for consumption on the premises only, nonprofit corporation which is a club	150
(d) Class D: Retailer of alcoholic liquors, including beer for consumption off premises (sale in original packages only)	400
(e) Class I: Retailer of alcoholic liquors, for consumption on premises only	500

When there is a purchase of an existing licensed business and a new license of the same class is issued or, upon the issuance of a new license for a location which has not been previously licensed, the license fee and occupation taxes shall be prorated on a quarterly basis as of the date of issuance.

(6) Special designated permit.....	50
(7) Catering license	200

(8) For a railroad license	100 and \$1.00 for each duplicate
(9) For a boat license.....	50
(10) For a non-beverage user's license:	
Class 1	5
Class 2	25
Class 3	50
Class 4	100
Class 5	250
(11) For a shipping license, except a shipping license issued pursuant to subsection (4) of Neb. RS 53-123.15	200
(12) For a shipping license issued pursuant to subsection (4) of Neb. RS 53-123.15.....	500

(Prior Code, § 5-3-7) (Ord. 1560, passed 2-12-96; Am. Ord. 1815, passed 10-10-05)

§ 111.03 HOURS OF SALE.

(A) No alcoholic liquors, including beer, shall be sold at retail or dispensed on any day between the hours of 1:00 a.m. and 6:00 a.m.

(B) In addition to the restriction set forth in § 111.03(A), no alcoholic liquor, other than beer or wine, shall be sold at retail or dispensed on Sunday between the hours of 6:00 a.m. and 12 noon. Alcoholic liquor may be sold at retail or dispensed on Sunday after 12 noon.
(Prior Code, § 5-3-24) (Ord. 1464, passed 10-14-91; Am. Ord. 1469, passed 3-23-92; Am. Ord. 1815, passed 10-10-05) Penalty, see § 10.99

§ 111.04 CONSUMPTION ON PUBLIC PROPERTY PROHIBITED.

(A) Except as provided in division (B), it shall be unlawful for any person to consume alcoholic liquor upon property owned or controlled by the city.

(B) The city may issue licenses for the sale of alcoholic liquor at retail on lands owned by public power districts, public power and irrigation districts, the Bureau of Reclamation, or the Corps of Army Engineers; or for locations within or on structures on land owned by city or on lands controlled by airport authorities. The issuance of a license under this division shall be subject to the consent of the Nebraska Liquor Control Act.
(Neb. RS 53-186)

(C) For purposes of this section:

(1) **ALCOHOLIC BEVERAGE.** Beer, ale porter, stout, and other similar fermented beverages, including sake or similar products, of any name or description containing .5% or more of alcohol by volume, brewed or produced from malt, wholly or in part, or from any substitute therefor; wine of not less than .5% of alcohol by volume; or distilled spirits which is that substance known as ethyl alcohol, ethanol, or spirits of wine in any form, including all dilutions and mixtures thereof from whatever source or by whatever process produced. **ALCOHOLIC BEVERAGE** does not include trace amounts not readily consumable as a beverage.

(2) **HIGHWAY.** A road or street including the entire area within the right-of-way.

(3) **OPEN ALCOHOLIC BEVERAGE CONTAINER.** Except as provided in Neb. RS 53-123.04(3) or 53-123.11(1)(c) any bottle, can, or other receptacle:

(a) That contains any amount of alcoholic beverage; and

(b) 1. That is open or has a broken seal; or

2. The contents of which are partially removed.

(4) **PASSENGER AREA.** The area designed to seat the driver and passengers while the motor vehicle is in operation and any area that is readily accessible to the driver or a passenger while in their seating positions, including any compartments in such area. Passenger area does not include the area behind the last upright seat of such motor vehicle if the area is not normally occupied by the driver or a passenger and the motor vehicle is not equipped with a trunk.

(D) It is unlawful for any person in the passenger area of a motor vehicle to possess an open alcoholic beverage container while the motor vehicle is located in a public parking area or on any highway in this state.

(E) Except as provided in divisions (A) and (B), it is unlawful for any person to consume an alcoholic beverage in a public parking area or on any highway in this state or inside a motor vehicle while in a public parking area or on any highway.

(Neb. RS 60-6,211.08)

(Prior Code, § 5-3-25) Penalty, see § 10.99

§ 111.05 NUDITY; SEXUAL OR SIMULATED SEXUAL ACTS; PROHIBITED.

(A) It shall be unlawful for any licensee under the Nebraska Liquor Control Act to appear or to allow any live person to appear, in any licensed premises in a state of nudity while providing entertainment, providing service, acting as hostess, manager or owner, or serving as an employee in any capacity. For the purpose of this section the term "nudity" shall mean the showing of the human male or female genitals, pubic area, buttocks, anus, or the human female breast including the areola or any portion below the areola with less than a full opaque covering.

(B) It shall be unlawful for any licensee under the Nebraska Liquor Control Act to perform or to allow any live person to perform on the licensed premises acts of or acts which simulate:

(1) Sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts that are prohibited by law.

(2) The touching, caressing or fondling on the breast, buttocks, anus or genitals.

(3) The displaying of the pubic hair, anus, vulva or genitals.

(C) It shall be unlawful for any licensee under the Nebraska Liquor Control Act to show or allow to be shown the licensed premises any film, video, still picture, electronic reproduction, or other visual reproductions depicting:

(1) Acts or simulated acts of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any other sexual acts.

(2) Any person being touched, caressed, or fondled on the breast, buttocks, anus or genitals.

(3) Scenes wherein a person displays the vulva or the anus or the genitals.

(4) Scenes wherein artificial devices or inanimate objects are employed to depict, or drawings are employed to portray, any of the prohibited activities described above.

(Prior Code, § 5-3-27) (Ord. 1702, passed 1-28-02) Penalty, see § 10.99

§ 111.06 LICENSEE OR EMPLOYEES; DRINKING WHILE ON DUTY.

It shall be unlawful for any licensee, manager or employee of any licensee to consume any alcoholic liquor during the time such person is on duty and in the conduct of their business; and it shall be unlawful for any licensee, manager or employee to serve or sell alcoholic liquor while under the influence of such liquor.

(Ord. 1871, passed 7-14-08; Am. Ord. 1880, passed 10-27-08)

CHAPTER 112: HOTELS

Section

- 112.01 Definition
- 112.02 Fire protection equipment
- 112.03 Inspections
- 112.04 Register

§ 112.01 DEFINITION.

Every building maintained or advertised as a public lodging house or where more than six rooms are provided for sleeping accommodations shall be known as a hotel.
(Prior Code, § 5-7-1)

§ 112.02 FIRE PROTECTION EQUIPMENT.

(A) The Fire Chief, or other officer designated by the governing body, shall survey each hotel and specify suitable fire detecting devices or extinguishing appliances which shall be provided.
(Prior Code, § 5-7-2)

(B) Fire protective or extinguishing systems or appliances which have been installed in compliance with any permit or order, or according to any provisions of this code, shall be maintained in operative condition at all times and it shall be unlawful for any owner or occupant to reduce the effectiveness of the protection so required.
(Prior Code, § 5-7-3) Penalty, see § 10.99

§ 112.03 INSPECTIONS.

It shall be the duty of the Fire Chief and the Health Officer, or other officers so designated by the governing body, to make periodic and regular inspections of every hotel and to make regular reports to the governing body of such hotel or hotels concerning regulations imposed by this code.
(Prior Code, § 5-7-4)

§ 112.04 REGISTER.

A register shall be maintained at every hotel and each guest shall be required to register his or her name and home address. The date of arrival and departure shall be clearly indicated and the register shall be maintained for a period of at least one year following registration. The register shall be open for inspection to any authorized person.

(Prior Code, § 5-7-5)

CHAPTER 113: SPECIAL EVENTS

Section

- 113.01 Use of city property
- 113.02 Permit required
- 113.03 Permit application
- 113.04 Permit conditions
- 113.05 Vending permits; authorization to issue
- 113.06 Monitoring permits
- 113.07 Compliance required
- 113.08 Insurance required
- 113.09 Revocation of permit

§ 113.01 USE OF CITY PROPERTY.

The City Council hereby authorizes the City Administrator to administer at his or her discretion, this chapter, unless otherwise directed by the City Council.

(A) *Community or business.* Public streets, sidewalks, parks, parking lots and other public property and facilities may be used temporarily for the purpose of conducting an organized community or business event.

(B) *Block party.* Public streets and sidewalks may be used temporarily for the purpose of a festive gathering including barbecues, picnics, and games.

(C) *Sidewalk café.* Public sidewalks may be use for extended periods for the purpose of operating a sidewalk café as an accessory use for an adjacent food service business.

(Prior Code, § 5-6-1) (Ord. 1408, passed 5-22-89; Am. Ord. 1712, passed 6-24-02)

§ 113.02 PERMIT REQUIRED.

(A) No community or business special event shall be conducted on city property and facilities unless a permit is obtained from the office of the City Clerk and approved by the City Administrator.

(B) No block parties or similar special events may be held on public streets and sidewalks unless a permit is obtained from the office of the City Clerk and approved by the City Administrator.

(C) No sidewalk café or similar use may operate on a public sidewalk unless a permit is obtained from the office of the City Clerk and approved by City Administrator.

(Prior Code, § 5-6-2) (Ord. 1408, passed 5-22-89; Am. Ord. 1712, passed 6-24-02; Am. Ord. 1905, passed 11-23-09) Penalty, see § 10.99

§ 113.03 PERMIT APPLICATION.

(A) An organization or individual seeking a permit to request use of city property or facilities for a special event shall file an application with the City Clerk on forms provided for a permit. The application shall be filed not less than 15 days before the date of the proposed special event. The City Administrator may, if good cause is shown by the organization or individual, consider an application which has been filed less than 15 days before the date of the proposed special event.

(B) An individual or neighborhood seeking a block party permit shall file an application with the City Administrator on forms provided for the permit. The application shall be filed not less than ten days before the date of the block party.

(C) A business seeking a sidewalk café permit shall file an application with the City Clerk on forms provided for the permit. The application shall be filed not less than ten days before the operation of the café.

(Prior Code, § 5-6-3) (Ord. 1408, passed 5-22-89; Am. Ord. 1712, passed 6-24-02; Am. Ord. 1905, passed 11-23-09)

§ 113.04 PERMIT CONDITIONS.

(A) The City Administrator (or in his absence, the City Clerk or Police Chief) may approve the permit as submitted or may set additional conditions upon the request for use of city property or facilities.

(B) The City Administrator may approve the permit as submitted or may set additional conditions upon the request for use of the public street or sidewalk.

(Prior Code, § 5-6-4) (Ord. 1408, passed 5-22-89; Am. Ord. 1712, passed 6-24-02; Am. Ord. 1905, passed 11-23-09)

§ 113.05 VENDING PERMITS; AUTHORIZATION TO ISSUE.

(A) An organization or individual may request exclusive rights to issue vending permits in the designated area or facility of the special event. The City Administrator may authorize the organization

or individual exclusive rights to issue vending permits in the designated area or facility of the special event. If such exclusive right is not requested or if the City Administrator denies the request, then vending permits can only be issued by the City Clerk as provided for in Chapter 114.

(B) Vending permits may not be requested for block parties.

(Prior Code, § 5-6-5) (Ord. 1408, passed 5-22-89; Am. Ord. 1712, passed 6-24-02; Am. Ord. 1905, passed 11-23-09)

§ 113.06 MONITORING PERMITS.

The organization or individual to which the City Administrator has authorized exclusive rights to issue vending permits shall be responsible for monitoring those permits.

(Prior Code, § 5-6-6) (Ord. 1408, passed 5-22-89; Am. Ord. 1712, passed 6-24-02; Am. Ord. 1905, passed 11-23-09)

§ 113.07 COMPLIANCE REQUIRED.

(A) An organization or individual to which a permit has been issued for a special event shall comply with all permit conditions and with all applicable laws and ordinances, unless otherwise directed by the City Administrator in his or her discretion.

(B) The block party applicant and participants shall comply with all permit conditions and with all applicable laws and ordinances. No alcoholic beverages shall be consumed or distributed on public property.

(Prior Code, § 5-6-7) (Ord. 1408, passed 5-22-89; Am. Ord. 1712, passed 6-24-02)

§ 113.08 INSURANCE REQUIRED.

(A) An organization or individual should name the city as an additional insured on general liability policy effective on the requested use date(s) covering any acts of negligence on the part of person or organization or by any of his, her or its agents, officers, servants, employees, or by persons on city property because of city property and facility use request in the amount of \$500,000 in bodily injury liability and \$500,000 in property damage liability or a combined limit of \$1,000,000.

(B) Upon a written showing of good cause, the above insurance requirement may be waived in the discretion of the City Administrator.

(Prior Code, § 5-6-8) (Ord. 1408, passed 5-22-89; Am. Ord. 1712, passed 6-24-02)

§ 113.09 REVOCATION OF PERMIT.

(A) Any permit issued to a organization or individual for use of city property or facility for a special event may be revoked by the municipal police or City Administrator in the event that the permittee is or has engaged in deceitful, shady or unlawful practices.

(B) A block party permit may be revoked by the municipal police or the City Administrator in the event that the party becomes a nuisance or any deceitful, shady, or unlawful practices occur.

(C) A sidewalk café permit may be revoked by the municipal police or City Administrator in the event that the party becomes a nuisance or any deceitful, shady, or unlawful practices occur.

(Prior Code, § 5-6-9) (Ord. 1408, passed 5-22-89; Am. Ord. 1712, passed 6-24-02)

CHAPTER 114: PEDDLERS, ITINERANT MERCHANTS, AND SOLICITORS

Section

- 114.01 Definitions
- 114.02 License requirement
- 114.03 Application procedure
- 114.04 Standards for issuance
- 114.05 Revocation procedure
- 114.06 Standards for revocation
- 114.07 Appeal procedure
- 114.08 Exhibition of identification
- 114.09 City policy on soliciting
- 114.10 Notice regulating soliciting
- 114.11 Duty of solicitors to ascertain notice
- 114.12 Prohibited solicitation

§ 114.01 DEFINITIONS.

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

BUSINESS. The business carried on by any person who is an itinerant merchant, peddler, or solicitor as defined in this section.

GOODS. Merchandise of any description whatsoever, and includes, but is not restricted to, wares and foodstuffs.

ITINERANT MERCHANT. Any person, whether as owner, agent, or consignee, who engages in a temporary business of selling goods within the city and who, in the furtherance of such business, uses any building, structure, vehicle, or any place within the city.

PEDDLER. Any person, not an itinerant merchant, who:

(1) Travels from place to place by any means carrying goods for sale, or making sales, or making deliveries; or

(2) Without traveling from place to place, sells or offers goods for sale from any public place within the city.

SOLICITOR. Any person who travels by any means from place to place, taking or attempting to take orders for sale of goods to be delivered in the future or for services to be performed in the future. A person who is a solicitor is not a peddler.

§ 114.02 LICENSE REQUIREMENT.

(A) Any person who is an itinerant merchant, peddler, or solicitor shall obtain a license before engaging in such activity within the city.

(B) The fee for the license required by this chapter shall be as set from time to time by the City Council.

(C) No license issued under this chapter shall be transferable.

(D) All licenses issued under this chapter shall expire 90 days after the date of issuance thereof. Penalty, see § 10.99

§ 114.03 APPLICATION PROCEDURE.

(A) All applicants for licenses required by this chapter shall file an application with the Clerk. This application shall be signed by the applicant if an individual, or by all partners if a partnership, or by the president if a corporation. The applicant may be requested to provide information concerning the following items:

(1) The name and address of the applicant;

(2) (a) The name of the individual having management authority or supervision of the applicant's business during the time that it is proposed to be carried on in the city;

(b) The local address of such individual;

(c) The permanent address of such individual;

(d) The capacity in which such individual will act;

(3) The name and address of the person, if any, for whose purpose the business will be carried on, and, if a corporation, the state of incorporation;

(4) The time period or periods during which it is proposed to carry on applicant's business;

(5) (a) The nature, character, and quality of the goods or services to be offered for sale or delivered;

(b) If goods, their invoice value and whether they are to be sold by sample as well as from stock;

(c) If goods, where and by whom such goods are manufactured or grown, and where such goods are at the time of application;

(6) The nature of the advertising proposed to be done for the business;

(7) Whether or not the applicant, or the individual identified in division (A)(2)(a) above, or the person identified in division (A)(3) has been convicted of any crime or misdemeanor and, if so, the nature of each offense and the penalty assessed for each offense.

(B) Applicants for peddler or solicitor licenses may be required to provide further information concerning the following items, in addition to that requested under division (A) above:

(1) A description of the applicant;

(2) A description of any vehicle proposed to be used in the business, including its registration number, if any.

(C) All applicants for licenses required by this chapter shall attach to their application, if required by the city, credentials from the person, if any, for which the applicant proposes to do business, authorizing the applicant to act as such representative.

(D) Applicants who propose to handle foodstuffs shall also attach to their application, in addition to any attachments required under division (C), a statement from a licensed physician, dated not more than ten days prior to the date of application, certifying the applicant to be free of contagious or communicable disease.

Penalty, see § 10.99

§ 114.04 STANDARDS FOR ISSUANCE.

(A) Upon receipt of an application, an investigation of the applicant's business reputation and moral character shall be made.

(B) The application shall be approved unless such investigation discloses tangible evidence that the conduct of the applicant's business would pose a substantial threat to the public health, safety, morals, or general welfare. In particular, tangible evidence that the applicant:

(1) Has been convicted of a crime of moral turpitude; or

- (2) Has made willful misstatements in the application; or
- (3) Has committed prior violations of ordinances pertaining to itinerant merchants, peddlers, solicitors, and the like; or
- (4) Has committed prior fraudulent acts; or
- (5) Has a record of continual breaches of solicited contracts.

will constitute valid reasons for disapproval of an application.

§ 114.05 REVOCATION PROCEDURE.

Any license or permit granted under this chapter may be revoked by the Clerk after notice and hearing, pursuant to the standards in § 114.06. Notice of hearing for revocation shall be given in writing, setting forth specifically the grounds of the complaint and the time and place of the hearing. Such notice shall be mailed to the licensee at his last known address, at least ten days prior to the date set for the hearing.

§ 114.06 STANDARDS FOR REVOCATION.

A license granted under this chapter may be revoked for any of the following reasons:

- (A) Any fraud or misrepresentation contained in the license application; or
- (B) Any fraud, misrepresentation, or false statement made in connection with the business being conducted under the license; or
- (C) Any violation of this chapter; or
- (D) Conviction of the licensee of any felony, or conviction of the licensee of any misdemeanor involving moral turpitude; or
- (E) Conducting the business licensed in an unlawful manner or in such a way as to constitute a menace to the health, safety, morals, or general welfare of the public.

§ 114.07 APPEAL PROCEDURE.

(A) Any person aggrieved by a decision under §§ 114.04 or 114.06 shall have the right to appeal to the City Council. The appeal shall be taken by filing with the City Council, within 14 days after notice of the decision has been mailed to such person's last known address, a written statement setting

forth the grounds for appeal. The City Council shall set the time and place for a hearing, and notice for such hearing shall be given to such person in the same manner as provided in § 114.05.

(B) The order of the City Council after the hearing shall be final.

§ 114.08 EXHIBITION OF IDENTIFICATION.

(A) Any license issued to an itinerant merchant under this chapter shall be posted conspicuously in or at the place named therein. In the event more than one place within the city shall be used to conduct the business licensed, separate licenses shall be issued for each place.

(B) The Clerk shall issue a license to each peddler or solicitor licensed under this chapter. The license shall contain the words “Licensed Peddler” or “Licensed Solicitor,” the expiration date of the license, and the number of the license. The license shall be kept with the licensee during such time as he is engaged in the business licensed.

Penalty, see § 10.99

§ 114.09 CITY POLICY ON SOLICITING.

It is hereby declared to be the policy of the city that the occupants of the residences in the city shall make the determination of whether solicitors shall be, or shall not be, invited to their respective residences.

§ 114.10 NOTICE REGULATING SOLICITING.

(A) Notice of the refusal of invitation to solicitors, to any residence, shall be given on a weatherproof card, approximately three inches by four inches in size, exhibited upon or near the main entrance door to the residence, indicating the determination by the occupant, containing the applicable words, as follows:

“NO SOLICITORS INVITED”

(B) The letters shall be at least 1/3-inch in height. For the purpose of uniformity, the cards shall be provided by the Chief of Police to persons requesting, at the cost thereof.

(C) The card so exhibited shall constitute sufficient notice to any solicitor of the determination by the occupant of the residence of the information contained thereon.

§ 114.11 DUTY OF SOLICITORS TO ASCERTAIN NOTICE.

(A) It shall be the duty of every solicitor upon going onto any premises in the city upon which a residence is located to first examine the notice provided for in § 114.10 if any is attached, and be governed by the statement contained on the notice. If the notice states “NO SOLICITORS INVITED,” then the solicitor, whether registered or not, shall immediately and peacefully depart from the premises.

(B) Any solicitor who has gained entrance to any residence, whether invited or not, shall immediately and peacefully depart from the premises when requested to do so by the occupant.

Penalty, see § 10.99

§ 114.12 PROHIBITED SOLICITATION.

It is hereby declared to be unlawful and shall constitute a nuisance for any person to go upon any premises and ring the doorbell upon or near any door, or create any sound in any manner calculated to attract the attention of the occupant of such residence, for the purpose of securing an audience with the occupant thereof and engage in soliciting in defiance of the notice exhibited at the residence in accordance with the provisions of § 114.10 above.

Penalty, see § 10.99

CHAPTER 115: JUNK SHOPS, PAWNBROKERS AND SECONDHAND STORES

Section

- 115.01 Definitions
- 115.02 License; application
- 115.03 License
- 115.04 Minors; purchases from
- 115.05 Inspection
- 115.06 Records

§ 115.01 DEFINITIONS.

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

JUNK SHOP. Any enterprise engaged in the processing of junk, waste, discarded or salvaged materials, machinery or equipment including automobile wrecking and dismantling.

PAWNBROKER. Every person who makes a business of lending money on the security of personal property deposited in his keeping.

SECONDHAND STORE. Every person who deals in the purchase and sale of goods of any type that has been used or previously sold at retail one or more times.
(Prior Code, § 5-8-1)

§ 115.02 LICENSE; APPLICATION.

Application for a license to be issued under the provisions of this chapter shall be made to the Clerk and shall contain a description of the location of the applicant together with a statement concerning the type of business contemplated. The governing body may provide regulations requiring such other information as it may deem advisable.

(Prior Code, § 5-8-2)

§ 115.03 LICENSE.

Upon receipt of proper application and the payment of a fee of \$10, the Clerk may issue a license for a junk shop, pawnbroker or secondhand store, subject to all of the provisions of this chapter.
(Prior Code, § 5-8-3)

§ 115.04 MINOR; PURCHASE FROM.

No person licensed under the provisions of this chapter shall make any purchase from any minor without first obtaining approval from the Chief of Police.
(Prior Code, § 5-8-4) Penalty, see § 10.99

§ 115.05 INSPECTION.

The Chief of Police or other designated official shall be permitted at any reasonable time to inspect any property contained on the premises of any person licensed under this chapter.
(Prior Code, § 5-8-5)

§ 115.06 RECORDS.

Any person licensed under the provisions of this chapter shall maintain a written record of all business transactions, including the time of purchase and description of any article and the name and address of the person from whom such article was purchased. This record shall be in the English language and shall be available at any reasonable time for inspection by the Chief of Police or other designated official.
(Prior Code, § 5-8-6)

CHAPTER 116: PLUMBERS

Section

- 116.01 Plumbing contractor; license and bond
- 116.02 License; terms and conditions
- 116.03 License Examining Board
- 116.04 License; revocation
- 116.05 Plumbing contractor; requirements
- 116.06 Plumbers; requirements
- 116.07 Master plumber; license; application; qualifications; proof
- 116.08 Master plumbers

§ 116.01 PLUMBING CONTRACTOR; LICENSE AND BOND.

A plumbing contractor license shall be granted every person making application to the Clerk therefor and filing with such application a bond with two or more sureties, or a bond of a surety company to be approved by the Council in the penal sum of \$2,000 conditioned that the licensee will indemnify and keep harmless the city in case of any accident or damage arising from negligence or unskillfulness in doing or protecting his or her work or from any unfinished or inadequate work done in pursuance of the license, and that the licensee will restore the street, sidewalk and pavements over all work that they or he or she might lay and fill all excavations made, so as to leave all streets, sidewalks and pavement in as good condition as they were when found, and will maintain the same to the satisfaction of Engineer for the period of six months thereafter. The annual fee for plumbing contractor's first and initial license granted shall be \$50 and for each renewal of the license the annual fee shall be \$10, and such fees shall be due and payable to the Clerk on or before the first day of May of each calendar year; the license to be for one year or any fraction thereof expiring on April 30. (Prior Code, § 4-5-1) (Ord. 904, passed 8-25-75)

§ 116.02 LICENSE; TERMS AND CONDITIONS.

(A) Applicants for a master plumbing license must have had at least three years' actual experience as a licensed journeyman plumber working under the supervision of a master license and shall present documentary proof thereof in the form of letters or affidavits from employers, or former employers of such other qualified persons attesting to such fact, or be a graduate of a recognized trade school conducting regular courses in the mechanics of the plumbing trade.

(B) Applicants for a journeyman plumber's license must have had at least three years' actual experience as a plumber's apprentice or plumber's helper and shall present documentary proof thereof in the form of letters or affidavits from employers or former employers or such other qualified persons attesting to such fact, or shall have completed at least two years' instruction in a recognized trade school conducting regular courses in the mechanics of the plumbing trade.

(C) Applicants for an apprentice plumber's certificate shall, on filing of application, be issued a certificate by the City Clerk.

(D) Applicants for sheet metal or a heating worker's license must have at least three years' actual experience in the installation of sheet metal for heating units and appliances and shall present documentary proof thereof in the form of letters or affidavits from employers or former employers or such other qualified persons attesting to such fact, or must have completed two years instruction in a recognized trade school conducting regular courses in the mechanics of the sheet metal trade.

(E) Applicants for a water fitters license shall file an application and have three years actual experience installing water softeners or water heaters. Applicants shall demonstrate competence through examination by the Board. Upon payment of fees and showing proof of insurance or bond, a license shall be issued.

(F) Applicants for a gas fitter's license shall have three years actual experience in gas fitting under the supervision of a licensed plumber or licensed gas fitter, shall have a comprehensive knowledge of the application and use of natural gas, liquefied petroleum gas, and manufactured gases, shall be familiar with the approved standard fixtures and appliances for consuming these gases, shall be familiar with the venting of the equipment and shall be familiar with and thoroughly understand the recommended methods of installation as approved by local, state and national codes.

(G) The license fee for master plumbers shall be \$30 per year and the license fee for limited licenses: journeyman plumbers, sheet metal for heating workers, gas fitters and water fitters shall be \$20 per year, due and payable on or before the first day of May of each year. There shall be no certificate fee for apprentice plumbers.

(Prior Code, § 4-5-2) (Ord. 1477, passed 7-13-92; Am. Ord. 1564, passed 4-8-96)

§ 116.03 LICENSE EXAMINING BOARD.

(A) There is hereby created an Examining Board for examination of plumbers consisting of the Chief Health Officer of the city, the Plumbing Inspector of the city, one Master Plumber who shall be licensed in the city, one Journeyman Plumber who shall be licensed in the city and one member at large who has a plumber's or sheet metal license in the city, or serves in such position of Public Works Director/City Engineer or Public Works Director. The Master Plumber, Journeyman Plumber and member at large shall be from different shops. All members shall be appointed by the Mayor with the approval of the Council and shall be residents or live within the zoning jurisdiction of the city. Three

members of the Plumbing Board shall constitute a quorum. The Board shall organize by selecting a Chairman and the Plumbing Inspector shall be the secretary of the Board. All vacancies in the Board may be filled by the Mayor and Council. Any member of the Board may be removed from office for cause by the District Court of Scotts Bluff County, Nebraska. Each member of the Board may give bond in the sum of \$1,000 conditioned according to law. The terms of the Chief Health Officer and Plumbing Inspector shall coincide with the term of the Mayor. The term of the Master Plumber, Journeyman Plumber and member at large shall be for three years.

(B) The Plumbing Board shall have power and it shall be its duty, to adopt rules and regulations, not inconsistent with the laws of the state or the ordinances of the city, for the sanitary construction, alteration and inspection of plumbing and sewage connections and drains placed in or in connection with any and every building in the city in which it will prescribe the kind and size of material to be used in such plumbing and the manner in which such work shall be done, which rules and regulations, except such as are adopted for its own convenience only, shall be approved by ordinance by the Mayor and Council of the city. The Board shall have the power to amend or repeal its rules and regulations, subject, except such as relate to its own convenience only, to the approval of the Mayor and Council. The Board shall have power to compel the owner or contractor to first submit the plans and specifications for plumbing that is to be placed in any building or adjoining premises to the Board for approval before it shall be installed in such building or premises. When an owner or contractor submits a request for a variance, the Plumbing Board shall charge a reasonable fee, payable to the general fund, not to exceed \$25.

(C) The Examining Board shall conduct examinations from time to time, at such time and places as the Board may designate, but no applicant shall be compelled to wait more than 14 days following presentation of applications. The Board of Examiners shall propound such examinations to each applicant as to ascertain his knowledge of plumbing, gas fitting, steam fitting, house drainage, plumbing, ventilation, sheet metal work for heating and related subjects and if satisfied of the competency of such applicant, shall thereupon issue a master plumbers, journeyman plumbers, sheet metal or heating workers, gas fitters, or water fitters license, as the case may be, authorizing such applicant to engage in the calling or trade for which he or she has made application.

(D) Application shall be made in writing on forms furnished by the City Clerk's office and shall state the name of the applicant, the location of his or her place of business or employment and such other information as may be required.

(E) A master plumber's license or journeyman plumber's license shall authorize such licensee to engage in the calling or trade of plumber as an artisan to place, replace, install, construct or reconstruct pipes, fittings, fixtures or other materials connected with the business of plumbing, intended for the conveying of water, water borne waste, fuels or gases.

(F) A sheet metal or heating worker's license shall authorize the holder thereof to construct or install sheet metal conductors for heat distribution and venting of heating equipment in accordance with the applicable sections of this chapter.

(G) A gas fitter's license shall authorize the holder thereof to engage in the work of installing piping for the transmission of natural or LP gas and gas consuming appliances and shall authorize the holder to install venting for such gas consuming appliances.

(H) (1) A water fitters license shall authorize the holder thereof to install water softeners or other fixtures, devices, appliances and replace water heaters. A water fitter shall confine water line work to within a reasonable distance (normally +/-10 feet) of the unit and shall not make or change permanent drain lines; nor shall a water fitter tie directly to the drains. Provided, such license shall not authorize the holder to change any piping that is not directly connected to the fixture device or appliance being installed.

(2) A permit and inspection shall be required for all water softener installation and replacements and for water heater replacement.

(I) When an applicant fails to pass the Examining Board, he or she shall be permitted to resubmit his or her application six months after the date of examination. An applicant may resubmit his or her application as often as he or she desires, but in no event in a shorter period than six months after an examination.

(Prior Code, § 4-5-3) (Ord. 924, passed 12-22-75; Am. Ord. 1326, passed 6-24-85; Am. Ord. 1477, passed 7-13-92; Am. Ord. 1600, passed 1-12-98)

§ 116.04 LICENSE; REVOCATION.

Any license issued by the Clerk upon recommendation of the Board of Examiners for licensees may be revoked by the Mayor and Council. The Plumbing Inspector may suspend such license if in his or her opinion a licensee consistently fails to perform work in accordance with or wilfully violates any of the provisions of this chapter. In such case, the Plumbing Inspector shall give notice in writing of the suspension to the licensee, and such suspension shall be effective until the Board of Examiners shall determine by a hearing that such license shall be restored at which time such license will immediately be restored. A licensee whose license has been suspended, shall have the right to appear before the Board of Examiners and be heard. He or she shall be given adequate notice of the time and place of hearing and of the charges against him or her. Such a cause must be disposed of by the Board within ten days of the time of notice of suspension, unless the accused consents in writing to an extension of time.

(Prior Code, § 4-5-4) (Ord. 904, passed 8-25-75)

§ 116.05 PLUMBING CONTRACTOR; REQUIREMENTS.

Every plumbing contractor shall be or shall employ the services of at least one licensed master plumber who shall have satisfactorily passed examination of the Board of Examiners of the city. No individual for hire shall work at the installation, repair or alteration of general plumbing within the city unless he or she is employed by a licensed plumbing contractor and under the supervision of a master

plumber and is licensed as a journeyman plumber; provided, that one apprentice plumber may be employed to assist a master plumber and that one apprentice plumber may be employed for each journeyman plumber. Before an apprentice plumber shall do any work he or she shall obtain a permit free of charge from the City Clerk, who shall record the name and date of issuance of the apprentice permit. It is hereby declared unlawful for any plumbing contractor or other person to hire anyone not having a plumbing license in force to do plumbing in the city, or to permit anyone in his or her employment not having a plumber's license issued by the city to do plumbing work of any kind within the city or its zoning jurisdiction. It shall also be unlawful for any person to display or expose the sign "PLUMBING" or "PLUMBER" or a sign containing the words of similar import and meaning unless the person be duly licensed and registered by the city in accordance with this chapter. (Prior Code, § 4-5-5) (Ord. 1326, passed 6-24-85) Penalty, see § 10.99

§ 116.06 PLUMBERS; REQUIREMENTS.

(A) It shall be unlawful for any individual to do any plumbing within the corporate limits of the city, or the area outside the city within which the city has exercised its zoning jurisdiction unless such individual:

(1) Holds a master's plumber's license issued by the city and does the actual installation or repair work; or

(2) Holds a journeyman's plumber's license issued by the city and does the actual installation or repair work under the direct supervision of an individual who holds a master's plumber's license issued by the city.

(B) It shall be unlawful for any individual, partnership, corporation or other firm engaged in the business of plumbing or in the doing of plumbing for hire to cause any plumbing to be done, within the corporate limits of the city or area outside the city within which the city has exercised its zoning jurisdiction otherwise than in the manner provided in the preceding section.

(Prior Code, § 4-5-6) (Ord. 1336, passed 9-9-85) Penalty, see § 10.99

§ 116.07 MASTER PLUMBER; LICENSE; APPLICATION; QUALIFICATIONS; PROOF.

Applicants for a master plumber's license must have had, in the first instance, at least three years actual experience as a licensed journeyman plumber, and shall present documentary proof thereof in the form of letters or affidavits from employers, or former employers or such other qualified persons attesting to such fact. Following issuance of a provisional master's license as provided in this section, an applicant for a final master plumber's license must, as a condition to qualifying for the issuance of such a license to him or her, have had one year actual experience as a provisionally licensed master plumber.

(Ord. 1865, passed 4-14-08)

§ 116.08 MASTER PLUMBERS.

Only a provisional master plumber's license may be issued, in the first instance, to applicants for a master plumber's license (other than applicants holding a master plumber's license) who the Plumbing Examining Board shall determine to have had the experience specified in the first sentence of § 116.07. The term of such a license shall be 13 months, and such a license shall not be subject to renewal. After one year following issuance of such a license, the holder of the license may apply to the Board for a final master plumber's license. If the Board shall determine that throughout such year the holder complied with all requirements of this chapter pertaining to work which may be done by a master plumber, the Board shall authorize the issuance of a final master plumber's license to such holder; otherwise, it shall deny the application. A final master plumber's license shall expire on April 30 of each year, and shall require renewal as provided in this section.
(Ord. 1865, passed 4-14-08)

CHAPTER 117: CABLE TELEVISION FRANCHISES

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GENERAL PROVISIONS**§ 117.01 PURPOSE.**

The purpose of this chapter is to:

- (A) Establish a local policy concerning cable television;
- (B) Establish franchise procedures and standards which encourage the growth and development of cable systems which assure that cable systems are responsive to the needs and interests of the city;
- (C) Establish guidelines for the exercise of local authority with respect to the regulation of cable systems;
- (D) Establish an orderly process for franchise renewal which protects cable operators against unfair denials of renewal where an operator's past performance and proposal for future performance meet the standards set by the FCC and this chapter;
- (E) Promote competition in cable communications and minimize unnecessary regulations that would impose undue burdens on cable systems;

(F) Create a set of regulations, standards and procedures for cable operators;

(G) Create a comprehensive customer service and consumer protection policy for cable operators;

(H) Provide for access and inspection of a cable operator's books and records in order to monitor compliance with local, state and federal laws, and any franchise agreement;

(I) Provide a construction and installation policy for a cable operator's system;

(J) Provide for the health, safety and welfare of the citizens of the city in light of the cable operator's construction, operation and maintenance;

(K) Provide for emergency override capability, so that citizens of the city may be warned of a potential, imminent, or actual Emergency situation that exists in the area;

(L) Create a procedure for collecting and monitoring franchise fees; and

(M) Create a default and revocation procedure for cable operators.

(Ord. 1908, passed 1-25-10)

§ 117.02 DEFINITIONS.

As used in this chapter or in any franchise issued pursuant to this chapter, the following terms shall have the following definitions:

AFFILIATE. Another person or entity who owns or controls, is owned or controlled by, or is under common ownership or control with, the person or entity.

APPLICANT. A person or entity submitting an application or proposal to the city for a franchise to operate a cable system under the terms and conditions of this chapter and any state or federal regulations.

AUXILIARY EQUIPMENT. Equipment supplied by a cable operator which enhances or assists in the reception or provision of cable service.

BASIC CABLE SERVICE. Any service tier which includes the retransmission of local television broadcast signals, the PEG channels, and any other signals required by federal law or the FCC.

CABLE ACT. The Cable Communications Policy Act of 1982, codified as 47 U.S.C. 521 et seq., or corresponding legislation in any future federal communications legislation.

CABLE OPERATOR. Except as otherwise provided for in this chapter, **CABLE OPERATOR** means any person or entity which:

(1) Provides cable service over a cable system and directly or through one or more affiliates owns a significant interest in that cable system; or

(2) Otherwise controls or is responsible for, through any arrangement, the management and operation of a cable system.

CABLE SERVICE. Unless otherwise defined in the Cable Act, **CABLE SERVICE** means:

(1) The one-way transmission to subscribers of video programming or other programming service; and

(2) Subscriber interaction, if any, which is required for the selection or use of video programming or other programming service.

CABLE SYSTEM. A facility consisting of a set of closed transmission paths and associated signal generation, reception and control equipment that is designed to provide cable service which includes video programming, and which is provided to multiple subscribers within the community; provided, however, this shall not include:

(1) A facility that serves only to retransmit the television signals of one or more television broadcast stations;

(2) A facility that serves subscribers without using any public way;

(3) A facility of a common carrier which is subject, in whole or in part, to the provisions of Title II of the Cable Act, except that the facility shall be considered a cable system to the extent the facility is used in the transmission of video programming directly to subscribers;

(4) Any facilities of any electric utility used solely for operating its electric utility systems; or

(5) Any system exempted under the Cable Act.

CHANNEL. A portion of the electromagnetic frequency spectrum which is used in a Cable System and which is capable of delivering a television channel (as defined by the FCC); provided, however, if the definition of **CHANNEL** is modified by federal law or the FCC, then such revised definition shall apply.

CHARGE. A one-time or non-regularly occurring cost paid by the subscriber, and which is associated with the installation, maintenance, service or repair of the cable service.

CITY. The City of Gering, Nebraska and includes any areas annexed to the city after this date.

CITY ADMINISTRATOR. The City Administrator of the City of Gering.

COMMUNITY. The geographic area within the municipal limits of Gering, Scottsbluff, and Terrytown, Nebraska and any portions of Scotts Bluff County which are served by a cable system serving any portion of those municipalities.

CONVERTER. Any device, separate and apart from a subscriber's receiver, that is necessary for a subscriber to view or otherwise use signals delivered by a cable system.

COUNCIL. The City Council of the City of Gering.

EMERGENCY. An imminent, impending, or actual natural or humanly induced situation where the health, safety or welfare of all, or a representative portion, of the residents of the city is threatened. An **EMERGENCY** (by illustration) may include a snowstorm, flood, tornado, severe thunderstorm, hazardous waste infiltration, petroleum, munitions or nuclear explosion, or aircraft crash.

EASEMENT. Any public easement or other compatible use created by dedication or by other means, to the city for public utility or other purposes including cable television. **EASEMENT** shall include a private easement used for the provision of cable service.

ENTITY. A partnership, joint venture, corporation, limited liability company or such other form of conducting business authorized by State law.

FCC. The Federal Communications Commission or any successor governmental entity.

FRANCHISE. The authorization issued by the city which authorizes the construction and operation of a cable system.

FRANCHISE FEE. Any tax, fee, or assessment of any kind imposed by the city on a cable operator or subscriber, or both, solely because of their status as such. **FRANCHISE FEE** does not include:

(1) Any tax, fee, or assessment of general applicability (including any such tax, fee, or assessment imposed on both utilities and cable operators or their services but not including a tax fee, or assessment which is unduly discriminatory against cable operators or subscribers);

(2) Capital costs which are required by a franchise to be incurred by the cable operator for PEG, or governmental access facilities;

(3) Requirements or charges incidental to the awarding or enforcing of a franchise, including payments for bonds, security funds, letters of credit, insurance, indemnification, penalties or liquidated damages; or

(4) Any fee imposed under Title 17, United States Code.

GROSS REVENUE.

(1) All revenues, as determined in accordance with generally accepted accounting principles, received from the operation of a cable system attributable to subscribers within the city including but not limited to revenues received from subscriber rates, service tiers, installations, and the sale or lease of auxiliary equipment ("subscriber revenues"); and

(2) Any and all compensation in whatever form (except as exempted by this definition or otherwise by law), exchange or otherwise derived from all cable services, cable operations, and cable service related activities within the city including but not limited to revenues received from advertising, rebates or commissions received from services carried or provided on the cable system, or commercial access ("non-subscriber revenues").

(3) ***GROSS REVENUE*** does not, however, mean:

(a) Any taxes, fees or assessments of general applicability collected by a cable operator from imposed and/or assessed collected by law on subscribers for pass-through to a government agency (including sales taxes, franchise fees or FCC user fees);

(b) Unrecovered bad debt or bona fide credits, refunds and deposits paid to subscribers;
and

(c) Revenues from activities exempted under the Cable Act or by the FCC.

MAYOR. The Mayor of the City of Gering.

OTHER PROGRAMMING SERVICE. Information that a cable operator makes available to all subscribers generally.

PEG CHANNEL. A public, educational or governmental channel which is carried on a cable system.

PERMIT. A written authorization issued to a cable operator by the city, other than a franchise.

PUBLIC WAY. Any public street, public place, public easement or right-of- dedicated to the public use.

RATE. The periodic price paid by a subscriber in order to receive cable service.

REPORTING QUARTER. A cable operator's fiscal quarter as reported to the city. If a cable operator does not report to or notify the city concerning the dates of its fiscal quarters, then the ***REPORTING QUARTERS*** for a cable operator shall be considered to be the periods ending on the last day of March, June, September and December of each calendar year.

SERVICE TIER. A category of cable service provided by a cable operator, and for which a separate rate is charged.

STATE. The State of Nebraska.

SUBSCRIBER. A person lawfully receiving cable service delivered by a cable operator.

USER. A person or organization utilizing a cable system and/or its equipment for purposes of production and/or transmission.

VIDEO PROGRAMMING. Programming provided by, or generally considered comparable to programming provided by, a television broadcast station.
(Ord. 1908, passed 1-25-10)

§ 117.03 ADMINISTRATION; DELEGATION OF POWERS AND AUTHORITY.

Unless prohibited by federal or state law, the Council may delegate its powers and authorities with respect to a cable operator to one or more duly authorized representatives of the city, including the Mayor, the City Administrator, a Cable Advisory Committee or an outside consultant; provided, however, the Council may never delegate its power to franchise or to revoke a franchise to another person.
(Ord. 1908, passed 1-25-10)

CABLE OPERATORS

§ 117.15 APPLICABILITY.

Unless exempted entirely or in part from this chapter or any of its provisions, or granted relief by the Council from any of its provisions, then this chapter shall be applicable to a cable operator.
(Ord. 1908, passed 1-25-10)

§ 117.16 EXEMPTIONS.

(A) In recognition of the inherent technological differences between various types of providers of video programming, and taking into account legal, financial, operational and maintenance considerations, the following providers of video programming are exempted from complying with this chapter:

- (1) A person or entity which provides cable service to fewer than 50 subscribers; or
- (2) A person or entity which provides cable service to, or in conjunction with operating one hotel, motel, time-share facility, or recreational vehicle park (but not including service to a mobile home or manufactured home park), and which does not use any public way; or
- (3) A person or entity which does not cross a public way in providing cable service to subscribers; or
- (4) A person or entity which is exempted from this chapter as a result of an applicable judicial ruling.

(B) An exempted person or entity remains exempted only as long as it meets one or more of the specifications of this section. In addition, the extent of the exemption is only for this chapter. An exempted person or entity is expected to abide by, and comply with, any other applicable city, county, state and federal laws and regulations, including any applicable federal or state consumer protection or consumer service laws and regulations.

(Ord. 1908, passed 1-25-10)

§ 117.17 REQUEST FOR RELIEF BY NON-EXEMPT CABLE OPERATOR.

(A) Any cable operator may file a written petition, at any time, with the city requesting relief from one or more provisions of this chapter. The relief requested may specifically include the delay in implementation (as to the petitioning cable operator only) of one or more provisions of this chapter. In order to receive any relief from one or more of the provisions of this chapter, a cable operator must satisfactorily demonstrate to the Council that at least one of the following facts exist:

- (1) The provision and/or requirement is expressly prohibited by federal law, the FCC or state law; or
- (2) That the provision in question materially affects, and is in conflict with an expressed right that is specifically noted in an existing franchise agreement (but only for the term of the existing franchise); or

(3) That the imposition of the provisions and/or requirements will create an undue economic hardship on the cable operator so as to imperil or eliminate the cable operator's ability to provide cable service to a majority of current subscribers.

(4) As an alternative to requesting relief, a cable operator may petition for clarification as to the precise intent and effect that one or more provisions or sections of this chapter has on the petitioning cable operator.

(B) The Council may charge the petitioning cable operator with the actual costs for processing the petition, including any costs incurred by outside consultants who are retained by the city to review a cable operator's petition; provided, however, such costs shall not exceed the total amount that the city may charge to a cable operator considering the federal limit on franchise fees. If the Council grants relief to a cable operator, then the franchise agreement shall be amended to reflect the extent of the relief.

(Ord. 1908, passed 1-25-10)

§ 117.18 NONCOMPLIANCE NOT EXCUSED FOR FAILURE TO ENFORCE.

A cable operator shall not be excused from complying with any of the requirements of this chapter by any failure of the city on any one or more occasions to seek, or insist upon compliance with this chapter.

(Ord. 1908, passed 1-25-10)

§ 117.19 COMPLIANCE WITH LAW.

(A) Any cable operator, its assignee, or transferee shall be subject to, and expected to comply with:

(1) All ordinances in effect within the city including this chapter, to the extent that the cable operator has not received exemption or relief.

(2) All federal and state laws, and all rules and regulation issued by all applicable regulatory agencies.

(3) All lawful exercise of the city's police power.

(B) Nothing contained in this section shall prevent a cable operator from exercising any, and all, of its administrative and legal rights as to the constitutionality, applicability, and enforceability of this chapter or any later amendments.

(Ord. 1908, passed 1-25-10)

§ 117.20 INCONSISTENCIES WITH FEDERAL OR STATE LAW.

If any provision or section of this chapter is inconsistent with any provision or section of a federal or state rule, regulation, or law, then the federal or state rule, regulation, or law shall control.
(Ord. 1908, passed 1-25-10)

§ 117.21 RETAINED RIGHTS AND AUTHORITIES.

Subject to pre-emption by the FCC or any other federal or state governmental entity or agency, the city retains the authority for:

(A) The regulation of any cable system within the geographical limits of the city, and within the limits prescribed by applicable law;

(B) The award and grant of a franchise subsequent to review of an application or proposal by the Council;

(C) Subject to the provisions § 117.19 and any relief or exemption granted with respect to those provisions, the amendment or repeal of all or part of this chapter; and

(D) The amendment of a franchise by mutual agreement of the Council and the holder of the franchise.

(E) The regulation of rates and charges as permitted by law.

(F) The enforcement of all laws and regulations relating to cable customer service practices and consumer protection.
(Ord. 1908, passed 1-25-10)

§ 117.22 NOTICES.

Each franchise shall designate the city's and the cable operator's contact person to receive notices, filings, reports, records, documents and other correspondence. All notices shall be delivered to each party's contact person either by personal service with signed receipt of delivery, certified or registered mail, return receipt requested, or by recognized overnight delivery service with receipt verification. All other filings, reports, records, documents, and other correspondence may be delivered by any permissible means including, but not limited to: personal service, overnight mail, email or facsimile. Delivery shall be deemed to have occurred at the time of receipt.
(Ord. 1908, passed 1-25-10)

§ 117.23 INDEMNITY.

(A) Each cable operator shall defend, indemnify, and hold harmless the city, its officials, authorized agents and employees from any and all penalty, damage, or loss arising out of claims, suits, demands, causes of action, or award of damages which might be claimed now or in the future, which arise out of, or are caused by, the construction, erection, location, products performance, operation, maintenance, repair, installation, replacement, removal or restoration of the cable system within the city by a negligent act or omission of the cable operator, its authorized agents or employees, contractors, or authorized representatives; provided, however, the cable operator shall not be obligated to indemnify the city for any penalty, damage or loss resulting from the willful misconduct or negligence of the city or from any use of the cable system by the city (to include the use of PEG channels). Reasonable attorney's fees, consultant's fees, expert witness fees and other expenses of litigation are included as those costs which may be recovered by the city.

(B) With respect to any request for indemnification made to a cable operator by the city:

(1) The city shall give the cable operator written notice of its obligation to indemnify the city within 30 days of receipt of written notification of a claim or action.

(2) The cable operator shall then have the right to defend, settle or compromise any such claims at the cable operator's expense and with the assistance of counsel of the cable operator's choice. The city shall provide reasonable cooperation in connection with the defense subject to the cable operator's obligation to reimburse the city for actual out-of-pocket expenses incurred by the city as the result of a request by the cable operator.

(3) If the cable operator fails to defend a claim within a reasonable time, the city shall be entitled to assume the defense and the cable operator shall be bound by the results and shall be liable to the city for the damages incurred by the city to include the costs referred to above as recoverable by the city.

(4) If a cable operator obtains counsel for the city, and/or its officials, agents and employees, then any one of them shall have the right to approve counsel, which approval shall not be unreasonably withheld. The city, its officials, agents and employees shall have the right to retain counsel of their own at their own expense.

(Ord. 1908, passed 1-25-10)

§ 117.24 LIABILITY INSURANCE.

A cable operator shall secure and maintain, for as long as it provides cable service, insurance coverage (the "insurance") as follows:

(A) The coverage shall provide for at least the following limits:

General Commercial Liability:	\$2,000,000 per occurrence; \$2,000,000 aggregate
Umbrella Liability:	\$2,000,000 aggregate

(B) The insurance shall specifically include the city and its officials, agents, and employees as additional insureds with respect to any liability arising out of the cable operator's performance.

(C) The insurance shall be issued by one or more companies licensed to do business in the state.

(D) The insurance shall contain an endorsement obligating the insurance company to furnish the city with at least 30 days written notice in advance of the cancellation of the insurance.

(E) Before a cable operator provides cable service, the cable operator shall deliver the policies or certificates representing the Insurance to the city. Renewal or replacement policies or certificates shall be delivered to the city prior to the expiration of the then existing insurance.

(F) If the state permits a cable operator to self-insure, then the cable operator may exercise its right and self-insure as long as the minimal insurance amounts outlined in this section are met and maintained.

(Ord. 1908, passed 1-25-10)

§ 117.25 PERFORMANCE BOND.

A cable operator shall comply with the following bonding requirements:

(A) A performance or security bond in an amount of at least \$50,000 executed by a surety licensed to do business in the state shall be delivered to the city. The purpose of the performance bond is to ensure performance of any requirements imposed by this chapter and any applicable franchise. The purpose is also to guarantee that should the cable operator not fulfill any obligations imposed by this chapter or a franchise held by the cable operator, then the surety will make whole (to the extent of the policy) any monetary losses incurred by the city.

(B) A construction/completion bond shall be furnished prior to the time that a cable operator commences a construction, upgrade, rebuild, or repair/maintenance project that has a capital construction cost or outlay exceeding \$50,000 in value where the construction takes place in one or more easements or in the public way; provided, however, the following shall not be considered in determining whether a project exceeds \$50,000:

(1) The cost attributable to any portion of the construction that utilizes aerial facilities consisting of existing poles owned by the cable operator or other utilities, or

(2) Construction within a new subdivision where the construction of facilities is coordinated with the developer of the subdivision. The amount of the bond shall equal at least 90% of the projected capital construction cost or outlay, but shall not exceed \$250,000.

(3) The construction/completion bond shall remain in force at all times until one year after completion of construction as determined by the city, unless relief is granted or a reduction schedule is detailed in an agreement between the city and the cable operator.

(C) Any construction/completion bond shall specifically guarantee that a cable operator will timely abide by its construction, upgrade, rebuild, or repair/maintenance schedule for the cable system and/or any time table for technical and service improvements or additions to the cable system as may be committed to, or agreed upon, from time to time by the city and the cable operator.

(D) If the city draws on a bond as a result of a cable operator's failure to timely discharge its obligations, or failure to construct and activate the cable system, or failure to complete a cable system upgrade or rebuild or repair/ maintenance project, then the cable operator shall replenish the bond within 30 days to the level required in this section.

(E) The Council may authorize a cable operator to substitute a cash deposit, letter of credit, or a guaranty of another person or entity for any of the bonds provided for in this section; provided, however, the person or entity providing a letter of credit or guaranty, and the form of the letter of credit or guaranty, shall be subject to the approval of the City Council in its sole discretion.

(Ord. 1908, passed 1-25-10)

§ 117.26 FURNISHING OF REPORTS.

Upon written request of the city, a cable operator shall furnish, at no cost to the city, copies of any or all filings with the FCC and the United States Copyright Office within 30 days of the request.

(Ord. 1908, passed 1-25-10)

§ 117.27 BOOKS AND RECORDS.

A cable operator shall keep complete and accurate books of accounts and records concerning the business and operations of the cable system. In addition:

(1) The city by its authorized representatives shall have the right, on reasonable advance written notice, to review at the cable operator's local office all records pertaining to a cable operator's

cable operations with respect to the city which are necessary to the enforcement of this chapter or the cable operator's franchise. Any review, unless mutually agreed upon or judicially ordered, should occur within the cable operator's regular office hours. Non-revenue financial records will only be requested in the aggregate on a summary prepared by the cable operator. The city acknowledges the sensitivity of these records, and will request this information only on as needed basis, and will treat this information as confidential and proprietary to the fullest extent allowed by law. The cable operator shall not be required to produce any records in violation of the Cable Act or any other applicable law.

(2) The city shall have the right to hire, at its own expense, an independent certified public accountant, or other business or financial expert, to review the books and records of a cable operator pertaining to revenue information.

(3) A false entry in the books and/or records of a cable operator of a material and substantial fact shall constitute a material violation of this chapter. Erroneous entries shall not constitute a material violation if made in good faith.

(4) If after a review or audit of a cable operator's records, it is discovered that the cable operator has underpaid the city by an amount that exceeds the greater of:

(a) Five hundred dollars; or

(b) Three percent of the total amount paid for any reporting quarter, then the city may require the cable operator to reimburse the city for the actual cost of the audit, in addition to the amount of underpayment.

(Ord. 1908, passed 1-25-10)

§ 117.28 LOCAL OFFICE; OFFICE HOURS; TELEPHONE AVAILABILITY.

(A) In order to facilitate the needs of subscribers, a cable operator shall maintain a customer service office which is easily accessible to subscribers, and is located within the community. The customer service office should have an adequate and knowledgeable staff in order to handle the vast majority of subscriber service inquiries, including but not limited to billing inquiries, refunds, service outages, equipment service and repair, payment of bills and other charges, and inquiries from disabled or physically impaired subscribers. In addition:

(1) The cable operator will maintain a local, toll-free telephone access line which will be available to its subscribers 24 hours a day, seven days a week.

(a) Trained company representatives will be available to respond to subscriber telephone inquiries during normal business hours which must include some evening or weekend hours.

(b) After normal business hours, the access line may be answered by a service or an automated response system, including an answering machine. Inquiries received after normal business hours must be responded to by a trained company representative on the next business day.

(2) Under normal operating conditions, telephone answer time by a customer representative, including wait time, shall not exceed 30 seconds when the connection is made. If the call needs to be transferred, transfer time shall not exceed 30 seconds. These standards shall be met no less than 90 percent of the time under normal operating conditions, measured on a quarterly basis.

(3) A cable operator will not be required to acquire equipment or perform surveys to measure compliance with the telephone answering standards above unless an historical record of complaints indicates a clear failure to comply.

(4) Under normal operating conditions, the subscriber will receive a busy signal less than 3% of the time.

(B) The customer service office shall be open during regular hours as published to subscribers.
(Ord. 1908, passed 1-25-10)

§ 117.29 INSTALLATIONS, OUTAGES, AND SERVICE CALLS.

Under normal operating conditions, each of the following four standards will be met no less than 95% of the time measured on a quarterly basis.

(A) Standard installations will be performed within seven business days after an order has been placed. “Standard” installations are those that are located up to 125 feet from the existing distribution system.

(B) Excluding conditions beyond its control, a cable operator will begin working on “service interruptions” promptly and in no event later than 24 hours after the interruption becomes known. A cable operator must begin actions to correct other service problems the next business day after notification of the service problem. Once begun, a cable operator shall diligently pursue the necessary repairs.

(C) The “appointment window” alternatives for installations, service calls, and other installation activities will be either a specific time or, at maximum, a four-hour time block during normal business hours. A cable operator may schedule service calls and other installation activities outside of normal business hours for the express convenience of a subscriber.

(D) Except for conditions beyond its control, a cable operator may not cancel an appointment with a subscriber after the close of business on the business day prior to the scheduled appointment.

(E) If a cable operator representative is running late for an appointment with a subscriber and will not be able to keep the appointment as scheduled, the subscriber will be contacted. The appointment will be rescheduled, as necessary, at a time which is convenient for the subscriber.

(Ord. 1908, passed 1-25-10)

§ 117.30 NOTIFICATIONS TO SUBSCRIBERS.

A cable operator shall provide written information to subscribers as follows:

(A) Subscribers will be notified of any changes in rates, programming services or channel positions as soon as possible in writing. Notice must be given to subscribers a minimum of 30 days in advance of such changes if the change is within the control of the cable operator. In addition, the cable operator shall notify subscribers 30 days in advance of any significant changes in the other information required by Section 76.1602 of the FCC Rules;

(B) In addition to the requirement of division (A), a cable operator shall give 30 days advance written notice to both subscribers and the city before implementing any change in rate or charge. Such notice shall state the precise amount of any change. When the change involves the addition or deletion of channels, each channel added or deleted must be separately identified. For purposes of the carriage of digital broadcast signals, the operator need only identify for subscribers, the television signal added and not whether that signal may be multiplexed during certain dayparts;

(C) A cable operator shall provide written notice to a subscriber of any increase in the price to be charged for basic cable service or associated equipment at least 30 days before any proposed increase is effective. The notice should include the name and address of the city;

(D) To the extent a cable operator is required to provide notice of cable service and rate changes to subscribers, the cable operator may provide such notice using any reasonable written means;

(E) Notwithstanding any other provision of the FCC Rules, a cable operator shall not be required to provide prior notice of any change in rate or charge that is the result of a regulatory fee, franchise fee, or any other fee, tax, assessment, or charge of any kind imposed by any federal agency, state, or the city on the transaction between a cable operator and a subscriber.

(Ord. 1908, passed 1-25-10)

§ 117.31 BILLING PRACTICES.

Bills will be clear, concise and understandable. Bills must be fully itemized, with itemizations including, but not limited to basic, tiered and premium service charges and equipment charges. Bills will also clearly delineate all activity during the billing period, including optional charges, rebates and credits.

(A) In case of a billing dispute, the cable operator must respond to a written complaint from a Subscriber within 30 days.

(B) Refund checks will be issued promptly, but no later than either:

(1) The subscriber's next billing cycle following resolution of the request or 30 days, whichever is earlier, or

(2) The return of the equipment supplied by the cable operator if service is terminated.

(3) Credits for service will be issued no later than the subscriber's next billing cycle following the determination that a credit is warranted.

(Ord. 1908, passed 1-25-10)

§ 117.32 BILLING CREDIT OR REFUNDS FOR SERVICE OUTAGES, INTERRUPTIONS, OR UNSOLICITED SERVICE.

(A) A cable operator shall provide a subscriber with a credit or rebate where the subscriber's entire cable service suffers a service outage or interruption exceeding eight hours in duration beyond the time that the subscriber notified the cable operator of the outage. The credit for purposes of determining the amount of the credit or rebate, shall be deemed to be equivalent to or the same as a 24-hour service outage.

(B) No credit or rebate shall be required where the outage was due to matters beyond the reasonable control of the cable operator. In addition:

(1) For notifications by a subscriber after hours, these credit refund requirements shall only apply if three subscribers have provided notice in a given area.

(2) In the case of a regional or area outage, all affected Subscribers shall be due a credit or refund if the cable operator is able to reasonably determine the subscribers affected. If the cable operator is not able to reasonably determine the subscribers affected by a regional or area outage, a credit or refund shall be given to all subscribers affected by the outage who make a claim for credit or refund within 30 days of the outage.

(3) In the case of a charge for unsolicited service, a cable operator shall provide a subscriber with an adjustment or billing credit on the next available billing statement, and the subscriber shall not be considered delinquent for failure to pay a charge for unsolicited service; provided, however, no such adjustment shall be made where the service was not authorized by the cable operator.

(Ord. 1908, passed 1-25-10)

§ 117.33 SPECIAL SERVICE REQUIREMENTS.

A cable operator shall comply with all federal and state laws and regulations concerning special service requirements for disabled, sight or hearing impaired or ambulatory impaired subscribers.
(Ord. 1908, passed 1-25-10)

§ 117.34 PREFERENTIAL OR DISCRIMINATORY PRACTICES PROHIBITED.

A cable operator shall not deny cable service, deny access, or otherwise discriminate, nor subject any person to prejudice or disadvantage on the basis of age, race, creed, color, sex, national origin, handicap, religious affiliation or location of residence. Cable operators shall not deny cable service, or the extension of cable service, to any group of potential residential cable subscribers because of the income of the residents of the local area in which such group resides. The provisions of this section shall not, however, prohibit a cable operator from:

(A) Offering a promotional or incentive discount rate or charge.

(B) Denying service based on location of residence, if that residence is outside the parameters for line extension as provided for in this chapter or the cable operator's franchise.

(C) Making agreements or entering into cable service agreements with multiple dwelling unit owners, including hotel, motel, and mobile park owners, to provide cable service under a bulk billing or other type of arrangement.
(Ord. 1908, passed 1-25-10)

§ 117.35 SERVICE INQUIRY LOGS.

In order to assist the city in assessing the resolution of subscriber service requests, inquiries and complaints, a cable operator shall be required to keep and maintain service logs, subject to any limitations imposed by state or federal law (including any subscriber privacy limitations). At a minimum, the service inquiry logs should contain the date and time of the initial receipt of a service request, inquiry or complaint, together with the date and time of the initial response; the nature of the matter; and the precise action taken by a cable operator in order to resolve the matter. In addition to any other right of inspection that the city may possess, it shall have the right to review and inspect a compilation of the logs. The city shall not have the right of review or inspection for any logs or any information contained within the logs that are otherwise protected by state or federal law.
(Ord. 1908, passed 1-25-10)

§ 117.36 RESTORATION OF A SUBSCRIBER'S PROPERTY.

At any time a cable operator disturbs the property of a subscriber, the cable operator shall ensure that the subscriber's property is returned, replaced and/or restored to a substantially similar condition as that in existence prior to the disturbance by the cable operator. The costs associated with both the disturbance and the return, replacement and/or restoration shall be borne by the cable operator. The requirements imposed upon the cable operator extend to any subcontractor or independent contractor employed by the cable operator.

(Ord. 1908, passed 1-25-10)

§ 117.37 VOLUNTARY DISCONNECTIONS AND DOWNGRADES.

A subscriber may at any time request that a particular service tier or the entire cable service be disconnected. In addition, where different levels of service are offered by a cable operator, a subscriber may request a downgrade from a particular level of service to a less comprehensive or less expensive level of service. Disconnections or downgrades shall be effective as per the cable operator's policies, to include any applicable charges for the change in service. Any refund due a subscriber after downgrade or disconnection (both for non-payment and voluntary) shall be made within 45 days after the downgrade or disconnection.

(Ord. 1908, passed 1-25-10)

§ 117.38 PROTECTION OF SUBSCRIBER PRIVACY.

A cable operator shall abide by any, and all, subscriber privacy rules or regulations of the federal or state governments.

(Ord. 1908, passed 1-25-10)

§ 117.39 USE OF PUBLIC WAYS.

(A) All facilities of a cable operator shall be located, installed and maintained so as not to endanger or unnecessarily interfere with usual and customary use, traffic and travel upon public ways and easements, and according to any public way or easement use standards established by the city.

(B) In addition:

(1) A cable operator shall obtain all required permits from the city before commencing any work requiring a permit, including the opening or disturbance of any public way.

(2) All facilities of a cable operator shall be installed and located as to cause minimum interference with the rights and reasonable convenience of property owners and at all times shall be kept and maintained in a safe, adequate and substantial condition, and in good order and repair. The cable operator shall, at all times, employ ordinary care and use commonly accepted methods and devices for preventing failures and accidents which are likely to cause damage, injuries, or nuisances to the public.

(3) A cable operator shall use existing poles, conduits and other facilities whenever possible, and shall not construct or install any new, different, or additional poles, conduits, or other facilities on public ways without obtaining all permits required by the city. Any poles or other fixtures placed in any public way by the cable operator shall be placed in such a manner as not to interfere with the usual travel on such public way.

(4) The cable operator shall, at its own expense, restore any damage or disturbance caused to the public way as a result of its operation, construction, or maintenance of the cable system to a condition reasonably comparable to the condition of the public way immediately prior to such damage or disturbance.

(5) If a cable operator's system creates a hazardous or unsafe condition or an unreasonable interference with property, then the cable operator shall at its own expense voluntarily, or upon request of the city, remove or move, as appropriate, that part of the system that creates the hazardous condition.

(6) A cable operator shall not place equipment where it will interfere with the rights of property owners or with other public utility services or any other service facility that benefits the city or its residents' health, safety or welfare.

(7) A cable operator shall, at its expense, protect public ways and easements, and support or temporarily disconnect or relocate in the same public way, any property of the cable operator when necessitated by reason of: traffic conditions, public safety, a street closing, street construction or resurfacing, change or establishment of a street grade, installations of other city utility services, or any improvement, construction or repair related to health, safety or welfare. Except in case of emergency, the city shall provide at least ten days written notice to the cable operator of the need for a relocation or temporary disconnection. In addition, the city shall have the right to remove any of the cable operator's facilities in the event of emergency, and no charge shall be made by the cable operator to the city for restoration and repair, unless such acts amount to gross negligence by the city.

(8) A cable operator shall, at the request of any person holding a building moving permit, temporarily remove, raise or lower the cable wires to allow the moving of the building. The expense of temporary removal shall be paid by the person requesting it. The cable operator may require payment in advance. The affected cable operator shall be given not less than ten business days notice of a contemplated move to arrange for temporary wire changes.

(9) A cable operator shall have the authority to trim trees in the public way at its own expense as may be necessary to protect its wires and facilities.

(10) The city shall have the right to make additional use, for any public purpose, of any poles or conduits controlled or maintained exclusively by or for the cable operator in any street or right of way, provided the use by the city does not interfere with the cable operator's use. The city shall indemnify and hold the cable operator harmless from all claims, demands, causes of action, suits, actions, proceedings, damages, costs or liabilities of every kind whatsoever arising out of the city's such use of the cable operator's poles or conduits.

(11) In those areas of the city where transmission or distribution of both telephone and power companies are underground or are later placed underground, a cable operator's feeder and subscriber drops shall also be placed underground. To the extent reasonably possible, a cable operator shall coordinate the joint use of facilities with the telephone and power companies.

(Ord. 1908, passed 1-25-10)

§ 117.40 CONSTRUCTION STANDARDS.

A cable operator shall construct, operate, maintain and repair its cable system in compliance with all current technical codes adopted by the city, the state and the FCC, as are customary to the cable television industry. Methods of construction, installation or maintenance and repair of any cable system shall comply with the most current editions of the National Electrical Safety Code, and the National Electric Code, as affects the construction, installation and maintenance of electrical supply and communications line and attachments and supports. To the extent that these are inconsistent with other provisions of a franchise, or state or local law, then the more stringent shall govern in order to protect the public health, safety and welfare.

(Ord. 1908, passed 1-25-10)

§ 117.41 SYSTEM EXPANSION.

Each franchise may provide for a build-out and density standard under which the cable operator shall extend cable service within the city at a charge which does not exceed the cable operator's normal rate for standard installations, so long as the installation is financially and technically feasible. The cable operator may extend service to subscribers which do not meet the density standard if the subscriber(s) are willing to pay or share the capital costs of expanding the cable system along with the cable operator's normal rate for standard installations.

(Ord. 1908, passed 1-25-10)

§ 117.42 EMERGENCY ALERT SYSTEM; STANDBY POWER.

(A) In order that subscribers may be alerted in the event of an impending, imminent or actual emergency, and in addition to the federal emergency alert standards, a cable operator shall ensure that

its system is designed to permit the override of the audio portion of all channels by authorized personnel at the Central Communications Center operated by Scotts Bluff County.

(B) In addition, a cable operator shall:

(1) Maintain all channel video blanking ability to facilitate the needs of hearing and sight-impaired subscribers;

(2) Test the subscriber override system at the request of the Central Communications Center which shall not be more frequent than once a month; and

(3) Cooperate with the city on the use and operation of the emergency override system.
(Ord. 1908, passed 1-25-10)

FRANCHISES

§ 117.50 FRANCHISE REQUIRED.

No person or entity, other than the city, shall be permitted to construct, operate or maintain a cable system where any part of the cable system's facilities to occupy or cross public ways without first having entered into a franchise.

(A) The city may award one or more non-exclusive franchises.

(B) An applicant shall be selected as part of a public proceeding and hearing which affords due process to both the city and the cable operator. If the applicant is selected as a cable operator, then the applicant will enter into a franchise agreement with the city.

(C) Unless prohibited by law, the city reserves the right to construct, operate or maintain its own cable system within the city limits. The city shall not be required to submit a proposal for, or receive, a franchise in order to do so.

(Ord. 1908, passed 1-25-10)

§ 117.51 FRANCHISE AGREEMENT.

(A) If the Council awards a franchise to an applicant in all or part of the city, or approves a proposal for renewal of a franchise, then a franchise agreement shall be entered into.

(B) A newly franchised cable operator may not lay any cable until the franchise agreement is executed by the cable operator and the city. At a minimum, a franchise agreement shall contain provisions for the following:

- (1) The term or duration of the franchise;
- (2) An agreement to comply with this chapter;
- (3) Any applicable construction, upgrade or rebuild schedule; and
- (4) Any applicable build-out and density standard.

(Ord. 1908, passed 1-25-10)

§ 117.52 EXTENT OF GRANT OF FRANCHISE.

Upon entering into a franchise, a cable operator may construct, install, maintain, operate, repair, replace, remove, or restore a cable system within the city. In so doing:

(A) The cable operator may utilize the public ways and those easements dedicated to the public use.

(B) The cable operator shall be responsible for obtaining its own easements for private property and pole attachment agreements with other utilities.

(Ord. 1908, passed 1-25-10)

§ 117.53 FRANCHISE TERM AND RENEWAL.

The term of a franchise may be for a period not to exceed ten years from the date that a franchise, or a franchise renewal, is approved by the Council. Proceedings for the renewal of a franchise shall be governed by the applicable provisions of the Cable Act.

(Ord. 1908, passed 1-25-10)

§ 117.54 FRANCHISE APPLICATION.

The city may develop rules and regulations with respect to the submission and processing of applications for a franchise. The rules and regulations shall primarily be aimed at determining the legal, financial, technical and character qualifications of the applicant.

(Ord. 1908, passed 1-25-10)

§ 117.55 FRANCHISE FEES.

(A) Each cable operator shall pay to the city a franchise fee equal to 4% of the gross revenues of the cable operator.

(B) The city reserves the right at any time upon 90 days notice to all cable operators to amend this section so as to increase the franchise fee to the maximum rate allowable under federal law.

(C) It is intended that the franchise fees will promote the health, safety and welfare of the citizens of the city. Accordingly, the franchise fee shall be deposited into the general revenues of the city, unless otherwise specified.

(1) The franchise fees may be passed through to subscribers as a line item on subscriber bills or otherwise, consistent with Federal law.

(2) Within 45 days after the end of each reporting quarter, a cable operator shall file with the city a detailed financial and revenue report showing the gross revenues received by The cable operator for operations within the city during the proceeding reporting quarter. The report shall be in a form approved by the city. The report shall include gross revenue from all sources upon which a franchise fee is payable, directly or indirectly derived from the operation of the cable system, or the provision of any cable service by or to the cable system. Gross revenue may be reported in the aggregate by general service type or source.

(3) In the event that payment is not made within 60 days after the end of a reporting quarter, then the cable operator may be declared in default of the franchise, and the city may take action against the cable operator as authorized in this chapter.

(4) The acceptance of any payment shall not be construed as a release of, or an accord or satisfaction of, any claim that the city might have for further or additional sums payable under the terms of this chapter, or for any other performance or obligation of a cable operator.

(5) Payments of compensation made by a cable operator to the city pursuant to this chapter shall be considered in addition to any and all taxes of general applicability owed to the city by the cable operator that are not included as franchise fee under federal law.

(6) A franchise fee shall not be payable on any gross revenue source(s) which are excluded by federal law.

(Ord. 1908, passed 1-25-10)

§ 117.56 ASSIGNMENT OF FRANCHISE.

(A) A cable operator's franchise may not be assigned in whole or in part without the city's prior written approval. For purposes of this section, "assigned" or "assignment" shall mean the transfer, sale, or any other form of assignment of a cable system, to include any transaction or action which effectively or actually changes ownership from one person or entity to another to include the transfer of 50% or more of the ownership interest of an entity or the parent of an entity. Any attempted assignment without prior written approval shall constitute a default in the franchise. A proposed assignment shall be subject to the following:

(1) At least 120 days before a proposed assignment is scheduled to become effective, the cable operator shall make a written request to the Council for the city's approval of the proposed assignment.

(2) The city will not unreasonably withhold its consent to an assignment. However, in making its determination, the Council may consider the following criteria:

(a) Qualifications of the proposed assignee;

(b) Financial ability and stability of the proposed assignee;

(c) The experience of the proposed assignee which may include conducting an investigation of the proposed assignee's service record in other communities;

(d) Legal integrity of the proposed assignee or transferee;

(e) If requested by the Council, submittals from the proposed assignee concerning any changes it intends to make in the operation and maintenance of the present cable system;

(f) The corporate connection, if any, between the cable operator and the proposed assignee;

(g) The economic viability or non-viability of the cable system in the future, based upon certain factors including the impact of the purchase price on the city and/or the proposed assignee; and

(h) Any other aspect of the proposed assignee's background which could affect the health, safety and welfare of the citizenry of the city as it relates to the operation of the cable system.

(3) Nothing in this section shall restrict the city from considering other criteria, and in particular, any criteria established under state or federal law, rule or regulation.

(4) Before an assignment is approved by the city, the proposed assignee shall sign a statement indicating that it has read, understands, and intends to abide by any existing franchise agreement.

(5) The city may include certain amendment(s) to the franchise or this chapter as a condition to the assignment; provided, however, any such amendment(s) shall either:

(a) Be by mutual agreement between the city and the proposed assignee; or

(b) Shall not have a material adverse effect on the rights and obligations of the cable operator under the franchise.

(6) In the event of any approved assignment, the assignee shall assume all obligations and liabilities of the former cable operator.

(7) The city's consent to an assignment shall not relieve the former cable operator of its liability under the franchise agreement until the assignment actually takes place unless specifically relieved by federal or state law or by the Council at the time an assignment is approved. In the event of an assignment, the former cable operator shall remain liable for any franchise fees incurred as of the time that the assignment is effective for the period governed by the applicable statute of limitations.

(8) If the cable operator has provided the city with all information as required by this section or the FCC in a timely manner, and the city has not taken action on the cable operator's request for transfer within 120 days after receiving such request, consent by the city shall be deemed given consent shall not be required for an assignment to a wholly-owned subsidiary entity of a cable operator or the current parent entity of a cable operator, whether the ownership is direct or indirect, such as through other wholly-owned intermediate subsidiaries. In addition, consent shall not be required for the granting of a security interest in the cable operator's system including its franchise. However, if the holder of the security interest repossesses, forecloses or takes other action concerning its collateral, it shall dispose of the cable system within a reasonable period of time and the disposition by the holder of the security interest shall be considered an assignment subject to the provisions of this section.

(Ord. 1908, passed 1-25-10)

ADDITIONAL REGULATIONS

§ 117.65 EDUCATIONAL AND GOVERNMENTAL ACCESS.

(A) To the extent permitted by law, and in order to fulfill a public, educational and governmental access policy that will facilitate the long range needs of the community, each cable operator shall provide at its own expense PEG Channels as follows:

(1) Two 24-hour per day educational channels shall be provided within the community, one for the use of the city schools and one for the city schools.

(2) One 24-hour per day PEG channel shall be provided within the community for use by various governmental subdivisions. If at any time, 90% of the total time allocated for this PEG Channel is consistently used five days a week for a period of six months, then the cable operator shall provide an additional PEG channel. The use of this additional channel may be reviewed every six months at the request of the cable operator. If after any six month period, the combined use of the original and added PEG channel has dropped so that if the two channels were combined, the usage would not justify more than one channel under this subsection, the requirement for the additional PEG channel shall cease until the criteria for the additional PEG channel is met once again.

(3) A cable operator shall provide up to six hours of technical assistance within a calendar year for each school or political subdivision without charge. Additional technical assistance shall be provided at the cable operator's cost.

(B) The provision of PEG channels shall include the installation of one modulator per each governmental user of a PEG channel. Installation shall be considered as complete when the governmental user's system is operational.
(Ord. 1908, passed 1-25-10)

§ 117.66 PUBLIC SERVICE.

(A) A cable operator shall furnish, upon request, one outlet for each public school building, municipal office building, public library, fire station, police station and courthouse which is passed by the cable operator's cable system. Basic cable service and the next additional service tier shall be provided at no charge.

(B) An initial connection will be made at no charge with additional connections to be made for the cost of time and materials only. If necessary for a television with a standard digital tuner to receive the service level provided at no charge, then one converter shall be provided for each such television within these public buildings, up to a maximum of five converters per building. With respect to this service:

(1) The cable service provided pursuant to this section shall not be used for commercial purposes and shall not generally be available for public viewing. The city shall take reasonable precautions to prevent any use of the cable system that results in the inappropriate use or any loss or damage to the cable system.

(2) The city shall hold the cable operator harmless from any and all liability or claims arising out of the provision and use of cable service to city buildings.

(3) The cable operator shall not be required to provide an outlet to any such building where a standard drop of more than 125 feet is required, unless the city or building owner/occupant agrees to pay the incremental cost of any necessary extension or installation.
(Ord. 1908, passed 1-25-10)

§ 117.67 TECHNICAL STANDARDS.

A cable operator shall comply with any rules and regulations of the FCC concerning technical operation, signal quality and consumer electronics equipment compatibility. Unless a cable operator can demonstrate that it is both technologically and economically unfeasible, programming services shall be delivered by the use of addressable technology allowing cable service levels to be changed without the expense (either to the operator or a subscriber) of a separate trip or call.

(Ord. 1908, passed 1-25-10)

§ 117.68 DEFAULT.

When a cable operator violates a provision of this chapter, or acts so as to compromise the or legal, financial or technical integrity and/or stability of the cable system or the cable operator itself, in either case, to a degree that the interests of the subscribers and users are negatively affected, then a cable operator shall be considered in default of this chapter.

(A) Examples of a default shall include, but are not limited to: bankruptcy (except for a reorganization as long as the cable operator is in compliance with an approved plan or other court order), insolvency, failure to pay taxes or franchise fees, failure to receive written city approval for an assignment, or failure to substantially abide by the terms and conditions of the franchise agreement or this chapter. Events in the nature of force majeure or conditions which cannot be corrected because they are matters beyond the immediate control of the affected cable operator shall not be considered a default.

(B) In the event that a default occurs, the city shall provide written notice of the default to the affected cable operator. The notice of default shall specify the violation(s).

(C) The cable operator shall have 30 days from the receipt of the written notice to bring itself into compliance so that it is no longer in default of its franchise or this chapter, as the case may be; provided, however, if by the nature of default, the default cannot be cured within this 30 day period, the cable operator shall initiate reasonable steps to remedy the default and notify the city of the steps being taken and the projected date that they will be completed.

(D) If the cable operator fails to cure its default within the time period provided for above, the matter shall be set for public hearing before the Council to be held within 75 days after the notice of default was mailed to the cable operator. Written notice of the time and place of the public hearing shall be sent to the cable operator at least 15 days prior to the date of the hearing.

(E) At the hearing, the cable operator shall have an opportunity to state its position on the matter, present evidence and question witnesses. If the cable operator fails to attend the hearing where a continuance of the hearing has not been granted by the Council, then the cable operator may be declared in default of the franchise agreement.

(F) If the default has not been resolved by the time of or as a result of the hearing, the Council may, after the public hearing, direct the cable operator to take corrective action within a specified period of time, or may declare the cable operator in default of the franchise agreement, and revoke or terminate the franchise. The Council's action shall be delivered to the cable operator in writing within 15 days of the Council's action.

(G) If the Council directs corrective action to be taken and the cable operator does not rectify the default within the time specified, then the Council may without further notice declare the cable operator to be in default and revoke or terminate the franchise.

(H) If the cable operator fails to comply with any determination by the Council, which determination is not stayed or overturned by order of an appropriate court, then the city shall have any and all remedies available to it by law.

(Ord. 1908, passed 1-25-10)

§ 117.69 FEDERAL LEGISLATION, RULES AND REGULATIONS; FRANCHISE SUBJECT TO AMENDMENT.

In addition to any requirements contained within this chapter, all cable operators shall be expected to comply with all applicable provisions of the Cable Act and all other laws directed at controlling or regulating cable operators, and any rules and regulations issued pursuant to those laws. In addition, any franchise issued pursuant to this chapter shall be subject to amendment to incorporate any applicable federal legislation, rules or regulations which become effective after the date of the franchise.

(Ord. 1908, passed 1-25-10)

§ 117.70 INTER-GOVERNMENTAL COOPERATION.

(A) In the event that a cable system serves areas outside the jurisdiction of the city (to include the community), then the various jurisdictions or governmental subdivisions shall have the right to enter into one or more agreements concerning the matters covered by this chapter. By way of example, it is contemplated that the members of the community may enter into one or more agreements to assist them in regulating cable operators.

(B) These agreements may include, but shall not be limited to, the following general areas:

(1) Allocation of the total franchise fee collected from the cable system between the various governmental subdivisions.

(2) The review and evaluation of:

- (a) Proposals to provide cable television service; or
- (b) Requests for renewal of existing franchises.
- (3) Evaluations of a cable operator's performance.
- (4) PEG Channel use.

(C) Except as may be prohibited by law, a cable operator shall honor any agreements entered into pursuant to this section.

(Ord. 1908, passed 1-25-10)

§ 117.71 TAMPERING AND UNAUTHORIZED RECEPTION OF CERTAIN SIGNALS.

No person shall intercept or receive, or assist in intercepting or receiving, any communications service offered over a cable system, unless specifically authorized to do so by a cable operator, or as may otherwise be specifically authorized by law.

(A) For purposes of this section, the term “assist in intercepting or receiving” shall include the manufacture or distribution of equipment intended by the manufacturer or distributor for the unauthorized reception of cable service.

(B) Without securing permission from a cable operator, or making payment to a cable operator, then no person shall be authorized to make any connection with any part of a cable system for the purpose of receiving or intercepting, or assisting others to receive or intercept any cable service provided lawfully by a cable operator.

(C) No person shall be authorized to willfully tamper with, remove or damage any facilities used for the distribution of cable service.

(D) Any violation of this section is a Class I violation.
(Ord. 1908, passed 1-25-10)

TITLE XIII: GENERAL OFFENSES

Chapter

130. GENERAL OFFENSES

CHAPTER 130: GENERAL OFFENSES

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GENERAL PROVISIONS**§ 130.01 AIDING COMMISSION OF OFFENSE.**

It shall be unlawful for any person, in any way or manner, to aid, abet, counsel, advise or encourage any other person in the commission of any of the acts mentioned in this chapter or in any manner encourage the commission of such offense hereby defined.

(Prior Code, § 6-1-26) Penalty, see § 10.99

§ 130.02 OFFENSES; CONCEALING KNOWLEDGE OF.

It shall be unlawful for any person to conceal knowledge of the commission of any offense or to conceal knowledge of any unlawful act as defined in this code.

(Prior Code, § 6-1-7) Penalty, see § 10.99

§ 130.03 STOP AND IDENTIFY; WHEN AUTHORIZED, DETENTION AUTHORIZED.

A peace officer may stop a person in a public place and be required to identify himself when a peace officer reasonably suspects the person of committing, has committed, or who is about to commit a crime, and may require him to provide his name and address. That person may be detained only to ascertain his identity and the suspicious circumstances surrounding his presence. Such person so detained shall identify himself but may not be compelled to answer any other inquiry of any peace officer. Such person detained may not be detained any longer than is reasonably necessary to confirm the detainee's name and address, and in no event any longer than 60 minutes. The detention may not extend beyond the place of the immediate vicinity of the place where such detention first occurred unless such person is arrested.

(Ord. 1804, passed 9-12-05) Penalty, see § 10.99

§ 130.04 PROTECTION OF DOGS USED IN LAW ENFORCEMENT.

For the purposes of this section, **POLICE DOG** shall mean any dog used by the Police Department or by any personnel of the Department in the performance of any of the functions or duties of the department or its personnel. It shall be unlawful for any person to:

(A) Willfully and maliciously harass, taunt, torment, tease or frighten any police dog;

(B) Interfere with or meddle with any police dog while being used in the performance of its duties; or

(C) Willfully and maliciously torture, mutilate, injure, disable, poison or kill any police dog.

(D) A violation of any provision of this article is a Class 1 violation.
(Ord. 1821, passed 2-27-06)

OFFENSES AGAINST PERSONS

§ 130.10 ASSAULT OR BATTERY.

(A) It is hereby declared unlawful for any person within the city to assault or threaten another in a menacing manner or strike or injure another.

(B) It is unlawful for any person or persons within the city to intentionally provoke or attempt to provoke an assault upon himself or another by the uttering or grossly vile or insulting epithets applied to the assailed party or one so attempting to commit an assault, or to curse or swear at a person or use grossly vile names, or slander or abuse the character of another person, spit or expectorate at another person, throw or otherwise cause an object of any size to be directed at another, with the intent of provoking an assault by such person.

(Neb. RS 28-310) (Prior Code, § 6-1-3) (Am. Ord. 1901, passed 9-28-09) Penalty, see § 10.99

§ 130.11 WINDOW PEEPING.

It shall be unlawful for any person to go upon the private premises of another within this city and look or peep into any window, door or other opening in any building located thereon, which is occupied by any person as a place of abode or to go upon the private premises of another for the purpose of looking or peeping into any window, door or other opening in any building thereon, which is occupied by any person as a place of abode.

(Prior Code, § 6-1-39) (Ord. 339, passed 4-7-52) Penalty, see § 10.99

§ 130.12 LASER DEVICES; POINTING.

(A) *Definition.* As used in this section, the term ***LASER DEVICE*** shall mean any of several devices that convert incident electromagnetic radiation of mixed frequencies to one or more discrete frequencies of highly amplified and coherent visible radiation; as well as any other such device operating on the principle of light amplification by stimulated emission of radiation.

(Prior Code, § 6-13-1)

(B) *Prohibited uses.* It shall be unlawful for any person to point or otherwise direct the beam from a laser device into the eye(s) or onto the body of another person. It shall be unlawful for any

person to point or otherwise direct the beam from a laser device into the eye(s) of or onto the body of any animal. It shall be unlawful for any person to point or otherwise direct the beam from a laser device toward any occupied vehicle.

(Prior Code, § 6-13-2)

(C) *Exceptions.* Nothing in this section shall prohibit the use of a laser device by any licensed and qualified physician, veterinarian, or medical or health care provider for diagnostic or treatment purposes. Nothing in this section shall prohibit the use of a laser device by any student regularly enrolled in any educational institution; provided such use is in a controlled laboratory or classroom setting, with the permission and under the direct supervision of a licensed teacher or instructor. Nothing herein shall prohibit the use of a laser device by any peace officer.

(Prior Code, § 6-13-3) (Ord. 1633, passed 3-1-99) Penalty, see § 10.99

OFFENSES AGAINST PROPERTY

§ 130.20 ADMISSION FEES; AVOIDING PAYMENT.

It shall be unlawful for any person fraudulently to enter, without payment of the proper admission fee, any theater, ballroom, lecture, concert or other place where admission fees are charged; provided, however, that nothing in this section contained shall be deemed to prohibit or restrict the free admission of police officers engaged in the performance of police duties to any place of public entertainment or amusement.

(Prior Code, § 6-1-1) Penalty, see § 10.99

§ 130.21 THEFT.

(A) For purposes of this section, the definitions found in Neb. RS 28-509 shall be used.

(B) It shall be unlawful for any person, when the value of the thing involved is under \$500, to:

(1) Take or exercise control over movable property of another with the intent to deprive him thereof; or

(2) Transfer immovable property of another or any interest therein with the intent to benefit himself or herself or another not entitled thereto; or

(3) Fail to return leased or rented movable property to the lessor after the expiration of a written lease or written rental agreement if such lessee has been mailed notice by certified mail that such lease or rental agreement has expired and he or she has failed within ten days after such notice to return such property; or

(4) Obtain the property of another by deception, as defined in Neb. RS 28-512; or

(5) Obtain the property of another by threatening to:

(a) Inflict bodily injury on anyone or commit any other criminal offense; or

(b) Accuse anyone of a criminal offense; or

(c) Expose any secret tending to subject any person to hatred, contempt, or ridicule, or to impair his or her credit or business repute; or

(d) Take or withhold action as an official, or cause an official to take or withhold action;
or

(e) Bring about or continue a strike, boycott, or other collective unofficial action, if the property is not demanded or received for the benefit of the group in whose interest the actor purports to act; or

(f) Testify or provide information or withhold testimony or information with respect to another's legal claim or defense.

It is an affirmative defense to prosecution based on subdivisions (5)(b), (c), or (d) that the property obtained by threat of accusation, exposure, lawsuit, or other invocation of official action was honestly claimed as restitution or indemnification for harm done in the circumstances to which such accusation, exposure, lawsuit, or other official action relates, or as compensation for property or lawful services; or

(6) Come into control of property of another that he or she knows to have been lost, mislaid, or delivered under a mistake as to the nature or amount of the property or the identity of the recipient if, with intent to deprive the owner thereof, he fails to take reasonable measures to restore the property to a person entitled to have it; or

(7) Obtain services, which he or she knows are available only for compensation, by deception or threat or by false token or other means to avoid payment for the service; or

(8) Have control over the disposition of services of others to which he or she is not entitled and divert such services to his or her own benefit or to the benefit of another not entitled thereto; or

(9) Receive, retain or dispose of stolen movable property of another knowing that it has been stolen, or believing that it has been stolen, unless the property is received, retained, or disposed with intention to restore it to the owner.

(Neb. RS 28-511 through 28-515 and 28-517) (Prior Code, § 6-1-27) (Ord. 1668, passed 7-24-00) Penalty, see § 10.99

§ 130.22 CRIMINAL MISCHIEF.

It shall be unlawful for any person within the city purposely, willfully, maliciously, or recklessly to destroy or injure or aid in destroying or injuring, in any manner, any real or personal property of any description, belonging to another person, or in charge of another as agent or factor, with a value less than \$500. A violation of any provision of this section is a Class I violation.

(Prior Code, § 6-1-30) (Am. Ord. 1906, passed 1-11-10) Penalty, see § 10.99

Statutory reference:

Criminal mischief, see Neb. RS 28-519

§ 130.23 SWINDLING.

It shall be unlawful for any person, who by color, or aid of any trick or sleight of hand performance, or by fraud or by fraudulent scheme, cards, dice or device, to win for himself or herself or for another any money or property or a representative of either.

(Prior Code, § 6-1-35) Penalty, see § 10.99

§ 130.24 CRIMINAL TRESPASS.

It shall be unlawful for any person, knowing that he or she is not licensed or privileged to do so, to:

(A) Enter or secretly remain in any building or occupied structure, or any separately secured or occupied portion thereof; or

(B) Enter or remain in any place as to which notice against trespass is given by:

(1) Actual communication to the actor; or

(2) Posting in a manner prescribed by law or reasonably likely to come to the attention of intruders; or

(3) Fencing or other enclosure manifestly designed to exclude intruders.
(Neb. RS 28-520, 28-521) (Prior Code, § 6-1-36) (Ord. 1630, passed 1-11-99) Penalty, see § 10.99

§ 130.25 SHOPLIFTING.

(A) It shall be unlawful for any person to commit the crime of theft by shoplifting within the city limits.

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

(1) Conceals or takes possession of the goods or merchandise of any store or retail establishment;

(2) Alters the price tag or other price markings on goods or merchandise of any store or retail establishments;

(3) Transfers the goods or merchandise of any store or retail establishment from one container to another;

(4) Interchanges the label or price tag from one item of merchandise with a label or price tag for another item of merchandise; or

(5) Causes the cash register or other sales recording device to reflect less than the retail price of the merchandise.

(C) (1) In any prosecution for theft by shoplifting, photographs of the shoplifted property may be accepted as prima facie evidence as to the identity of the property. Any photographs shall be accompanied by a written statement containing the following:

(a) A description of the property;

(b) The name of the owner or owners of the property;

(c) The time, date and location where the shoplifting occurred;

(d) The time and date the photograph was taken;

(e) The name of the photographer; and

(f) Verification by the arresting officer.

(2) The purpose of this provision is to allow the owner or owners of shoplifted property, the use of such property during pending criminal prosecutions. Prior to allowing the use of the shoplifted property pending prosecution, legal counsel for the alleged shoplifter shall have a reasonable opportunity to inspect and appraise the property and may file a motion for retention of the property. The motion shall be granted if there is any reasonable basis for believing that the photographs and accompanying affidavit may be misleading.

(Prior Code, § 6-1-44) (Ord. 1304, passed 6-11-84) Penalty, see § 10.99

§ 130.26 LITTERING.

(A) Any person who deposits, throws, discards, or otherwise disposes of any litter on any public or private property or in any waters commits the offense of littering unless:

(1) Such property is an area designated by law for the disposal of such material and such person is authorized by the proper public authority to so use such property; or

(2) The litter is placed in a receptacle or container installed on such property for such purpose.

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

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

(Neb. RS 28-523) (Prior Code, § 6-1-18) Penalty, see § 10.99

§ 130.27 DESTRUCTION OF PARK PROPERTY.

Any person who shall cut down, injure, or destroy any tree, plant, or shrub, or who shall injure or destroy any building, equipment, or paraphernalia belonging to the city, and installed in its parks, or who shall commit any waste of any kind therein, shall, upon conviction thereof, be deemed guilty of an offense.

(Ord. passed 1728, passed 6-23-03) Penalty, see § 10.99

OFFENSES AGAINST PUBLIC ORDER AND JUSTICE**§ 130.33 CONCEALED WEAPONS.**

(A) *Carrying; prohibited.* Any person who carries a weapon or weapons concealed on or about his or her person, such as a handgun for which no permit has been obtained through the Concealed Handgun Permit Act, firearm, knife, or knife with a dirk blade attachment, brass or iron knuckles, or any other deadly weapon, commits the offense of carrying a concealed weapon. The terms **KNIFE**, and **BRASS** or **IRON KNUCKLES** shall have the meanings given them in Neb. RS Chapter 28.

(B) *Concealed handguns; prohibited on city property.* Pursuant to the Concealed Handgun Permit Act, the city does hereby prohibit permit holders under the Concealed Handgun Permit Act from carrying concealed handguns into all buildings owned or leased by the city.

(C) A violation of any provision of this section is a Class I violation.
(Ord. 1906, passed 1-11-10)

§ 130.34 DISORDERLY HOUSE.

(A) *Definition.*

(1) Any room, house, building, structure, place or premises wherein or upon any unlawful or illegal acts are committed in violation of local state or federal law, or which are kept in such a manner as to disturb, annoy or scandalize the public generally, or persons within a particular neighborhood, is hereby declared to be a disorderly house.

(2) Any room, house, building, structure, place or premises which are kept, maintained, used, erected, established or run for any of the following purposes is hereby declared to be a disorderly house, provided however, that this shall not be deemed or construed to be conclusive, limiting or restrictive:

(a) Prostitution, pandering or public indecency as those terms are defined in the statutes of Nebraska;

(b) Unlawful manufacture, cultivation, growth, production, processing, sale, distribution, storage, use or possession for any unlawful manufacture, or use of any controlled substance as that term is defined in the statutes of Nebraska;

(c) Gambling as that term is defined in the statutes of Nebraska, or the keeping of gambling devices as that term is defined in the statutes of Nebraska;

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(d) Acts of disturbing the peace or disorderly conduct as those terms are defined elsewhere in this municipal code;

(e) The reception, retention or disposition of stolen moveable property of another;

(B) *Prohibited; nuisance.* It shall be unlawful for the owner, lessee, renter, proprietor, or any other person or persons to keep, run or maintain a disorderly house, or to knowingly collect or permit to be collected therein persons who are engaging in any unlawful act or to knowingly make, cause or permit, or suffer to be made therein any loud or improper noise to the annoyance or disturbance of any person or neighborhood. A disorderly house is declared to be a public nuisance. A violation of this section is a Class I violation.

(C) *Inmate; visiting; prohibited.* It shall be unlawful for any person to become or remain an inmate of any disorderly house, or to frequent or visit with knowledge of, and participation in, the illegal activities occurring therein. A violation of this section is a Class I violation.

(D) *Abatement procedure.*

(1) The procedures in this section are applicable in the event of repeated incidents of the type described in this division. For purposes of this section, "repeated incidents" means two or more of such incidents within the immediately preceding 12-month period, which incidents are documented in writing by a law enforcement agency. Such incidents need not have resulted in a criminal conviction. The procedures in this section are also applicable to the situations described in division (2).

(2) The Police Chief may give notice to the owner or occupants of the disorderly house to cease the conduct. The notice shall be in writing, shall be served personally or by certified mail, and shall contain the following:

(a) The location of the disorderly house;

(b) A description of the conduct which constitutes the room, house, building, structure, place or premises a disorderly house;

(c) An order to cease the conduct;

(d) A statement that if the conduct continues the city may take such legal action as may be necessary to restrain or suppress the conduct, specifically including the seeking of an injunction in the District Court.

(3) Within five days after receipt of such notice, the owner or occupant may make a written request for a hearing before the City Council. At such hearing the City Council shall determine whether the room, house, building, structure, place or premises is a disorderly house. If the City Council

determines that the room, house, building, structure, place or premises is a disorderly house, the City Council may authorize the appropriate city officers to commence the appropriate action in court to suppress the conduct if the conduct does not cease.

(Ord. 1906, passed 1-11-10; Am. Ord. 1910, passed 4-12-10)

§ 130.35 RIOTS.

It shall be unlawful for any person to fail to or refuse immediately to disperse upon an order to do so by a police officer, when three or more persons are assembled for the purpose of disturbing the peace or for the purpose of committing any unlawful act.

(Prior Code, § 6-1-34) Penalty, see § 10.99

§ 130.36 ASSEMBLY; UNLAWFUL.

It shall be unlawful for three or more persons to assemble together for the purpose of disturbing the peace or for the purpose of committing an unlawful act and not to disperse upon the command of an officer so to do.

(Prior Code, § 6-1-4) Penalty, see § 10.99

§ 130.37 DISORDERLY CONDUCT.

(A) It shall be unlawful for any person or persons within the city to indulge or engage in any riotous, tumultuous or disorderly conduct; to take part in any disorderly assembly; to be an inmate of a disorderly house or attend or visit any such house, to fight by agreement or otherwise to quarrel; to engage in lewd, indecent or lascivious behavior; or to do or engage in any other disorderly act or conduct tending to disturb the peace and quiet or the city.

(B) Disorderly conduct shall include, but not be limited to:

(1) Threatening, abusive or insulting conduct or behavior, if uttered or, as the case may be, engaged in with intent to provoke a breach of the peace, or whereby a breach of the peace may be occasioned, on the part of other persons present;

(2) Language or other conduct or behavior which annoys and is uttered or, as the case may be, engaged in with intent to provoke a breach of the peace on the part of other persons present;

(3) Language, conduct or behavior shall be deemed to be threatening, abusive, insulting or annoying if it would be so regarded by a person of ordinary sensibilities in the community;

(4) Loitering or other conduct which obstructs or interferes with the passage of persons upon a public street, avenue, road, alley, bridge, sidewalk, highway or any public way or place used for the passage of persons, if the obstruction or interference continues or commences after the police have ordered the person or persons so doing to cease and desist or to move on; and

(5) Loitering about any school or public place at which children congregate, with an apparent intent to molest any child under the age of 18 years. Loiter shall mean to linger, delay, be dilatory, stand, sit, saunter, lag behind, move slowly about, loaf or spend time idly.

(Neb. RS 16-228) (Prior Code, § 6-1-8) (Am. Ord. 1901, passed 9-28-09) Penalty, see § 10.99

§ 130.38 DISTURBING THE PEACE.

It shall be unlawful for any person or persons within the city, to disturb the peace and quiet of any other person, family or neighbor, on any public assembly or assemblies of persons for religious worship or for any other purpose by any loud or unusual noise, boisterous laughing, talking, hollering, quarreling, swearing, obscene or indecent language, or by any other manner for device whatsoever.

(Neb. RS 28-1322) (Prior Code, § 6-1-9) (Am. Ord. 1901, passed 9-28-09) Penalty, see § 10.99

§ 130.39 DRUNKENNESS.

If any person shall be found in a state of intoxication in any public place within the corporate limits, he or she shall be deemed guilty of an offense, and any peace officer shall, without a warrant, take such person into custody and detain him or her until a complaint can be filed before a magistrate and a warrant be issued for his or her arrest.

(Prior Code, § 6-1-10) Penalty, see § 10.99

§ 130.40 LIQUOR; CONSUMPTION ON PUBLIC PROPERTY.

(A) Except when the Nebraska Liquor Control Commission has issued a license as provided in Neb. RS 53-186(2), it is unlawful for any person to consume alcoholic liquor upon property owned or controlled by the state or any governmental subdivision thereof unless authorized by the governing bodies having jurisdiction over such property.

(Neb. RS 53-186)

(B) (1) It is unlawful for any person in the passenger area of a motor vehicle to possess an open alcoholic beverage container while the motor vehicle is located in a public parking area or on any highway in this municipality.

(2) Except as provided in Neb. RS 53-186, it is unlawful for any person to consume an alcoholic beverage in a public parking area or on any highway in this municipality or inside a motor vehicle while in a public parking area or on any highway in this municipality.

(3) For purposes of this division:

(a) Alcoholic beverage means beer, ale porter, stout, and other similar fermented beverages, including sake or similar products, of any name or description containing one-half of one percent or more of alcohol by volume, brewed or produced from malt, wholly or in part, or from any substitute therefor; wine of not less than one-half of one percent of alcohol by volume; or distilled spirits which is that substance known as ethyl alcohol, ethanol, or spirits of wine in any form, including all dilutions and mixtures thereof from whatever source or by whatever process produced. Alcoholic beverage does not include trace amounts not readily consumable as a beverage;

(b) Highway means a road or street including the entire area within the right-of-way;

(c) Open alcoholic beverage container, except as provided in Neb. RS 53-123.04(3) or 53-123.11(1)(c) means any bottle, can, or other receptacle:

1. That contains any amount of alcoholic beverage; and

2. A. That is open or has a broken seal; or

B. The contents of which are partially removed; and

(d) Passenger area means the area designed to seat the driver and passengers while the motor vehicle is in operation and any area that is readily accessible to the driver or a passenger while in their seating positions, including any compartments in such area. Passenger area does not include the area behind the last upright seat of such motor vehicle if the area is not normally occupied by the driver or a passenger and the motor vehicle is not equipped with a trunk.

(Neb. RS 60-6,211.08) (Prior Code, § 6-1-42) (Ord. 1663, passed 6-26-00) Penalty, see § 10.99

§ 130.41 IMPERSONATING A POLICE 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. RS 28-610) (Prior Code, § 6-1-13) Penalty, see § 10.99

§ 130.42 LOITERING.

(A) A person commits a violation if he or she loiters or prowls in a place, at a time, or in a manner not usual for law-abiding individuals under circumstances that warrant alarm for the safety of persons or property in the vicinity. Among the circumstances which may be considered in determining whether alarm is warranted is the fact that the person takes flight upon appearance of a police officer, refuses to identify himself or herself, or manifestly endeavors to conceal himself or herself or any object. Unless flight by the person or other circumstances makes it impractical, a police officer shall, prior to any arrest for an offense under this section, afford the person an opportunity to dispel any alarm which would otherwise be warranted, by requesting the person to identify himself or herself and to explain his or her presence or conduct. No person shall be convicted of an offense under this section if the police officer did not comply with the preceding sentence, or if it appears at trial that the explanation given by the person was true and, if it had been believed by the police officer at the time, would have dispelled the alarm. Any police officer may arrest any person suspected of being a loiterer or prowler without a warrant if it reasonably appears that the delay in arresting the suspect caused by obtaining a warrant would result in the suspect's escape.

(B) It shall be unlawful for any person, after first being warned by a police officer, or where a "no loitering" sign or signs have been posted, to loiter, stand, sit, or lie in or upon any public or quasi-public sidewalk, street, curb, cross-walk, walkway area, mall or that portion of private property utilized for public use, so as to hinder or obstruct unreasonably the free passage of pedestrians or vehicles thereon. It shall be unlawful for any person to block, obstruct, or prevent free access to the entrance to any building open to the public.

(C) For the purpose of this section, **PUBLIC PLACE** has the following definition unless the context clearly indicates or requires a different meaning: an area generally visible to public view, including streets, sidewalks, bridges, alleys, plazas, parks, driveways, parking lots, automobiles (whether moving or not), and buildings open to the general public, including those which serve food or drink or provide entertainment, and the doorways and entrances to buildings or dwellings and the grounds enclosing them.

(Prior Code, § 6-1-37) Penalty, see § 10.99

§ 130.43 PRISONERS; FURNISHING WEAPONS TO.

It shall be unlawful for any person to furnish or attempt to furnish or take into jail or to deliver or attempt to deliver to any prisoner therein confined, or in the custody of any officer, any weapon, tool, intoxicating liquor, drug or other article without the consent of the officer in charge.

(Prior Code, § 6-1-38) Penalty, see § 10.99

§ 130.44 FIRE HOSE; CROSSING.

No vehicle shall be driven over unprotected hose of the Fire Department when laid down on any highway or private road or driveway, in use or to be used at any fire or alarm of fire, without the consent of the Fire Department official in command.

(Neb. RS 60-6,184) (Prior Code, § 6-1-14) Penalty, see § 10.99

§ 130.45 RESISTING ARREST WITHOUT THE USE OF A DEADLY OR DANGEROUS WEAPON.

(A) It shall be unlawful for any person, without the use of a deadly or dangerous weapon, while intentionally preventing or attempting to prevent a peace officer, acting under color of his or her official authority, from effecting an arrest of the actor or another, to:

(1) Use or threaten to use physical force or violence against the peace officer or another; or

(2) Use any other means which creates a substantial risk of causing physical injury to the peace officer or another; or

(3) Employ means requiring substantial force to overcome resistance to effecting the arrest.

(B) It is an affirmative defense to prosecution under this section if the peace officer involved was out of uniform and did not identify himself or herself as a peace officer by showing his or her credentials to the person whose arrest is attempted.

(Neb. RS 28-904) (Prior Code, § 6-1-33) Penalty, see § 10.99

§ 130.46 REFUSING TO AID A PEACE OFFICER.

It shall be unlawful for any person, upon a request by a person known to him or her to be a peace officer, to unreasonably refuse or fail to aid such peace officer in:

(A) Apprehending any person charged with or convicted of any offense against any of the laws of this state;

(B) Securing such offender when apprehended; or

(C) Conveying such offender to the jail of the county.

(Neb. RS 28-903) (Prior Code, § 6-1-29) Penalty, see § 10.99

§ 130.47 ULTIMATE FIGHTING; DEFINITIONS.

For purposes of §§ 130.47 through 130.49 the following definitions shall apply unless the context clearly indicates or requires a different meaning.

BODILY INJURY. Any impairment of physical condition, including physical pain.

EXTREME FIGHTING. See *ULTIMATE FIGHTING*.

FULL-CONTACT FIGHTING. See *ULTIMATE FIGHTING*.

"GROUND 'N' POUND" CHALLENGE. See *ULTIMATE FIGHTING*.

MIXED MARTIAL ARTS. See *ULTIMATE FIGHTING*.

"NO-HOLDS BARRED" FIGHTING. See *ULTIMATE FIGHTING*.

SERIOUS BODILY INJURY. Bodily injury that creates a substantial risk of death or causes:

- (1) Serious permanent disfigurement;
- (2) Unconsciousness;
- (3) Extreme pain; or
- (4) Permanent or protracted loss or impairment of the function of a bodily member or organ.

"TOUGH MAN" CONTEST. See *ULTIMATE FIGHTING*.

ULTIMATE FIGHTING. A live match in which:

- (1) Participants compete for a cash purse in any amount or a non-cash purse with more than nominal value;
- (2) Participants are not licensed as professional contestants in any state;
- (3) Audiences are charged an admission fee; and
- (4) Match rules permit contestants to use a combination of boxing, kicking, wrestling, hitting, punching, or other combative contact techniques, and match rules do not:

(a) Incorporate a formalized system of combative techniques against which a contestant's performance is judged to determine the prevailing contestant;

(b) Divide a match into two or more equal and specified time periods for a match total of no more than 50 minutes; or

(c) Prohibit contestants from:

1. Using anything that is not part of the human body, except for boxing gloves, to intentionally inflict serious bodily injury upon an opponent through direct contact or the expulsion of a projectile;

2. Striking a person who demonstrates an inability to protect himself from the advances of an opponent; or

3. Direct, intentional and forceful strikes to the eyes, groin area, Adam's apple area of the neck, and temple area of the head.
(Ord. 1841, passed 10-23-06)

§ 130.48 ULTIMATE FIGHTING PROHIBITED.

No person shall publicize, promote, conduct or engage in an ultimate fighting match within the corporate limits of the city.
(Ord. 1841, passed 10-23-06)

§ 130.49 ULTIMATE FIGHTING; PENALTIES.

(A) A person who violates §§ 130.47 and 130.48 shall be punished as provided in § 10.99.

(B) Any person found in violation of any provisions of §§ 130.47 and 130.48 shall be fined no less than \$1,000 nor more than \$2,500 for each violation. Every day that a violation occurs shall constitute a separate offense.
(Ord. 1841, passed 10-23-06)

OFFENSES AGAINST PUBLIC HEALTH AND SAFETY**§ 130.50 WINDOW SILLS; LOOSE OBJECTS UPON.**

It shall be unlawful for any person to place or keep on any window sill, porch or other projection above the first story of any building abutting on any sidewalk any article which might do injury by falling upon any person on the sidewalk in front of such building, unless the article be securely fastened or protected by screens.

(Prior Code, § 6-1-40) Penalty, see § 10.99

§ 130.51 PUBLIC WAYS; OBSTRUCTING.

(A) It shall be unlawful for any person to obstruct or hamper the function of any public street, alley, sidewalk or parking area in the city.

(B) It shall be unlawful for the occupant of any lot or the owner of any vacant lot within the city to permit the obstruction of the public sidewalk.

(C) No person shall place or maintain or, having placed or maintained, shall suffer to remain on any part of any public street, including the sidewalk and the area between the lot line and the curb line, any alley or city right-of-way, any automobile, automobile chassis or body, trailer, wagon, machinery, stand, shed or other obstructions. This section shall not apply to properly licensed automotive vehicles temporarily parked in on public streets.

(Prior Code, § 6-1-41) (Ord. 464, passed 8-4-64; Am. Ord. 1764, passed 6-28-04) Penalty, see § 10.99

§ 130.52 ANIMALS; CRUELTY TO.

It shall be unlawful for any person to torture or beat cruelly, starve or otherwise ill-treat any animal in his or her care or charge, whether belonging to himself or herself or any other person.

(Prior Code, § 6-1-2) Penalty, see § 10.99

§ 130.53 FENCES; BARBED WIRE; ELECTRIC.

It shall be unlawful for any person to erect or maintain any electric fence or any fence constructed in whole or in part of barbed wire or to use barbed wire as a guard to any parking lot or parcel of land.

(Prior Code, § 6-1-5) Penalty, see § 10.99

§ 130.54 EXPECTORATING OR SPITTING; PROHIBITED.

(A) It shall be unlawful for any person to:

(1) Spit or expectorate in any cellarway, window, door grating or entrance to any basement, excavation or area in or under or leading from any sidewalk space, or on the floor, wall or stairway in any hall of any public building in the city.

(2) Intentionally, knowingly, or recklessly spit or expectorate upon any person within the city.

(B) Any violation of this ordinance is a Class I violation.

(Prior Code, § 6-1-11) (Am. Ord. 1906, passed 1-11-10) Penalty, see § 10.99

§ 130.55 NOISE; AMPLIFIED.

It shall be unlawful to play, operate, or use any device known as a sound truck, loud speaker or sound amplifier, radio or phonograph, with loud speaker or sound amplifier or any instrument of any kind or character which emits loud and raucous noises and is attached to and upon any vehicle unless such person in charge of such vehicle shall have first applied to and received permission from the Chief of Police to operate any such vehicle so equipped.

(Prior Code, § 6-1-20) Penalty, see § 10.99

OFFENSES INVOLVING MINORS**§ 130.60 BEER; PROCURING FOR, SELLING TO MINORS.**

It shall be unlawful for any person to procure, sell or give away any beer to any person under the age of 21 years or for any person under the age of 21 years to purchase, attempt to purchase or otherwise procure, consume or have in his or her possession any beer.

(Prior Code, § 6-1-6) Penalty, see § 10.99

§ 130.61 CURFEW; MINORS.

It is hereby made unlawful for any person under 16 years of age to be or remain, or for any parent, guardian or other person to suffer or permit a person under 16 years of age, who is under their legal custody, to be or remain in or upon any of the streets, alleys, vacant lots or property of another or public

places in the city at night after the hour of 10:00 p.m., unless such person is accompanied by a parent, guardian or other person having the legal custody of such minor person, or is going to or from some meeting or assemblage of lawful character, or is in the performance of an errand or duty, directed by a parent, guardian or other person having the legal custody of such minor person, or whose employment makes it necessary to be upon the streets, alleys or public places during the night time after such hour. Provided, these exceptions shall not apply when such minor person shall play or loiter unnecessarily in or upon such street, alley, vacant lot, property of another or public place, whether alone or accompanied by a parent, guardian or other person or persons whomsoever. No minor shall play or loiter in any street, alley or public place in this city at any time to the inconvenience of the ordinary traffic over and upon such streets, alleys or public places.

(Prior Code, § 6-5-1) (Ord. 885, passed 4-28-75; Am. Ord. 1901, passed 9-28-09) Penalty, see § 10.99

§ 130.62 PLAYING BALL ON STREETS.

It shall be unlawful for any persons to play ball or throw any ball to and fro upon any public thoroughfare in the city.

(Prior Code, § 6-1-28) Penalty, see § 10.99

OFFENSES AGAINST PUBLIC MORALS AND DECENCY

§ 130.70 INDECENT EXPOSURE.

It shall be unlawful for any person to appear in a state of nudity or in any indecent or lewd dress or condition in any public place or in any such place to make any indecent exposure of his or her person or private parts thereof or the private parts of another or to conduct himself or herself in a lewd or lascivious manner.

(Prior Code, § 6-1-17) (Am. Ord. 1854, passed 9-10-07) Penalty, see § 10.99

§ 130.71 OBSCENE CONDUCT.

It shall be unlawful for any person to urinate or stool in any place open to the public view, or to be guilty of any lewd, lascivious or obscene conduct or to sing any lewd or obscene song, ballad or other words in any public place or any other place where other persons are present or indecently to exhibit any animal.

(Prior Code, § 6-1-24) Penalty, see § 10.99

§ 130.72 OBSCENE LITERATURE; DISTRIBUTION OF.

It shall be unlawful for any person to exhibit, pass, give or deliver to another any obscene, lewd or indecent book, pamphlet, picture, card, print, paper, writing, mold, case or figure or to have same in his or her possession.

(Prior Code, § 6-1-25) Penalty, see § 10.99

§ 130.73 PROSTITUTION.

It shall be unlawful for any person to pursue or advertise in any manner his or her vocation as a prostitute or for any person to advertise the profession of a prostitute or solicit for a prostitute.

(Prior Code, § 6-1-31) Penalty, see § 10.99

§ 130.74 PROSTITUTION; HOUSE OF.

It shall be unlawful for any person to keep or assist in the keeping of a house of ill-fame or prostitution or knowingly to reside therein or knowingly to rent, lease or permit any person to occupy any house or room owned, leased or controlled by him or her for this purpose.

(Prior Code, § 6-1-32) Penalty, see § 10.99

§ 130.75 SEXUAL PREDATOR RESIDENCY RESTRICTIONS; FINDINGS AND INTENT.

(A) The Nebraska Legislature has found that certain sex offenders present a high risk to commit repeat offenses and has enabled municipalities to restrict such persons' place of residency as provided in the Sexual Predator Residency Restriction Act.

(B) Sex offenders who prey on children and who are high risks to repeat such acts present an extreme threat to public safety. The cost of sex offender victimization to these children and to society at large, while incalculable, is exorbitant.

(C) It is the intent of this section to serve the city's compelling interest to promote, protect and improve the health, safety and welfare of the citizens of the city by creating certain areas around locations where children regularly congregate in concentrated numbers where certain sexual predators cannot reside.

(Ord. 1828, passed 7-10-06)

§ 130.76 SEXUAL PREDATOR RESIDENCY RESTRICTIONS; DEFINITIONS.

For purposes of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

CHILD CARE FACILITY. A facility licensed pursuant to the Child Care Licensing Act.

RESIDE. To sleep, live, or dwell at a place, which may include more than one location, and may be mobile or transitory.

RESIDENCE. A place where an individual sleeps, lives, or dwells, which may include more than one location, and may be mobile or transitory.

SCHOOL. A public, private, denominational, or parochial school which meets the requirements for state accreditation or approval.

SEX OFFENDER. An individual who has been convicted of a crime listed in Neb. RS 29-4003 and who is required to register as a sex offender pursuant to the Sex Offender Registration Act.

SEXUAL PREDATOR. An individual who is required to register under the Sex Offender Registration Act, who has been classified as Level 3 because of a high risk of recidivism as determined by the Nebraska State Patrol under Neb. RS 29-4013, and who has victimized a person 18 years of age or younger.

(Ord. 1828, passed 7-10-06)

§ 130.77 SEXUAL PREDATOR RESIDENCY RESTRICTIONS; PENALTIES; EXCEPTIONS.

(A) *Prohibited location of residence.* It is unlawful for any sexual predator to reside within 500 feet from a school or child care facility.

(B) *Measure of distance.* For purposes of determining the minimum distance separation, the distance shall be measured by following a straight line from the outer property line of the residence to the nearest outer boundary line of the school or child care facility.

(C) *Penalties.* A person who violates this section shall be punished as provided generally in the code.

(D) *Exceptions.* This section shall not apply to a sexual predator who: Resides within a prison or correctional or treatment facility operated by the state or a political subdivision; Established a residence before July 1, 2006, and has not moved from that residence; or 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.

(Ord. 1828, passed 7-10-06) Penalty, see § 10.99

Statutory reference:

*The Sexual Predator Residency Restriction Act, Laws 2006, LB 1199, §§27 to 29;
Neb. RS 29-4003 and 29-4013*

WEAPON OFFENSES

§ 130.80 FIREARMS PROHIBITED; EXCEPTIONS.

No person, except an officer of the law in the discharge of his or her duty, shall fire or discharge any gun, pistol, fowling piece or other firearm within the corporate limits of this city, except that this section shall not apply to officially sanctioned public celebrations if the persons so discharging firearms have written permission from the City Council.

(Prior Code, § 6-4-1) Penalty, see § 10.99

§ 130.81 HUNTING ON CITY PROPERTY PROHIBITED.

No person shall hunt, take, trap or otherwise harvest any animal, nor shall any person discharge any firearm, discharge any dangerous missiles including arrows, air guns, slingshot, or any other weapons upon lands owned or leased by the city regardless of whether such lands are located within or without the corporate limits of the city.

(Ord. 1695, passed 10-8-01) Penalty, see § 10.99

§ 130.82 AIR GUNS; TOY WEAPONS.

(A) It shall be unlawful for any person to discharge any toy pistol, toy gun, air gun, bow and arrow, crossbow, slingshot loaded with rock or leaden or other device capable of projecting a missile able to inflict harm to persons or animals or to injure property, within the limits of this city, except under special conditions approved by the City Council for practicing the use of any such devices or giving exhibitions or holding competitions for their use.

(B) The City Council, may, through a special events permit, allow organized activities listed herein within the city limits. In allowing a special events permit, the City Council may consider, among other concerns, insurance and safety to the general public.

(Prior Code, § 6-4-2) (Ord. 1468, passed 1-27-92; Am. Ord. 1705, passed 4-8-02; Am. Ord. 1711, passed 6-10-02) Penalty, see § 10.99

ADMINISTRATION AND ENFORCEMENT

§ 130.90 APPEARANCE BEFORE COUNTY COURT.

(A) Whenever any person is arrested for violation of any provision of the ordinances of the city, the arresting officer shall issue a summons to or otherwise notify in writing the arrested person to appear before the county court at an hour and day specified in the summons or notice to answer a complaint for violations of any provisions of the ordinances of the city.

(B) If the arrested person shall promise in writing to appear at the time specified, the arresting officer shall release him or her. Should the arrested person refuse to give his or her written promise to appear at the time given in the summons or notice, the arresting officer shall immediately take him or her before the county court or, if the county court shall not then be sitting, shall be committed to the county jail.

(C) (1) When any person who is charged with violation of any provision of the ordinances of the city has appeared before the County Judge and the matter is continued until another time, the County Judge, in his or her discretion, shall release such person either:

(a) Upon his or her personal written promise to appear for hearing at a time and date specified therein; or

(b) Upon the posting of bond to secure his or her appearance at a time and date specified therein.

(2) Upon failure of the defendant to give either his or her written promise to appear or a bond for his or her appearance, the county court may commit him or her to jail until the matter can be heard without unreasonable delay.

(D) If such person fails to appear at the time and date specified, the County Judge shall forthwith issue a warrant for his or her arrest.

(E) It shall be unlawful for any person to fail to appear in county court as directed in the summons or notice, regardless of the disposition of the charge upon which they were originally arrested, and any

person who shall so violate this section by failing to appear in county court as directed in the summons and notice shall, upon a conviction thereof, be fined in any sum not exceeding \$100 or be imprisoned in the county jail for not to exceed seven days and shall pay the costs of prosecution.

(F) The provisions of division (B)(1) shall not apply to any person arrested who at the time of his or her arrest:

- (1) Is not a resident of the state of Nebraska;
- (2) Resists lawful arrest; or
- (3) Who the arresting office shall have good cause to believe has committed:
 - (a) Any felony;
 - (b) An offense causing or contributing to an accident resulting in death of any person; or
 - (c) Any offense of:
 1. Reckless driving;
 2. Wilful reckless driving;
 3. Driving while under the influence of intoxicating liquor or narcotic drugs; or
 4. Driving during any period of suspension or revocation of his or her motor vehicle operator's license, or after any period of suspension and before such license shall have been renewed.

(G) For those arrests where the provisions of division (B) shall not apply to the person arrested, the arresting officer shall take any such person forthwith before the county court, or if the county court shall not then be sitting, shall commit such person to jail until the matter can be heard without unreasonable delay, or until such person shall post bond to secure his or her appearance at a time and place specified in an amount approved by the county court.

(Prior Code, § 6-9-1) (Ord. 1316, passed 12-10-84)

Cross-reference:

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CHAPTER 150: BUILDING REGULATIONS

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STANDARD CODES ADOPTED

§ 150.001 BUILDING CODE ADOPTED BY REFERENCE; AMENDMENTS.

(A) The following standard building codes are adopted for the purpose of establishing rules and regulations for the construction, alteration, removal, demolition, equipment, use, occupancy, location

and maintenance of buildings and structures, including permits and penalties: the International Building Code (IBC). Reference to “IBC” throughout the city shall mean this code.

(B) Except for those portions specifically excluded or modified by this or other sections of the code, the IBC and International Residential Codes (IRC)(referred to collectively as “the Building Code”) are adopted by reference and shall be controlling with respect to the construction of all buildings and structures within the corporate limits of the city and within the area with respect to which the city has exercised its zoning jurisdiction. One copy of each code shall be on file in the City Clerk’s office.

(C) Amendments to the Building Code, as enacted by the City Council, are hereby adopted by reference. Copies of amendments to the Building Code shall be on file in the City Clerk’s office. (Prior Code, §§ 4-4-1, 4-1-3, 4-1-4.1 - 4-1-10.1) (Ord. 1432, passed 8-20-90; Am. Ord. 1750, passed 1-12-04)

§ 150.002 HOUSING CODE ADOPTED BY REFERENCE; AMENDMENTS.

(A) The following standard building codes are adopted for the purpose of establishing rules and regulations for the construction, alteration, removal, demolition, equipment, use, occupancy, location and maintenance of buildings and structures, including permits and penalties: “IRC” throughout the city code shall mean this code.

(B) Except for those portions specifically excluded or modified by this or other sections of the code, the IBC and IRC (referred to as “the Building Code”) are adopted by reference and shall be controlling with respect to the construction of all buildings and structures within the corporate limits of the city and within the area with respect to which the city has exercised its zoning jurisdiction. One copy of each code shall be on file in the City Clerk’s office.

(C) Amendments to the Housing Code, as enacted by the City Council, are hereby adopted by reference. Copies of amendments to the Housing Code shall be on file in the City Clerk’s office. (Prior Code, § 4-1-2) (Ord. 1432, passed 8-20-90; Am. Ord. 1750, passed 1-12-04)

§ 150.003 UNIFORM PLUMBING CODE ADOPTED BY REFERENCE; AMENDMENTS.

(A) There is hereby adopted, for the purpose of establishing rules and regulations for the installation and repair of plumbing material and fixtures, appliances, and apparatus, drainage or sewer disposal systems, water softeners, dispensers and storage equipment and refrigerating equipment, hereafter referred to as “plumbing”, that certain plumbing code known as the Uniform Plumbing Code published and recommended by the International Association of Plumbing and Mechanical Officials, being the most current edition thereof (hereinafter usually referred to as the “Plumbing Code”). One copy of such code is on file in the office of the City Clerk, and such code is hereby adopted and incorporated in this section by reference as fully as if set out at length herein (except such portions thereof as hereinafter are excluded, or are adopted with modifications).

(B) Amendments to the Plumbing Code, as enacted by the City Council, are hereby adopted by reference. Copies of amendments to the Plumbing Code shall be on file in the City Clerk's office. (Prior Code, § 4-1-7) (Ord. 1554, passed 11-13-95; Am. Ord. 1750, passed 1-12-04)

§ 150.004 UNIFORM MECHANICAL CODE ADOPTED BY REFERENCE; AMENDMENTS.

(A) There is hereby adopted for the purpose of establishing rules and regulations for the complete installations, maintenance and repair of heating, ventilating, cooling and refrigeration systems herein referred to as "mechanical plumbing"; that certain mechanical plumbing code known as the Uniform Mechanical Code, published and recommended by the International Association of Plumbing and Mechanical Officials, being the most current edition thereof (hereinafter referred to as the "Mechanical Code"). One copy of such code is on file in the office of the City Clerk, and such code is hereby adopted and incorporated in this section by reference as fully as if set out at length herein (except such portions thereof as hereinafter are excluded, or are adopted with modifications).

(B) Amendments to the Mechanical Code, as enacted by the City Council, are hereby adopted by reference. Copies of amendments to the Mechanical Code shall be on file in the City Clerk's office. (Prior Code, § 4-1-11) (Ord. 1554, passed 11-13-95)

§ 150.005 NATIONAL ELECTRICAL CODE ADOPTED BY REFERENCE; AMENDMENTS.

(A) There is hereby adopted, for the purpose of establishing rules and regulations for the construction, alteration, maintenance and removal of all equipment within or on all buildings, private or public, within the area of city jurisdiction as defined by the official zoning map of the city, that certain standard electrical code known as the National Electrical Code, current edition, as published and recommended by the national Fire Protection Association, except the portion thereof which hereinafter are adopted with modification. The construction, alteration, maintenance and removal of all electrical equipment shall comply with such code herein adopted, and with such additional requirements as are prescribed in this section. One copy of such code shall be on file in the City Clerk's office and such code is hereby adopted and incorporated in this section by reference as fully as if set out at length herein (except such portions thereof as hereinafter are adopted with modifications).

(1) Circuit conductors; other. Section 210-19 (c) of the Electrical Code shall be deemed to be hereby amended to read as if the first sentence thereof had been deleted and there had been inserted in lieu thereof the following sentences: Branch circuit conductors supplying loads other than cooking appliances as covered in (b) above and as listed in Section 210-2 of the National Electrical Code shall have an ampacity sufficient for the loads served and shall not be smaller than No. 12 AWG copper. No aluminum conductor smaller than No. 8 AWG shall be used in any electrical installation.

(2) Service masts as support. Section 230.28 of the Electrical Code shall be deemed to be hereby amended to read as follows: Where a service mast is used for the support of service drop

conductors, it shall be a minimum of two inch (2") rigid conduit. Where raceway-type service masts are used, all raceway fittings shall be identified for use with service masts.

(3) Service equipment; disconnecting means, location. Section 230-70(a) of the Electrical Code shall be deemed to be hereby amended to read as follows: The service disconnecting means shall be installed on the outside of all residential buildings or structures and on the inside or on the outside of all non-residential buildings or structures and on the inside or at a readily accessible location nearest the point of entrance of the service conductors.

(4) Service disconnecting means. Section 230-72 (a) of the Electrical Code shall be deemed to be hereby amended to include the following additional sentences: The service disconnecting means located inside a building shall be located immediately adjacent to and within sight of a walk-in exit door and not within the swinging area of such exit door. The distance between the disconnecting means and such exit door shall not exceed 12 feet open travel measured from the exit door to the disconnecting means.

(B) Amendments to the Electrical Code, as enacted by the City Council, are hereby adopted by reference. Copies of amendments to the Electrical Code shall be on file in the City Clerk's office. (Prior Code, §§ 4-4-11 - 4-4-11.5) (Ord. 1432, passed 8-20-90; Am. Ord. 1795, passed 4-25-05; Am. Ord. 1823, passed 4-10-06; Am. Ord. 1863, passed 3-10-08)

§ 150.006 UNIFORM SOLAR ENERGY CODE ADOPTED BY REFERENCE; AMENDMENTS.

(A) There is hereby adopted, for the purpose of establishing rules and regulations for the complete erection, installation, alteration, addition, repair, relocation, placement, maintenance or use of any solar system, hereinafter referred to as "solar energy system" that certain solar energy code known as the Uniform Energy Code, published and recommended by the International Energy Conservation Code (IECC). One copy of such code is on file in the office of the City Clerk, and such code is hereby adopted and incorporated in this section by reference as fully as if set out at length herein (except such portions as hereinafter are excluded, or are adopted with modifications).

(B) Amendments to the Solar Energy Code, as enacted by the City Council, are hereby adopted by reference. Copies of amendments to the Solar Energy Code shall be on file in the City Clerk's office. (Prior Code, §§ 4-1-8, 4-1-8.1, 4-1-9, 4-1-9.1) (Ord. 1394, passed 8-15-88; Am. Ord. 1750, passed 1-12-04)

§ 150.007 NATIONAL FIRE CODE ADOPTED BY REFERENCE; AMENDMENTS.

There are hereby adopted for the purpose of prescribing regulations governing conditions hazardous to life and property from fire or explosion, the International Fire Code (IFC). The Clerk shall forthwith purchase for the city one copy of the code and shall purchase thereafter, such amendments to and

revisions thereof as may be made from time to time so that the code shall, at all times, be kept current. The City Clerk shall keep the copy, together with all amendments to and revisions thereof, in his or her office for such and examination by the public at all reasonable times. Such use and examination of the same shall be made in his or her office.

(Prior Code, § 4-1-1.1) (Ord. 1379, passed 3-14-88; Am. Ord. 1750, passed 1-12-04)

PERMITS

§ 150.030 PERMIT REQUIRED.

It shall be unlawful to construct or alter any building or structure in the city or within the area of the zoning jurisdiction of the city as determined by the official zoning map of the city without first having procured a written permit from the city therefor.

(Prior Code, § 4-1-13) Penalty, see § 10.99

§ 150.031 APPLICATION FOR PERMIT.

Application for a building permit for building construction or alteration, fence erection, sign erection, building demolition, and gas, electrical and plumbing installations or alterations shall be filed with the Building Inspector, in writing, upon forms prepared by the city for that purpose. Each application shall be accompanied by a plat in duplicate showing the actual dimensions of the lot to build upon, the size, shape and location of the building to be erected, and such other information as may be necessary to provide for the enforcement of this chapter, along with permit and inspection fees as required by this chapter. In addition thereto, in those cases involving institutional, multi-family,

commercial or industrial projects, such application shall be accompanied by proof that the building plans have been approved for compliance with the fire codes by the State Fire Marshall's office.
(Prior Code, § 4-1-14)

§ 150.032 APPROVAL OF PLAT AND PLANS.

Such application, with the plat, plans and specifications attached, shall be referred to the Building Inspector who shall examine the same to determine whether the proposed construction or alteration will comply strictly with this chapter and all other provisions of this code relative thereto. On approval, one set of plans shall be returned to the City Clerk with written notification that a permit has been granted and the other set of plans shall be retained by the Building Inspector for use and inspection of building operations. No permit shall be issued until after the approval of the plat, plans and specifications. The building permit shall be on a form prescribed by the City Clerk.
(Prior Code, § 4-1-14.1)

§ 150.033 PERMIT FEES.

(A) Fees for building permits, plumbing permits, electrical permits, sewer tap, building moving permits, building demolition permits, temporary certificates of occupancy and final certificates of occupancy and for inspections shall be paid to the Building Inspector and remitted to the City Clerk according to the schedule adopted by the City Council. The determination of value or valuation under any of the provisions of this section shall be made by the Building Inspector. Where work, for which a permit is required by this code, is started or continued prior to obtaining such permit, the fees specified shall be doubled, but the payment of such doubled fees shall not relieve any persons from fully complying with the requirements of this code and the execution of the work or from any other penalties prescribed.

(B) In case of abandonment or discontinuance, the cost of work performed under a permit may be estimated, an adjustment of the fee made and the portion of the fee for uncompleted work returned to the permit holder; provided, no refund of a prescribed minimum fee shall be made until all penalties incurred or imposed by due authority have been collected. After such a refund has been made, no work shall be resumed until a new application has been made and a new permit has been issued.
(Prior Code, § 4-1-14.2, 4-1-14.3) (Ord. 1379, passed 3-14-88; Am. Ord. 1555, passed 11-27-95; Am. Ord. 1564, passed 4-8-96)

§ 150.034 PLUMBING PERMIT.

(A) *Required; application.* Application for a permit to install, change or alter any plumbing, gas, steam fittings, oil fittings and sheet metal for heating appliances, or apparatus or sewage disposal systems shall be made in writing upon forms furnished by the Building Inspector. The application shall describe the location of the proposed work, with a drawing or diagram thereon or attached thereto. The Building

Inspector shall examine every such application and plans, drawings or diagrams for compliance with the provisions of this section before issuance of a permit.

(Prior Code, § 4-1-23)

(B) *Posting permit.* The permit shall be posted by the person obtaining it in a conspicuous place on the building or premises wherein the work is being done until completion of the work.

(Prior Code, § 4-1-23.1)

§ 150.035 ADDITIONAL PERMITS REQUIRED.

In addition to procuring a building permit, any person constructing, reconstructing or altering any building or structure in the city or within the zoning jurisdiction of the city, as determined by the official zoning map of the city, shall obtain permits from the Building Inspector or from the appropriate authorities of the city, for the construction, reconstruction or alteration of all facilities that are a part of such building or structure for utility services such as water service, electric service, plumbing and drainage systems, and natural gas service; and the construction, reconstruction or alteration of such facilities for such utilities, shall be made in strict compliance with all other provisions of this code pertaining thereto; and the construction, reconstruction or alteration of such facilities for utility services shall be subject to all of the inspections provided in this code pertaining thereto; and the person shall pay all permit and inspection fees designated thereby and in the manner herein prescribed.

(Prior Code, § 4-1-19)

§ 150.036 ELECTRICAL PERMIT.

(A) *Permit for wiring required.* No alteration or change shall be made in the wiring or appliances in any building, nor any wires or appliances be installed in any building for use in connection with electric lights, motors or heating devices, without first securing from the Electrical Inspector a permit therefor, nor shall any change be made in any wiring or appliances after inspection without notifying the Electrical Inspector, and securing a permit therefor, except minor repair work such as repairing flush and snap switches, replacing fuses, changing lamp sockets and receptacles, taping bare joints and repairing drop cords. Applications for such permit, describing such work, shall be made by the person installing the same, and the permit, when issued, shall be to such applicant. This section shall not apply to maintenance and repairs on the premises of a person regularly employing journeyman electricians for that purpose. No deviation shall be made in the details for wiring or appliances as shown by application without permission from the Electrical Inspector in writing.

(Prior Code, § 4-4-3)

(B) *Posting.* The electrical construction permit shall be posted by the person installing the work in a conspicuous place on the building or premise where the work is being performed, and shall be maintained by such person in such place until the work has been completed and final approval thereof by the Electrical Inspector has been obtained.

(Prior Code, § 4-4-8)

(C) *Expiration; renewal.* A construction permit issued under provisions of this section shall become null and void if the work is not commenced within six months from the date of issuance of the permit or shall be abandoned for a period of 120 days. Renewal of an expired permit for identical work shall be obtained before work is recommenced, and the renewal fee therefor shall be the minimum amount required for a new permit.

(Prior Code, § 4-4-8.1)

(D) *Revocation.* The Electrical Inspector may, in writing, revoke a permit which has been issued under the provisions of this section whenever the permit has been issued in reliance upon a misrepresentation of work proposed or incorrect information supplied by the applicant, or in violation of the provisions of this section.

(Prior Code, § 4-4-8.2)

(E) *Work; conformance.* All work done by the holder of such a permit shall conform to the plans and specifications therefor which are included in the approved application unless the Electrical Inspector shall in writing consent to a deviation from such plans or specifications.

(Prior Code, § 4-4-8.3)

§ 150.037 VIOLATION OF BUILDING REGULATIONS.

It shall be unlawful for any contractor or any other person engaged in the actual work of constructing or altering a building or other structure within the city or within the zoning jurisdiction, as determined by the official zoning map of the city; to proceed with the work thereof until he or she knows positively that the owner has obtained a building permit as herein before provided. In the event that it is determined that work has started on any construction or alteration of any building or other structure as covered by this chapter, the Building Inspector shall immediately give notice to the owner of the property directing them to cease and desist from any further work so started, before issuance of the permit, until such a permit is obtained.

(Prior Code, § 4-1-18) Penalty, see § 10.99

§ 150.038 REVOCATION OF PERMITS.

A permit for the construction, reconstruction or alteration of any building or structure may be revoked by the Building Inspector at any time prior to the completion of the building or structure for which the same was issued, when it shall satisfactorily appear that in the construction work there is a departure from the plans, specifications or conditions as required under the terms of the permit; that the permit was procured by false representations or was issued by mistake; or that any provisions of this chapter, or any other provisions of this code, are being violated. Notice of the revocation of the permit shall be given to the person conducting such building operations, either by handing the same to the person in charge of the operations or mailing it to the person by United States mail at the address given in the application for the permit. Upon the revocation of such permit, all building operations shall immediately cease and shall not be renewed until the defects and departures from the plans and specifications or conditions required under the terms of the permit, have been corrected to the

reasonable satisfaction of the Building Inspector. Upon the failure, refusal or neglect of any owner, his or her agent, contractor or duly authorized representative to correct such defects in construction, and departures from the plans, specifications and conditions under which the permit was originally issued, or upon the failure, refusal or neglect of such persons to abide by the cease and desist order issued by the Building Inspector, they shall be considered violators of the provisions of this chapter and subject to the penalties provided for herein.

(Prior Code, § 4-1-20) Penalty, see § 10.99

INSPECTIONS

§ 150.060 INSPECTION REQUIRED.

All construction or work for which a permit is required shall be subject to inspection by the Building Inspector.

(Prior Code, § 4-1-15)

§ 150.061 RECORD CARD.

Work requiring a building permit shall not be commenced until the permit holder or his or her agent shall have posted an inspection record card in a conspicuous place on the front of premises and in such position as to allow the Building Inspector conveniently to make the required entries thereon, regarding inspection of the work. This card shall be maintained in such position by the permit holder until the completion of the job.

(Prior Code, § 4-1-15.1)

§ 150.062 APPROVALS REQUIRED.

No work shall be done on the building or structure beyond the point indicated on each successive inspection without obtaining the written approval of the Building Inspector. Such written approval shall be given only after an inspection shall have been made of each successive step in the construction, as indicated by each of the inspections required in § 150.064. A survey of the lot may be required by the Building Inspector to verify compliance of the structure with approved plans, which survey shall include the staking of all property corners by the surveyor.

(Prior Code, § 4-1-15.2) Penalty, see § 10.99

§ 150.063 CERTIFICATE OF OCCUPANCY.

In any situation in which a determination shall be required as to whether construction or alteration of a building or structure will comply, or has complied with the Zoning Ordinances, the application for

a temporary or final certificate of occupancy shall be filed with the Building inspector, supporting data as provided him or her, and the application and such data reviewed, certificate and inspection fees determined and paid and the application approved and the certificate signed or, as the case may be the application be denied, by the Building Inspector, all in accordance with applicable ordinances of the city.

(Prior Code, § 4-1-15.3)

§ 150.064 CALLED INSPECTIONS.

No reinforcing steel or structural framework of any part of any building or structure shall be covered or concealed in any manner whatsoever without the approval of the Building Inspector first being obtained. The Building Inspector, upon notification of the permit holder or his or her agent, shall make the following inspections and shall either approve that portion of the construction as completed or shall notify the permit holder or his or her agent wherein the same fails to comply with the law:

(A) *Footing inspection.* To be made after trenches excavated and forms erected and when all materials for the foundation are delivered on the job.

(B) *Foundation inspection.* After sill plates are set and waterproofing is applied; before backfilling or setting floor joists.

(C) *Frame inspection.* To be made after the roof, all framing, fire blocking, and bracing are in place and all pipes, electrical rough-in, chimneys and vents are complete.

(D) *Final inspection and any final inspection required by the State Fire Marshal on institutional, multi-family, commercial and industrial projects for compliance with national fire codes.* To be made after building is completed and ready for occupancy.

(E) *Other inspections.* In addition to the called inspections specified above, the Building Inspector may make or require any other inspections of any construction work to ascertain compliance with provisions of this code and other laws which are enforced by the Building Inspector, including but not limited to, temporary power pole, meter loop, electrical rough-in, sewer tap (outside sewer), water tap (outside water), sewer under floor (inside), rough-in plumbing, inside and outside gas installations and connections, fences, signs, and temporary and final certificates of occupancy.

(Prior Code, § 4-1-15.4)

§ 150.065 REINSPECTION.

For purposes of determining compliance with this chapter, the Building Inspector may cause any structure to be reinspected at any time, and in such event, the Building Inspector may collect a fee for the particular reinspection required, based upon the original permit fees provided for in § 150.033.

(Prior Code, § 4-1-16)

§ 150.066 INSPECTION OF BUILDING OPERATIONS.

The Building Inspector shall inspect from time to time, any building for which such building permit was issued as the building or reconstruction operations progress, to determine if the same are being carried on in accordance with the plat, plans and specifications submitted at the time of the application for such building permit.

(Prior Code, § 4-1-17)

§ 150.067 PLUMBING INSPECTIONS.

(A) *Notice to Building Inspector.* When work is ready for inspection, the Building Inspector shall be notified in writing or by phone and it shall be the duty of any plumbing contractor, limited contractor or person in charge to see that all plumbing work is left open until inspected and approved. The Building Inspector shall complete inspection of work by the close of the working day of the Department following the day in which the Department has been notified that such work is ready for inspection.

(Prior Code, § 4-1-22)

(B) *Tests required.* It shall be the duty of the plumbing contractor, limited contractor or person in charge to test, in the manner hereinafter provided and in the presence of the Building Inspector, all soil, waste, vent, water, steam, gas and oil pipes, all sheet metal work for heating, and the fittings and connections therewith.

(Prior Code, § 4-1-22.1)

(C) *Tests; specifications.* All plumbing, gas fittings, steam fittings, oil fittings, sheet metal work for heating and house drainage work shall be tested and meet a test as follows:

(1) For water system, shall hold city water pressure for a period of 20 minutes without leaking.

(2) For house drainage systems within and under all buildings or structures, shall hold a cold water pressure of not less than four pounds per square inch for a period of 20 minutes without leaking, or an air pressure of ten pounds on an approved type gauge for 20 minutes.

(3) For natural gas fitting, the system shall hold an air pressure of 20 pounds on an approved type gauge for a period of 20 minutes.

(4) For liquefied petroleum (LP) gas fittings and all other manufactured gases for domestic and commercial uses, in strict accordance with the applicable manual for approved installation contained in pamphlet number 58, dated 1979, of the National Fire Protection Association.

(5) For steam fittings, the system shall hold cold water under city water main pressure without leaking for a period of 20 minutes.

(6) For oil fittings for liquid petroleum products, the system shall hold an air pressure of 20 pounds on an approved type gauge for a period of 20 minutes.

(7) For gas piping and venting, the system shall comply with the standards of installation contained in the National Fuel Gas Code, pamphlet No. 54, dated 1980, of the National Fire Protection Association.

(8) For heating, ventilating and cooling installations, the system shall comply with the standards of installation contained in the Uniform Mechanical Code, dated 1985, of the International Association of Plumbing and Mechanical Officials.

(9) Water for conducting tests will be "jumped" at the meter loop by a suitable hose connection or union coupled connection from the house service line to the house distribution system. After tests have been completed, the plumbing contractor, limited contractor or his or her workman in charge shall turn the water off at the curb box and disconnect the "jumper" connection in the presence of the Building Inspector. An approved type air gauge shall not exceed 50 pounds capacity and shall be graduated in not to exceed two pound increments. All gauges may be subjected to inspection and tests by the Building Inspector where there is any doubt as to the accuracy of such gauge. A fire test of gas fittings is prohibited under any circumstances.

(Prior Code, § 4-1-22.2)

(D) *Final inspection.* When work is completed and all fixtures set, the Building Inspector must be notified that the plumbing work is ready for final inspection.

(Prior Code, § 4-1-23.2)

§ 150.068 ELECTRICAL INSPECTIONS.

(A) *Required.* The Electrical Inspector shall make the following inspections of electrical equipment installations:

(1) An "electrical rough-in" inspection when all conduit, boxes, wires troughs, raceways, cabinets and panel boards to be installed are in place, before the view thereof has been obscured and before installing fixtures or devices.

(2) "Meter loop" inspection when all conduit, service entrance equipment, meter sockets, main service disconnects and distribution panels are in place and all wiring from the point of service attachment to the point of distribution is in place, before current is permanently connected or restored.

(3) "Final electrical" inspection when all electrical equipment to be installed, including all outlets, receptacles, lights, switches, fixtures, appliances, motors, controls, devices and apparatus are in place, completed, and operating.

(4) Such other inspections or tests of apparatus as the Electrical Inspector shall deem necessary to determine compliance with provisions of this section.

(Prior Code, § 4-4-9)

(B) *Notice; leaving work open.* During and upon completion of the installation of electrical equipment, it shall be the duty of the contractor, electrician or installer to notify the Electrical Inspector when the work is ready for inspection. It shall be the responsibility of the contractor or person in charge of electrical installation to see that no work is obscured from view and is left open until inspected and approved.

(Prior Code, § 4-4-9.1)

(C) *Time; notice to applicant.* The Electrical Inspector shall complete inspection of work by the close of the working day of the Department following the day on which the Department has been notified that the work is ready for inspection. When, upon inspection of the work, the Electrical Inspector finds the electrical installation to be fully in compliance with the provisions of this chapter, and not to constitute a hazard to life and property, he or she shall attach to the installation a tag approving the installation, and shall authorize connection of the installation to the electrical service and turning on of the power. If the Electrical Inspector finds the electrical installation not to be fully in compliance with provisions of this chapter, or that it constitutes a hazard to life or property, he or she shall so notify the person who made the installation and, if such person shall so request, shall furnish to such person a statement in writing of the reasons for such finding. No power shall be turned on until an approval tag has been attached and authorization for a connection has been given by the Electrical Inspector, provided, if the Electrical Inspector shall fail to complete an inspection within the time herein limited, work may proceed or, as the case may be, a connection may be made or power may be turned on at the risk of the person doing the work and his or her employer, if any.

(Prior Code, § 4-4-9.2)

(D) *Inspection fees.* The per outlet or unit price fees for electrical inspections will be set annually by the Building Inspector.

(Prior Code, § 4-4-6) (Ord. 1564, passed 4-8-96; Am. Ord. 1819, passed 1-23-06)

GENERAL SPECIFICATIONS AND REGULATIONS**§ 150.080 FINISHED GRADE.**

The finished grade from the curb line to any wall facing the street shall be not less than one-quarter inch.

(Prior Code, § 4-1-6)

§ 150.081 WATER SUPPLY SERVICE LINE.

(A) *Depth; protection from freezing.* All surface pipe from the curb box to the building shall be laid not less than four and one-half feet below the surface of the ground. In all cases, service lines must be so protected as to prevent rupture from freezing.

(Prior Code, § 4-1-24)

(B) *Distance from sewer.* All water service lines shall be installed so as to be at least five feet away from sewer lines unless this distance is impractical, in which case the plumber shall obtain from the Plumbing Inspector, a written waiver of the requirement.

(Prior Code, § 4-1-24.1)

(C) *Material; within building.* Service pipes shall consist of the following:

(1) From the meter or valve within the building to the curb stop shall not be less than three-quarter inch outside diameter copper-type K pipe, cast iron pipe, 150 psi DR18 C-900 polyvinyl chloride pipe or not less than one-inch outside diameter 200 psi SDR9 polyethylene pipe.

(2) From the meter or valve within the building shall be brass pipe, copper pipe, galvanized iron pipe, galvanized steel pipe or PEX polyethylene pipe, which must meet ASTM Standard F876/877.

(Prior Code, § 4-1-24.2) (Ord. 1678, passed 12-11-00)

§ 150.082 SANITARY PLUMBING; VACATING PREMISES.

Whenever, upon inspection, any building or premises, or part thereof, is found unfit for human habitation by reason of defective plumbing, water piping, gas fittings, or drainage system, the Building

Inspector may order the vacation of such building, premises or part thereof, and a written or printed order shall be conspicuously posted on the building or premises, and where practicable, a copy shall be served on the owner, agent or occupant of such premises, and it shall be unlawful for any person to fail, neglect or refuse to vacate such premises when so ordered.

(Prior Code, § 4-1-24.3) Penalty, see § 10.99

§ 150.083 EXCAVATION; BACKFILLING.

No concrete, rubble, building material waste, garbage or trash shall be used for backfilling of excavations for water, sewer or gas lines. The material used shall be thoroughly tamped and packed into place so that no settling will take place. The holder of the building permit and the holder of the excavation permit, if an excavation permit is required, shall maintain the surface over the refilled excavation in a smooth condition for a period of six months from the completion of backfilling. No water, sewer or gas lines shall cross another such line unless the trench for the lower line has been excavated, backfilled and tamped back to the satisfaction of the Building Inspector.

(Prior Code, § 4-1-24.4) Penalty, see § 10.99

§ 150.084 METER PITS.

All meter pits shall be constructed at a point near the property line and shall be of the design approved by the Building Inspector.

(Prior Code, § 4-1-25)

§ 150.085 WATER METERS.

Water meters shall be installed in a basement, utility room or meter pit. All water meters shall be installed in a horizontal position not less than nine inches above the floor, and in a location that is, and will remain, easily accessible to the water meter reader and for meter repair.

(Prior Code, § 4-1-26)

§ 150.086 SEWER PIPES.

(A) *Materials.* All sewer pipes under a building shall be cast iron, Schedule 40, Type I polyvinyl chloride meeting standard specification A.S.T.M. D-2665-78 or acrylonitrile butadiene styrene meeting standard specification A.S.T.M. D-2662-78. Polyvinyl chloride sewer pipe may also be used in the right of way of any public or private street, alley or way meeting specification A.S.T.M. 8-3034.81.

(Prior Code, § 4-1-27)

(B) *Diameter.* All sewer pipe, except common laterals and branch sewer pipe, from the sewer main to the stub from the building shall be at least four inches in diameter. Common laterals shall be not less than six inches in diameter and branch sewer pipe shall be not less than three inches in diameter.

(Prior Code, § 4-1-27.1)

(C) *Location; grade.* Sewer pipes shall be run as directly as possible and shall have a fall of at least one-eighth inch to the foot. Where sewer pipe runs under a sidewalk, it shall be at least two feet below the sidewalk. Sewer and drains of greater depth than ten feet may run up to the grade within three feet of the property line, and, where the property line is some distance above the grade of the street, one-eighth bends may be used. It shall not be necessary to lay sewer pipes deeper than two feet from the surface; provided that a fall of one-eighth inch to the foot can be obtained.

(Prior Code, § 4-1-27.2)

§ 150.087 VENT PIPES; SOIL STACKS.

All waste pipes, soil stacks and vent pipes shall be cast iron, soil stacks and vent pipes shall be cast iron, copper, galvanized steel or Schedule 40, Type I polyvinyl chloride meeting standard specifications A.S.T.M. D-2662-78.

(Prior Code, § 4-1-28)

§ 150.088 ROOF DRAINS; SEWER TRAPS.

(A) No rain water leaders, roof drains or mud interceptor (traps) shall be connected to a sanitary sewer; provided, if a storm sewer is not available to which a satisfactory connection of a mud interceptor (trap) could be made, a special permit to connect a mud interceptor (trap) to a sanitary sewer may be issued by the Building Inspector if he or she finds that the waste to be drained through the mud interceptor (trap) will not interfere with, or cause problems with, the operation of the city sewer system. A permit to connect a mud interceptor (trap) to a sanitary sewer, if issued, may contain reasonable restrictions concerning use of the mud interceptor (trap).

(Prior Code, § 4-1-29)

(B) It shall be unlawful for any person to place in any mud interceptor (trap) connected to a sanitary sewer of the city, and material other than mud and water resulting from the washing of vehicles.

(Prior Code, § 4-1-29.1)

(C) The sewer main shall not be trapped except upon written permission of the Building Inspector. Such permission may be granted in the event a proper junction wye (Y) on the sewer main is not available. If the sewer main contains the proper junction wye (Y), the private sewer line shall be connected to such wye (Y).

(Prior Code, § 4-1-30) Penalty, see § 10.99

§ 150.089 SEWER CONNECTIONS.

(A) *Required.* The plumbing and drainage system of each new building and of new work installed in an existing building or premises, shall except as hereinafter provided, have an independent connection with a public sewer if such a sewer exists in the street or alley upon which the property abuts.

(Prior Code, § 4-1-31)

(B) *Common lateral.* When approved by the Building Inspector, more than one house or building situated on the same premises may be connected to the same lateral, providing each connection is to a wye (Y). In the event of a subsequent subdivision of the premises into two or more tracts, whether by recorded plat, a deed or a contract to sell, the permit shall expire on the date of such plat, deed or contract and the permit shall so state, and all connections in excess of one to the lateral shall be removed and connections of the houses or other buildings to separate laterals shall be installed by the owners upon receiving a permit therefor from the Building Inspector, within 30 days after the date of plat, deed or contract.

(Prior Code, § 4-1-31.1)

(C) *Permit.* The application for a permit to connect more than one house or other building situated on the same premises to the same lateral shall be in writing and shall include the drawing of the connections existing and proposed and such other information as the Building Inspector shall require. The application shall be accompanied by a written agreement with the city and recordable and otherwise in such form as the Building Inspector shall prescribe and signed and acknowledged by the owners of record and contract purchases, if any, of the premises on which the connections are to be made, wherein such owners covenant on behalf also, of all successors in interest to the premises or any part thereof, that upon a subdivision of the property, all connections will be removed and reconnected as provided in division (B) and the amount of the fee chargeable by the Register of Deeds for recording such agreement shall accompany the application and the Building Inspector shall cause such agreement to be recorded with the Register of Deeds forthwith after issuance of the permit.

(Prior Code, § 4-1-31.2)

§ 150.090 GAS LINES.

(A) *Main to curb; installation.* All main to curb lines shall be installed by the gas company.
(Prior Code, § 4-1-32)

(B) *Service lines.* Gas service lines shall be installed by a licensed plumber or gas fitter. They shall be tested and inspected by the Building Inspector.
(Prior Code, § 4-1-33)

(1) *Location.* Service lines leading from the property line to the meter location shall be buried to a depth of not less than 24 inches and at a distance of at least 36 inches from any existing ditch or ditches. The point at which a service line enters a building must be above the finished grade. Service

lines shall be installed in a location permitting proper location of the gas meter. The location of service lines and meters shall be selected by the gas company.

(Prior Code, § 4-1-33.1)

(2) Service line pipes shall be black malleable iron pipe not less than one and one-fourth inch in diameter and wrapped with wrapping that, as determined by the Building Inspector, will afford proper protection. Where laid on the surface of the ground, or beneath the surface of the ground over which is to be poured concrete or similar material, the surface line pipe shall be enclosed in tile or steel pipe ducts.

(Prior Code, § 4-1-33.2)

(3) *Exposed lines.* Gas lines installed above ground outside a building, or that are exposed to unusually damp conditions shall be coated or wrapped with a protective coating approved by the Building Inspector.

(Prior Code, § 4-1-33.3)

(4) *House piping; material.* All house gas piping shall be black malleable iron, except that nonferrous metal pipe may be used to connect a built-in appliance with a stopcock on the service line if authorized in writing by the Building Inspector and A.G.A. rated and approved pipe may be used to connect a gas appliance. Stainless steel flexible gas piping known as "tyte-flex" may be used for inside installations only. Rubber hose connections shall not be used except for intermittently used appliances such as bunsen-type laboratory burners.

(Prior Code, § 4-1-33.4)

(5) *Fittings; stopcocks.* No bushings or cast iron fittings, except cast iron body stopcocks may be used. No cement of any kind shall be used to repair faulty fittings. Provisions shall not be made for rubber hose connections, except for intermittently used appliances such as bunsen-type laboratory burners. Unions shall not be used in any lines, except to connect appliances, for which purpose the union shall be placed between the valve above the floor and the appliance. Right and left couplings shall be used in connecting lines. All gas appliance shall have a stopcock on the connection one inch above the floor and not more than five feet from the appliance. Pipe joint cement may be used on male threads only.

(Prior Code, § 4-1-33.5)

(6) *Concealed; inside flues prohibited.* No gas pipes shall be concealed or shall run up or through any flue.

(Prior Code, § 4-1-33.6)

(7) *Turning on and off.* Gas service shall not be turned on or off at the meter except by an employee of the gas company.

(Prior Code, § 4-1-33.7) (Ord. 1477, passed 7-13-92) Penalty, see § 10.99

§ 150.091 LAWN SPRINKLING SYSTEMS.

(A) *Permit required.* Any person who shall construct or install any lawn sprinkling system which is to be connected to the city potable water system shall first obtain a permit for such connection at city hall for all such installations that are to be served or supplied from the public potable water system of the city. This requirement is applicable whether or not the location of the connection is within or without the city limits, the only determinative factor being whether or not a connection is to be made to the public potable water system of the city.

(Prior Code, § 4-1-35)

(B) *Connection.* The connection of the city potable water supply system with the lawn sprinkler system shall be in accordance with the requirements of the Uniform Plumbing Code and any applicable state statutes or other ordinances from the supply site up to the point of the pressure vacuum breaker. The water supply site of the installation shall have an approved type pressure vacuum breaker installed at the proper location of such system. Installation of the system by an owner or occupant of the premises involved shall not relieve such person from compliance with this section.

(Prior Code, § 4-1-35.1)

(C) *Permit Fees.*

(1) The permit fee required by this section shall be \$15 for each connection, payable at the time the permit is obtained. Any person who shall construct or install such lawn sprinkler system without first obtaining a permit shall pay a permit fee which is three times the amount of the fee stated above to compensate the city for its additional costs in detecting and remedying such connection made without a permit. Payment of a fee, either before or after connection, shall not relieve the subject premises from complying with all of the provisions of the law applicable to the construction, installation and connection of any lawn sprinkling system connected to the potable water supply system of the city.

(Prior Code, § 4-1-35.2)

(2) The fee required by this section shall apply on a per permit per system and shall be paid to the City Clerk on an application for permit form provided by the city.

(Prior Code, § 4-1-35.4)

(D) *Exemptions.* Any lawn sprinkling system which is not connected or to be connected to the city public potable water supply system is exempt from the requirements of this section.

(Prior Code, § 4-1-35.3)

Cross-reference:

Water, see Chapter 51

§ 150.092 ELECTRICAL WORK.

(A) *License required.* It shall be unlawful for any person to engage in the installation, repair or alteration of electrical equipment within the area of the city zoning jurisdiction without having secured from the State Board of Electrical Examiners a license of the class or type which by the laws of the state

is required to be held by the person engaged in such work. A true copy of the license shall be filed in the office of the Electrical Inspector before any work for which the license is required shall commence; provided, a license issued in respect of a calendar year will meet the requirements of this section until the next following January 31. This section shall not apply to:

(1) An apprentice electrician working under the direct supervision of a licensed master electrician or licensed journeyman electrician;

(2) Employees of public power districts, public power and irrigation districts, electric membership or cooperative associations, public utility corporations, railroads, petroleum companies, petrochemical companies, pipeline companies, telephone or telegraph systems, or employees of affiliated companies performing manufacturing installation, and repair work for such employer, while acting within the scope of their employment;

(3) The installation, maintenance, repair, or alteration of vertical transportation or passenger conveyors, elevators, or appurtenances thereto;

(4) The engaging of any electrical appliance where approved electrical outlets are already installed;

(5) An employee, working for a single employer as part of such employer's full-time staff and not holding himself or herself out to the public for hire, while acting within the scope of his or her employment; or

(6) An owner of property performing work on such property or farm property which he or she owns, excluding commercial, industrial, or public use buildings.

(Prior Code, § 4-4-5)

(B) *Supervision.* If an electrical contractor employs men or women to make an electrical installation, all work shall be done under the direct supervision of a licensed master electrician or a licensed journeyman electrician.

(Prior Code, § 4-4-5.1)

(C) *Contractor; bond.* No person shall engage in the business of installation, repair or alteration of electrical equipment for which a construction permit is required in this chapter until such person shall have filed with the City Clerk a bond with two or more sureties, or a bond of surety company to be approved by the City Clerk, the penal sum of \$2,000 conditioned that the principal will indemnify and keep harmless the city in case of accident or damage arising from the negligence of unskillfulness in doing or protecting such work, or from an unfinished or inadequate work, that the principal will restore the public streets, alleys, sidewalks and pavements over all work done, and fill all excavations made by the principal so as to leave all streets, sidewalks and pavements in as good condition as when the work began, and will maintain the same to the satisfaction of the City Engineer for a period of six months thereafter, and that he or she will pay all fines that may be imposed upon him or her for the violation of any rules or regulations adopted by the Council or the Electrical Inspector and in force during his or

her license. The obligee of the bond shall be the city and action may be maintained thereon by any injured by the breach of any of these conditions.

(Prior Code, § 4-4-7) Penalty, see § 10.99

§ 150.093 WIRING; ENCLOSURE MATERIAL.

All electrical wiring installed in buildings constructed for use or used, in whole or in part, as nonresidential buildings or in buildings and structures within or constructed within the fire zone area of the city, shall be enclosed in rigid conduit, metal tubing, mold, flexible conduit, A/C cable, M/C cable and non-metallic flexible conduit. Armored cable (BX) shall not be used in new or remodeling installations.

(Prior Code, § 4-4-12) (Ord. 1795, passed 4-25-05)

PREBUILT HOMES

§ 150.110 DEFINITION.

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

PREBUILT HOME. A single family residence constructed on a site other than the location where it is to be permanently placed and which is designed for transportation to the location of its permanent placement by wheels and which is designed to have a running gear and hitches or tongues removed upon placement in its permanent position. A prebuilt home, as distinguished from a mobile home, is designed for all running gear and hitches used in transportation to be removed without any structural alterations; is built with two by four studs and is so designed that once it is placed upon a permanent foundation, it is not readily movable.

(Prior Code, § 4-1-21)

§ 150.111 PLACEMENT REQUIREMENTS.

(A) For any or all of the purposes designated in Neb. RS 19-901, the City Council may divide the city into districts of such number, shape, and area as may be deemed best suited to carry out the purposes of Neb. RS 19-901 to 19-914 and may regulate and restrict the erection, construction, reconstruction, alteration, repair, or use of buildings, structures, or land within the districts. All such regulations shall be uniform for each class or kind of buildings throughout each district, but the regulations applicable to one district may differ from those applicable to other districts. If a regulation affects the Niobrara scenic river corridor as defined in Neb. RS 72-2006 and is not incorporated within the boundaries of the city, the Niobrara Council shall act on the regulation as provided in Neb. RS 72-2010.

(B) (1) The City Council shall not adopt or enforce any zoning ordinance or regulation which prohibits the use of land for a proposed residential structure for the sole reason that the proposed structure is a manufactured home if such manufactured home bears an appropriate seal which indicates that it was constructed in accordance with the standards of the Uniform Standard Code for Manufactured Homes and Recreational Vehicles, the Nebraska Uniform Standards for Modular Housing Units Act, or the United States Department of Housing and Urban Development. The City Council may require that a manufactured home be located and installed according to the same standards for foundation system, permanent utility connections, setback, and minimum square footage which would apply to a site-built, single-family dwelling on the same lot. The City Council may also require that manufactured homes meet the following standards:

- (a) The home shall have no less than 900 square feet of floor area;
 - (b) The home shall have no less than an 18-foot exterior width;
 - (c) The roof shall be pitched with a minimum vertical rise of two and one-half inches for each 12 inches of horizontal run;
 - (d) The exterior material shall be of a color, material, and scale comparable with those existing in residential site-built, single-family construction;
 - (e) The home shall have a nonreflective roof material which is or simulates asphalt or wood shingles, tile, or rock; and
 - (f) The home shall have wheels, axles, transporting lights, and removable towing apparatus removed.
- (2) The City Council may not require additional standards unless such standards are uniformly applied to all single-family dwellings in the zoning district.
- (3) Nothing in this section shall be deemed to supersede any valid restrictive covenants of record.

(C) For purposes of this section, manufactured home shall mean a factory-built structure which is to be used as a place for human habitation, which is not constructed or equipped with a permanent hitch or other device allowing it to be moved other than to a permanent site, which does not have permanently attached to its body or frame any wheels or axles, and which bears a label certifying that it was built in compliance with National Manufactured Home Construction and Safety Standards, 24 C.F.R. 3280 et seq., promulgated by the United States Department of Housing and Urban Development, or a modular housing unit as defined in Neb. RS 71-1557 bearing a seal in accordance with the Nebraska Uniform Standards for Modular Housing Units Act.

(D) Subdivision regulations and building, plumbing, electrical, housing, fire, or health codes or similar regulations and the adoption thereof shall not be subject to Neb. RS 19-901 to 19-915. (Neb. RS 19-902) (Prior Code, § 4-1-21.1)

§ 150.112 INSPECTION REQUIREMENTS.

It is intended by this section to waive building, plumbing and electrical inspection requirements insofar as the prebuilt home has the pertinent building construction, electrical or plumbing installed and enclosed in such a manner that, to require an inspection thereof would necessitate damaging the rebuilt home in order to view the object of an inspection. It is not the intent of this section to waive any building, electrical or plumbing inspection which can be performed without damaging any part of the prebuilt home to perform the inspection, or which could have been performed had construction at the location of the permanent situs of the prebuilt home not proceeded past the point where such an inspection could have been performed without damaging the prebuilt home had an inspection been called for at an appropriate time.

(Prior Code, § 4-1-21.2)

WIND ENERGY CONVERSION SYSTEMS**§ 150.130 DEFINITIONS.**

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

OVERSPEED CONTROL. A mechanism used to limit the speed of blade rotation to one that is below the design limits of the WECS.

SURVIVAL WIND SPEED. The maximum wind speed a WECS in automatic unattended operation (whether or not producing power) can sustain without damage to structural components or loss of ability to function normally.

WIND ENERGY CONVERSION SYSTEM (WECS). A machine that converts kinetic energy in wind into a different, usable form of energy, including a machine commonly known as a wind turbine or windmill. Unless the context clearly indicates otherwise, the term refers to all components of such a system, including, but not limited to, the tower and transmission equipment. For convenience, the term usually is abbreviated "WECS".

WIND ROTOR. The blades, and the hub to which they are attached, which are used to capture wind for purposes of energy conversion. A ***WIND ROTOR*** is mounted upon a pole or tower for use.
(Prior Code, §§ 4-2-40- 4-2-44) (Ord. 1382, passed 3-14-88)

§ 150.131 TOWER CONSTRUCTION.

Tower construction shall comply with all provisions of the Building Code currently in effect in this city. The tower shall have either a tower-climbing apparatus commencing not lower than 12 feet above the ground, or a locked antilimb device installed on the tower, or shall be completely enclosed by a locked, protective fence not less than six feet in height.

(Prior Code, § 4-2-45) (Ord. 1382, passed 3-14-88)

§ 150.132 GUY WIRES.

Anchor points of guy wires for the tower shall be located upon the lot or tract of land on which the tower is situated. Such wires shall not be located across any aboveground electrical transmission or distribution lines, and shall not extend into any required front or side yard building setback areas. The point of ground attachment for guy wires shall be completely enclosed by a continuous fence six feet in height.

(Prior Code, § 4-2-46) (Ord. 1382, passed 3-14-88)

§ 150.133 WIND ROTOR.

Each WECS shall be equipped with both manual and automatic controls which will limit the rotational speed of the blade to a speed that is lower than the design limits of the wind rotor.

(Prior Code, § 4-2-47) (Ord. 1382, passed 3-14-88)

§ 150.134 ELECTRICAL COMPONENTS.

All electrical components of a WECS shall comply with the requirements of the Electrical Code currently in effect in this city.

(Prior Code, § 4-2-48) (Ord. 1382, passed 3-14-88)

§ 150.135 NOISE.

The noise generated by a WECS shall not exceed 65 decibels on the DBA scale, as measured outdoors at any property line of the lot or tract of land on which the WECS is located, or 45 decibels as measured inside any residential structure located on or adjacent to such lot or tract of land.

(Prior Code, § 4-2-49) (Ord. 1382, passed 3-14-88)

§ 150.136 ELECTROMAGNETIC INTERFERENCE.

A WECS shall be filtered and/or shielded so as to prevent the emission of radio-frequency energy which would cause harmful interference with radio and/or television broadcasting or reception. A WECS

shall not be installed in any location along the major axis of an existing microwave communications link such that the operation of the WECS may produce a harmful level of electromagnetic interference. If the Building Inspector shall determine that a WECS is causing harmful interference, the operator shall immediately cease operation of the system, and shall not resume operation until the harmful interference has been removed, as determined by the Building Inspector.

(Prior Code, § 4-2-50) (Ord. 1382, passed 3-14-88)

§ 150.137 AVIATION REGULATIONS APPLY.

No WECS shall be erected, maintained or operated in violation of any regulation of the Federal Aviation Administration.

(Prior Code, § 4-2-51) (Ord. 1382, passed 3-14-88)

§ 150.138 BUILDING PERMIT APPLICATION; GENERAL REQUIREMENTS.

An application for a building permit for a WECS shall:

(A) Be accompanied by a plot plan drawn in sufficient scale and detail to clearly show:

(1) The property lines and physical dimensions of the lot or tract of land on which the WECS will be located, and the location and dimensions of all abutting streets and alleys;

(2) The location and total height of the WECS;

(3) The location of the aboveground utility lines on the lot or tract of land and, whether or not on the lot or tract of land, within a radius equal to one and one half times the total height of the WECS; and

(4) The location and size (including height) of buildings, structures and trees, except electrical transmission and distribution lines, antennas, slender or open lattice towers, and open fences;

(B) Be accompanied by standard drawings of the structural components of the WECS, including the tower support structures, base and footings: such drawings and any necessary calculations shall be certified in writing by a licensed professional engineer licensed to practice in the state of Nebraska, and shall include a certification that the system, including any structural components or installation details which vary from the standard design or specifications, complies with the requirements, including the windload requirements, of the Building Code currently in effect in this city.

(C) Cite specific wind-speed data, including monthly mean wind speeds for a period of no less than six months;

(D) For the area in which is situated the lot or tract of land, including WECS design data, including manufacture's specification and installation and operation instructions;

(E) Be accompanied by a statement by a professional engineer certifying that the rotor and overspeed controls have been designed and fabricated for the proposed use in accordance with good engineering practices, and the structural compatibility of available towers with available rotors; and

(F) Be accompanied by documentation by the WECS manufacturer that the WECS model has operated safely in atmospheric conditions for a period of not less than three months and has provided energy equivalent to not less than 25% of its predicted annual energy output under a 12 mph annual wind regime.

(Prior Code, § 4-2-52) (Ord. 1382, passed 3-14-88)

§ 150.139 BUILDING PERMIT APPLICATION; ELECTRICAL COMPONENTS.

The drawing of the electrical components which accompanies the application shall be a line drawing in sufficient detail to enable the Building Inspector to determine that the manner of installation will comply with the requirements of the National Electrical Code currently in effect in this city and there shall be attached to the drawing a statement of an electrician licensed under the laws of the state of Nebraska that the electrical system complies with such Electrical Code, and conforms to good electrical practices. If electrical components proposed to be installed vary from the standard design or specifications, the application shall be accompanied, also, by a certificate of a licensed professional engineer that the modified design or specifications comply with such Electrical Code and conform to good electrical engineering practices.

(Prior Code, § 4-2-53) (Ord. 1382, passed 3-14-88)

§ 150.140 WARNING SIGN; LABELING.

(A) Not less than one sign warning of electrical shock or high voltage shall be posted and maintained in a conspicuous location at the base of the tower.

(B) The following information shall also be posted on a label or labels affixed to the generator or alternator of the WECS:

- (1) The maximum power output of the system and the wind speed at which it is achieved;
- (2) Nominal voltage(s) and maximum current; and
- (3) The manufacturer's name and address, and the serial number and model number.

(C) All of the foregoing information, together with a statement of the maximum survival wind speed and of emergency and normal shutdown procedures, shall also be provided on a label or labels posted and easily read at ground level or located at the WECS control panel.

(Prior Code, § 4-2-54) (Ord. 1382, passed 3-14-88)

§ 150.141 POWER CONNECTION; NOTICE.

The person to whom a building permit for a WECS is granted shall, before connecting the WECS to the grid of a power line of this city or a public power district, notify the district in writing of its intention so to do.

(Prior Code, § 4-2-55) (Ord. 1382, passed 3-14-88)

§ 150.142 LIABILITY INSURANCE.

The owner of the lot or tract of land or, if the WECS is to be erected, maintained or operated by some other person, such other person shall maintain liability insurance covering loss or damage to persons and property by the WECS in a minimum amount of \$200,000, and shall maintain on file in the office of the City Clerk a certificate of the insurer showing such coverage.

(Prior Code, § 4-2-56) (Ord. 1382, passed 3-14-88)

§ 150.143 MAINTENANCE.

A WECS shall be regularly and properly maintained in good operating condition.

(Prior Code, § 4-2-57) (Ord. 1382, passed 3-14-88)

UNSAFE BUILDINGS AND STRUCTURES**§ 150.500 UNSAFE BUILDINGS PROHIBITED; DECLARED NUISANCE.**

It shall be unlawful for the owner or occupant of any building or structure within the corporate limits of the city to cause or permit such building or structure to become or remain an unsafe building or structure within the meaning of § 150.501. Any such building or structure is hereby declared to be a public nuisance, and shall be repaired, rehabilitated, vacated or demolished, as the case may be, as provided in this chapter.

(Prior Code, § 4-2-1) (Ord. 1382, passed 3-14-88) Penalty, see § 10.99

§ 150.501 BUILDINGS AND STRUCTURES DECLARED UNSAFE.

All buildings or structures which have any or all of the following defects are hereby declared to be unsafe buildings or structures:

(A) All buildings or structures having one or more walls or other vertical structural members which list, lean or buckle to such extent that a plumb line passing through the center of gravity of the lean, list or buckle point falls outside of the middle third of the base of the wall or structural member.

(B) All buildings or structures which, exclusive of the foundation, show 33% or more of damage or deterioration of a supporting member or members, or 50% or more of damage or deterioration of the nonsupporting part of the enclosing or outside walls or covering;

(C) All buildings or structures the floor or roof of which bears a load or loads of such weight as to create a danger of collapse of the building or structure, or any part thereof;

(D) All buildings or structures having a part or parts which are so attached that they may fall and injure the occupants or members of the public, or property;

(E) All buildings or structures which have been damaged by fire, wind or other cause so as to have become dangerous to life, safety, or the general health and welfare of the occupants or the people of the city; and

(F) All buildings or structures which have become or are so dilapidated, decayed, unsafe or unsanitary as to be likely to cause sickness or disease, so as to work injury to the health, safety or general welfare of the occupants or the people of the city.

(Prior Code, § 4-2-2) (Ord. 1382, passed 3-14-88) Penalty, see § 10.99

§ 150.502 WIND ENERGY CONVERSION SYSTEMS INCLUDED.

A wind energy conversion system, and any component thereof, constitutes a structure within the meaning of this subchapter.

(Prior Code, § 4-2-3) (Ord. 1382, passed 3-14-88)

§ 150.503 INSPECTIONS.

(A) The Building Inspector, or his or her duly appointed deputies, may inspect or cause to be inspected all public or quasi-public buildings, schools, halls, churches, theaters, hotels, tenements, commercial offices, manufacturing, or loft buildings, and all structures that are not buildings, for the purpose of determining their structural safety.

(B) Whenever the Building Inspector shall receive information that any other type of building or portion thereof in the city violates the provisions of this chapter, the Building Inspector or his or her duly appointed deputies may inspect or cause to be inspected such building, structure or portion thereof.

(C) It shall be the duty of every owner, agent, lessee, or occupant of any building or structure to permit such an inspection at any reasonable time.

(Prior Code, § 4-2-4) (Ord. 1382, passed 3-14-88)

§ 150.504 DETERMINATION; ORDER.

If the Building Inspector, upon inspection by him or her or his or her duly appointed deputy, shall find a building or structure to be an unsafe building or structure because of one or more violations of §§ 150.500 and 150.501, he or she shall proceed forthwith to make such a determination in writing and enter an order to repair, rehabilitate, vacate or, as the case may be, demolish the building or structure. The determination shall specify the respects in which the Building Inspector has found the building or structure to be an unsafe building or structure within the meaning of this subchapter. A copy of the determination shall be filed within three business days with the City Clerk who may cause the same to be filed in the office of the Register of Deeds for recording.

(Prior Code, § 4-2-5) (Ord. 1382, passed 3-14-88)

§ 150.505 ORDER TO REPAIR OR VACATE.

If the order is to repair or rehabilitate the building, the order shall specify the repairs to be made and the time (which shall be a reasonable time, as determined by the Building Inspector) within which the repairs or rehabilitation is to be completed. If the Building Inspector shall determine that the building is unsafe for occupancy pending repair or rehabilitation, the order shall include an order that the building be vacated within a time specified in the order, and that it not be reoccupied without a written permit from the Building Inspector.

(Prior Code, § 4-2-6) (Ord. 1382, passed 3-14-88)

§ 150.506 EMERGENCY ORDER.

If the Building Inspector shall determine that a building or structure, or a portion thereof, is so unsafe; or is unsafe in a respect such that a delay in repairing, rehabilitating, vacating, or demolishing the building or structure until after a hearing by the City Council would result in undue danger or other hazard to persons or property, he or she may declare that there exists an emergency requiring that his or her order to repair, rehabilitate, vacate, or demolish the building or structure become final and effective immediately, in which case the order shall become final and effective immediately.

(Prior Code, § 4-2-7) (Ord. 1382, passed 3-14-88)

§ 150.507 NOTICE; POSTING; AFFIDAVIT.

(A) Upon making a determination that a building or structure is unsafe and entering an order to repair, rehabilitate, vacate, or as the case may be, demolish the building or structure, the Building Inspector shall issue and cause to be posted a written notice as herein provided. The notice shall summarize the determination and order which have been made, be printed or typewritten upon cardboard or other material of equivalent durability, and be posted in two or more conspicuous places on the exterior of the building or structure.

(B) Upon completion of such posting, the Building Inspector shall sign and cause to be filed in the office of the City Clerk an affidavit, to which shall be attached and in which shall be incorporated by reference a copy of the posted notice, and which shall identify the building or structure upon which the notice was posted and the tract of land upon which the building or structure was situated and shall specify the date of the posting and the locations of the posting upon the building or structure, and the person by whom the posting was done.

(Prior Code, § 4-2-8) (Ord. 1382, passed 3-14-88)

§ 150.508 COMPLIANCE; HARDSHIP.

It shall be unlawful for any person to fail or refuse to comply with any order of the Building Inspector issued pursuant to this chapter. Provided, if the Building Inspector shall find that compliance with the order within the time specified in the order would create undue hardship to the owner or occupant of the building, and that delay would not involve undue hazard or injury to persons or property, the Building Inspector may grant an extension of time within such compliance with the order shall be completed; such finding, the grounds therefor, and the order of extension shall be in writing.

(Prior Code, § 4-2-9) (Ord. 1382, passed 3-14-88) Penalty, see § 10.99

§ 150.509 STANDARDS FOR REPAIR, REHABILITATION, VACATION, DEMOLITION.

The following standards shall be followed in substance by the Building Inspector and the City Council in ordering repairs, rehabilitation, vacation, or demolition:

(A) If the cost of repairing or rehabilitating an unsafe building so that it will no longer exist in violation of the terms of this subchapter does not exceed 50% of the actual appraised value of the building as shown by the records of the office of the County Assessor of Scotts Bluff County, Nebraska, it shall be ordered repaired or rehabilitated;

(B) If the unsafe building is in such condition as to render it dangerous to the health, safety or general welfare of its occupants, it shall be ordered to be vacated;

(C) In any case where the cost of repair or rehabilitation of the unsafe building so that it no longer will exist in violation of the terms of this subchapter is in excess of 50% of the actual appraised value of the building as shown by the records of the office of the County Assessor, it shall be ordered demolished unless repaired or rehabilitated so that it no longer will exist in violation of the terms of this subchapter.

(Prior Code, § 4-2-10) (Ord. 1382, passed 3-14-88) Penalty, see § 10.99

§ 150.510 NONCOMPLIANCE WITH ORDER; REPORT TO CITY COUNCIL.

(A) Whenever any person shall fail to comply with an order of the Building Inspector to repair, rehabilitate, vacate, or demolish an unsafe building or structure as provided in the preceding sections

of this subchapter (except § 150.506), the Building Inspector shall file with the City Clerk a report concerning the matter, addressed to the City Council, and signed by the Building Inspector.

(B) The report shall state the legal description of the lot or tract upon which is situated the building or structure, the address and the nature and general condition of the building or structure; the name of the owner and mortgagee, if any, of record of the lot or tract and the building or structure; the name of the any person or persons in possession of the lot or tract and the building, and the nature of the interest (if known) in the lot, tract or building owned or claimed by such person or persons; the names of any other person or persons who have or appear or claim to have an interest, of record or otherwise, in the lot, tract or building or structure, and the nature (if known) of such interest or claim; a statement that the Building Inspector made a determination that the building or structure is an unsafe building or structure, and entered an order to repair, rehabilitate, vacate, or, as the case may be, demolish the building or structure, filed a copy of such determination with the Register of Deeds, and posted copies of a notice of the determination and orders on the building or structure, all as provided by the ordinance; the dates of such determination, order, filing, and posting; and such other information as the Building Inspector shall include.

(C) There shall be attached to the report a copy of the determination, orders, notice, and affidavit required by this subchapter. Provided, compliance by the Building Inspector with this provisions of this subchapter shall not be considered essential to the jurisdiction of the City Council to consider, hear and take action upon a complaint or information that a building or structure is unsafe and a public nuisance. (Prior Code, § 4-2-11) (Ord. 1382, passed 3-14-88) Penalty, see § 10.99

§ 150.511 BUILDING PERMITS; STAY.

After a report shall have been filed with the City Clerk as provided in section § 150.510, no building permit shall be issued in respect of the building which is the subject of such report, except with the consent and approval of the City Council.
(Prior Code, § 4-2-12) (Ord. 1382, passed 3-14-88)

§ 150.512 VIOLATION; NUISANCE; HEARING.

(A) Upon receipt of a written report as provided in § 150.510, or, in the discretion of the City Council, without such a report, the City Council may by resolution set a date, time and place at which the person or persons who own, or have, or appear or claim to have, an interest in a lot or tract and the building or structure which is the subject of such a report, or a building or structure which, as the City Council has been informed in some other manner, is or appears to be an unsafe building within the meaning of this subchapter, may appear before the City Council and show cause why the City Council shall not determine the building or structure to be an unsafe building or structure, and, as the case may be, a public nuisance, and order the building or structure repaired, rehabilitated, vacated, or, as the case may be, demolished.

(B) If the resolution is to be adopted as a result of information received in some manner other than a report filed by the Building Inspector as provided in § 150.510, it shall include an order that the Building Inspector prepare and file with the City Clerk, within the time specified in the order, a written statement containing the type of information required to be contained in a report filed pursuant to § 150.510, together with a summary of the information received by the City Council indicating that the building or structure is or appears to be an unsafe building or structure within the meaning of this subchapter.

(Prior Code, § 4-2-13) (Ord. 1382, passed 3-14-88)

§ 150.513 NOTICE; FORM.

After the City Council shall have adopted a resolution as provided in § 150.512, the City Clerk shall issue a written notice:

(A) Addressed to the owner(s) of record of the lot or tract and the building or structure, or of any interest therein; the holders of any encumbrances of record; the person(s) in possession of the lot or tract and building or structure; and all other persons, including persons whose real names are unknown, who have or appear or claim to have some interest in the lot or tract and building or structure; and

(B) Stating that such hearing has been set before the City Council, the date, time and place of hearing, and that the persons to whom the notice is addressed may appear before the City Council at such time and place to show cause, if any, why the City Council shall not determine the building or structure to be an unsafe building or structure and, as the case may be, a public nuisance, and order the building or structure and, as the case may be, a public nuisance, and order the building or structure repaired, rehabilitated, vacated, or, as the case may be, demolished.

(C) The notice shall state that the building or structure allegedly is an unsafe building and, as the case may be, a public nuisance for reasons stated in the report or statement of the Building Inspector which is on file in the office of the City Clerk and a copy of which may be obtained from the City Clerk, and that at the hearing, the persons addressed may show cause, if any, why the City Council shall not determine the building or structure to be an unsafe building or structure and, as the case may be, a public nuisance, and order the building repaired, rehabilitated, vacated, or, as the case may be, demolished. The form of the notice shall be approved by the City Attorney as to legal sufficiency prior to service and publication.

(Prior Code, § 4-2-14) (Ord. 1382, passed 3-14-88)

§ 150.514 NOTICE; SERVICE; POSTING.

Copies of the notice, signed by the City Clerk, shall be served as follows:

(A) A copy shall be delivered by the City Clerk, or by any person whom he or she shall in writing authorize to deliver it, to the person or persons to whom the notice is addressed, unless the person is a nonresident of, or after diligent investigation and inquiry cannot be found within, the city.

(B) If a person to whom the notice is addressed is a nonresident of, or after diligent investigation and inquiry cannot be found within, the city, the City Clerk shall cause a copy of the notice to be mailed by certified or registered mail addressed to the person at his or her last known address and requiring a receipt signed by such person.

(C) If a person to whom the notice is addressed is deceased, and the City Clerk, after diligent investigation and inquiry, is unable to ascertain and does not know the names, residence, place of abode or whereabouts of the heirs, devisees, personal representatives, or other persons interested in the estate of such named person deceased, the City Clerk shall cause to be published a notice addressed to "the heirs, devisees, legatees, personal representatives, and all other persons interested in the estate of" such named person deceased, "real names unknown".

(D) If the City Clerk, after diligent investigation and inquiry, is unable to ascertain the name, residence or address of a person, not deceased, who has or appears or claims to have some interest in the lot or tract and building or structure, the City Clerk shall cause to be published a notice addressed to "all persons having or claiming to have an interest in", followed by a legal description of the lot or tract. If publication of notice is required, the City Clerk shall also cause a copy of the notice to be posted in a conspicuous place on the building or structure to which the notice relates. Service and posting of the notice shall be reviewed by the City Attorney as to legal sufficiency. If, for any reason, the service or posting of a notice shall be determined to have been insufficient or defective, then the hearing may be continued by the City Council for a period sufficient to enable proper service to be had on all persons to whom the notice is addressed or, as the case may be, to enable proper posting to be had.

(Prior Code, § 4-2-15) (Ord. 1382, passed 3-14-88)

§ 150.515 TIME OF NOTICE.

If a copy of a notice is by § 150.514 required to be delivered or posted, or by division (B) of § 150.514 to be mailed, the copy shall be so delivered, posted or mailed not less than ten days prior to the hearing. Publication of notice, if required by § 150.514 shall be made for two successive weeks (as defined by statute), commencing not less than ten days before the hearing, in a newspaper of general circulation within the city; and the City Clerk, within five days after the first publication, shall cause a copy of the published notice to be mailed by certified or registered mail to the last known address of any person appearing or claiming to have an interest in the lot or tract and building or structure.

(Prior Code, § 4-2-16) (Ord. 1382, passed 3-14-88)

§ 150.516 NOTICE; AFFIDAVIT.

Upon completion of service of notice and, if posting of notice is required, upon completion of posting as provided in § 150.514, a copy of the notice shall be filed in the office of the City Clerk, to which shall be attached:

(A) An affidavit, signed by the person who served and, as the case may be, posted and mailed the notice, stating that the attached copy of the notice is a true copy of the notice which was served, posted

and mailed; the names of the person upon whom the notice was served and the date and manner of service; the date when the notice was posted, and the names and addresses of the persons to whom the notice was mailed; and

(B) If the notice was published, an affidavit by the printer of publication.
(Prior Code, § 4-2-17) (Ord. 1382, passed 3-14-88)

§ 150.517 HEARING; ORDER; EXTENSION.

(A) At the time fixed for hearing, the City Council shall hear all objections and evidence submitted by the person or persons who own, or have an interest in, or who appear or claim to own or have an interest in the lot or tract and the building or structure, as well as evidence and arguments submitted by the Building Inspector and other interested persons.

(B) If, after consideration of such evidence and arguments, the City Council shall find that the building or structure is an unsafe building or structure and, as the case may be, a nuisance, it shall by ordinance so determine, and shall in such ordinance order, in accordance with the provisions of § 150.509, that the building or structure be repaired, rehabilitated, vacated, or, as the case may be, demolished.

(C) If the order is to repair or rehabilitate the building or structure, the order shall specify the repairs or rehabilitation work to be done and the time, which shall be a reasonable one, within which the repairs or rehabilitation is to be completed, and shall require that such repairs or rehabilitation work be done by the owner or, as the case may be, by the lessee or occupant of the building or structure. If the order is to vacate the building, the order shall specify the time within which the building shall be vacated. If the order is to demolish the building or structure and remove all materials and debris from the lot or tract, it shall specify the time, which shall be a reasonable one, within which the demolition and removal shall be completed.

(D) In the discretion of the City Council, the order may also direct that if the building or structure is not repaired, rehabilitated or demolished and the material and debris removed by the owner within the time specified, the building or structure shall be repaired or demolished and the debris therefrom removed by the City under the direction of the Building Inspector, and the cost thereof shall be levied by the City Council as a special assessment against the land, and the assessment shall be a lien on the real estate and be collected in the manner provided for special assessments. Subsequently, upon written application of a person affected by the order, the City Council may by resolution extend the time within which the building or structure is to be repaired, rehabilitated, vacated, or demolished by the owner if the City Council shall make a finding that repair, rehabilitation, vacation, or demolition of the building or structure within the time limited by the order would cause undue hardship to such person.
(Prior Code, § 4-2-18) (Ord. 1382, passed 3-14-88)

§ 150.518 PLACARDING STRUCTURE.

(A) After the City Council has enacted an ordinance determining a building or structure to be an unsafe building or structure and, as the case may be, a nuisance, and ordered it repaired, rehabilitated, vacated, or demolished, the City Clerk shall file a copy of the ordinance in the office of the Register of Deeds for recording, and the Building Inspector shall cause to be placed upon the building or structure a placard stating that the building or structure has been determined by the City Council to be an unsafe building and, as the case may be, a public nuisance, and has ordered the building or structure repaired, rehabilitated, vacated, or as the case may be, demolished, and, if the City Council has ordered the building or structure vacated, that occupancy or use of the building or structure is unlawful.

(B) The placard shall be printed or typewritten upon cardboard or other material of equivalent durability, and be posted in two or more conspicuous places on the exterior of the building or structure. Upon completion of such posting, the Building Inspector shall sign and cause to be filed in the office of the City Clerk an affidavit, to which shall be attached and in which shall be incorporated by reference a copy of the placard, and which shall identify the building or structure upon which the notice was posted and the tract of land upon which the building or structure was situated, and shall specify the date of the posting and the locations of the posting upon the building or structure, and the person by whom the posting was done.

(C) It shall be unlawful for any person to deface or remove such placard.
(Prior Code, § 4-2-19) (Ord. 1382, passed 3-14-88) Penalty, see § 10.99

§ 150.519 USE OF UNSAFE STRUCTURE PROHIBITED.

If the City Council shall have declared a building to be an unsafe building or structure and, as the case may be, a nuisance, and shall have ordered it vacated or not used until required repairs or rehabilitation work shall have been completed, it shall be unlawful for any person thereafter to occupy or use, or to continue to occupy or use, the building or structure until the building or structure shall have been repaired or rehabilitated as required by the order and a certificate of occupancy shall have been obtained from the Building Inspector. If the City Council shall have declared a building or structure to be an unsafe building or structure and, as the case may be, a nuisance, and shall have ordered it vacated and demolished, it shall be unlawful for any person thereafter to occupy or use, or to continue to occupy or use, the building or structure.

(Prior Code, § 4-2-20) (Ord. 1382, passed 3-14-88) Penalty, see § 10.99

§ 150.520 DEMOLITION; REMOVAL OF DEBRIS.

(A) If the City Council shall order a building or structure repaired or demolished and the debris removed by the city as provided in § 150.518, and the owner shall fail or refuse to comply with the order in whole, or in part, within the time specified in the order, the Building Inspector shall in writing so report to the City Administrator and submit to the City Administrator an estimate by the City Engineer

concerning the cost of the repair or demolition and removal, and a recommendation concerning the manner in which the repair, demolition and removal shall be effected.

(B) If it shall appear to the City Administrator that the aggregate cost of the repair or demolition and removal of work will not exceed the sum of \$7,500, the City Administrator, shall in writing so determine and, in this sound discretion, shall order either that the repair or demolition and the removal work be done by employees of the city under the direction of the Building Inspector, or that the work be done by a private contractor, subject to inspection and approval of the work by the Building Inspector.

(C) If the City Administrator shall determine that the work shall be done by employees of the city under the direction of the Building Inspector, the Building Inspector shall proceed with the repair or demolition of the building or structure and removal from the lot or tract of all materials and debris, and he or she shall place the lot or tract in a safe condition.

(D) If the City Administrator shall determine that the work shall be done by a private contractor, he or she shall also determine in writing whether the taking of bids would be likely to result in the lowest cost and, depending upon his or her decision in that respect, shall make appropriate arrangements for a contract with a private contractor for that purpose. Such bids may be solicited in any manner which, in the sound discretion of the City Administrator, is the best suited for eliciting the lowest and best bid, but the bids shall be in writing.

(E) No repair, demolition or removal work shall be commenced by a private contractor until a written contract therefor shall have been signed by the contractor and the city, the latter, by the Mayor or, in case of his or her absence or disability, by the President of the City Council. If it shall appear to the City Administrator that the aggregate cost of the repair or demolition and removal work will exceed the sum of \$7,500, the City Administrator shall in writing so determine, and shall submit to the City Council the estimate of cost prepared by the City Engineer, together with a recommendation by the City Administrator that the city advertise for bids for such work.

(F) All repair, demolition or removal work done by a private contractor, whether done pursuant to a bid accepted by the City Council, or otherwise, shall be subject to inspection and approval by the Building Inspector.

(Prior Code, § 4-2-21) (Ord. 1382, passed 3-14-88)

§ 150.521 SALE OR DISPOSITION OF DEBRIS.

(A) Where pursuant to an order of the City Council, an unsafe building or structure has been repaired or demolished and the materials and debris removed or, as the case may be, is about to be repaired or demolished and removed, the Building Inspector shall sell, or if there appears to him or her to be a substantial doubt whether the gross proceeds of sale will exceed the expenses of sale, shall otherwise dispose of the materials and debris. The sale shall be at private sale or public auction, as will in the discretion of the Building Inspector be likely to realize the largest amount of proceeds after payment of the expenses of sale. The proceeds of sale shall be applied in payment, in the following order, of:

(1) The expenses of sale;

(2) The expenses incurred by the city in the proceedings to have the building or structure determined to be an unsafe building and, as the case may be, a nuisance and, if a special assessment is to be made, the estimated expense of levying such assessment;

(3) The expense of repair or demolition of the building or structure and removal of the material and debris;

(4) Unpaid general taxes on the building, structure, lot or tract; and

(5) Unpaid special assessments against the lot or tract.

(B) The balance, if any, of the proceeds shall be paid to the owner, encumbrancer, or other person having an interest in the building or structure, as their interest may appear. If any of such expenses shall have been paid by the city prior to the sale, the proceeds shall be paid into the fund out of which the expenses were paid, to the same extent that they would have been applied in payment of the expenses had the expenses not been paid initially out of the fund.

(Prior Code, § 4-2-22) (Ord. 1382, passed 3-14-88)

§ 150.522 REPAIR OR DEMOLITION; REPORT; CERTIFICATE.

(A) Where pursuant to an order of the City Council, an unsafe building or structure has been repaired or demolished and materials and debris have been removed, the Building Inspector shall file with the City Clerk a written report thereof.

(B) The report shall identify the building or structure and the lot or tract; state the name and address of the owner and of any other person having, or appearing or claiming to have, an interest therein; state that the owner of the building or structure did not complete repair or demolition thereof and removal of the materials and debris from the lot or tract within the time specified by the order of the City Council; state the date or dates when the repair, demolition and removal were completed by the city; and, in the event that the work was performed otherwise than under a contract let by the City Council, state the cost, in itemized form, of the work.

(C) If the work was performed by a private contractor, the report shall contain a certificate of the Building Inspector that the work was performed in accordance with the contract; and, if the contract was one which was let by the City Council, there shall also be attached to the report a certificate of the City Engineer that the work was performed in accordance with the contract.

(Prior Code, § 4-2-23) (Ord. 1382, passed 3-14-88)

§ 150.523 EXPENSES.

When a report and certificate of the Building Inspector and, as the case may be, a certificate of the City Engineer shall have been filed with the City Clerk as provided in § 150.520, the City Council may authorize payment of the expenses so certified.

(Prior Code, § 4-2-24) (Ord. 1382, passed 3-14-88)

§ 150.524 ASSESSMENT.

Where an unsafe building or structure has been repaired or demolished and material and debris removed from the lot or tract pursuant to an order of the City Council made in accordance with the provisions of this subchapter, the City Council, after notice and hearing, and either prior or subsequent to a sale of the removed materials and debris as provided in § 150.521, may by ordinance specially assess the cost of such repair, demolition and removal against the lot or tract. Any such assessment shall be a lien on the lot or tract on which levied from the date of passage of the assessment ordinance, shall become delinquent in 20 days after such date, shall draw interest at the rate of 12% per annum from such date until the assessment shall become delinquent, and thereafter shall draw interest at the rate of 12% per annum. The City Clerk shall certify all such assessments to the County Clerk.

(Prior Code, § 4-2-25) (Ord. 1382, passed 3-14-88)

§ 150.525 EMERGENCY ORDER; SUBSEQUENT PROCEDURE.

Whenever any person shall fail to comply with an order of the Building Inspector to repair, rehabilitate, vacate, or demolish immediately an unsafe building or structure and remove the material and debris as provided in § 150.506, the Building Inspector shall forthwith so report to the City Administrator, and the city shall proceed with such repair or demolition and removal as provided in §§ 150.511 through 150.522, inclusive, of this subchapter, except that the City Administrator may waive estimates of cost and bidding where the apparent cost of the work will not exceed the sum of \$7,500, and the City Council, if it shall find that there exists an emergency may, by an ordinance adopted by three-fourths of the members of the City Council, waive estimates of cost and advertising for bids where the apparent cost of the work will exceed \$7,500, and the expense of such repair, demolition and removal may be paid as provided in § 150.523 and assessed against the lot or tract as provided in § 150.524.

(Prior Code, § 4-2-26) (Ord. 1382, passed 3-14-88)

§ 150.526 DECEASED PERSONS; NOTICE.

If any person upon whom a notice is required to be served under this subchapter is deceased, the notice shall be issued to, and copies shall be served upon, the duly appointed personal representative, if any, of the estate; the surviving spouse, if any, of the deceased; and all heirs the names of whom can be ascertained in the exercise of reasonable diligence.

(Prior Code, § 4-2-27) (Ord. 1382, passed 3-14-88)

§ 150.527 RIGHTS, REMEDIES; CUMULATIVE.

All remedies provided in this subchapter are in addition to the remedies proved in other ordinances of the city, and are not in derogation of any rights or remedies which the city has under the laws of the state of Nebraska.

(Prior Code, § 4-2-28) (Ord. 1382, passed 3-14-88)

§ 150.528 NONLIABILITY OF CITY OFFICERS AND EMPLOYEES.

No officer, or employee or agent of the city shall be personally liable for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of his or her office, employment, or agency under this subchapter. Any suit brought against any officer, employee or agent of the city as a result of any act required or permitted in the discharge of his or her duties under this subchapter shall be defended by the City Attorney at the expense of the city until final determination of the proceedings therein.

(Prior Code, § 4-2-25) (Ord. 1382, passed 3-14-88)

ADMINISTRATION AND ENFORCEMENT**§ 150.900 VARIANCES.**

(A) *Application.* Any person aggrieved by decision of the Chief Building Inspector may apply to the Board of Adjustment for a variation of the application of any provision of the Building Code to the particular case. The application shall be in writing, shall specify the variation sought and shall be signed by the applicant. The Board, upon such application and after a public hearing pursuant to such notice as the Board shall specify, may vary the application of any provision of the Building Code to the particular case when, in its opinion, the enforcement thereof would do manifest injustice, and would be contrary to the spirit and purpose of the Building Code or public interest. A decision of the Board to vary the application of any provision of the Building Code shall specify in what manner the variation is made, the conditions upon which it is made and the reasons therefor.

(Prior Code, § 4-1-5)

(B) *Fee.* Any person applying for a variation of the application of any provision of the Building Code shall contemporaneously pay to the City Clerk, a fee equal to one-half the original building permit application filing fee; provided, the minimum fee shall be \$10; provided, further, no such fee shall be payable if the application is made by the city pursuant to a motion of the City Council.

(Prior Code, § 4-1-5.1)

§ 150.901 BUILDING INSPECTOR.

The office of Building Inspector is hereby created. The Building Inspector shall be appointed by the Mayor and Council and the appointment of the Building Inspector shall be by written resolution duly adopted by the Mayor and Council. The Mayor and Council may contract with another political subdivision or entity to provide building inspection services to the city. In such case, an individual or official of the political subdivision or entity contracted with to provide such services shall designate a person or employee of the political subdivision or entity who shall hold the position of Building Inspector of the city. In the event the services are contracted for, the contract shall set forth the compensation to be paid for the services. The term of office of the Building Inspector shall be for one fiscal year or until his or her successor shall be appointed and qualified, and annually on the first day of December, the Building Inspector shall be appointed as aforesaid or, in the event the Mayor and Council choose to contract with another political subdivision or entity to provide the services, such terms shall be as set forth in the contract entered into between the city and the political subdivision or other entity providing services.

(Prior Code, § 4-1-12)

Cross-reference:

Appointed city officials, see Chapter 31

§ 150.902 ELECTRICAL INSPECTOR.

(A) *Appointment.* The office of Electrical Inspector for the city is hereby created and the Mayor, by and with consent of the Council, at the commencement of each municipal year shall appoint an Electrical Inspector. The person chosen shall be well versed in approved methods of electrical construction for the safety to life and property. The Electrical Inspector shall keep records with his or her office as provided herein, which shall be the property of the city and shall be filed and preserved by the Electrical Inspector and which shall be delivered to his or her successor in office. The Electrical Inspector may be removed from office for cause only after a hearing before the Mayor and Council. It shall be unlawful for the Electrical Inspector to engage in the business of the installation and maintenance of electric wiring, electric devices and electrical materials, either directly or indirectly, and he or she shall have no financial interest in any concern engaged in any such business in the city at any time, while holding the office of Electrical Inspector. Any violation of the provisions of this section by the Electrical Inspector shall be sufficient cause for his or her removal from office, but he or she may be removed for other just causes. If the city should contract with another political subdivision or entity for inspection services, then the entity shall designate that employee or agent of the entity or political subdivision who shall perform the electrical inspection services and the person shall be designated and appointed by the Mayor and Council as Electrical Inspector for the city. Term of office of the Electrical Inspector shall be for a period of one year, or in the event that services are contracted for with another entity or political subdivision, for the term of the contract as provided for in the contract entered into by the city.

(Prior Code, § 4-4-1)

(B) *Duties.* The Electrical Inspector shall have general supervision over, and is hereby authorized, empowered and directed to interpret, where necessary, and enforce all provisions of this chapter, to the end that fires and accident or injury to persons or property shall be prevented, and whenever, in the judgment of the Electrical Inspector, any electric wire or insulation, or for any other cause, the Electrical Inspector shall at once notify the owner thereof, of such defect and order him or her to repair, rearrange or remove the same, and upon the owner's failure to do so within a reasonable time, the owner shall be deemed guilty of a violation of the provisions of this chapter and each and every day which shall elapse after the expiration of the reasonable time until the order of the Electrical Inspector is fully complied with, shall be considered a separate offense within the intent and meaning of this chapter.

(Prior Code, § 4-4-2)

(C) *Right of access.* The Electrical Inspector, upon proper identification and subject to requirements of search warrants, where applicable, shall have the right, during reasonable hours, to enter any building or premises and, in the discharge of his or her official duties, to inspect and test any electrical equipment or appliances therein contained. The Electrical Inspector shall have the authority to cause the turning off of electrical power and, in case of an emergency, to cut or disconnect any wire where electrical power is dangerous to life or property.

(Prior Code, § 4-4-2.1)

(D) *Defense.* Any suit brought against the Electrical Inspector or his or her subordinates because of an act performed by him or her, or an omission by him or her occurring, in the enforcement of any provision of this chapter shall be defended by the city until final termination of the proceedings.

(Prior Code, § 4-4-4)

Cross-reference:

Appointed city officials, see Chapter 31

§ 150.903 ENTRY; NOTICES.

The Chief Building Inspector or the City Administrator in discharge of their official duties and upon proper identification, shall have authority to enter any building, structure or premises at any reasonable hour. To enforce compliance with the law, to remove the legal or unsafe conditions, to secure the necessary exit facilities in buildings and structures, the City Administrator may issue such notices or orders as may be necessary.

(Prior Code, § 4-1-5.2)

§ 150.904 LIABILITY NOT ASSUMED BY CITY.

Nothing contained in this chapter shall be construed to relieve from or lessen the responsibility or liability of any party owning, operating, controlling or installing any electric wiring, electric devices or electric material or damages to person or property caused by any defect therein nor shall the city be held as assuming any such liability by reason of the inspection authorized therein, or the approval of such installation by reason of the inspection issued as herein provided.

(Prior Code, § 4-4-13)

CHAPTER 151: MOBILE HOMES

Section

- 151.01 Definitions
- 151.02 License; temporary permit
- 151.03 Fees
- 151.04 Mobile home community; application
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§ 151.01 DEFINITIONS.

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

DEPENDENT MOBILE HOME. A mobile home which does not have a flush toilet and a bath or shower.

INDEPENDENT MOBILE HOME. A mobile home which has a flush toilet and a bath or shower.

INSPECTOR. The City Engineer or his or her authorized representative.

LICENSEE. Any person licensed to operate and maintain a ***MOBILE HOME COMMUNITY*** under the provisions of this chapter.

LOT. A plot of ground within a mobile home community which is designed for, and designated as, the location for one mobile home and not used for any other purpose other than the customary accessory uses associated therewith.

MOBILE HOME COMMUNITY. An area, tract, site or plot of land whereupon a minimum of 25 mobile homes as herein defined are placed, located or maintained or intended to be placed, located, or maintained for dwelling purposes only, whether or not upon a lot.

NATURAL OR ARTIFICIAL BARRIER. Any street, river, pond, canal, railroad, levy, embankment or screening by an appropriate fence or hedge.

PERMITTEE. Any person to whom a temporary permit is issued to maintain an individual mobile home outside of a licensed **MOBILE HOME COMMUNITY** and in accordance with the provisions of this chapter as hereinafter prescribed.
(Prior Code, § 5-4-1) (Ord. 1763, passed 6-28-04)

§ 151.02 LICENSE; TEMPORARY PERMIT.

(A) It shall be unlawful for any person to establish, maintain, operate or permit to be established, maintained or operated, any mobile home community within the zoned limits of the city on land owned or controlled by him or her, without first having secured a license therefor as provided herein.

(B) It shall be unlawful for any person to park, place or abandon any mobile home upon any street, alley, highway or other public place or upon any premises or tract of land located within the zoned limits of the city (which mobile home is situated outside of a licensed mobile home community) without first having secured a temporary permit as provided herein.

(C) The following shall constitute exceptions to divisions (A) and (B):

(1) The parking of visiting mobile homes in an accessory private garage building or in the rear yard of any premises for a period not to exceed 30 days within any one calendar year shall be permitted.

(2) Emergency or temporary stopping or parking for 24 hours upon any public street shall be permitted, provided, however, that such stopping or parking shall be subject to any other parking or stopping regulations or limitations that may be imposed by any other ordinance of the city relative to stopping and parking.

(3) Unoccupied mobile homes for demonstration and/or sale purposes (only) may be located within any district where such demonstration and/or sale purposes are permitted by the zoning ordinances of the city.

(4) The storage of any unoccupied or uninhabited mobile home within the corporate limits of this city shall be permitted in the rear yard of any premises; provided however, that all such storage is not in conflict with any other sections of this chapter, the zoning regulations of this city or with any other ordinance of this city.

(Prior Code, § 5-4-2) Penalty, see § 10.99

§ 151.03 FEES.

The annual license fee for each mobile home community shall be \$5 for each lot contained therein; provided however, that a mobile home community license shall be transferable to another person or

persons during the current year of such license upon payment of a transfer fee of \$5 to the city business office.

(Prior Code, § 5-4-3)

§ 151.04 MOBILE HOME COMMUNITY; APPLICATION.

(A) The initial application for a mobile home community license shall conform to the following and shall:

(1) Be in writing.

(2) Be signed by the owner of the land upon which the mobile home community is sought to be located.

(3) Contain the name and the address of the applicant.

(4) State the locations and the legal description of the land upon which the mobile home community is desired to be placed.

(B) The following shall be filed at the city business office when the application for license is made:

(1) A complete plan of the mobile home community showing it to be in conformity with all of the requirements of this chapter.

(2) Plans and specifications for all buildings, improvements and other facilities, including but not limited to electrical wiring, water services, gas services and sewer services, which are constructed or are to be constructed within the mobile home community.

(3) Such other information as may reasonably be requested by the City Inspector to enable him or her to determine if the proposed mobile home community will comply with the requirements of the city code.

(C) When the City Inspector has determined that the complete plan of the mobile home community will comply with all requirements of the city code, he or she shall notify the Planning Commission of the city. Upon such notification, the Planning Commission shall then make a study of the plans and specifications to determine if the plans and specifications will fit into the master plan for future expansion of the city. When this study has been completed, the plans, specifications and recommendations of the Planning Commission shall be forwarded to the Mayor and City Council for final action. The failure of the Planning Commission to make a recommendation within 30 days from the time the plans and specifications have been forwarded to it shall be deemed by the Mayor and Council of the city to be a declination of the Planning Commission to make any recommendations whatsoever.

(Prior Code, § 5-4-5)

§ 151.05 TEMPORARY PERMIT; APPLICATION.

(A) An application for a temporary permit shall contain the following:

- (1) The name and address of the applicant.
- (2) The locations and legal description of the property or area upon which the mobile home is to be parked temporarily.
- (3) The dates that the mobile home will be temporarily parked.
- (4) The license number of the mobile home.
- (5) A statement by the owner or occupant of the mobile home authorizing the City Inspector or his or her representative to seal all plumbing fixtures. In the event that such plumbing is sealed, the owner or occupant of such mobile home shall not permit such seal to be broken except by the City Inspector or his or her representative, which directive shall be in writing. No sewage shall be permitted to be discharged upon the ground in any manner.

(B) All applications for a temporary permit as herein required shall be approved by the City Inspector. Upon certification by the City Inspector that the applicant for temporary permit is in compliance with the provisions of this chapter, the office of the City Clerk shall issue the temporary permit upon payment of the fee as hereinbefore provided.

(C) The City Inspector shall report the approval of all temporary permits to the Mayor and Council.

(Prior Code, § 5-4-6)

§ 151.06 RENEWAL; APPLICATION.

Upon application in writing by the holder of a mobile home community license for renewal of the license the City Inspector shall reinspect the mobile home community. If the City Inspector determines that the mobile home community is in compliance with provisions of this chapter, the City Clerk shall issue a certificate renewing such license for the period of one year upon payment by the licensee of the prescribed fee.

(Prior Code, § 5-4-7)

§ 151.07 NONCONFORMING AREAS.

All existing mobile homes or mobile home communities, spaces or areas which do not meet the requirements of this chapter are nonconforming and shall not be permitted to add spaces or to make any improvements which are inconsistent with the provisions of this chapter. Any such nonconforming mobile home community which is not operated as a mobile home community for a period of three months shall not be reopened as a mobile home community until the conditions of this chapter have been met.

Any such nonconforming mobile home located on any space or area not within a mobile home community which is not occupied as a place of human habitation and which has been unoccupied for the period of one month shall not again be occupied as a place of habitation until the conditions of this chapter have been met.

(Prior Code, § 5-4-8)

§ 151.08 VIOLATIONS.

(A) If, upon inspections of any mobile home community or individual mobile home, the City Inspector finds that conditions or practices exist which are in violation of any provisions of this chapter or the city code, the City Inspector shall give notice in writing to the person to whom the license for the mobile home community or mobile home was issued at the address of the applicant listed on the application for permit, and, unless such conditions or practices are corrected within a reasonable time, but not to exceed 60 days, the City Inspector shall give notice in writing to the person to whom the license was issued that license has been revoked. The notice of revocation shall be delivered personally or sent by United States mail to the address shown on the application for permit.

(B) Upon receipt of the notice of revocation, such person shall cease operation of such mobile home community within 72 hours. Upon receipt of notice of revocation, such person shall remove the mobile home or homes, from the zoning limits of the city, or shall move the mobile home or homes, to a location that is in compliance with this chapter within 72 hours.

(Prior Code, § 5-4-9)

§ 151.09 HEARINGS.

Any person who receives notice from the City Inspector that his or her license has been revoked may request, and shall receive, a hearing of the matter before the Mayor and Council of this city upon filing an application for such hearing before such body within 72 hours following the time at which such notice was received or license denied and the Mayor and Council shall hold such hearing within 21 days after the filing of such application. The filing of such application shall suspend any order of revocation of the license until the matter has been heard before the Mayor and Council and the Mayor and Council have made a disposition of the matter.

(Prior Code, § 5-4-10)

§ 151.10 LOCATION.

(A) A mobile home community may be located in any district as provided by the zoning ordinances of this city.

(B) Each boundary of any mobile home must be at least 200 feet from any permanent residential building located outside the mobile home community unless separated therefrom by a natural or artificial barrier, or unless a majority of the property owners according to area within the 200 feet consent in

writing to the establishment of the mobile home community and such consents are filed with the City Clerk.

(Prior Code, § 5-4-11)

§ 151.11 MOBILE HOME COMMUNITY PLAN.

The mobile home community shall conform to the following:

(A) It shall be located on a well-drained site, properly graded to insure rapid drainage and freedom from stagnant pools of water.

(B) The site of the mobile home community shall be platted to conform with all subdivision regulations of the city code.

(C) Lot spaces within the mobile home community shall be provided consisting of a minimum width of 37½ feet for each lot and with an aggregate minimum of 4,250 square feet for each lot, which boundaries shall be clearly defined and marked.

(D) All storage must be provided within enclosed areas and the areas shall be kept neat and free from accumulation of miscellaneous junk and unsightly materials.

(E) Mobile homes shall be harbored on each space so that there shall be at least 20 feet between mobile homes, provided however, that with respect to mobile homes parked end to end, the end to end clearance may not be less than 15 feet. No mobile home shall be located closer than 20 feet from any building within the mobile home community or from any property line boundary of the mobile home community except for placement of storage lockers.

(F) All electrical distribution systems, plumbing systems and telephone service systems to each mobile home space, except outlets and risers, shall be underground. Each mobile home space shall be provided with a 115-volt and a 230-volt service with a minimum 100 ampere individual service outlet.

(G) Whenever master television antenna systems are to be installed, the complete plans and specifications for the system must be approved by the City Inspector. Distribution to individual mobile home spaces shall be underground and shall terminate adjacent to the electrical outlet.

(H) Only independent mobile home spaces shall be provided and no service building shall be required; provided, that if such service building is provided it shall comply with the regulations hereinafter prescribed for service buildings.

(I) The water supply for the mobile home community shall be connected to the municipal water system and all plumbing shall be constructed and maintained in accordance with the city plumbing code.

(J) Individual water service connections shall be provided for direct use by mobile homes and shall be so constructed that they will not be damaged by the parking of such mobile homes or as required by the City Inspector.

(K) All plumbing at the mobile home community shall comply with the state and local plumbing laws and regulations.

(L) Each mobile home space shall be provided with not less than a four-inch sewer connection. The sewer connection shall be provided with suitable fittings so that a water-tight connection can be made between the mobile home drain and the sewer connection. Such individual mobile home connection shall be so constructed that they can be closed when not linked to a mobile home, and shall be trapped in such a manner as to maintain them in an odor-free condition.

(M) Sewer lines shall be constructed with the approval of the City Inspector and in accordance with the City Plumbing Code.

(N) The storage, collection and disposal of refuse in the mobile home community shall be in compliance with the refuse regulations of this city.

(O) All electrical installations shall comply with the Electrical Code of this city. Exterior electrical outlets shall be weatherproof. No power line, including service lines to the mobile home, shall be permitted to lie on the surface of the ground.

(P) Natural and liquefied petroleum gas for cooking purposes maybe used at individual mobile home spaces, provided however, that the installation must be connected by approved metallic tubing and must comply with the Fire Prevention Code of this city.

(Q) Each mobile home community shall be subject to the rules and regulations of the city and the Fire Prevention Code.

(R) Portable fire extinguishers of a type approved by the Fire Chief shall be kept in service buildings and in all other locations named by such Fire Chief, and shall be maintained at all times in a good operating condition.

(S) Standard fire hydrants shall be located within 400 feet of each mobile home.
(Prior Code, § 5-4-12) (Ord. 648, passed 7-28-69)

CHAPTER 152: FLOOD DAMAGE PREVENTION

Section

152.01 Adopted by reference

§ 152.01 ADOPTED BY REFERENCE.

Ordinance No. 1370, established flood damage prevention regulations, and providing for the administration, enforcement and amendment thereof, is hereby adopted by reference. Copies shall be available for public inspection at the office of the City Clerk during regular city office hours.
(Ord. 1370, passed 7-27-87)

CHAPTER 153: SUBDIVISION REGULATIONS

Section

153.01 Adopted by reference

§ 153.01 ADOPTED BY REFERENCE.

Ordinance No. 1300, establishing subdivision regulations relating to the subdivision of land, requiring and regulating the preparation and presentation of preliminary and final plats for such purpose; establishing minimum subdivision design standards; providing minimum improvements to be made or guaranteed to be made by the subdivider; setting forth the procedure to be followed by the City Council in applying these rules, regulations and standards; and, prescribing penalties for the violation of its provisions; and, for the repeal of all subdivision development ordinances in conflict herewith; for the city, was passed and approved and is published in pamphlet form and available on the office of the City Clerk for public inspection during regular city office hours.

(Prior Code, § 11-2-1) (Ord. 1300, passed 4-12-84)

CHAPTER 154: COMPREHENSIVE PLAN

Section

154.01 Adopted by reference

§ 154.01 COMPREHENSIVE PLAN.

The Comprehensive Plan, as revised and adopted on March 4, 1996, is hereby adopted by reference. Copies shall be available for public inspection at the office of the City Clerk during regular city office hours.

(Ord. passed 3-4-96)

CHAPTER 155: ZONING REGULATIONS

Section

155.01 Adopted by reference

§ 155.01 ADOPTED BY REFERENCE.

Ordinance No. 1299, establishing comprehensive zoning regulations, and providing for the administration, enforcement and amendment thereof, for the repeal of all ordinances and regulations in conflict herewith, for the city, was passed and approved and is published in pamphlet form and available in the office of the City Clerk for public inspection during regular city office hours.

(Prior Code, § 11-1-1) (Ord. 1299, passed 4-12-84; Am. Ord. 1346, passed 4-28-86; Am. Ord. 1360, passed 10-27-86; Am. Ord. 1361, passed 10-27-86)

PARALLEL REFERENCES

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18-2147 - 18-2151	32.07
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