

CITY OF CHAPPELL, NEBRASKA

CODE OF ORDINANCES

AMERICAN LEGAL PUBLISHING CORPORATION

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TITLE I: GENERAL PROVISIONS

Chapter

10. GENERAL PROVISIONS

11. CITY STANDARDS

CHAPTER 10: GENERAL PROVISIONS

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§ 10.01 TITLE OF CODE.

This codification of ordinances by and for the City of Chappell, Nebraska, shall be designated as the Code of Chappell 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 Chappell, Nebraska.

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

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. Deuel County, 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.

§ 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: (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 17-100)

(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 1988, as subsequently amended, the 1988 code section number shall be indicated in the history by “(‘88 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 \$500 for any one offense, recoverable with costs. 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 § 92.20, 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.

Statutory reference:

Authority to abate nuisances, Neb. RS 18-1720 and 18-1722
Ordinance enforcement powers, see Neb. RS § 17-505

CHAPTER 11: CITY STANDARDS

Section

11.01 Official corporate seal

§ 11.01 OFFICIAL CORPORATE SEAL.

(A) There shall be owned by the city and kept in the office the City Clerk a common seal of the corporation having engraved thereon the words "Seal, City of Chappell, Nebraska."

(B) The City Clerk shall affix an impression of the official seal to all warrants, licenses, ordinances and other papers issued by order of the Mayor and City Council to be signed by the Mayor and countersigned by the Clerk.

(88 Code, § 1-401)

Statutory reference:

Authorized, see Neb. RS 17-502

Seal to be engraved or ink, see Neb. RS 64-118

TITLE III: ADMINISTRATION

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CHAPTER 30: ELECTED OFFICIALS; ORDINANCES

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GENERAL PROVISIONS

§ 30.01 VACANCIES.

(A) Vacancies in city elected offices, other than the Mayor, shall be filled by the Mayor and City Council for the balance of the unexpired term except as provided in this section. Notice of a vacancy, except a vacancy resulting from the death of the incumbent, shall be in writing and presented to the Council at a regular or special meeting and shall appear as a part of the minutes of such meeting.

(B) The City Council shall at once give public notice of the vacancy by causing to be published in a newspaper of general circulation within the city or by posting in three public places in the city the office vacated and the length of the unexpired term.

(C) The Mayor shall within four weeks after the meeting at which such notice has been presented, or upon the death of the incumbent, call a special meeting of the City Council at which time the Mayor shall submit the name of a qualified elector to fill the vacancy for the balance of the unexpired term.

(D) No officer who is removed at a recall election or resigns after the initiation of the recall process shall be appointed to fill the vacancy resulting from his or her removal or the removal of any other member of the City Council during the remainder of his or her term of office.

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

(F) The Mayor shall cast his or her vote only in case of a tie vote of the City Council.

(G) All City Councilmembers shall cast a ballot for or against each nominee.

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

(I) If there are vacancies in the offices of a majority of the members of the City Council, there shall be a special municipal election conducted by the Secretary of State to fill such vacancies.
(^88 Code, § 1-105)

Statutory reference:

Additional and similar provisions, see Neb. RS 32-567 through 32-572

Cross-reference:

Ineligibility of official subject to recall, see § 34.14(J)

§ 30.02 RESTRICTIONS ON OTHER EMPLOYMENT OR ELECTIVE OFFICE.

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

(B) For the purpose of this section, the following definitions shall apply unless the context clearly

indicates or requires a different meaning.

ELECTIVE OFFICE means any office which has candidates nominated or elected at the time of a statewide primary election, any office which has candidates nominated at the time of a statewide primary election and elected at the time of a statewide general election, any office which has candidates elected at the time of a statewide general election, any office which has candidates nominated or elected at a city or village election, and any office created by an act of the Legislature which has candidates elected at an election and includes an office which is filled at an election held in conjunction with the annual meeting of a public body created by an act of the Legislature.

HIGH ELECTIVE OFFICE means a member of the Legislature, an elective office described in article IV, section 1 or 20, or article VII, section 3 or 10, of the constitution of Nebraska, or a county, city, or school district elective office.
(Neb. RS 32-604(6))

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

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

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

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

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

(H) Notwithstanding divisions (E) through (G) of this section, any person holding more than one high elective office upon September 13, 1997, shall be entitled to serve the remainder of all terms for

which he or she was elected or appointed.

(Neb. RS 32-604)

Statutory reference:

Merger of offices or employment, see Neb. RS 17-108.02

Cross-reference:

Conflicts of interest, see § 33.46

MAYOR

§ 30.10 SELECTION AND DUTIES.

(A) The Mayor shall preside at all meetings of the City Council, and may vote when his or her vote shall be decisive and the Council is equally divided on any pending matter, legislation, or transaction, and the Mayor shall, for the purpose of such vote, be deemed to be a member of the Council. He or she shall have superintendence and control of all the officers and affairs of the city, and shall take care that the ordinances of the city and all laws governing cities of the second class are complied with. The Mayor has no power to suspend the operation of an ordinance that contains no provision in itself empowering him or her so to do. The Mayor and Council have power to compromise and settle claims against the city. The Mayor shall have power to veto or sign any ordinance passed by the City Council; provided, any ordinance vetoed by the Mayor may be passed over his or her veto by a vote of two-thirds of the members of the Council. If the Mayor neglects or refuses to sign any ordinance, and return the same with his or her objections in writing at the next regular meeting of the Council, the same shall become a law without his or her signature.

(B) The duty of the Mayor is to guard and protect the rights of the city. 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, the police, health, security, ornament, comfort, and general prosperity of the city. The Mayor shall have the power, when he or she deems it necessary, to require any officer of the city to exhibit his or her accounts or other papers, and to make reports to the Council, in writing, touching any subject or matter pertaining to his or her office. The Mayor shall have such jurisdiction as may be vested in him or her by ordinance, over all places within five miles of the corporate limits of the city, for the enforcement of any health or quarantine ordinance and regulation thereof, and shall have jurisdiction in all matters vested in him or her by ordinance, excepting taxation, within one-half mile of the corporate limits of the city. The Mayor shall have power to remit fines and forfeitures, and to grant reprieves and pardons for all offenses arising under the ordinances of the city.

(C) The Mayor must sign all claims for the payment of money drawn when ordered by the City Council. He or she shall be elected at-large at the municipal election, and shall serve a four-year term of office. Any candidate for Mayor must be a resident of the city and registered voter. He or she shall also have such duties as the City Council may confer upon him or her and in any other matters as the laws of the state of Nebraska repose in him or her.

(Neb. RS 17-110 through 17-117, 17-121, 17-711) (88 Code, § 1-101) (Ord. 462, passed 10-10-02)

Statutory reference:

Authorizing and similar provisions, see Neb. RS 17-107, 17-110 through 17-117, and 32-533

Cross-reference:

Bond required, see § 33.30

Oath required, see § 33.31

Compensation, see § 33.45

Conflict of interest, see § 33.46

CITY COUNCIL

§ 30.20 SELECTION AND DUTIES.

The City Council shall consist of four members. The members of the City Council shall be elected and serve for a four-year term. The City Council shall be the legislative division of the municipal government and shall perform such duties and have such powers as may be authorized by law. The City Council shall maintain the peace, regulate business, protect the public health and safety, and assess such taxes and fees as are necessary and appropriate in the exercise of these functions.

(88 Code, § 1-103)

Statutory reference:

Additional provisions, see Neb. RS 32-533

Cross-reference:

Restrictions on other employment or elective office, see § 30.02

Bond required, see § 33.30

Oath required, see § 33.31

Compensation, see § 33.45

Conflict of interest, see § 33.46

§ 30.21 COUNCIL ORGANIZATION.

City Councilmembers of this municipality shall take office and commence their duties on the first regular meeting in December following their election. The newly elected Councilmembers who have qualified as prescribed by law, together with the members of the City Council holding over, shall assemble in a regular meeting at the hour and place hereinafter prescribed and perfect the reorganization of the City Council as herein provided, and all appointive offices in which the terms of incumbents are expired shall be filled by appointment. After the meeting has been called to order, the Municipal Clerk shall report to the City Council the names of all City Councilmembers-elect who have qualified for their respective offices, and this report shall be spread upon the minutes of the meeting preceding the roll call. (88 Code, § 1-104)

Statutory reference:

Councilmember qualifications, see Neb. RS 17-104

Cross-reference:

Change in office, see § 33.14

Organizational meeting, see § 33.15

§ 30.22 PRESIDENT; ACTING PRESIDENT.

The City Council shall elect one of its own body each year who shall be styled the President of the Council and who shall preside at all meetings of the City Council in the absence of the Mayor. In the absence of the Mayor and the President of the Council, the City Council shall elect one of its own body to occupy that place temporarily, who shall be styled Acting President of the Council. Both the President of the Council and the Acting President of the Council, when occupying the position of the Mayor, shall have the same privileges as the other members of the City Council, and all acts of the President of the Council, or Acting President of the Council, while so acting, shall be as binding upon the City Council, and upon the municipality as if done by the elected Mayor.

(Neb. RS 17-148) (88 Code, § 1-102)

Cross-reference:

Change in office, see § 33.14

Organizational meetings, see § 33.15

Election of President pro tempore, see § 33.03

§ 30.23 STANDING COMMITTEES.

At the organizational meeting of the City Council, the Mayor shall appoint members of such standing committees as the City Council may by ordinance, or resolution, create. The membership of such standing committees may be changed at any time by the Mayor. The membership of the committees shall be appointed or reappointed each year unless otherwise provided by the City Council.

Statutory reference:

Powers of the Mayor, see Neb. RS 17-107

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 laws of the state of Nebraska, as may be expedient for maintaining the peace, good government, and welfare of the municipality and its trade, commerce, and manufactories. (Neb. RS 17-505) (ˆ88 Code, § 1-601) (Ord. 393, passed 7-7-97)

§ 30.41 INTRODUCTION OF ORDINANCES.

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

(A) With the recognition of the Mayor, a member may, in the presence and hearing of a majority of the members elected to the City Council, read aloud the substance of the proposed ordinance and file a copy with the Municipal Clerk for future consideration; or

(B) With the recognition of the Mayor, a member may present the proposed ordinance to the Clerk who, in the presence and hearing of a majority of the members elected to the City Council, shall read aloud the substance of the ordinance and file it for future consideration. (ˆ88 Code, § 1-602) (Ord. 394, passed 8-4-97)

§ 30.42 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. (ˆ88 Code, § 1-603)

§ 30.43 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 Chappell, Nebraska:....” (Neb. RS 17-613) (ˆ88 Code, § 1-604)

(B) No ordinance shall contain a subject which is not clearly expressed in the title. (Neb. RS 17-614) (ˆ88 Code, § 1-605)

Statutory reference:

Additional requirements, see Neb. RS 17-614

§ 30.44 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 City Council vote to suspend this requirement, except that such requirement shall not be suspended for any ordinance for the annexation of territory. In case such requirement is suspended, the ordinance shall be read by title and then moved for final passage. A reading of any ordinance in full may be required by $\frac{3}{4}$ of the City Council before enactment under either procedure set out in this section. All ordinances and resolutions or orders for the appropriation or payment of money shall require for their passage or adoption the concurrence of a majority of all members elected to the City Council.

(Neb. RS 17-614)

(B) On the passage or adoption of every bylaw or ordinance, and every resolution or order to enter into a contract by the City Council, the yeas and nays shall be called and recorded. To pass or adopt any bylaw, ordinance, or any such resolution or order a concurrence of a majority of the whole number of members elected to the City Council shall be required. All appointments of the officers by the City Council shall be made viva voce, and the concurrence of a like majority shall be required, and the names of those, and for whom they voted, on the vote resulting in an appointment, shall be recorded. The requirements of a roll call or viva voce vote shall be satisfied by a municipality which utilizes 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 17-616)

(\textasciitilde 88 Code, § 1-606) (Ord. 395, passed 8-4-97)

§ 30.45 PUBLICATION OR POSTING.

All ordinances of a general nature shall, before they take effect, be published one time, within 15 days after they are passed:

(A) In some newspaper published in the municipality or, if no paper is published in the municipality, then by posting a written or printed copy in each of three public places in the municipality; or

(B) In book or pamphlet form.

(Neb. RS 17-613) (\textasciitilde 88 Code, § 1-607) (Ord. 396, passed 9-2-97)

Statutory reference:

Emergency ordinance, see Neb. RS 17-613

Additional provisions, see Neb. RS 18-131

§ 30.46 CERTIFICATE OF PUBLICATION OR POSTING.

The passage, approval, and publication or posting of an ordinance shall be sufficiently proved by a certificate under the seal of the municipality from the Municipal Clerk showing that the ordinance was passed and approved, and when and in what paper the ordinance was published, or when and by whom and where the ordinance was posted.

(Neb. RS 17-613) (88 Code, § 1-608)

Statutory reference:

Passage, rules, and regulations, see Neb. RS 17-615

§ 30.47 EFFECTIVE DATE; EMERGENCY ORDINANCES.

(A) Except as provided in § 30.45 and division (B) of this section, an ordinance for the government of the municipality which has been adopted by the City Council without submission to the voters of the municipality shall not go into effect until 15 days after the passage of the ordinance.

(Neb. RS 19-3701)

(B) In the case of riot, infectious or contagious diseases, or other impending danger, failure of a public utility, or any other emergency requiring its immediate operation, an ordinance shall take effect upon the proclamation of the Mayor and the posting thereof in at least three of the most public places in the municipality. Such emergency ordinance shall recite the emergency, be passed by a $\frac{3}{4}$ vote of the City Council, and be entered of record on the Municipal Clerk's minutes.

(Neb. RS 17-613) (84 Code, § 1-609) (Ord. 397, passed 9-2-97)

§ 30.48 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 17-614) (88 Code, § 1-610) (Ord. 401, passed 10-6-97)

CHAPTER 31: APPOINTED CITY OFFICIALS

Section

- 31.01 Appointment; removal
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§ 31.01 APPOINTMENT; REMOVAL.

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

(B) All police officers and other appointed officials may be removed at any time by the Mayor, except that if the municipality has a municipal Water Commissioner, he or she may at any time, for sufficient cause, be removed from office by a 2/3 vote of the City Council.

(⁸⁸ Code, § 1-201) (Ord. 391, passed 7-7-97)

Statutory reference:

Appointments generally, see Neb. RS 17-107

Water Commissioner, see Neb. RS 17-541

Law enforcement reserve force, see Neb. RS 81-1438

§ 31.02 MERGER OF OFFICES.

The City Council may, at its discretion, by ordinance combine and merge any elective or appointive office or employment or any combination of duties of any such offices or employments, except Mayor and Councilmember, with any other elective or appointive office or employment so that one or more of such offices or employments or any combination of duties of any such offices or employments may be held by the same officer or employee at the same time. The offices or employments so merged and combined shall always be construed to be separate and the effect of the combination or merger shall be limited to a consolidation of official duties only. The salary or compensation of the officer or employee holding the merged or combined offices or employments or offices and employments shall not be in excess of the maximum amount provided by law for the salary or compensation of the office, offices, employment, or employments so merged and combined. For purposes of this section, volunteer firefighters and ambulance drivers shall not be considered officers. (Neb. RS 17-108.02) (88 Code, § 1-202)

§ 31.03 ADMINISTRATOR-CLERK POSITION CREATED.

(A) The appointive offices of City Administrator and Municipal Clerk are hereby combined and merged, in accordance with the authority granted to the City Council by § 31.02.

(B) The office so merged and combined shall always be construed to be separate, and the effect of the combination, or merger, shall be limited to a consolidation of official duties only.

(C) The salary of the officer holding the merged offices shall not be in excess of the maximum amount provided by law for the salary of the offices so combined. (Neb. RS 17-108.02) (Ord. 459, passed 11-19-01)

§ 31.04 CITY ADMINISTRATOR.

(A) The City Administrator shall be appointed by the Mayor by and with the consent of a majority of the City Council. He shall be the administrative head of the municipal government under the direction and control of the Mayor and City Council and shall be responsible to the Mayor and City Council for the efficient conduct of his office.

(B) The duties of the City Administrator shall be as follows:

(1) He shall make and keep up to date an inventory of all property, real and personal, owned by the municipality.

(2) He shall act as purchasing agent for the purchase of all supplies, goods, wares and

merchandise, equipment and material which may be required for the various departments, divisions or services of the municipality.

(3) He shall keep the Mayor and Council fully advised as to the financial conditions and needs of the municipality and shall be responsible for and prepare the annual estimate of expenditures for presentation to the Mayor and Council prior to the passage of the annual appropriation ordinance.

(4) To serve as public relations officer of the municipal government, and in such capacity to endeavor to investigate and adjust all complaints filed against any employee, department, division or service thereof and cooperate with all community organizations whose aim and purpose is to advance the best interests of the municipality and its people and to attend meetings of such organizations if in the judgment of the Administrator such attendance is necessary and desirable.

(5) To attend all meetings of the Council with the duty of reporting any matter concerning municipal affairs under his supervision or direction and to attend such other meetings of the municipal departments and officials as his duties may require.

(6) To analyze the functions, duties and activities of the various departments, divisions and services of the municipal government and of all employees thereof, and to make his recommendations regarding the same to the Mayor and Council.

(7) To carry out the Mayor and Council's recommendations in co-ordinating the administrative functions and operations of the various departments.

(8) To procure facts and submit long range improvements to the Mayor and Council.

(9) Recommend to the Mayor and Council the appointment and dismissal of all department heads over which he exercises jurisdiction. Appointment or dismissal of department heads will be made upon the recommendation of the Mayor and confirmation by the Council. The City Administrator may appoint and dismiss all subordinate employees of the Municipality, as well as provide for the transfer of such employees from one department to another.

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

(11) Prepare and recommend to the Mayor and Council a classification and compensation plan.

(12) Make investigations into the affairs of the municipality and any department or division thereof, and any contract, or the proper performance of any obligation pertaining to the municipality.

(13) Exercise general supervision over all public buildings, streets and other public property which are under the control and jurisdiction of the Mayor and Council.

(14) Prepare and submit to the Mayor and Council as of the end of the fiscal year, a complete

report on the finances and administrative activities of the municipality for the preceding year.

(15) Keep the insurable property of the municipality appropriately insured.

(16) Service in any appointed office or head of department within the municipal government 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 Council.

(17) The City Administrator shall have the duty to keep open his office for public affairs during days and hours set by the Mayor and Council.

(18) Perform such other duties and exercise such other powers as may be delegated to him from time to time by ordinances or resolutions of the Mayor and Council.

(C) The salary of the City Administrator shall be fixed by ordinance of the Council, payable monthly.

(D) The City Administrator, in the discharge of his duties, shall have the right to expend an amount not to exceed \$2,500 or the limits set forth in the applicable state law, pertaining to cities of the second class, entering into contracts for municipal work and improvements or purchase of equipment without advertising for bids and within said dollar limitation to make any contract on behalf of the municipality for general purchases, maintenance and improvements, the expenditure limitations herein to apply to all departments of the municipality.

(E) The City Administrator may be removed by a vote of a majority of all the members of the Council with the approval of the Mayor.

§ 31.05 MUNICIPAL CLERK.

(A) The Municipal Clerk shall attend the meetings of the City Council and keep a correct journal of the proceedings of that body. He or she shall keep a record of all outstanding bonds against the municipality and when any bonds are sold, purchased, paid, or canceled, said record shall show the fact. He or she shall make, at the end of the fiscal year, a report of the business of the municipality transacted through his or her office for the year. That record shall describe particularly the bonds issued and sold during the year and the terms of the sale, with each and every item and expense thereof. He or she shall file all official bonds after the same shall have been properly executed and approved. He or she shall make the proper certificate of passage which shall be attached to original copies of all bond ordinances hereafter enacted by the City Council.

(B) The Municipal Clerk shall issue and sign all licenses, permits, and occupation tax receipts authorized by law and required by the municipal ordinances. He or she shall collect all occupation taxes and license money, except where some other municipal officer is specifically charged with that duty. He or she shall keep a register of all licenses granted in the municipality and the purpose for which they have been issued.

(C) The Municipal Clerk shall permit no records, public papers, or other documents of the municipality kept and preserved in his or her office to be taken therefrom, except by such officers of the municipality as may be entitled to the use of the same, but only upon their leaving a receipt therefor. He or she shall keep all the records of his or her office, including a record of all licenses issued by him or her in a blank book with a proper index. He or she shall include as part of his or her records all petitions under which the City Council shall order public work to be done at the expense of the property fronting thereon, together with references to all resolutions and ordinances relating to the same. He or she shall endorse the date and hour of filing upon every paper or document so filed in his or her office. All such filings made by him or her shall be properly docketed. Included in his or her records shall be all standard codes, amendments thereto, and other documents incorporated by reference, and arranged in triplicate in a manner convenient for reference. He or she shall keep an accurate and complete account of the appropriation of the several funds, draw, sign, and attest all warrants ordered for the payment of money on the particular fund from which the same is payable. At the end of each month, he or she shall then make a report of the amounts appropriated to the various funds and the amount of the warrants drawn thereon. Nothing herein shall be construed to prevent any citizen, official, or other person from examining any public records at all reasonable times.

(D) (1) The Municipal Clerk shall deliver all warrants, ordinances, and resolutions under his or her charge to the Mayor for his or her signature. He or she shall also deliver to officers, employees, and committees all resolutions and communications which are directed at said officers, employees, or committees. With the seal of the municipality, he or she shall duly attest the Mayor's signature to all ordinances, deeds, and papers required to be attested to when ordered to do so by the City Council.

(2) Within 30 days after any meeting of the City Council, the Municipal Clerk shall prepare, and publish the official proceedings of the City Council in a legal newspaper of general circulation in the municipality, and which was duly designated as such by the City Council. Said publication shall set forth a statement of the proceedings thereof and shall also include the amount of each claim allowed, the purpose of the claim, and the name of the claimant, except that the aggregate amount of all payroll claims may be included as one item. Between July 15 and August 15 of each year, the employee job titles and the current annual, monthly, or hourly salaries corresponding to such job titles shall be published. Each job title published shall be descriptive and indicative of the duties and functions of the position. The charge for such publication shall not exceed the rates provided by the statutes of the state of Nebraska, Neb. RS 19-1102 and 23-122.

(Neb. RS 19-1102)

(3) Said publication shall be charged against the general fund.

(Neb. RS 19-1103)

(4) The Municipal Clerk shall then keep in a book with a proper index copies of all notices required to be published or posted by the Municipal Clerk by order of the City Council, or under the ordinances of the municipality. To each of the file copies of said notices shall be attached the printer's affidavit of publication, if the said notices are required to be published, or the Municipal Clerk's certificate under seal where the same are required to be posted only.

(Neb. RS 19-1102)

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

(F) The Municipal Clerk may charge a reasonable fee for certified copies of any record in his or her office as set by resolution of the City Council. He or she shall destroy municipal records under the direction of the state Records Board pursuant to Neb. RS 84-1201 through 84-1227, provided that the City Council shall not have the authority to destroy the minutes of the Municipal Clerk, the permanent ordinances, and resolution books, or any other records classified as permanent by the state Records Board.

(¹88 Code, § 1-204)

Statutory reference:

Additional duties, see Neb. RS 17-605

Publication of proceedings of Council, see Neb. RS 19-1102 et seq.

Penalty on Clerk for violations of Neb. RS 19-1101 through 19-1103, see Neb. RS 19-1104

Publication rates, see Neb. RS 23-122 and Neb. RS 33-141 through 33-143

Examination of public records free of charge; obtaining records, see Neb. RS 84-712 et seq.

Records Management Act, see Neb. RS 84-1201 through 84-1227

Cross-reference:

Official corporate seal, see § 11.01

§ 31.06 MUNICIPAL TREASURER.

The Municipal Treasurer shall be the custodian of all moneys belonging to the municipality. He or she shall keep all money belonging to the municipality separate and distinct from his or her own money. He or she shall keep a separate account of each fund or appropriation, and the debits and credits belonging thereto. He or she shall give to every person paying money into the municipal treasury a receipt therefor, specifying the date of payment and the account paid. One copy of the receipt shall be filed with the Treasurer's monthly report, and another copy of the receipt shall be kept on file in his or her office. His or her books and accounts shall always be open for inspection by any citizen of the municipality whenever any municipal fiscal record, audit, warrant, voucher, invoice, purchase order, requisition, payroll check, receipt, or other record of receipt, cash, or expenditure involving public funds is involved. He or she shall cancel all bonds, coupons, warrants, and other evidences of debt against the municipality, whenever paid by him or her, by writing or stamping on the face thereof, "Paid by the Municipal Treasurer," with the date of payment written or stamped thereon. He or she shall collect all special taxes, allocate special assessments to the several owners, and shall obtain from the County Treasurer a monthly report as to the collection of delinquent taxes. The Treasurer's daily cash book shall be footed and balanced daily, and he or she shall adopt such bookkeeping methods as the City Council shall prescribe. He or she shall invest and collect all money owned by or owed to the municipality as directed by the City Council.

(`88 Code, § 1-205)

Statutory reference:

Statutory duties, see Neb. RS 17-606 through 17-609

Free examination of public records; obtaining copies, see Neb. RS 84-712 et seq.

§ 31.07 TREASURER'S REPORTS.

(A) The Municipal Treasurer shall at the end of each and every month, and such other times as the City Council may deem necessary, render an account to the City Council under oath showing the financial state of the municipality at that date, the amount of money remaining in each fund and the amount paid therefrom, and the balance of money remaining in the Treasury. He or she shall accompany the said account with a statement of all receipts and disbursements, together with all warrants redeemed and paid by him or her. He or she shall also produce depository evidence that all municipal money is in a solvent and going bank in the name of the municipality. If the Municipal Treasurer shall neglect or fail for the space of ten days from the end of each and every month to render the accounts as aforesaid, the City Council shall by resolution declare the office vacant and appoint some person to fill the vacancy. The Municipal Treasurer shall be present at each regular meeting of the City Council, at which time he or she shall read and file his monthly report.

(`88 Code, § 1-206)

(B) The Municipal Treasurer shall prepare and publish annually in a legal newspaper having general circulation within the municipality, within 60 days following the close of the municipal fiscal year, a statement of the receipts and expenditures by funds of the municipality for the preceding fiscal year. (Neb. RS 19-1101) (`88 Code, § 1-207)

Statutory reference:

Statutory duties, see Neb. RS 17-606 through 17-609

Annual report required to be published, see Neb. RS 19-1101 and 19-1103

§ 31.08 MUNICIPAL ATTORNEY.

The Municipal Attorney is the municipality's legal advisor, and as such he or she shall commence, prosecute, and defend all suits on behalf of the municipality. When requested by the City Council, he or she shall attend meetings of the City Council and shall advise any municipal official in all matters of law in which the interests of the municipality may be involved. He or she shall draft such ordinances, bonds, contracts, and other writings as may be required in the administration of the affairs of the municipality. He or she shall examine all bonds, contracts, and documents on which the City Council will be required to act and attach thereto a brief statement in writing to all such instruments and documents as to whether or not the document is in legal and proper form. He or she shall prepare complaints, attend, and prosecute violations of the municipal ordinances when directed to do so by the City Council. Without direction, he or she shall appear and prosecute all cases for violation of the municipal ordinances that have been appealed to and are pending in any higher court. He or she shall also examine, when requested to do so by the City Council, the ordinance records and advise and assist the Municipal Clerk as much as may be necessary to the end that each procedural step will be taken in the passage of each ordinance to insure that they will be valid, and subsisting local laws in so far as their passage and approval are concerned. The City Council shall have the right to compensate the Municipal Attorney for legal services on such terms as the City Council and the Municipal Attorney may agree, and to employ any additional legal assistance as may be necessary out of the funds of the municipality.

(^88 Code, § 1-208)

Statutory reference:

Authorizing and similar provisions, see Neb. RS 17-610

§ 31.09 UTILITIES SUPERINTENDENT.

(A) A Utilities Superintendent shall be appointed in the event that there is more than one municipal utility and the City Council determines that it is in the best interest of the municipality to appoint one official to have the immediate control over all the said municipal utilities. Any vacancy occurring in the said office by death, resignation, or removal may be filled in the manner hereinbefore provided for the appointment of all municipal officials.

(B) The Utilities Superintendent's duties over the following departments shall be as stated herein:

(1) *Water Department.* He or she shall have general supervision and control over the municipal water system and shall be primarily responsible for its economic operation and prudent management. Included in the water system shall be the water plant, the pump house, all machinery, and appliances used in connection with producing and distributing water to inhabitants of the municipality. All actions, decisions, and procedures of the Utilities Superintendent shall be subject to the general directives and control of the City Council. The Utilities Superintendent shall have the general control and supervisory authority over all employees of the Water System which the City Council may from time to time hire to operate and maintain the system. Unless some other official is specifically designated, he or she shall collect all money received by the municipality on account of the system of waterworks and shall faithfully account for and pay over to the Municipal Treasurer all such money collected in the name of the municipality and receive a receipt from the Municipal Treasurer for the depository evidence of the faithful discharge of this duty. This receipt shall then be filed with the

Municipal Clerk, and the second copy shall be kept by the Superintendent. He or she shall make a detailed report to the City Council at least once every six months of the condition of the water system, of all mains, pipes, hydrants, reservoirs, and machinery and such improvements, repairs, and extensions thereof as he or she may think proper. The report shall show the amount of receipts and expenditures on account thereof for the preceding six months. No money shall be expended for improvements, repairs, or extensions of the waterworks system except upon the recommendation of the Superintendent. The Utilities Superintendent shall provide a bond conditioned upon the faithful discharge of duties which shall amount to not less than the amount set by resolution of the City Council and on file in the office of the Municipal Clerk. He shall perform such additional duties as may be prescribed by the City Council.

(2) *Sewer Department.* The Utilities Superintendent shall have the immediate control and supervision over all the employees and property that make up the municipal sewer system, subject to the general control and directives of the City Council. He or she shall at least every six months make a detailed report to the City Council on the condition of the sewer system and shall direct their attention to such improvements, repairs, extensions, additions, and additional employees as he or she may believe are needed along with an estimate of the cost thereof. He or she shall have such other duties as the City Council may delegate. He or she shall issue permits for all connections to the municipal sewer system and inspect and supervise all repairs made to the system.

(3) *Electric System.* The Utilities Superintendent shall act as the Municipal Light Superintendent. The Municipal Light Superintendent shall have the immediate control and supervision over all employees and property that make up the Municipal Electric System, subject to the general control and directives of the City Council. He or she shall at least every six months, make a detailed report to the City Council on the condition of the electrical system, and shall direct their attention to such improvements, repairs, extensions, additions, and additional employees as he or she may believe are needed along with an estimate of the cost thereof. He or she shall have such other duties as the City Council may delegate to him or her.

(Neb. RS 17-107) (^88 Code, § 1-216)

(4) *Electrical Inspector.* The Utilities Superintendent acting as the Municipal Electrical Inspector shall enforce all laws relating to the installation of electrical wiring, and connections thereto. When acting in good faith, and without malice in the scope of his or her official duties, he or she shall not himself or herself be held personally liable for any damage that may accrue to persons, or property as the result of any act required by him or her, or by reason of any act or omission in the discharge of his or her duties. He or she shall, in the discharge of his or her official duties, and upon proper identification, have authority to enter into any building, structure, or premise at any reasonable hour. He or she shall perform such other duties, and issue any permits that the governing body may direct. (^88 Code, § 1-219)

(5) *Plumbing Inspector.* The Utilities Superintendent acting as the Municipal Plumbing Inspector shall enforce all laws relating to the installation of plumbing and connections thereto. When acting in good faith, and without malice in the scope of his or her official duties, he or she shall not himself or herself be held personally liable for any damage that may accrue to persons, or property as the result of any act required by him or her or by reason of any act, or omission in the discharge of his

or her duties. He or she shall, in the discharge of his or her official duties, and upon proper identification, have authority to enter into any building, structure, or premise at any reasonable hour. He or she shall perform such other duties and issue any permits that the governing body may direct. (88 Code, § 1-220)

(6) *Landfill and waste.* The Utilities Superintendent, acting as the Landfill Superintendent, shall have the immediate control and supervision of the Municipal Landfill, and of all dumping of garbage, refuse, waste, and rubbish thereon, subject to the general control and directives of the City Council. He or she shall at least every six months, make a detailed report to the City Council on the condition of the landfill, and shall direct their attention to such improvements, additions, and additional employees as he or she may believe are needed along with an estimate of the cost thereof. He or she shall issue dumping permits if the City Council should require them and shall inspect and supervise all work done to improve or extend the landfill. He or she shall have such other duties as the City Council may delegate to him or her. He or she may be removed at any time by the Mayor with the approval of a majority of the City Council.
(Neb. RS 17-107) (88 Code, § 1-221)

Statutory reference:

Incentive payments to street superintendents, Neb. RS 39-2512

Water Commissioner required, Neb. RS 17-541

§ 31.10 LAW ENFORCEMENT OFFICER.

The Deuel County Sheriff shall direct the police work of the municipality and shall be responsible for the maintenance of law and order. He or she shall act as Health Inspector and Building Inspector, except in the event the municipality appoints another person to those offices. He or she shall file the necessary complaints in cases arising out of violations of municipal ordinances and shall make all necessary reports required by the municipal ordinances or the laws of the state of Nebraska.

Statutory reference:

Authority to contract with county for police services, see Neb. RS 19-3801

§ 31.11 MUNICIPAL FIRE CHIEF.

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

(⁸⁸ Code, § 1-212)

Statutory reference:

Authority to procure equipment, organize companies, and prescribe rules, see Neb. RS 17-147

Authority to enforce ordinances by imposing fine, see Neb. RS 17-505

Membership, rolls, and filings, see Neb. RS 35-102

Life insurance required, see Neb. RS 35-108

Investigations and reports required, see Neb. RS 81-506

Authority to conduct inspections, see Neb. RS 81-512

§ 31.12 ENGINEER.

The Municipal Engineer shall make all surveys, estimates, and calculations necessary to be made for the establishment of any public utilities and the costs of labor and materials therefor. He or she shall accurately make all plats, sections, and maps as may be necessary under the direction of the City Council. Upon request, he or she shall make estimates of the cost of labor and material which may be done or furnished by contract with the municipality and make all surveys, estimates, and calculations necessary to be made for the establishment of grades, building of culverts, sewers, electric light system, waterworks, power plant, public heating system, bridges, curbing, and gutters and the improvement of streets and erection and repair of buildings, and shall perform such other duties as the City Council may require.

(⁸⁸ Code, § 1-213)

Statutory reference:

Duties related to sewers, see Neb. RS 17-150 and 17-919

Duties related to annexation, see Neb. RS 17-405

Duties related to public works, see Neb. RS 17-568.01

Engineers and Architects Regulation Act, see Neb. RS 81-3401 through 81-3455

§ 31.13 SPECIAL ENGINEER.

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

(⁸⁸ Code, § 1-214)

Statutory reference:

Duties related to sewers, see Neb. RS 17-150 and 17-919

Duties related to annexation, see Neb. RS 17-405

Authority to employ special engineers, see Neb. RS 17-568

Duties related to public works, see Neb. RS 17-568.01

Engineers and Architects Regulation Act, see Neb. RS 81-3401 through 81-3455

§ 31.14 MUNICIPAL PHYSICIAN.

The Municipal Physician shall be a member of the Board of Health of the municipality and perform the duties devolving upon the position as the medical advisor of the said board. In all injuries where a liability may be asserted against the municipality, the Municipal Physician shall immediately investigate the said injuries, the extent thereof, and the circumstances. He or she shall then report the results of the investigation with the name of the party injured and all other persons who may have personal knowledge of the matter. He or she shall make all physical examinations and necessary laboratory tests incident thereto and issue such health certificates as are required by ordinance. For the purpose of making examinations of the sanitary conditions of the property and the state of health of the inhabitants therein, he or she shall have the right at all reasonable hours to go upon and enter all premises, buildings, or other structures in the municipality. He or she shall perform such other duties as may be required by the laws of the state of Nebraska and the ordinances of the municipality. When ordered to do so by the City Council, he or she shall disinfect or fumigate the premises, or persons in or about the premises, when the premises are quarantined, and to call upon indigent sick persons and perform other professional services at the direction of the City Council. The Municipal Physician shall receive as compensation for services such sum as the City Council may from time to time set. He or she shall receive no compensation for services as a member of the Municipal Board of Health.

(⁸⁸ Code, § 1-209)

Statutory reference:

Board of Health created, see Neb. RS 17-121

§ 31.15 STREET SUPERINTENDENT.

(A) *Public ways.* The Municipal Street Superintendent shall, subject to the orders and directives of the City Council, have general charge, direction, and control of all work on the streets, sidewalks, culverts, and bridges of the municipality, and shall perform such other duties as the City Council may require. It shall be his or her responsibility to see that gutters and drains therein function properly, and that the same are kept in good repair. He or she shall, at the request of the City Council, make a detailed report to the City Council on the condition of the streets, sidewalks, culverts, alleys, and bridges of the municipality, and shall direct their attention to such improvements, repairs, extensions, additions, and additional employees as he or she may believe are needed to maintain a satisfactory street system in the municipality along with an estimate of the cost thereof. He or she shall issue such permits, and assume such other duties as the City Council may direct.
(Neb. RS 17-107, 17-119) (88 Code, § 1-218)

(B) *Parks.* The Street Superintendent shall have general supervision and control over the municipal parks and shall be primarily responsible for their economic operation and prudent management.

(C) *Cemetery.* The Street Superintendent shall have general supervision and control over the municipal cemetery and shall be primarily responsible for its economic operation and prudent management.

CHAPTER 32: DEPARTMENTS, BOARDS, AND COMMISSIONS

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BOARDS AND COMMISSIONS

§ 32.01 LIBRARY BOARD.

(A) The Mayor, with approval of a majority vote of the members of the City Council, shall appoint the Library Board. The Board shall consist of five members, who shall be residents in the municipality. The members of the Board shall serve a five-year term of office unless reappointed. It shall be the duty of the City Council, by a majority vote, to appoint or reappoint one member of the Board each year for a term of five years commencing at the time of the first meeting in January. Members of the Board are limited to two consecutive appointments on the Board. 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 City Council. Before entering upon his or her 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. The City Administrator, or designate, shall serve in an ex-officio capacity on the Board.

(B) No Board member shall receive any pay or compensation for any services rendered as a member of the Board. A majority of all the members of the Library Board shall constitute a quorum. The members of the Board, at its first meeting in each calendar year, shall elect from their own members a President and a Secretary. It shall be the duty of the Secretary to keep the full and correct minutes and records of all meetings and to file the same with the Municipal Clerk where they shall be available for public inspection at any reasonable time. The President shall have the power to release, upon full payment, any mortgage constituting a credit to the Library Fund and standing in the name of such Library Board. The President and Secretary in like manner, upon resolution duly passed and adopted by the Board, may renew any such mortgage.

(C) It shall be the duty of the Library Board to make and adopt such bylaws, rules, and regulations for its own guidance and for the government of the library as may be deemed necessary for its preservation and to maintain its usefulness and efficiency. It may contract to form an interlocal agreement with other political subdivisions. 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. The Board shall also have the power to purchase or lease grounds, to exercise the power of eminent domain, and to condemn real estate for the

purpose of securing a site for a library building. The procedure to condemn property shall be exercised in manner set forth in Neb. R.S. 76-704 to 76-724 (Real Property). It may, by resolution, direct the sale and conveyance of any real estate owned by the library board or by the public library, which is not used for library purposes, or of any real estate so donated or devised to the Library Board or to the public library upon such terms as the Library Board may deem best. The Board shall have the power to erect, lease, or occupy an appropriate building for the use of such library and to appoint a suitable librarian and assistants, to fix their compensation, and to remove such appointees at the Board's pleasure. 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 any violation of any bylaw, rule, regulation and to fix and impose reasonable fees, not to exceed the library's actual cost, for nonbasic services. The Board may exclude from the use of the library any person who willfully violates or refuses to comply with rules and regulations established for the government thereof.

(D) The Library Board shall on or before the second Monday in June in each year, make a report to the City Council of the condition its trust on June 1 of such year, showing all money received or expended; the number of books and periodicals on hand; newspapers and current literature subscribed for or donated to the library; the number of books and periodicals ordered by purchase, gift, or otherwise obtained during the year, and number lost or missing; the number of and character of books loaned or issued, with such statistics, information, and suggestions as it may deem of general interest, or as the city council may require, which report shall be verified by affidavit of the proper officers of such Board. All actions of the Board shall be subject to review and supervision of the City Council. No member of the City Council shall serve as a member of the Board while serving a term of office as a member of the City Council.

(⁸⁸ Code, § 2-101) (Ord. 446, passed 6-18-01)

Statutory reference:

Authority; regulations, see Neb. RS 51-202

§ 32.02 PLANNING COMMISSION.

(A) The Mayor, with approval of a majority vote of the members of the City Council shall appoint the Planning Commission. The Commission shall consist of five members, who shall be resident free holders in the municipality, and who shall represent, insofar as is possible, the different professions or occupations in the municipality. The Commission shall also consist of one alternate member chosen by the same method as the regular members, and with the same requirements. The alternate member may attend any meeting and may serve as a voting and participating member of the Commission at any time when less than the full number of regular Commission members are present and capable of voting. Two of the regular Commissioners may be residents of the ½ mile area over which the municipality is authorized to exercise extra-territorial zoning and subdivision regulation. The members of the Commission shall serve a three-year term of office unless reappointed. It shall be the duty of the City Council, by a majority vote, to appoint or reappoint 1/3 of the Commission each year (plus the alternate position every third year) for a term of three years commencing at the time of the first meeting in January. Members of the board are limited to two consecutive appointments on the Commission. Each member shall serve until his 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 by

the Mayor. Before entering upon his or her 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. The City Administrator, or designate, shall serve in an ex-officio capacity on the Commission.

(B) No member shall receive any pay or compensation for any services rendered as a member of the Board. A majority of all the members of the Planning Commission shall constitute a quorum. The Commission shall hold at least one regular meeting in each calendar quarter. The City Council may require the Commission to meet more frequently. The members of the Commission, at its first meeting in each calendar year, shall elect from their own members a Chairperson and a Secretary. The Chairperson may call for a meeting when necessary to deal with business pending before the Commission. It shall be the duty of the Secretary to keep the full and correct minutes and records of all meetings and to file the same with the Municipal Clerk where they shall be available for public inspection at any reasonable time.

(C) It shall be the duty of the Planning Commission to adopt rules and regulations for the transaction of business and keep a record of its resolutions, transactions, findings, and determinations, which shall be a public record. The Planning Commission shall 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 the municipality (including a comprehensive development plan). The Commission shall prepare and adopt such implemental means as a capital improvement program, subdivision regulations, building codes, and a zoning ordinance, and consult with and advise public officials and agencies, public utilities, civic organizations, educational institutions, and citizens with relation to the promulgation and implementation of the comprehensive development plan and its implemental programs. The Commission may delegate authority to any such group to conduct studies and make surveys for the Commission, make preliminary reports on its findings, and hold public hearings before submitting its final reports.

(D) The City Council shall not take final action on matters relating to the comprehensive development plan, capital improvements, building codes, subdivision development, the annexation of territory, or zoning, until it has received the recommendation of the Planning Commission. The City Council shall set a reasonable time of two months within which the recommendation from the Planning Commission is to be received.

(E) The Commission may, with consent of the City Council, in its own name, do any of the following:

- (1) Make and enter into contracts with public or private bodies;
- (2) Receive contributions, bequests, gifts, or grant funds from public or private sources;
- (3) Expend the funds appropriated to it by the municipality;
- (4) Employ agents and employees; and

(5) Acquire, hold, and dispose of property.

(F) The Commission may, on its own authority, make arrangements consistent with its program, conduct, or sponsor special studies or planning work for any public body or appropriate agency, receive grants, remuneration, or reimbursement for such studies or work, and at its public hearings, summon witnesses, administer oaths, and compel the giving of testimony. The Commission may grant conditional uses or special exceptions to property owners for the use of their property, if the City Council has approved the standards and procedures adopted by the Commission for equability and judiciously granting such conditional uses or special exceptions. The granting of a conditional use permit or special exception shall only allow property owners to put their property to a special use if it is among those uses specifically identified in the zoning ordinance as classifications of uses which may require special conditions or requirements to be met by the owners before a use permit or building permit is authorized. The power to grant conditional uses or special exceptions shall be the exclusive authority of the Commission. All actions of the Board shall be subject to review and control by the City Council.

(G) No member of the City Council, or any municipal office holder, shall serve as a member of the Commission while serving during term of office.

(`88 Code, § 2-102) (Ord. 423, passed 8-16-99; Am. Ord. 450, passed 7-16-01)

Statutory reference:

General provisions; Planning Commissions regulated, see Neb. RS 19-924 through 19-929

§ 32.03 BOARD OF ADJUSTMENT.

(A) The Mayor shall appoint, with the consent of the City Council, a Board of Adjustment, which shall consist of five regular members plus one additional member designated as an alternate who shall attend and serve only when one of the regular members is unable to attend for any reason. Each member shall be appointed for a term of three years and shall be removable for cause by the Mayor upon written charges and after public hearings. Vacancies shall be filled for the unexpired term of any member whose term becomes vacant. One member only of the Board of Adjustment shall be appointed from the membership of the Planning Commission, and the loss of membership on the Planning Commission by such member shall also result in his 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.

The Mayor, with approval of a majority vote of the members of the City Council, shall appoint a Board of Health which shall consist of four members. The members of the Board shall include the Mayor, who shall serve as chairperson; the County Sheriff, who shall serve as secretary and quarantine officer; a physician who shall serve as the medical advisor; and the President of the City Council. The members of the Board shall serve, without compensation, a one year term of office, unless reappointed, and shall reorganize at its meeting each year after the City Council meeting when appointments are regularly made, and select a member to serve as Secretary. It shall be the duty of the secretary to keep the full and correct minutes and records of all meetings and to file the same with the Municipal Clerk where they shall be available for public inspection at any reasonable time. The Board of Health shall be funded by the City Council from time to time out of the general fund. A majority of the Board shall constitute a quorum for the purpose of doing business. The Board shall meet at such times as the City Council may designate. Special meetings may be held upon the call of the chairperson, or any two members of the Board. It shall be the duty of the Board to enact rules and regulations which shall have the full force and effect of law, to safeguard the health of the residents of the municipality. Included in the duties of the Board shall be to enforce the rules and regulations, and to provide fines and punishments for any violations thereof. It may regulate, suppress, and prevent the occurrence of nuisances and shall actively enforce all laws of the state of Nebraska and ordinances of the municipality relating to matters of sanitation which affect the health and safety of the people. The Board shall regularly inspect such premises and businesses as the City Council may direct. All members of the Board shall be responsible for making such reports and performing such other duties as the City Council may, from time to time, designate. No member of the Board of Health shall hold more than one Board of Health position.

(^88 Code, § 2-110) (Ord. 409, passed 12-15-97)

Statutory reference:

Authority, see Neb. RS 17-121

§ 32.05 BOARD OF PARK COMMISSIONERS.

(A) The Mayor, with approval of a majority vote of the members of the City Council, shall appoint the Board of Park and Recreation Commissioners. The Board shall consist of six members, who shall be residents in the municipality. A tie vote, if it occurs, of such Board shall be broken by the Mayor. The members of the Board shall serve a three-year term of office unless reappointed. It shall be the duty of the City Council, by a majority vote, to appoint or reappoint one-third of the Board each year for a term of three years commencing at the time of the first meeting in January. Members of the Board are limited to two consecutive appointments on the Board. 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 City Council. Before entering upon his or her 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. The City Administrator, or designate, shall serve in an ex-officio capacity on the Board.

(B) No member shall receive any pay or compensation for any services rendered as a member of the Board. A majority of all the members of the Board of Park and Recreation Commissioners shall

constitute a quorum. The members of the Board, at its first meeting in each calendar year, shall elect from their own members a Chairperson and a Secretary. It shall be the duty of the Secretary to keep the full and correct minutes and records of all meetings and to file the same with the Municipal Clerk where they shall be available for public inspection at any reasonable time.

(C) It shall be the duty of the Board of Park and Recreation Commissioners to establish rules for, lay out, improve, beautify, and design all grounds, bodies of water, and buildings owned or acquired for public parks and recreational facilities, and for program planning and leadership of recreational activities, to the extent that funds may be provided for such purposes. The Board shall also have the duty of continued study and promotion of the needs of such city for additional park and recreational facilities. The Board shall also serve as the City Tree Board. It shall be the Board of Park and Recreation Commissioners duty, under the auspices of the City Tree Board, to develop and/or review annually and update as necessary a long-range plan for the urban forest of the city; to review annual plans for the city's urban forest program; to advise on matters concerning trees and related resources; and to coordinate or conduct special projects for the betterment of the urban forest (these projects shall be included in annual plans). The Board of Park and Recreation Commissioners shall have the authority to establish a Lake Park Committee consisting of representatives of organizations within the municipality that wish to participate. Each organization will nominate their representative for appointment to the committee, subject to the approval by the City Council. All actions of the Board shall be subject to review and control by the City Council. No member of the City Council shall serve as a member of the Board while serving a term of office as a member of the City Council.

(Neb. RS 17-952) (88 Code, § 2-103) (Ord. 415, passed 5-4-98; Am. Ord. 458, passed 11-5-01)

Statutory reference:

Authority, see Neb. RS 17-952

§ 32.06 CEMETERY BOARD.

(A) The Mayor, with approval of a majority vote of the members of the City Council, shall appoint the Cemetery Board. The Board shall consist of six members, who shall be residents in the municipality. The members of the Board shall serve a three-year term of office unless reappointed. It shall be the duty of the City Council, by a majority vote, to appoint or reappoint 1/3 of the Board each year for a term of three years commencing at the time of the first meeting in January. Members of the board are limited to two consecutive appointments on the Board. 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 City Council. Before entering upon his or her duties each member of the Board shall take an oath, to be filed with the City Clerk, that he 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. The City Administrator, or designate, shall serve in an ex-officio capacity on the Board. No member shall receive any pay or compensation for any services rendered as a member of the Board.

(B) A majority of all the members of the Cemetery Board shall constitute a quorum. The members of the Board, at its first meeting in each calendar year, shall elect from their own members a President and a Secretary. It shall be the duty of the secretary to keep the full and correct minutes and

records of all meetings and to file the same with the Municipal Clerk where they shall be available for public inspection at any reasonable time.

(C) It shall be the duty of the Cemetery Board to have the authority for the general care, management, improvement, beautifying, and welfare of such cemetery, and employ such labor and assistants as may be necessary. Said labor and assistants may not belong to the Cemetery Board or the City Council. The Board shall draw warrants against such cemetery fund, and the City Treasurer out of such fund shall pay warrants so drawn. The Cemetery Board is authorized and empowered to receive by gift, grant, deed of conveyance, bequest or devise, money, stocks, bonds, or other valuable income-producing personal property, or any real estate, from any person, firm, or corporation, for the purpose of endowing such cemetery, mausoleum, or burial place with a permanent fund. All actions of the Board shall be subject to review and control by the City Council. No member of the City Council shall serve as a member of the Board while serving a term of office as a member of the City Council. (Neb. RS 12-401 - 12-403) (88 Code, § 2-104) (Ord. 445, passed 6-18-01)

§ 32.07 HOUSING AGENCY.

(A) The Mayor, with approval of a majority vote of the members of the City Council, shall appoint the Housing Agency. The agency shall consist of five-adult persons, who shall be residents in the area of operation over which the Housing Agency shall exist, and such persons shall be called the Commissioners. The Agency's area of operation shall be the city and the area within ten miles from the territorial boundaries thereof. The Commission shall, within the five members, consist of one resident commissioner and one City Council member. The members of the Commission shall serve a five-year term of office unless reappointed. It shall be the duty of the Mayor, with approval by the City Council, by a majority vote, to appoint or reappoint one member each year of the agency for a term of five years commencing at the time of the first meeting in January. Members of the agency are limited to two consecutive appointments on the Commission. Each member shall serve until his or her successor is appointed and qualified. The resident commissioner shall no longer serve as a Commissioner if his or her status as a recipient of direct assistance from the Agency is halted. The City Council Commissioner shall no longer serve as a Commissioner if his or her status as a member of the City Council is halted. A vacancy occurring on such agency by death, resignation, or disqualification of a member shall be filled for the remainder of such term at the next regular meeting of the City Council. No person who has been convicted of a felony shall be eligible for appointment or service as a Commissioner. A certificate of the appointment or reappointment of any Commissioner shall be filed with the City Clerk, which shall serve as conclusive evidence of the proper appointment of such Commissioner. The City Administrator, or designate, shall serve in an ex-officio capacity on the Commission.

(B) No Commissioner shall receive any compensation for any his or her services, but shall be entitled to reimbursement for necessary expenses, incurred in connection with the discharge of his or her duties. A majority of all the members of the Housing Agency shall constitute a quorum. Action may be taken by the agency upon the vote of a majority of the Commissioners present and voting, except for any matter with respect to which the bylaws of the agency require a higher number. The Mayor in the manner prescribed hereinafter may remove a Commissioner for neglect of duty, misconduct in office or conviction of any felony. The Mayor shall send a notice of removal to such Commissioner, which notice shall set forth the charges against him or her. Unless within ten days from the receipt of such notice, the Commissioner files with the City Clerk a request for a hearing before the City Council, the Commissioner shall be deemed removed from office. If a request for hearing is so filed, the City Council of the municipality shall hold a hearing not sooner than ten days after the date a hearing is requested, at which hearing the Commissioner shall have the right to appear in person or by counsel and the City Council shall determine whether the removal shall be upheld. If the removal is not upheld, the Commissioner shall continue to hold his or her office. The members of the Commission, at its first meeting in each calendar year, shall elect from their own members a Chairperson and a Vice-Chairperson.

(C) The Housing Agency shall possess all powers necessary, convenient, or desirable in carrying out the purposes of the Nebraska Housing Agency Act. It shall be the duty of the Housing Agency to employ an executive director, who shall also serve as ex-officio secretary to the agency. It shall be the duty of the Secretary to keep the full and correct minutes and records of all meetings and to file the same with the Municipal Clerk where they shall be available for public inspection at any reasonable time. The agency may also employ legal counsel or engage the City Attorney for such legal services as the agency may require, unless such employment or engagement will result in an ethical or legal violation. The agency may employ accountants, appraisers, technical experts, and such other officers, agents, or employees as the agency may require and shall determine their qualifications, duties, compensation, and terms of office. It may also delegate to one or more of its agents or employees such powers and duties, as it may deem proper. The Agency shall have perpetual existence unless terminated by proper authority as provided by law. It may sue, and be sued; adopt a seal and alter such seal from time to time; adopt, amend, repeal, and restate bylaws; adopt, promulgate, and enforce rules and regulations related to carrying out the purposes of the local housing agency, exercising those powers, and amending or repealing such rules and regulations from time to time; issue bonds or other debt instruments; to secure the repayment of such bonds or debt instruments; to enter into interagency and intergovernmental agreements; other powers shall include the powers enumerated in Neb. RS 71-15,113. Within six months after the end of each fiscal year, the Housing Agency shall prepare a report summarizing the agency's activities for the year then ended. The report shall contain financial statements depicting the financial condition of the agency, its assets and liabilities, and the results of its operations for the year then ended. The report shall be approved by the Agency's Board of Commissioners and signed by the Chairperson. The annual report shall be a public record that is available for inspection at the office of the Housing Agency and the City Clerk's office. (Neb. RS 71-1594 through 71-15,158) (88 Code, § 2-105) (Ord. 463, passed 1-10-02)

§ 32.08 RESCUE SQUAD BOARD.

(A) The Mayor, with approval of a majority vote of the members of the City Council, shall appoint the Rescue Squad Board. The Board shall consist of 5 adult persons, who shall be residents in the rescue district. The Board shall, within the 5 members, consist of 1 appointee from the ambulance squad and 1 appointee from the fire squad, to serve a 1 year term; and have 3 members from the district that serve 4 year terms unless reappointed. The Board shall also have two alternate members, 1 from the ambulance squad and 1 from the fire squad; these members shall have the same requirements as the regular members. The alternate members may attend any meeting and may serve as a voting and participating member of the Board at any time when their regular counterpart is absent and/or incapable of voting. It shall be the duty of the City Council, by a majority vote, to appoint or reappoint members for a term of 4 years. Each member shall serve until his/her successor is appointed and qualified. The ambulance squad designee shall no longer serve as a Board member if his/her status as a member of the ambulance squad is halted. The fire squad designee shall no longer serve as a Board member if his/her status as a member of the fire squad is halted. 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 City Council. No Board member shall receive any compensation for any services, but shall be entitled to reimbursement for necessary expenses, incurred in connection with the discharge of his or her duties.

(B) A majority of all the members of the Rescue Squad Board shall constitute a quorum. The members of the Board, at its first meeting in each calendar year, shall elect from their own members a Chairperson and a Secretary. The Chairperson, or 3 Board members, may call for a meeting when necessary to deal with business pending before the Board. It shall be the duty of the secretary to keep the full and correct minutes and records of all meetings and to file the same with the City Clerk, where they shall be available for public inspection at any reasonable time.

(C) It shall be the duty of the Rescue Squad Board to have oversight of all ambulance and fire personnel, equipment, and facilities belonging to the city. The Board shall establish appropriate rules and regulations for the management, use, and operation of the same, and regularly review the rules and regulations for continued usefulness and effectiveness. All actions of the Board shall be subject to review and control by the City Council. No member of the City Council shall serve as a member of the Board while serving a term of office as a member of the City Council.

(^88 Code, § 2-107) (Ord. 373, passed 3-6-95; Am. Ord. 486, passed 10-6-03)

UTILITY DEPARTMENTS

§ 32.20 WATER DEPARTMENT; OPERATION AND FUNDING.

The municipality owns and operates the water department through the City Council or its authorized agent. The City Council, for the purpose of defraying the cost of the care, management, and maintenance of the water department may each year levy a tax not exceeding the maximum limit prescribed by state law, on the taxable value of all taxable property within the corporate limits that is subject to taxation. The revenue from the tax shall be known as the water fund and shall remain in the

custody of the Municipal Treasurer. The City Council or its authorized agent shall have the direct management and control of the water department. The City Council shall have the authority to adopt rules and regulations for the sanitary and efficient management of the water department. The City Council shall set the rates to be charged for services rendered and shall file a copy of the rates in the office of the Municipal Clerk for public inspection at any reasonable time.

(⁸⁸ Code, § 3-101)

Statutory reference:

Waterworks acquisition and construction authorized, see Neb. RS 17-531

Bonds, interest, and taxing authority, see Neb. RS 17-534

Public utility extension and improvements, see Neb. RS 19-1305

Cross-reference:

Water regulations, see Chapter 51

§ 32.21 SEWER DEPARTMENT; OPERATION AND FUNDING.

(A) The municipality owns and operates the municipal sewer system through the City Council or its authorized agent.

(B) For the purpose of defraying the cost of the maintenance and repairing of any sewer or water utilities in the municipality, the City Council may each year levy a tax not exceeding the maximum limit prescribed by state law on the taxable value of all the taxable property in the municipality. The revenue from the tax shall be known as the water and sewer maintenance fund and shall be used exclusively for the purpose of maintenance and repairs of the water and sewer system.

(C) The City Council or its authorized agent shall have the direct management and control of the Sewer Department, shall faithfully carry out the duties of the office, and shall have the authority to adopt rules and regulations for the sanitary and efficient management of the department subject to the supervision and review of the City Council. The City Council shall set the rates to be charged for services rendered by ordinance and shall file a copy of the rates in the office of the Municipal Clerk for public inspection at any reasonable time.

(⁸⁸ Code, § 3-201)

Statutory reference:

Sewage and drainage districts; authority to regulate, see Neb. RS 17-149

Taxing authority, see Neb. RS 17-925.01

Cross-reference:

Sewer regulations, see Chapter 52

§ 32.22 ELECTRICAL SYSTEM; OPERATION AND FUNDING.

The municipality owns and operates the electrical system through the City Council or its authorized agent. The City Council, for the purpose of defraying the cost of the care, management, and maintenance of the electrical system may each year levy a tax not exceeding the maximum limit prescribed by state law, on the taxable value of all taxable property within the corporate limits that is

subject to taxation. The revenue from the tax shall be known as the electrical fund and shall remain in the custody of the Municipal Treasurer. The City Council or its authorized agent shall have the direct management and control of the electrical system. The City Council shall have the authority to adopt rules and regulations for the sanitary and efficient management of the electrical system.
(^88 Code, § 3-1101)

§ 32.23 LANDFILL; OPERATION AND FUNDING.

The municipality owns and operates the municipal landfill through the Street Superintendent or his or her authorized agent. The City Council, for the purpose of defraying the cost of the care, management, and maintenance of the landfill may each year levy a tax not exceeding the maximum limit prescribed by state law, on the taxable value of all taxable property within the corporate limits that is subject to taxation. The revenue from the tax shall be known as the landfill fund and shall remain in the custody of the Municipal Treasurer. The Street Superintendent or his or her authorized agent shall have the direct management and control of the landfill. The Street Superintendent shall have the authority to adopt rules and regulations for the sanitary and efficient management of the landfill.
(^88 Code, § 3-1001)

FIRE DEPARTMENT

§ 32.40 OPERATION AND FUNDING.

The municipality operates the Municipal Fire Department through the Municipal Fire Chief and Fire Fighters. The City Council, for the purpose of defraying the cost of the management, maintenance, and improving the Fire Department may each year levy a tax not exceeding the maximum limits prescribed by state law on the taxable value of all taxable property within the municipality. The revenue from the tax shall be known as the Fire Department Fund. The Fund shall be at all times in the possession of the Municipal Treasurer.
(^88 Code, § 3-401)

Statutory reference:

Authority to create; operation, see Neb. RS 17-147

Taxing authority, see Neb. RS 17-718

Fire station creation and maintenance, see Neb. RS 17-953

§ 32.41 FIRE CHIEF.

The Fire Chief shall manage the Fire Department, and it shall be his or her duty to inform the City Council when any of the fire engines, hose, ladders, or other apparatus needs repair. Upon the written consent and directive of the City Council, the Fire Chief shall cause the repair, improvement, or

maintenance of the equipment and shall personally supervise and approve of the same. It shall be the duty of the Fire Chief to come before the City Council at the regular meeting in January of each year to give an annual report to the City Council of the general condition and the proposed additions or improvements recommended by him or her.

(^88 Code, § 3-402)

Statutory reference:

Appointment, see Neb. RS 17-107

§ 32.42 MEMBERSHIP.

The Fire Chief shall appoint no more than 25 members for each Fire Department Company subject to the review and approval of the City Council. All vacancies shall be filled in this manner. The members shall be considered to be employees of the municipality for the purpose of providing them with workers' compensation and other benefits. Each member shall be entitled to a term life insurance policy in the amount of at least \$5,000 for death from any cause to age 65, and such policy shall, at the option of the individual fireman, be convertible to a permanent form of life insurance at age 65, provided that the fire fighters covered are actively and faithfully performing the duties of their position. The Fire Department shall consist of so many members as may be decided by the City Council. The members may organize themselves in any way they may decide, subject to the review of the City Council. They may hold meetings and engage in social activities with the approval of the City Council. The secretary shall upon request keep a record of all meetings and shall make a report to the City Council of all meetings and activities of the Fire Department. The City Council may, for services rendered, compensate or reward any member or members of the Fire Department in an amount set by resolution. All members of the Fire Department shall be subject to such rules and regulations and shall perform such duties as may be prescribed or required of them by the Fire Chief or the City Council. The members of the Fire Department shall, during the time of a fire or great public danger, have and exercise the powers and duties of police personnel and shall have full power and authority to arrest all persons guilty of any violation of the municipal code or the laws of the state of Nebraska. Volunteer firefighters and rescue squad members testifying as a witness in connection with his or her officially assigned duties in that capacity alone shall not be deemed employees of the state of Nebraska or of the municipality.

(^88 Code, § 3-403)

Statutory reference:

Witness fees prohibited, see Neb. RS 33-139.01

General regulations, see Neb. RS 35-101 through 35-103

Life insurance required, see Neb. RS 35-108

§ 32.43 RECORDS.

The Fire Chief shall keep or cause to be kept a record of all meetings of the Fire Department, the attendance record of all members, a record of all fires, and shall make a full report of such records to the Municipal Clerk during the last week in April each year. The record of any fire shall include the cause, origin, circumstances, property involved, and whether criminal conduct may have been

involved. In the event of sizable property damage, he shall include the information of whether such losses were covered by insurance, and if so, in what amount. All records shall be available to the public at any reasonable time.

(^88 Code, § 3-404)

§ 32.44 FIRES.

It shall be the duty of the Fire Department to use all proper means for the extinguishment of fires, to protect property within the municipality, and to secure the observance of all ordinances, laws, and other rules and regulations with respect to fires and fire prevention.

(^88 Code, § 3-405)

§ 32.45 DISTANT FIRES.

(A) Upon the permission of the Fire Chief, Assistant Fire Chief, Mayor or City Administrator, such fire equipment of the municipality as may be designated by the City Council as rural equipment may be used beyond the corporate limits to extinguish reported fires.

(B) The firefighters of the municipality shall be considered as acting in the performance and within the scope of their duties in fighting fire or saving property or life outside the corporate limits of the municipality when directed to do so by the Chief of the Fire Department or some person authorized to act for such Chief and in so doing, may take such fire equipment of the municipality as may be designated by the City Council.

(^88 Code, §§ 3-406, 3-407)

§ 32.46 REGULAR INSPECTIONS.

The Chief of the Bureau of Fire Prevention or any inspector or member of the department specially designated thereto shall inspect, as often as may be necessary, but not less than four times a year, all specially hazardous manufacturing processes, storages, or installations of gases, chemicals, oils, explosives, and flammable materials, all interior fire alarms and automatic sprinkler systems, and such other hazards or appliances as the Chief of the Fire Department shall designate, and shall make such orders as may be necessary for the enforcement of the laws and ordinances governing the same and for safeguarding of life and property from fire.

(Neb. RS 81-512) (^88 Code, § 3-410)

§ 32.47 SPECIAL INSPECTIONS.

It shall be the duty of the Chief of the Fire Department to inspect, or cause to be inspected by the Bureau of Fire Prevention or by the Fire Department officers and members, as often as may be necessary, but not less than two times a year in outlying districts and four times a year in the closely

built portions of the municipality, all buildings and premises except the interiors of private dwellings, for the purpose of ascertaining and causing to be corrected any conditions likely to cause fire, or any violations of the provisions or intent of any law of the municipality affecting the fire hazard. Whenever any inspector, as defined above, shall find in any building or upon any premise, combustible or explosive matter or dangerous accumulations of flammable materials and which materials are so situated as to endanger property; or shall find obstructions to or on fire escapes, stairs, passageways, doors, or windows, likely to interfere with the operations of the Fire Department or egress of occupants in case of fire, he shall order the same to be removed or remedied.

(Neb. RS 81-512)

§ 32.48 NOTICE OF VIOLATION.

(A) Upon the finding that the municipal code has been violated, the Fire Chief shall notify, or cause to be notified, the owner, occupant, or manager of the premise where a violation has occurred. Notice may be made personally or by delivering a copy to the premise and affixing it to the door of the main entrance of the premise. Whenever it may be necessary to serve such an order upon the owner, such order may be served personally, or by mailing a copy to the owner's last known post office address if the said owner is absent from the jurisdiction.

(B) Any such order shall be immediately complied with by the owner, occupant, or manager of the premise or building. The owner, occupant, or manager may, within five days after such order by the Chief of the Fire Department or his agent, appeal the order with the City Council requesting a review and it shall be the duty of the City Council to hear the same within not less than five days nor more than ten days from the time when the request was filed in writing with the Municipal Clerk. The City Council shall then affirm, modify, or rescind the said order as safety and justice may require and the decision shall then be final, subject only to any remedy which the aggrieved person may have at law or equity. The said order shall be modified or rescinded only where it is evident that reasonable safety exists and that conditions necessitate a variance due to the probable hardship in complying literally with the order of the Fire Chief. A copy of any decision so made shall be sent to both the Fire Chief and the owner, occupant, or manager making the appeal.

(^88 Code, § 3-411)

§ 32.49 POWER OF ARREST.

The Municipal Fire Chief or the assistant Fire Chief shall have the power, during the time of a fire and for a period of 36 hours after its extinguishment, to arrest any suspected arsonist, or other person hindering or resisting the fire fighting effort, or any person who conducts himself or herself in a noisy or disorderly manner. The officials shall be severally vested with the usual powers and authority of municipal police officers to command all persons to assist them in the performance of their duties.

(^88 Code, § 3-412)

§ 32.50 FIRE INVESTIGATION.

It shall be the duty of the Fire Department to investigate or cause to be investigated the cause, origin, and circumstances of every fire occurring in the municipality in which property has been destroyed or damaged in excess of \$50. All fires of unknown origin shall be reported, and such officers shall especially make an investigation and report as to whether such fire was the result of carelessness, accident, or design. Such investigation shall be begun within two days of the occurrence of such fire and the State Fire Marshal shall have the right to supervise and direct the investigation whenever he or she deems it expedient or necessary. The officer making the investigation of fires occurring within the municipality shall immediately notify the State Fire Marshal and shall within one week of the occurrence of the fire furnish him or her with a written statement of all the facts relating to the cause and origin of the fire, and such further information as he or she may call for.

(⁸⁸ Code, § 3-413)

Statutory reference:

Investigation and report required, see Neb. RS 81-506

PARKS DEPARTMENT

§ 32.70 OPERATION AND FUNDING.

The municipality owns and operates the municipal parks and other recreational areas through the City Administrator. The City Council, for the purpose of defraying the cost of the care, management, and maintenance of the municipal park may each year levy a tax not exceeding the maximum limit prescribed by state law on the taxable value of all taxable property within the corporate limits. The revenue from the said tax shall be known as the park fund and shall remain in the custody of the Municipal Treasurer. The City Administrator shall have the authority to adopt rules and regulations for the efficient management of the municipal parks and other recreational areas of the municipality. The City Administrator shall not enter into a contract of any nature which involves an expenditure of funds, except for ordinary operating expenses, unless the contract has been approved by resolution of the majority of the members of the City Council prior to the contractual agreement.

Statutory reference:

Recreation centers and areas generally, see Neb. RS 17-948 through 17-952

Cross-reference:

Board of Park and Recreation Commissioners, see § 32.05

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)) (^ 88 Code, § 1-501)

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)) (^ 88 Code, § 1-502)

§ 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.

(^88 Code, § 1-503)

Statutory reference:

Meetings required to be public, see Neb. RS 84-1408

Definitions, see Neb. RS 84-1409

Notice, agenda, and the like, see Neb. RS 84-1411

Minutes, roll call, secret ballot, see Neb. RS 84-1413

§ 33.03 WHEN; WHERE; QUORUM.

(A) Meetings are at the Chappel City Hall, on the 1st and 3rd Mondays of each month at 7:00 p.m. If there is a municipality recognized holiday on the 1st or 3rd Monday, the meeting of the City Council will take place in the same place and at the same time on the day after the holiday.

(B) A majority of all the members elected to the City Council shall constitute a quorum for the transaction of any business, but a smaller number may adjourn from day to day and compel the attendance of absent members. Whether a quorum is present or not, all absent members shall be sent for and compelled to attend.

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

(Neb. RS 17-105)

(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 a President pro tempore.

(^88 Code, § 1-510) (Ord. 449, passed 7-2-01)

§ 33.04 SPECIAL MEETINGS.

(A) Special meetings may be called by the Mayor or by three members of the City Council, the object of which shall be submitted to the Council in writing. The call and object, as well as the disposition thereof, shall be entered upon the journal by the Municipal Clerk.

(Neb. RS 17-106)

(B) On filing the call for a special meeting, the Municipal Clerk shall notify the Councilmembers of the special meeting, stating the time and its purpose. Notice of a special meeting need not be given to a Councilmember known to be out of the state or physically unable to be present.

(C) All ordinances passed at any special meeting shall comply with procedures set forth in §§ 30.40 through 30.48.

(^88 Code, § 1-511)

§ 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 governing body or advisory committee is present at each site of the videoconference; and

(5) No more than one-half of the governing body's or advisory committee's meetings in a

calendar year are held by videoconference.

(B) Videoconferencing or conferencing by other electronic communication shall not be used to circumvent any of the public government purposes established in the Open Meetings Act. (Neb. RS 84-1411)

(C) 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) ('88 Code, § 1-516) (Ord. 392, passed 7-7-97)

§ 33.06 TELECONFERENCING.

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

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

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

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

(4) Reasonable arrangements are made to accommodate the public's right to attend, hear, and speak at the meeting, including seating, recordation by audio recording devices, and a reasonable opportunity for input such as public comment or questions to at least the same extent as would be provided if a telephone conference call was not used;

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

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

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

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

(B) Nothing in this section shall prevent the participation of consultants, members of the press, and other nonmembers of the governing body at sites not identified in the public notice. Telephone conference calls, emails, faxes, or other electronic communication shall not be used to circumvent any of the public government purposes established in 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 that individual has not requested a public meeting. 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 that 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 vote of each member on the question of holding a closed session, the reason for the closed session, and the time when the closed session commenced and concluded shall be recorded in the minutes. The public body holding such a closed session shall restrict its consideration of matters during the closed portions to only those purposes set forth in the minutes as the reason for the closed session. The meeting shall be reconvened in open session before any formal action may be taken. For purposes of this section, formal action means a collective decision or a collective commitment or promise to make a decision on any question, motion, proposal, resolution, order, or ordinance or formation of a position or policy but shall not include negotiating guidance given by members of the public body to legal counsel or other negotiators in closed sessions authorized under division (A)(1)(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 a challenge shall be overruled only by a majority vote of the members of the public body. The challenge and its disposition shall be recorded in the minutes.

(D) Nothing in this section shall be construed to require that any meeting be closed to the public. (Neb. RS 84-1410) (^88 Code, § 1-504)

§ 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)) (^88 Code, § 1-505)

§ 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. The minutes shall also include a record of the manner and time by which the advance publicized notice was given and a statement of how the availability of an agenda of the then-known subjects was communicated.

(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 at the office of the City Clerk during normal business hours.

(C) Minutes shall be written and available for inspection within 10 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) (^88 Code, § 1-506)

Statutory reference:

Rights of the public, see Neb. RS 84-1412

§ 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))

(`88 Code, § 1-507)

Statutory reference:

Voting procedure generally, see Neb. RS 17-105 and 17-616

§ 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(3)) (`88 Code, § 1-508)

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

(C) No public body shall for the purpose of circumventing the provisions of this subchapter hold a meeting in a place known by the body to be too small to accommodate the anticipated audience. No public body shall be deemed in violation of this section if it holds its meeting in its traditional meeting place which is located in this state.

(D) An agency which contracts with municipalities outside the state of Nebraska may hold meetings of any committee outside the state of Nebraska if such meetings are held only in such

contracting municipalities. Final action on any agenda item shall only be taken by the agency at a meeting in the state of Nebraska, which meeting shall comply with Neb. RS 84-1408 to 84-1414.

(E) The public body shall, upon request, make a reasonable effort to accommodate the public's right to hear the discussion and testimony presented at the meeting. Public bodies shall make available at the meeting, for examination and copying by members of the public, at least one copy of all reproducible written material to be discussed at an open meeting.
(Neb. RS 84-1412) (^88 Code, § 1-509)

§ 33.13 ORDER OF BUSINESS.

All meetings of the City Council shall be open to the public. Promptly at the hour set by law on the day of each regular meeting, the members of the City Council, the 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.
(^88 Code, § 1-512)

§ 33.14 CHANGE IN OFFICE.

The change in office shall be made as follows: the Mayor and Council shall meet on the first regular meeting date in December of each year in which a municipal election is held and the outgoing officers and the outgoing members of the Council shall present their reports, and upon the old Council having completed its business up to the time, the outgoing members of the Council shall surrender their offices to the incoming members, and the outgoing officers shall thereupon each surrender to his or her successor in office all property, records, papers, and moneys, belonging to the same.
(^88 Code, § 1-514)

Statutory reference:

Election, qualifications, term, see Neb. RS 17-104

§ 33.15 ORGANIZATIONAL MEETINGS.

The newly elected Council shall convene at the regular place of meeting in the city on the first regular meeting in December of each year in which a municipal 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 year shall call the meeting to order. The Council shall then proceed to examine the credentials of its members and other elective officers of the city to see that each has been duly and properly elected, and to see that such oaths and bonds have been given as are required. After ascertaining that all members are duly qualified, the Council shall then elect one of its own body who shall be styled as "President of the Council." The Mayor shall then nominate candidates for appointive offices. He or she shall then proceed with the regular order of business. It is hereby made the duty of each and every member of the Council, or his or her successor in office, and of each officer elected to

any office to qualify prior to the first regular meeting in December following election. All appointive officers shall qualify within two weeks following their appointments. Qualification for each officer who is not required to give bond shall consist in subscribing and taking an oath to support the constitution of the United States, the constitution of the state of Nebraska, the laws of the municipality and to perform faithfully and impartially the duties of office, said oath to be filed in the office of the Municipal Clerk. Each officer who is required to give a bond shall file the required bond in the office of the Municipal Clerk with sufficient sureties, conditioned on the faithful discharge of the duties of his or her office, with the oath endorsed thereon.

(⁸⁸ Code, § 1-515)

Cross-reference:

Council organization, see § 30.21

Council to elect President, see § 30.22

Election of President pro tempore, see § 33.03

§ 33.16 PARLIAMENTARY PROCEDURE.

The Mayor shall preserve order during meetings of the City Council and shall decide all questions of order, subject to an appeal to the City Council. When any person is called to order, he or she shall be seated until the point is decided. When the Mayor is putting the question, no person shall leave the meeting room. Every person present, previous to speaking shall rise from his or her seat and address himself to the presiding officer and while speaking shall confine himself or herself to the question. When two or more persons rise at once, the Mayor shall recognize the one who spoke first. All resolutions or motions shall be reduced to writing before being acted upon, if requested by the Municipal Clerk, or any member of the City Council. Every member of the City Council who is present when a question is voted upon, shall cast his or her vote unless excused by a majority of the City Council present. No motion shall be put or debated unless seconded. When seconded, it shall be stated by the Mayor before being debatable. In all cases where a motion or resolution is entered on the minutes, the name of the member of the City Council making the motion, or resolution shall be entered also. After each vote, the “Yeas” and “Nays” shall be taken, and entered in the minutes upon the request of any member of the City Council. Before the vote is actually taken, any resolution, motion, or proposed ordinance may be withdrawn from consideration by the sponsor thereof with the consent of the member of the City Council seconding the resolution, motion, or ordinance. When, in the consideration of an ordinance, different times, or amounts are proposed, the question shall be put on the largest sum, or the longest time. A question to reconsider shall be in order when made by a member voting with the majority, but such motion to reconsider must be made before the expiration of the third regular meeting after the initial consideration of the question. When any question is under debate, no motion shall be made, entertained, or seconded except the previous question, a motion to table, and to adjourn. Each of the motions shall be decided without debate. Any of the rules of the City Council for meetings may be suspended by a two-thirds vote of the members present. In all cases in which provisions are not made by these rules, Robert's Rules of Order is the authority by which the City Council shall decide all procedural disputes that may arise.

(⁸⁸ Code, § 1-513)

BONDS AND OATHS

§ 33.30 BONDS; FORM.

The City Council may require from all officers and servants, elected or appointed, bonds and security for the faithful performance of their duty. Official bonds of the municipality shall be in form joint and several and shall be made payable to the municipality in such penalty as the City Council may set by resolution, provided that the penalty amount on any bond shall not fall below the legal minimum, when one has been set by the State of Nebraska, for each particular official. All official bonds of the municipal officials shall be executed by the principal named in such bonds and by at least two sufficient sureties who shall be freeholders of the county, or by the official as principal and by a guaranty, surety, fidelity, or bonding company, provided that no municipal official, while still in his or her official term of office, shall be accepted as surety on any other official's bond, contractor's bond, license bond, or appeal bond under any circumstances. Only companies that are legally authorized to transact business in the State of Nebraska shall be eligible for suretyship on the bond of an official of the municipality. All said bonds shall obligate the principal and sureties for the faithful discharge of all duties required by law of such principal and shall inure to the benefit of the municipality and any persons who may be injured by a breach of the conditions of such bonds. No bond shall be deemed to be given or complete until the approval of the City Council and all sureties are endorsed in writing on the said instrument by the Mayor and Municipal Clerk pursuant to the said approval of the City Council. The premium on any official bond required to be given may be paid out of the general fund or other proper municipal fund, upon a resolution to that effect by the City Council at the beginning of any municipal year. All official bonds, meeting the conditions herein, shall be filed with the Municipal Clerk for his or her official records, and it shall be the duty of the Municipal Clerk to furnish a certified copy of any bond so filed upon the payment of a fee, which shall be set by resolution of the City Council. In the event that the sureties on the official bond of any officer of the municipality, in the opinion of the City Council, become insufficient, the City Council may, by resolution, fix a reasonable time within which the said officer may give a new bond or additional sureties as directed. In the event that the officer should fail, refuse, or neglect to give a new bond or additional sureties to the satisfaction and approval of the City Council, then the office shall, by such failure, refusal, or neglect, become vacant, and it shall be the duty of the City Council to appoint a competent and qualified person to fill the said office. Any official who is re-elected to office shall be required to file a new bond after each election.

(⁸⁸ Code, § 1-301)

Statutory reference:

Bonds generally and similar provisions, see Neb. RS 11-103 through 11-118

Power to regulate offices, see Neb. RS 17-604

§ 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 affirm 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 affirm 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) (^88 Code, § 1-302)

COMPENSATION

§ 33.45 MUNICIPAL OFFICIALS.

The compensation of any elective official of the municipality shall not be increased or diminished during the term for which he or she shall have been elected except when there has been a merger of offices, provided that the compensation of the members of the City Council, a board, or commission may be increased or diminished at the beginning of the full term of any member, whether or not the terms of one or more members commence and end at different times. No elected official may be rehired at a greater salary if he or she resigns and desires to be rehired during the unexpired term of office. He or she may be rehired after the term of office during which he or she resigned at a greater salary. All salaries shall be set by ordinance of the City Council and will be available for public inspection at the office of the Municipal Clerk.

(^88 Code, §§ 1-901, 1-902)

Statutory reference:

Compensation for merged offices, see Neb. RS 17-108.02

Compensation of elected offices regulated, see Neb. RS 17-612

§ 33.46 CONFLICT OF INTEREST.

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

BUSINESS ASSOCIATION.

(a) A business:

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

2. 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.

(b) 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)

IMMEDIATE FAMILY. 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)

OFFICER.

(a) Includes:

1. 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

2. Any elected municipal official.

(b) ***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 governing body, or anyone for its benefit, is a party. The existence of such an interest in any contract shall render the contract voidable by decree of a court of competent jurisdiction as to any person who entered into the contract or took assignment of the contract with actual knowledge of the prohibited conflict. An action to have a contract declared void under this section may be brought by the County Attorney, the governing body, or any resident within the jurisdiction of the governing body and shall be brought within 1 year after the contract is signed or assigned. The decree may provide for the reimbursement of any person for the reasonable value of all

money, goods, material, labor, or services furnished under the contract, to the extent that the governing body has benefitted 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 governing body and the interested officer:

(1) Makes a declaration on the record to the governing body responsible for approving the contract regarding the nature and extent of his 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 governing body declaring an interest in the contract would prevent the body with all members present from securing a quorum on the issue, then all members may vote on the matters; and

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

(D) An officer who has no business association with the business involved in the contract, or 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 all employees, or 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 divisions (H)(1)(a) through (H)(1)(e) of this section 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. This information shall be kept in the ledger for 5 years from the date of the officer's last day in office and shall include:

- (a) The names of the contracting parties;
- (b) The nature of the interest of the officer in question;
- (c) The date that the contract was approved by the governing body;
- (d) The amount of the contract; and
- (e) The basic terms of the contract.

(2) The information supplied relative to the contract shall be provided no later than 10 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 10 days after the 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 that body may have an interest.
(Neb. RS 49-14,103.06)
(84 Code, § 1-903)

Statutory reference:

Private gain by public officers, see Neb. RS 18-305 through 18-312

Utility officers permitted to serve in elected office, see Neb. RS 70-624.04

INTERGOVERNMENTAL RISK MANAGEMENT

§ 33.60 AUTHORITY.

The City Council and any one or more public agencies, as defined in Neb. RS 44-4303, may make and execute an agreement providing for joint and cooperative action in accordance with Neb. RS 44-4301 through 44-4339, to form, become members of, and operate a risk management pool for the purpose of providing to members risk management services and insurance coverages in the form of group self-insurance or standard insurance, including any combination of group self-insurance and standard insurance, to protect members against losses arising from any of the following:

(A) General liability;

(B) Damage, destruction, or loss of real or personal property, including but not limited to, loss of use or occupancy, and loss of income or extra expense resulting from loss of use or occupancy;

(C) Errors and omissions liability; and

(D) Workers' compensation liability.

(Neb. RS 44-4301 through 44-4339) (88 Code, § 1-1001)

CHAPTER 34: ELECTIONS

Section

- 34.01 Generally
- 34.02 Notice
- 34.03 Registered voters; qualifications
- 34.04 Special elections
- 34.05 Election of officers; certifications required
- 34.06 Officers; terms; qualifications
- 34.07 Partisan ballot; when allowed; requirements
- 34.08 Filing fee
- 34.09 Primary election; number of candidates filing
- 34.10 Petition, write-in, and other candidates for general election ballot; procedures
- 34.11 Exit polls

§ 34.01 GENERALLY.

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

(B) When the city holds an election in conjunction with the statewide primary or general election, the election shall be held as provided in the Election Act. Any other election held by the city shall be held as provided in the Election Act unless otherwise provided by the charter, code, or bylaws of the city.

(Neb. RS 32-404)

(88 Code, §§ 1-701, 1-706)

Statutory reference:

Statewide primary election, see Neb. RS 32-401

Statewide general election, see Neb. RS 32-404

Conformance to Election Act, see Neb. RS 32-404(1)

Notice, publication, and printing of ballots, see Neb. RS 32-801 through 32-822

Election costs, see Neb. RS 32-1201 through 32-1208

§ 34.02 NOTICE.

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

(`88 Code, § 1-707)

Statutory reference:

Notice of election requirements, see Neb. RS 32-802

§ 34.03 REGISTERED VOTERS; QUALIFICATIONS.

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

REGISTERED VOTER. An elector who has a current voter registration record on file with the Election Commissioner or County Clerk.

(Neb. RS 32-115)

(B) All registered voters residing within the corporate limits of the city on or before election day shall be entitled to vote at all city elections.

(Neb. RS 17-602)

(`88 Code, § 1-713)

Statutory reference:

Definition of elector, see Neb. RS 32-110

§ 34.04 SPECIAL ELECTIONS.

(A) (1) Except as provided in Neb. RS 77-3444, any issue to be submitted to the registered voters at a special election by the city shall be certified by the City Clerk to the Election Commissioner or County Clerk at least 50 days prior to the election. A special election may be held by mail as provided in Neb. RS 32-952 through 32-959. Any other special election shall be subject to division (B) of this section.

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

(3) After the Election Commissioner or County Clerk has received the certification of the issue to be submitted, he or she shall be responsible for all matters relating to the submission of

the issue to the registered voters, except that the City Clerk shall be responsible for the publication or posting of any required special notice of the submission of the issue other than the notice required to be given of the statewide election issues. The Election Commissioner or County Clerk shall prepare the ballots and issue ballots for early voting and shall also conduct the submission of the issue, including the receiving and counting of ballots on the issue. The election returns shall be made to the Election Commissioner or County Clerk. The ballots shall be counted and canvassed at the same time and in the same manner as the other ballots. Upon completion of the canvass of the vote by the County Canvassing Board, the Election Commissioner or County Clerk shall certify the election results to the City Council. The canvass by the County Canvassing Board shall have the same force and effect as if made by the City Council.

(Neb. RS 32-559)

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

(Neb. RS 32-405)

(^ 88 Code, § 1-708) (Ord. 402, passed 10-6-97)

§ 34.05 ELECTION OF OFFICERS; CERTIFICATION.

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 that 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) (^ 88 Code, § 1-716)

§ 34.06 OFFICERS; TERMS; QUALIFICATIONS.

(A) Elected officers of the city shall be nominated at the statewide primary election and elected at the statewide general election. All elected officers of the city shall serve for terms of 4 years or until their successors are elected and qualified.

(Neb. RS 32-533)

(B) The Mayor and Councilmembers shall be residents and registered voters of the city.

(C) The members of the City Council shall be elected from the city at large. Each ward of the city shall have 2 Councilmembers elected in the manner provided in the Election Act. The term of office shall begin on the first regular meeting of the City Council in December following the statewide general election. No person shall be eligible to the office of Councilmember who is not at the time of the election an actual resident of the ward for which he or she is elected and a registered voter. (^88 Code, §§ 1-702, 1-714, 1-719)

Statutory reference:

City Council, members, terms, qualifications, see Neb. RS 17-103 and 17-104

Mayor, qualifications, see Neb. RS 17-107

Merger of elective and appointive offices, see Neb. RS 17-108.02

Change from or to ward or at-large election, see Neb. RS 32-554

§ 34.07 PARTISAN BALLOT; WHEN ALLOWED; REQUIREMENTS.

All elective city offices shall be nominated and elected on a nonpartisan basis unless the City Council provides for a partisan ballot by ordinance. No ordinance providing for nomination and election on a partisan ballot shall permit affiliation with any party not recognized as a political party for purposes of the Election Act. Such ordinance providing for nomination and election on a partisan ballot shall be adopted and effective not less than 60 days prior to the filing deadline. (Neb. RS 32-557) (^88 Code, § 1-715)

§ 34.08 FILING FEE.

(A) (1) Any registered voter who was not a candidate in the primary election may have his or her name placed on the general election ballot for a partisan office by filing petitions as prescribed in this section and Neb. RS 32-621 or by nomination by political party convention or committee.

(2) Any candidate who was defeated in the primary election and any registered voter who was not a candidate in the primary election may have his or her name placed on the general election ballot if a vacancy exists on the ballot under Neb. RS 32-625(2) and the candidate files for the office by petition as prescribed in this section or files as a write-in candidate as prescribed in Neb. RS 32-615. (Neb. RS 32-616)

(B) Petitions for nomination shall conform to the requirements of Neb. RS 32-628. Petitions shall state the office to be filled and the name and address of the candidate. Petitions for partisan office shall also indicate the party affiliation of the candidate. Petitions shall be signed by registered voters residing in the ward in which the officer is to be elected, if candidates are chosen by ward, or residing in the city, if candidates are not chosen by ward, and shall be filed with the filing officer in the same manner as provided for candidate filing forms in Neb. RS 32-607. Petition signers and circulators shall conform to the requirements of Neb. RS 32-629 and 32-630. No petition for nomination shall be filed unless there is attached thereto a receipt showing payment of the filing fee required pursuant to Neb. RS 32-608. The petitions shall be filed by September 1 in the year of the general election. (Neb. RS 32-617)

(C) (1) The number of signatures of registered voters needed to place the name of a candidate upon the nonpartisan ballot for the general election shall be at least 10% of the total number of registered voters voting for Governor or President of the United States at the immediately preceding general election in the ward in which the officer is to be elected or in the city, as appropriate.

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

(Neb. RS 32-618) (^88 Code, § 1-709)

§ 34.11 EXIT POLLS.

No person shall conduct any exit poll, public opinion poll, or any other interview with voters on election day seeking to determine voter preference within 20 feet of the entrance of any polling place room, or, if inside the polling place building, within 100 feet of any voting booth.

(Neb. RS 32-1525) (^88 Code, § 1-720) Penalty, see § 10.99

CHAPTER 35: FINANCE AND REVENUE

Section

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- 35.02 Contracts and purchases; bidding and other requirements
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GENERAL PROVISIONS

§ 35.01 PUBLIC FUNDS DEFINED.

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

PUBLIC FUNDS. All money, including non-tax money, used in the operation and functions of governing bodies. If a municipality has a lottery established under the Nebraska County and City Lottery Act, only those net proceeds which are actually received by the county, city, or village from a licensed lottery operator shall be considered ***PUBLIC FUNDS***, and ***PUBLIC FUNDS*** shall not include amounts awarded as prizes.

(Neb. RS 13-503(7)) (88 Code, § 1-815)

§ 35.02 CONTRACTS AND PURCHASES; BIDDING AND OTHER REQUIREMENTS.

(A) Except as provided in Neb. RS 18-412.01 for a contract with a public power district to operate, renew, replace, or add to the electric distribution, transmission, or generation system of the municipality, no contract for enlargement or general improvements, such as water extensions, sewers, public heating system, bridges, work on streets, or any other work or improvement when the cost of such enlargement or improvement is assessed to the property, costing over \$20,000, shall be made unless it is first approved by the City Council.

(B) Except as provided in Neb. RS 18-412.01, before the City Council makes any contract in excess of \$20,000 for enlargement or general improvements, such as water extensions, sewers, public heating system, bridges, work on streets, or any other work or improvement when the cost of such enlargement or improvement is assessed to the property, an estimate of the cost shall be made by the Municipal Engineer and submitted to the City Council. In advertising for bids as provided in divisions (C) and (E) of this section, the City Council may publish the amount of the estimate.

(C) Advertisements for bids shall be required for any contract costing over \$20,000 entered into:

(1) For enlargement or general improvements, such as water extensions, sewers, public heating system, bridges, work on streets, or any other work or improvement when the cost of such enlargement or improvement is assessed to the property; or

(2) For the purchase of equipment used in the construction of such enlargement or general improvements.

(D) A municipal electric utility may enter into a contract for the enlargement or improvement of the electric system or for the purchase of equipment used for such enlargement or improvement without advertising for bids if the price is:

(1) \$20,000 or less;

(2) \$40,000 or less and the municipal electric utility has gross annual revenue from retail sales in excess of \$1,000,000;

(3) \$60,000 or less and the municipal electric utility has gross annual revenue from retail sales in excess of \$5,000,000;

(4) \$80,000 or less and the municipal electric utility has gross annual revenue from retail sales in excess of \$10,000,000.

(E) The advertisement provided for in division (C) of this section shall be published at least seven days prior to the bid closing in a legal newspaper published in or of general circulation in the municipality and, if there is no legal newspaper published in or of general circulation in the municipality, then in some newspaper of general circulation published in the county in which the municipality is located, and if there is no legal newspaper of general circulation published in the county in which the municipality is located, then in a newspaper, designated by the County Board, having a general circulation within the county where bids are required, and if no newspaper is published in the municipality or county, or if no newspaper has general circulation in the county, then by posting a written or printed copy thereof in each of three public places in the municipality at least seven days prior to the bid closing. In case of a public emergency resulting from infectious or contagious diseases, destructive windstorms, floods, snow, war, or an exigency or pressing necessity or unforeseen need calling for immediate action or remedy to prevent a serious loss of or serious injury or damage to life, health, or property, estimates of costs and advertising for bids may be waived in the emergency ordinance authorized by Neb. RS 17-613 when adopted by a $\frac{3}{4}$ vote of the City Council and entered of record.

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

(G) If the materials are of such a nature that, in the opinion of the manufacturer and with the concurrence of the City Council, no cost can be estimated until the materials have been manufactured or assembled to the specific qualifications of the purchasing municipality, the City Council may authorize the manufacture and assemblage of such materials and may thereafter approve the estimated cost expenditure when it is provided by the manufacturer.

(Neb. RS 17-568.01)

(H) Any municipal bidding procedure may be waived by the City Council:

(1) When materials or equipment are purchased at the same price and from the same seller as materials or equipment which have formerly been obtained pursuant to the state bidding procedure in Neb. RS 81-145 to 81-162; or

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

(I) Notwithstanding any other provisions of law or a home rule charter, a municipality which has established, by an interlocal agreement with any county, a joint purchasing division or agency may purchase personal property without competitive bidding if the price for the property has been established by the federal General Services Administration or the materiel division of the Department of Administrative Services. For purposes of this division (I):

(1) **PERSONAL PROPERTY** includes but is not limited to supplies, materials, and equipment used by or furnished to any officer, office, department, institution, board, or other agency; and

(2) **PURCHASING** or **PURCHASE** means the obtaining of personal property by sale, lease, or other contractual means.

(Neb. RS 18-1756)

(88 Code, § 1-819) (Ord. 416, passed 5-4-98)

Statutory reference:

Requirements for public lettings, see Neb. RS 73-101 et seq.

§ 35.03 ANNUAL AUDIT; FINANCIAL STATEMENTS.

(A) The City Council shall cause an audit of the municipal accounts to be made by a qualified accountant as expeditiously as possible following the close of the fiscal year. Such audit shall be made on a cash or accrual method at the discretion of the City Council. The said audit shall be completed and the annual audit report made not later than six months after the close of the fiscal year. The accountant making the audit shall submit not less than three copies of the audit report to the City Council. All public utilities or other enterprises which substantially generate their own revenue shall be audited separately, and the results of such audits shall appear separately in the annual audit report, and such audits shall be on an accrual basis and shall contain statements and materials which conform to generally accepted accounting principles. The audit report shall set forth the financial position and results of financial operations for each fund or group of accounts of the municipality as well as an opinion by the accountant with respect to the financial statements. Two copies of the annual audit report shall be filed with the Municipal Clerk, and shall become a part of the public records of the Municipal Clerk's office, and will at all times thereafter be open for public inspection. One copy shall be filed with the auditor of public accounts.

(B) The City Council shall provide and file with the Municipal Clerk not later than August 1 of each year financial statements showing its actual and budgeted figures for the most recently completed fiscal year.

(Neb. RS 13-606) (^88 Code, § 1-821)

Statutory reference:

State municipal auditing regulations; similar provisions, see Neb. RS 19-2901 through 19-2909

§ 35.04 CLAIMS; WARRANTS.

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

(B) All warrants drawn upon the municipal treasury must be signed by the Mayor and countersigned by the Municipal Clerk, stating the particular fund to which the warrant is chargeable, the person to whom payable, and for what particular object. No money shall be otherwise paid than upon warrants so drawn. Each warrant shall specify the amount included in the adopted budget statement for the fund upon which it is drawn and the amount already expended of such fund.

(Neb. RS 17-711) (^88 Code, § 1-810, 1-811)

Statutory reference:

Similar provisions, see Neb. RS 17-714 and 17-715

§ 35.05 EXPENDITURES.

(A) No municipal official shall have the power to appropriate, issue, or draw any order or warrant on the municipal treasury for money, unless the same has been appropriated or ordered by ordinance.

(Neb. RS 17-708)

(B) No expenditure for any improvement to be paid for out of the general fund of the municipality shall exceed in any one year the amount provided for that improvement in the adopted budget statement.

(^88 Code, § 1-808)

§ 35.06 COLLECTION OF SPECIAL ASSESSMENTS; PROCEDURE.

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

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

(C) A municipality that elects to collect its special assessments shall:

(1) File notice of the assessments and the amount of assessment being levied for each lot or tract of land to the Register of Deeds; and

(2) File a release of assessment upon final payment of each assessment with the Register of Deeds.

(Neb. RS 18-1216) (88 Code, § 1-822) (Ord. 407, passed 12-15-97)

§ 35.07 SPECIAL ASSESSMENT FUND.

All money received on special tax assessments shall be held by the Municipal Treasurer as a special fund to be applied to the payment of the improvement for which the assessment was made, and such money shall be used for no other purpose whatever, unless to reimburse the municipality for money expended for any such improvement.

(Neb. RS 17-710) (88 Code, § 1-813)

§ 35.08 SINKING FUNDS.

(A) The City Council, subject to the limitations set forth herein, shall have the power to levy a tax not to exceed that prescribed by state law upon the taxable value of all taxable property within the municipality for a term not to exceed that prescribed by state law in addition to the amount of tax which may be annually levied for the purposes of the adopted budget statement of the municipality, for the purpose of establishing a sinking fund for the construction, purchase, improvement, extension, original equipment, or repair, not including maintenance, of the approved uses as authorized by state law.

(Neb. RS 19-1302)

(B) To initiate the sinking fund, the City Council shall declare its purpose by resolution to submit to the qualified electors of the municipality the proposition to provide the improvement at the next general municipal election. The resolution shall set forth a clear description of the improvement,

the estimated cost, the amount of the annual levy, over a definite period of years (not exceeding ten years) required to pay such cost, and the specific name or designation for the sinking fund sought to be established to carry out the planned improvement, together with a statement of the proposition for placement upon the ballot at such election. Notice of the proposition shall be published in its entirety three times on successive weeks before the day of the election in a legal newspaper of general circulation in the municipality. The sinking fund may be established after the election if a majority or more of the legal votes were in favor of the establishment of the fund. The City Council may then proceed to establish the fund in conformity with the provisions of the proposition and applicable state law. The funds received by the Municipal Treasurer shall, as they accumulate, be immediately invested with the written approval of the City Council in the manner provided by state law. No sinking fund so established shall be used for any purpose or purposes contrary to the purpose as it appeared on the ballot unless the City Council is authorized to do so by 60% of the qualified electors of the municipality voting at a general election favoring such a change in the use of the sinking fund. (88 Code, § 1-814)

Statutory reference:

Similar provisions, see Neb. RS 19-1301 through 19-1304

Investment of funds, see Neb. RS 77-2337 and 77-2341

§ 35.09 DEPOSIT OF FUNDS.

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

(B) (1) The City Council shall require from all banks or capital stock financial institutions:

(a) A bond in such penal sum as may be the maximum amount on deposit at any time less the amount insured by the Federal Deposit Insurance Corporation; or, in lieu thereof

(b) Security given as provided in the Public Funds Deposit Security Act to secure the payment of all such deposits and accretions.

(2) The City Council shall approve such bond or giving of security. The Municipal Treasurer shall not be liable for any loss of any money sustained by reason of the failure of any such depository so designated and approved. The fact that a stockholder, director, or other officer of such bank or capital stock financial institution is also serving as Mayor, as a member of the City Council, or as any other officer of the municipality shall not disqualify such bank or capital stock financial institution from acting as a depository for such municipal funds.

(Neb. RS 17-607)

(C) The insurance afforded to depositors in banks or capital stock financial institutions through the Federal Deposit Insurance Corporation shall be deemed and construed to be a surety bond to the extent that the deposits are insured by such corporation. For deposits so insured, no other surety bond or other security shall be required. The provisions of Neb. RS 77-2366 shall apply to deposits in capital stock financial institutions.

(Neb. RS 77-2362)

(D) The Municipal 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 municipality is situated, if the municipality 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 municipality, 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) (88 Code, § 1-816)

Statutory reference:

Deposits of public funds regulated, see Neb. RS 77-2362 through 77-2364

Public Funds Deposit Security Act, see Neb. RS 77-2386 through 77-2397

§ 35.10 CERTIFICATES OF DEPOSIT; TIME DEPOSITS; CONDITIONS.

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

(Neb. RS 17-720)

(B) For the security of the fund so deposited, the Municipal Treasurer shall require each depository to give bond for the safekeeping and payment of such deposits and the accretions thereof, which bond shall run to the municipality and be approved by the Mayor. The bond shall be conditioned that such a depository shall, at the end of every quarter, render to the Treasurer a statement in duplicate, showing the several daily balances, the amount of money of the municipality held by it during the quarter, the amount of the accretion thereto, and how credited. The bond shall also be conditioned that the depository shall generally do and perform whatever may be required by the provisions of this section and all regulations imposed by law or adopted by the City Council for the receiving and holding thereof and shall faithfully discharge the trust reposed in the depository. The bond shall be as nearly as practicable in the form provided in Neb. RS 77-2304. No person in any way connected with any depository as an officer or stockholder shall be accepted as a surety on any bond given by the depository of which he or she is an officer or stockholder. The bond shall be deposited with the Municipal Clerk.
(Neb. RS 16-714)

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

(D) The Treasurer shall not have on deposit in any bank or capital stock financial institution at any time more than the amount insured by the Federal Deposit Insurance Corporation plus the maximum amount of the bond given by the bank or capital stock financial institution if the bank or capital stock financial institution gives a surety bond, nor in any bank or capital stock financial institution giving a personal bond, more than the amount insured by the Federal Deposit Insurance Corporation plus ½ of the amount of the bond of such bank or capital stock financial institution, and the amount so on deposit any time with any such bank or capital stock financial institution shall not in either case exceed the amount insured by the Federal Deposit Insurance Corporation plus the paid-up capital stock and surplus of such bank or capital stock financial institution. The Treasurer shall not be liable for any loss sustained by reason of the failure of any such bonded depository whose bond has been duly approved by the Mayor as provided in division (B) of this section or which has, in lieu of a surety bond, given security as provided in division (C) of this section.
(Neb. RS 16-716)

Statutory reference:

Applicability of Neb. RS 16-714 to 16-716, see Neb. RS 17-720

Public Funds Deposit Security Act, See Neb. RS 77-2386 through 77-23.106

§ 35.11 INVESTMENT OF FUNDS.

Whenever a city has accumulated a surplus of any fund in excess of its current needs or has accumulated a sinking fund for the payment of its bonds and the money in such sinking fund exceeds the amount necessary to pay the principal and interest of any such bonds which become due during the

current year, the City Council may invest any such surplus in certificates of deposit, in time deposits, and in any securities in which the state investment officer is authorized by law and as provided in the authorized investment guidelines of the Nebraska Investment Council in effect on the date the investment is made.

(Neb. RS 77-2341(1)) (88 Code, § 1-817) (Ord. 336, passed 2-5-90)

Statutory reference:

Investment in bonds, see Neb. RS 17-608 and 17-609

Investment in cooperative credit associations, see Neb. RS 21-1316.01

Investment of funds, see Neb. RS 77-2337 and 77-2341

§ 35.12 BOND ISSUES.

The City Council may, after meeting all the requirements of state law, issue bonds, fund bonds, and retire bonds for such purposes as may be permitted by state law. The City Council shall have the authority to levy special assessments for the payment of interest and principal on such bonds and may spread the payments up to the maximum number of years permitted by state law.

(88 Code, § 1-818)

Statutory reference:

Bonds in general, see Neb. RS 18-1801 through 18-1805

Boundary bridge bonds, see Neb. RS 39-835 through 39-842.01

Cemetery bonds, see Neb. RS 12-1001 through 12-1004 and RS 17-939

Cold storage plant bonds, see Neb. RS 17-958

Compromise of indebtedness, see Neb. RS 10-301 through 10-305

Dikes, see Neb. RS 17-529.01

Flood control project bonds, see Neb. RS 17-529.08

Funding and refunding bonds, see Neb. RS 10-606 through 10-614

General provisions, see Neb. RS 10-101 through 10-143

Internal improvement bonds, see Neb. RS 10-401 through 10-411

Joint power plant bonds, see Neb. RS 17-911

Library bonds, see Neb. RS 17-968

Medical and multiunit facility bonds, see Neb. RS 23-3513

Tax anticipation bonds, see Neb. RS 18-1202

Power plant bonds, see Neb. RS 17-908

Tax anticipation bonds, see Neb. RS 18-1202

Uniform registration and cancellation of bonds, see Neb. RS 10-201 through 10-209

Utilities bonds, see Neb. RS 17-905

Waterworks bonds, see Neb. RS 17-534

§ 35.13 DEBT COLLECTION; AUTHORITY TO CONTRACT WITH COLLECTION AGENCY.

(A) The municipality may contract to retain a collection agency licensed pursuant to Neb. RS 45-601 through 45-622, within or without this state, for the purpose of collecting public debts owed by any

person to the municipality.

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

(1) There has been an attempt to advise the debtor by first-class mail, postage prepaid, at the last known address of the debtor:

(a) Of the existence of the debt;

(b) That the debt may be assigned to a collection agency for collection if the debt is not paid; and

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

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

(D) For purposes of this section, debt shall include all delinquent fees or payments except delinquent property taxes or real estate. In the case of debt arising as a result of an order or judgment of a court in a criminal or traffic matter, a collection fee may be added to the debt. The collection fee shall be \$25 or 4-1/2% of the debt, whichever is greater. The collection fee shall be paid by the person who owes the debt directly to the person or agency providing the collection service.

(Neb. RS 45-623)

§ 35.14 CREDIT CARDS; AUTHORITY TO ACCEPT.

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

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

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

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

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

(F) When authorizing acceptance of credit card or charge card payments, the City Council shall be authorized but not required to impose a surcharge or convenience fee upon the person making a payment by credit card or charge card so as to wholly or partially offset the amount of any discount or administrative fees charged to the municipality. The surcharge or convenience fee shall be applied only when allowed by the operating rules and regulations of the credit card or charge card involved or when authorized in writing by the credit card or charge card company involved. When a person elects to make a payment to the municipality by credit card or charge card and such a surcharge or convenience fee is imposed, the payment of such surcharge or convenience fee shall be deemed voluntary by such person and shall be in no case refundable.
(Neb. RS 13-609)

ANNUAL BUDGET

§ 35.30 FISCAL YEAR.

The fiscal year of the municipality and any public utility of the municipality commences on October 1 and extends through the following September 30 except as provided in the Municipal Proprietary Function Act.
(Neb. RS 17-701) (^88 Code, § 1-801)

§ 35.31 BUDGET PROCEDURES.

The budget instruction manual prepared by the Auditor of Public Accounts is incorporated by reference for the purpose of proper budget preparation.
(^84 Code, § 1-805)

§ 35.32 EXPENDITURES PRIOR TO ADOPTION OF BUDGET.

(A) On and after the first day of its fiscal year in 1993 and of each succeeding year and until the adoption of the budget by the City Council in September, the City Council may expend any balance of cash on hand for the current expenses of the municipality. Except as provided in division (B) of this section, such expenditures shall not exceed an amount equivalent to the total amount expended under the last budget in the equivalent period of the prior budget year. Such expenditures shall be charged against the appropriations for each individual fund or purpose as provided in the budget when adopted. (Neb. RS 13-509.01)

(B) The restriction on expenditures in division (A) of this section may be exceeded upon the express finding of the City Council that expenditures beyond the amount authorized are necessary to enable the municipality to meet its statutory duties and responsibilities. The finding and approval of the expenditures in excess of the statutory authorization shall be adopted by the City Council in open public session. Expenditures authorized by this section shall be charged against appropriations for each individual fund or purpose as provided in the budget when adopted, and nothing in this section shall be construed to authorize expenditures by the municipality in excess of that authorized by any other statutory provision. (Neb. RS 13-509.02)

§ 35.33 PROPOSED BUDGET STATEMENT; CONTENTS; FILING.

(A) The City Council shall prepare in writing and file with the Municipal Clerk, not later than the first day of August of each year on forms prescribed and furnished by the Auditor of Public Accounts, a proposed budget statement containing the following information, except as provided by state law:

(1) For the immediate two prior fiscal years, the revenue from all sources, including motor vehicle taxes, other than revenue received from personal and real property taxation, allocated to the funds and separately stated as to each such source: The unencumbered cash balance at the beginning and end of the year; the amount received by taxation of personal and real property; and the amount of actual expenditures;

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

(3) For the immediately ensuing fiscal year, an estimate of revenue from all sources, including motor vehicle taxes, other than revenue to be received from taxation of personal and real property, separately stated as to each such source: The actual or estimated unencumbered cash balances, whichever is applicable, to be available at the beginning of the year; the amounts proposed to

be expended during the year; and the amount of cash reserve, based on actual experience of prior years, which cash reserve shall not exceed 50% of the total budget adopted exclusive of capital outlay items;

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

(5) A uniform summary of the proposed budget statement, including each proprietary function fund included in a separate proprietary budget statement prepared pursuant to the Municipal Proprietary Function Act, and a grand total of all funds maintained by the City Council; and

(6) A list of the proprietary functions which are not included in the budget statement. Such proprietary functions shall have a separate budget statement which is approved by the City Council as provided in the Municipal Proprietary Function Act.

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

(Neb. RS 13-504)

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

(Neb. RS 13-505) ('88 Code, §§ 1-802, 1-820) (Ord. 403, passed 10-6-97)

§ 35.34 PROPOSED BUDGET STATEMENT; HEARING; ADOPTION; CERTIFICATION OF AMOUNT TO BE RECEIVED FROM TAXATION.

(A) After the filing of the proposed budget statement with the Municipal Clerk, the City Council shall each year conduct a public hearing on the proposed budget statement. Notice of the place and time of the hearing, together with a summary of the proposed budget statement, shall be published at least five days prior to the date set for the hearing in a newspaper of general circulation within the municipality or by direct mailing of the notice to each resident within the municipality.

(B) After the hearing, the proposed budget statement shall be adopted, or amended and adopted as amended, and a written record shall be kept of such hearing. The amount to be received from personal and real property taxation shall be certified to the levying board after the proposed budget statement is adopted, or is amended and adopted as amended. The certification of the amount to be received from personal and real property taxation shall specify separately:

(1) The amount to be applied to the payment of principal or interest on bonds issued by the City Council; and

(2) The amount to be received for all other purposes.

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

(Neb. RS 13-506)

(D) When a levy increase has been authorized by vote of the electors, the adopted budget statement shall indicate the amount of the levy increase.

(Neb. RS 13-507) (88 Code, § 1-803) (Ord. 443, passed 5-7-01)

§ 35.35 ADOPTED BUDGET STATEMENT; FILING; CERTIFICATION OF AMOUNT OF TAX.

(A) (1) After publication and hearing on the proposed budget statement and within the time prescribed by law, the City Council shall file with and certify to the levying board on or before September 20 of each year and file with the Auditor of Public Accounts, a copy of the adopted budget statement, together with the amount of the tax required to fund the adopted budget, setting out separately:

(a) The amount to be levied for the payment of principal or interest on bonds issued by the City Council; and

(b) The amount to be levied for all other purposes.

(2) Proof of publication shall be attached to the statements.

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

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

(Neb. RS 13-508) (88 Code, § 1-804) (Ord. 406, passed 12-15-97)

§ 35.36 APPROPRIATION BILL.

The City Council shall adopt a budget statement pursuant to the Nebraska Budget Act, to be termed "The Annual Appropriation Bill," in which are appropriated such sums of money as may be deemed necessary to defray all necessary expenses and liabilities of the municipality. (Neb. RS 17-706) (88 Code, § 1-806)

§ 35.37 REVISION OF BUDGET.

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

(1) There are circumstances which could not reasonably have been anticipated at the time the budget for the current year was adopted;

(2) The budget adopted violated Neb. RS 13-518 to 13-522, such that the revenue of the current fiscal year for any fund thereof will be insufficient, additional expenses will be necessarily incurred, or there is a need to reduce the budget requirements to comply with Neb. RS 13-518 to 13-522; or

(3) The City Council has been notified by the State Auditor of a mathematical or accounting error or noncompliance with the Nebraska Budget Act.

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

(1) The time and place of the hearing;

(2) The amount in dollars of additional or reduced money required and for what purpose;

(3) A statement setting forth the nature of the unanticipated circumstances and, if the budget requirements are to be increased, the reasons why the previously adopted budget of expenditures cannot be reduced during the remainder of the current year to meet the need for additional money in that manner; and

(4) A copy of the summary of the originally adopted budget previously published.

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

(D) Upon conclusion of the public hearing on the proposed revised budget and approval of the proposed revised budget by the City Council, the City Council shall file with the County Clerk of the county or counties in which such City Council is located, and with the State Auditor, a copy of the revised budget, as adopted, and shall certify the revised amount of tax to be levied. The City Council may then issue warrants in payment for expenditures authorized by the adopted revised budget. Such warrants shall be referred to as registered warrants and shall be repaid during the next fiscal year from funds derived from taxes levied therefor.

(E) Within 30 days after the adoption of the budget under Neb. RS 13-506, the City Council may, or within 30 days after notification of an error by the State 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 County Clerk of the county or counties in which such City Council is located and with the State Auditor. The City Council may then issue warrants in payment for expenditures authorized by the budget.
(Neb. RS 13-511)

§ 35.38 PROPRIETARY FUNCTIONS; FISCAL YEAR; BUDGET STATEMENTS; FILING; HEARING; ADOPTION; RECONCILIATION.

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

(B) The City Council may establish a separate fiscal year for each proprietary function, except that any proprietary function which is subsidized by appropriations from the municipality's general fund shall have the same fiscal year as the municipality. For purposes of this section, **SUBSIDIZATION** shall mean that the costs of operation of a proprietary function are regularly financed by appropriations from the municipality's general fund in excess of the amount paid by the municipality to the proprietary function for actual service or services received.
(Neb. RS 18-2804)

(C) (1) If the municipality does not include its proprietary functions in its municipal budget statement, a proposed proprietary statement shall be prepared in writing on forms provided by the State Auditor and filed with the Municipal Clerk, at least 30 days prior to the start of the fiscal year of each proprietary function, containing the following information:

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

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

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

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

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

(D) (1) After the proposed proprietary budget statement is filed with the Municipal Clerk, the City Council shall conduct a public hearing on such statement. Notice of the time and place of the hearing, a summary of the proposed proprietary budget statement, and notice that the full proposed proprietary budget statement is available for public review with the Municipal Clerk during normal business hours shall be published at least five days prior to the hearing in a newspaper of general circulation within the City Council's jurisdiction or by mailing each resident within the City Council's jurisdiction.

(2) After such hearing, the proposed proprietary budget statement shall be adopted or amended and adopted as amended, and a written report shall be kept of such hearing. If the adopted proprietary budget statement reflects a change from the proposed proprietary statement presented at the hearing, a copy of the adopted proprietary budget statement shall be filed with the Municipal Clerk within 20 days after its adoption and published in a newspaper of general circulation within the City Council's jurisdiction or by mailing to each resident within the City Council's jurisdiction.
(Neb. RS 18-2806)

(E) If the actual expenditures for a proprietary function exceed the estimated expenditures in the proprietary budget statement during its fiscal year, the City Council shall adopt a proprietary function reconciliation statement within 90 days after the end of such fiscal year which reflects any difference between the adopted proprietary budget statement for the previous fiscal year and the actual expenditures and revenue for such fiscal year. After the adoption of a proprietary function reconciliation statement, it shall be filed with the Municipal Clerk and published in a newspaper of general circulation within the City Council's jurisdiction or by mailing to each resident within the City

Council's jurisdiction. If the difference between the adopted proprietary budget for the previous fiscal year and the actual expenditures and revenues for such fiscal year is greater than 10%, the proprietary function reconciliation statement shall only be adopted following a public hearing.
(Neb. RS 18-2807)

(F) Any income from a proprietary function which is transferred to the general fund of the municipality shall be shown as a source of revenue in the municipal budget statement created pursuant to the Nebraska Budget Act.
(Neb. RS 18-2808)

TAX LEVIES

§ 35.60 PROPERTY TAX LEVY; MAXIMUM; AUTHORITY TO EXCEED.

(A) Property tax levies for the support of the municipality for fiscal years beginning on or after July 1, 1998, shall be limited to the amounts set forth in this division (A), except as provided in division (C) of this section. The municipality may levy a maximum levy of \$0.45 per \$100 of taxable valuation of property subject to the levy plus an additional \$0.05 per \$100 of taxable valuation to provide financing for the municipality's share of revenue required under an agreement or agreements executed pursuant to the Interlocal Cooperation Act. The maximum levy shall include amounts levied to pay for sums to support a library pursuant to Neb. RS 51-201, museum pursuant to Neb. RS 51-501, visiting community nurse, home health nurse, or home health agency pursuant to Neb. RS 71-1637, or statue, memorial, or monument pursuant to Neb. RS 80-202. Property tax levies for judgments obtained against the municipality which require or obligate the municipality to pay such judgment, to the extent such judgment is not paid by liability insurance coverage of the municipality, for preexisting lease-purchase contracts approved prior to July 1, 1998, and for bonded indebtedness approved according to law and secured by a levy on property are not included in the levy limits established by this division (A). The limitations on tax levies provided in this division (A) are to include all other general or special levies provided by law. Notwithstanding other provisions of law, the only exceptions to the limits in this division (A) are those provided by or authorized by this section. Tax levies in excess of the limitations in this section shall be considered unauthorized levies under Neb. RS 77-1606 unless approved under division (C) of this section.

(B) (1) All city airport authorities established under the Cities Airport Authorities Act, community redevelopment authorities established under the Community Development Law, and offstreet parking districts established under the Offstreet Parking District Act may be allocated property taxes as authorized by law which are authorized by the municipality and are counted in the municipality's levy limit provided by division (A) of this section, except that such limitation shall not apply to property tax levies for preexisting lease-purchase contracts approved prior to July 1, 1998, and for bonded indebtedness approved according to law and secured by a levy on property. The City Council shall review and approve or disapprove the levy request of the political subdivisions subject to this division (B). The City Council may approve all or a portion of the levy request and may approve a

levy request that would allow a levy greater than that permitted by law. The levy allocated by the municipality may be exceeded as provided in division (C) of this section. On or before August 1, all political subdivisions subject to municipal levy authority under this division (B) shall submit a preliminary request for levy allocation to the City Council. The preliminary request of the political subdivision shall be in the form of a resolution adopted by a majority vote of members present of the political subdivision's governing body. The failure of a political subdivision to make a preliminary request shall preclude such political subdivision from using procedures set forth in Neb. RS 77-3444 to exceed the final levy allocation as determined in this division (B).

(2) The City Council shall:

(a) Adopt a resolution by a majority vote of members present which determines a final allocation of levy authority to its political subdivisions; and

(b) Forward a copy of such resolution to the chairperson of the governing body of each of its political subdivisions.

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

(C) (1) The municipality may exceed the limits provided in division (A) of this section by an amount not to exceed a maximum levy approved by a majority of registered voters voting on the issue in a primary, general, or special election at which the issue is placed before the registered voters. A vote to exceed the limits must be approved prior to October 10 of the fiscal year which is to be the first to exceed the limits.

(2) The City Council may call for the submission of the issue to the voters:

(a) By passing a resolution calling for exceeding the limits by a vote of at least 2/3 of the members of the City Council and delivering a copy of the resolution to the County Clerk or Election Commissioner of every county which contains all or part of the municipality; or

(b) Upon receipt of a petition by the County Clerk or Election Commissioner of every county containing all or part of the municipality requesting an election signed by at least 5% of the registered voters residing in the municipality.

(3) The resolution or petition shall include the amount of levy which would be imposed in excess of the limits provided in division (A) of this section and the duration of the excess levy authority. The excess levy authority shall not have a duration greater than five years. Any resolution or petition calling for a special election shall be filed with the County Clerk or Election Commissioner no later than 30 days prior to the date of the election and the time of publication and providing a copy of the notice of election required in Neb. RS 32-802 shall be no later than 20 days prior to the election. The County Clerk or Election Commissioner shall place the issue on the ballot at an election as called for in the resolution or petition which is at least 30 days after receipt of the resolution or petition. The

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

(D) (1) The municipality may rescind or modify a previously approved excess levy authority prior to its expiration by a majority of registered voters voting on the issue in a primary, general, or special election at which the issue is placed before the registered voters. A vote to rescind or modify must be approved prior to October 10 of the fiscal year for which it is to be effective.

(2) The City Council may call for the submission of the issue to the voters:

(a) By passing a resolution calling for the rescission or modification by a vote of at least 2/3 of the members of the City Council and delivering a copy of the resolution to the County Clerk or Election Commissioner of every county which contains all or part of the municipality; or

(b) Upon request of a petition by the County Clerk or Election Commissioner of every county containing all or part of the municipality requesting an election signed by at least 5% of the registered voters residing in the municipality.

(3) The resolution or petition shall include the amount and the duration of the previously approved excess levy authority and a statement that either such excess levy authority will be rescinded or such excess levy authority will be modified. If the excess levy authority will be modified, the amount and duration of such modification shall be stated. The modification shall not have a duration greater than five years. The County Clerk or Election Commissioner shall place the issue on the ballot at an election as called for in the resolution or petition which is at least 30 days after receipt of the resolution or petition and the time of publication and providing a copy of the notice of election required

in Neb. RS 32-802 shall be no later than 20 days prior to the election. The election shall be held pursuant to the Election Act.

(^88 Code, § 1-807)

Statutory reference:

Similar provisions, see Neb. RS 77-3442 through 77-3444

§ 35.61 PROPERTY TAX; CERTIFICATION OF AMOUNT.

The City Council shall, at the time and in the manner provided by law, cause to be certified to the County Clerk the amount of tax to be levied upon the taxable value of all the taxable property of the municipality which the municipality requires for the purposes of the adopted budget statement for the ensuing year, including all special assessments and taxes assessed as otherwise provided. Subject to Neb. RS 77-3442, the maximum amount of tax which may be so certified, assessed, and collected shall not require a tax levy in excess of the amounts specified in Neb. RS 17-702.

(Neb. RS 17-702)

§ 35.62 PROPERTY TAX LEVY AND REQUEST; AUTHORITY TO SET.

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

(B) The hearing notice shall contain the following information:

(1) The dollar amount of the prior year's tax request and the property tax rate that was necessary to fund that tax request;

(2) The property tax rate that would be necessary to fund last year's tax request if applied to the current year's valuation; and

(3) The proposed dollar amount of the tax request for the current year and the property tax rate that will be necessary to fund that tax request.

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

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

(Neb. RS 77-1601.02) (^88 Code, § 1-823) (Ord. 408, passed 12-15-97)

Statutory reference:

Similar provisions, see Neb. RS 77-1601.02

§ 35.63 CITY SALES TAX.

On and after the first day of April, 1983, pursuant to the provisions of the Local Option Revenue Act, Neb. RS 77-27,142, as amended, there is hereby imposed a sales and use tax of 1% upon the same transactions within the corporate limits of the city on which the state of Nebraska is authorized to impose a tax pursuant to the provisions of the Local Option Revenue Act.
(^88 Code, § 1-809)

§ 35.64 MOTOR VEHICLE TAX.

The City Council may levy a tax on all motor vehicles owned or used in the city, which tax shall be paid to the County Treasurer of the county in which the city is located when the registration fees as provided in the Motor Vehicle Registration Act are paid. These taxes shall be credited by the County Treasurer to the road fund of the city. These funds shall be used by the city for constructing, resurfacing, maintaining, or improving streets, roads, alleys, public ways, or parts thereof, or for the amortization of bonded indebtedness when created for those purposes.
(Neb. RS 18-1214)

Statutory reference:

Motor Vehicle Registration Act, see Neb. RS 60-301 et seq.

TITLE V: PUBLIC WORKS

Chapter

50. GENERAL PROVISIONS

51. WATER

52. SEWERS

53. SOLID WASTE

54. ELECTRIC

CHAPTER 50: GENERAL PROVISIONS

Section

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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
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§ 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.

(88 Code, § 3-301)

§ 50.03 DISCONTINUANCE OF SERVICE; NOTICE PROCEDURE.

(A) The municipality shall have the right to discontinue utility services and remove its properties if the charges for such services are not paid within seven days after the date that the charges become delinquent. Before any termination, the municipality shall first give notice by first-class mail or in person to any domestic subscriber whose service is proposed to be terminated. If notice is given by first-class mail, such mail shall be conspicuously marked as to its importance. Service shall not be discontinued for at least seven days, weekends and holidays excluded, after notice is sent or given. As to any subscriber who has previously been identified as a welfare recipient to the 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.

(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.

(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.

(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.

(88 Code, § 3-303) (Ord. 410, passed 1-5-98)

Statutory reference:

Utility discontinuance regulated, see Neb. RS 70-1602 et seq.

§ 50.04 DIVERSION OF SERVICES, METER TAMPERING, UNAUTHORIZED RECONNECTION, PROHIBITED; EVIDENCE.

(A) Any person who 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 water may be consumed without passing through the meter provided for measuring or registering the amount or quantity passing through it, and any person who knowingly uses or knowingly permits the use of water obtained in the above mentioned unauthorized ways, shall be deemed guilty of an offense.

(Neb. RS 86-329)

(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 water passing through it, without the knowledge and consent of the municipality shall be deemed guilty of an offense.

(Neb. RS 86-330)

(C) When water service has been disconnected pursuant to Neb. RS 70-1601 to 70-1615, or § 50.03 of this code, 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 pipe or conduit connection or reconnection or of any injury, alteration, or obstruction of a meter, as provided in this section, shall be taken as prima facie evidence of the guilt of the person in possession of the premises where such connection, reconnection, injury, alteration, or obstruction is proved to exist.

(Neb. RS 86-331) (88 Code, § 3-304) 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 86-331.02)

(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 86-331.03)

(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 86-331.04)

Statutory reference:

Definitions related to diversion of utility services, see Neb. RS 86-331.01

§ 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.

(^88 Code, § 3-305)

Statutory reference:

Lien authorized for water and sewer delinquency, see Neb. RS 17-538 and 17-925.01

Assessments authorized, see Neb. RS 18-503

§ 50.07 RESIDENTIAL RENTAL PROPERTY.

Upon receipt of notice by the Municipal Clerk that the occupant of residential rental property is vacating the same, and desires that the utilities no longer be placed in his or her name, the City Clerk shall immediately so note on the utility billing record for such rental property and utilities shall then be disconnected, unless the owner of such residential rental property notifies the Municipal Clerk that he or she desires the utilities be placed in his or her name, at which time he shall make a deposit for the same and be liable for such future bills.

(^88 Code, § 3-306) (Ord. 332, passed 7-3-89; Am. Ord. 341, passed 6-4-90)

§ 50.08 DEPOSIT; RECONNECTION FEE.

(A) Any customer desiring service shall be required to make a joint service deposit for all municipal utilities. Such deposit for residential service shall be in the amount of \$100. Such deposit for commercial service shall be in the amount of one and one half times the average monthly bill, such average being computed on the basis of the previous 12-month period of business being sold and purchased, unless it is a new business in which case the deposit shall be in the amount of \$200.

(B) Any customer desiring rural trash service shall be required to make a deposit for such service. Such deposit for rural trash service shall be in the amount of 2 times the amount of the rural rate outside the city limits. Rates for solid waste shall be as follows:

- (1) Within 1 mile of the city limits: \$15 per month = \$30 deposit;
- (2) Between 1 and 5 miles of the city limits: \$20 per month = \$40 deposit;
- (3) Between 5 and 10 miles of the city limits: \$25 per month = \$50 deposit; and
- (4) Beyond 10 miles of the city limits: \$30 per month = \$60 deposit.

(C) At the beginning of every month, the City Clerk shall review those deposits which have been held by the City Clerk for a period of 12 months. If a customer has not been delinquent in the payment of his or her utilities/rural trash bill for the previous 12 months, then such deposit shall be returned to the customer in whose name such deposit was made, without interest. If a customer was delinquent in the payment of his or her utilities/rural trash bill for any one or more month(s) in the previous 12-month period, the City Clerk shall hold such deposit for an additional 12 months, and at the end of such additional period, the City Clerk shall once again review such customer's payment record to determine if such customer was delinquent in the payment of his or her utilities/rural trash bill. Such deposit shall not be returned to such customer until the customer can establish a payment record in which he or she was not delinquent in the payment of his or her utilities/rural trash bill for the previous 12-month period.

(D) If, after the return of a deposit, a customer becomes delinquent in the payment of his or her utilities/rural trash bill, the City Clerk shall require such customer to make a deposit in the amount as set in this section, such deposit to be held as set forth in this section for a 12-month period. The City Clerk shall once again review such customer's payment record to see if such customer has been delinquent in the payment of his or her utilities/rural trash bill for the previous 12 months before return of such deposit, without interest. In the event that a customer fails to make such deposit after ten days notice from the City Clerk, such customer's utilities shall be disconnected, or in the case of rural trash customers, their dumpster will be picked up, until he or she has made such deposit.

(E) There shall also be a reconnection fee or pick up fee for dumpsters of \$25, to be charged each time the utilities/rural trash service is reconnected or dumpster is dropped back off to a customer after disconnection of such utilities/rural trash service for nonpayment of his or her bill.

(^88 Code, § 3-302) (Ord. 386, passed 3-3-97; Am. Ord. 488, passed 1-19-04)

Water

CHAPTER 51: WATER

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GENERAL PROVISIONS

§ 51.01 DEFINITIONS.

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

MAIN. Any pipe other than a supply or service pipe that is used for the purpose of carrying water to, and dispersing the same in the municipality.

SEPARATE PREMISE. More than one consumer procuring water from the same service or supply pipe. The second premise may be a separate dwelling, apartment, building, or structure used for a separate business.

SERVICE PIPE. Any pipe extending from the shut-off, stop box, or curb cock at or near the lot line to and beyond the property line of the consumer to the location on the premise where the water is to be dispersed.

SUPPLY PIPE. Any pipe tapped into a main and extending from there to a point at or near the lot line of the consumer's premise where the shut-off, stop box, or curb cock is located.
(`88 Code, § 3-102)

§ 51.02 MANDATORY HOOK-UP.

All persons within 300 feet of a water main shall be required, upon notice by the City Council, to hook-up with the Municipal Water System.
(Neb. RS 17-539) (`88 Code, § 3-116)

§ 51.03 CONSUMER APPLICATION.

Every person or persons desiring a supply of water must make application therefor to the Utilities Superintendent. The Utilities Superintendent may require any applicant to make a service deposit in such amount as he or she deems necessary subject to the review of the City Council. Water may not be supplied to any house or private service pipe except upon the written order of the Utilities Superintendent. The Department shall not supply to any person outside the corporate limits water service without special permission from the City Council; provided, the entire cost of laying mains, service pipe, and supply pipe shall be paid by the consumer. Nothing herein shall be construed to obligate the municipality to provide water service to non-residents.
(Neb. RS 17-537, 17-902, 19-2701) (`88 Code, § 3-103)

§ 51.04 CONTRACT.

The municipality through its Water Department, shall furnish water to persons within its corporate limits whose premises abut a street or alley in which a commercial main now is or may hereafter be laid. The municipality may furnish water to persons within its corporate limits whose premises do not abut a street or alley in which a municipal commercial main is now or may hereafter be laid and may also furnish water to persons whose premises are situated outside the corporate limits of the municipality, as and when, according to law, the City Council may see fit to do so. The rules, regulations, and water rates hereinafter named in this chapter, shall be considered a part of every application hereafter made for water service and shall be considered a part of the contract between every consumer now or hereafter served. Without further formality, the making of application on the part of any applicant or the use or consumption of water service by present consumers thereof and the furnishing of water service to the consumer shall constitute a contract between the consumer and the municipality, to which contract both parties are bound. If the consumer shall violate any of the provisions of the contract or any reasonable rules and regulations that the City Council may hereafter adopt, the Utilities Superintendent or his or her agent, may cut off or disconnect the water service from the building or premise or place of such violation. No further connection for water service to the building, premise, or place shall again be made save or except by order of the Superintendent or his or her agent.

(^88 Code, § 3-104)

§ 51.05 CONTRACT NOT TRANSFERABLE.

Contracts for water service are not transferable. Any person wishing to change from one location to another shall make a new application and sign a new contract. If any consumer shall move from the premise where service is furnished, or if the premise is destroyed by fire or other casualty, he or she shall at once inform the Utilities Superintendent who shall cause the water service to be shut off at the premise. If the consumer should fail to give such notice, he or she shall be charged for all water used on the premise until the Utilities Superintendent is otherwise advised of such circumstances.

(Neb. RS 17-537) (^88 Code, § 3-117)

§ 51.06 INSTALLATION PROCEDURE.

In making excavations in streets, alleys, or sidewalks for the purpose of installing pipe, or making repairs, the paving, stones, and earth must be removed and deposited in a manner that will occasion the least inconvenience to the public and provide for adequate drainage. No person shall leave an excavation made in the street, alley, or sidewalk open at any time without a barricade, and during the night, warning lights. After service pipes are laid, the streets, alleys, and sidewalks shall be restored to good condition. If the excavation in any street, alley, or sidewalk is left open or unfinished for a period of 24 hours or more, the Utilities Superintendent shall have the duty to finish or correct the work, and all expenses so incurred shall be charged to the consumer. All installations or repairs of pipes require two inspections by the Utilities Superintendent. The first inspection shall be made when connections or repairs are completed and before the pipes are covered. The second inspection shall be made after

the dirt work is completed and the service is restored. It is the customer's responsibility to notify the Superintendent at the time the work is ready for each inspection. All installation shall be done under the supervision and strictly in accordance with the rules, regulations, and specifications prescribed for such installation by the Utilities Superintendent; provided that the rules, regulations, and specifications have been reviewed and approved by the City Council.
(Neb. RS 17-537) (88 Code, § 3-105)

§ 51.07 LICENSED PLUMBER.

It shall be unlawful for any plumber or pipefitter to do any work upon any of the pipes or appurtenances of the system of waterworks, or to make any connection with or extension of the supply pipes of any consumer taking water from the system until such plumber or pipefitter shall have first procured a license or permit from the municipality. All plumbing shall be done in the manner required by the Utilities Superintendent. The licensed plumber shall be at all times subject to the inspection and approval of the Utilities Superintendent and it shall be further unlawful to cover or conceal willfully any defective or unsatisfactory plumbing work.
(Neb. RS 17-537) (88 Code, § 3-121) Penalty, see § 10.99

§ 51.08 REPAIRS.

The municipality shall repair or replace, as the case may be, all supply pipe between the commercial main and the stop box. The customer at his or her own expense shall replace and keep in repair all service pipe from the stop box to the place of dispersement. When leaks occur in service pipes, the Utilities Superintendent shall shut off water service until the leak is repaired at the expense of the customer to the satisfaction of the Utilities Superintendent. The customer shall purchase the original water meter and all water meters shall be kept in repair by the municipality at the expense of the municipality. When meters are worn out, they shall be replaced and reset by the municipality at the expense of the municipality; provided, that if the customer permits or allows a water meter to be damaged, injured, or destroyed through his or her own recklessness, carelessness, or neglect so that the meter must be repaired or replaced, the Utilities Superintendent shall bill and collect from the customer the cost of such meter repair or replacement in the same manner as water rent is collected. Permitting a water meter to be damaged or destroyed by freezing shall always be considered negligence on the part of the customer. All meters shall be tested at the customer's request at the expense of the customer any reasonable number of times; provided, that if the test shows the water meter to be running 2% or more fast, the expense of such test shall be borne by the municipality. The municipality reserves the right to test any water service meter at any time, and if the meter is found to be beyond repair, the municipality shall always have the right to place a new meter on the customer's water service fixtures at municipal expense. Should a consumer's meter fail to register properly, the customer shall be charged for water during the time the meter is out of repair on the basis of the monthly consumption during the same month of the preceding year; provided, that if no such basis for comparison exists, the customer shall be charged such amount as may be reasonably fixed by the Utilities Superintendent. It shall be unlawful for any person to tamper with any water meter, or by any means or device to divert water from the service pipe so that the same shall not pass through the meter, or while passing through the meter, to cause the same to register inaccurately.

(Neb. RS 17-537) (88 Code, § 3-107) Penalty, see § 10.99

§ 51.09 SINGLE PREMISE.

No consumer shall supply water to other families, or allow them to take water from his or her premise, nor after water is supplied into a building shall any person make or employ a plumber or other person to make a tap or connection with the pipe upon the premise for alteration, extension, or attachment without the written permission of the Utilities Superintendent. It shall further be unlawful for any person to tamper with any water meter or by means of any contrivance or device to divert the water from the service pipe so that the water will not pass through the meter or while passing through the meter to cause the meter to register inaccurately.

(Neb. RS 17-537) (88 Code, § 3-112) Penalty, see § 10.99

§ 51.10 RESTRICTED USE.

(A) Upon notice from the Mayor or Utilities Superintendent, the use of water for all uses, except domestic uses, shall cease during the fire alarm or during a fire. Water use may resume upon notice by the Mayor or Utilities Superintendent.

(B) The Mayor or Utilities Superintendent may order a shut off of water on any premises in the event of a water shortage due to a fire or other good and sufficient cause. The municipality shall not be liable for any damages caused by shutting off the supply of water of any consumer while the system or any part thereof is undergoing repairs or when there is a shortage of water due to circumstances over which the municipality shall have no control.

(C) In the case of a shortage, imminent shortage, or possible contamination of the public water supply, the use of water may be restricted according to a restriction plan adopted by resolution of the City Council.

(Neb. RS 17-537) (88 Code, § 3-113) (Ord. 342, passed 7-2-90) Penalty, see § 10.99

§ 51.11 FIRE HYDRANTS.

All hydrants for the purpose of extinguishing fires are hereby declared to be public hydrants, and it shall be unlawful for any person other than members of the Municipal Fire Department under the orders of the Fire Chief, or the Assistant Fire Chief; or members of the Utilities Department to open or attempt to open any of the hydrants and draw water from the same, or in any manner to interfere with the hydrants.

(88 Code, § 3-114) Penalty, see § 10.99

§ 51.12 POLLUTION.

It shall be unlawful for any person to pollute or attempt to pollute any stream or source of water for the supply of the Municipal Water Department.

(Neb. RS 17-536) (88 Code, § 3-115) Penalty, see § 10.99

§ 51.13 INSPECTION.

The Utilities Superintendent, or his or her duly authorized agents, shall have free access, at any reasonable time, to all parts of each premise and building to, or in which, water is delivered for the purpose of examining the pipes, fixtures, and other portions of the system to ascertain whether there is any disrepair or unnecessary waste of water.

(Neb. RS 17-537) (88 Code, § 3-118)

§ 51.14 DESTRUCTION OF PROPERTY.

It shall be unlawful for any person to willfully or carelessly break, injure, or deface any building, machinery, apparatus, fixture, attachment, or appurtenance of the Municipal Water Department. No person may deposit anything in a stop box or commit any act tending to obstruct or impair the intended use of any of the above mentioned property without the written permission of the Utilities Superintendent.

(^88 Code, § 3-120) Penalty, see § 10.99

§ 51.15 POLICE; REPORTS.

It shall be the duty of the County Sheriff to report to the Utilities Superintendent all cases of leakage and waste in the use of water and all violations of the municipal code relating to the Water Department. They shall have the additional duty of enforcing the observance of all such regulations. (^88 Code, § 3-119)

§ 51.16 WATER WELL HEAD PROTECTION.

In order to protect the health, safety and welfare of the citizens of the city by protecting its water supply from pollution and contamination, it shall be unlawful to build any structure within 500 feet of a well head of the city's water supply without approval of the City Council. It shall also be unlawful to store within 1,000 feet of a city water well head any chemical, grain, or other material that may contaminate or pollute the city water supply. (^88 Code, § 3-123) Penalty, see § 10.99

RATES AND CHARGES

§ 51.30 FEES AND COLLECTIONS.

The City Council has the power and authority to fix the rates to be paid by the water consumers for the use of water from the Water Department. All such fees shall be on file for public inspection at the office of the Municipal Clerk. The Utilities Superintendent shall bill the consumers and collect all money received by the municipality on the account of the Water Department. He or she shall faithfully account for, and pay to the Municipal Treasurer all revenue collected by him or her, taking his or her receipt therefor in duplicate, filing one with the Municipal Clerk and keeping the other on file in the Water Department's official records. (Neb. RS 17-540) (^88 Code, § 3-108)

§ 51.31 INSTALLATION EXPENSE.

The municipality shall pay the costs of tapping the main, installing the meter, and providing fixtures and labor up to and including the stop box at the lot line of the customer. No person other than the Utilities Superintendent or his or her duly authorized agent shall tap the water main. The customer shall pay a tap fee of \$100; provided, that a tap for a ¾-inch pipe shall be deemed to be the minimum or base tap fee. The customer shall at his or her own expense bring water service from the stop box and upon his or her own premise and shall employ a licensed plumber who shall install water service to the

place of dispersement. Non-residents shall pay such tap fees and installation charges in such sums as the Utilities Superintendent, pursuant to resolution of the City Council, shall in each case fix. The extension of commercial mains into unsupplied territory within the corporate limits, may be made by means of water extension districts.

(Neb. RS 17-542) (88 Code, § 3-106) Penalty, see § 10.99

§ 51.32 MINIMUM RATES.

All water consumers shall be liable for the minimum rate provided by ordinance unless and until the consumer shall, by written order, direct the Utilities Superintendent to shut off the water at the stop box, in which case he or she shall not be liable thereafter for water rental until the water is turned on again.

(Neb. RS 17-542) (88 Code, § 3-109)

§ 51.33 RATES.

(A) Customers of the Municipal Water Department shall be charged a rate based on water usage for the use of water, such water usage to be determined by metering at the place of service to such customer.

(B) The rates for sewer usage shall be set by the City Council from time to time.

(C) The water rates as set by this section shall be reviewed at least annually to keep revenues reasonably in balance with anticipated expenditures. Furthermore, such rates may hereafter be set by resolution of the City Council.

(D) All rates shall be on file at the office of the Municipal Clerk and available for public inspection at any reasonable time during business hours and shall be due and payable pursuant to Chapter 50.

(88 Code, § 3-110) (Ord. 365, passed 5-13-93; Am. Ord. 389, passed 6-2-97)

BACKFLOW PREVENTION

§ 51.50 CONNECTIONS PROHIBITED; CUSTOMER REPORTS.

(A) No customer or other person shall cause, allow, or create any physical connection between the Municipal Water Distribution System and any pipes, pumps, hydrants, tanks, steam condensate returns, engine jackets, heat exchangers, other water supplied or any other connection whereby potentially unsafe or contaminating materials may be discharged or drawn into the Municipal Water Distribution System.

(B) At least one time every five years, customers of the Municipal Water Distribution and Supply System shall be required to assess and report potential backflow and backsiphonage hazards to the municipality on a form supplied by the municipality to the customer. The customer shall take any steps necessary for protection of public health and safety as determined by the Utilities Superintendent. (^88 Code, § 3-122) (Ord. 358, passed 8-3-92) Penalty, see § 10.99

§ 51.51 DEVICES REQUIRED; INSTALLATION, MAINTENANCE.

(A) A customer of the Municipal Water Department may be required by the Utilities Superintendent to install and maintain a properly located backflow prevention device at his/her expense appropriate to the potential hazards set forth in Title 179, Nebraska Department of Health, and approved by the Utilities Superintendent.

(B) The customer shall make application to the Utilities Superintendent to install a required backflow prevention device on a form provided by the municipality. The application shall contain at a minimum the name and address of the applicant, the type of potential hazard required, protection, and the type of backflow device to be installed including brand and model number.

(C) The Utilities Superintendent shall approve or disapprove the application based on his/her opinion of whether such installation will protect the Municipal Water Distribution System from potential backflow and backsiphonage hazards.

(D) The installation of the device shall be subject to all other sections of this code dealing with installation of plumbing, including the use of a plumber licensed by the municipality if applicable.

(E) Such customer shall also certify to the municipality at least one time annually that the backflow prevention device has been tested by a Nebraska Department of Health Grade VI Certified Water Operator if the device is equipped with a test port. Such certification shall be made on a form available at the office of the Municipal Clerk.

(F) Any decision of the Utilities Superintendent may be appealed to the Council. (^88 Code, § 3-125) (Ord. 359, passed 8-3-92)

§ 51.52 EXISTING BOOSTER PUMP CONNECTIONS; REQUIREMENTS.

(A) A customer of the Municipal Water Department who has an existing booster pump connected to the municipal water system shall be required to install and maintain upon such booster pump connection a properly located backflow prevention device and low pressure cut-off switch at his/her expense appropriate to the potential hazards set forth in Title 179 of the Nebraska Administrative Code and approved by the Utilities Superintendent.

(B) The customer shall make application to the Utilities Superintendent to install such backflow prevention device and low pressure cut-off switch on a form provided by the Municipal

Clerk. The application shall contain at the minimum the name and address of the applicant, the type, brand and model number of the backflow protection device and low pressure cut-off switch to be installed.

(C) The Utilities Superintendent shall approve or disapprove the application based on his/her opinion of whether such installation will protect the Municipal Water Distribution System from potential backflow and low pressure hazards.

(D) The installation of such devices shall be subject to all other sections of this code dealing with installation of plumbing and electrical devices, including the use of a plumber and electrician licensed by the municipality if applicable.

(E) Such customer shall also certify to the municipality at least one time annually that the backflow prevention device has been tested by a Nebraska Department of Health Grade VI Certified Waste Operator, if the device is equipped with a test port. Such certification shall be made on a form available at the office of the Municipal Clerk.

(F) Any decision of the Utilities Superintendent made under this section may be appealed to the City Council.

(88 Code, § 3-125) (Ord. 432, passed 8-7-01)

CHAPTER 52: SEWERS

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GENERAL PROVISIONS

§ 52.001 DEFINITIONS.

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

APPROVING AUTHORITY. The City Council or its duly authorized deputy, agent or representative, and the City Council shall have complete control of the Sanitary Sewer System.

BIOCHEMICAL OXYGEN DEMAND. The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days at 20° C., expressed in parts per million by weight.

BUILDING OR HOUSE DRAIN. That part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, or other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five feet (1.5 meters) outside the inner face of the building wall.

BUILDING OR HOUSE SEWER. That part of a house or building drainage system extending from the house or building drain to its connection with the main sewer.

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

COMBINED SEWER. A sewer receiving both surface runoff and sewage.

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. A wastewater shall be considered free of floatable fat if it is properly pretreated and the wastewater does not interfere with the collection system.

GARBAGE. Solid wastes from the domestic and commercial preparation, cooking and dispensing of food, and from the handling, storage and sale of produce.

INDUSTRIAL WASTES. The liquid wastes from industrial manufacturing processes, trade, or business as distinct from sanitary sewage.

LOCAL VENTILATING PIPE. Any pipe through which foul air is removed from a room or fixture.

NATURAL OUTLET. Any outlet into a watercourse, pond, ditch, lake, or other body of surface or groundwater.

NORMAL SEWAGE. Sewage not exceeding maximum tolerance of contamination of 300 milligrams per liter BOD or 350 milligrams per liter of suspended solids.

PARTS PER MILLION. A weight-to-weight ratio; the parts-per-million value multiplied by the factor 8.345 shall be equivalent to pounds per million gallons of water.

pH. The logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

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 (1.27 centimeters) in any dimension.

PUBLIC SEWER. A sewer in which all owners of abutting properties have equal rights, and is controlled by public authority.

REPLACEMENT. Expenditures for obtaining and installing equipment, accessories or appurtenances which are necessary during the service life of the treatment works to maintain the capacity and performance for which such works were designed and constructed.

SANITARY SEWER. A sewer which carries sewage and to which storm, surface, and ground waters are not intentionally admitted.

SEWAGE. A combination of the water-carried wastes from residences, business buildings, institutions, and industrial establishments together with such ground, surface, and storm waters as may be present.

SEWAGE TREATMENT PLANT. Any arrangement of devices and structures used for treating sewage.

SEWAGE WORKS. All facilities for collecting, pumping, treating and disposing of sewage.

SEWER. A pipe or conduit for carrying sewage.

SEWERAGE. The system of sewers and appurtenances for the collection, transportation and pumping of sewage and industrial wastes.

SLUG. Any discharge of water, sewage, or industrial waste which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than 15 minutes more than five times the average 24-hour concentration or flows during normal operation.

SOIL PIPE. Any pipe which conveys the discharge of water closets with or without the discharge from other fixtures to the house or building drain.

STANDARD METHODS. The examination and analytical procedures set forth in the most recent editions of "Standard Methods for the Examination of Water, Sewage, and Industrial Waste," published jointly by the American Public Health Association, the American Water Works Association and the Water Pollution Control Federation.

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

STORM SEWER. A sewer which carries storm and surface waters and drainage, but excludes sewage and industrial wastes, other than unpolluted cooling water.

SUPERINTENDENT. The Utilities Superintendent of the City of Chappell, or his or her authorized deputy, agent, or representative.

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

TRAP. A fitting device so constructed as to prevent the passage of air or gas through a pipe without materially affecting the flow of sewage or waste through it.

TRAP SEAL. The vertical distance between the crown weir and the dip of the trap.

UNPOLLUTED WATERS. 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 benefited by discharge to the sanitary sewers and wastewater treatment facilities provided.

VENT PIPE. Any pipe provided to ventilate a house or building drainage system and to prevent trap siphonage and back pressure.

WASTE PIPE. Any pipe which receives the discharge of any fixture, except water closets, and conveys the same to the house drain, soil pipe, or waste stack.

WASTEWATER. The spent water of a community. From the standpoint of source, it may be a combination of the liquid and water-carried wastes from residences, commercial buildings, industrial plants, and institutions, together with any groundwater, surface water, and stormwater that may be present.

WASTEWATER FACILITIES. The structures, equipment, and processes required to collect, carry away, and treat domestic and industrial wastes and dispose of the effluent.

WATERCOURSE. A natural or artificial channel for the passage of water either continuously or intermittently.
(^88 Code, § 3-202)

§ 52.002 MUNICIPAL POWERS.

The municipality has the legal authority to enforce its system of user charges, industrial cost recovery charge, and sewer use regulations on all existing or future users of the system whether located inside or outside the municipal limits.
(^88 Code, § 3-250)

§ 52.003 APPLICATION FOR PERMIT.

Any person wishing to connect with the Sewer System shall make an application therefor to the Utilities Superintendent. The Superintendent may require any applicant to make a service deposit in such amount as he or she deems necessary subject to the review of the City Council. Sewer service may not be supplied to any house or building except upon the written order of the Utilities Superintendent. The Department shall not supply sewer service to any person outside the corporate limits without special permission from the City Council; provided, that the entire cost of pipe and other installation charges shall be paid by such consumers. Nothing herein shall be construed to obligate the municipality to provide sewer service to nonresidents.

(Neb. RS 17-149, 18-503) (88 Code, § 3-203)

§ 52.004 CONTRACT.

The municipality through the Municipal Sewer Department shall furnish sewer services to persons within its corporate limits whose premises abut a street or alley in which a commercial main is now or may hereafter be laid. The municipality may also furnish sewer service to persons whose premises are situated outside the corporate limits of the municipality, as and when, according to law, the City Council may see fit to do so. The rules, regulations, and sewer rental rates hereinafter named in this chapter, shall be considered a part of every application hereafter made for sewer service and shall be considered a part of the contract between every customer now or hereafter served. Without further formality, the making of the application on the part of any applicant or the use of sewer service by present customers thereof shall constitute a contract between the customer and the municipality to which the contract both parties are bound. If the customer shall violate any of the provisions of the contract or any reasonable rules and regulations that the City Council may hereafter adopt, the Utilities Superintendent, or his or her agent, may cut off or disconnect the sewer service from the building or premise of such violation. No further connection for sewer service to the building or premise shall again be made save or except by order of the Superintendent or his or her agent.

(Neb. RS 17-901, 17-902, 18-503) (88 Code, § 3-204)

§ 52.005 CONTRACTS NOT TRANSFERABLE.

Contracts for sewer service are not transferable. Any person wishing to change from one location to another shall make a new application and sign a new contract. If any customer shall move from the premise where service is furnished, or if the premise is destroyed by fire or other casualty, he or she shall at once inform the Utilities Superintendent who shall cause the sewer service to be shut off from the premise. If the customer should fail to give notice, he or she shall be charged for that period of time until the official in charge of sewers is otherwise advised of such circumstances.

(Neb. RS 17-901, 17-902, 18-503) (88 Code, § 3-205)

§ 52.006 INSTALLATION PROCEDURE.

In making excavations in streets, alleys, or sidewalks for the purpose of installing pipe, or making repairs, the paving, stones, and earth must be removed and deposited in a manner that will occasion the least inconvenience to the public and provide for adequate drainage. No person shall leave an excavation made in the street, alley, or sidewalk open at any time without a barricade, and during the night, warning lights. After the house sewer is laid, the public ways and property shall be restored to good condition. If the excavation in the public ways and property is left open or unfinished for a period of 24 hours or more, the Utilities Superintendent shall have the duty to finish or correct the work, and all expenses so incurred shall be charged to the owner, occupant, or lessee of the property. All installations or repairs of pipes require two inspections by the Utilities Superintendent. The first inspection shall be made when connections or repairs are complete and before the pipe is covered. The second inspection shall be made after the dirt work is completed and the service restored. It is the customer's responsibility to notify the Utilities Superintendent at the time the work is ready for each inspection. All installation shall be done under the supervision and strictly in accordance with the rules, regulations, and specifications for such installation prescribed by the Utilities Superintendent; provided, that the rules, regulations, and specifications have been reviewed and approved by the City Council.

(^88 Code, § 3-234) Penalty, see § 10.99

§ 52.007 REPAIRS AND MAINTENANCE.

(A) The Municipal Sewer Department may require the owner of any property which is within the municipality and connected to the public sewers or drains to repair or replace any connection line which serves the owner's property and is broken, clogged or otherwise in need of repair or replacement. The property owner's duty to repair or replace such a connection line shall include those portions upon the owner's property and those portions upon public property or easements up to and including the point of junction with the public main.

(B) The Municipal Clerk shall give the property owner notice by registered letter or certified mail, directed to the last known address of such owner or the agent of such owner, directing the repair or replacement of such connection line. If within 30 days of mailing such notice, the property owner fails or neglects to cause such repairs or replacements to be made, the Utilities Superintendent may cause such work to be done and assess the cost upon the property served by such connection.

(Neb. RS 18-1748) (^88 Code, § 3-227)

§ 52.008 DESTRUCTION OF PROPERTY.

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

(^88 Code, § 3-243) Penalty, see § 10.99

§ 52.009 UNLAWFUL DEPOSIT OF WASTES OR SEWAGE.

(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 municipality or within two miles of the corporate limits thereof, or in any area under the jurisdiction of the municipality, any human or animal excrement, garbage, or other objectionable waste.
(^88 Code, § 3-213)

(B) It shall be unlawful to discharge to any natural outlet within the municipality, or within two miles of the corporate limits thereof, or in any area under the jurisdiction of the municipality, any sewage or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this chapter.
(^88 Code, § 3-214) Penalty, see § 10.99

§ 52.010 CESSPOOLS, PRIVIES AND SEPTIC TANKS PROHIBITED.

Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of sewage.
(^88 Code, § 3-215) Penalty, see § 10.99

§ 52.011 MANDATORY HOOK-UP.

The owner of all houses, buildings, or properties used for human employment, recreation, or other purposes, situated within the municipality 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 municipality, is hereby required at his or her expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of this chapter within 90 days after date of official notice to do so; provided, that the public sewer is within 100 feet (30.5 meters) of the property line.
(^88 Code, § 3-216)

§ 52.012 ABANDONMENT.

If a building sewer is disconnected or abandoned, it shall be disconnected or plugged at the other sidewalk line, or at the main, as directed by the Utilities Superintendent, at the expense of the owner.
(^88 Code, § 3-248)

RATES AND CHARGES

§ 52.030 INSTALLATION EXPENSE.

The customer, upon approval of his or her application for sewer service, shall pay to the Utilities Superintendent a tap fee which compensate the municipality for the expense of processing his or her application and tapping the sewer main. The Utilities Superintendent, in his or her discretion, may direct the customer to hire a licensed plumber to tap the main. The customer shall then be required to pay the expense of procuring the materials required as well as the services of a licensed plumber and shall pay all other costs of installation.
(^88 Code, § 3-226)

§ 52.031 CLASSIFICATION.

The City Council may classify for the purpose of rental fees the customers of the Municipal Sewer Department; provided, that such classifications are reasonable and do not discriminate unlawfully against any consumer or group of consumers. The classification must be approved by the Environmental Protection Agency, relative to the user charge grant condition.
(Neb. RS 17-925.02) (^88 Code, § 3-212)

§ 52.032 USER CHARGE REVIEW.

The City Council shall review, at least annually, the user charge system and revise the charges, if necessary, to accomplish the following:

- (A) Maintain the proportional distribution of operation, maintenance and replacement (OM&R) costs among users and user classes;
- (B) Generate adequate revenues to pay the costs of OM&R;
- (C) Apply excess revenues collected from a class of users to the costs of OM&R attributable to that class for the next year and adjust the rates accordingly.
(^88 Code, § 3-209)

§ 52.033 USER NOTIFICATION.

Each user will be notified, at least annually, with a regular bill of the rate and that portion of the user charges ad valorem taxes which are attributable to wastewater treatment.
(^88 Code, § 3-210)

§ 52.034 COLLECTION OF FEES.

Sewer rental bills shall be due and payable at the same time and in the same manner as water bills are due and payable in accordance with Chapter 50. All penalties and procedures concerning

delinquent accounts with the Municipal Water Department shall also be applicable to delinquent accounts with the Municipal Sewer Department.

(^88 Code, § 3-208)

§ 52.035 RATES.

(A) Customers of the Municipal Sewer Department shall be charged a rate based on water usage for the use of the sewer, such water usage to be an average of the usage of water by the customer for the preceding winter months.

(B) The rates for sewer usage shall be as set by the City Council from time to time.

(C) The sewer rates shall be reviewed at least annually to keep revenues reasonably in balance with anticipated expenditures.

(D) All rates shall be on file at the office of the Municipal Clerk and available for public inspection at any reasonable time during business hours.

(Neb. RS 18-509) (^88 Code, § 3-206) (Ord. 364, passed 3-1-93)

§ 52.036 SURCHARGES.

In addition to other elements of the total user charge system in §§ 52.153 and 52.154, the ordinance on file with the Municipal Clerk shall provide for the following surcharges:

(A) A high strength waste surcharge established for pollutant levels (BOD, SS, and the like) which exceed the levels contained in the domestic strength wastewater of the service area. The surcharge shall be expressed as a formula with a per unit charge established for each applicable pollutant. (See Appendix B of 40 CFR 35.900)

(B) The authority and intent shall be established to require each user discharging any toxic pollutants to pay the increased costs of managing the effluent or the sludge of the treatment works resulting from such discharge.

(^88 Code, § 3-207)

§ 52.037 SEWER MAINTENANCE FUND.

The operation, maintenance and replacement (OM&R) portion of the total sewer user charges shall be deposited in a non-lapsing Sewer Maintenance Fund, or set of funds, and the revenues so deposited will be used only for the purposes of defraying the OM&R costs of the treatment works. Funds transferred from other revenue sources to meet temporary shortages in the OM&R accounts shall be refunded following an appropriate adjustment in the user charges for OM&R, the Sewer Maintenance Fund will have a minimum of two primary accounts:

(A) An O&M account with provision for carry-over of the fiscal year end balance to meet the overall O&M costs in the subsequent fiscal year;

(B) A non-lapsing sinking fund for replacement costs which accrues funds through deposits made at least annually from OM&R use charge revenues. The deposits shall provide adequate revenues to meet the "replacement" needs of the treatment works over its service life and shall be used for no other purpose. For purposes of maintaining the fund on a perpetual basis, the municipality shall budget a sum of money not less than 20% of its annual projected operation and maintenance budget for the sewer treatment works. Fiscal year-end balances in the non-lapsing sinking fund will be carried over to the same fund in the subsequent year.

(^88 Code, § 3-211)

PRIVATE SEWAGE DISPOSAL SYSTEMS

§ 52.070 WHEN APPLICABLE.

(A) Where a public sanitary or combined sewer is not available under the provisions of § 52.011, the building sewer shall be connected to a private sewage disposal system complying with the provisions of this chapter.

(B) At such time as a public sewer becomes available to a property served by a private wastewater disposal system, as provided in § 52.011, a direct connection shall be made to the public sewer within 60 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.

(^88 Code, § 3-217)

§ 52.071 PERMIT REQUIRED.

Before commencement of construction of a private sewage disposal system, the owner shall first obtain a written permit signed by the Superintendent. The application for such permit shall be made on a form furnished by the municipality, which the applicant shall supplement by any plans, specifications, and other information as are deemed necessary by the Superintendent.

(^88 Code, § 3-218)

§ 52.072 PERMIT, WHEN EFFECTIVE; INSPECTIONS.

A permit for a private sewage disposal system shall not become effective until the installation is completed to the satisfaction of the Superintendent. He or she shall be allowed to inspect the work at any stage of construction and, in any event, the applicant for the permit shall notify the Superintendent when the work is ready for final inspection, and before any underground portions are covered. The inspection shall be made within 24 hours of the receipt of notice by the Superintendent.
(^88 Code, § 3-219)

§ 52.073 SPECIFICATIONS.

The type, capacities, location, and layout of a private sewage disposal system shall comply with all recommendations of the Department of Public Health of the state of Nebraska. No permit shall be issued for any private sewage disposal system employing subsurface soil absorption facilities when the area of the lot is less than 10,000 square feet. No septic tank or cesspool shall be permitted to discharge to any natural outlet.
(^88 Code, § 3-220)

§ 52.074 MAINTENANCE.

The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to the municipality.
(^88 Code, § 3-221)

§ 52.075 ADDITIONAL REQUIREMENTS.

No statement contained in §§ 52.070 through 52.074 shall be construed to interfere with any additional requirements that may be imposed by the Health Officer.
(^88 Code, § 3-222) Penalty, see § 10.99

BUILDING SEWER INSTALLATION

§ 52.100 PERMIT REQUIRED.

No unauthorized person shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the Superintendent.
(^88 Code, § 3-223) Penalty, see § 10.99

§ 52.101 CLASSIFICATION; PERMIT APPLICATION, FEE.

There shall be two classes of building sewer permits: for residential and commercial service, and for service to establishments producing industrial wastes. In either case, the owner or his or her agent shall make application on a special form furnished by the municipality. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the Superintendent. A permit and inspection fee of \$50 for a residential or commercial building sewer permit and \$50 for an industrial building sewer permit shall be paid to the municipality at the time the application is filed.

(^88 Code, § 3-224)

§ 52.102 EXPENSE.

All costs and expenses incidental to the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify the municipality from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

(^88 Code, § 3-225)

§ 52.103 SINGLE PREMISE.

A separate and independent building sewer shall be provided for every building; except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer, but the municipality does not and will not assume any obligation or responsibility for damage caused by or resulting from any such single connection aforementioned.

(^88 Code, § 3-228)

§ 52.104 USE OF EXISTING SEWERS.

Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the Superintendent, to meet all requirements of this chapter.

(^88 Code, § 3-229)

§ 52.105 CONSTRUCTION CODES; COMPLIANCE REQUIRED.

(A) The size, slope, alignment, materials of construction of a building sewer, and the methods to be used in excavating, placing of the pipe, jointing, testing and backfilling the trench, shall all conform to the requirements of the building and plumbing code or other applicable rules and regulations of the municipality. In the absence of code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the A.S.T.M. and W.P.C.F. Manual of Practice No. 9 shall apply.

(B) Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer.

(C) The connection of the building sewer into the public sewer shall conform to the requirements of the building and plumbing code or other applicable rules and regulations of the municipality, or the procedures set forth in appropriate specifications of the A.S.T.M. and the W.P.C.F. Manual of Practice No. 9. All such connections shall be made gastight and watertight, and verified by proper testing. Any deviation from the prescribed procedures and materials must be approved by the Superintendent before installation.

(^88 Code, § 3-230)

§ 52.106 UNLAWFUL CONNECTION.

No person shall make connection of roof downspouts, interior and exterior foundation drains, areaway drains, or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer unless such connection is approved by the Superintendent for purposes of disposal of polluted surface drainage; provided, that if responsibility can be determined, the party responsible for disposal of polluted surface drainage into the public sanitary sewer shall pay a user charge equivalent to the cost of treating the polluted drainage.

(^88 Code, § 3-231) Penalty, see § 10.99

§ 52.107 INSPECTION.

The applicant for the building sewer permit shall notify the Superintendent when the building sewer is ready for inspection and connection to the public sewer. The connection and testing shall be made under the supervision of the Superintendent or his or her representative.

(^88 Code, § 3-232)

§ 52.108 EXCAVATIONS.

All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the municipality.

(^88 Code, § 3-233)

HAZARDOUS AND PROHIBITED DISCHARGES

§ 52.150 STORMWATER, SURFACE WATER, GROUND WATER, COOLING WATER AND PROCESS WATER.

(A) No person shall discharge or cause to be discharged any stormwater, surface water, groundwater, roof runoff, subsurface drainage, including interior and exterior foundation drains, uncontaminated cooling water, or unpolluted industrial waters to any sanitary sewer.

(B) Stormwater and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as combined sewers or storm sewers, or to a natural outlet approved by the Superintendent. Industrial cooling water or unpolluted process water may be discharged, on approval of the Superintendent, to a storm sewer, combined sewer, or natural outlet. The contributor of any identifiable discharge of polluted water to the sanitary sewer system shall be held responsible for reimbursing the municipality for such costs. The costs shall be determined by the Superintendent with the approval of the City Council.

(^88 Code, § 3-235) Penalty, see § 10.99

§ 52.151 FLAMMABLE, TOXIC, CORROSIVE AND OBSTRUCTIVE SUBSTANCES; PRELIMINARY TREATMENT.

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

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

(2) Any waters or wastes containing toxic or poisonous solids, liquids, or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any waste treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the wastewater treatment plant.

(3) Any waters or wastes having a pH lower than 5.5, or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the sewage works.

(4) Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the sewage 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.

(5) Any waters or wastes having:

(a) A five day BOD greater than 300 parts per million by weight;

(b) Containing more than 350 parts per million by weight of suspended solids;

(c) Having an average daily flow greater than 2% of the average sewage flow of the municipality; or

(d) A chlorine requirement greater than demanded by normal sewage as evaluated by the municipality's consulting engineer shall be subject to the review of the Superintendent.

(B) Where necessary in the opinion of the Superintendent, the owner shall provide, at his or her expense, such preliminary treatment as may be necessary to:

(1) Reduce the biochemical oxygen demand to 300 parts per million by weight;

(2) Reduce the suspended solids to 350 parts per million by weight;

(3) Control the quantities and rates of discharge of such waters or wastes; or

(4) Reduce the chlorine requirement to conform with normal sewage.

(C) Plans, specifications, and other pertinent information relating to proposed preliminary treatment facilities shall be submitted for the approval of the Superintendent and no construction of such facilities shall be commenced until the approvals are obtained in writing.

(^88 Code, § 3-236)

§ 52.152 SPECIFIC PROHIBITIONS.

No person shall discharge or cause to be discharged the following described substances, materials, waters, or wastes if it appears likely in the opinion of the Superintendent that such wastes can harm either the sewers, sewage treatment process, or equipment, have an adverse effect on the receiving stream, or can otherwise endanger life, limb, public property, or constitute a nuisance. In forming his or her opinion as to the acceptability of these wastes, the Superintendent will give consideration to such factors as the quantities of subject wastes in relation to flows and velocities in the sewers, materials of construction of the sewers, nature of the sewage treatment process, capacity of the sewage treatment plant, and other pertinent factors. The substances prohibited are:

(A) Any liquid or vapor having a temperature higher than 150° F. (65° C.).

(B) Any water or waste containing fats, wax, grease, or oils, whether emulsified or not, in excess of 100 mg/l or containing substances which may solidify or become viscous at temperatures between 32° and 150° F. (0 and 65° C.).

(C) Any garbage that has not been properly shredded. The installation and operation of any garbage grinder equipped with a motor three-fourths horsepower (0.76 hp metric) or greater shall be subject to the review and approval of the Superintendent.

(D) Any waters or wastes containing strong acid iron pickling wastes, or concentrated plating solutions whether neutralized or not.

(E) Any water or wastes containing iron, chromium, copper, zinc, and similar objectionable or toxic substances; or wastes exerting an excessive chlorine requirement, to such degree that any such material received in the composite sewage at the sewage treatment works exceeds the limits established by the Superintendent for such materials.

(F) Any waters or wastes containing phenols or other taste- or odor-producing substances, in such concentrations exceeding limits which may be established by the Superintendent as necessary, after treatment of the composite sewage, to meet the requirements of state, federal, or other public agencies of jurisdiction for such discharge to the receiving waters.

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

(H) Any waters of wastes having a pH in excess of [9.5].

(I) Materials which exert or cause:

(1) Unusual concentrations of inert suspended solids (such as, but not limited to, Fuller's earth, lime slurries, and lime residues) or of dissolved solids, (such as but not limited to, sodium chloride or sodium sulfate).

(2) Excessive discoloration (such as, but not limited to, dye wastes and vegetable tanning solutions).

(3) Unusual BOD, chemical oxygen demand, or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment works.

(4) Unusual volume of flow or concentration of wastes constituting "slugs" as defined herein.

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

(^88 Code, § 3-237) Penalty, see § 10.99

§ 52.153 REJECTION, PRETREATMENT, CONTROL OF DISCHARGE; RATE OR USE FEE SURCHARGE.

(A) If any waters or wastes are discharged, or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in § 52.152, and which in the judgment of the Superintendent, may have a deleterious effect upon the sewage works, processes, equipment, or receiving waters, or which otherwise create a hazard to life to constitute a public nuisance, the Superintendent may:

- (1) Reject the wastes;
- (2) Require pretreatment to an acceptable condition for discharge to the public sewers;
- (3) Require control over the quantities and rates of discharge; and/or

(4) Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges under the provisions of § 52.154.

(B) If the Superintendent permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the Superintendent, and subject to the requirements of all applicable codes, ordinances and laws. (^88 Code, § 3-238)

§ 52.154 USE FEE SURCHARGE.

No statement contained in this chapter shall be construed as preventing any special agreement or arrangement between the municipality and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the municipality for treatment, subject to payment therefor, by the industrial concern. (^88 Code, § 3-244)

§ 52.155 GREASE, OIL AND SAND INTERCEPTORS.

Grease, oil, and sand interceptors shall be provided when, in the opinion of the Superintendent, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, sand, or other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the Superintendent and shall be located as to be readily and easily accessible for cleaning and inspection. In the maintaining of these interceptors, the owner(s) shall be responsible for the proper removal and disposal by appropriate means of the captured material and shall maintain records of the dates, and means of disposal which are subject to review by the Superintendent. Any removal and hauling of the collected materials not performed by owner(s)' personnel must be performed by currently licensed waste disposal firms.

(^88 Code, § 3-239)

§ 52.156 PRELIMINARY TREATMENT OR FLOW-EQUALIZING FACILITIES; MAINTENANCE BY OWNER.

Where preliminary treatment or flow-equalizing facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at his or her expense.

(^88 Code, § 3-240)

§ 52.157 CONTROL STRUCTURES, SAMPLING STATIONS; WHEN REQUIRED; INSTALLATION AND MAINTENANCE.

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

(^88 Code, § 3-241)

§ 52.158 CONTROL STRUCTURES, SAMPLING STATIONS; METHOD.

All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in this chapter, shall be determined in accordance with the latest edition of "Standard Methods for the Examination of Water and Wastewater," published by the American Public Health Association, and shall be determined at the control manhole provided, or upon suitable samples taken at the control manhole. In the event no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence of hazards to life, limb, and property. (The particular analyses involved will determine whether a 24-hour composite of all outfalls of a premise is appropriate or whether a grab sample or samples should be taken. Normally, but not always, BOD and suspended solids analyses are obtained from 24-hour composites of all outfalls whereas pH's are determined from periodic grab samples.)

(^88 Code, § 3-242)

ADMINISTRATION AND ENFORCEMENT

§ 52.900 INSPECTIONS; GENERALLY.

The Superintendent and other duly authorized employees of the municipality bearing proper credentials and identification shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling, and testing system in accordance with the provisions of this chapter. The Superintendent or his or her representatives shall have no authority to inquire into any processes including metallurgical, chemical, oil, refining, ceramic, paper, or other industries beyond that point having a direct bearing on the kind and source of discharge to the sewers or waterways or facilities for waste treatment.

([^]88 Code, § 3-245)

§ 52.901 INSPECTIONS; INJURY LIABILITY.

While performing the necessary work on private properties referred to in § 52.900, the Superintendent or duly authorized employees of the municipality 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 the municipal employees and the municipality shall indemnify the company against loss or damage to its property by municipal employees and against liability claims and demands for personal injury or property damage asserted against the company and growing out of the gauging and sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions as required in § 52.157.

([^]88 Code, § 3-246)

§ 52.902 INSPECTIONS; EASEMENTS.

The Superintendent and other duly authorized employees of the municipality bearing proper credentials and identification shall be permitted to enter all private properties through which the municipality holds a duly negotiated easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair, and maintenance of any portion of the sewage works lying within 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.

([^]88 Code, § 3-247)

§ 52.903 VIOLATION; NOTICE AND LIABILITY.

(A) Any person found to be violating any provision of this chapter except § 52.008 shall be served by the municipality 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.

(B) Any person violating any of the provisions of this chapter shall become liable to the municipality for any expense, loss, or damage occasioned the municipality by reason of such violation.
(^88 Code, § 3-249)

CHAPTER 53: SOLID WASTE

Section

- 53.01 Definitions
- 53.02 Containers, proper disposal required
- 53.03 Collection by city
- 53.04 Dead animals
- 53.05 Collection rates

§ 53.01 DEFINITIONS.

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

GARBAGE. Kitchen refuse, decayed waste, dead animals, or anything that may decompose and become offensive to the public health.

RUBBISH. Discarded machinery, chips, pieces of wood, sticks, dead trees, branches, bottles, broken glass, crockery, tin cans, boxes, papers, rags, or any other litter or debris that is not an immediate hazard to the health of the residents of the municipality.

WASTE. Cinders, ashes, plaster, brick, stone, sawdust, or sand.
(88 Code, § 4-201 - 4-203)

§ 53.02 CONTAINERS, PROPER DISPOSAL REQUIRED.

(A) It shall be unlawful for any person to keep in, on, or about any dwelling, building, or premise, or any other place in the municipality, decayed vegetable or animal substance, garbage, or refuse matter of any kind that may be injurious to the public health or offensive to the residents of the municipality unless the same is kept in receptacles or dumpsters which have been approved by the city and as nearly air-tight as may be practical.

(B) It shall be unlawful to throw or sweep into the streets, alleys, parks, or other public grounds any dirt, paper, nails, pieces of glass, refuse, waste, or rubbish of any kind.

(C) No person may permit garbage, rubbish, waste, or refuse to collect and all persons shall remove the same from their property within 24 hours after being notified to do so by the County Sheriff who shall represent the Board of Health.

(D) Any person having garbage, rubbish, waste, or refuse that is subject to decay or fermentation within a short period of time shall be required to place the same in a standard metal garbage dumpster. All persons shall have the contents of their garbage dumpsters removed at least once a week.
(Neb. RS 19-2106) (`88 Code, § 4-204) Penalty, see § 10.99

§ 53.03 COLLECTION BY CITY.

The city, by and through its Street Department, shall hereafter collect and remove from the streets, alleys, and lots of the city all garbage, refuse and rubbish. The city, through the Mayor and City Council, shall make all necessary rules and regulations for the collection of garbage, refuse and rubbish. These rules and regulations shall be on file in the City Clerk's office. Nothing in this chapter shall prohibit the actual producers of refuse, or the owners of premises upon which refuse has accumulated, from personally collecting, conveying and disposing of such refuse, provided such producers or owners comply with the provisions of this chapter and with any other governing law or ordinances.

(`88 Code, § 4-205)

§ 53.04 DEAD ANIMALS.

All dead animals shall be immediately removed and buried by the owner of such animals; and if the owner of such animal cannot be found within two hours after discovering the same, then such animal shall be removed by and at the expense of the municipality. Dead animals shall not be buried within the corporate limits of the municipality, nor within one mile thereof, nor in or above the course of ground water that is used for drinking purposes by the municipality or its inhabitants.

(Neb. RS 17-114, 17-123) (`88 Code, § 4-206) Penalty, see § 10.99

§ 53.05 COLLECTION RATES.

Rates for garbage disposal shall be on file at the office of the Municipal Clerk, and shall be due and payable pursuant to § 50.02.

(`88 Code, § 4-207)

CHAPTER 54: ELECTRIC

Section

General Provisions

- 54.01 Contracts and terms
- 54.02 Consumer application
- 54.03 Contracts not transferable
- 54.04 Electrician required
- 54.05 Installation and maintenance expenses
- 54.06 Restricted use
- 54.07 Building moving
- 54.08 Meters
- 54.09 Meter in disrepair

Rates and Charges

- 54.30 Fees
- 54.31 Minimum rates
- 54.32 Service deposit fund

GENERAL PROVISIONS

§ 54.01 CONTRACTS AND TERMS.

The municipality through its Electrical Department, shall furnish electric current for light and power purposes to persons whose premises abut on any supply wire of the distribution system and may furnish electric current to such other persons within or without its corporate limits, as and when, according to law, its Electrical Department may see fit to do so. The rules, regulations, and rates for electric service, hereinafter named in this chapter, shall be considered a part of every application hereafter made for electric service and shall be considered a part of the contract between every consumer now served by the Electrical Department. Without further formality, the making of application on the part of any applicant or the use or consumption of electric energy by present customers and the furnishing of electric service to the applicant or customer shall constitute a contract between applicant or customer and the municipality, to which both parties are bound. If a customer

should violate any of the provisions of the contract or any reasonable rules and regulations that the Electrical Department may hereafter adopt, the Utilities Superintendent, or his or her agent, shall cut off or disconnect the electric service from the building or place of such violation and no further connection of electric service for such building or place shall again be made save or except by order of the Superintendent or his or her agent.

(^88 Code, § 3-1102)

§ 54.02 CONSUMER APPLICATION.

Every person or persons desiring electrical service must make application therefor to the Municipal Clerk. Any applicant may be required to make a service deposit in such amount as has been set by the City Council and on file at the office of the Municipal Clerk. Electricity may not be supplied to any house or building except upon the written order of the Municipal Clerk. The system shall not supply to any person outside the corporate limits electrical service without special permission from the City Council; provided, that the entire cost of wire, installation, and other expenses shall be paid by the consumer. Nothing herein shall be construed to obligate the municipality to supply electrical service to non-residents.

(Neb. RS 17-902, 19-2701) (^88 Code, § 3-1103)

§ 54.03 CONTRACTS NOT TRANSFERABLE.

Contracts for electrical 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, or remove from the premise where service is furnished in his or her name, or if the premise is destroyed by fire or other casualty, he or she shall at once inform the Municipal Clerk who shall cause the electrical service to be shut off from the premise. If the consumer should fail to give such notice, he or she shall be charged for all electricity used on the premise until the Municipal Clerk is otherwise advised of such circumstances.

(Neb. RS 17-902) (^88 Code, § 3-1104)

§ 54.04 ELECTRICIAN REQUIRED.

Under no circumstances shall connections be made between the wires of the electrical distribution system of this municipality and the meter of the consumer, except by an employee of the municipality or a licensed electrician authorized to do so by the Utilities Superintendent. The consumer may have wiring done by any competent licensed electrician from the meter to the points of distribution. All wiring, equipment, and apparatus shall be installed according to the electrical code duly adopted by the municipality. All installation shall be done under the supervision and strictly in accordance with the rules, regulations, and specifications for such installation prescribed by the Utilities Superintendent and Building Inspector; provided, that such rules, regulations, and specifications have been reviewed and approved by the City Council.

(Neb. RS 17-902) (^88 Code, § 3-1105) Penalty, see § 10.99

§ 54.05 INSTALLATION AND MAINTENANCE EXPENSES.

The expense of installation and equipment up to and including the electrical meter shall be paid by the municipality. The expense of installation and wiring from the meter to the points of distribution shall be the responsibility of the consumer. Maintenance and replacement expenses shall be apportioned in the same manner.

(Neb. RS 17-902) (^88 Code, § 3-1106)

§ 54.06 RESTRICTED USE.

The Municipal Electrical System does not guarantee the delivery of electric current over the lines of the distribution system except when it has sufficient power, current, equipment, and machinery to do so. The Utilities Superintendent has the power and authority to disconnect or discontinue such service for any good and sufficient reason without liability. The municipality shall use due care 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 municipality has no control and the municipality expressly reserves the right to discontinue or disconnect any consumer's service in accordance with the procedures set forth in § 50.02.

(Neb. RS 17-902) (^88 Code, § 3-1112)

§ 54.07 BUILDING MOVING.

Should any house or building moving occur or be necessary and it becomes necessary in the work to remove or disturb any of the property or wires of the Municipal Electrical System, the same should not be done except upon written permission received from the Utilities Superintendent, who shall then order paid in advance the actual cost of moving the wires and such cost shall be paid by the applicant prior to the moving of the building or house. All expenses of removing, changing, and replacing the wires or apparatus of the Electrical System shall be paid out of the deposit made prior to moving and any surplus remaining after all expenses are paid shall be returned to the applicant; provided, that if in the course of moving the building or house it becomes apparent that additional expenses will be incurred, such additional deposit as deemed necessary may be demanded.

(^88 Code, § 3-1113)

§ 54.08 METERS.

All electrical meters shall be read at least one time each month on the fifteenth day of each month. In the event a meter is broken or otherwise fails to register accurately the use of electricity by any consumer, the six-month average of the season one year previous to such breakage shall be used for billing purposes.

(^88 Code, § 3-1107)

§ 54.09 METER IN DISREPAIR.

In the event that any customer's meter falls out of repair or fails to register properly, the Municipal Clerk shall charge such customer the same amount billed one year previous to such disrepair. In the event that there is no such basis for comparison, the Clerk shall charge the customer such amount as he or she deems is fair both to the customer and the municipality.
(`88 Code, § 3-1114)

RATES AND CHARGES

§ 54.30 FEES.

The City Council has the power and authority to fix the rates to be paid by electrical consumers for the use of electricity. All rates shall be on file for public inspection at the office of the Municipal Clerk. The Municipal Clerk shall bill the consumers and collect all money received by the municipality on the account of the Municipal Electrical System. He or she shall faithfully account for and pay over the same to the Municipal Treasurer all revenue collected by him or her, taking his or her receipt therefor.
(Neb. RS 17-902) (`88 Code, § 3-1108)

§ 54.31 MINIMUM RATES.

All electrical consumers shall be for the minimum rate provided by ordinance unless and until the consumer shall, by written order, direct the Utilities Superintendent to shut off the electricity in which case he or she shall not be liable thereafter for electrical service until the electricity is turned on again.
(Neb. RS 17-902) (`88 Code, § 3-1110)

§ 54.32 SERVICE DEPOSIT FUND.

The service deposit required for electrical service shall be made in accordance with § 50.08. From the deposit shall be deducted all delinquent electrical charges. The service deposit shall be collected by the Municipal Clerk and immediately turned over to the Municipal Treasurer who shall keep the fees in a trust fund for the customers of the Electrical System. The fund shall be put out at interest separate and apart from other funds. Interest arising therefrom shall be expended solely for the repair of equipment and property of the Municipal Electrical System.
(`88 Code, § 3-1111)

TITLE VII: TRAFFIC CODE

Chapter

70. GENERAL PROVISIONS

71. TRAFFIC REGULATIONS

72. PARKING REGULATIONS

CHAPTER 70: GENERAL PROVISIONS

Section

- 70.01 Definitions
- 70.02 Emergency regulations
- 70.03 Law enforcement
- 70.04 Refusal to obey
- 70.05 Traffic officers
- 70.06 Traffic citations; form and record
- 70.07 Traffic citations; disposition and records
- 70.08 Traffic citations; illegal cancellation

Statutory reference:

Regulation of highways by local authorities, see Neb. RS 60-680

Powers and duties of peace officers, see Neb. RS 60-683

Powers and duties of state patrol, Neb. RS 81-2005

§ 70.01 DEFINITIONS.

The words and phrases used in this title, pertaining to motor vehicles and traffic regulations, shall be construed as defined in Neb. Revised Statutes Chapter 60, Article 6, as now existing or hereafter amended. If not defined in the designated statutes, the word or phrase shall have its common meaning. (Neb. RS 60-606 through 60-676)

§ 70.02 EMERGENCY REGULATIONS.

The County Sheriff is hereby empowered to make and enforce temporary traffic regulations to cover emergencies.

§ 70.03 LAW ENFORCEMENT.

The County Sheriff is hereby authorized, empowered, and ordered to exercise all powers, and duties, with relation to the management of street traffic and to direct, control, stop, restrict, regulate, and, when necessary, temporarily divert or exclude in the interest of public safety, health, and convenience the movement of pedestrian and animal and vehicular traffic of every kind in streets, in parks, and on bridges. The driver of any vehicle shall stop upon the signal of the County Sheriff.

§ 70.04 REFUSAL TO OBEY.

It shall be unlawful for any person to refuse or fail to comply with any lawful order, signal, or direction of the County Sheriff.

Penalty, see § 10.99

§ 70.05 TRAFFIC OFFICERS.

The City Council or the County Sheriff may at any time detail officers, to be known as “traffic officers,” at street intersections. All traffic officers shall be vested with the authority to regulate and control traffic at the intersections to which they are assigned. It shall be their duty to direct the movement of traffic and prevent congestion and accidents. It shall be unlawful for any person to violate any order, or signal, of any such traffic officer notwithstanding the directive of a stop sign, or signal device, which may have been placed at any such intersection.

§ 70.06 TRAFFIC CITATIONS; FORM AND RECORDS.

(A) The Municipal Clerk shall provide, in appropriate form, traffic citations containing notices to appear. The Municipal Clerk shall be responsible for the issuance of such books and shall maintain a record of every such book, and each citation number therein issued to the County Sheriff. The Clerk shall require and retain a receipt for every book so issued. The Municipal Clerk shall require the return of all copies of every traffic citation which has been spoiled, or upon which any entry has been made and not issued to an alleged violator.

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

§ 70.07 TRAFFIC CITATIONS; DISPOSITION AND RECORDS.

(A) The County Sheriff upon issuing a traffic citation to an alleged violator of any provision of this chapter shall deposit a copy of the traffic citation with the Municipal Attorney, unless the citation is just a warning.

(B) Upon the deposit of the traffic citation with the Municipal Attorney, such citation may be disposed of only by trial in the court of appropriate jurisdiction, or other official action by the judge of the court, including a forfeiture of bail, or by the deposit of sufficient bail with or payment of a fine to the court by the person to whom such traffic citation has been issued.

(C) It shall be unlawful for the County Sheriff to dispose of a traffic citation, or copies thereof, or of the record of the issuance of the same in a manner other than as required herein.

Penalty, see § 10.99

Statutory reference:

Citations authorized, see Neb. RS 29-422

Citation contents; procedure, see Neb. RS 29-424

§ 70.08 TRAFFIC CITATIONS; ILLEGAL CANCELLATION.

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

CHAPTER 71: TRAFFIC REGULATIONS

Section

General Provisions

- 71.01 Truck routes
- 71.02 One-way traffic
- 71.03 Traffic lanes; designation
- 71.04 Arterial streets; designation
- 71.05 Crosswalks
- 71.06 Signs; signal
- 71.07 Stop signs
- 71.08 School crossing zones; designation

Speed Limits

- 71.20 General speed limit
- 71.21 Near schools
- 71.22 Lake Park

Statutory reference:

Regulation of highways by local authorities, see Neb. RS 60-680

GENERAL PROVISIONS

§ 71.01 TRUCK ROUTES.

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

Penalty, see § 10.99

Traffic Regulations

Statutory reference:

Truck routes authorized, see Neb. RS 60-681

§ 71.02 ONE-WAY TRAFFIC.

The City Council may, by resolution, provide for one-way travel in any street, or alley located in the municipality and shall provide for appropriate signs and markings when said streets have been so designated by resolution.

§ 71.03 TRAFFIC LANES; DESIGNATION.

The City Council may, by resolution, mark lanes for traffic on street pavements at such places as it may deem advisable.

§ 71.04 ARTERIAL STREETS; DESIGNATION.

The City Council may, by resolution, designate any street or portion thereof as an arterial street and shall provide for appropriate signs or markings when such street has been so designated.
(88 Code § 5-204)

§ 71.05 CROSSWALKS.

The City Council may, by resolution, establish and maintain by appropriate devices, markers, or lines upon the street crosswalks at intersections where there is particular danger to pedestrians crossing the street, and at such other places as it may deem necessary.

§ 71.06 SIGNS; SIGNALS.

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

Statutory reference:

Obedience to, placement of, and authority over traffic-control devices, see Neb. RS 60-6,119 through 60-6,121

§ 71.07 STOP SIGNS.

Every person operating any vehicle shall, upon approaching any stop sign erected in accordance with the resolution prescribed heretofore, cause such vehicle to come to a complete stop before entering or crossing any street, highway, or railroad crossing. The vehicle operator shall stop at a marked stop line, or, if there is no stop line, before entering the crosswalk; but if neither is indicated, then as near the right-of-way line of the intersecting roadway as possible.

§ 71.08 SCHOOL CROSSING ZONES; DESIGNATION.

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

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

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

(Neb. RS 60-658.01) Penalty, see § 10.99

SPEED LIMITS

§ 71.20 GENERAL SPEED LIMIT.

(A) No person shall operate a motor vehicle on any street, alley or other place within the city at a rate of speed greater than is reasonable and proper, having regard for the traffic and roadway and the conditions of the street, or at such speed as to endanger life, limb or property of any person, and under the circumstances in excess of 25 miles per hour on any street, alley, public way or any other place within the city, except for the following:

Traffic Regulations

On Second Street:	
From Grove Avenue to 200 feet west of Ochs Avenue	40 mph
From 200 feet west of Ochs Avenue to Court Avenue	25 mph

From Court Avenue to Jefferson Avenue	35 mph
From Jefferson Avenue to 250 feet west of County Road No. 117	40 mph

Traffic Regulations

On U.S. 385:	
From the Union Pacific Railroad Track to Second Street	25 mph
On Hayward Avenue:	

From Fifth Street to Seventh Street	15 mph
On Washington Avenue	
From Second Street to Fourth Street	15 mph

Traffic Regulations

On Lincoln Avenue:	
From Second Street to Fourth Street	15 mph
On Vincent Avenue:	

From Fourth Street to Sixth Street	15 mph
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(B) The above speed limits are hereby declared to be prima facie lawful. The speed limits shall be plainly indicated by appropriate signs or standards, and where so appropriate, on all main traveled highways at or near their approach to the corporate limits.

(^88 Code, § 5-213) (Ord. 331, passed 6-5-89) Penalty, see § 10.99

Statutory reference:

Basic speed rule, see Neb. RS 60-6,185

General speed limit, see Neb. RS 60-6,186

State, county, and local authority, see Neb. RS 60-6,190

§ 71.21 NEAR SCHOOLS.

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

Penalty, see § 10.99

§ 71.22 LAKE PARK.

(A) No person shall operate a motor vehicle on any street, alley or other place within Lake Park located south of the city at a rate of speed greater than is reasonable and proper, having regard for the traffic and roadway and the conditions of the street, or at such speed as to endanger life, limb or property of any person, or under the circumstances in excess of 15 miles per hour upon any street, alley or roadway.

(B) The above speed limit is hereby declared to be prima facie lawful. The speed limit shall be

Traffic Regulations

plainly indicated by appropriate sign or standards.

(^88 Code, § 5-214) (Ord. 343, passed 8-6-90) Penalty, see § 10.99

CHAPTER 72: PARKING REGULATIONS

Section

General Provisions

- 72.01 Brakes and turned wheels required
- 72.02 Parallel parking required; exceptions
- 72.03 Designation of type of parking
- 72.04 Areas of prohibited parking
- 72.05 Alleys; restrictions
- 72.06 Unloading; freight vehicles
- 72.07 Fire hydrants and stations
- 72.08 Schools, theaters
- 72.09 Street intersections
- 72.10 Obstructing traffic
- 72.11 Curb parking; painting of curbs
- 72.12 Display or repair
- 72.13 Current registration
- 72.14 Time limit
- 72.15 Snow removal and maintenance
- 72.16 Emergency vehicles

Persons with Disabilities

- 72.30 Definitions
- 72.31 Designation of onstreet parking spaces and access aisles; display of permits
- 72.32 Designation of offstreet parking stalls, spaces, and access aisles
- 72.33 Personal permit; issuance; renewal
- 72.34 Motor vehicle permit; issuance; renewal
- 72.35 Permits; prohibited issuance; duplicate permits
- 72.36 Permits; period valid; renewal of temporary permits
- 72.37 Permits nontransferable; violations; suspension
- 72.38 Removal of unauthorized vehicle

Administration and Enforcement

- 72.50 Tickets
- 72.51 Removal of illegally parked vehicles

GENERAL PROVISIONS

§ 72.01 BRAKES AND TURNED WHEELS REQUIRED.

No person having control or charge of a motor vehicle shall allow such vehicle to stand unattended without first effectively setting the brakes thereon and, when standing upon any grade, without turning the front wheels of such vehicle to the curb or side of the street. The driver of a motor vehicle, when traveling upon a down grade upon any street, shall not coast with the gears of the vehicle in neutral.

§ 72.02 PARALLEL PARKING REQUIRED; EXCEPTIONS.

No person shall park any vehicle or approach the curb with a vehicle, except when headed in the direction of the traffic. Vehicles, when parked, shall stand parallel with and adjacent to the curb or edge of the roadway in such manner as to have both right wheels within 12 inches of the curb or edge of the roadway and so as to leave at least four feet between the vehicle so parked and any other parked vehicles, except where the City Council designates that vehicles shall be parked at an angle so as to have the front right wheel at the curb or edge of the roadway. Where stalls are designated either on the curb or pavement, vehicles shall be parked within such stalls. No vehicle shall be parked upon a roadway when there is a shoulder adjacent to the roadway which is available for parking.

Penalty, see § 10.99

§ 72.03 DESIGNATION OF TYPE OF PARKING.

The City Council may, by resolution, designate any street, or portion thereof, where vehicles shall be parked parallel with and adjacent to the curb or at an angle so as to have the right front wheel at the curb.

§ 72.04 AREAS OF PROHIBITED PARKING.

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

Penalty, see § 10.99

§ 72.05 ALLEYS; RESTRICTIONS.

(A) No vehicle, while parked, shall have any portion thereof projecting into any alley entrance.

(B) No vehicle shall be parked in any alley, except for the purpose of loading or unloading during the time necessary to load or unload, which shall not exceed the maximum limit of ½ hour. Every vehicle while loading or unloading in any alley shall be parked in such manner as will cause the least obstruction possible to traffic in such alley.

Penalty, see § 10.99

§ 72.06 UNLOADING; FREIGHT VEHICLES.

Vehicles on an over-all length less than 20 feet, including load, while discharging or loading freight may back to the curb but shall occupy as little of the street as possible.

§ 72.07 FIRE HYDRANTS AND STATIONS.

No vehicle shall be parked within 15 feet in either direction of any fire hydrant nor within 20 feet of the driveway entrance to any fire station. The curb space within such area of 15 feet in either direction of such fire hydrant shall be painted red to indicate such prohibition.

(Neb. RS 60-6,166) Penalty, see § 10.99

§ 72.08 SCHOOLS, THEATERS.

The City Council may, by resolution, prohibit the parking or stopping except for loading or unloading of passengers or freight, of vehicles at the curb on streets directly in front of any entrance to a school house, school building, or theater, and such curbs adjacent to the entrance of said school house, school building, or theater shall be painted red to indicate such prohibition.

§ 72.09 STREET INTERSECTIONS.

Except in compliance with traffic control devices, no vehicle shall be parked or left standing for any purpose, except momentarily to load or discharge passengers, within 25 feet of the intersection or curb lines or, if none, then within 15 feet of the intersection of property lines, nor where the curb lines are painted red to indicate such prohibition.

Penalty, see § 10.99

Statutory reference:

Authority, see Neb. RS 60-6,166

§ 72.10 OBSTRUCTING TRAFFIC.

No person shall, except in case of an accident or emergency, stop any vehicle in any location where such stopping will obstruct any street, intersection, or entrance to an alley or public or private drive.

Penalty, see § 10.99

§ 72.11 CURB PARKING; PAINTING OF CURBS.

(A) No vehicle shall park on any street with its left side to the curb, unless the street has been designated to be a “one-way” street by the City Council. Vehicles must not be parked at any curb in such a position as to prevent another vehicle already parked at the curb from moving away.

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

Penalty, see § 10.99

§ 72.12 DISPLAY OR REPAIR.

It shall be unlawful for any person to park upon any street, alley, or public place within this municipality any vehicle displayed for sale. No person shall adjust or repair any automobile or motorcycle, or race the motor of same, while standing on the public streets or alleys of this municipality, except in case of breakdown or other emergency requiring same. No person or employee connected with a garage or repair shop shall use sidewalks, streets, or alleys in the vicinity of such garage or shop for the purpose of working on automobiles or vehicles of any description.

Penalty, see § 10.99

§ 72.13 CURRENT REGISTRATION.

It shall be unlawful to park or place on the streets, alleys, or other public property any vehicle without first securing a current registration as provided by law.

Penalty, see § 10.99

§ 72.14 TIME LIMIT.

(A) The City Council may, by resolution, entirely prohibit or fix a time limit for the parking and

stopping of vehicles on any street, streets, or district designated by such resolution, and the parking, or stopping, of any vehicle in any such street, streets, or district, for a period of time longer than fixed in such resolution shall constitute a violation of this chapter.

(B) The parking of a motor vehicle on a public street for over 24 consecutive hours is unlawful, except where a different maximum time limit is posted.

Penalty, see § 10.99

§ 72.15 SNOW REMOVAL AND MAINTENANCE.

(A) It shall be unlawful to park or stand any vehicle on any street or alley in the municipality at any time within 12 hours after a snowfall of three inches or more has occurred within a 24 hour period unless the snow has been removed within that time.

(B) The City Council or the County Sheriff may order any street or alley, or portion thereof, vacated for weather emergencies or street maintenance. Notice shall be given by personally notifying the owner or operator of a vehicle parked on such street or alley or by posting appropriate signs along such streets or alleys. Such signs shall be posted not less than four hours prior to the time that the vacation order is to be effective. Any person parking a vehicle in violation of this section shall be subject to the penalties provided for violation in this chapter, and such vehicle may be removed and parked, under the supervision of the County Sheriff, to a suitable nearby location without further notice to the owner or operator of such vehicle.

Penalty, see § 10.99

Statutory reference:

Authority to regulate during snow emergencies, see Neb. RS 17-557

§ 72.16 EMERGENCY VEHICLES.

The provisions of this chapter regulating the movement, parking, and standing of vehicles shall not apply to authorized emergency vehicles, as defined in this title, while the driver of the vehicle is operating the same in an emergency in the necessary performance of public duties.

Statutory reference:

Privileges of and conditions on authorized emergency vehicles, see Neb. RS 60-6,114

PARKING WITH DISABILITIES

§ 72.30 DEFINITIONS.

For the purpose of this subchapter, 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. 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.

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)

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)

**§ 72.31 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 60-311.14; 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 municipality, whose motor vehicles display the permit specified in Neb. RS 18-1739; and such other motor vehicles, as certified by the municipality, 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)

§ 72.32 DESIGNATION OF OFFSTREET PARKING STALLS, SPACES, AND ACCESS AISLES.

The municipality 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 municipality 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 60-311.14; such other handicapped or disabled persons or temporarily handicapped or disabled persons, as certified by the municipality, whose motor vehicles display the permit specified in Neb. RS 18-1739; and such other motor vehicles, as certified by the municipality, 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)

§ 72.33 PERSONAL PERMIT; ISSUANCE; RENEWAL.

(A) The Municipal Clerk shall take an application, on a form provided by the Department of Motor Vehicles, from a handicapped or disabled person or temporarily handicapped or disabled person or his 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 section § 72.34, but not both.

(D) A copy of the completed application form shall be given to each applicant. The Municipal 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 Municipal 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)

§ 72.34 MOTOR VEHICLE PERMIT; ISSUANCE; RENEWAL.

(A) The Municipal 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 Municipal Clerk by the Department of Motor Vehicles, and shall demonstrate to the Municipal 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 § 72.33, but not both.

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

(E) The Municipal 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 Municipal 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)

§ 72.35 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 § 72.37. 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)

§ 72.36 PERMITS; PERIOD VALID; RENEWAL OF TEMPORARY PERMITS.

(A) All permanently issued permits for handicapped or disabled parking authorized by this subchapter shall be issued for a period ending on September 30 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)

§ 72.37 PERMITS NONTRANSFERABLE; VIOLATIONS; SUSPENSIONS.

(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 § 10.99

§ 72.38 REMOVAL OF UNAUTHORIZED VEHICLE.

(A) The owner or person in lawful possession of an offstreet parking facility, after notifying the County Sheriff, and the municipality, 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 set forth in § 70.07. 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 municipality shall not require the owner or person in lawful possession of such facility to inform the municipality of a violation of this section prior to the municipality issuing the violator a handicapped parking infraction citation. (Neb. RS 18-1737)

ADMINISTRATION AND ENFORCEMENT

§ 72.50 TICKETS.

All tickets issued for violations of nonmoving traffic regulations contained in this chapter shall, in addition to information normally stated on such tickets, carry the following information:

- (A) The amount of the fine if paid within 30 days;
- (B) The amount of the fine if not paid within 30 days;
- (C) The location where payment may be made; and
- (D) The fact that a complaint will be filed after 30 days if the fine is not paid in that time.

§ 72.51 REMOVAL OF ILLEGALLY PARKED VEHICLES.

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

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

(Neb. 60-6,165)

TITLE IX: GENERAL REGULATIONS

Chapter

90. LEISURE AND RECREATION

91. CEMETERY

92. FIRE REGULATIONS

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CHAPTER 90: LEISURE AND RECREATION

Section

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- 90.02 Library Board; 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
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LIBRARY

§ 90.01 OPERATION AND FUNDING.

(A) The city may own and manage a 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 taxable property within the city. The amount collected from the levy shall be known as the Library Fund.
(Neb. RS 51-201)

(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 city, shall be drawn upon and paid out by the City Treasurer upon vouchers signed by the president of the Library Board and authenticated by the secretary 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 LIBRARY BOARD; 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)

§ 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 free of charge for the use of the inhabitants of the city, subject always to such reasonable regulations as the Library Board may adopt to render the Library of the greatest use to the inhabitants. The Librarian 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 city. The Board may fix and impose reasonable fees, not to exceed the Library's actual cost, for nonbasic services.
(Neb. RS 51-211)

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

BASIC SERVICES. Include, but are not limited to, free loan of circulating print and nonprint materials from the local collection and general reference and information services.

NONBASIC SERVICES. Include, but are not limited to, use of:

- (a) Photocopying equipment;

- equipment;
- (b) Telephones, facsimile equipment, and other telecommunications
 - (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 city to the credit of the Library Fund. Attorney's fees collected pursuant to this section shall be placed in the treasury of the city and credited to the budget of the City Attorney's office.
(Neb. 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 from the Library without the consent of the Librarian or an authorized employee of the Library. Any person removing a book from the Library without properly checking it out shall be deemed to be guilty of an offense.

Penalty, see § 10.99

PARKS

§ 90.20 DEFINITIONS.

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

MOTOR VEHICLE. Any vehicle propelled by power other than muscular power.

PARK. Any park, playground, swimming pool, recreation center, or any other park or recreational use or facility within or without the limits of the city which is under city ownership or control.

ROAD WAY. Every way open to the use of the public for vehicular travel, including any street or highway of the city in or through any park as herein defined, and including any park drive and parkway open to the public for vehicular travel.

(`88 Code, § 3-603) (Ord. 420, passed 6-21-99)

§ 90.21 OPERATION AND FUNDING.

The municipality owns and operates the municipal parks and other recreational areas through the Board of Park Commissioners. The City Council, for the purpose of defraying the cost of the care, management, and maintenance of the municipal park may each year levy a tax not exceeding the maximum limit prescribed by state law on the taxable value of all taxable property within the corporate limits. The revenue from the said tax shall be known as the park fund and shall remain in the custody of the Municipal Treasurer. The Board of Park Commissioners shall have the authority to adopt rules and regulations for the efficient management of the municipal parks and other recreational areas of the

municipality. The Board of Park Commissioners shall not enter into a contract of any nature which involves an expenditure of funds, except for ordinary operating expenses, unless the contract has been approved by resolution of the majority of the members of the City Council prior to the contractual agreement.

(`88 Code, § 3-601)

Statutory reference:

Recreation centers and areas generally, see Neb. RS 17-948 through 17-952

§ 90.22 INJURY TO PROPERTY.

It shall be unlawful for any person maliciously or willfully to cut down, injure, or destroy any tree, plant, or shrub. It shall be unlawful for any person to injure or destroy any sodded or planted area or injure or destroy any building, structure, equipment, fence, bench, table, or any other property of the municipal parks and recreational areas. No person shall commit any waste on or litter the municipal parks or other public grounds. It shall be unlawful for any person to operate a motorized vehicle within the park except on maintained roads and parking areas.

(`88 Code, § 3-602) Penalty, see § 10.99

Statutory reference:

Littering of public and private property, see Neb. RS 28-523

SWIMMING POOLS

§ 90.30 OPERATION AND FUNDING.

The municipality owns and manages the municipal swimming pool. The City Council, for the purpose of defraying the cost of the management, maintenance, and improvements of the swimming pool may each year levy a tax not exceeding the maximum limit prescribed by state law on the taxable value of all taxable property within the municipality. The revenue from the tax shall be known as the swimming pool fund and shall include all gifts, grants, deeds of conveyance, bequests, or other valuable income-producing personal property and real estate from any source for the purpose of endowing the swimming pool. The swimming pool fund shall at all times be in the custody of the Municipal Treasurer. The Pool Manager shall manage the swimming pool. The Pool Manager shall have the power and authority to hire and supervise and such employees as he or she may deem necessary and shall pass such rules and regulations for the operation of the swimming pool as may be proper for its efficient operation. All actions by the Pool Manager shall be under the supervision and control of the Mayor and City Council.

(`88 Code, § 3-701)

Statutory reference:

Recreation centers and areas generally, see Neb. RS 17-948 through 17-952

§ 90.31 ADMISSION CHARGE.

The City Council may, for the purpose of defraying the expenses involved in maintaining, improving, managing, and beautifying the swimming pool, make a reasonable admission charge for the use by any person of the municipal swimming pool. The charges shall be on file at the office of the Municipal Clerk and shall also be posted in a conspicuous place at the municipal swimming pool for public inspection. Such rates may be structured for classes of persons in a reasonable manner, provided that nothing in this section shall be construed to permit or allow discrimination on the basis of race, sex, religion, color, national origin, or ancestry in the classification of persons for admission charges.

(`88 Code, § 3-702)

Statutory reference:

Authority to charge fees and prescribe regulations, see Neb. RS 17-949

Discrimination prohibited, see Neb. RS 20-132

§ 90.32 RENTALS.

The Pool Manager shall have the authority to rent the municipal swimming pool to such organizations and other persons as it may in its discretion see fit, subject to the review of the City Council. The Pool Manager shall prescribe rules and regulations for such rentals and shall require an appropriate number of qualified lifeguards to be in attendance during the rental period. Such fees and other costs shall be on file at the office of the Municipal Clerk and posted in a conspicuous place at the municipal swimming pool.

(`88 Code, § 3-703)

§ 90.33 RULES AND REGULATIONS.

The Pool Manager shall have the power and authority to enact bylaws, rules, and regulations for the protection of those using the swimming pool and for the efficient management thereof. He or she may provide suitable penalties for the violation of such bylaws, rules, and regulations subject to the review and supervision of the City Council.

(`88 Code, § 3-704) Penalty, see § 10.99

CHAPTER 91: CEMETERY

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- 91.03 Acquisition of lots
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§ 91.01 OPERATION AND FUNDING.

The municipality owns and manages the municipal cemetery through the Cemetery Board. The City Council, for the purpose of defraying the cost of the care, management, maintenance, and beautification of the cemetery may each year levy a tax not exceeding the maximum limit prescribed by state law on the taxable value of all taxable property within the municipality that is subject to taxation for general purposes. The revenue from the said tax shall be known as the cemetery fund and shall include all gifts, grants, deeds of conveyance, bequests, money, stocks, bonds, or other valuable income-producing personal property and real estate from any source for the purpose of endowing the cemetery. The cemetery fund shall at all times be in the custody of the Municipal Treasurer. The Board shall have the power and authority to hire and supervise such employees as it may deem necessary and to pass such rules and regulations for the operation of the cemetery as may be proper for its efficient operation. All actions by the Board shall be under the supervision and control of the City Council.

(^88 Code, § 3-901)

Statutory reference:

Cemetery board; taxing authority, see Neb. RS 12-401 through 12-403

§ 91.02 SEXTON.

The Cemetery Board, subject to the approval of the City Council, shall have the authority to appoint a Sexton who shall perform such duties and make such reports as the Cemetery Board shall direct, and to employ such labor and assistants as the Cemetery Board may deem necessary from

persons not belonging to the Board. It shall be the duty of the Sexton, upon receiving a burial permit to locate and direct the party named in the permit to the lot mentioned therein and to dig and excavate, or cause the same to be dug or excavated, in compliance with the rules and regulations of the Cemetery Board.

(`88 Code, § 3-902)

Statutory reference:

Authority to contract, see Neb. RS 12-403

§ 91.03 ACQUISITION OF LOTS.

The municipality through its Mayor and City Council may, by eminent domain, condemn, purchase, hold, and pay for land not exceeding 160 acres outside the corporate limits of the city for the purpose of the burial of the dead. The Mayor and Council are also empowered and authorized to receive by gift or devise real estate for cemetery purposes. In the event that the city through its Mayor and Council desires to purchase any cemetery belonging to any corporation, partnership, limited liability company, association, or individual, which cemetery has already been properly surveyed and platted, and is used for cemetery purposes, then the Mayor and City Council are hereby authorized and empowered to purchase the cemetery. In the event the owner or owners of such cemetery desired to be purchased by the municipality will not or cannot sell and convey the same to the city or in the event the owner or owners of such cemetery cannot agree upon the price to be paid for the cemetery, the Mayor and Council or the city shall, by resolution, declare the necessity for the acquisition thereof by exercise of the power of eminent domain. The adoption of the resolution shall be deemed conclusive evidence of such necessity.

(Neb. RS 17-926) (`88 Code, § 8-113) (Ord. 464, passed 1-10-02)

§ 91.04 ACQUISITION; TITLE.

Where such real estate is acquired by gift or devise, the title shall vest in the city upon the conditions imposed by the donor and upon acceptance by the Mayor and City Council. Where such real estate is acquired by purchase or by virtue of exercise of the right of eminent domain, the title shall vest absolutely in such city.

(Neb. RS 17-933) (`88 Code, § 8-114) (Ord. 464, passed 1-10-02)

§ 91.05 CONVEYANCE OF LOTS.

The Mayor and City Council may convey cemetery lots by certificate signed by the Mayor, and countersigned by the Municipal Clerk under the municipal seal, specifying that the person to whom the same is issued is the owner of the lot described therein by number for the purpose of interment. The certificate shall give a right in fee simple to the proprietor, his or her heirs, and assigns. The certificate shall then be recorded in the office of the Register of Deeds.

(Neb. RS 17-941) (`88 Code, § 3-903)

§ 91.06 FORFEITURE OF LOTS.

If, for three consecutive years, all charges and liens are not paid by the holders of the lot certificates, the certificates shall be declared forfeited and subject to resale. All certificates sold shall contain a forfeiture clause to the effect that if no interment is made on the lot and all liens paid, the certificate and the rights under the same may, at the option of the Cemetery Board, with the sanction of the City Council, be declared null and void and the lot shall be subject to resale.
(^88 Code, § 3-904)

§ 91.07 LOT TRANSFERS.

Any person who wishes to transfer a certificate may do so by surrendering the original certificate to the Municipal Clerk, who shall issue a new certificate upon the receipt of the recording fee set by resolution of the City Council.
(^88 Code, § 3-905)

§ 91.08 PERPETUAL CARE.

The Municipal Treasurer shall allocate and set apart a percentage of the entire amount paid for lots or burial spaces if the lots or burial spaces are to be endowed with perpetual care. The fund shall be permanent in nature, and as it accumulates shall be invested in such interest bearing securities as are authorized by state law. The income earned thereon shall be used solely for the purposes of perpetual care for the cemetery lots. Any lot owner who shall not have, prior to the purchase of his lot, endowed his holdings with perpetual care, may do so by paying to the Secretary of the Cemetery Board such sum of money as the City Manager may in each case fix and determine. Thereafter, the owner shall not be liable for the payment of an annual maintenance assessment.

§ 91.09 BURIAL PERMIT.

All persons desiring to bury a deceased person shall first be required to file a completed death certificate with the Bureau of Vital Statistics before any body may be buried in the municipal cemetery. If it is impossible to complete the certificate of death within the legal period of time prescribed by state law, the funeral director shall notify the Bureau of the reason for the delay and file the certificate as soon as possible. The burial permit so issued by the Bureau shall then be filed with the Municipal Clerk. It shall be unlawful for the sexton or other person to allow the interment of a body without first receiving such permit. The burial permit shall then be countersigned and dated by the sexton. The interment of any body shall be performed under the direct supervision of a licensed funeral director. The applicant shall also file with the burial permit an application containing the name, age, sex, race, and cause of death of the deceased person for the records of the Cemetery Board. Upon completion of the requirements herein, the Municipal Clerk shall then issue a municipal burial permit which shall entitle the applicant to bury a deceased person in the municipal cemetery. In the event that the removal of the body of any deceased person is requested, the Municipal Clerk shall issue no permit until the

applicant shall have first complied with the laws of the state of Nebraska with respect to such disinterment.

(^88 Code, § 3-907)

Statutory reference:

Death certificate general requirements, see Neb. RS 71-605

§ 91.10 BURIAL OF INDIGENTS.

Within the Municipal Cemetery there shall be included a plot of ground which shall be available for the free burial of indigents and unknown travelers who may die while they are within the municipality.

(^88 Code, § 3-908)

§ 91.11 LOT CURBING.

It shall be hereafter unlawful for the owner of any lot to construct, maintain, or suffer to remain any curbing around any lot or burial space therein of a height greater than one inch.

Penalty, see § 10.99

§ 91.12 SHRUBS AND TREES.

It shall be unlawful, without the written permission of the City Manager, to plant, maintain, or suffer to remain on any cemetery lot a shrub or tree attaining a height of more than four feet.

Penalty, see § 10.99

§ 91.13 MONUMENTS.

Persons desiring to erect monuments, tombstones, or other structures shall first procure a permit from the Municipal Clerk. The Cemetery Board shall review all such applications and shall give written approval for any permit prior to the issuance by the Municipal Clerk of the permit.

(^88 Code, § 3-909) Penalty, see § 10.99

§ 91.14 GRAVE DEPTH.

Graves shall not be less than six feet deep; provided, nothing herein shall be construed to prohibit the use of mausoleums or other recognized methods of interring deceased persons if such a burial procedure is approved by the Cemetery Board.

(^88 Code, § 3-910)

§ 91.15 DESTRUCTION OF PROPERTY.

Any person who shall willfully destroy, mutilate, deface, injure, or remove any tomb, monument, or gravestone placed in the cemetery, or any fence, railing, or other work for the protection or ornamentation of the cemetery, or who shall willfully destroy, cut, break, or injure any tree, shrub, or plant shall be deemed to be guilty of an offense.

(^88 Code, § 3-911) Penalty, see § 10.99

Statutory reference:

Criminal mischief, see Neb. RS 28-519

§ 91.16 RECLAMATION.

When any lot has been transferred by warranty deed or by a deed conveying a fee simple title, but there has been no burial in any such lot or subdivision thereof and no payment of annual assessments for a period of three years, the Cemetery Board with the sanction of the City Council, may reclaim the unused portion of such lot or subdivision after notifying the record owner or his or her heirs or assigns, if known, by certified mail and publishing notice of its intention to do so. Such notice shall be published once each week for four weeks in a newspaper of general circulation throughout the county in which the cemetery is located, shall describe the lot or subdivision proposed to be reclaimed, and shall be addressed to the person in whose name such portion stands of record or, if there is no owner of record, to all persons claiming any interest in such lot or subdivision. If no person appears to claim such lot or subdivision and pay all delinquent assessments with interest within 15 days after the last date of such publication, the Cemetery Board may by resolution reclaim such lot or subdivision. Such reclamation shall be complete upon a filing of a verified copy of such resolution, together with proof of publication, in the office of the Register of Deeds.

(^88 Code, § 3-912)

§ 91.17 VAULTS.

No wooden vaults shall be allowed in the Municipal Cemetery. All vaults shall be of steel or cement.

(^88 Code, § 3-906) Penalty, see § 10.99

§ 91.18 CREMATION REMAINS; CONTAINERS.

There shall be required for the interment of any cremation remains in the Municipal Cemetery a container in which such cremated remains shall be placed, such container to be constructed of a durable material, other than wood, such as concrete or metal, impervious to the elements and to be sealed before burial.

(^88 Code, § 3-913) (Ord. 380, passed 11-19-96)

CHAPTER 92: FIRE REGULATIONS

Section

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FIRE PREVENTION

§ 92.01 OPEN BURNING BAN; WAIVER.

(A) There shall be a statewide open burning ban on all bonfires, outdoor rubbish fires, and fires for the purpose of clearing land.

(B) The Fire Chief of the municipal Fire Department or his or her designee may waive an open burning ban under division (A) of this section for an area under his or her jurisdiction by issuing an open burning permit to a person requesting permission to conduct open burning. The permit issued by the Fire Chief or his or her designee to a person desiring to conduct open burning shall be in writing, signed by the Fire Chief or his or her designee, and on a form provided by the State Fire Marshal.

(C) The municipal Fire Chief or his or her designee may waive the open burning ban in his or her jurisdiction when conditions are acceptable to the Chief or his or her designee. Anyone burning in such jurisdiction when the open burning ban has been waived shall notify the Fire Department of his or her intention to burn.

(D) The municipal Fire Chief may adopt and promulgate rules and regulations listing the conditions acceptable for issuing a permit to conduct open burning under division (B) of this section.

(E) The municipal Fire Department may charge a fee not to exceed \$10 for each such permit issued. This fee shall be remitted to the City Council for inclusion in the general funds allocated to the Fire Department. Such funds shall not reduce the tax requirements for the Fire Department. No such fee shall be collected from any state or political subdivision to which such a permit is issued to conduct open burning under division (B) of this section in the course of such state's or political subdivision's official duties.

(^88 Code, § 7-210)

Statutory reference:

Statewide ban; exemptions, see Neb. RS 81-520.01

POISONOUS AND FLAMMABLE GASES; EXPLOSIVES

§ 92.20 PETROLEUM GAS.

Any person desiring to store or keep in their possession liquefied petroleum gas shall place the containers outside of buildings on nonflammable docks or platforms, and no such container shall at any time be stored within a building of any kind.

Penalty, see § 10.99

Statutory reference:

Authority to regulate, see Neb. RS 17-549

§ 92.21 POISONOUS AND FLAMMABLE GASES.

Any person, firm, or corporation desiring to store or keep in the municipality for any period of time any form of poisonous or flammable gas or liquefied petroleum gas or add to, enlarge, or replace any facility used for the storage of such gases, must first get permission from the City Council. The City Council shall require the name of the gas, the place of storage, and the amount of gas stored. If permission is granted, the City Council shall prescribe such rules, regulations, and precautionary actions as they may deem necessary. Permit requirements for the initial construction or location of storage facilities shall not apply to those facilities in existence on the effective date of the ordinance enacting this section, provided that any such present use that is discontinued for a period of 60 days shall not be revived without a permit. The provisions of this section shall be controlling throughout the municipality and throughout its zoning jurisdiction.

(88 Code, § 7-401) Penalty, see § 10.99

Statutory reference:

Authority to regulate, see Neb. RS 17-549

Authority throughout zoning jurisdiction, see Neb. RS 17-1001

Authority to regulate nuisances, see Neb. RS 18-1720

§ 92.22 BULLETS.

Cartridges, shells, and percussions caps shall be kept in their original containers away from flame, flammable materials, and high explosives.

§ 92.23 BLASTING PERMIT.

In addition to notifying the Municipal Fire Department pursuant to Neb. RS 28-1233(3), any person desiring to discharge explosive materials within the municipality shall secure a permit from the City Council and shall discharge such explosive materials in conformance with the conditions specified in the permit. In no case shall any person perform blasting operations unless operating under the direct supervision of a person in possession of a valid user's permit issued by the Nebraska State Patrol.

§ 92.24 TRANSPORTATION.

Any person wishing to transport high explosives in the municipality shall first acquire a permit from the City Council and shall take such precautions and use such route as they may prescribe. Nothing herein shall be construed to apply to the county police, or any of the Armed Services of the United States. No vehicle transporting explosives shall make an unscheduled stop for longer than five minutes within the municipality and in the event of mechanical failure, immediate notice of such breakdown shall be given the County Sheriff, who shall then prescribe such precautions as may be necessary to protect the residents of the municipality and a reasonable time for removal of the vehicle from the municipality.

FIRE PREVENTION

§ 92.30 LIFE SAFETY CODE.

Incorporated by reference into this code are the standards recommended by the National Fire Protection Association, known as the *Life Safety Code*, 1967 edition, and all subsequent amendments. This code shall have the same force and effect as if set out verbatim herein. One copy of the *Life Safety Code* is on file with the Municipal Clerk and shall be available for public inspection at any reasonable time.

Statutory reference:

Authority to adopt, see Neb. RS 18-132

Zoning and building regulations authorized, see Neb. RS 19-901 through 19-933

Powers and duties of State Fire Marshal, see Neb. RS 81-502

§ 92.31 FIRE PREVENTION CODE.

The rules and regulations promulgated by the office of the State Fire Marshal of the state of Nebraska relating to fire prevention are incorporated by reference into this code and made a part of this chapter as though spread at large herein together with all subsequent amendments thereto. One copy of the fire prevention code shall be on file with the Municipal Clerk and shall be available for public inspection at any reasonable time.

([^]88 Code, § 7-201)

Statutory reference:

Authority to adopt, see Neb. RS 18-132

Zoning and building regulations authorized, see Neb. RS 19-901 through 19-933

Powers and duties of State Fire Marshal, see Neb. RS 81-502

§ 92.32 FIRE CODE ENFORCEMENT.

It shall be the duty of all municipal officials to enforce the incorporated fire code provisions and all infractions shall be immediately brought to the attention of the Fire Chief.

([^]88 Code, § 7-202)

Statutory reference:

Authority to regulate, see Neb. RS 17-549

§ 92.33 FIRE LIMITS DEFINED.

The fire limits in the municipality shall be such territory as set forth and described by the City Council from time to time, which description shall be available for public inspection in the office of the City Clerk during regular city business hours.

§ 92.34 FIRE LIMITS BUILDING MATERIALS.

Within the fire limits set forth in § 92.34, no structure shall be built, altered, moved, or enlarged unless such structure will be enclosed with walls constructed wholly of stone, well-burned brick, terra cotta, concrete, or other such noncombustible materials as will satisfy the Fire Chief that the structure will be reasonably fireproof.

Penalty, see § 10.99

Statutory reference:

Authority to regulate, see Neb. RS 17-550

§ 92.35 REMOVAL REQUIRED.

In the event that any wooden or combustible building or structure, or any non-combustible building which stands within the fire limits is damaged to the extent of 50% or more of its value, exclusive of the foundation, it shall not be repaired or rebuilt, but shall be taken down and removed within 60 days from the date of such fire or other casualty.

(Neb. RS 17-550) (^88 Code, § 7-208)

§ 92.36 REPAIR REQUIRED.

In the event that a building within the fire limits becomes damaged to the extent of less than 50% of its value, exclusive of the foundation, it shall be the duty of the owner, lessee, or occupant to remove or repair the building in accordance with the provisions of this chapter. It shall be unlawful for any person to allow a building to stand in such damaged or decayed condition. Any such building shall be removed or repaired within 30 days after receiving notice to do so by the City Council.

(Neb. RS 17-550) (^88 Code, § 7-208) Penalty, see § 10.99

FIREWORKS

§ 92.50 DEFINITION.

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

FIREWORKS. Any composition or device designed for the purpose of producing a visible or audible effect by combustion, deflagration, or detonation and which meets the definition of common or special fireworks set forth by the United States Department of Transportation in Title 49, Code of Federal Regulations.

(Neb. RS 28-1241)

Statutory reference:

Authority, see Neb. RS 17-556

§ 92.51 PERMITTED FIREWORKS.

(A) It shall be unlawful for any person to ignite or cause to be exploded fireworks or firecrackers of any description whatsoever, except sparklers, vesuvius fountains, spray fountains, torches, color fire cones, star and comet type color aerial shells without explosive charges for the purpose of making a noise, color wheels, lady fingers, not exceeding 7/8 inch in length or 1/8 inch in diameter, total explosive composition not to exceed 50 milligrams each in weight, color wheels, and any other fireworks approved under Neb. RS 28-1247.

(Neb. RS 28-1241(7))

(B) The provisions of this section shall not apply to any fireworks to be used for purpose of public exhibitions or display under authorization of the City Council or to fireworks furnished for agricultural purposes pursuant to written authorization from the State Fire Marshal.

(^88 Code, § 7-301) (Ord. 344, passed 8-6-90) Penalty, see § 10.99

Statutory reference:

Authority, see Neb. RS 17-556

Unlawful fireworks, see Neb. RS 28-1244

Prohibitions not applicable, see Neb. RS 28-1245

§ 92.52 THROWING FIREWORKS.

It shall be unlawful for any person to throw any firecracker, or any object which explodes upon contact with another object; from or into a motor vehicle; onto any street, highway, or sidewalk; at or near any person; into any building; or into or at any group of persons.

(^88 Code, § 7-302) Penalty, see § 10.99

§ 92.53 SALE.

(A) It shall be unlawful for any person to sell, hold for sale, or offer for sale as distributor, jobber, or retailer any fireworks without first obtaining a license from the State Fire Marshal for that calendar year. (Neb. RS 28-1246)

(B) Licensees shall only sell fireworks that have been approved by the State Fire Marshal.

(Neb. RS 28-1247)

(C) Permissible fireworks may be sold at retail only between June 24 and July 5 of each year.
(Neb. RS 28-1249)
(88 Code, § 7-303) (Ord. 428, passed 11-15-99) Penalty, see § 10.99

CHAPTER 93: HEALTH AND SAFETY

Section

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Abandoned Vehicles

- 93.40 Definitions
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Cross reference:

Board of Health, see § 32.04

GENERAL PROVISIONS

§ 93.01 HEALTH REGULATIONS.

For the purpose of promoting the health and safety of the residents of the municipality, the Board of Health shall, from time to time, adopt such rules and regulations relative thereto and shall make such inspections, prescribe such penalties, and make such reports as may be necessary toward that purpose.
(`88 Code, §§ 4-401, 4-102)

Statutory reference:

Authority to regulate, see Neb. RS 17-121

§ 93.02 ENFORCEMENT OFFICIAL.

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

(`88 Code, § 4-102)

Statutory reference:

Quarantine officer, see Neb. RS 17-121

§ 93.03 COUNTY BOARD OF HEALTH.

It shall be the duty of the Board of Health to work closely with the County Health Board in protecting the health and welfare of the residents of the municipality.
(^88 Code, § 4-104)

NUISANCES

§ 93.20 DEFINITION.

(A) *General definition.* A ***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:

- (1) Injures or endangers the comfort, repose, health, or safety of others;
- (2) Offends decency;
- (3) Is offensive to the senses;
- (4) Unlawfully interferes with, obstructs, tends to obstruct, or renders dangerous for passage any stream, public park, parkway, square, street, or highway in the municipality;
- (5) In any way renders other persons insecure in life or the use of property; or
- (6) 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, stable-yards, 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 municipality;

(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 municipality, 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 fowls of any kind are confined or on which are stored tankage or any other animal or vegetable matter, or on which any animal or vegetable matter including grain is being processed, when 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 municipality or are maintained and kept in such a manner as to be injurious to the public health; or

(12) All other things specifically designated as nuisances elsewhere in this code.
(`88 Code, §§ 4-301, 4-302)

Statutory reference:

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

§ 93.21 ABATEMENT PROCEDURE.

(A) It shall be the duty of every owner or occupant of real estate in the municipality to keep such real estate free of public nuisances. Upon determination by the Board of Health that the owner or occupant has failed to keep such real estate free of public nuisances, notice to abate and remove such 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. Such notice shall describe the condition as found by the Board of Health 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 such 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 municipality shall have such work done and may levy and assess the costs and expenses of the work upon the real estate so benefited 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 such condition should not be found to be a public nuisance and remedied. Such 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 by the Board of Health. 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 benefited in the same manner as other special taxes for improvements are levied and assessed.

(`88 Code, § 4-303) (Ord. 376, passed 2-6-96)

Statutory reference:

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

§ 93.22 JURISDICTION.

The Mayor and Sheriff's Department are directed to enforce this municipal code against all nuisances. The jurisdiction of the Mayor, Sheriff's Department, and court shall extend to and the territorial application of this chapter shall include all territory adjacent to the limits of the municipality within one mile thereof and all territory within the corporate limits.

(`88 Code, § 4-304)

Statutory reference:

Zoning jurisdiction, see Neb. RS 17-1001

Authority to regulate and abate nuisances, the Neb. RS 18-1720

§ 93.23 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 municipality, the owners of the adjoining property may intervene in the action at any time before trial.

(Neb. RS 19-710) (`88 Code, § 4-305)

§ 93.24 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 municipality.

(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 municipality. For the purpose of carrying out the provisions of this section, the Sheriff's Department shall have the authority to enter upon private property to inspect the trees thereon.

(C) Notice to abate and remove such 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 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 municipality 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 benefited in the same manner as other special taxes for improvements are levied or assessed.

(`88 Code, § 6-305)

Statutory reference:

Authority to regulate and abate dead and diseased trees, see Neb. RS 17-555

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

Nuisances prohibited, see Neb. RS 28-1321

Cross-reference:

Trees regulated in general, see Chapter 96

ABANDONED VEHICLES

§ 93.40 DEFINITIONS.

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

MAYOR OR DESIGNATED AGENT. The Mayor of the city or his/her designated agent as designated by the City Council to perform any duty listed in this subchapter.

PROPERTY. Any real property within the city or any city property within or without the corporate limits which is not a street or highway.

STREET or HIGHWAY. The entire width between the boundary lines of every publicly maintained way when any part thereof is open to the use of the public for purposes of vehicular travel.

VEHICLE. A machine propelled by power other than human power, designed to travel on ground or water by use of wheels, treads, runners, slides, or other methods, and transport persons or property or pull machinery or freight, and must be titled by the state, and shall include, but not be limited to, automobiles, airplanes, trucks, trailers, motorcycles, motor scooters, tractors, recreational or sporting vehicles, mopeds, and such non-powered vehicles as, but not limited to, boats, boat trailers, farm machinery, utility trailers, campers, or trailers.
(`88 Code, § 6-401) (Ord. 452, passed 8-28-01)

§ 93.41 PURPOSE.

It is hereby expressly found and determined that the practice of permitting unlicensed motor vehicles, motor vehicle bodies, and motor vehicle chassis or parts therefrom to be stored or accumulated on private premises is unsightly and unhealthy and constitutes a nuisance to the citizens and residents of this city, provided, the storage or accumulation of such motor vehicles, motor vehicle bodies, and motor vehicle chassis or parts therefrom in completely enclosed building shall not be considered a nuisance. No person shall store, retain, or keep on, or permit to be stored, retained, or kept on, any private premises any motor vehicle that has been unlicensed for a period in excess of four months under the laws of the state of Nebraska or any motor vehicle body or motor vehicle chassis or parts therefrom, provided, this section shall not apply to such motor vehicle, motor vehicle body, or motor vehicle chassis or parts therefrom that is kept in a completely enclosed building, and further this section shall not apply to the premises where a licensed motor vehicle dealer, a farm implement dealer or an automobile repair shop where business is conducted.
(`88 Code, § 6-403)

§ 93.42 UNREGISTERED, DISMANTLED OR WRECKED VEHICLES; PROHIBITED; EXCEPTIONS.

It shall be unlawful for any person to keep on, in, or about any place within the city or on city property, within or without the corporate limits, for more than 30 days, any nonoperating, wrecked, junked, partially dismantled or a vehicle which lacks or has missing, removed, or broken parts so as to render it incapable of being operated under its own power, or in the case of a non-powered vehicle such that the vehicle is incapable of being used for the purpose for which it was manufactured. It shall be unlawful for any person to keep on, in, or about any place within the city or on city property, within or without the corporate limits, any vehicle, or parts therefrom, which has been unregistered for more than 30 days; provided that, this section shall not apply to a vehicle and all parts thereof which are kept in a completely enclosed building, or is completely screened from public view by natural or other means provided that such screened-off area does not otherwise violate any provision of the municipal code. Also provided that, this section shall not apply to a vehicle and all parts thereof which are entirely covered by a tarpaulin or other opaque cover tailored to fit the contour of the vehicle and securely fasten in place against removal by wind or storm or other natural causes; however, that such permitted storage is limited to one vehicle in number as to any premise within the city limits. This section does not apply to a vehicle on the premises of a business enterprise operated in a lawful place and manner, when necessary to the lawful operation of such business enterprise, or a vehicle on the premises of a person who has obtained a hobbyist permit for restoration of such vehicle.
(^88 Code, § 6-402) (Ord. 452, passed 8-28-01) Penalty, see § 10.99

§ 93.43 HOBBYIST PERMIT.

A hobbyist permit for the restoration or repair of up to two nonoperating, wrecked, junked or partially dismantled vehicles on any premises used for residential purposes may be granted to the residents of such premises as follows:

(A) Application for a hobbyist permit shall be filed with the City Clerk on a form provided by the city and shall contain the name and address of the applicant, and the make, model, year and vehicle identification number of each vehicle to be restored or repaired.

(B) The vehicle or vehicles to be restored or repaired shall be owned by the occupant.

(C) The fee for such hobbyist permit shall be \$50 per vehicle.

(D) All permits shall expire on the 180th day following the date of issuance of such permit.
(^88 Code, § 6-403.1) (Ord. 400, passed 9-4-97)

§ 93.44 ABANDONMENT PROHIBITED; PROCEDURES; DISPOSITION.

(A) (1) No person shall cause any vehicle to be an abandoned vehicle as described in division (B) (1), (2), (3), or (4) of this section.
(Neb. RS 60-1907)

(2) No person other than one authorized by the municipality or appropriate state agency shall destroy, deface, or remove any part of a vehicle which is left unattended on a highway or other public place without license plates affixed or which is abandoned.
(Neb. RS 60-1908)

(B) A motor vehicle is an abandoned vehicle:

(1) If left unattended, with no license plates or valid In Transit decals issued pursuant to Neb. RS 60-320 affixed thereto, for more than six hours on any public property;

(2) If left unattended for more than 24 hours on any public property, except a portion thereof on which parking is legally permitted;

(3) If left unattended for more than 48 hours after the parking of such vehicle has become illegal, if left on a portion of any public property on which parking is legally permitted;

(4) If left unattended for more than seven days on private property if left initially without permission of the owner, or after permission of the owner is terminated; or

(5) If left for more than 30 days in the custody of a law enforcement agency after the agency has sent a letter to the last-registered owner under division (E) of this section.

(6) No motor vehicle subject to forfeiture under Neb. RS 28-431 shall be an abandoned vehicle under this division.
(Neb. RS 60-1901)

(C) If an abandoned vehicle, at the time of abandonment, has no license plates of the current year or valid In Transit decals issued pursuant to Neb. RS 60-320 affixed and is of a wholesale value, taking into consideration the condition of the vehicle, of \$250 or less, title shall immediately vest in the municipality.
(Neb. RS 60-1902)

(D) (1) Except for vehicles governed by division (C) of this section, the municipality shall make an inquiry concerning the last-registered owner of an abandoned vehicle as follows:

(a) Abandoned vehicle with license plates affixed, to the jurisdiction which issued such license plates; or

(b) Abandoned vehicle with no license plates affixed, to the Department of Motor Vehicles.

(2) The municipality shall notify the last-registered owner, if any, that the vehicle in question has been determined to be an abandoned vehicle and that, if unclaimed, either:

(a) It will be sold or will be offered at public auction after five days from the date such notice was mailed; or

(b) Title will vest in the municipality 30 days after the date such notice was mailed.

(3) If the municipality is notified that a lien or mortgage exists, the notice described in division (D)(2) of this section shall also be sent to the lienholder or mortgagee. Any person claiming such vehicle shall be required to pay the cost of removal and storage of such vehicle.

(4) Title to an abandoned vehicle, if unclaimed, shall vest in the municipality:

(a) Five days after the date the notice is mailed if the vehicle will be sold or offered at public auction under division (D)(2)(a) of this section;

(b) Thirty days after the date the notice is mailed if the municipality will retain the vehicle; or

(c) If the last-registered owner cannot be ascertained, when notice of such fact is received.

(5) After title to the abandoned vehicle vests pursuant to division (D)(4) of this section, the municipality may retain for use, sell, or auction the abandoned vehicle. If the municipality has determined that the vehicle should be retained for use, the municipality shall, at the same time that the notice, if any, is mailed, publish in a newspaper of general circulation in the jurisdiction an announcement that the municipality intends to retain the abandoned vehicle for its use and that title will vest in the municipality 30 days after publication.

(Neb. RS 60-1903)

(E) (1) If the municipal law enforcement agency has custody of a motor vehicle for investigatory purposes and has no further need to keep it in custody, it shall send a certified letter to each of the last-registered owners stating that the vehicle is in the custody of the agency, that the vehicle is no longer needed for law enforcement purposes, and that after 30 days the agency will dispose of the vehicle.

(2) This division shall not apply to motor vehicles subject to forfeiture under Neb. RS 28-431.

(3) No storage fees shall be assessed against the registered owner of a motor vehicle held in custody for investigatory purposes under this division unless the registered owner or the person in possession of the vehicle when it is taken into custody is charged with a felony or misdemeanor related to the offense for which the law enforcement agency took the vehicle into custody. If a registered owner or the person in possession of the vehicle when it is taken into custody is charged with a felony or misdemeanor but is not convicted, the registered owner shall be entitled to a refund of the storage fees.

(Neb. RS 60-1903.01)

(F) Any proceeds from the sale of an abandoned vehicle, less any expenses incurred by the municipality, shall be held by the municipality without interest, for the benefit of the owner or

lienholders of such vehicle for a period of two years. If not claimed within such two-year period, the proceeds shall be paid into the general fund of the municipality.
(Neb. RS 60-1905)

(G) Neither the owner, lessee, nor occupant of the premises from which any abandoned vehicle is removed, nor the municipality, shall be liable for any loss or damage to such vehicle which occurs during its removal or while in the possession of the municipality or its contractual agent or as a result of any subsequent disposition.
(Neb. RS 60-1906)

(H) The last-registered owner of an abandoned vehicle shall be liable to the municipality for the costs of removal and storage of such vehicle.
(Neb. RS 60-1909)

(I) For purposes of this section, **PUBLIC PROPERTY** means any public right-of-way, street, highway, alley or park or other state, county, or municipally owned property; **PRIVATE PROPERTY** means any privately owned property which is not included within the definition of public property.
(Neb. RS 60-1901)

(J) Any person who violates the provisions of this section is guilty of an offense.
(^88 Code, § 6-406) (Ord. 442, passed 4-2-01) Penalty, see § 10.99

Statutory reference:

Additional regulations, Neb. RS 60-1901 through 60-1911

CHAPTER 94: PUBLIC WAYS AND PROPERTY

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MUNICIPAL PROPERTY

§ 94.001 DEFINITION.

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

SIDEWALK SPACE. That portion of a street between curb lines and adjacent property lines.

§ 94.002 MAINTENANCE AND CONTROL.

The City Council shall have the care, supervision, and control of all public highways, bridges, streets, alleys, public squares, and commons within the municipality and shall cause the same to be kept open and in repair and free from nuisances.

(Neb. RS 17-567(1))

§ 94.003 OBSTRUCTIONS.

(A) Trees and shrubs growing upon or near the lot line, or upon public ground, and interfering with the use or construction of any public improvements shall be deemed an obstruction under this chapter. Such trees and shrubs and their roots may be removed by the municipality at the expense of the owner of the property upon which the tree is located should the owner fail, or neglect, after notice, to do so. It shall be unlawful for any person, persons, firm, or corporation to obstruct, or encumber, by fences, gates, buildings, structures, or otherwise, any of the streets, alleys, or sidewalks. The public ways and property shall be considered to be obstructed when the owner or occupant of the adjacent property shall permit or suffer to remain on any premise owned or controlled by him or her any hedge, shrubbery, bush, or similar growth within two feet adjacent to the lot line whether there is a sidewalk abutting or adjoining such premise or not. It shall be the duty of owners and occupants to at all times keep trimmed and pruned all such similar growth. Whenever any such growth is allowed to grow within two feet of the lot line contrary to the provisions of this chapter, the City Council may pass a resolution ordering the owner or occupant to remove such obstructions within five days after having been served with a copy of the resolution by the municipality stating that the municipality will do so and will charge the costs thereof to the owner or occupant as a special assessment for improvements as herein provided, or shall collect the same by civil suit brought in the name of the municipality against the owner or occupant. It shall be the duty of an owner or occupant engaged in construction of any building or improvement upon or near the public ways and property to have all excavations or exposures of any kind protected and guarded by suitable guards or barricades by day and by warning lights at night. In the event of failure, neglect, or refusal to comply with the provisions of this subchapter, it shall be the duty of the municipality to stop all work upon the buildings and improvements until suitable guards are erected and kept in the manner aforesaid. Trees and shrubs growing upon the lot line partially on public ground and partially upon the abutting property, or wholly upon the abutting property, but so close to the lot line as to interfere with the making of any public improvement or so that the roots thereof interfere with any utility wires or pipe shall be deemed an

obstruction, and such trees, shrubs, and roots may be removed by the municipality pursuant to the procedure prescribed above. In the event the property owner is a non-resident of the county in which the property lies, the municipality shall, before levying any special assessment against that property, send a copy of any notice required by law to be published by means of certified mail, return receipt requested to the last known address of the non-resident property owner. The last known address shall be that address listed on the current tax rolls at the time such required notice was first published.

(B) Persons engaged in the erection, construction, reconstruction, wrecking, or repairing of any building, or the construction, or repair, of a sidewalk along any street, may occupy the public street space with such building material and equipment as long as is necessary if such persons shall make application to and receive a permit in writing from the municipal official in charge of municipal streets to do so, provided that no permit for the occupancy of the sidewalk space and more than 1/3 of the roadway of the public space adjacent to the real estate on which said building is to be constructed, erected, reconstructed, wrecked, or repaired shall be granted, and provided further that a suitable passageway for pedestrians shall be maintained within the public space included in the permit which shall be protected and lighted in the manner required by the official issuing the permit.

Penalty, see § 10.99

Statutory reference:

Authority to remove obstructions, see Neb. RS 17-555

Authority to regulate and abate obstructions, see Neb. RS 17-557 and 17-557.01

§ 94.004 WEEDS.

It is hereby the duty of the Utilities Superintendent or his or her duly authorized agent to view and inspect the sidewalk space within the corporate limits for growing weeds during the growing season, and if rank and noxious weeds are found growing thereon, he or she shall notify the owner or occupant thereof to cut down such weeds as close to the ground as can be practicably done and keep the weeds cut thereon in like manner during the growing season for weeds, provided that any weeds growing in excess of 12 inches on any sidewalk space shall be considered a violation of this section. In the event that the owner of the lot or parcel of land abutting said sidewalk space within the municipality is a non-resident of the municipality or cannot be found therein the notice may be given to any person having the care, custody, or control of such lot or parcel of land. In the event that there can be found no one within the municipality to whom notice can be given, it shall be the duty of the Utilities Superintendent or his or her agent to post a copy of the notice on the premise and then to cut or cause the weeds thereon to be cut as therein provided and report the cost thereof in writing to the City Council. The cost shall then be audited and paid by the municipality and the amount thereof shall be assessed against the lot or parcel of land as a special tax thereon and shall be collected as are other taxes of the municipality or may be recovered by civil suit brought by the municipality against the owner of the parcel of land. In the event the property owner is a non-resident of the county in which the property lies, the municipality shall, before levying any special assessment against that property, send a copy of any notice required by law to be published by means of certified mail, return receipt requested to the last known address of the non-resident property owner. The last known address shall be that address listed on the current tax rolls at the time such required notice was first published.

Penalty, see § 10.99

Statutory reference:

Authority, see Neb. RS 17-563

§ 94.005 SIGNS AND CANOPIES.

No person, firm, or corporation shall erect, or maintain, any sign, signboard, poster, or rigid canopy over any street, sidewalk, alley, or on other public property without having first obtained a permit therefor. Permits for signs, canopies, posters, and signboards shall be issued by the Municipal Clerk, subject to the approval of the Utilities Superintendent, upon payment of a fee set by resolution of the City Council. All signs and canopies extending over any public sidewalk, street, alley, or other public place must be securely fastened and constructed so that there will be no danger of the same being dislodged by ordinary winds, or falling from other causes. No sign or canopy shall be erected or maintained which extends over any public sidewalk, street, alley, or other public place in such a location as to obstruct the view of any traffic light, sign, or signal. Upon the written order of the City Council, any person owning or occupying the premise where such a sign, canopy, poster, or signboard is located, shall cause the same to be removed within the time limit specified on such notice. Penalty, see § 10.99

§ 94.006 OVERHANGING BRANCHES.

The owner or occupant of any lot, piece, or parcel of ground abutting or adjacent to any street or sidewalk over which there extends the branches of trees shall at all times keep the branches or limbs thereof trimmed to the height of at least ten feet above the surface of the walk and at least 17 feet above the surface of the street. Whenever the limbs or branches of any tree or trees extend over streets or sidewalks contrary to the provisions herein so as to interfere with the lighting of the street from street lights or with the convenience of the public using the street or sidewalk, the City Council at any regular or special meeting may pass a resolution ordering the owner or occupant to cut or remove the obstructions within five days after having received a copy thereof from the Utilities Superintendent stating that the municipality will remove the branches and charge the costs thereof to the owner or occupant as a special assessment for improvements as herein provided, if the resolution is not complied with. In the event the property owner is a non-resident of the county in which the property lies, the municipality shall, before levying any special assessment against that property, send a copy of any notice required by law to be published by means of certified mail, return receipt requested to the last known address of the non-resident property owner. The last known address shall be that address listed on the current tax rolls at the time such required notice was first published.

Penalty, see § 10.99

Statutory reference:

Authority to regulate, see Neb. RS 17-557 and 17-557.01

§ 94.007 SALE AND CONVEYANCE.

(A) Except as provided in division (G) of this section, the power of the city to convey any real

property owned by it, including land used for park purposes and public squares, except real property used in the operation of public utilities, shall be exercised by resolution, directing the sale at public auction or by sealed bid of such property and the manner and terms thereof, except that such property shall not be sold at public auction or by sealed bid when:

(1) Such property is being sold in compliance with the requirements of federal or state grants or programs;

(2) Such property is being conveyed to another public agency; or

(3) Such property consists of streets and alleys.

(B) The City Council may establish a minimum price for real property at which bidding shall begin or shall serve as a minimum for a sealed bid.

(C) After the passage of the resolution directing the sale, notice of all proposed sales of property described in division (A) of this section and the terms thereof shall be published once each week for three consecutive weeks in a legal newspaper published in or of general circulation in the city.

(D) (1) If within 30 days after the third publication of the notice a remonstrance against such sale is signed by registered voters of the city equal in number to 30% of the registered voters of the city voting at the last regular municipal election held therein and is filed with the City Council, such property shall not then, nor within one year thereafter, be sold. If the date for filing the remonstrance falls upon a Saturday, Sunday, or legal holiday, the signatures shall be collected within the 30-day period, but the filing shall be considered timely if filed or postmarked on or before the next business day.

(2) Upon the receipt of the remonstrance, the City Council, with the aid and assistance of the Election Commissioner or County Clerk, shall determine the validity and sufficiency of signatures on the remonstrance. The City Council shall deliver the remonstrance to the Election Commissioner or County Clerk by hand carrier, by use of law enforcement officials, or by certified mail, return receipt requested.

(3) Upon receipt of the remonstrance, the Election Commissioner or County Clerk shall issue to the City Council a written receipt that the remonstrance is in the custody of the Election Commissioner or County Clerk. The Election Commissioner or County Clerk shall compare the signature of each person signing the remonstrance with the voter registration records to determine if each signer was a registered voter on or before the date on which the remonstrance was filed with the City Council. The Election Commissioner or County Clerk shall also compare the signer's printed name, street and number or voting precinct, and city or post office address with the voter registration records to determine whether the signer was a registered voter. The signature and address shall be presumed to be valid only if the Election Commissioner or County Clerk determines that the printed name, street and number or voting precinct, and city or post office address matches the registration records and that the registration was received on or before the date on which the remonstrance was filed with the City Council. The determinations of the Election Commissioner or County Clerk may be

rebutted by any credible evidence which the City Council finds sufficient. The express purpose of the comparison of names and addresses with the voter registration records, in addition to helping to determine the validity of the remonstrance, the sufficiency of the remonstrance, and the qualifications of the signer, shall be to prevent fraud, deception, and misrepresentation in the remonstrance process.

(4) Upon completion of the comparison of names and addresses with the voter registration records, the Election Commissioner or County Clerk shall prepare in writing a certification under seal setting forth the name and address of each signer found not to be a registered voter and the signature page number and line number where the name is found, and if the reason for the invalidity of the signature or address is other than the nonregistration of the signer, the Election Commissioner or County Clerk shall set forth the reason for the invalidity of the signature. If the Election Commissioner or County Clerk determines that a signer has affixed his or her signature more than once to the remonstrance and that only one person is registered by that name, the Election Commissioner or County Clerk shall prepare in writing a certification under seal setting forth the name of the duplicate signature and shall count only the earliest dated signature.

(5) The Election Commissioner or County Clerk shall certify to the City Council the number of valid signatures necessary to constitute a valid remonstrance. The Election Commissioner or County Clerk shall deliver the remonstrance and the certifications to the City Council within 40 days after the receipt of the remonstrance from the City Council. The delivery shall be by hand carrier, by use of law enforcement officials, or by certified mail, return receipt requested. Not more than 20 signatures on one signature page shall be counted.

(6) The City Council shall, within 30 days after the receipt of the remonstrance and certifications from the Election Commissioner or County Clerk, hold a public hearing to review the remonstrance and certifications and receive testimony regarding them. The City Council shall, following the hearing, vote on whether or not the remonstrance is valid and shall uphold the remonstrance if sufficient valid signatures have been received.

(E) Real estate now owned or hereafter owned by the city may be conveyed without consideration to the State of Nebraska for state armory sites or, if acquired for state armory sites, shall be conveyed strictly in accordance with the conditions of Neb. RS 18-1001 to 18-1006.

(F) Following (1) passage of the resolution directing a sale, (2) publishing of the notice of the proposed sale, and (3) passing of the 30-day right-of-remonstrance period, the property shall then be sold. Such sale shall be confirmed by passage of an ordinance stating the name of the purchaser and terms of the sale.

(Neb. RS 17-503)

(G) Divisions (A) through (F) of this section shall not apply to the sale of real property if the authorizing resolution directs the sale of real property, the total fair market value of which is less than \$5,000. Following passage of the resolution directing the sale of the property, notice of the sale shall be posted in three prominent places within the city for a period of not less than seven days prior to the sale of the property. The notice shall give a general description of the property offered for sale and state the terms and conditions of sale. Confirmation of the sale by passage of an ordinance may be required.

(Neb. RS 17-503.01)

(Ord. 461, passed 12-3-01)

§ 94.008 ACQUISITION OF PROPERTY; CONSTRUCTION; ELECTIONS, WHEN REQUIRED.

(A) The municipality is authorized and empowered to purchase, accept by gift or devise, purchase real estate upon which to erect, and erect a building or buildings for an auditorium, fire station, municipal building, or community house for housing municipal enterprises and social and recreation purposes, and other public buildings, and maintain, manage, and operate the same for the benefit of the inhabitants of the municipality.

(B) Except as provided in division (C) of this section, before any such purchase can be made or building erected, the question shall be submitted to the electors of the municipality at a general municipal election or at an election duly called for that purpose, or as set forth in Neb. RS 17-954 and be adopted by a majority of the electors voting on such question.

(Neb. RS 17-953)

(C) If the funds to be used to finance the purchase or construction of a building pursuant to this section are available other than through a bond issue, then either:

(1) Notice of the proposed purchase or construction shall be published in a newspaper of general circulation in the municipality, and no election shall be required to approve the purchase or construction unless within 30 days after the publication of the notice, a remonstrance against the purchase or construction is signed by registered voters of the municipality equal in number to 15% of the registered voters of the municipality voting at the last regular municipal election held therein and is filed with the City Council. If the date for filing the remonstrance falls upon a Saturday, Sunday, or legal holiday, the signatures shall be considered timely if filed or postmarked on or before the next business day. If a remonstrance with the necessary number of qualified signatures is timely filed, the question shall be submitted to the voters of the municipality at a general municipal election or a special election duly called for that purpose. If the purchase or construction is not approved, the property involved shall not then, nor within one year following the election, be purchased or constructed; or

(2) The City Council may proceed without providing the notice and right of remonstrance required in subdivision (C)(1) of this subsection if the property can be purchased below the fair market value as determined by an appraisal, there is a willing seller, and the purchase price is less than \$25,000. The purchase shall be approved by the City Council after notice and public hearing as provided in Neb. RS 18-1755.
(Neb. RS 17-953.01)

§ 94.009 ACQUISITION OF REAL PROPERTY; APPRAISAL.

The municipality shall not purchase, lease-purchase, or acquire for consideration real property having an estimated value of \$100,000 or more unless an appraisal of such property has been performed by a certified real estate appraiser.
(Neb. RS 13-403)

§ 94.010 ACQUISITION OF REAL PROPERTY; PUBLIC MEETING.

When acquiring an interest in real property by purchase or eminent domain, the municipality shall do so only after the City Council has authorized the acquisition by action taken in a public meeting after notice and public hearing.
(Neb. RS 18-1755)

§ 94.011 PUBLIC WORKS INVOLVING ARCHITECTURE OR ENGINEERING; REQUIREMENTS.

(A) Except as provided in division (B) of this section, the municipality shall not engage in the construction of any public works involving architecture or engineering unless the plans, specifications, and estimates have been prepared and the construction has been observed by an architect, a professional engineer, or a person under the direct supervision of an architect, professional engineer, or those under the direct supervision of an architect or professional engineer.

(B) Division (A) of this section shall not apply to the following activities:

(1) Any public works project with contemplated expenditures for the completed project that do not exceed \$86,000;

(2) Any alteration, renovation, or remodeling of a building if the alteration, renovation, or remodeling does not affect architectural or engineering safety features of the building;

(3) Performance by the municipality of professional services for itself if the municipality appoints a municipal engineer or employs a full-time person licensed under the Engineers and Architects Regulation Act who is in responsible charge of architectural or engineering work;

(4) The practice of any other certified trade or legally recognized profession;

(5) Earthmoving and related work associated with soil and water conservation practices performed on any land owned by the municipality that is not subject to a permit from the Department of Natural Resources;

(6) The work of employees and agents of the municipality performing, in accordance with other requirements of law, their customary duties in the administration and enforcement of codes, permit programs, and land use regulations and their customary duties in utility and public works construction, operation, and maintenance;

(7) Those services ordinarily performed by subordinates under direct supervision of a professional engineer or those commonly designated as locomotive, stationary, marine operating engineers, power plant operating engineers, or manufacturers who supervise the operation of or operate machinery or equipment or who supervise construction within their own plant;

(8) The construction of water wells as defined in Neb. RS 46-1212, the installation of pumps and pumping equipment into water wells, and the decommissioning of water wells, unless such construction, installation, or decommissioning is required by the municipality to be designed or supervised by an engineer or unless legal requirements are imposed upon the municipality as a part of a public water supply; and

(9) Any other activities described in Neb. RS 81-3449 to 81-3453.
(Neb. RS 81-3423, 81-3445, 81-3449, and 81-3453)

SIDEWALKS

§ 94.020 KEPT CLEAN.

It shall be unlawful for the occupant of any lot or lots or the owner of any vacant lot or lots within the corporate limits to allow snow, sleet, mud, ice, or other substance to accumulate on the sidewalks or to permit any snow, sleet, ice, mud, or other substance to remain upon the sidewalk. All sidewalks within the business district shall be cleaned within six hours after the cessation of a storm, unless the storm or fall of snow shall have taken place during the night, in which case the sidewalk shall be cleaned before 8:00 a.m. the following day, provided that sidewalks within the residential areas of the municipality shall be cleaned within 24 hours after the cessation of the storm.

Penalty, see § 10.99

Statutory reference:

Authority to regulate, see Neb. RS 17-557

§ 94.021 MAINTENANCE.

Every owner of any lot, lots, or piece of land within the corporate limits shall at all times keep and maintain the sidewalk along and contiguous to the lot, lots, or pieces of land, as the case may be, in good and proper repair, and in a condition reasonably safe for travel for all travelers thereon. In the event that the owner or owners of any lot, lots, or lands, abutting on any street, avenue, or part thereof shall fail to construct or repair any sidewalk in front of his, her, or their lot, lots, or lands, within the time and in the manner as directed and required herein 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 City Council shall have power to cause any such sidewalks to be constructed or repaired and assess the costs thereof against such property. In the event the property owner is a non-resident of the county in which the property lies, the municipality shall, before levying any special assessment against that property, send a copy of any notice required by law to be published by means of certified mail, return receipt requested to the last known address of the non-resident property owner. The last known address shall be that address listed on the current tax rolls at the time such required notice was first published.

Penalty, see § 10.99

§ 94.022 REPAIR.

(A) The City Council may, by resolution, order the repair of a sidewalk on any lot or piece of ground within the municipality and may assess the expense thereof on the property in front of which such repairs are made, after having given notice of its intention to do so:

(1) By publication in one issue of a legal newspaper of general circulation in the municipality; and

(2) By either causing a written notice to be served upon the occupant in possession of the property involved or to be posted upon such premises ten days prior to the commencement of such repair.

(Neb. RS 17-522)

(B) The notice shall:

(1) State that the City Council has ordered repair of the sidewalk;

(2) Contain the municipality's estimate of the cost of the repair;

(3) Notify the property owner that he or she may, within 10 days after the date of publication of the notice, notify the municipality that he or she will repair the sidewalk within 30 days after such date of publication;

(4) Notify the property owner that if he or she fails to so notify the municipality within the 10 days or, having so notified the municipality, fails to repair the sidewalk within the 30

days, the municipality will cause the sidewalk to be repaired and the expense thereof to be assessed against the property.

(C) (1) Before the municipality imposes any special assessments for sidewalk repair, a copy of the notice that is required to be published shall be mailed to the last-known address of all nonresident property owners as shown on the current tax rolls at the time such notice is first published. (Neb. RS 13-310)

(2) The City Clerk shall mail the notice by certified mail with return receipt requested. (Neb. RS 13-312)

(3) For purposes of this division, nonresident property owner means any person or corporation whose residence and mailing address as shown on the current tax rolls is outside the boundaries of the county in which the property subject to assessment is located and who is a record owner of the property. (Neb. RS 13-314)

(D) All sidewalks shall be repaired in conformity with such plans and specifications as may be approved by the City Council.

(E) Assessments made under this section shall be made and assessed in the manner provided in Neb. RS 17-524.

§ 94.023 USE OF SPACE BENEATH.

No person shall be allowed to keep or use the space beneath the sidewalk lying between lot line and curb line unless a permit therefor shall have been obtained from the City Council. Before any permit shall be granted, the applicant for said permit shall submit plans and specifications of any present or proposed construction to the Municipal Engineer. Should such plans or specifications be disapproved by the Engineer, no permit shall be granted therefor. All permits hereafter granted shall continue only upon the condition that the party receiving the same shall build, maintain, and keep in repair a sidewalk over such space used or constructed to be used and pay all damages that may be sustained by any person by reason of such use or by reason of said sidewalk being defective or in a dangerous condition. As a condition precedent to the issuance or continuance of any permit for the use of any space underneath the municipal sidewalks as herein contemplated, the City Council may require applicant to furnish a bond to the municipality as obligee for the benefit of any person or persons who may suffer any damage or damages by reason of such use. The bond shall be in such sum as the City Council, in its discretion, may designate. Penalty, see § 10.99

§ 94.024 DANGEROUS STAIRWAY.

It shall be unlawful for any person to construct or maintain any stairway, open cellarway, open basement way, or open entrance thereto in or adjacent to any sidewalk, pavement, or street, and any such entrance is hereby declared to be a public nuisance, provided that all existing stairways, open cellarways, open basement ways, or open entrances thereto in sidewalks, pavements, or streets may be permitted to remain from and after the passage, approval, and publication of this code if the person owning or using the opening in the sidewalk, or street, shall satisfy the Utilities Superintendent that the same is properly protected by a balustrade or coping of durable material and shall furnish the municipality with a bond in such amount as the City Council may set, for the benefit of any person who might suffer an injury or damage by reason of the use of the stairway, cellarway, or open basement way.

Penalty, see § 10.99

§ 94.025 CONSTRUCTION AT OWNER'S INITIATIVE.

(A) Any person desiring to construct, or cause to be constructed, any sidewalk shall do so only as herein provided. It shall be unlawful for any person to construct any sidewalk without first having obtained a permit.

(B) The owner shall make application in writing for a permit and file such application in the office of the Municipal Clerk. The permit shall give a description of the lot or piece of land along which the sidewalk is to be constructed. The official in charge of sidewalks shall issue the desired permit unless good cause shall appear why the permit should be denied, provided that if it is desired to construct the sidewalk at any other than the regularly prescribed location, grade, or elevation, the municipal official in charge of sidewalks shall submit the application to the City Council who shall determine whether the permit should be granted or denied. It shall be unlawful for any person to construct, or cause to be constructed the sidewalk at any other location, grade, or elevation than so designated by the municipality. All sidewalks shall be built and constructed on the established grade or elevation, and if there is no established grade, then on the grade or elevation indicated by the municipal official in charge of sidewalks.

Penalty, see § 10.99

§ 94.026 CONSTRUCTION AT MUNICIPAL DIRECTION.

(A) The City Council may, by resolution, order the construction of a sidewalk on any lot or piece of ground within the municipality. Notice of the City Council's intention to construct the sidewalk shall be given by the Municipal Clerk by publication of notice one time in a legal newspaper of general circulation in the municipality.

(B) A copy of the notice shall be personally served upon the occupant in possession of such property, or, when personal service is not possible, the notice shall be posted upon such premises ten days prior to the commencement of construction. The notice required in this section shall be prepared by the Municipal Attorney in accordance with the provisions of this section. Such service shall include a form of return evidencing personal service or posting as herein required.

(C) The notice shall notify the owner of the premises of the passage of the resolution ordering the owner to construct or cause to be constructed a sidewalk within 30 days after the date of publication, and further that if the owner fails to construct the sidewalk or cause the same to be done within the time allowed, the municipality will cause the sidewalk to be constructed, and the cost thereof shall be levied and assessed as a special tax against the premises, provided that the notice shall contain the official estimate of the cost of construction, and no special assessment in excess of this estimate shall be assessed against the property. In the event the property owner is a non-resident of the county in which the property lies, the municipality shall, before levying any special assessment against that property, send a copy of any notice required by law to be published by means of certified mail, return receipt requested to the last known address of the non-resident property owner. The last known address shall be that address listed on the current tax rolls at the time such required notice was first published.

Statutory reference:

Authority to construct pedestrian walks by creation of improvement district, see Neb. RS 17-509 et seq.

Authority to construct or otherwise improve through sidewalk district, see Neb. RS 19-2417 through 19-2419

Authority to construct and repair sidewalks without creation of improvement district, see Neb. RS 17-522 and 17-524

STREETS

§ 94.040 GRADING, PAVING AND OTHER IMPROVEMENTS.

(A) The municipality has the power to provide for the grading and repair of any street, avenue, or alley. No street, avenue, or alley shall be graded unless the grading is ordered to be done by the affirmative vote of two-thirds of the City Council.
(Neb. RS 17-508)

(B) The City Council may grade, partially or to an established grade, change grade, curb, recurb, gutter, regutter, pave, gravel, regravels, macadamize, remacadamize, widen, or narrow streets or roadways, resurface or relay existing pavement, or otherwise improve any streets, alleys, public grounds, public ways, entirely or partially, and streets which divide the city corporate area and the area adjoining the city. These projects may be funded at public cost or by the levy of special assessments on the property especially benefited in proportion to such benefits, except as provided in Neb. RS 19-2428 to 19-2431. The City Council may by ordinance create improvement districts, to be consecutively numbered, which may include two or more connecting or intersecting streets, alleys, or public ways, and may include two or more of the improvements in one proceeding.
(Neb. RS 17-509)

(C) Whenever the City Council deems it necessary to make the improvements in division (B) which are to be funded by a levy of special assessment on the property especially benefitted, the City Council shall by ordinance create an improvement district.

(Neb. RS 17-511)

Statutory references:

Acquisition of additional land or an easement by purchase, gift, or eminent domain,

Neb. RS 18-1705

Authority to create improvement districts, impose special assessments, and issue bonds,

Neb. RS 17-509 to 17-524, 18-1751

Combined improvements, Neb. RS 19-2401, 19-2408 to 19-2415

Creation of improvement district by petition of owners, Neb. RS 17-510

Deferral of special assessments on land in agricultural use zone, Neb. RS 19-2428 through 19-2431

Duty to keep streets and alleys open, in repair, and free from nuisances, Neb. RS 17-567

Improvement of federal or state highway or main thoroughfare, Neb. RS 17-412

Improvement of street which divides city corporate area and area adjoining the city, Neb. RS 17-509

Inclusion of adjacent land in improvement district, Neb. RS 19-2427

Jurisdiction over street which forms common boundary with county or another municipality,

Neb. RS 18-2005

Limited street improvement districts, Neb. RS 19-2416

Objections to improvement district funded by special assessments, Neb. RS 17-511

§ 94.041 IMPROVEMENTS WITHOUT PETITION OR CREATION OF DISTRICT.

(A) The municipality may, without petition or creating a street improvement district, grade, curb, gutter, and pave:

(1) Any portion of a street otherwise paved so as to make one continuous paved street, but the portion to be so improved shall not exceed two blocks, including intersections, or 1,325 feet, whichever is the lesser;

(2) Any unpaved street or alley which intersects a paved street for a distance not to exceed one block on either side of such paved street; and

(3) Any side street or alley within its corporate limits connecting with a major traffic street for a distance not to exceed one block from such major traffic street.

(B) Such improvements may be performed upon any portion of a street or any unpaved street or alley not previously improved to meet or exceed the minimum standards for pavement set by the municipality for its paved streets.

(C) In order to defray the costs and expenses of these improvements, the municipality may levy and collect special taxes and assessments or issue paving bonds as provided in Neb. RS 18-2003.

(Neb. RS 18-2001 through 18-2004)

§ 94.042 VACATING PUBLIC WAYS.

(A) (1) **SPECIAL DAMAGES** shall mean only those losses or damages or injuries which a property owner suffers that are peculiar or special or unique to his or her property and which result from the City Council vacating such street, avenue, alley, lane or similar public way.

(2) **SPECIAL DAMAGES** shall not mean those losses or damages or injuries that a property owner suffers that are in common with the rest of the city or public at large, even though those losses or damages or injuries suffered by the property owner are greater in degree than the rest of the city or public at large.

(B) The Chairperson shall appoint three or five or seven disinterested residents of the municipality to a special commission to ascertain the amount of special damages that the abutting property owners are entitled to receive and which resulted from the City Council vacating such street, avenue, alley, lane or similar public way. The appointees of the special commission shall be approved by the City Council. Only special damages, as herein defined, shall be awarded to the abutting property owners.

(C) In determining the amount of compensation to award the abutting property owners as special damages, the Commission shall use the following rule:

“The abutting property owner is entitled to recover as compensation the difference between the value of such property immediately before and immediately after the vacating of such street, avenue, alley, lane, or similar public way. However, if no difference in value exists the abutting property owner is entitled to no compensation.”

(D) Whenever the City Council decides that it would be in the best interests of the municipality to vacate a street, avenue, alley, lane, or similar public way, the City Council shall comply with the following procedure:

(1) *Notice.* Notice shall be given to all abutting property owners either by first class mail to their last known address or if there is no known address then by publishing the notice in a newspaper that is of general circulation in the municipality. The content of the notice will advise the abutting property owners that the City Council will consider vacating such street, avenue, alley, lane, or similar public way at their next regular meeting or, if a special meeting is scheduled for such discussion, then the date, time and place of such meeting.

(2) *Consent; waiver.*

(a) The City Council may have all the abutting property owners sign a form stating that they consent to the action being taken by the City Council and waive their right of access. The signing of such form has no effect on claims for special damages, as defined in divisions (A) through (C) of this section by the abutting property owners but does create the presumption that the City Council's action was proper.

(b) However, if all the abutting property owners do not sign the consent/waiver form, the City Council may still proceed with vacating such street, avenue, alley, lane, or similar public way under the authority granted them by Neb. RS 17-558 and 17-559.

(3) *Ordinance.* The City Council shall pass an ordinance that shall state essentially the following:

(a) A declaration that the action is expedient for the public good or in the best interests of the municipality.

(b) A statement that the municipality shall have an easement for maintaining all utilities.

(c) A method or procedure for ascertaining special damages to abutting property owners.

(4) *Filing.* The Clerk shall file a copy of the ordinance with the County Register of Deeds to ensure that abutting property owners can gain title to their share of the vacated street, avenue, alley, lane, or similar public way and so that such land will be drawn to the attention of the County Assessor.

Statutory reference:

Authority, see Neb. RS 17-558 and 17-559

§ 94.043 CROSSINGS.

The City Council may order and cause to be constructed, under the supervision of the municipal official in charge of streets, such street, avenue, and alley crossings as the City Council shall deem necessary. When a petition for the construction of any such crossings is filed by an interested resident in the office of the Municipal Clerk, the Municipal Clerk shall refer such application to the Utilities Superintendent who shall investigate and make a recommendation to the City Council. Action by the City Council on such application, whether the application is approved or rejected, shall be considered final.

Statutory reference:

Authority, see Neb. RS 17-509

§ 94.044 NAMES AND NUMBERS.

The City Council may at any time, by ordinance, rename any street or provide a name for any new street. Buildings used for residence or business purposes and located along such streets shall retain such numbers as the City Council may require. It shall be the duty of the municipal official in charge of streets, upon the erection of any new building or buildings, to assign the proper numbers to the building or buildings and give notice to the owner or owners and occupant or occupants of the same.

Statutory reference:

Authority to improve, see Neb. RS 17-509

§ 94.045 CUTTING INTO PAVING, CURB, OR SIDEWALK.

It shall be unlawful for any person to cut into any paving, curb, or sidewalk for the purpose of constructing a driveway or any other purpose whatsoever without first having obtained a written permit from the City Council therefor. Before any person shall obtain a permit, the person shall inform the Municipal Clerk of the place where such cutting is to be done, and it shall be the Utilities Superintendent's duty to inspect the place of entry into the paving, sidewalk, or curb, before the same is cut. When cutting into any paving, it shall be the duty of the party to cut the paving under such rules and regulations as may be prescribed by the City Council or the Municipal Engineer. When the applicant is ready to close the opening made, the applicant shall inform the Utilities Superintendent, who shall supervise and inspect the materials used and the work done in closing the opening. It shall be discretionary with the City Council to order the Utilities Superintendent, under the supervision and inspection of the Municipal Engineer or the committee of the City Council on the streets and alleys, to do the work of cutting and closing the paving and charge the costs thereof to the party who obtained such permit. The City Council may consent to the work of cutting and closing the paving to be done by the party holding such permit. Before any permit is issued by the City Council, the applicant for such permit shall deposit with the Municipal Treasurer a sum set by resolution of the City Council for all paving, curb, or sidewalk to be cut. Such sum shall be set on a per square foot cost of construction basis. The deposit shall be retained by the municipality for the purpose of replacing the paving, curb, or sidewalk, in the event that the work is done by the municipality. In the event that the municipality elects to require the applicant to replace the paving, curb, or sidewalk, the deposit shall be retained by the municipality until the work is completed to the satisfaction of the Utilities Superintendent or the committee of the City Council on streets and alleys. In addition to making the deposit above set forth, the applicant shall, before any permit is issued, execute a bond to the municipality with a good and sufficient surety or sureties to be approved by the City Council in a sum set by resolution of the City Council.

Penalty, see § 10.99

Statutory reference:

Authority, see Neb. RS 17-567

§ 94.046 DRIVEWAY APPROACHES.

(A) The Utilities Superintendent may require the owner of property served by a driveway approach constructed or maintained upon the street right-of-way to repair or replace any such driveway approach which is cracked, broken, or otherwise deteriorated to the extent that it is causing or is likely to cause damage to or interfere with any street structure, including pavement or sidewalks.

(B) The Municipal Clerk shall give the property owner notice by registered letter or certified mail, directed to the last-known address of such owner or the agent of such owner, directing the repair or replacement of such driveway approach. If within 30 days of mailing such notice the property

owner fails or neglects to cause such repairs or replacements to be made, the Utilities Superintendent may cause such work to be done and assess the cost upon the property served by such approach. (Neb. RS 18-1748) Penalty, see § 10.99

§ 94.047 EXCAVATION.

It shall be unlawful for any person to make an excavation in any street or streets for any purpose whatsoever unless a written permit is issued by the Utilities Superintendent authorizing such excavations.

Penalty, see § 10.99

Statutory reference:

Authority, see Neb. RS 17-557

§ 94.048 DRIVING STAKES.

It shall be unlawful for any person to drive any peg or stake of any kind into the pavement in any street or alley without first procuring the written consent of the Utilities Superintendent.

Penalty, see § 10.99

Statutory reference:

Authority, see Neb. RS 17-557

§ 94.049 MIXING CONCRETE.

It shall be unlawful for any person to mix any concrete or plastering material directly on the street pavement for any reason whatsoever.

Penalty, see § 10.99

Statutory reference:

Authority, see Neb. RS 17-557

§ 94.050 HARMFUL LIQUIDS.

It shall be unlawful for any person to place or permit to leak in the gutter of any street any waste gasoline, kerosene, or high lubricating oils, which damage or act as a solvent upon said streets.

Penalty, see § 10.99

Statutory reference:

Authority, see Neb. RS 17-557

§ 94.051 EAVE AND GUTTER SPOUTS.

It is hereby declared unlawful for any person to erect or maintain any dwelling house or business building within the limits of the municipality where the dwelling or building abuts on any sidewalk or street without providing proper guttering and eave spouts to receive the waste waters that collect on the sidewalks and streets. All eave spouts erected on any dwelling house or business building shall be constructed to drain into the alleys or shall be buried beneath the sidewalks and drain into the streets where it is found to be impossible to drain the eave spouts into the alley.

Penalty, see § 10.99

Statutory reference:

Authority, see Neb. RS 17-557

§ 94.052 HEAVY EQUIPMENT; SPECIAL TIRES.

It shall hereafter be unlawful for any person or persons to move or operate heavy equipment across any curb, gutter, bridge, culvert, sidewalk, crosswalk, or crossing on any unpaved street without first having protected such curb, gutter, bridge, culvert, sidewalks, crosswalk, or crossing with heavy plank sufficient in strength to warrant against the breaking or damaging of such curb, gutter, bridge, culvert, sidewalk, crosswalk, or crossing. Hereafter, it shall be unlawful to run, drive, move, operate, or convey over or across any paved street a vehicle, machine, or implement with sharp discs or sharp wheels that bear upon the pavement, with wheels having cutting edges, with wheels having lugs, any protruding parts, or bolts thereon that extend beyond a plain tire so as to cut, mark, mar, indent, or otherwise injure or damage any pavement, gutter, or curb, provided that, where heavy vehicles, structures, and machines move along paved or unpaved streets, the Police Department is hereby authorized and empowered to choose the route over which the moving of such vehicles, structures, or machines will be permitted and allowed. Nothing in this section shall be construed to apply to pneumatic tires with metal or metal-type studs not exceeding 5/16 of an inch in diameter inclusive of the stud-casting with an average protrusion beyond the tread surface of not more than 7/64 of an inch between November 1 and April 1, provided that school buses, mail carrier vehicles, and emergency vehicles shall be permitted to use metal or metal-type studs all year; it shall be permissible to use farm machinery with tires having protuberances which will not injure the streets. It shall be permissible to use a rubber tired crane with a fixed load when such vehicle will be transported on a state highway or on any road within the corporate limits of the municipality, the municipality in which the crane is intended to be transported has authorized a one-day permit for the transportation of the crane and specified the route to be used and the hours during which the crane can be transported, such vehicle is escorted by another vehicle or vehicles assigned by the municipality, and such vehicle's gross weight does not exceed the limits set out in Neb. RS 60-6,294(10), and it shall be permissible to use tire chains of reasonable proportions upon any vehicle when required for safety because of snow, ice, or other condition tending to cause a vehicle to slide or skid.

Penalty, see § 10.99

Statutory reference:

Tire requirements, see Neb. RS 60-6,250

Rubber-tired cranes, see Neb. RS 60-6,288(2)(j)

§ 94.053 PIPE LINES AND WIRES.

Poles, wires, gas mains, pipe lines, and other appurtenances of public service companies shall be located, or erected over, upon, or under the streets, alleys, and common grounds of the municipality. Application for location of the above shall be made to the City Council in writing. Approval by that body shall be issued in writing. Any public service company granted a right-of-way for the erection and maintenance of poles, conduits, gas mains, pipe lines, and wires shall at all times erect and locate their poles, wires, gas mains, pipe lines, and other appurtenances at such places and in such manner as shall be designated by the City Council. 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 City Council. Any such relocation shall be ordered by resolution of the City Council, and the Municipal Clerk shall notify any and all companies affected. The companies shall, within 24 hours after receiving notice, at their own expense, cause the poles, wires, gas mains, pipe lines, or other appurtenances to be removed. The City Council shall designate another location as closely as possible where the poles, wires, gas mains, pipe lines, or other appurtenances, may be reset or placed. All poles, wires, gas mains, pipe lines, or other appurtenances, shall be reset, placed, or erected in such a manner that they will not interfere with the water system, sewerage system, poles, wires, and mains of any public utility, adjacent buildings, or with travel on the public ways and property. Whenever possible, all pole lines, wires, gas mains, pipe lines, or appurtenances shall be confined to the alleys of the municipality.

Penalty, see § 10.99

§ 94.054 SNOW, DEBRIS, AND THE LIKE ON STREET PROHIBITED.

It shall be unlawful to place, push, or deposit snow, sleet, ice, or mud or any debris, including leaves, grass, and branches, from private property onto the streets of the municipality.

Penalty, see § 10.99

Statutory reference:

Authority to regulate, see Neb. RS 17-557

CHAPTER 95: ANIMALS

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GENERAL PROVISIONS

§ 95.01 RUNNING AT LARGE.

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

(B) It shall be unlawful for any person to allow poultry, chickens, turkeys, geese, or any other fowls to run at large within the corporate limits, except in enclosed places on private property.
(Ord. 448, passed 7-2-01) Penalty, see § 10.99

Statutory reference:

Authority, see Neb. RS 17-547

§ 95.02 PROHIBITED ANIMALS AND FOWL.

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

(B) It shall be unlawful for any person to keep or maintain within the corporate limits any poultry, chickens, turkeys, geese, or any other fowls.
Penalty, see § 10.99

Statutory reference:

Authority, see Neb. RS 17-547

§ 95.03 WILD ANIMALS.

No wild animals may be kept within the corporate limits except such animals kept for exhibition purposes by circuses and educational institutions.
Penalty, see § 10.99

§ 95.04 KILLING AND INJURING.

No person shall kill or injure any animal by the use of firearms, stones, clubs, poisons, or any other manner unless the animal is vicious or dangerous and cannot be captured without danger to the persons attempting to effect a capture of the animal.
Penalty, see § 10.99

Statutory reference:

Definitions, see Neb. RS 28-1008

Cruelty prohibited, see Neb. RS 28-1009

§ 95.05 ENCLOSURES.

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

§ 95.06 ABANDONMENT, NEGLECT AND CRUELTY.

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

ABANDON. To leave any animal for any length of time without making effective provision for its food, water, or other care as is reasonably necessary for the animal's health.

ANIMAL. Any vertebrate member of the animal kingdom except man. The term shall not include an uncaptured wild creature.

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.

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.

(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 commits cruelty to animals if he or she abandons, cruelly mistreats, or cruelly neglects an animal.

(Neb. RS 28-1009) Penalty, see § 10.99

DOGS; GENERAL PROVISIONS

§ 95.20 OWNER DEFINED.

Any person who shall harbor or permit any dog to be for ten days or more in or about his or her house, store, or enclosure, or to remain to be fed, shall be deemed the **OWNER** and possessor of such dog and shall be deemed to be liable for all penalties herein prescribed.

(Neb. RS 54-606)

§ 95.21 RUNNING AT LARGE.

It shall be unlawful for the owner of any dog to allow such dog to run at large at any time within the corporate limits of the municipality. It shall be the duty of the Sheriff's Department or designated animal control officer to cause any dog found to be running at large within the municipality to be taken up and impounded. **RUNNING AT LARGE** shall mean any dog found off the premises of the owner and not under control of the owner or a responsible person, either by leash, cord, chain, wire, rope, cage, or other suitable means of physical restraint.

Penalty, see § 10.99

Statutory reference:

Authority, see Neb. RS 17-526

Dog collars see required, see Neb. RS 54-605

§ 95.22 RABIES THREAT; PROCLAMATION; INSPECTION.

(A) It shall be the duty of the City Council whenever in its opinion the danger to the public safety from rabid dogs is great or imminent, to issue a proclamation ordering all persons owning, keeping, or harboring any dog to muzzle the same, or to confine it for a period of not less than 30 days or more than 90 days from the date of such proclamation, or until such danger is passed. The dogs may be harbored by any good and sufficient means in a house, garage, or yard on the premise wherein the said owner may reside. Upon issuing the proclamation it shall be the duty of all persons owning, keeping, or harboring any dog to confine the same as herein provided.

(B) Any dog suspected of being afflicted with rabies, or any dog not vaccinated in accordance with the provisions of this chapter which has bitten any person and caused an abrasion of the skin, shall be seized and impounded under the supervision of the Board of Health for a period of not less than ten days. If upon examination by a veterinarian, the dog has no clinical signs of rabies at the end of such

impoundment, it may be released to the owner, or, in the case of an unlicensed dog, it shall be disposed of in accordance with the provisions herein. If the owner of the said dog has proof of vaccination, it shall be confined by the owner or some other responsible person for a period of at least ten days, at which time the dog shall be examined by a licensed veterinarian at the owner's expense. If no signs of rabies are observed, the dog may be released from confinement.

Statutory reference:

Similar provisions, see Neb. RS 71-4406

§ 95.23 CAPTURE IMPOSSIBLE.

The Sheriff's Department or designated animal control officer shall have the authority to kill any animals showing vicious tendencies, or characteristics of rabies which make capture impossible because of the danger involved.

Penalty, see § 10.99

§ 95.24 FEMALES IN SEASON.

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

Penalty, see § 10.99

§ 95.25 DANGEROUS DOGS.

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

ANIMAL CONTROL AUTHORITY. An entity authorized to enforce the animal control laws of the municipality.

ANIMAL CONTROL OFFICER. Any individual employed, appointed, or authorized by an animal control authority for the purpose of aiding in the enforcement of this section or any other law or ordinance relating to the licensing of animals, control of animals, or seizure and impoundment of animals and shall include any state or local law enforcement or other employee whose duties in whole or in part include assignments that involve the seizure and impoundment of any animal.

DANGEROUS DOG. Any dog that, according to the records of the animal control authority:

- (1) Has killed or inflicted severe injury on a human being on public or private property;
- (2) Has killed a domestic animal without provocation while the dog was off the owner's

property; or

(3) Has been previously determined to be a potentially dangerous dog by an Animal Control Authority and the owner has received notice of such determination and such dog again aggressively bites, attacks, or endangers the safety of humans or domestic animals. A dog shall not be defined as a **DANGEROUS DOG** if the threat, any injury that is not a severe injury, or the damage was sustained by a person who, at the time, was committing a willful trespass as defined in Neb. RS 20-203, 28-520, or 28-521 or any other tort upon the property of the owner of the dog, who was tormenting, abusing, or assaulting the dog, who has, in the past, been observed or reported to have tormented, abused, or assaulted the dog, or who was committing or attempting to commit a crime.

DOMESTIC ANIMAL. A cat, a dog, or livestock.

OWNER. Any person, firm, corporation, organization, political subdivision, or department possessing, harboring, keeping, or having control or custody of a dog.

POTENTIALLY DANGEROUS DOG.

(1) Any dog that when unprovoked:

(a) Inflicts a nonsevere injury on a human or injures a domestic animal either on public or private property;

(b) Chases or approaches a person upon streets, sidewalks, or any public grounds in a menacing fashion or apparent attitude of attack; or

(2) Any specific dog with a known propensity, tendency, or disposition to attack when unprovoked, to cause injury, or to threaten the safety of humans or domestic animals.

SEVERE INJURY. Any physical injury that results in disfiguring lacerations requiring multiple sutures or cosmetic surgery or one or more broken bones or that creates a potential danger to the life or health of the victim.

(Neb. RS 54-617)

(B) **Restraint.** No owner of a dangerous dog shall permit the dog to go beyond the property of the owner unless the dog is restrained securely by a chain or leash.

(Neb. RS 54-618)

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

(Neb. RS 54-619)

(D) *Failure to comply.*

(1) Any dangerous dog may be immediately confiscated by an animal control officer if the owner is in violation of this section. The owner shall be responsible for the reasonable costs incurred by the animal control authority for the care of a dangerous dog confiscated by an animal control officer or for the destruction of any dangerous dog if the action by the animal control authority is pursuant to law and if the owner violated this section.

(Neb. RS 54-620)

(2) In addition to any other penalty, a court may order the animal control authority to dispose of a dangerous dog in an expeditious and humane manner.

(Neb. RS 54-621)

(E) *Additional regulations.* Nothing in this section shall be construed to restrict or prohibit the City Council from establishing and enforcing laws or ordinances at least as stringent as the provisions of divisions (A) through (D).

(Neb. RS 54-624) Penalty, see § 10.99

§ 95.26 LIABILITY OF OWNER.

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

Penalty, see § 10.99

Statutory reference:

Statutory liability, see Neb. RS 54-601

Joint liability, see Neb. RS 54-602

§ 95.27 IMPOUNDING.

It shall be the duty of any animal control official designated by resolution of the City Council to capture, secure, and remove in a humane manner to the municipal animal shelter any dog violating any of the provisions of this chapter. The dogs so impounded shall be treated in a humane manner and shall be provided with a sufficient supply of food and fresh water each day. Each impounded dog shall be kept and maintained at the shelter for a period of not less than five days after public notice has been given unless reclaimed earlier by the owner. Notice of impoundment of all animals, including any significant marks or identifications, shall be posted at the office of the Municipal Clerk and at the shelter within 24 hours after impoundment as public notification of such impoundment. Notice of the impoundment of any licensed dog shall be mailed to the owner listed on the license application of such

dog, by regular U.S. Mail, at the address of such applicant. Any dog may be reclaimed by its owner during the period of impoundment by payment of a general impoundment fee and daily board fee as set by resolution of the City Council and on file at the office of the Municipal Clerk. The owner shall be required to comply with the licensing and rabies vaccination before release. If the dog is not claimed at the end of the required waiting period after public notice has been given, any animal control official designated by resolution of the City Council, may dispose of the dog in accordance with the applicable rules and regulations pertaining to the same, provided that if, in the judgment of any designated animal control official, a suitable home can be found for any such dog within the municipality, the said dog shall be turned over to that person, and the new owner shall then be required to pay all fees and meet all licensing and vaccinating requirements provided in this chapter. The municipality shall acquire legal title to any unlicensed dog impounded in the animal shelter for a period longer than the required waiting period after giving notice. All dogs shall be destroyed and buried in the summary and humane manner as prescribed by the Board of Health unless a suitable home can be found for such dog.

Statutory reference:

Pounds authorized, see Neb. RS 17-548

Pounds created by rabies control authorities, see Neb. RS 71-4408

§ 95.28 ANIMAL SHELTER.

The municipal animal shelter shall be safe, suitable, and conveniently located for the impounding, keeping, and destruction of dogs. The shelter shall be sanitary, ventilated, and lighted.

DOGS; LICENSING

§ 95.40 LICENSE REQUIRED.

Any person who shall own, keep, or harbor a dog over the age of four months within the municipality shall within 30 days after acquisition of the dog acquire a license for each such dog annually by or before May 1 of each year. The tax shall be delinquent from and after May 10, provided that the possessor of any dog brought into or harbored within the corporate limits subsequent to May 1 of any year, shall be liable for the payment of the dog tax levied herein and such tax shall be delinquent if not paid within 10 days thereafter. Licenses shall be issued by the Municipal Clerk upon the payment of a license fee of \$5 for each neutered or spayed dog and \$8 for each unneutered or unspayed dog, provided that the tax shall be \$7 for each neutered dog for every license issued after the fee has become delinquent and \$10 for each unneutered dog for every license issued after the fee has become delinquent. The license shall not be transferable, and no refund will be allowed in case of death, sale, or other disposition of the licensed dog. The owner shall state at the time the application is made and upon printed forms provided for such purpose his or her name and address and the name, breed, color, and sex of each dog owned and kept by the owner. A certificate that the dog has had a rabies shot, effective for the ensuing year of the license, shall be presented when the license is applied for, and no license or tag shall be issued until the certificate is shown.

Penalty, see § 10.99

Statutory reference:

Authority, see Neb. RS 17-526 and 54-603

§ 95.41 DOG GUIDES, HEARING AID DOGS, AND SERVICE DOGS; EXEMPT FROM LICENSE TAX.

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

Statutory reference:

Statutory fee exemption, see Neb. RS 54-603

§ 95.42 LICENSE TAGS.

(A) Upon the payment of the license fee, the person designated by the licensing authority shall issue to the owner of a dog a license certificate and a metallic tag for each dog so licensed. The metallic tags shall be properly attached to the collar or harness of all dogs so licensed and shall entitle the owner to keep or harbor the said dog until April 30 following such licensing.

(B) In the event that a license tag is lost and upon satisfactory evidence that the original tag was issued in accordance with the provisions herein, the person designated by the licensing authority shall issue a duplicate or new tag for the balance of the year for which the license tax has been paid and shall charge and collect a fee set by resolution of the City Council for each duplicate or new tag so issued. All license fees and collections shall be immediately credited to the general fund. It shall be the duty of the person designated by the licensing authority to issue tags of a suitable design that are different in appearance each year.

Statutory reference:

Authority, see Neb. RS 17-526 and 54-603

§ 95.43 WRONG LICENSING.

It shall be unlawful for the owner, keeper, or harbinger of any dog to permit or allow such dog to wear any license, metallic tag or other municipal identification than that issued by the Municipal Clerk for dogs, nor shall the owner, keeper, or harbinger wrongfully and knowingly license an unneutered dog with a license prescribed for a neutered dog.

Penalty, see § 10.99

§ 95.44 UNCOLLARED DOGS.

All dogs found running at large upon the streets and public grounds of the municipality without a collar or harness are hereby declared a public nuisance. Uncollared dogs found running at large shall be destroyed or impounded by the person so designated by the City Council.

Statutory reference:

Similar provisions, see Neb. RS 54-605

§ 95.45 REMOVAL OF TAGS.

It shall be unlawful for any person to remove or cause to be removed, the collar, harness, or metallic tag from any licensed dog without the consent of the owner, keeper, or possessor thereof. Penalty, see § 10.99

CATS

§ 95.60 OWNER AND POSSESSOR OF CATS.

Any person who shall harbor or permit any cat to be for ten days or more in or about his or her house, store, or enclosure, or to remain to be fed, shall be deemed the owner and possessor of such cat and shall be deemed to be liable for all penalties prescribed.

§ 95.61 RABIES.

(A) It shall be the duty of the City Council, whenever in its opinion the danger to the public safety from rabid cats is great or imminent, to issue a proclamation ordering all persons owning, keeping, or harboring any cat to confine it for a period of not less than 30 days or more than 90 days from the date of such proclamation or until such danger is passed. The cats may be harbored by any good and sufficient means in a house, garage, or yard on the premise wherein said owner may reside. Upon issuing the proclamation, it shall be the duty of all persons owning, keeping, or harboring any cat to confine the same as herein provided.

(B) Any cat suspected of being afflicted with rabies, which has bitten any person and caused an abrasion of the skin, shall be seized and impounded under the supervision of the Board of Health for a period of not less than ten days. If upon examination by a veterinarian, the cat has no clinical signs of rabies at the end of such impoundment, it may be released to the owner. If the owner of the cat or animal has proof of vaccination, it shall be confined by the owner or some other responsible person for a period of at least ten days, at which time the cat shall be examined by a licensed veterinarian at the owner's expense. If no signs of rabies are observed, the cat may be released from confinement.

CHAPTER 96: TREES

Section

- 96.01 Definitions
- 96.02 Tree Board
- 96.03 Tree species list
- 96.04 Public trees; planting regulations
- 96.05 Public trees; care
- 96.06 Public trees; topping prohibited
- 96.07 Street trees; clearance
- 96.08 Removal of dead public trees
- 96.09 Interference with Tree Board
- 96.10 Access to private property

§ 96.01 DEFINITIONS.

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

PARK TREES. Trees in public parks or other city property.

PRIVATE TREES. All trees within municipal boundaries but not owned by the city.

PUBLIC TREES. All street and park trees and other trees owned by the city.

STREET TREES. Trees on land lying between the property lines on either side of all streets and avenues within the city.

(^88 Code, § 8-501) (Ord. 346, passed 12-3-90)

§ 96.02 TREE BOARD.

There is hereby created and established a City Tree Board which shall consist of four members, citizens and residents of this city, who shall be appointed by the Mayor with the approval of the City Council. The appointment of such members of such Board shall be for a term of three years. In the

event of a vacancy, a successor shall be appointed to fill the unexpired term of such vacant seat. Members of the Tree Board shall serve without compensation. At its first meeting, which shall be in January of each year, the Board shall organize and elect a Chairperson and Secretary from its membership. It shall be the duty of the Secretary to keep the full and correct minutes and records of each meeting and to file the same with the City Clerk where they shall be available for public inspection at reasonable times. A majority of the Board members shall constitute a quorum for conducting business. The Board shall meet at such times as the City Council may designate. Special meetings may be called by the Chairperson or any two members of the Board. It shall be the duty of the Board to take immediate action to develop and administer an active comprehensive city tree program. When requested, the Board shall consider, investigate, make findings, report and recommend upon any special matter or question relating to trees.
(`88 Code, § 8-502) (Ord. 346, passed 12-3-90)

Cross-reference:

Boards and Commissions, see Chapter 32

§ 96.03 TREE SPECIES LIST.

The city shall maintain a list of recommended trees for planting in public areas. The purpose of this listing will be to maintain diversity in the total tree population. This list shall be available to residents of the city to aid in the selection of trees for private and public properties. This list of recommended trees shall be updated periodically to reflect new developments or species that will affect the population of the community forest.
(`88 Code, § 8-503) (Ord. 346, passed 12-3-90)

§ 96.04 PUBLIC TREES; PLANTING REGULATIONS.

(A) Trees may be planted in the tree lawn where there is at least six feet between the edge of the sidewalk and the burg of the street. Trees shall be planted no closer than three feet from a sidewalk, driveway or street.

(B) No tree shall be planted closer than 20 feet from any street corner, measured from the point of the nearest intersection of curbs or curblines.

(C) No tree shall be planted closer than ten feet from any fireplug.

(D) No trees other than small trees recommended per § 96.03 may be planted under or within ten lateral feet of any overhead utility line; nor over or within five lateral feet of any underground utility line.

(E) The spacing of trees will be in accordance with the two species size classes recommended per § 96.03, and no trees may be planted closer together than 20 feet for small trees and 40 feet for large trees.

(`88 Code, § 8-504) (Ord. 346, passed 12-3-90) Penalty, see § 10.99

§ 96.05 PUBLIC TREES; CARE.

(A) The city shall have the right to plant, prune, maintain, and remove trees, plants, and shrubs within the right-of-way or bounds of all public parks as may be necessary to insure the public safety.

(B) The city may remove any tree or part thereof which is in an unsafe condition or which by reason of its nature is injurious to electric power lines or other public improvements, or is seriously affected with any fatal disease.

(`88 Code, § 8-505) (Ord. 346, passed 12-3-90)

§ 96.06 PUBLIC TREES; TOPPING PROHIBITED.

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

TOP or TOPPING. Removing the vertical leader stems and cutting the tree limbs back to a stub, bud, or a later branch not large enough to assume a terminal role, resulting in decay of the trunk and/or main branches and sprout production; usually involves removing more than 1/3 of the tree canopy.

(B) It shall be unlawful for any person to top any tree on city-owned land or public road right-of-way.

(C) It shall be unlawful for any person working for hire to top any tree on public land within the corporate limits of the city.

(`88 Code, § 8-506) (Ord. 346, passed 12-3-90; Am. Ord. 480, passed 1-20-03) Penalty, see § 10.99

§ 96.07 STREET TREES; CLEARANCE.

Clearance over streets and walkways shall be the responsibility of the abutting property owner. A clearance of ten feet must be maintained over walkways and a clearance of 17 feet must be maintained over streets and alleys. Property owners are responsible for trees on their own property as well as trees on the public way that abuts their property.

(`88 Code, § 8-507) (Ord. 346, passed 12-3-90)

§ 96.08 REMOVAL OF DEAD PUBLIC TREES.

The city shall have the right to cause to be removed any dead public tree. Removal is the responsibility of the city.

(`88 Code, § 8-508) (Ord. 346, passed 12-3-90)

§ 96.09 INTERFERENCE WITH TREE BOARD.

It shall be unlawful for any person to prevent, delay or interfere with the Tree Board or any of its representatives or agents, while engaging in and about the planting, cultivating, mulching, pruning, spraying or removing of any public trees.

(`88 Code, § 8-509) (Ord. 346, passed 12-3-90) Penalty, see § 10.99

§ 96.10 ACCESS TO PRIVATE PROPERTY.

It shall be unlawful for any person to prevent, delay or interfere with access to private property by the city or its representative in the legal performance of any section of this chapter.

(`88 Code, § 8-510) (Ord. 346, passed 12-3-90) Penalty, see § 10.99

TITLE XI: BUSINESS REGULATIONS

Chapter

110. BUSINESS LICENSING AND TAXATION

**111. PEDDLERS, ITINERANT MERCHANTS,
AND SOLICITORS**

112. ALCOHOLIC BEVERAGES

CHAPTER 110: BUSINESS LICENSING AND TAXATION

Section

General Provisions

- 110.01 Plumbers
- 110.02 Electricians

Occupation Taxes

- 110.20 Collection date
- 110.21 Certificates
- 110.22 Bond
- 110.23 Amounts
- 110.24 Failure to pay

GENERAL PROVISIONS

§ 110.01 PLUMBERS.

No person shall hereafter engage in or work at the business of a master plumber or journeyman plumber in the municipality until he or she shall have registered as a master plumber or journeyman plumber. Application for registration shall be made in writing to the Utilities Superintendent, showing the name and residence of the applicant, the business location of the applicant, and such other information as may be required.

(Neb. RS 18-1911) (88 Code, § 10-301) Penalty, see § 10.99

§ 110.02 ELECTRICIANS.

No person shall hereafter engage in or work at the business of a master electrician or journeyman electrician in the municipality until he or she shall have registered as a master electrician or journeyman electrician. Application for registration shall be made in writing to the Utilities Superintendent, showing the name and residence of the applicant, the business location of the applicant, and such other information as may be required.

(Neb. RS 18-1911) (88 Code, § 10-302) Penalty, see § 10.99

OCCUPATION TAXES

§ 110.20 COLLECTION DATE.

All occupation taxes shall be due, and payable on the first day of May of each year, except in the event that the tax is levied daily, and upon the payment thereof by any person or persons to the Municipal Clerk, the Clerk shall give a receipt, properly dated, and specifying the person paying the tax, and the amount paid; provided, occupation taxes collected from Class C liquor licenses shall be due and payable on the first day of November. The revenue collected shall then be immediately deposited into the general fund by the Municipal Treasurer. The Municipal Treasurer shall keep an accurate account of all revenue turned over to him or her. All forms and receipts herein mentioned shall be issued in duplicate. One copy shall then be kept by each party in the transaction.
(Neb. RS 17-525) (^88 Code, § 10-501)

§ 110.21 CERTIFICATES.

The receipt issued after the payment of any occupation tax shall be the occupation tax certificate. The certificate shall specify the amount of the tax and the name of the person and business that paid the tax. The occupation tax certificate shall then be displayed in a prominent place or carried in such a way as to be easily accessible while business is being conducted.
(Neb. RS 17-525) (^88 Code, § 10-502)

§ 110.22 BOND.

Any person, company or corporation subject to the provisions of this chapter shall file with the Municipal Clerk a bond running to the municipality in a sum set by resolution of the City Council. The bond shall be executed by the person filing the bond, and one corporate surety, or two individual sureties upon whom service of process may be had in the county. Such bond shall be approved by the Municipal Attorney. Such bond shall be conditioned upon the person, company or corporation's full compliance with this municipal code and the statutes of the state of Nebraska. Such bond will pay all judgments and costs rendered against any person, company or corporation covered by this chapter for any violation of this code or the statutes of the state of Nebraska. Action on the bond may be brought in the name of the municipality to the use of the aggrieved person.
(^88 Code, § 10-503)

§ 110.23 AMOUNTS.

For the purpose of raising revenue, an occupation tax is hereby levied on the following businesses:

.....(A) Retail sell

(B) Plumbers and electricians doing work within the corporate limits of the municipality

..... Per year
..... Per day

..... (C) Insurance
(Neb. RS 17-525) (88 Code, § 10-504) Penalty, see § 10.99

§ 110.24 FAILURE TO PAY.

If any person, company, or corporation fails or neglects to pay the occupation taxes as provided herein on the day they become due and payable, the municipality shall then proceed by civil suit to collect the amount due. All delinquent taxes shall bear interest at the rate of 1% per month until paid.
(Neb. RS 17-525) (88 Code, § 10-505)

CHAPTER 111: PEDDLERS, ITINERANT MERCHANTS, AND SOLICITORS

Section

- 111.01 Definitions
- 111.02 License requirement
- 111.03 Application procedure
- 111.04 Standards for issuance
- 111.05 Revocation procedure
- 111.06 Standards for revocation
- 111.07 Appeal procedure
- 111.08 Exhibition of identification
- 111.09 City policy on soliciting
- 111.10 Notice regulating soliciting
- 111.11 Duty of solicitors to ascertain notice
- 111.12 Prohibited solicitation
- 111.13 Exemptions

§ 111.01 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.

§ 111.02 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

§ 111.03 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

§ 111.04 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 has committed any of the

following will constitute valid reasons for disapproval of an application:

- (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.

§ 111.05 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 § 111.06. 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.

§ 111.06 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.

§ 111.07 APPEAL PROCEDURE.

(A) Any person aggrieved by a decision under §§ 111.04 or 111.06 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 § 111.05.

(B) The order of the City Council after the hearing shall be final.

§ 111.08 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

§ 111.09 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.

§ 111.10 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 County Sheriff 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.

§ 111.11 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 § 111.10 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

§ 111.12 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 § 111.10 above.

Penalty, see § 10.99

§ 111.13 EXEMPTIONS.

(A) Any non-profit organization, corporation or firm, including schools and churches, shall be exempt from the provisions of this chapter.

(B) Nonresident wholesalers delivering produce, meats, goods, dairy products, poultry, poultry products, goods, wares, merchandise, services or articles of any kind in filling an order previously obtained, and commercial traveling salesmen taking orders in the usual course of business are exempt from the provisions of this chapter.

(C) Any person residing in the county, or any firm, corporation or association having a permanent or established place of business located in the county, engaging in the occupation of peddler, solicitor, itinerant merchant or itinerant vendor at retail, shall be exempt from the registration fee required in this chapter.

(D) Any person selling produce, meat, dairy products, poultry or poultry products which he or she had grown and raised and produced in the county shall be exempt from § 111.02 if he or she makes such sales in filling an order previously obtained.

(^88 Code, § 10-209)

CHAPTER 112: ALCOHOLIC BEVERAGES

Section

General Regulations

- 112.01 Definitions
- 112.02 Location
- 112.03 Dwellings
- 112.04 Municipal powers and duties
- 112.05 Owner of premises
- 112.06 Employer
- 112.07 Minors and incompetents
- 112.08 Credit sales
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- 112.10 Original package
- 112.11 Minor's presence
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Licenses

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- 112.31 License displayed
- 112.32 License requirements
- 112.33 Municipal examination
- 112.34 Liquor license renewal
- 112.35 Liquor applications; retail licensing standards; binding recommendations
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GENERAL REGULATIONS

§ 112.01 DEFINITIONS.

All words and phrases used in this chapter are to have the definitions applied thereto, as defined in the Liquor Control Act of the state of Nebraska.

(Neb. RS 53-103) (88 Code, § 10-101)

§ 112.02 LOCATION.

It shall be unlawful for any person or persons to own, maintain, manage, or hold open to the public any establishment for the purpose of selling at retail any alcoholic liquor within 150 feet of any church, school, hospital, or home for aged or indigent persons or veterans, their wives or children; provided, this prohibition shall not apply to any location within such distance when the establishment has been licensed by the Nebraska Liquor Control Commission at least two years, and to hotels offering restaurant service, regularly organized clubs, or to restaurants where the selling of alcoholic liquors is not the principal business carried on, if the hotel, club, or restaurant were licensed and in operation prior to May 24, 1935. No alcoholic liquor, other than beer, shall be sold for consumption on the premise within 300 feet from the campus of any college within the municipality.

(Neb. RS 53-177) (88 Code, § 10-103) Penalty, see § 10.99

§ 112.03 DWELLINGS.

Except in the case of hotels and clubs, no alcoholic liquor shall be sold at retail upon any premise which has any access which leads from such premise to any other portion of the same building used for dwelling or lodging purposes, and which is permitted to be used by the public. Nothing herein shall prevent any connection with such premise, and such other portion of the building which is used only by the licensee, his or her family, or personal guests.

(Neb. RS 53-178) (88 Code, § 10-104) Penalty, see § 10.99

§ 112.04 MUNICIPAL POWERS AND DUTIES.

The City Council is authorized to regulate by ordinance not inconsistent with the provisions of the Nebraska Liquor Control Act, the business of all retail and bottle club licensees carried on within the corporate limits. The City Council shall further have the power and duties in respect to licensed retailers of alcoholic beverages to cancel or revoke for cause retail or bottle club licenses to sell or dispense alcoholic liquors issued to persons for premises within its jurisdiction subject to the right of appeal to the Commission; to enter or to authorize any law enforcement officer to enter at any time upon any premise licensed by the state of Nebraska to determine whether any of the provisions of the municipal laws, or the laws of the state of Nebraska, are being violated; to receive signed complaints from any citizens within its jurisdiction that any of the municipal laws, or laws of the state of Nebraska, are being violated, and to act upon such complaints in the manner herein provided; to cancel or revoke on its own motion any license if, upon the same notice and hearing as provided in § 112.19, it determines that the licensee has violated any of the provisions of the Nebraska Liquor Control Act or

any valid and subsisting ordinance or regulation duly enacted relating to alcoholic liquors; and to collect for the benefit of the state of Nebraska and the municipality all license fees and occupation taxes as prescribed by law.

(Neb. RS 53-134) (88 Code, § 10-109)

§ 112.05 OWNER OF PREMISES.

The owner of any premise used for the sale at retail of alcoholic beverages shall be deemed guilty of a violation of these laws to the same extent as the licensee if the owner shall knowingly permit the licensee to use the licensed premise in violation of any municipal code section or Nebraska statute.

(Neb. RS 53-1,101) (88 Code, § 10-110) Penalty, see § 10.99

§ 112.06 EMPLOYER.

The employer of any officer, director, manager, or employees working in a retail liquor establishment shall be held to be liable and guilty of any act or omission or violation of any law or ordinance, if such act is committed or omission made with the authorization, knowledge or approval of the employer or licensee, and each such act or omission shall be deemed and held to be the act of the employer, and will be punishable in the same manner as if the act or omission had been committed by him or her personally.

(Neb. RS 53-1,102) (88 Code, § 10-111)

§ 112.07 MINORS AND INCOMPETENTS.

It shall be unlawful for any person or persons to sell, give away, dispose of, exchange, permit the sale of or make a gift of any alcoholic liquors, or to procure any such alcoholic liquors to or for any minor, or to any person who is mentally incompetent.

(Neb. RS 53-180) (88 Code, § 10-112) Penalty, see § 10.99

§ 112.08 CREDIT SALES.

No person shall sell or furnish alcoholic liquor at retail to any person or persons for credit of any kind, barter, or services rendered; provided, nothing herein contained shall be construed to prevent any club holding a Class C license from permitting checks or statements for alcoholic liquor to be signed by members, or guests of members, and charged to the accounts of the members or guests in accordance with the bylaws of any such club; and provided further, nothing herein shall be construed to prevent any hotel or restaurant holding a retail alcoholic beverage license from permitting checks or statements for liquor to be signed by regular guests residing in the hotel, and charged to the accounts of such guests.

(Neb. RS 53-183) (88 Code, § 10-113) Penalty, see § 10.99

§ 112.09 SPIKING BEER.

It shall be unlawful for any person or persons who own, manage, or lease any premise in which the sale of alcoholic beverages is licensed, to serve or offer for sale any beer to which there has been added any alcohol, or permit any person or persons to add alcohol to any beer on the licensed premise of such licensee.

(Neb. RS 53-174) (88 Code, § 10-114) Penalty, see § 10.99

§ 112.10 ORIGINAL PACKAGE.

It shall be unlawful for any person or persons who own, manage, or lease any premise in which the sale of alcoholic beverages is licensed, to have in their possession for sale at retail any alcoholic liquors contained in bottles, casks, or other containers except in the original package.

(Neb. RS 53-184) (88 Code, § 10-115) Penalty, see § 10.99

§ 112.11 MINOR'S PRESENCE.

It shall be unlawful for any person or persons who own, manage, or lease an establishment selling alcoholic beverages at retail to allow any minor under the age of 18 years to frequent or otherwise remain in the establishment unless the minor is accompanied by his parent or legal guardian, and unless the minor remains seated with, and under the immediate control of, the parent or legal guardian.

(Neb. RS 53-147) (88 Code, § 10-116) Penalty, see § 10.99

§ 112.12 HOURS OF SALE.

(A) For the purposes of this section, "on sale" shall be defined as alcoholic beverages sold at retail by the drink for consumption on the premises of the licensed establishment. "Off sale" shall be defined as alcoholic beverages sold at retail in the original container for consumption off the premises of the licensed establishment.

(B) It shall be unlawful for any licensed person or persons or their agents to sell any alcoholic beverages within the municipality except during the hours provided herein:

HOURS OF SALE

Alcoholic Liquor (except beer and wine)

Secular Days

.....
.....

Sundays

.....
.....

Beer and Wine

Secular Days

.....
.....

Sundays

Off
On

Off
On

Off
On

.....
.....
Provided, that such limitations shall not apply after 12:00 noon on Sunday to a licensee which is a non-profit corporation holding a license pursuant to Neb. RS 53-124(5)(C),(H).

(C) No person or persons shall consume any alcoholic beverages on licensed premises for a period of time longer than 15 minutes after the time fixed herein for stopping the sale of alcoholic beverages on the premises.

(D) Nothing in this section shall be construed to prohibit licensed premises from being open for other business on days and hours during which the sale or dispensing of alcoholic beverages is prohibited by this section.

(^88 Code, § 10-117) (Ord. 352, passed 12-2-91; Am. Ord. 440, passed 4-2-01) Penalty, see § 10.99

§ 112.13 SANITARY CONDITIONS.

It shall be unlawful to open for public use any retail liquor establishment that is not in a clean and sanitary condition. Toilet facilities shall be adequate and convenient for customers and patrons and licensed premise shall be subject to any health inspections the City Council or the County Sheriff may make or cause to be made. All applications for liquor licenses shall be viewed in part from the standpoint of the sanitary conditions, and a report concerning the sanitary conditions shall be made at all hearings concerning the application for, or renewal of, a liquor license.

(Neb. RS 53-118) (^88 Code, § 10-118) Penalty, see § 10.99

§ 112.14 HIRING MINORS.

It shall be unlawful for any person to hire a minor regardless of sex under the age of 19 years to serve or dispense alcoholic liquors, including beer, to the licensee's customers.

(Neb. RS 53-102) (^88 Code, § 10-119) Penalty, see § 10.99

§ 112.15 CONSUMPTION IN PUBLIC PLACES.

It shall be unlawful for any person to consume alcoholic beverages within the corporate limits upon the public ways and property, including inside vehicles while upon the public ways and property, except as may be provided by the City Council. It shall further be unlawful for any person to consume alcoholic beverages within any other public business that is not a licensed liquor establishment.

(Neb. RS 53-186, 53-186.01) (^88 Code, § 10-120) Penalty, see § 10.99

§ 112.16 ACQUISITION OF ALCOHOLIC BEVERAGES.

It shall be unlawful for any person to have possession of any alcoholic liquors which shall have been acquired otherwise than from a licensee duly licensed to sell same to such person under the provisions of the Nebraska Liquor Control Act; providing, nothing herein shall prevent the possession

of alcoholic liquor for the personal use of the possessor, his or her family and guests, as long as the quantity of alcoholic liquor transported, imported, brought, shipped or caused to be transported, imported, brought, or shipped into the state for personal use does not exceed one gallon at any one time or in excess of two gallons in any one calendar month, nor prevent the making of wine, cider or other alcoholic liquor by a person from fruits, vegetables or grains, or the product thereof, by simple fermentation and without distillation, if it is made solely for the use of the maker, his or her family and his or her guests; provided further, that nothing herein shall prevent any duly licensed practicing physician or dentist from possessing or using alcoholic liquor in the strict practice of his or her profession, or any hospital or institution caring for the sick and diseased persons, from possessing any alcoholic liquor for the treatment of bona fide patients of such hospital or other institution; provided further, that any drug store employing a licensed pharmacist may possess and use alcoholic liquors in the compounding of prescriptions of duly licensed physicians; and provided further, that the possession and dispensation of wine by an authorized representative of any church for the purpose of conducting any bona fide rite or religious ceremony conducted by such church shall not be prohibited by this section; provided further, that persons who are 16 years old or older may carry beer from grocery stores when they are accompanied by a person not a minor, persons who are 16 years old or older may handle beer containers and beer in the course of their employment in grocery stores, and persons who are 16 years old or older may remove and dispose of alcoholic liquor containers for the convenience of their employer and customers in the course of their employment as waiters, waitresses, or busboys, by any restaurant, club, hotel, or similar organization; and provided further, that persons who are 19 years old or older may serve or sell alcoholic liquor in the course of their employment. (Neb. RS 53-102, 53-164.01, 53-175) (88 Code, § 10-121) Penalty, see § 10.99

§ 112.17 REMOVAL OF INTOXICATED PERSONS.

(A) Any law enforcement officer with the power to arrest for traffic violations may take a person who is intoxicated and in the judgment of the officer dangerous to himself, herself, or others, or who is otherwise incapacitated, from any public or quasi-public property. An officer removing an intoxicated person from public or quasi-public property shall make a reasonable effort to take such intoxicated person to his or her home or to place such person in any hospital, clinic, alcoholism center, or with a medical doctor as may be necessary to preserve life or to prevent injury. Such effort at placement shall be deemed reasonable if the officer contacts those facilities or doctor which have previously represented a willingness to accept and treat such individuals and which regularly do accept such individuals. If such efforts are unsuccessful or are not feasible, the officer may then place such intoxicated person in civil protective custody, except that civil protective custody shall be used only as long as is necessary to preserve life or to prevent injury, and under no circumstances longer than 24 hours. The placement of such person in civil protective custody shall be recorded at the facility or jail at which he or she is delivered and communicated to his or her family or next of kin, if they can be located, or to such person designated by the person taken into civil protective custody.

(B) The law enforcement officer who acts in compliance with this section shall be deemed to be acting in the course of his or her official duty and shall not be criminally or civilly liable for such actions. The taking of an individual into civil protective custody under this section shall not be considered an arrest. No entry or other record shall be made to indicate that the person has been arrested or charged with a crime.

(C) For purposes of this section, public property shall mean any public right-of-way, street,

highway, alley, park, or other state, county, or municipally-owned property.

(D) For the purposes of this section, quasi-public property shall mean and include private or publicly-owned property utilized for proprietary or business uses which invites patronage by the public or which invites public ingress and egress.

(Neb. RS 53-1,121) (88 Code, § 10-122) Penalty, see § 10.99

§ 112.18 INSPECTIONS.

It shall be the duty of the City Council to cause frequent inspections to be made on the premises of all retail and bottle club licensees. If it is found that any such licensee is violating any provision of the Nebraska Liquor Control Act or regulations of the Nebraska Liquor Control Commission, or is failing to observe in good faith the purposes of the Act, the license may be suspended, cancelled, or revoked after the licensee has been given an opportunity to be heard by the City Council.

(Neb. RS 53-146) (88 Code, § 10-123)

§ 112.19 CITIZEN COMPLAINTS.

Any five residents of the municipality shall have the right to file a complaint with the City Council stating that any retail or bottle club licensee, subject to the jurisdiction of the City Council, has been or is violating any provision of the Nebraska Liquor Control Act or the rules or regulations issued pursuant thereto. Such complaint shall be in writing in the form prescribed by the City Council and shall be signed and sworn by the parties complaining. The complaint shall state the particular provision, rule, or regulation believed to have been violated and the facts in detail upon which belief is based. If the City Council is satisfied that the complaint substantially charges a violation and that from the fact alleged there is reasonable cause for such belief, it shall set the matter for hearing within ten days from the date of the filing of the complaint and shall serve notice upon the licensee of the time and place of such hearing and of the particular charge in the complaint; provided, that the complaint must in all cases be disposed of by the City Council within 30 days from the date the complaint was filed by resolution thereof, the resolution shall be deemed the final order for purposes of appeal to the Nebraska Liquor Control Commission as provided by law.

(Neb. RS 53-1,114) (88 Code, § 10-124)

LICENSES

§ 112.30 LICENSE REQUIRED.

It shall be unlawful for any person to manufacture for sale, sell, keep for sale, or to barter any alcoholic liquors within the municipality unless the person shall have in full force and effect a license as provided by the Nebraska Liquor Control Act.

(Neb. RS 53-102) (88 Code, § 10-102) Penalty, see § 10.99

§ 112.31 LICENSE DISPLAYED.

Every licensee under the Nebraska Liquor Control Act shall cause his or her license to be framed and hung in plain public view in a conspicuous place on the licensed premise.
(Neb. RS 53-148) (88 Code, § 10-105)

§ 112.32 LICENSEE REQUIREMENTS.

It shall be unlawful for any person or persons to own an establishment that sells at retail any alcoholic beverages unless the person is a resident of the county in which the premise is located; a person of good character and reputation; a citizen of the United States; a person who has never been convicted of a felony or any Class I misdemeanor pursuant to Neb. RS Chapter 28, Article 3, 4, 7, 8, 10, 11, or 12, or any similar offense under a prior criminal statute or in another state; a person who has never had a liquor license revoked for cause; a person whose premises, for which a license is sought, meets standards for fire safety as established by the State Fire Marshal; provided, the beneficial interest requirement in this section shall not apply to a person applying for an additional license for use in connection with the operation of a hotel containing at least 25 sleeping rooms, or where the request is limited to on-premises sale of beer only in a restaurant.
(Neb. RS 53-124.03, 53-125) (88 Code, § 10-106) Penalty, see § 10.99

§ 112.33 MUNICIPAL EXAMINATION.

Any person or persons desiring to obtain a license to sell alcoholic liquors at retail shall file with the Liquor Control Commission. The Commission shall then notify the Municipal Clerk by registered or certified mail. The City Council shall then meet and determine the desirability of the application and report its recommendation for approval or denial of the application in writing to the Nebraska Liquor Control Commission within 45 days of receipt from the Nebraska Liquor Control Commission. The City Council may examine, or cause to be examined, under oath, any applicant; examine, or cause to be examined, the books and records of any such applicant; to hear testimony, and to take proof for its information desired, the performance of its duties. For the purpose of obtaining any of the information desired, the City Council may authorize its agent, Municipal Clerk or the Municipal Attorney, to act on their behalf. The City Council may conduct the examination and hold the hearing upon the receipt from the Commission of the notice and copy of the application. The City Council shall fix a time and place at which a hearing will be held, and at which time the City Council shall receive evidence, under oath, either orally, or by affidavit, from the applicant or any other person concerning the propriety of the issuance of such license. Notice of the time and place of such hearing shall be published in a legal newspaper in, or of general circulation in, the municipality one time not less than seven, nor more than 14, days before the time of the hearing. Such notice shall include, but not be limited to, a statement that all persons desiring to give evidence before the local governing body in support of or in protest against the issuance of such license may do so at the time of the hearing. Such hearing shall be held not more than 45 days after the receipts of notice from the Commission. After such hearing, the City Council shall cause to be spread at large in the minute record of its proceedings a resolution recommending either issuance or refusal of such license. The Municipal Clerk shall thereupon mail to the Commission by first class mail, postage prepaid, a copy of the resolution which shall state the cost of the published notice.
(Neb. RS 53-131, 53-134) (88 Code, § 10-107) (Ord. 338, passed 2-5-90)

§ 112.34 LIQUOR LICENSE RENEWAL.

Retail or bottle club licenses issued by the Commission and outstanding may be automatically renewed in the absence of a request by the City Council to require the licensee to issue an application for renewal. Any licensed retail or bottle club establishment located in an area which is annexed to the municipality shall file a formal application for a license, and while such application is pending, the licensee shall be authorized to continue all license privileges pursuant to this chapter until the original license expires, is canceled, or revoked. If such license expires within 60 days following the annexation date of such area, the license may be renewed by order of the Commission for not more than one year. The Municipal Clerk, upon notice from the Commission, between January 10th and January 30th of each year, shall cause to be published in a legal newspaper in, or of general circulation in the municipality, one time, a notice in the form prescribed by law of the right of automatic renewal of each retail liquor and beer license within the municipality; provided, Class C license renewal notices shall be published between the dates of July 10th and July 30th of each year. The Municipal Clerk shall then file with the Commission proof of publication of the notice on or before February 10th of each year or August 10th of each year for Class C licenses. Upon the conclusion of any hearing required by this section, the City Council may request a licensee to submit an application. (Neb. RS 53-135, 53-135.01) (88 Code, § 10-108)

§ 112.35 LIQUOR APPLICATIONS; RETAIL LICENSING STANDARDS; BINDING RECOMMENDATIONS.

(A) Local governing bodies shall only have authority to approve applications and deny licenses pursuant to the Nebraska Liquor Control Act. The City Council shall only consider the following licensing standards and criteria at the hearing and an evaluation of any applicant for a retail alcoholic liquor license, for the upgrading of a license to sell alcoholic liquor, or for the expansion or change in location of the premises, and for the purpose of formulating a recommendation from the City Council to the Nebraska Liquor Control Commission in accordance with the Nebraska Liquor Control Act:

- (1) The adequacy of existing law enforcement resources and services in the area;
- (2) The recommendation of the Police Department or any other law enforcement agency;
- (3) Existing motor vehicle and pedestrian traffic flow in the vicinity of the proposed licensed premises, potential traffic and parking problems, and the proximity and availability of on-street/off street parking;
- (4) Zoning restrictions and the local governing body's zoning and land-use policies;
- (5) Sanitation or sanitary conditions on or about the proposed licensed premises;
- (6) The existence of a citizen's protest and similar evidence in support of or in opposition to the application;
- (7) The existing population and projected growth within the jurisdiction of the City Council

local governing body and within the area to be served;

(8) The existing liquor licenses, the class of each such license, and the distance and times of travel between establishments that issued such licenses;

(9) Whether the proposed license would be compatible with the neighborhood or community where the proposed premises are located;

(10) Whether the type of business or activity proposed to be operated or presently operated in conjunction with the proposed license is and will be consistent with the public interest as declared in Neb. RS 53-101.01;

(11) Whether the applicant can ensure that all alcoholic beverages, including beer and wine, will be handled by persons in accordance with Neb. RS 53-102;

(12) Whether the applicant has taken every precaution to protect against the possibility of shoplifting of alcoholic liquor, which alcoholic liquor shall be displayed and kept in and sold from an area which is reasonably secured;

(13) Whether the applicant is fit, willing, and able to properly provide the service proposed in conformance with all provisions and requirements of and rules and regulations adopted and promulgated pursuant to the act;

(14) Whether the applicant has demonstrated that the type of management and control exercised over the licensed premises will be sufficient to ensure that the licensee can conform to all the provisions and requirements of and rules and regulations adopted and promulgated pursuant to the act;

(15) The background information of the applicant established by information contained in the public records of the Commission and investigations conducted by law enforcement agencies;

(16) Past evidence of discrimination involving the applicant as evidenced by findings of fact before any administrative board or agency of the local governing body, and other governmental board or agency of the local governing body, any other governmental unit, or any court of law;

(17) Whether the applicant or the applicant's representatives suppressed any fact or provided any inaccurate information to the Commission or local governing body or the employees of the Commission or local governing body or the employees of the Commission or local governing body in regard to the license application or liquor investigations. The applicant shall be required to cooperate in providing a full disclosure to the investigating agents of the local governing body;

(18) Proximity of and impact on schools, hospitals, libraries, parks, and public institutions;

(19) Whether activities proposed to be conducted on the licensed premises or in adjacent related outdoor areas will create unreasonable noise or disturbance; and

(20) Compliance with state law, liquor rules and regulations, and municipal ordinances and regulations and whether or not the applicant has ever forfeited bond to appear in court

to answer charges of having committed a felony or charges of having violated any law or ordinance enacted in the interest of good morals and decency or has been convicted of violating or has forfeited bond to appear in court and answer charges for violating any law or ordinance relating to alcoholic liquor.

(B) It shall be the applicant's duty to produce evidence pertaining to the designated criteria prescribed in this section. The burden of proof and persuasion shall be on the party filing the application. When applicable for purposes of this section, "applicant" shall be synonymous with "license".

(Neb. RS 53-134) (88 Code, § 10-125) (Ord 339, passed 2-5-90)

§ 112.36 LIQUOR APPLICATION; NOTICE; PROCEDURE.

(A) *Notice.* Notice of a hearing held pursuant to Neb. RS 53-134 shall be given to the applicant by the Municipal Clerk and shall contain the date, time, and location of the hearing. Two or more proceedings which are legally or factually related may be heard and considered together unless any party thereto makes a showing sufficient to satisfy the City Council that prejudice would result therefrom.

(B) *Procedure.*

(1) Hearings will be informal and conducted by the Municipal Attorney. The intent is an inquiry into the facts, not an adversarial action. Each witness may present their testimony in narrative fashion or by question and answer. The City Council or the applicant may order the hearing to be recorded by the Clerk at the expense of the applicant(s).

(2) The City Council may admit and give probative effect to evidence value commonly accepted by reasonable prudent individuals. The Municipal Attorney may limit testimony where it appears incompetent, irrelevant, or unduly repetitious. If there is opposition to any application and such opposition desires the opportunity to present arguments and to cross-examine the applicant and any witnesses in favor of such application, they shall choose a spokesperson to perform such function who shall notify the Municipal Attorney of his/her representation prior to the start of the hearing.

(3) The order of the proceeding is as follows:

(a) Exhibits will be marked in advance by the Clerk and presented to the Municipal Attorney during the presentation;

(b) Presentation of evidence, witnesses, and arguments by applicant;

(c) Testimony of any other citizens in favor of such proposed license;

(d) Examination of applicant, witnesses or citizens by Municipal Attorney, City Council, or duly appointed agent;

(e) Cross-examination of applicant, witnesses or citizens by spokesperson for opposition, if any;

- (f) Presentation of evidence and witnesses by opposition;
 - (g) Testimony of any other citizens in opposition to such proposed license;
 - (h) Presentation of evidence by municipality and law enforcement personnel;
 - (i) Cross-examination by applicant;
 - (j) Rebuttal evidence by both parties and by municipality administration and agent;
 - (k) Summation by applicant and opposition spokesperson, if any.
- (4) In all cases, the burden of proof and persuasion shall be on the party filing the application.
- (5) Any member of the City Council and the Municipal Attorney may question any witness, call witnesses, or request information.
- (6) All witnesses shall be sworn.
- (7) The City Council may make further inquiry and investigation following the hearing.
- (8) The City Council or the applicant may order the hearing to be recorded by the Clerk at the expense of the applicant(s).
- (^88 Code, § 10-126) (Ord. 340, passed 2-5-90)

TITLE XIII: GENERAL OFFENSES

Chapter

130.PROPERTY OFFENSES

131.OFFENSES AGAINST PUBLIC ORDER

**132.OFFENSES AGAINST PUBLIC JUSTICE
AND ADMINISTRATION**

**133.OFFENSES AGAINST PUBLIC HEALTH
AND SAFETY**

134.OFFENSES AGAINST PUBLIC MORALS

CHAPTER 130: PROPERTY OFFENSES

Section

- 130.01 Criminal mischief
- 130.02 Criminal trespass
- 130.03 Radio interference
- 130.04 Injury to trees
- 130.05 Posting

§ 130.01 CRIMINAL MISCHIEF.

It shall be unlawful for any person to damage property of another intentionally or recklessly, or intentionally or recklessly tamper with property of another so as to endanger person or property, or intentionally or maliciously cause another to suffer pecuniary loss by deception or threat, provided that the value of the property involved is under \$300.

(Neb. RS 28-519) Penalty, see § 10.99

§ 130.02 CRIMINAL TRESPASS.

(A) It shall be unlawful for any person, knowing that he or she is not licensed or privileged to do so, to enter or secretly remain in any building or occupied structure, or any separately secured or occupied portion thereof.

(Neb. RS 28-520)

(B) It shall be unlawful for any person, knowing that he or she is not licensed or privileged to do so, to 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 28-521) Penalty, see § 10.99

§ 130.03 RADIO INTERFERENCE.

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

Penalty, see § 10.99

Statutory reference:

Authority to prohibit nuisances, see Neb. RS 18-1720 and 28-1321

§ 130.04 INJURY TO TREES.

It shall be unlawful for any person purposely or carelessly and without lawful authority to cut down, carry away, injure, break down, or destroy any fruit, ornamental, shade, or other tree or trees standing or growing on any land belonging to another person or persons or on any public land in the corporate limits. Any public service company desiring to trim or cut down any tree, except on property owned and controlled by it, shall make an application to the City Council to do so, and the written permit of the City Council in accordance with their decision to allow such an action shall constitute the only lawful authority on the part of the company to do so.

Penalty, see § 10.99

§ 130.05 POSTING.

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

Penalty, see § 10.99

Statutory reference:

Authority, see Neb. RS 17-140

CHAPTER 131: OFFENSES AGAINST PUBLIC ORDER

Section

- 131.01 Disorderly conduct
- 131.02 Street games
- 131.03 Obstruction of public ways
- 131.04 Obstructing water flow
- 131.05 Curfew; duty of parent or guardian; defenses
- 131.06 Disturbing the peace

§ 131.01 DISORDERLY CONDUCT.

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

Penalty, see § 10.99

Statutory reference:

Authority to prevent intoxication, see Neb. RS 17-129

Authority to regulate noise, riots, and routs, see Neb. RS 17-556

§ 131.02 STREET GAMES.

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

Penalty, see § 10.99

Statutory reference:

Authority to regulate, excavation and obstruction of streets, see Neb. RS 17-142

Additional authority, see Neb. RS 17-555 and 17-557

§ 131.03 OBSTRUCTION OF PUBLIC WAYS.

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

Penalty, see § 10.99

Statutory reference:

Authority to regulate, excavation and obstruction of streets, see Neb. RS 17-142

Additional authority, see Neb. RS 17-555 and 17-557

Penalties for injuring or obstructing roads, see Neb. RS 39-301 and 39-302

§ 131.04 OBSTRUCTING WATER FLOW.

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

Penalty, see § 10.99

Statutory reference:

Authority to abate nuisances, see Neb. RS 17-555

Authority to prevent water obstruction, see Neb. RS 17-920

§ 131.05 CURFEW; DUTY OF PARENT OR GUARDIAN; DEFENSES.

(A) It shall be unlawful for any minor under the age of 16 years to loiter, idle, wander, stroll, or play in or upon any of the streets, roads, alleys or parks of the municipality, or other places of public amusement or recreation therein after the hour of 11:00 p.m. and until the hour of 5:00 a.m. of the following day on Sunday through Thursday, and after the hour of 12:30 a.m. and until the hour of 5:00 a.m. on Saturday and Sunday.

(B) It shall be unlawful for any parent, guardian, or any adult person having the legal care, custody, or control of any minor under the age of 16 years to allow or permit such minor to loiter, wander, stroll, idle or play in or about any of the places designated in division (A) of this section after the hour of 11:00 p.m. and until the hour of 5:00 a.m. of the following day on Sunday through Thursday, and after the hour of 12:30 a.m. and until the hour of 5:00 a.m. on Saturday and Sunday.

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

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

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

(3) In a motor vehicle involved in interstate travel;

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

Offenses Against Public Order

(5) Involved in an emergency;

(6) On the sidewalk abutting the minor's residence or abutting the residence of a next-door neighbor if the neighbor did not complain to the County Sheriff about the minor's presence;

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

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

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

(88 Code, § 6-313) (Ord. 378, passed 8-5-96) Penalty, see § 10.99

Statutory reference:

General ordinance making authority, see Neb. RS 17-505

§ 131.06 DISTURBING THE PEACE.

It shall be unlawful for any person intentionally to disturb the peace and quiet of any person, family, or neighborhood.

(Neb. RS 28-1322)

CHAPTER 132: OFFENSES AGAINST PUBLIC JUSTICE AND ADMINISTRATION

Section

- 132.01 Impersonating a public servant
- 132.02 Impersonating a peace officer
- 132.03 Refusing to aid a peace officer
- 132.04 Resisting arrest without the use of a deadly or dangerous weapon
- 132.05 Obstructing a peace officer
- 132.06 Interfering with firefighter
- 132.07 False reporting

§ 132.01 IMPERSONATING A PUBLIC SERVANT.

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

(Neb. RS 28-609) Penalty, see § 10.99

§ 132.02 IMPERSONATING A PEACE OFFICER.

It shall be unlawful for any person to falsely pretend to be a peace officer and perform any act in that pretended capacity.

(Neb. RS 28-610) Penalty, see § 10.99

§ 132.03 REFUSING TO AID A PEACE OFFICER.

It shall be unlawful for any person, upon a request by a person known to that person to be a peace officer, unreasonably to refuse or fail to aid such peace officer in:

(A) Apprehending any person charged with or convicted of any offense against any of the laws of this state or municipality; or

(B) Securing such offender when apprehended; or

(C) Conveying such offender to the jail of the county.
(Neb. RS 28-903) Penalty, see § 10.99

§ 132.04 RESISTING ARREST WITHOUT THE USE OF A DEADLY OR DANGEROUS WEAPON.

(A) This section shall apply only to those actions taken to resist arrest without the use of a deadly or dangerous weapon. It shall be unlawful for any person intentionally to prevent or attempt to prevent a peace officer, acting under color of official authority, from effecting an arrest on said person or on another by:

- (1) Using or threatening to use physical force or violence against the peace officer or another; or
- (2) Using any other means which creates a substantial risk of causing physical injury to the peace officer or another; or
- (3) Employing means which require substantial force to overcome resistance to effecting the arrest;

(B) It is an affirmative defense to prosecution under this section that the peace officer involved was out of uniform and did not identify himself or herself as a peace officer by showing credentials to the person whose arrest is attempted.
(Neb. RS 28-904) Penalty, see § 10.99

§ 132.05 OBSTRUCTING A PEACE OFFICER.

It shall be unlawful for any person to use or threaten to use violence, force, physical interference, or obstacle or intentionally to obstruct, impair, or hinder the enforcement of the penal law or the preservation of the peace by a peace officer or judge acting under color of official authority, or a police animal assisting a peace officer acting pursuant to the peace officer's official authority.
(Neb. RS 28-906) Penalty, see § 10.99

§ 132.06 INTERFERING WITH FIREFIGHTER.

A person commits the offense of interfering with a firefighter if at any time and place where any firefighter is discharging or attempting to discharge any official duties, the person willfully:

(A) Resists or interferes with the lawful efforts of any firefighter in the discharge or attempt to discharge an official duty; or

(B) Disobeys the lawful orders given by any firefighter while performing his or her duties;
or

(C) Engages in any disorderly conduct which delays or prevents a fire from being extinguished within a reasonable time; or

(D) Forbids or prevents others from assisting or extinguishing a fire or exhorts another person, as to whom he or she has no legal right or obligation to protect or control, not to assist in extinguishing a fire.

(Neb. RS 28-908) Penalty, see § 10.99

§ 132.07 FALSE REPORTING.

(A) It shall be unlawful for any person to:

(1) Furnish material information he or she knows to be false to any peace officer or other official with the intent to instigate an investigation of an alleged criminal matter or impede the investigation of an actual criminal matter;

(2) Furnish information he or she knows to be false alleging the existence of the need for the assistance of an emergency medical service or out-of-hospital emergency care provider or an emergency in which human life or property are in jeopardy to any hospital, emergency medical service, or other person or governmental agency;

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

(4) Furnish any information he or she knows to be false concerning the location of any explosive in any building or other property to any person;

(5) Furnish material information he or she knows to be false to any governmental department or agency with the intent to instigate an investigation or to impede an ongoing investigation and which actually results in causing or impeding such investigation.

(B) A person who violates this section commits the offense of false reporting.
(Neb. RS 28-907) Penalty, see § 10.99

CHAPTER 133: OFFENSES AGAINST PUBLIC HEALTH AND SAFETY

Section

General Provisions

- 133.01 Maintaining a nuisance
- 133.02 Appliances in yard
- 133.03 Putting carcass or filthy substance into well, spring, brook, or stream
- 133.04 Prohibited fences
- 133.05 Weeds; litter; stagnant water
- 133.06 Littering
- 133.07 Raising or producing stagnant water

Substance Offenses

- 133.20 Use of tobacco by minors
- 133.21 Sale of tobacco to minors
- 133.22 Misrepresentation by minor to obtain alcohol
- 133.23 Minor in possession of alcohol
- 133.24 Drinking on public property; open beverage container

Weapons Offenses

- 133.60 Discharge of firearms
- 133.61 Slingshots, air guns, BB guns

GENERAL PROVISIONS

§ 133.01 MAINTAINING A NUISANCE.

It shall be unlawful for any person to erect, keep up, or continue and maintain any nuisance to the injury of any part of the citizens of the municipality.

(Neb. RS 28-1321(1)) Penalty, see § 10.99

§ 133.02 APPLIANCES IN YARD.

It shall be unlawful for any person to permit a refrigerator, icebox, freezer, or any other dangerous appliance to be in the open and accessible to children whether on private or public property unless the person first removes all doors and makes the same reasonably safe.

Penalty, see § 10.99

Statutory reference:

Authority to prohibit nuisances within zoning jurisdiction, see Neb. RS 18-1720 and 28-1321

§ 133.03 PUTTING CARCASS OR FILTHY SUBSTANCE INTO WELL, SPRING, BROOK, OR STREAM.

It shall be unlawful for any person to put any dead animal, carcass, or part thereof or other filthy substance into any well, or into any spring, brook, or branch of running water, of which use is made for domestic purposes.

(Neb. RS 28-1304) Penalty, see § 10.99

§ 133.04 PROHIBITED FENCES.

It shall be unlawful for any person to erect, or cause to be erected, and maintain any barbed wire or electric fence within the corporate limits, where such fence abuts a public sidewalk, street or alley.

Penalty, see § 10.99

Statutory reference:

Fences, see Neb. RS 18-1720, 28-1321, 39-705

§ 133.05 WEEDS; LITTER; STAGNANT WATER.

(A) Lots or pieces of ground within the city shall be drained or filled so as to prevent stagnant water or any other nuisance accumulating thereon.

(B) The owner or occupant of any lot or piece of ground within the city shall keep the lot or piece of ground and the adjoining streets and alleys free of any growth of 12 inches or more in height of weeds, grasses, or worthless vegetation.

(C) The throwing, depositing, or accumulation of litter on any lot or piece of ground within the city is prohibited, except that grass, leaves, and worthless vegetation may be used as a ground mulch or in a compost pile.

(D) It is hereby declared to be a nuisance to permit or maintain any growth of 12 inches or more in height of weeds, grasses, or worthless vegetation or to litter or cause litter to be deposited or remain

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thereon except in proper receptacles.

(E) Any owner or occupant of a lot or piece of ground shall, upon conviction of violating this section, be guilty of an offense.

(F) (1) Notice to abate and remove such nuisance shall be given to each owner or owner's duly authorized agent and to the occupant, if any, by personal service or certified mail. If notice by personal service or certified mail is unsuccessful, notice shall be given by publication in a newspaper of general circulation in the city or by conspicuously posting the notice on the lot or ground upon which the nuisance is to be abated and removed. Within five days after receipt of such notice or publication or posting, whichever is applicable, if the owner or occupant of the lot or piece of ground does not request a hearing with the city or fails to comply with the order to abate and remove the nuisance, the city may have such work done. The costs and expenses of any such work shall be paid by the owner.

(2) If unpaid for two months after such work is done, the city may either:

(a) Levy and assess the costs and expenses of the work upon the lot or piece of ground so benefited in the same manner as other special taxes for improvements are levied and assessed; or

(b) Recover in a civil action the costs and expenses of the work upon the lot or piece of ground and the adjoining streets and alleys.

(G) For purposes of this section:

(1) **LITTER** includes, but is not limited to:

(a) Trash, rubbish, refuse, garbage, paper, rags, and ashes;

(b) Wood, plaster, cement, brick, or stone building rubble;

(c) Grass, leaves, and worthless vegetation;

(d) Offal and dead animals; and

(e) 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, are inoperative or unable to perform their intended functions, or are cast off, discarded, or thrown away or left as waste, wreckage, or junk; and

(2) **WEEDS** includes, but is 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 (*Rhamnus* sp.) (toun), hemp plant (*Cannabis sativa*), and ragweed (*Ambrosiaceae*).

(Neb. RS 17-563) Penalty, see § 10.99

Statutory reference:

Authority, see Neb. RS 17-563

§ 133.06 LITTERING.

(A) Any person who deposits, throws, discards, or otherwise disposes of any litter on any public or private property or in any waters commits the offense of littering unless:

(1) The property is an area designated by law for the disposal of such material and the person is authorized by the proper public authority to so use the property; or

(2) The litter is placed in a receptacle or container installed on the property for such purpose.

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

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

(Neb. RS 28-523) Penalty, see § 10.99

§ 133.07 RAISING OR PRODUCING STAGNANT WATER.

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

(Neb. RS 28-1303) Penalty, see § 10.99

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§ 133.20 USE OF TOBACCO BY MINORS.

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

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(Neb. RS 28-1418) Penalty, see § 10.99

§ 133.21 SALE TO MINORS.

It shall be unlawful for any person to sell, give, or furnish in any way any tobacco in any form whatever, or any cigarettes or cigarette paper, to any minor under 18 years of age.

(Neb. RS 28-1419) Penalty, see § 10.99

§ 133.22 MISREPRESENTATION BY MINOR TO OBTAIN ALCOHOL.

It shall be unlawful for any minor, as defined by Neb. RS 53-103, to obtain or attempt to obtain alcoholic liquor by misrepresentation of age, or by any other method, in any tavern or other place where alcoholic liquor is sold.

(Neb. RS 53-180.01) Penalty, see § 10.99

Statutory reference:

False identification intended for minors, see Neb. RS 53-180.05

Permitted employment for minors, see Neb. RS 53-168.06

§ 133.23 MINOR IN POSSESSION.

It shall be unlawful for any minor, as defined by Neb. RS 53-103 to transport, possess knowingly, or have under his or her control, in any motor vehicle, beer or other alcoholic liquor on any public street, alley, roadway, or property owned by the state of Nebraska or any subdivision thereof or any other place within the municipal limits.

Penalty, see § 10.99

Statutory reference:

Similar provisions, see Neb. RS 53-180.02

Permitted employment for minors, see Neb. RS 53-168.06

§ 133.24 DRINKING ON PUBLIC PROPERTY; OPEN BEVERAGE CONTAINER.

(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 (a) in a public parking area or on any highway in this municipality or (b) 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 (i) 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, (ii) wine of not less than one-half of one percent of alcohol by volume, or (iii) 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 means any bottle, can, or other receptacle:

(i) That contains any amount of alcoholic beverage; and

(ii) 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) Penalty, see § 10.99

WEAPONS OFFENSES

§ 133.60 DISCHARGE OF FIREARMS.

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

Penalty, see § 10.99

Statutory reference:

Authority to regulate, see Neb. RS 17-556

Offenses Against Public Health and Safety

§ 133.61 SLINGSHOTS, AIR GUNS, BB GUNS.

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

(B) It shall be unlawful for any person to discharge a slingshot, air gun, BB gun, or the like loaded with rock or other dangerous missiles at any time or under any circumstances within the municipality.
Penalty, see § 10.99

Statutory reference:

Authority to regulate, see Neb. RS 17-556

CHAPTER 134: OFFENSES AGAINST PUBLIC MORALS

Section

- 134.01 Prostitution
- 134.02 Public indecency
- 134.03 Gambling

§ 134.01 PROSTITUTION.

It shall be unlawful for any person to perform, offer, or agree to perform any act of sexual penetration, as defined in Neb. RS 28-318 with any person not his or her spouse in exchange for money or other things of value.

(Neb. RS 28-801) Penalty, see § 10.99

§ 134.02 PUBLIC INDECENCY.

It shall be unlawful for any person, 18 years of age or over, to perform or procure or assist any other person to perform in a public place and where the conduct may reasonably be expected to be viewed by members of the public:

- (A) An act of sexual penetration as defined by Neb. RS 28-318(6); or
- (B) An exposure of the genitals of the body done with intent to affront or alarm any person;

or

(C) A lewd fondling or caressing of the body of another person of the same or opposite sex.
(Neb. RS 28-806) Penalty, see § 10.99

§ 134.03 GAMBLING.

- (A) For purposes of this section, the definitions found in Neb. RS 28-1101 shall be used.
- (B) It shall be unlawful for any person to:

(1) Engage in bookmaking;

(2) Receive money in connection with any unlawful gambling scheme; or

(3) Knowingly participate in any unlawful gambling as a player by placing a bet.

(Neb. RS 28-1102 - 28-1104)

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

(Neb. RS 28-1107)

Penalty, see § 10.99

TITLE XV: LAND USAGE

Chapter

150.BUILDING REGULATIONS

151.SUBDIVISION REGULATIONS

152.ZONING REGULATIONS

CHAPTER 150: BUILDING REGULATIONS

Section

Building Permits and Regulations

- 150.01 Duplicate to county assessor
- 150.02 Barricades and lights
- 150.03 Construction codes
- 150.04 Right of entry

Moving of Buildings

- 150.20 Deposit

Unsafe Buildings

- 150.40 Definition
- 150.41 Prohibitions
- 150.42 Determination; notice
- 150.43 Hearing and appeal
- 150.44 Emergency
- 150.45 Special assessments

BUILDING PERMITS AND REGULATIONS

§ 150.01 DUPLICATE TO COUNTY ASSESSOR.

Whenever a building permit is issued for the erection, alteration, or repair of any building within the municipality's jurisdiction, and the improvement is \$2,500 or more, a duplicate of such permit shall be issued to the County Assessor.

(Neb. RS 18-1743) ('88 Code, § 9-203)

§ 150.02 BARRICADES AND LIGHTS.

It shall be the duty of the owner, tenant, or lessee causing the construction, demolition, or moving of any building or improvement within the municipality to have during such work all excavations, open basements, building materials, and debris protected by suitable guards or barricades by day, and by warning lights at night. The failure, neglect, or refusal of said persons to erect such guards shall constitute a violation of this section and the municipal police, County Sheriff or the Building Inspector shall stop all work until guards are erected and maintained as required.
(^88 Code, § 9-105)

§ 150.03 CONSTRUCTION CODES.

To provide certain minimum standards, provisions, and requirements for safe and stable design, methods of construction, and uses of materials for the erection, construction, enlargement, alteration, repair, relocation and conversion of buildings, homes and other structures, the City Council may adopt such constructions codes as it deems necessary. These codes shall be published and printed in book or pamphlet form and may be incorporated by reference by the City Council. One copy of such codes shall be on file in the office of the Municipal Clerk and shall be available for public inspection at any reasonable time. The provisions of such codes shall be controlling, to the extent they do not conflict with the statutes of the state of Nebraska, throughout the municipality and throughout its zoning jurisdiction. (^88 Code, § 9-601)

§ 150.04 RIGHT OF ENTRY.

It shall be unlawful for any person to refuse to allow the Building Inspector entry into any building or structure where the work of construction, alteration, repair, or relocation is taking place for the purpose of making official inspections at any reasonable hour.
(^88 Code, § 9-102) Penalty, see § 10.99

MOVING OF BUILDINGS

§ 150.20 DEPOSIT.

At such time as the building moving has been completed, the building inspector or other designated official shall inspect the premises and report to the Municipal Clerk as to the extent of damages, if any, resulting from the relocation and whether any municipal laws have been violated during the operation. Upon a satisfactory report from the building inspector or other designated official, the Municipal Clerk shall return the corporate surety bond, cash, or check deposited by the applicant. In the event the basement, foundation, or portion thereof is not properly filled, covered, or in a clean and sanitary condition, the City Council may apply the money deposited for the purpose of defraying the expense of correcting the conditions. If the expense of correcting the hazardous condition is greater than the amount of the deposit set by the City Council, as required herein, the City

Council may recover such excess expense by civil suit or otherwise as prescribed by law.
(^88 Code, § 9-402)

UNSAFE BUILDINGS

§ 150.40 DEFINITION.

(A) The term ***UNSAFE BUILDING*** as used in this subchapter is hereby defined to mean and include any building, shed, fence, or other man-made structure:

(1) Which is dangerous to the public health because of its condition and which may cause or aid in the spread of disease or injury to the health of the occupants of it or neighboring structures;

(2) Which because of faulty construction, age, lack of proper repair, or any other cause is especially liable to fire and constitutes or creates a fire hazard; or

(3) Which by reason of faulty construction or any other cause is liable to cause injury or damage by the collapse or fall of all or any part of such structure.

(B) Any such unsafe building in the municipality is hereby declared to be a nuisance.
(^88 Code, § 9-501)

§ 150.41 PROHIBITIONS.

It shall be unlawful to maintain or permit the existence of any unsafe building in the municipality, and it shall be unlawful for the owner, occupant, or person in custody of any dangerous building to permit the same to remain in an unsafe condition or to occupy such building or permit it to be occupied while it is in an unsafe condition.

(^88 Code, § 9-502) Penalty, see § 10.99

Statutory reference:

Authority to prevent and abate nuisances and unsafe buildings, see Neb. RS 18-1720, 18-1722, and 18-1722.01

§ 150.42 DETERMINATION; NOTICE.

(A) Whenever the Board of Health or designated official is of the opinion that any building or structure in the municipality is an unsafe building, he or she shall file a written statement to this effect with the Municipal Clerk. The Clerk shall thereupon cause the property to be posted accordingly, shall file a copy of such determination in the office of the County Register of Deeds, and shall serve written

notice upon the owner thereof, and upon the occupant thereof, if any, by certified mail or by personal service.

(B) Such notice shall state that the building has been declared to be in an unsafe condition, that such dangerous condition must be removed or remedied by repairing or altering the building or by demolishing it, and that the condition must be remedied within 60 days from the date of receipt. Such notice may be in the following terms:

“To _____ (owner-occupant of premises) of the premises known and described as _____.

“You are hereby notified that _____ (describe building) on the premises above mentioned has been determined to be an unsafe building and a nuisance after inspection by _____. The causes for this decision are _____ (here insert the facts as to the dangerous condition).

“You must remedy this condition or demolish the building within 60 days from the date of receipt of this notice or the municipality will proceed to do so. Appeal of this determination may be made to the City Council, acting as the Board of Appeals, by filing with the Municipal Clerk within ten days from the date of receipt of this notice a request for a hearing.”

(C) If the person receiving the notice has not complied therewith within 60 days from the date of receipt of such notice, or taken an appeal from the determination that a dangerous building exists within ten days from the time when this notice is served upon such person by personal service or certified mail, the Building Inspector or other designated official may, upon orders of the City Council, proceed to remedy the condition or demolish the unsafe building.

(^88 Code, § 9-503)

Statutory reference:

Authority to prevent and abate nuisances and unsafe buildings, see Neb. RS 18-1720, 18-1722, and 18-1722.01

§ 150.43 HEARING AND APPEAL.

Upon receiving the notice to repair or demolish the building, the owner of the building, within the time stipulated, may in writing to the Municipal Clerk request a hearing before the City Council, sitting as the Board of Appeals, to present reasons why the building should not be repaired or demolished. The City Council shall grant such hearing within ten days from the date of receiving the request. A written notice of the City Council' decision following the hearing shall be sent to the property owner by certified mail. If the City Council rejects the appeal, the owner shall have 60 days from the sending of the decision to begin repair or demolition and removal. If after the 60-day period the owner has not begun work, the City Council shall proceed to cause such work to be done, provided that the property owner may appeal such decision to the appropriate court for adjudication, during which proceedings the decision of the City Council shall be stayed. Where the municipality has not adopted a building code, the statutes of Nebraska relating to bonded indebtedness and collection of delinquent taxes shall apply.

(^88 Code, § 9-504)

Statutory reference:

Authority to prevent and abate nuisances and unsafe buildings, see Neb. RS 18-1720, 18-1722, and 18-1722.01

§ 150.44 EMERGENCY.

Where any unsafe building or structure poses an immediate danger to the health, safety, or general welfare of any person or persons and the owner fails to remedy the situation in a reasonable time after notice to do so, the municipality may summarily repair or demolish and remove such building or structure.

(^88 Code, § 9-505)

§ 150.45 SPECIAL ASSESSMENTS.

(A) If any owner of any building or structure fails, neglects, or refuses to comply with notice by or on behalf of the municipality to repair, rehabilitate, or demolish and remove a building or structure which is unsafe and a public nuisance, the municipality may proceed with the work specified in the notice to the property owner. A statement of the cost of such work shall be transmitted to the City Council.

(B) The City Council may:

(1) Levy the cost as a special assessment against the lot or real estate upon which the building or structure is located; or

(2) Collect the cost from the owner of the building or structure and enforce the collection by civil action in any court of competent jurisdiction.

(C) Any such special assessment shall be a lien on the real estate and shall be collected in the manner provided for special assessments.

(^88 Code, § 9-506)

Statutory reference:

Authority to prevent and abate nuisances and unsafe buildings, see Neb. RS 18-1720, 18-1722, and 18-1722.01

CHAPTER 151: SUBDIVISION REGULATIONS

Section

151.01 Subdivision regulations incorporated by reference

§ 151.01 SUBDIVISION REGULATIONS INCORPORATED BY REFERENCE.

To provide for harmonious development of the city and its environs; for the integration of new subdivision streets with other existing or planned streets or with other features of the Comprehensive Plan; for adequate open spaces for traffic, recreation, light, and air; for the distribution of population and traffic in a manner which will tend to create conditions favorable to health, safety, convenience, or prosperity; to insure conformance of subdivision plans with capital improvement programs of the city; and to secure equitable handling of all subdivision plans by providing uniform procedures and standards for observance by subdivides and the Planning Commission and City Council, the Subdivision Regulations for the City of Chappell, as prepared by the city and adopted by Ord. 478 (passed 11-18-02), including any amendments thereto as may be made therein from time to time, are hereby incorporated by reference herein as if set out in full. One copy of the Zoning Regulations shall be kept on file with the Municipal Clerk and available for public inspection during regular office hours. (Ord. 477, passed 11-18-02)

Statutory reference:

Authority, see Neb. RS 18-132, 19-922

CHAPTER 152: ZONING REGULATIONS

Section

- 152.01 Zoning regulations incorporated by reference
- 152.02 Map; extra-territorial jurisdiction

§ 152.01 ZONING REGULATIONS INCORPORATED BY REFERENCE.

For the purpose of setting minimum standards to promote the public health, safety, morals, convenience, order, prosperity, and general welfare of the city and to lessen congestion in the streets; to secure safety from fire, panic, and other dangers; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; and to facilitate the adequate provision of transportation, water, sewage, schools, parks, and other public improvements, the Zoning Regulations for the City of Chappell, as prepared and presented by the city and adopted by Ord. 479 (passed 11-18-02), including any amendments thereto as may be made therein from time to time, are hereby incorporated by reference herein as if set out in full. One copy of the Zoning Regulations shall be kept on file with the Municipal Clerk and available for public inspection during regular office hours. (Ord. 478, passed 11-18-02)

Statutory reference:

Authority, see Neb. RS 18-132, 19-922

§ 152.02 MAP; EXTRA-TERRITORIAL JURISDICTION.

The city and certain properties within and up to 2 miles in all directions of its corporate limits are hereby divided into zones, or districts, as shown on the official zoning map which, together with all explanatory material and documentation is hereby adopted by reference, declared to be part of the Zoning Regulations of the city and further declared to be part of this code. The official zoning map shall be identified by the signature of the Mayor, attested to by the Municipal Clerk, and bearing the seal of the city under the following words:

This is to certify that this is the Official Zoning Map referred to in Section 4.3 of Ordinance 479 of the City of Chappell, Nebraska, adopted November 18, 2002. The official zoning map of the area within the corporate limits and the planning jurisdiction area adjacent and two miles beyond the corporate limits of the City of Chappell, together with all changes, amendments, or additions thereto, shall be maintained in the office of the Municipal Clerk and available for public inspection during regular office hours.

(Ord. 478, passed 11-18-02)

Statutory reference:

Authority, see Neb. RS 18-132, 19-922