

# **CITY OF FAIRBURY**

## **MUNICIPAL CODE**



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## **MUNICIPAL CODE**

General Codification Ordinance No. 3130

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*Current through Ordinance No. 3130*

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## **CHAPTER 10: GENERAL PROVISIONS**

### **§ 10.01 TITLE OF CODE**

The general ordinances of the City of Fairbury, Nebraska are hereby recodified into the following titles, with the chapters and sections included therein:

- I. General Provisions
- III. Administration
- V. Public Works
- VII. Traffic Code
- IX. General Regulations
- XI. Business Regulations
- XIII. General Offenses
- XV. Land Usage

and are adopted and declared to be the ordinances and Code of the City of Fairbury, Nebraska and may be so cited. (Ord. 3130, 4-1-25)

### **§ 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. (Ord. 3130, 4-1-25)

### § 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. (Ord. 3130, 4-1-25)

### § 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. (Ord. 3130, 4-1-25)

### § 10.05 DEFINITIONS

- (A) *General rule.* For purposes of this Code, 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 definitions provided by Neb. Rev. Stat. § 49-801 shall apply unless otherwise defined below, or unless the context clearly indicates or requires a different meaning:

**CITY, MUNICIPAL CORPORATION, MUNICIPALITY.** The City of Fairbury, Nebraska.

**CITY COUNCIL, COUNCIL, GOVERNING BODY.** The legislative body of the City of Fairbury, Nebraska.

**CODE, MUNICIPAL CODE, THIS CODE OF ORDINANCES** means the General Codification Ordinance No. 3130, as subsequently modified by amendment, revision, and adoption of new titles, chapters, or sections. Ordinance, title, and chapter are used synonymously unless from the context the contrary clearly appears.

**COUNTY.** Jefferson County, Nebraska.

**MAY.** The act referred to is permissive.

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

**SHALL.** The act referred to is mandatory.

**SIGNATURE , 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.

(Ord. 3130, 4-1-25)

### § 10.06 RULES OF INTERPRETATION

The construction of all ordinances of the City shall be by the following rules, unless that construction is contrary to the context of the same ordinance or the expressed intent of the Mayor and City Council:

- (A) *Acts by Assistants.* When a statute or ordinance requires an act to be done which, by law, an agent or deputy may do as well as the principal, the requisition shall be satisfied by the performance of that act by an authorized agent or deputy.
- (B) *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.
- (C) *General term.* A general term following specific enumeration of terms is not to be limited to the class enumerated unless expressly so limited.
- (D) *Official Time.* Whenever a word fixing or importing time or the hour of the day are used in the Code, they shall be construed to mean Central Standard Time or Central Daylight Saving Time, whichever is applicable.
- (E) *Performance.* 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 the act or the giving of the notice.
- (F) *Periods of Time.* 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 day. If the last day is a Sunday or legal holiday, it shall be excluded.

(Ord. 3130, 4-1-25)

#### **§ 10.07 SEVERABILITY**

The provisions of this Code are hereby declared to be severable. If any section, subsection, paragraph, sentence, clause, phrase, term, or provision of the Code should be declared invalid by any court of competent jurisdiction for any reason whatsoever, such decision shall not affect the remaining portions of the Code, which will remain in full force and effect. (Ord. 3130, 4-1-25)

#### **§ 10.08 REFERENCE TO OTHER SECTIONS**

Whenever in one section reference is made to another section of the Code, the 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. (Ord. 3130, 4-1-25)

#### **§ 10.09 REFERENCE TO OFFICES**

Reference to a public office or officer shall be deemed to apply to any office, officer, or employee of the 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. (Ord. 3130, 4-1-25)

#### **§ 10.10 ORDINANCES REPEALED**

This Code contains all the provisions of a general nature pertaining to the subjects enumerated herein. All prior ordinances of a general nature passed and approved prior to the passage and approval of this general codification ordinance and in conflict with this ordinance, or with any provision hereof, are hereby repealed, except that nothing shall affect any rights acquired under, actions involving, or fines, penalties, forfeitures, or liabilities incurred heretofore under such ordinances prior to repeal. (Ord. 3130, 4-1-25)

### **§ 10.11 ORDINANCES UNAFFECTED**

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

- a. Vacating or setting the boundaries of streets, alleys, or other public places;
- b. Annexing or detaching territory;
- c. Granting or accepting easements, plats, or dedication of land to public use;
- d. Providing for the acquisition, conveyance, or encumbrance of real or personal property;
- e. Authorizing or directing public improvements to be made;
- f. Levying taxes or special assessments;
- g. Appropriating money;
- h. Establishing grades;
- i. Granting franchises or special licenses; and
- j. Providing for the issuance of bonds or other instruments of indebtedness.

(Ord. 3130, 4-1-25)

### **§ 10.12 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 and except as otherwise provided by law.
- (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.

(Ord. 3130, 4-1-25)

### **§ 10.13 SECTION HISTORIES**

As histories for the Code sections, the specific number and passage date of the original ordinance, and the amending ordinances, if any, are listed following the text of the section.

Example: (Ord. 101, 5-13-60; Am. Ord. 150, 1-1-70; 207, 1-1-80; 253, 1-1-85)

(Ord. 3130, 4-1-25)

### **§ 10.14 GENERAL PENALTY**

- (A) Any person, or any person's agents or servants, who shall violate any of the provisions of the Code shall be deemed guilty of a misdemeanor offense and upon conviction shall be fined in any sum not exceeding five hundred dollars (\$500.00).
- (B) Whoever aids, abets, procures, encourages, requests, advises, or incites another to commit any act which is an offense under the Code or any other ordinance of the City may be prosecuted and punished as though such person were the principal offender.

- (C) Whenever a nuisance exists as defined in this Code or under applicable law, the City may proceed by a suit in equity to enjoin and abate the same in the manner provided by law. Whenever, in any such 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.

(Ord. 3130, 4-1-25)

### **§ 10.15 ORGANIZATION; REPEAL OR MODIFICATION OF ORDINANCE**

For purposes of construction, each title, chapter or section contained and arranged in this Code shall be considered as a separate and distinct ordinance grouped for convenience under the General Codification Ordinance No. 3130. Any title, chapter or section duly enacted by the City Council and included in the Code and any other independent ordinance, title, chapter, section of an ordinance duly enacted shall be altered, amended or revised only as provided by law. (Ord. 3130, 4-1-25)

### **§ 10.16 AVAILABILITY**

This Code was printed in pamphlet form under the direction of the City Council and shall be distributed as it may see fit. (Ord. 3130, 4-1-25)

### **§ 10.17 APPLICABILITY**

This ordinance shall be in full force and shall take effect from and after its passage, approval, and publication according to law. (Ord. 3130, 4-1-25)

## **CHAPTER 11: CITY STANDARDS**

### **§ 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 "Corporate Seal, City of Fairbury, Jefferson County, Nebraska; Founded 1869."
- (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.

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## **CHAPTER 30: ELECTED OFFICIALS; ORDINANCES**

### MAYOR

#### **§ 30.01 ELECTION; QUALIFICATIONS; TERM**

- (A) The Mayor shall be elected as provided in the Nebraska Election Act. The Mayor shall be a resident and registered voter of the City. (Neb. Rev. Stat. 17-107)
- (B) The Mayor shall serve for a term of 4 years or until his or her successor is elected and qualified. (Neb. Rev. Stat. 32-533)

(Am. Ord. 2452, 5-16-89)

## **§ 30.02 POWERS AND DUTIES**

- (A) The Mayor shall preside at all meetings of the City Council. The Mayor may vote on any matter that requires either a majority vote of the City Council or a majority vote of all the elected members of the City Council if (a) the Mayor's vote is required due to the City Council members being equally divided or (b) a majority of the City Council members or majority vote of all the elected members cannot be reached due to absence, vacancy, or abstention of one or more City Council members. For purposes of such vote, the Mayor is deemed to be a member of the City Council. The Mayor 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 the City are complied with. (Neb. Rev. Stat. 17-110; Neb. Rev. Stat. 17-614)
- (B) The Mayor shall have power to veto or sign any ordinance passed by the City Council and to approve or veto any order, bylaw, resolution, award of or vote to enter into any contract, or the allowance of any claim. If the Mayor approves the ordinance, order, bylaw, resolution, contract, or claim, he or she shall sign it, and it shall become effective. If the Mayor vetoes the ordinance, order, bylaw, resolution, contract, or any item or items of appropriations or claims, he or she shall return it to the City Council stating that the measure is vetoed. The Mayor may issue the veto at the meeting at which the measure passed or within seven calendar days after the meeting. If the Mayor issues the veto after the meeting, the Mayor shall notify the City Clerk of the veto in writing. The clerk shall notify the City Council in writing of the Mayor's veto. Any ordinance, order, bylaw, resolution, award of or vote to enter into any contract, or the allowance of any claim vetoed by the Mayor may be passed over his or her veto by a vote of two-thirds of the members of the Council. If the Mayor neglects or refuses to sign any ordinance, order, bylaw, resolution, award of or vote to enter into any contract, or the allowance of any claim, but fails to veto the measure within the time required by this section, the measure shall become effective without his or her signature. The Mayor may veto any item or items of any appropriation bill or any claims bill, and approve the remainder thereof, and the item or items vetoed may be passed by the Council over the veto as in other cases. (Neb. Rev. Stat. 17-111)
- (C) 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. (Neb. Rev. Stat. 17-112)
- (D) 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. (Neb. Rev. Stat. 17-113)
- (E) The Mayor shall have such jurisdiction as may be vested in him or her by ordinance, over all places within 5 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 1/2 mile of the corporate limits of the City. (Neb. Rev. Stat. 17-114)
- (F) The Mayor shall have the power to remit fines and forfeitures, and to grant reprieves and pardons for all offenses arising under the ordinances of the City. (Neb. Rev. Stat. 17-117)
- (G) The Mayor shall hold no other elective or appointive office or employment with the City.

- (1) The Mayor shall sign the City Clerk's minutes of all meetings of the City Council, and he or she shall sign all resolutions that have been passed and warrants for the payment of money when ordered by the Council.
- (2) The Mayor shall have such other duties as are reposed in the Mayor by the laws of the State of Nebraska or as the Council may by resolution confer upon the Mayor consistent with law.

(Am. Ord. 2452, 5-16-1989;3127, 1-31-25)

### **§ 30.03 VACANCY**

- (A) The office of Mayor shall be vacant upon the happening of any of the events specified in Neb. Rev. Stat. 32-560 except as provided in Neb. Rev. Stat. 32-561.
- (B) In case of any vacancy in the office of Mayor, or in case of his or her disability or absence, the President of the City Council shall exercise the office of Mayor for the unexpired term until such vacancy is filled or such disability is removed, or in case of temporary absence, until the Mayor returns. (Neb. Rev. Stat. 32-568)
- (C) If the President of the Council assumes the office of Mayor for the unexpired term, there shall be a vacancy on the Council. (Neb. Rev. Stat. 17-107, 32-568)

### **CITY ADMINISTRATOR**

### **§ 30.15 CITY ADMINISTRATOR; DUTIES**

- (A) The office of Administrator of the City, is hereby established as provided by law. The City Administrator shall be appointed by the Mayor, by and with the consent of the City Council. The City Administrator shall be the Chief Administrative Officer of the City subject to the control and direction by the Mayor and City Council, and shall exercise supervision over all municipal employees directly or through subordinate supervisors such as department heads. The City Administrator shall act as an agent of the Mayor in the discharge of all duties responsibilities and powers set forth in this section, and shall carry out the policies and directions as determined by the Mayor and City Council. In the event the City Administrator shall be absent from the City, or is incapable of discharging his or her duties, responsibilities, and powers for any reason, the Mayor shall act during such absence or incapacity.
- (B) In addition to the duties, responsibilities, and powers set forth elsewhere, and not as a limitation thereof, and subject to oversight by the Mayor and City Council, the duties, responsibilities and powers of the City Administrator shall be as follows:
  - (1) Serve as City Personnel Director. Shall be the authority, subject to the provisions of collective bargaining agreements entered into by the City and its employees' respective unions, to employ, evaluate, discipline, and remove all non-elected employees of the City, except for the hiring and removal of police officers, which shall be accomplished pursuant to law by the Mayor and City Council. Appointments to and removal from the offices of the City Clerk, Police Chief, Public Works Director, Municipal Utilities Superintendent, City Attorney and City Physician, shall be made by the Mayor and City Council as provided by law. The City Administrator shall oversee all department heads. Subject to approval by the Mayor and in compliance with all applicable laws and City collective bargaining agreements, the City Administrator shall coordinate all employment application procedures and interviews, implement and maintain a personnel evaluation program with the assistance of department heads, prepare and submit to the Mayor written performance

- evaluations for all City personnel and department heads at least once annually, and supervise and maintain payroll and benefits programs.
- (2) Take no part in any selection process held for the purpose of electing any elective municipal official of the City except for the casting of his or her individual ballot.
  - (3) Prepare and keep up to date an inventory of all real and personal property and other public property that the City owns or has an interest in and exercise general supervision and control over through consulting, recommending, and coordinating with department heads.
  - (4) Coordinate and supervise the timely purchase of all supplies, goods, wares, merchandise, equipment and materials which may be required for the various departmental divisions and services of the City through consulting, recommending and coordinating with department heads, and with relation to the municipal water, sewer, and electrical systems, through consulting, recommending and coordinating with the City Council subject to funds appropriated and financial limits established by ordinance and at the direction of the Mayor and City Council as appropriate.
  - (5) Coordinate each Department's annual estimate of expenditures in the timely preparation of a utilities and City budget prior to the time of the passage and adoption of the annual appropriation ordinance; submit periodic budget reports to the Mayor and City Council; ensure and supervise proper maintenance of all official City documents and records
  - (6) Serve as ADA Coordinator and Risk Management Officer.
  - (7) Serve as public relations officer. In such capacity, shall endeavor to investigate and adjust all complaints filed against any employee, department, division, or service thereof of the City. Shall cooperate with all community organizations whose aim and purpose is to advance the best interests of the municipality. Shall maintain open communication with the media.
  - (8) Attend all City Council meetings. Shall attend and provide general assistance to and supervision of all City Boards, Commissions, Authorities, and Committees as duties may require.
  - (9) Seek funding sources for City operations; responsible for preparation of applications for funding, grants, and loans.
  - (10) Be primarily responsible for the coordination of all City economic development efforts, and shall cooperate and coordinate with, as appropriate, all community groups and City efforts, including but not limited to the City of Fairbury Community Redevelopment Authority and the Little Blue Area Development Corporation, the aims of which are to promote the City and enhance the economic development efforts of the City.
  - (11) Regularly report to the Mayor and City Council through reports at City Council meetings and otherwise the status of City operations and any other matters deemed appropriate.
  - (12) Advise the Mayor and City Council on all areas affecting City operations, and recommend the adoption of such measures and ordinances as are deemed necessary or expedient.
  - (13) Perform such other duties and exercise such powers as may be delegated to him or her from time to time by ordinance or resolution of the Mayor and City Council.
- (C) The City Administrator shall devote his or her entire time, attention, and energy to the affairs of the City and the operation of the municipal water, sewer, and electrical systems, and shall not, during the time of office or employment, be engaged in any other business activity.

- (D) The salary of the City Administrator shall be fixed by ordinance and by the written contract of employment with the City Administrator. Said written contract of employment may also require residency within the City as a condition of such employment as City Administrator.
- (E) The City Administrator shall have on file with the City Clerk a bond in favor of the City for the faithful performance of his or her duties and responsibilities in the amount fixed by resolution. The premium for such bond shall be a City expense.

(Ord. 3049, 1-2015; Am. Ord. 3090, 9-1-20; 3128, 1-31-25)

### CITY COUNCIL

#### **§ 30.30 ELECTION; TERMS; QUALIFICATIONS**

- (A) The City Council shall consist of eight members who shall be elected by ward on a nonpartisan ballot. Each ward shall have two members of the Council.
- (B) Members of the Council shall be elected in the manner provided in the Nebraska Election Act. The term of office shall begin on the first regular meeting of the Council in December following the statewide general election. No person shall be eligible to the office of member of the Council 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. (Neb. Rev. Stat. 17-104)
- (C) Members of the Council shall serve for terms of four years or until their successors are elected and qualified. (Neb. Rev. Stat. 32-533)

#### **§ 30.31 WARDS**

The City shall redistrict as often as necessary using the most recent federal decennial census to ensure that each ward is substantially equal in population. The City shall be divided into the wards shown on the map on file in the office of the City Clerk.

#### **§ 30.32 PRESIDENT; ACTING PRESIDENT**

- (A) The City Council shall elect one of its own body who shall be styled the President of the Council and who shall preside at all meetings of the Council in the absence of the Mayor.
- (B) In the absence of the President, the Council shall elect one of its own body to occupy his or her place temporarily, who shall be styled Acting President of the Council.
- (C) The President and Acting President, when occupying the place of the Mayor, shall have the same privileges as other members of the Council; and all acts of the President or Acting President, while so acting, shall be as binding upon the Council and upon the City as if done by the Mayor. (Neb. Rev. Stat. 17-148)

#### **§ 30.33 VACANCY; GENERAL PROVISIONS**

- (A) The office of member of the City Council shall be vacant upon the happening of any of the events specified in Neb. Rev. Stat. 32-560 except as provided in Neb. Rev. Stat. 32-561.
- (B) (1) Except as otherwise provided in subsection (C) or (D) of this section or Neb. Rev. Stat. 32-568, vacancies in the City Council shall be filled by the Mayor and Council for the balance of the unexpired term. Notice of a vacancy, except a vacancy resulting from the death of the incumbent, shall be in writing and presented to the council or board of trustees at a regular or special meeting and shall appear as a part



of the minutes of such meeting. The council or board of trustees shall at once give public notice of the vacancy by causing to be published in a newspaper of general circulation within the city or village or by posting in three public places in the city or village the office vacated and the length of the unexpired term.

- (2) The Mayor or chairperson of the board shall call a special meeting of the council or board of trustees or place the issue of filling such vacancy on the agenda at the next regular meeting at which time the Mayor or chairperson shall submit the name of a qualified registered voter to fill the vacancy for the balance of the unexpired term. The regular or special meeting shall occur upon the death of the incumbent or within four weeks after the meeting at which such notice of vacancy has been presented. The council or board of trustees shall vote upon such nominee, and if a majority votes in favor of such nominee, the vacancy shall be declared filled. If the nominee fails to receive a majority of the votes, the nomination shall be rejected and the Mayor or chairperson shall at the next regular or special meeting submit the name of another qualified registered voter to fill the vacancy. If the subsequent nominee fails to receive a majority of the votes, the Mayor or chairperson shall continue at such meeting to submit the names of qualified registered voters in nomination and the council or board of trustees shall continue to vote upon such nominations at such meeting until the vacancy is filled. The Mayor shall cast his or her vote for or against the nominee in the case of a tie vote of the council. All council members and trustees present shall cast a ballot for or against the nominee. Any member of the City Council or board of trustees who has been appointed to fill a vacancy on the council or board shall have the same rights, including voting, as if such person were elected.
- (C) The Mayor and Council may, in lieu of filling a vacancy in a City elected office as provided in division (B), call a special City election to fill such vacancy.
- (D) If vacancies exist in the offices of one-half or more of the members of the City Council, the Secretary of State shall conduct a special City election to fill such vacancies. (Neb. Rev. Stat. 32-569)

(Am. Ord. 2303, 8-21-84; 2504, 1-15-91; 2851, 7-16-02)

#### **§ 30.34 VACANCY DUE TO UNEXCUSED ABSENCES**

- (A) In addition to the events listed in Neb. Rev. Stat. 32-560 and any other reasons for a vacancy provided by law, after notice and a hearing, a vacancy on the City Council shall exist if a member is absent from more than five consecutive regular meetings of the Council unless the absences are excused by a majority vote of the remaining members. (Neb. Rev. Stat. 19-3101)
- (B) The Council shall take a vote on whether to excuse a member's absence from a meeting upon either:
  - (1) A written request from the member submitted to the City Clerk; or
  - (2) A motion of any other Council member.
- (C) If a Council member has been absent from 6 consecutive regular meetings and none of the absences have been excused by a majority vote of the remaining members, the Clerk shall include this as an item on the agenda for the next regular meeting. At that meeting, the Council shall set a date for a hearing and direct the Clerk to give the member notice of the hearing by personal service or first-class mail to the member's last-known address.

- (D) At the hearing, the Council member shall have the right to present information on why one or more of the absences should be excused. If the Council does not excuse 1 or more of the member's absences by a majority vote at the conclusion of the hearing, there shall be a vacancy on the Council. (Ord. 2865, 7-15-03)

### STANDING COMMITTEES

#### **§ 30.45 APPOINTMENT**

At the first regular meeting following the organizational meeting of the City Council, held on the first regular meeting in December of each year in which a municipal election is held, the Mayor shall appoint members of those standing committees as the City Council may by ordinance or resolution create. Committee appointments shall require confirmation by a majority of a quorum of City Council members. Membership of the standing committees shall not be changed without approval of a majority of City Council members in attendance at a regular meeting of the City Council. (Am. Ord. 2866, 9-2-03; 2955, 12-5-06)

#### **§ 30.46 CHAIRPERSONS**

- (A) All chairpersons of standing committees shall be appointed by the Mayor and shall be subject to confirmation by a majority of City Council members in attendance at a regular meeting of the City Council.
- (B) The mandate of this section shall be implemented at the organizational meeting of the City Council in December, 2004.

(Ord. 2866, 9-2-03)

#### **§ 30.47 SPECIAL OR TEMPORARY COMMITTEES**

Special or temporary committees of limited duration and purpose may be appointed by the Mayor from time to time, subject to approval of a majority of Council members present at a meeting of the City Council. The Mayor shall appoint the chairperson of any such temporary or special committee. (Ord. 2866, 9-2-03)

#### **§ 30.48 MEMBERSHIP LIMITATIONS**

No more than half of the members of the City Council shall be appointed to any standing or special committee. (Ord. 2866, 9-2-03)

#### **§ 30.49 MEETINGS; PUBLIC**

Meetings of all standing or special committees shall be conducted in compliance with the Open Meetings Act, and applicable provisions of §§ 33.01 to 33.03 of this Code. (Ord. 2866, 9-2-03)

### ORDINANCES, RESOLUTIONS, AND MOTIONS

#### **§ 30.60 GRANT OF POWER**

The City Council may make all ordinances, bylaws, rules, regulations, and resolutions, under authority of and not inconsistent with the laws of the State, as may be expedient for maintaining the peace, good

government, and welfare of the municipality and its trade, commerce, and manufactories. (Neb. Rev. Stat. 17-505) (Am. Ord. 2694, 7-1-97)

### **§ 30.61 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;
- (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; or
- (C) The Mayor may present the proposed ordinance to the City Council by reading aloud the title thereof, in the presence and hearing of a majority of the members elected to the City Council, provided the title is included on the agenda for that Council meeting and a copy of the ordinance is submitted to the City Clerk.

(Am. Ord. 2695, 7-1-97)

### **§ 30.62 PROCEDURE FOR RESOLUTIONS AND MOTIONS**

Formal resolutions may be introduced by any Council member, and, unless a Council member shall request full reading of the entire text thereof, shall be submitted for a vote by recitation of the resolution number assigned by the City Clerk. Motions shall be fully and distinctly stated by the person making the motion, and, upon request of any Council member, shall be restated by the City Clerk. Passage of any resolution or motion shall require concurrence of a majority of quorum of the members elected to the governing body, except that 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 Council or board of trustees. The vote on any resolution or motion shall be by roll call vote. (Am. Ord. 2884, 4-6-04)

### **§ 30.63 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 Fairbury, Nebraska: " (Neb. Rev. Stat. 17-613)
- (B) Title. No ordinance shall contain a subject which is not clearly expressed in the title. (Neb. Rev. Stat. 17-614)

### **§ 30.64 READING AND PASSAGE OF ORDINANCES, RESOLUTIONS, ORDERS, BYLAWS**

- (A) Ordinances of a general or permanent nature shall be read by title on 3 different days unless 3/4 of the City Council vote to suspend this requirement, except that this requirement shall not be suspended (i) for any ordinance for the annexation of territory or the redrawing of boundaries for City Council election districts or (ii) as otherwise provided by law. In case this 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 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. Rev. Stat. 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 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. Rev. Stat. 17-616)

(Am. Ord. 2628, 2-21-95; 2696, 7-1-97; 3127, 1-31-25)

### **§ 30.65 PUBLICATION OR POSTING OF ORDINANCES**

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 legal newspaper in or of general circulation published in the municipality; or
- (B) In book, pamphlet, or electronic form. (Neb. Rev. Stat. 17-613)

(Am. Ord. 2377, 9-2-86; 2697, 7-1-97; 3127, 1-31-25)

### **§ 30.66 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. Rev. Stat. 17-613)

### **§ 30.67 EFFECTIVE DATE; EMERGENCY ORDINANCES**

- (A) Except as provided in § 30.64 of this Code 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. Rev. Stat. 19-3701)
- (B) In the case of riot, infectious or contagious diseases, or other impending danger, failure of a public utility, or any other emergency requiring its immediate operation, an ordinance shall take effect upon the proclamation of the Mayor and the posting thereof in at least 3 of the most public places in the municipality. An emergency ordinance shall recite the emergency, be passed by a 3/4 vote of the City Council, and be entered of record on the Municipal Clerk's minutes. (Neb. Rev. Stat. 17-613)

(Am. Ord. 2698, 7-1-97)

### **§ 30.68 AMENDMENTS AND REVISIONS OF ORDINANCES**

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 an ordinance used solely to revise ordinances or Code sections or to enact new ordinances or Code sections in order to adopt statutory changes made by the Legislature which are specific and mandatory and bring the ordinance or Code

sections into conformance with state law may be adopted as otherwise provided by law. (Neb. Rev. Stat. 17-614) (Am. Ord. 2699, 7-1-97; 3127, 1-31-25)

## **CHAPTER 31: APPOINTED CITY OFFICIALS**

### **§ 31.01 APPOINTMENT; REMOVAL; QUALIFICATION**

- (A) Appointment and removal.
- (1) The Mayor, with the consent of the City Council, may appoint such officers as shall be required by ordinance or otherwise required by law. Such officers may be removed from office by the Mayor.
  - (2) The Mayor, by and with the consent of the City Council, shall appoint such a number of regular police officers as may be necessary. All police officers appointed by the Mayor and Council may be removed, demoted, or suspended at any time by the Mayor as provided in subdivision (3) of this section. A police officer, including the chief of police, may appeal to the City Council such removal, demotion, or suspension with or without pay. After a hearing, the City Council may uphold, reverse, or modify the action. (Neb. Rev. Stat. 17-107)
  - (3) The City Council shall by ordinance adopt rules and regulations governing the removal, demotion, or suspension with or without pay of any police officer, including the chief of police. The ordinance shall include a procedure for such removal, demotion, or suspension with or without pay of any police officer, including the chief of police, upon the written accusation of the police chief, the Mayor, or any citizen or taxpayer. The City Council shall establish by ordinance procedures for acting upon such written accusation, including: (i) Provisions for giving notice and a copy of the written accusation to the police officer; (ii) the police officer's right to have an attorney or representative retained by the police officer present with him or her at all hearings or proceedings regarding the written accusation; (iii) the right of the police officer or his or her attorney or representative retained by the police officer to be heard and present evidence; and (iv) the right of the police officer as well as the individual imposing the action or their respective attorneys or representatives to record all hearings or proceedings regarding the written accusation. The ordinance shall also include a procedure for making application for an appeal, specifications on the period of time within which such application shall be made, and provisions on the manner in which the appeals hearing shall be conducted. Both the police officer and the individual imposing the action or their respective attorneys or representatives shall have the right at the hearing to be heard and to present evidence to the City Council for its consideration. Not later than thirty days following the adjournment of the meeting at which the hearing was held, the City Council shall vote to uphold, reverse, or modify the action. The failure of the City Council to act within thirty days or the failure of a majority of the elected Council members to vote to reverse or modify the action shall be construed as a vote to uphold the action. The decision of the City Council shall be based upon its determination that, under the facts and evidence presented at the hearing, the action was necessary for the proper management and the effective operation of the police department in the performance of its duties under the statutes of the State of Nebraska. Nothing in this section shall be construed to prevent the preemptory suspension or immediate removal from duty of an officer by the appropriate authority, pending the hearing authorized by this section, in cases of gross misconduct, neglect of duty, or disobedience of orders. This

subsection does not apply to a police officer during his or her probationary period. (Neb. Rev. Stat. 17-107).

- (4) The City Council may establish and provide for the appointment of members of a law enforcement reserve force as provided by law. (Neb. Rev. Stat. 81-1438)

(B) Qualification for office.

- (1) Within 30 days after the date of his or her appointment, each appointive officer who is required to give bond shall qualify by filing the required bond, approved by the City Council, in the office of the City Clerk with sufficient sureties, conditioned on the faithful discharge of the duties of the office. Endorsed on the bond shall be the same oath as is required of a Council member.
- (2) Within 30 days after the date of his or her appointment, each appointive officer who is not required to give bond shall qualify by taking and subscribing an oath to support the Constitution of the United States, the Constitution of the State of Nebraska, and the laws of the City and to perform faithfully and impartially the duties of the office, such oath to be filed in the office of the Clerk.

### **§ 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 Council member, with any other elective or appointive office or employment so that one or more of these 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. Rev. Stat. 17-108.02) (Am. Ord. 2304, 8-21-84; 2506, 1-15-91)

### **§ 31.03 CLERK/TREASURER POSITION CREATED**

The appointive offices of City Clerk and Municipal Treasurer are hereby combined and merged, in accordance with the authority granted to the City Council by § 31.02 of this Code and state law. (Am. Ord. 2788, 12-7-99; 2792, 1-4-00)

### **§ 31.04 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. After the period of time specified by the State Records Administrator pursuant to the Records Management Act, the City Clerk may transfer such journal of the proceedings of the Council or board of trustees to the State Archives of the Nebraska State Historical Society for permanent preservation. (Neb. Rev. Stat. 17-605). 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. 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 those 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 those 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. This 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 those 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 this publication shall not exceed the rates provided by the statutes of the State, Neb. Rev. Stat. 19-1102 and 23-122. (Neb. Rev. Stat. 19-1102)
- (3) This publication shall be charged against the general fund. (Neb. Rev. Stat. 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 these notices shall be attached the printer's affidavit of publication, if the notices are required to be published, or the Municipal Clerk's certificate under seal where the same are required to be posted only. (Neb. Rev. Stat. 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 claim is disallowed in part, or in whole, the Municipal Clerk shall notify the claimant, his or her agent, or attorney by letter within 5 days after the 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 pursuant to the Nebraska Records Management Act, Neb. Rev. Stat. 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 pursuant to the Nebraska Records Management Act.

(Am. Ord. 2555, 3-16-93)

### **§ 31.05 MUNICIPAL TREASURER**

- (A) The City Treasurer shall be the custodian of all money belonging to the City. He or she shall keep a separate account of each fund or appropriation and the debts and credits belonging thereto. He or she shall give every person paying money into the treasury a receipt therefor, specifying the date of payment and on what account paid. He or she shall also file copies of these receipts with his or her monthly reports. The City Treasurer shall, at the end of every month, and as often as may be required, render an account to the City Council, under oath, showing the state of the treasury at the date of the account and the balance of money in the treasury. He or she shall also accompany these accounts with a statement of all receipts and disbursements, together with all warrants redeemed and paid by him or her, which warrants, with any and all vouchers held by him or her, shall be filed with his or her account in the City Clerk's office. If the City Treasurer fails to render his or her account within 20 days after the end of the month, or by a later date established by the governing body, the Mayor with the advice and consent of the City Council may use this failure as cause to remove the Treasurer from office. (Neb. Rev. Stat. 17-606)
- (B) The treasurer shall keep a record of all outstanding bonds against the City, showing the number and amount of each bond, for and to whom the bonds were issued, and the date upon which any bond is purchased, paid, or canceled. He or she shall accompany the annual statement submitted pursuant to Neb. Rev. Stat. 19-1101 with a description of the bonds issued and sold in that year and the terms of sale, with every item of expense thereof. (Neb. Rev. Stat. 17-606)
- (C)
  - (1) All warrants upon the City Treasurer shall be paid in the order of their presentation therefore and as otherwise provided in Neb. Rev. Stat. 77-2201 through 77-2215.
  - (2) The City Treasurer shall keep a warrant register in the form required by Neb. Rev. Stat. 77-2202.
  - (3) The City Treasurer shall make duplicate receipts for all sums which shall be paid into his or her office, which receipts shall show the source from which those funds are derived, and shall, by distinct lines and columns, show the amount received to the credit of each separate fund, and whether the same was paid in cash, in warrants, or otherwise. The Treasurer shall deliver 1 of the duplicates to the person making the payment and retain the other in his or her office. (Neb. Rev. Stat. 77-2209)
  - (4) The City Treasurer shall daily, as money is received, foot the several columns of the cash book and of the register, and carry the amounts forward, and at the close of each year, in case the amount of money received by the Treasurer is insufficient to pay the



warrants registered, he or she shall close the account for that year in the register and shall carry forward the excess. (Neb. Rev. Stat. 77-2210)

- (D)
  - (1) The City Treasurer shall prepare and publish annually within 60 days following the close of the municipal fiscal year a statement of the receipts and expenditures by funds of the City for the preceding fiscal year. (Neb. Rev. Stat. 19-1101)
  - (2) Publication shall be made in 1 legal newspaper of general circulation in the City. If no legal newspaper is published in the City, then publication shall be made in 1 legal newspaper published or of general circulation within the county in which the City is located. (Neb. Rev. Stat. 19-1103)
- (E) The City Treasurer shall keep all money belonging to the City separate and distinct from his or her own money. He or she shall invest and collect all money owned by or owed to the City as directed by the City Council. He or she shall maintain depository evidence that all municipal money is, in the name of the City, in a solvent and going financial institution of a type authorized by state law for deposit of municipal funds. He or she shall cancel all bonds, coupons, warrants, and other evidences of debt against the City, whenever paid by him or her, by writing or stamping on the face thereof, "Paid by the City Treasurer," with the date of payment written or stamped thereon. He or she shall collect all special taxes, allocate special assessments to the several owners, and obtain from the County Treasurer a monthly report as to the collection of delinquent taxes.
- (F) The treasurer shall deposit, and at all times keep on deposit, for safekeeping, in banks, capital stock financial institutions, or qualifying mutual financial institutions of approved and responsible standing, all money collected, received, or held by him or her as City treasurer. Such deposits shall be subject to all regulations imposed by law or adopted by the City Council for the receiving and holding thereof. The fact that a stockholder, director, or other officer of such bank, capital stock financial institution, or qualifying mutual financial institution is also serving as Mayor, as a member of the City Council, as a member of a board of public works, or as any other officer of the municipality shall not disqualify such bank, capital stock financial institution, or qualifying mutual financial institution from acting as a depository for such municipal funds. (Neb. Rev. Stat. 17-607)
- (G) When the treasurer holds funds of the City in excess of the amount required for maintenance or set aside for betterments and improvements, the Mayor and Council may, by resolution, direct and authorize the treasurer to invest said surplus funds in the outstanding bonds or registered warrants of the City, bonds and debentures issued either singly or collectively by any of the twelve federal land banks, the twelve intermediate credit banks, or the thirteen banks for cooperatives under the supervision of the Farm Credit Administration, or in interest-bearing bonds or the obligations of the United States. The interest on such bonds or warrants shall be credited to the fund out of which said bonds or warrants were purchased. (Neb. Rev. Stat. 17-608)
- (H) The Mayor and Council may, by resolution, direct and authorize the treasurer to dispose of the surplus electric light, water, or gas funds, or the funds arising from the sale of electric light, water, or natural gas distribution properties, by the payment of outstanding electric light, water, or gas distribution bonds or water warrants then due. The excess, if any, after such payments, may be transferred to the general fund of the City.

#### **§ 31.06 MUNICIPAL FIRE CHIEF AND MUNICIPAL POLICE CHIEF CREATED**

When appointed, the offices of the Municipal Fire Chief and Municipal Police Chief shall be held by separate persons appointed pursuant to Chapter 31 of the Fairbury, Nebraska, Municipal Code. The Municipal Fire Chief shall act as the Building Inspector for the municipality. He or she may, after being

trained in the policies and procedures for the issuance of citations by a certified law enforcement officer, issue citations for violations of the fire, health, safety, and constructional technical code. He or she shall file the necessary complaints in cases arising out of said municipal ordinances and shall make all necessary reports required by the municipal ordinances, or the laws of the State. (Neb. Rev. Stat. 17-147) (Ord. 2828, 1-15-02) (Am. Ord. 2938, 6-20-06)

#### **§ 31.07 MUNICIPAL POLICE CHIEF**

The Municipal Police Chief 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 for the municipality. He or she shall file the necessary complaints in cases arising out of said municipal ordinances and shall make all necessary reports required by the municipal ordinances, or the laws of the State. (Neb. Rev. Stat. 17-107, 17-121) (Am. Ord. 2938, 6-20-06)

#### **§ 31.08 MUNICIPAL POLICE OFFICERS**

The municipal police, whether regular or special, shall have the power to arrest all offenders against the laws of the State, or the municipality, by day or by night, in the same manner as the sheriff, and keep the offenders in the municipal jail, or some other place to prevent their escape until trial can be held before the proper official of the State or the municipality. They shall have full power and authority to call on any person whenever necessary to assist them in performing public duties, and failure, neglect, or refusal to render this assistance shall be deemed a misdemeanor punishable upon conviction by a fine. Every municipal police officer shall be expected to be conversant and knowledgeable with the municipal and state laws, and no law enforcement official shall have any interest in any establishment having a liquor license. Municipal police officers shall have the duty to file such complaints and reports as may be required by the municipal ordinances and the laws of the State. Any municipal police officer who shall willfully fail, neglect, or refuse to make an arrest, or who purposely and willfully fails to make a complaint after an arrest is made, shall be deemed guilty of a misdemeanor, and upon conviction shall be fined. It shall be unlawful for the City Council to retain any municipal police officer in that position after he or she shall have been duly convicted of the willful violation of any federal law, law of the State, or any ordinance of the municipality, except minor traffic violations. It shall be the duty of every municipal police officer making a lawful arrest and search of persons in custody, to search all persons in the presence of some other person, whenever possible, and shall carefully keep, and produce to the proper judicial official upon the trial everything found upon the person of such prisoners, all according to law. All personal effects so taken from prisoners aforementioned shall be restored to them upon their release. Suitable uniforms and badges shall be furnished to the municipal police by the municipality. Any member who shall lose or destroy the same shall be required to pay the replacement costs, and in the event that any member shall leave the force, he or she shall immediately deliver his or her badge to the Police Chief. The City Council may from time to time provide the municipal police with such uniforms, equipment, and transportation as may be essential in the performance of their official duties. (Neb. Rev. Stat. 17-118, 17-124) Penalty, see § 10.14

#### **§ 31.09 MUNICIPAL STREET AND SANITATION SUPERINTENDENT**

- (A) The Municipal Street and Sanitation 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. 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 its attention to those 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.

- (B) The Street and Sanitation 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 direct the attention of the City Council to those 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 those other duties as the City Council may delegate to him or her. He or she may be removed at any time by the Mayor. (Neb. Rev. Stat. 17-107 and 17-119)

### **§ 31.10 PARK DIRECTOR**

- (A) The Park Director shall be appointed by the Mayor with the consent of the Council. He or she shall have charge of all parks and recreational facilities belonging to the City and all recreational activities supported financially by the City, and shall establish rules for the management, care, supervision, and use of the same.
- (B) It shall be the duty of the Park Director to lay out, improve, beautify, and design all grounds, bodies of water, and buildings owned or acquired for public parks and recreational facilities, and employ those persons as may be necessary for the proper direction, care, maintenance, improvement, and beautification thereof, and for program planning and leadership of recreational activities, to the extent that funds may be provided for these purposes. The Park Director shall also have the duty of continued study and promotion of the needs of the City for additional parks and recreational facilities. The Park Director shall comply with all applicable local, State, and federal laws.
- (C) All actions of the Park Director shall be subject to the review and control of the City Council. The Park Director shall be responsible for making those reports and performing other duties as the City Council may, from time to time, designate.

(Ord. 2329, 7-2-85; Am. Ord. 2944, 8-15-06)

### **§ 31.11 MUNICIPAL UTILITIES SUPERINTENDENT**

- (A) A Utilities Superintendent shall be appointed by the City Council, subject to confirmation by the Mayor. The Utilities Superintendent may be removed at any time by the City Council, after an opportunity to be heard before the Mayor and City Council if he shall so request, for malfeasance, misfeasance, or neglect in office. (Neb. Rev. Stat. 17-804)
- (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 that 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 money collected in the name of the municipality and receive a receipt from the Municipal Treasurer for the depository evidence of his or her 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 6 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 Superintendent shall provide a bond conditioned upon the faithful discharge of his or her 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 or she shall perform 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 its attention to those 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 other duties as the City Council may delegate to him or her. 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) Electrical system. The Utilities 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 its attention to those 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 other duties as the City Council may delegate to him or her. (Neb. Rev. Stat. 17-107 and 17-804)

(Ord. 3090, 9-1-20; Am. Ord. 3128, 1-31-25)

### **§ 31.12 CITY 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 when necessary. 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 oversee all additional legal counsel employed to represent the City. 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 ensure 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. (Neb. Rev. Stat. 17-610)

### **§ 31.13 DEPUTY CITY ATTORNEY**

The Deputy City Attorney shall assist the City Attorney in the prosecution of violations of municipal ordinances and shall perform other legal services for the City as may be requested by the City Attorney, Mayor, or Council. The Deputy City Attorney shall be appointed by the Mayor with the consent of the City Council. The Deputy City Attorney shall receive no fixed monthly salary but shall be paid for reasonable claims submitted by him or her for services rendered on behalf of the municipality.

### **§ 31.14 MUNICIPAL PHYSICIAN**

- (A) 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 that board.
- (B) In all injuries where a liability may be asserted against the municipality, the Municipal Physician shall immediately investigate the 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 those 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 those other duties as may be required by the laws of the State 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 call upon indigent sick persons and perform other professional services at the direction of the City Council.
- (C) The Municipal Physician shall receive as compensation for services that 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.

### **§ 31.15 MUNICIPAL ENGINEER**

- (A) 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.
- (B) 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.

### **§ 31.16 BUILDING INSPECTOR**

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

### **§ 31.17 MUNICIPAL ELECTRICAL INSPECTOR**

- (A) The Municipal Electrical Inspector, if one has been appointed, shall enforce all laws relating to the installation of electrical wiring, and connections thereto. The person chosen to fill the office of Electrical Inspector shall be possessed of such executive ability as is required for the performance of his or her duties, and shall have a thorough knowledge of the standards of materials and methods used in the installation of electrical equipment; shall be well versed in approved methods of construction for safety of persons and property, the statutes of the State relating to electrical work and any orders, rules, and regulations issued by the authority thereof, and the National Electrical Code; and shall have had at least five years experience in electrical work or in the installations of electrical equipment, or in lieu of that experience shall be a graduate in electrical or mechanical engineering of a recognized college or university and shall have had two years of electrical experience.
- (B)
  - (1) 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.
  - (2) 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 premises at any reasonable hour. He or she shall perform other duties and issue any permits that the City Council may direct.

(Am. Ord. 2944, 8-15-06)

### **§ 31.18 MUNICIPAL PLUMBING INSPECTOR**

- (A) The Municipal Plumbing Inspector, if one has been appointed, shall enforce all laws relating to the installation of plumbing and connections thereto, and shall comply with all provisions of Neb. Rev. Stat. 18-1901 to 1920 as applicable. The person chosen to fill the office of Plumbing Inspector shall be possessed of such executive ability as is required for the performance of his or her duties, and shall have a thorough knowledge of the standards of materials and methods used in the installation of plumbing equipment; shall be well versed in approved methods of construction for safety of persons and property, the statutes of the State relating to plumbing work and any orders, rules, and regulations issued by the authority

thereof, and the National Standard Plumbing Code; and shall have had at least five years experience in plumbing work or in the installations of plumbing equipment, or in lieu of that experience shall be a graduate in mechanical engineering, or its equivalent, of a recognized college or university and shall have had two years of plumbing experience.

- (B) 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 premises at any reasonable hour. He or she shall perform other duties and issue any permits that the City Council may direct.

(Am. Ord. 2944, 8-15-06)

## **CHAPTER 32: DEPARTMENTS, BOARDS, AND COMMISSIONS**

### **§ 32.001 PLANNING COMMISSION**

- (A) The Planning Commission shall consist of nine regular members who shall represent, insofar as is possible, the different professions or occupations in the municipality and shall be appointed by the Mayor, by and with the approval of a majority vote of the members elected to the City Council. Two of the regular members may be residents of the area over which the municipality is authorized to exercise extraterritorial zoning and subdivision regulation. When there is a sufficient number of residents in the area over which the municipality exercises extraterritorial zoning and subdivision regulation, one regular member of the Commission shall be a resident from that area. If it is determined by the City Council that a sufficient number of residents reside in the area subject to extraterritorial zoning and subdivision regulation, and no such resident is a regular member of the Commission, the first available vacancy on the Commission shall be filled by the appointment of such an individual. For purposes of this section, a sufficient number of residents shall mean 500 residents. The term of each regular member shall be three years, except that three regular members of the first Commission shall serve for terms of one year, three for terms of two years, and three for terms of three years. All regular members shall hold office until their successors are appointed. Any member may, after a public hearing before the City Council, be removed by the Mayor, with the consent of a majority vote of the members elected to the City Council, for inefficiency, neglect of duty, or malfeasance in office, or other good and sufficient cause. Vacancies occurring otherwise than through the expiration of term shall be filled for the unexpired portion of the term by the Mayor.
- (B) All regular members of the Commission shall serve without compensation and shall hold no other municipal office except when appointed to serve on the Board of Adjustment as provided in Neb. Rev. Stat. 19-908. All members of the Commission may be required, in the discretion of the City Council, to give bond in a sum set by resolution of the Council and conditioned upon the faithful performance of their duties. The Commission shall elect its chairperson and a secretary from its members and create and fill such other of its offices as it may determine. The term of the chairperson and the secretary shall be one year, and they shall be eligible for reelection. No member of the Commission shall serve in the capacity of both the chairperson and secretary of 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 during office hours. The Commission shall be funded by the City Council from time to time out of the general fund. The expenditures of the Commission, exclusive of gifts, shall be within the amounts

appropriated for that purpose by the City Council; and no expenditures nor agreements for expenditures shall be valid in excess of those amounts. A number of Commissioners equal to a majority of the number of regular members appointed to the Commission shall constitute a quorum for the transaction of any business. The Commission shall hold at least one regular meeting in each calendar quarter, except the City Council may require the Commission to meet more frequently and the chairperson of the Commission may call for a meeting when necessary to deal with business pending before the Commission. Special meetings may also be held upon the call of any 3 members of the Commission. The Commission shall adopt rules and regulations for the transaction of business and shall keep a record of its resolutions, transactions, findings, and determinations, which shall be a public record. The 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, and shall carry out the other duties and exercise the powers specified in Neb. Rev. Stat. 19-929. All actions by the Commission shall be subject to the review and supervision of the Mayor and City Council. The Commission shall make its recommendations to the City Council so that they are received by the City Council within 60 days after the Commission begins consideration of a matter relating to the comprehensive development plan, capital improvements, building codes, subdivision development, the annexation of territory, or zoning. The Commission shall be responsible for making those reports and performing those other duties as the City Council may, from time to time, designate.

(Am. Ord. 2594, 6-21-94; 2631, 2-21-95)

#### **§ 32.002 BOARD OF ADJUSTMENT**

- (A) The Mayor shall appoint, with the consent of the City Council, a Board of Adjustment which shall consist of 5 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 3 years and shall be removable for cause by the Mayor and City Council upon written charges and after public hearings. Vacancies shall be filled for the unexpired term of any member whose term becomes vacant. One member only of the Board of Adjustment shall be appointed from the membership of the Planning Commission, and the loss of membership on the Planning Commission by that 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 that 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. (Neb. Rev. Stat. 19-908)
- (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 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 Neb. Rev. Stat. 19-901 through 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 also be held upon the call of any 3 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 all Board meetings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating that 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 those reports and performing those other duties as the Mayor and City Council may designate. (Neb. Rev. Stat. 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. This 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 that case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board or by a court of record on application on notice to the officer from whom the appeal is taken and on due cause shown. The Board shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing, any party may appear in person or by agent or by attorney. (Neb. Rev. Stat. 19-909)
- (E) The board of adjustment shall, subject to such appropriate conditions and safeguards as may be established by the City Council, 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 under subsection (3) of section Neb. Rev. Stat. 19-929; (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 enacted regulation under Neb. Rev. Stat. 19-910 and sections 19-901, 19-903 to 19-904.01, and 19-908 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. Rev. Stat. 19-901 to 19-915, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from, and may make such order, requirement, decision, or determination as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken. The concurring vote of four members of the board shall be necessary to reverse any order, requirement, decision, or determination of any such administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under any such regulation or to effect any variation in such regulation. Appeals from a decision by the Board may be taken as provided in Neb. Rev. Stat. 19-912. (Neb. Rev. Stat. 19-910)

(Am. Ord. 2687, 6-17-97)

### **§ 32.003 BOARD OF HEALTH**

- (A) A Board of Health is created consisting of four members: the Mayor, who shall serve as chairperson, the President of the City Council, and two other members appointed by the Mayor with the consent of the City Council. One member shall be a physician or health care provider, if one can be found who is willing to serve. Such physician or health care provider, if appointed, shall be the Board's medical advisor. If the Mayor has appointed a Chief of Police, the Chief of Police shall serve on the Board as secretary and quarantine officer.
- (B) The members of the Board of Health shall serve without compensation and, except for the Mayor, President of the Council, and Chief of Police, shall serve a one-year term of office, unless reappointed. The Board shall reorganize at the first meeting each year after the annual appointments are made. No member of the Board shall hold more than one position on the Board.
- (C) The secretary shall keep full and correct minutes and records of all meetings and file the same with the City Clerk where they shall be available for public inspection during office hours. The Board of Health shall be funded by the City Council from time to time out of the general fund. 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 2 members of the Board.
- (D) A majority of the Board of Health shall constitute a quorum and shall enact rules and regulations, which shall have the full force and effect of law, to safeguard the health of the people of the City, may enforce them, and may provide fines and punishments for the violation thereof. The Board shall have power to and shall make all needful rules and regulations relating to matters of sanitation of the City, including the removal of dead animals, the sanitary condition of the streets, alleys, vacant grounds, stockyards, cattle and hog pens, wells, cisterns, privies, water closets, cesspools, stables, and all buildings and places not specified where filth, nuisances, or offensive matter is kept or is liable to or does accumulate. It may regulate, suppress, and prevent the occurrence of nuisances and enforce all laws of the State and ordinances of the City relating to nuisances or to matters of

sanitation of the City. The Board shall also have control of hospitals, dispensaries, places for treatment of sick, and matters relating to the same under such restrictions and provisions as may be provided by ordinance of the City. (Neb. Rev. Stat. 17-121)

- (E) To carry out its duties, the Board of Health 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.

#### **§ 32.004 BOARD OF PUBLIC WORKS**

The Board of Public Works previously established by the City is hereby dissolved, and the City Council shall reassume all duties and authorities previously held and performed by the Board of Public Works. (Ord. 3090, 9-1-20; Am. Ord 3128, 1-31-25)

#### **§ 32.005 LIBRARY BOARD**

- (A)
  - (1) The Library Board shall consist of five appointed members who shall be residents of the municipality and who shall serve terms of 4 years. The Board members shall be appointed by a majority vote of the members of the City Council. Neither the Mayor nor any member of the City Council shall be a member of the Library Board. The terms of members serving on the effective date of a change in the number of members shall not be shortened, and any successors to those members shall be appointed as the terms of those members expire. In cases of vacancies by resignation, removal, or otherwise, the City Council shall fill the vacancy for the unexpired term. No member shall receive any pay or compensation for any services rendered as a member of the Library Board. (Neb. Rev. Stat. 51-202)
  - (2) The City Council may require the members of the Library Board to give a bond in a sum set by resolution and conditioned upon the faithful performance of their duties.
- (B)
  - (1) The members of the Library Board shall immediately after their appointment meet and organize by electing from their number a president, a secretary, and such other officers as may be necessary. A majority of the members of the Library Board shall constitute a quorum for the transaction of business. (Neb. Rev. Stat. 51-204)
  - (2) No member of the Board shall serve in the capacity of both president and secretary of the Board. It shall be the duty of the secretary to keep the full and correct minutes and records of all meetings and to file the same with the Municipal Clerk, where they shall be available for public inspection at any reasonable time.
  - (3) The Board shall meet at such times as the Board may designate. Special meetings may be held upon the call of the president or a majority of the members of the Board.

#### **§ 32.006 MUSEUM BOARD**

The Mayor, with the approval of the Council, shall appoint a Museum Board of not less than five but not more than nine members to be chosen from the citizens of the municipality, of which Board neither the Mayor nor any member of the Council shall be a member. The members of the Board shall hold their offices for a term of 5 years. No member shall receive compensation for his or her services on the Board. The Directors shall immediately after their appointments meet and organize by electing from their number a president, secretary, and such other officers as may be necessary. Three members of the Board shall constitute a quorum for the transaction of business. The Board shall have the power to make and adopt rules and regulations for its own guidance and for the government of the Museum as it may deem expedient and not inconsistent with the provisions of this Code and state law. The Board shall have the power to employ any and all personnel necessary for the operation of the Museum and to fix their

salaries. The Board shall have the exclusive control of expenditures of all money collected or donated to the credit of the Museum Fund; of the renting and construction of the museum building; and the supervision, care, and custody of the grounds, rooms or buildings constructed, leased, or set apart for that purpose. All taxes levied or collected shall be kept for the use of the museum, separate and apart from other funds of the City. They shall be drawn upon and paid out by the treasurer of the City upon vouchers signed by the president of the museum board and authenticated by the secretary of such board, and shall not be used or disbursed for any other purpose or in any other manner. All funds donated or in any other way acquired from private sources, including paid memberships in a local museum association, for the erection, maintenance, or support of any museum shall be kept for the use of the museum, separate and apart from all other funds of the City. They shall be drawn upon and paid out by the treasurer of such museum board upon vouchers signed by the president of the museum board and authenticated by the secretary of such board, and shall not be used or disbursed for any other purpose or in any other manner. The Board shall on or before the second Monday in June of each year, make a report to the City Council as to the condition of its trust on June 1 of each year, showing all money received and expended and a general report of its activities in the operation and supervision of the museum and any information and suggestions it may deem of general interest, or as the City Council may require. The report shall be in writing and verified by affidavit of the proper officers of such board. The museum board may, by resolution of the majority of the board, direct the sale, conveyance, or disposition of any real estate or other property owned by the museum board or by the museum upon such terms and conditions as the museum board deems in the best interest of the museum, except that the provisions of this section shall not include any items or property subject to the Unmarked Human Burial Sites and Skeletal Remains Protection Act or the federal Native American Graves Protection and Repatriation Act, 25 U.S.C. 3001 et seq. The museum board shall properly document the sale, conveyance, or disposition of any real estate or other property, including a brief description of the real estate or other property, the disposition made, the name of the recipient of the real estate or other property, the amount tendered or a description and stated value of real estate or other property received in exchange, and the date of the transaction. All funds derived from such sales shall be deposited in the museum fund and kept for use by the museum separate and apart from other funds of the City (Neb. Rev. Stat. 51-501 through 51-513) (Am. Ord. 2611, 10-18-94)

#### **§ 32.007 AIRPORT AUTHORITY BOARD**

The Airport Authority Board shall have that existence, authorities, powers, duties, and obligations as provided in the Nebraska Cities Airport Authorities Act, Neb. Rev. Stat. 3-501 to 3-514.

#### **§ 32.008 JOINT CITY-COUNTY CIVIL DEFENSE ORGANIZATION**

There is established within the City in conjunction with the county a Joint Civil Defense Organization. The organization shall be operated in conformity with the State Civil Defense Act of 1973, as amended, and shall be known as the City-County Civil Defense Agency.

#### **§ 32.009 HOUSING AGENCY BOARD**

- (A) (1) The City Council shall appoint 5 persons who shall constitute the Housing Agency, and these persons shall be called the Commissioners. One Commissioner shall be appointed each year. Each Commissioner shall serve a 5-year term of office or until his or her successor is duly appointed; provided, that all vacancies shall be filled for the unexpired terms. A certificate of the appointment or reappointment of any Commissioner shall be filed with the Municipal Clerk, and this certificate shall be conclusive evidence of the proper appointment of that Commissioner. Every commissioner shall be a resident of the area of operation of the housing agency which he or she has been appointed to serve. However, if after appointment a

commissioner ceases to reside in the local housing agency's area of operation, his or her term of office shall automatically terminate and a successor shall be appointed to fill such vacancy in the manner provided in Neb. Rev. Stat. 71-1594 to 71-15,105. Any commissioner who ceases to reside within the area of operation of the local housing agency in which such commissioner serves shall immediately so inform the board of commissioners of the agency and the City Council of his or her change in residence. No person who has been convicted of a felony shall be eligible for appointment or service as a commissioner. A Commissioner shall receive no compensation for his or her services, but he or she shall be entitled to the necessary expenses, including travel expenses, incurred in discharge of his or her duties. Three Commissioners shall constitute a quorum of the Agency for the purpose of conducting its business, exercising its powers, and for all other purposes. Except for any matter with respect to which the resolution or ordinance creating the agency or its bylaws requires a higher number or proportion of votes, action may be taken by the agency upon the vote of a majority of the commissioners present and voting. The Commissioners shall elect a chairperson and vice-chairperson from among the Commissioners and shall have the power to employ an executive director who shall serve as ex-officio secretary of the Agency. The Agency may also employ legal counsel, or it may call upon the City Attorney, for such services as it may require. It may employ accountants, appraisers, technical experts and such other officers, agents, and employees as it may require and shall determine their qualifications, duties, compensations, and terms of office. The Agency may delegate other powers and duties to its agents or employees as it may deem proper.

- (2) A commissioner may be removed for neglect of duty, misconduct in office, or conviction of any felony by the Mayor. In such case, 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 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 by the City Council, the commissioner shall continue to hold his or her office.

- (B) The Housing Agency shall operate pursuant to the Nebraska Housing Agency Act, Neb. Rev. Stat. 71-1572 to 15,168. (Neb. Rev. Stat. 71-1572 to 15,168)

(Ord. 2817, 1-16-01)

## **§ 32.010 COMMUNITY REDEVELOPMENT AUTHORITY**

- (A) Creation. There is hereby created the Community Redevelopment Authority of the City.
- (B) Membership. The Mayor or, if the Mayor shall fail to act within 90 days after the passage of this ordinance, the President of the City Council, with the approval of the Council, shall appoint five persons who shall constitute the Authority. The terms of office of the members of the Authority initially appointed shall be for one year, two years, three years, four years, and five years, as designated by the Mayor, or the President of the Council in the event he or she must act as heretofore stated. As the terms of the members of the Authority expire, the Mayor, with the approval of the Council, shall appoint or reappoint a member of the Authority for a term of five years to succeed the member whose term expires. Vacancies shall be filled for any unexpired term of a member of the Authority in the same manner as the

original appointment. Members of the Authority so appointed shall hold office until their successors have been appointed and qualified. All members of the Authority shall serve without compensation but shall be entitled to be reimbursed for all necessary expenses incurred.

- (C) **Organization and Officials.** The Authority shall organize by electing one of its members chairperson and another vice-chairperson. The said body shall have power to employ counsel, a director who shall be ex officio secretary of the Authority, and such other officers and employees as may be desired, and shall fix the term of office, qualifications, and compensation of each. The holder of the office of community redevelopment administrator or coordinator of the City may, but need not, be appointed the director but at no additional compensation by the Authority. The Authority may secure the services of a director, community redevelopment administrator, or coordinator and other officers and employees as may be desired through contract with the Department of Economic Development upon terms which are mutually agreeable.
- (D) **Manner of Acting.** The Authority may validly and effectively act on all matters requiring a resolution or other official action by the concurrence of three members of the five-member Authority present and voting at a meeting of the body. Orders, requisitions, warrants, and other documents may be executed by the chairperson or vice-chairperson or by or with others designated in the Authority's bylaws.
- (E) **No Interested Members.** No member or employee of the Authority shall have any interest directly or indirectly in any contract for property, materials, or services to be required by the body.
- (F) **Oversight by City Council.** The Authority shall keep an accurate account of all its activities and of all receipts and disbursements and make an annual report of such activities, receipts, and disbursements to the City Council.
- (G) **Initial Loan Authorized.** The City Council is hereby authorized to appropriate and loan to the Authority a sum not exceeding \$10,000.00 for the purposes of paying expenses of organizing and supervising the work of the Authority at the beginning of its activities. The loan shall be authorized by resolution of the City Council which shall set forth the terms and time of the repayment of the loan. The said loan may be appropriated out of the general funds or any sinking fund of the City.
- (H) **Finances of Authority.** All income, revenue, profits, and other funds received by the Authority from whatever source derived, appropriated by the City, realized from tax receipts or comprised in the special revenue fund of the City designated for the Authority, from the proceeds of bonds, or otherwise received, shall be deposited with the City Treasurer as ex officio treasurer of the Authority without commingling the money with any other money under his or her control and disbursed by him or her by check, draft, or order only upon warrants, orders, or requisitions by the chairperson of the Authority or other person authorized by the Authority, which shall state distinctly the purpose for which the same are drawn. A permanent record shall be kept by the Authority of all warrants, orders, or requisitions so drawn, showing the date, amount, consideration, and to whom payable. When paid, the same shall be canceled and kept on file by the City Treasurer. The books of the Authority shall from time to time be audited upon the order of the City Council in such manner as it may direct, and all books and records of the Authority shall at all times be open to public inspection. The Authority may contract with the holders of any of its bonds or notes as to collection, custody, securing investment, and payment of any money of the Authority or any money held in trust or otherwise for the payment of bonds or notes or in any way to

secure bonds or notes. The Authority may carry out the contract notwithstanding that such contract may be inconsistent with the previous provisions of this subdivision.

- (I) Relocation of Persons Displaced. When any property consisting of housing is acquired for redevelopment by the Authority, it shall provide for relocation of any persons displaced as a result thereof.
- (J) Formulation of Workable Program. The City Council, or the Authority at the City Council's direction, for the purposes of the Community Development Law, may formulate for the entire municipality a workable program for utilizing appropriate private and public resources to eliminate or prevent the development or spread of urban blight, to encourage needed urban rehabilitation, to provide for the redevelopment of substandard and blighted areas, or to undertake such of the aforesaid activities or other feasible municipal activities as may be suitably employed to achieve the objectives of such program. The said workable program may include, without limitation, provision for the prevention of the spread of blight into areas of the City which are free from blight through diligent enforcement of housing, zoning, and occupancy controls and standards; the rehabilitation or conservation of substandard and blighted areas or portions thereof by replanning, removing congestion, providing parks, playgrounds, and other public improvements by encouraging voluntary rehabilitation and by compelling the repair and rehabilitation of deteriorated or deteriorating structures; and the clearance and redevelopment of substandard and blighted areas or portions thereof.
- (K) Disaster Assistance. Notwithstanding any other provisions of the Community Development Law, where the City Council certifies that an area is in need of redevelopment or rehabilitation as a result of flood, fire, hurricane, earthquake, storm, or other catastrophe respecting which the Governor of the State has certified the need for disaster assistance under federal law, the Council may approve a redevelopment plan and a redevelopment project with respect to such area without regard to the provisions of the Community Development Law requiring a general plan for the City and notice and public hearing or findings other than herein set forth.
- (L) Restriction on Interest in Redevelopment Project or Property. No member or employee of the Authority shall voluntarily acquire any interest, direct or indirect, in any redevelopment project or in any property included or planned by the Authority to be included in any such project, or in any contract or proposed contract in connection with any such project. Where the acquisition is not voluntary, such member or employee shall immediately disclose such interest in writing to the Authority and such disclosure shall be entered upon the minutes of the body. If any member or employee of the Authority presently owns or controls or owned or controlled within the preceding two years an interest, direct or indirect, in any property included or planned by the Authority to be included in any redevelopment project, he or she immediately shall disclose such interest in writing to the Authority and such disclosure shall be entered upon the minutes. Upon such disclosure such member or employee of the Authority shall not participate in any action by the body affecting such property.
- (M) Powers and Duties of Authority. The Authority shall constitute a public body corporate and politic, exercising public and essential governmental functions and having all the powers necessary or convenient to carry out and effectuate the purposes and provisions of the Community Development Law and Neb. Rev. Stat. 18-2147 to 2151, including the power:
  - (1) To sue and to be sued; to have a seal and to alter the same at pleasure; to have perpetual succession; to make and execute contracts and other instruments necessary or convenient to the exercise of the powers of the Authority; and to make and from time to time amend and repeal bylaws, rules, and regulations not inconsistent with the Community Development Law;

- (2) To prepare or cause to be prepared and recommend redevelopment plans to the City Council and to undertake and carry out redevelopment projects within its area of operation;
- (3) To arrange or contract for the furnishing or repair by any person or agency, public or private, of services, privileges, works, streets, roads, public utilities, or other facilities for or in connection with a redevelopment project; and, notwithstanding anything to the contrary contained in the Community Development Law or any other provision of law, to agree to any conditions that it may deem reasonable and appropriate attached to federal financial assistance and imposed pursuant to federal law relating to the determination of prevailing salaries or wages or compliance with labor standards, in the undertaking or carrying out of a redevelopment project, and to include in any contract let in connection with such a project provisions to fulfill such federally imposed conditions as it may deem reasonable and appropriate;
- (4) Within its area of operation, to purchase, lease, obtain options upon, or acquire by gift, grant, bequest, devise, eminent domain, or otherwise any real or personal property or any interest therein, together with any improvements thereon, necessary or incidental to a redevelopment project; to hold, improve, clear, or prepare for redevelopment any such property; to sell, lease for a term not exceeding 99 years, exchange, transfer, assign, subdivide, retain for its own use, mortgage, pledge, hypothecate, or otherwise encumber or dispose of any real or personal property or any interest therein; to enter into contracts with redevelopers of property containing covenants, restrictions, and conditions regarding the use of such property for residential, commercial, industrial, or recreational purposes or for public purposes in accordance with the redevelopment plan and such other covenants, restrictions, and conditions as the Authority may deem necessary to prevent a recurrence of substandard and blighted areas or to effectuate the purposes of the Community Development Law; to make any of the covenants, restrictions, or conditions of the foregoing contracts covenants running with the land and to provide appropriate remedies for any breach of any such covenants or conditions, including the right in the Authority to terminate such contracts and any interest in the property created pursuant thereto; to borrow money, issue bonds, and provide security for loans or bonds; to establish a revolving loan fund; to insure or provide for the insurance of any real or personal property or the operation of the Authority against any risks or hazards, including the power to pay premiums on any such insurance; to enter into any contracts necessary to effectuate the purposes of the Community Development Law; and to provide grants, loans, or other means of financing to public or private parties in order to accomplish the rehabilitation or redevelopment in accordance with a redevelopment plan. No statutory provision with respect to the acquisition, clearance, or disposition of property by other public bodies shall restrict an Authority exercising powers hereunder, in such functions, unless the Legislature shall specifically so state;
- (5) To invest any funds held in reserves or sinking funds or any funds not required for immediate disbursement in property or securities in which savings banks or other banks may legally invest funds subject to their control; and to redeem its bonds at the redemption price established therein or to purchase its bonds at less than redemption price; and such bonds redeemed or purchased shall be canceled;
- (6) To borrow money and to apply for and accept advances, loans, grants, contributions, and any other form of financial assistance from the federal government, from the State, county, municipality or other public body or from any sources, public or private, including charitable funds, foundations, corporations, trusts, or bequests for purposes of the Community Development Law, to give such security as may be



required, and to enter into and carry out contracts in connection therewith; and notwithstanding any other provision of law, to include in any contract for financial assistance with the federal government for a redevelopment project such conditions imposed pursuant to federal law as the Authority may deem reasonable and appropriate and which are not inconsistent with the purposes of the Community Development Law;

- (7) Acting through one or more members of the Authority or other persons designated by the Authority, to conduct examinations and investigations and to hear testimony and take proof under oath at public or private hearings on any matter material for its information; to administer oaths and to issue commissions for the examination of witnesses who are outside of the State or unable to be present before the Authority or excused from attendance; and to make available to appropriate agencies or public officials, including those charged with the duty of abating or requiring the correction of nuisances or like conditions, demolishing unsafe or unsanitary structures, or eliminating conditions of blight within its area of operation, its findings and recommendations with regard to any building or property where conditions exist which are dangerous to the public health, safety, morals, or welfare;
- (8) Within its area of operation, to make or have made all surveys, appraisals, studies, and plans, not including the preparation of a Comprehensive Plan for the community, necessary to the carrying out of the purposes of the Community Development Law and to contract or cooperate with any and all persons or agencies, public or private, in the making and carrying out of such surveys, appraisals, studies, and plans;
- (9) To prepare plans and provide reasonable assistance for the relocation of families, business concerns, and others displaced from a redevelopment project area to permit the carrying out of the redevelopment project to the extent essential for acquiring possession of and clearing such area or parts thereof; and to make relocation payments to or with respect to such persons for moving and expenses and losses of property for which reimbursement or compensation is not otherwise made, including the making of such payments financed by the federal government;
- (10) To make such expenditures as may be necessary to carry out the purposes of the Community Development Law; and to make expenditures from funds obtained from the federal government without regard to any other laws pertaining to the making and approval of appropriations and expenditures;
- (11) To certify on or before September 20 of each year to the City Council the amount of tax to be levied for the succeeding fiscal year for community redevelopment purposes, not to exceed 2.6¢ on each \$100.00 upon the taxable value of the taxable property in the City, which levy is subject to allocation under Neb. Rev. Stat. 77-3443 on and after July 1, 1991. The City Council shall levy and collect the taxes so certified at the same time and in the same manner as other City taxes are levied and collected and the proceeds of such taxes, when due and as collected, shall be set aside and deposited in the special account or accounts in which other revenue of the Authority is deposited. Such proceeds shall be employed to assist in the defraying of any expenses of redevelopment plans and projects, including the payment of principal and interest on any bonds issued to pay the costs of any such plans and projects;
- (12) To exercise all or any part or combination of powers granted in this section;
- (13) To plan, undertake, and carry out neighborhood development programs consisting of redevelopment project undertakings and activities in one or more community redevelopment areas which are planned and carried out on the basis of annual increments in accordance with the Community Development Law and Neb. Rev. Stat. 18-2145 and 18-2146 for planning and carrying out redevelopment projects; and

- (14) To agree with the City Council for the imposition of an occupation tax for an enhanced employment area.
- (N) Limitation on Acquiring Real Property. The Authority shall not acquire real property for a redevelopment project unless the City Council has approved the redevelopment plan, as prescribed in the Community Development Law.
- (O) Declaration of Blight and Substandard Conditions Required Prior to Redevelopment Plan. The Authority shall not prepare a redevelopment plan for a redevelopment project area unless the City Council has, by resolution adopted after a public hearing with notice provided as specified in the Community Development Law, declared such area to be a substandard and blighted area in need of redevelopment. After the City Council makes a declaration, any substandard or blighted conditions in the existing in the area under study may be declared by one or more resolutions to be substandard and blighted without further public hearing. (Neb. Rev. Stat. 18-2109).
- (P) Comprehensive Development Plan Required Prior to Redevelopment Plan. The Authority shall not recommend a redevelopment plan to the City Council until a Comprehensive Plan for the development of the City has been prepared.
- (Q) Preparation of Redevelopment Plan. The Authority may itself prepare or cause to be prepared a redevelopment plan or any person or agency, public or private, may submit such a plan to the Authority. A redevelopment plan shall be sufficiently complete to indicate its relationship to definite local objectives as to appropriate land uses, improved traffic, public transportation, public utilities, recreational and community facilities and other public improvements and the proposed land uses and building requirements in the redevelopment project area, and shall include without being limited to: (1) the boundaries of the redevelopment project area, with a map showing the existing uses and condition of the real property therein; (2) a land-use plan showing proposed uses of the area; (3) the number of years the structure or plat has been within the corporate limit (4) information showing the standards of population densities, land coverage, and building intensities in the area after redevelopment; (5) a statement of the proposed changes, if any, in zoning ordinances or maps, street layouts, street levels or grades, or building codes and ordinances; (6) a site plan of the area; (7) a statement as to the kind and number of additional public facilities or utilities which will be required to support the new land uses in the area after redevelopment; and (8) the agreed upon costs of the redevelopment project. Any redevelopment plan may include a proposal for the designation of an enhanced employment area. (Neb. Rev. Stat. 18-2111).
- (R) Redevelopment Plan Consideration by Planning Commission. Prior to recommending a redevelopment plan to the City Council for approval, the Authority shall submit such plan to the Planning Commission for review and recommendations as to its conformity with the Comprehensive Plan for the development of the City as a whole. The Planning Commission shall submit its written recommendations with respect to the proposed redevelopment plan to the Authority within 30 days after receipt of the plan for review. Upon receipt of the recommendations of the Planning Commission or, if no recommendations are received within such 30-day period, then without such recommendations, the Authority may recommend the redevelopment plan to the City Council for approval.
- (S) Redevelopment Plan Consideration; Cost-Benefit Analysis.
  - (1) Prior to recommending a redevelopment plan to the City Council for approval, the Authority shall consider whether the proposed land uses and building requirements in the redevelopment project area are designed with the general purpose of accomplishing, in conformance with the Comprehensive Plan, a coordinated,

adjusted, and harmonious development of the City and its environs which will, in accordance with present and future needs, promote health, safety, morals, order, convenience, prosperity, and the general welfare, as well as efficiency and economy in the process of development, including, among other things, adequate provision for traffic, vehicular parking, the promotion of safety from fire, panic, and other dangers, adequate provision for light and air, the promotion of the healthful and convenient distribution of population, the provision of adequate transportation, water, sewerage, and other public utilities, schools, parks, recreational and community facilities, and other public requirements, the promotion of sound design and arrangement, the wise and efficient expenditure of public funds, and the prevention of the recurrence of unsanitary or unsafe dwelling accommodations or conditions of blight.

- (2) The Authority shall conduct a cost-benefit analysis for each redevelopment project whose redevelopment plan includes the use of funds authorized by Neb. Rev. Stat. 18-2147. In conducting the cost-benefit analysis, the Authority shall use a cost-benefit model developed for use by local projects. Any cost-benefit model used by the Authority shall consider and analyze the following factors: (a) tax shifts resulting from the approval of the use of funds pursuant to Neb. Rev. Stat. 18-2147; (b) public infrastructure and community public service needs impacts and local tax impacts arising from the approval of the redevelopment project; (c) impacts on employers and employees of firms locating or expanding within the boundaries of the area of the redevelopment project; (d) impacts on other employers and employees within the City and the immediate areas that are located outside of the boundaries of the area of the redevelopment project; and (e) any other impacts determined by the Authority to be relevant to the consideration of costs and benefits arising from the redevelopment project.
- (T) Recommendation of Redevelopment Plan to City Council. The recommendation of a redevelopment plan by the Authority to the City Council shall be accompanied by the recommendations, if any, of the Planning Commission concerning the redevelopment plan; a statement of the proposed method and estimated cost of the acquisition and preparation for redevelopment of the redevelopment project area and the estimated proceeds or revenue from its disposal to redevelopers; a statement of the proposed method of financing the redevelopment project; and a statement of a feasible method proposed for the relocation of families to be displaced from the redevelopment project area.
- (U) City Council Rejection of Redevelopment Plan; Modifications to Redevelopment Plan. A redevelopment plan which has not been approved by the City Council when recommended by the Authority may again be recommended to the City Council with any modifications deemed advisable. A redevelopment plan may be modified at any time by the Authority, provided that, if modified after the lease or sale of real property in the redevelopment project area, the modification must be consented to by the redeveloper or redevelopers of such real property or their successor or successors in interest affected by the proposed modification. Where the proposed modification will substantially change the redevelopment plan as previously approved by the City Council, the modification must similarly be approved by the Council.
- (V) Sale, Transfer, or Lease of Real Estate. The Authority may sell, lease for a term not exceeding 99 years, exchange, or otherwise transfer real property or any interest therein in a redevelopment project area to any redeveloper for residential, recreational, commercial, industrial, or other uses, including parking or other facilities functionally related or subordinate to such uses, or for public use in accordance with the redevelopment plan, subject to such covenants, conditions, and restrictions as it may deem to be in the public interest or to carry out the purposes of the Community Development Law. Such real property shall be sold,

leased, or transferred at its fair value for uses in accordance with the redevelopment plan. In determining the fair value of real property for uses in accordance with the redevelopment plan, the Authority shall take into account and give consideration to the uses and purposes required by such plan; the restrictions upon and the covenants, conditions and obligations assumed by the redeveloper of such property; the objectives of the redevelopment plan for the prevention of the recurrence of substandard and blighted areas; and such other matters as the Authority shall specify as being appropriate. In fixing rentals and selling prices, the Authority shall give consideration to appraisals of the property for such uses made by land experts employed by the Authority.

(W) Redevelopment Contracts.

- (1) The Authority shall, by public notice by publication once each week for two consecutive weeks in a legal newspaper having a general circulation in the City, prior to the consideration of any redevelopment contract proposal relating to real estate owned or to be owned by the Authority, invite proposals from, and make available all pertinent information to, private redevelopers or any persons interested in undertaking the redevelopment of an area or any part thereof which the City Council has declared to be in need of redevelopment. Such notice shall identify the area and shall state that such further information as is available may be obtained at the office of the Authority. The Authority shall consider all redevelopment proposals and the financial and legal ability of the prospective redevelopers to carry out their proposals and may negotiate with any redevelopers for proposals for the purchase or lease of any real property in the redevelopment project area. The Authority may accept any such redevelopment contract proposal as it deems to be in the public interest and in furtherance of the purposes of the Community Development Law if the Authority has, not less than 30 days prior thereto, notified the City Council in writing of its intention to accept such redevelopment contract proposal. Thereafter, the Authority may execute such redevelopment contract in accordance with the provisions of Neb. Rev. Stat. 18-2118 and deliver deeds, leases, and other instruments and take all steps necessary to effectuate such redevelopment contract. In its discretion, the Authority may, without regard to the foregoing provisions of this section, dispose of real property in a redevelopment project area to private redevelopers for redevelopment under such reasonable competitive bidding procedures as it shall prescribe, subject to the provisions of Neb. Rev. Stat. 18-2118.
- (2) In the case of any real estate owned by a redeveloper, the Authority may enter into a redevelopment contract providing for such undertakings as the Authority shall determine appropriate. Any such redevelopment contract relating to real estate within an enhanced employment area shall include a statement of the redeveloper's consent with respect to the designation of the area as an enhanced employment area, shall be recorded with respect to the real estate owned by the redeveloper, and shall be binding upon all future owners of such real estate.

(X) Conveyance of Project Property For Public Use. In carrying out a redevelopment project, the Authority may: (1) Convey to the City such real property as, in accordance with the redevelopment plan, is to be laid out into streets, alleys, and public ways; (2) grant servitudes, easements, and rights-of-way for public utilities, sewers, streets, and other similar facilities in accordance with the redevelopment plan; and (3) convey to the City, County, or other appropriate public body, such real property as, in accordance with the redevelopment plan, is to be used for parks, schools, public buildings, facilities, or other public purposes.

(Y) Temporary Operation of Real Property. The Authority may temporarily operate and maintain real property in a redevelopment project area pending the disposition of the property for

redevelopment without regard to the provisions of Neb. Rev. Stat. 18-2118 and 18-2119 for such uses and purposes as may be deemed desirable even though not in conformity with the redevelopment plan.

(Z) Eminent Domain.

- (1) The Authority shall have the right to acquire by the exercise of the power of eminent domain any real property which it may deem necessary for a redevelopment project or for its purposes under the provisions of the Community Development Law after the adoption by it of a resolution declaring that the acquisition of the real property described therein is necessary for such purposes. The procedure to condemn property shall be exercised in the manner set forth in Neb. Rev. Stat. 76-704 to 76-724.
- (2) When the Authority has found and determined by resolution that certain real property described therein is necessary for a redevelopment project or for its purposes under the provisions of the Community Development Law, the resolution shall be conclusive evidence that the acquisition of such real property is necessary for the purposes described therein.

(AA) Acquisition of Undeveloped Vacant Land. Upon a determination by resolution of the City Council that the acquisition and development of undeveloped vacant land not within a substandard or blighted area is essential to the proper clearance or redevelopment of substandard or blighted areas or a necessary part of the general community redevelopment program of the City, that the acquisition and development of land outside the City but within a radius of three miles thereof is necessary or convenient to the proper clearance or redevelopment of one or more substandard or blighted areas within the City, or is a necessary adjunct to the general community redevelopment program of the City, the acquisition, planning, and preparation for development or disposal of such land shall constitute a redevelopment project which may be undertaken by the Authority in the manner provided in the foregoing sections.

(BB) Issuance of Bonds. The Authority shall have power to issue bonds from time to time in its discretion for any of its corporate purposes, including the payment of principal and interest upon any advances for surveys and plans for redevelopment projects. The Authority shall also have power to issue refunding bonds for the purpose of paying, retiring, or otherwise refinancing, or in exchange for any or all of the principal or interest upon bonds previously issued by it. The Authority may issue such types of bonds as it may determine, including, without limiting the generality of the foregoing, bonds on which the principal and interest are payable: (1) exclusively from the income, proceeds, and revenue of the redevelopment project financed with proceeds of such bonds; (2) exclusively from the income, proceeds, and revenue of any of its redevelopment projects, whether or not they are financed in whole or in part with the proceeds of such bonds; (3) exclusively from its revenue and income, including such tax revenue or receipts as may be herein authorized, including those which may be pledged under Neb. Rev. Stat. 18-2150, and from such grants and loans as may be received; or (4) from all or part of the income, proceeds and revenue enumerated in subdivisions (1), (2), and (3) of this section, provided that any such bonds may be additionally secured by a pledge of any loan, grant, or contributions or parts thereof from the federal government or other source or a mortgage of any redevelopment project or projects of the Authority, and that the Authority shall not have the power to pledge the credit or taxing power of the State or any political subdivision thereof, except such tax receipts as may be authorized under this section or pledged under Neb. Rev. Stat. 18-2150 or to place any lien or encumbrance on any property owned by the State, county, or City used by the Authority.

(CC) Bonds; Liability; Exempt from Taxation; Anticipation Notes; Renewal Notes; Terms.

- (1) Neither the members of the Authority nor any person executing the bonds shall be liable personally on the bonds by reason of the issuance thereof. The bonds and other obligations of the Authority, and such bonds and obligations shall so state on their face, shall not be a debt of the City and the City shall not be liable on such bonds, except to the extent authorized by Neb. Rev. Stat. 18-2147 to 18-2150, nor in any event shall such bonds or obligations be payable out of any funds or properties other than those of the Authority acquired for the purposes of Neb. Rev. Stat. 18-2101 to 2144, except to the extent authorized by Neb. Rev. Stat. 18-2147 to 2150. Except to the extent otherwise authorized, the bonds shall not constitute indebtedness within the meaning of any constitutional or statutory debt limitation or restriction. Bonds of the Authority are declared to be issued for an essential public and governmental purpose and to be public instrumentalities and, together with interest thereon and income therefrom, shall be exempt from all taxes. All bonds shall be general obligations of the issuing Authority and shall be payable out of any revenue, income, receipts, proceeds, or other money of the Authority, except as may be otherwise provided in the instruments themselves.
- (2) The Authority shall have power from time to time to issue bond anticipation notes, referred to as notes herein, and from time to time to issue renewal notes, such notes in any case to mature not later than 30 months from the date of incurring the indebtedness represented thereby in an amount not exceeding in the aggregate at any time outstanding the amount of bonds then or theretofore authorized. Payment of such notes shall be made from any money or revenue which the Authority may have available for such purpose or from the proceeds of the sale of bonds of the Authority or such notes may be exchanged for a like amount of such bonds. The Authority may pledge such money or revenue of the Authority, subject to prior pledges thereof, if any, for the payment of such notes and may in addition secure the notes in the same manner as herein provided for bonds. All notes shall be issued and sold in the same manner as bonds. The Authority shall have power to (a) make contracts for the future sale from time to time of notes on terms and conditions stated in such contracts and (b) pay such consideration as it shall deem proper for any commitments to purchase notes and bonds in the future. Such notes shall also be collaterally secured by pledges and deposits with a bank or trust company, in trust for the payment of such notes, of bonds in an aggregate amount at least equal to the amount of such notes and, in any event, in an amount deemed by the issuing Authority sufficient to provide for the payment of the notes in full at the maturity thereof. The Authority may provide in the collateral agreement that the notes may be exchanged for bonds held as collateral security for the notes or that the trustee may sell the bonds if the notes are not otherwise paid at maturity and apply the proceeds of such sale to the payment of the notes. Such notes shall bear interest at a rate set by the Authority and shall be sold at such price as shall cause an interest cost thereon not to exceed such rate.
- (3) It is the intention hereof that any pledge of revenue, income, receipts, proceeds, or other money made by the Authority for the payment of bonds or notes shall be valid and binding from the time such pledge is made; that the revenue, income, receipts, proceeds, and other money so pledged and thereafter received by the Authority shall immediately be subject to the lien of such pledge without the physical delivery thereof or further act, and that the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the Authority irrespective of whether such parties have notice thereof. Neither the resolution nor any other instrument by which a pledge is created need be recorded.

- (DD) Terms of Bonds. Bonds of the Authority shall be authorized by its resolution and may be issued in one or more series and shall bear such date or dates, be payable upon demand or mature at such time or times, bear interest at such rate or rates, be in such denomination or denominations, be in such form either coupon or registered, carry such conversion or registration privileges, have such rank or priority, be executed in such manner, be payable in such medium of payment, at such place or places, and be subject to such terms of redemption, with or without premium, as such resolution, its trust indenture or mortgage may provide.
- (EE) Sale of Bonds. The bonds may be sold by the Authority in such manner and for such price as the body may determine, at par or above par, at private sale or at public sale after notice published prior to such sale in a legal newspaper having general circulation in the City or in such other medium of publication as the Authority may deem appropriate, or may be exchanged by the Authority for other bonds issued by it under Neb. Rev. Stat. 18-2101 to 18-2144 and 18-2147 to 18-2151. Bonds which are issued under this section may be sold by the Authority to the federal government at private sale at par or above par and, in the event that less than all of the authorized principal amount of such bonds is sold by the Authority to the federal government, the balance or any portion of the balance may be sold by the Authority at private sale at par or above par.
- (FF) Validity of Signatures on Bonds. In case any of the members or officers of the Authority whose signatures appear on any bonds or coupons shall cease to be such members or officers before the delivery of such bonds, such signatures shall nevertheless be valid and sufficient for all purposes the same as if such members or officers had remained in office until such delivery. Any provision of any law to the contrary notwithstanding, any bonds issued pursuant to the provisions of Neb. Rev. Stat. 18-2124 shall be fully negotiable.
- (GG) Authority and Powers Regarding Bonds. In connection with the issuance of bonds or the incurring of obligations under leases and in order to secure the payment of such bonds or obligations, the Authority, in addition to its other powers, shall have power:
- (1) To pledge all or any part of its gross or net rents, fees, or revenue to which its right then exists or may thereafter come into existence;
  - (2) To mortgage all or any part of its real or personal property then owned or thereafter acquired;
  - (3) To covenant against pledging all or any part of its rents, fees, and revenue or against mortgaging all or any part of its real or personal property to which its right or title then exists or may thereafter come into existence, or against permitting or suffering any lien on such revenue or property; to covenant with respect to limitations on its right to sell, lease, or otherwise dispose of any redevelopment project or any part thereof; and to covenant as to what other or additional debts or obligations may be incurred by it;
  - (4) To covenant as to the bonds to be issued and as to the issuance of such bonds in escrow or otherwise and as to the use and disposition of the proceeds thereof; to provide for the replacement of lost, destroyed, or mutilated bonds; to covenant against extending the time for the payment of its bonds or interest thereon; and to covenant for the redemption of the bonds and to provide the terms and conditions thereof;
  - (5) To covenant, subject to the limitations contained in the Community Development Law, as to the amount of revenue to be raised each year or other period of time by rents, fees, and other revenue and as to the use and disposition to be made thereof; to establish or to authorize the establishment of special funds for money held for operating costs, debt service, reserves, or other purposes and to covenant as to the use and disposition of the money held in such funds;

- (6) To prescribe the procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, the amount of bonds the holders of which must consent thereto and the manner in which such consent may be given;
  - (7) To covenant as to the use, maintenance, and replacement of any or all of its real or personal property, the insurance to be carried thereon, and the use and disposition of insurance money and to warrant its title to such property;
  - (8) To covenant as to the rights, liabilities, powers, and duties arising upon the breach by it of any covenants, conditions, or obligations; and to covenant and prescribe as to events of default and terms and conditions upon which any or all of its bonds or obligations shall become or may be declared due before maturity and as to the terms and conditions upon which such declaration and its consequences may be waived;
  - (9) To vest in any obligees of the Authority the right to enforce the payment of the bonds or any covenants securing or relating to the bonds; to vest in any obligee or obligees holding a specified amount in bonds the right, in the event of a default by the Authority, to take possession of and use, operate, and manage any redevelopment project or any part thereof, title to which is in the Authority, or any funds connected therewith, and to collect the rents and revenue arising therefrom and to dispose of such money in accordance with the agreement of the Authority with such obligees; to provide for the powers and duties of such obligees and to limit the liabilities thereof; and to provide the terms and conditions upon which such obligees may enforce any covenant or rights securing or relating to the bonds;
  - (10) To pledge all of the revenue from any occupation tax received or to be received with respect to any enhanced employment area; and
  - (11) To exercise all or any part or combination of the powers herein granted; to make such covenants, other than and in addition to the covenants herein expressly authorized, and to do any and all such acts and things as may be necessary or convenient or desirable in order to secure its bonds or, in the absolute discretion of the Authority, as will tend to make the bonds more marketable notwithstanding that such covenants, acts, or things may not be enumerated herein.
- (HH) Default on Bonds. The Authority will have power by its resolution, trust indenture, mortgage, lease, or other contract to confer upon any obligee holding or representing a specified amount in bonds the right, in addition to all rights that may otherwise be conferred, upon the happening of an event of default as defined in such resolution or instruments, by suit, action, or proceeding in any court of competent jurisdiction:
- (1) to cause possession of any redevelopment project or any part thereof, title to which is in the Authority, to be surrendered to any such obligee;
  - (2) to obtain the appointment of a receiver of any redevelopment project of said Authority or any part thereof, title to which is in the Authority, and of the rents and profits therefrom. If such receiver be appointed, he or she may enter and take possession of, carry out, operate, and maintain such project or any part thereof; collect and receive all fees, rents, revenue, or other charges thereafter arising therefrom and shall keep such money in a separate account or accounts, applying the same in accordance with the obligations of said Authority as the court shall direct; and
  - (3) to require the Authority and the members, officers, agents, and employees thereof to account as if it and they were the trustees of an express trust.
- (II) Federal Government; Contract for Financial Assistance. In any contract for financial assistance with the federal government, the Authority may obligate itself, which obligation shall be specifically enforceable and shall not constitute a mortgage notwithstanding any



other laws, to convey to the federal government possession of or title to the redevelopment project and land therein to which such contract relates which is owned by the Authority, upon the occurrence of a substantial default, as defined in such contract, with respect to the covenants or conditions to which the Authority is subject. Such contract may further provide that in case of such conveyance, the federal government may complete, operate, manage, lease, convey, or otherwise deal with the redevelopment project in accordance with the terms of such contract; provided, the contract requires that, as soon as practicable after the federal government is satisfied that all defaults with respect to the redevelopment project have been cured and that the redevelopment project will thereafter be operated in accordance with the terms of the contract, the federal government shall reconvey to the Authority the redevelopment project as then constituted.

- (JJ) Property Exempt from Execution. All property including the Authority's funds shall be exempt from levy and sale by virtue of an execution, and no execution or other judicial process shall issue against the same nor shall judgment against the Authority be a charge or lien upon its property; provided, the provisions of this section shall not apply to or limit the right of obligees to foreclose or otherwise enforce any mortgage of the Authority or the right of obligees to pursue any remedies for the enforcement of any pledge or lien given by the Authority on its rents, fees, grants, or revenue.
- (KK) Authority Property Exempt from Taxation; Payment in Lieu of Taxes. The property of the Authority is declared to be public property used for essential public and governmental purposes and shall be exempt from all taxes. Whenever the Authority shall purchase or acquire real property pursuant to Neb. Rev. Stat. 18-2101 to 18-2144, it shall annually, so long as it shall continue to own such property, pay out of its revenue to the State of Nebraska, county, city, township, school district or other taxing subdivision in which such real property is located a sum, in lieu of taxes, equal to the amount which such state, county, city, township, school district or other taxing subdivision received from taxation from such real property during the year immediately preceding the purchase or acquisition of such real property by the Authority. The County Board of Equalization may, in any year subsequent to the purchase or acquisition of such property by the Authority, determine the amount that said Authority shall pay out of its revenue to the State of Nebraska and its several governmental subdivisions in lieu of taxes, which sum shall be as justice and equity may require, notwithstanding the amount which the State and its governmental subdivisions may have received from taxation during the year immediately preceding the purchase or acquisition of such property; provided, with respect to any property in a redevelopment project, the tax exemption provided herein shall terminate when the Authority sells, leases, or otherwise disposes of such property to a redeveloper for redevelopment. The members of the Authority shall not incur any personal liability by reason of the making of such payments.
- (LL) City Council May Appropriate Funds to Authority. The Authority may, at such time as it may deem necessary, file with the City Council an estimate of the amounts necessary to be appropriated by the Council to defray the expenses of the Authority. The Council is hereby authorized to appropriate from its general fund, in its discretion, and to place at the disposal of the Authority an amount sufficient to assist in defraying such expenses. The City may grant funds to the Authority for the purpose of aiding it in carrying out any of its powers and functions under the provisions of Neb. Rev. Stat. 18-2101 to 18-2144. To obtain funds for this purpose, the City may levy taxes and may issue and sell its bonds. Any bonds to be issued by the City pursuant to the provisions of this section shall be issued in the manner and within the limitations, except as otherwise provided by Neb. Rev. Stat. 18-2101 to 18-2144, prescribed by the laws of this State for the issuance and authorization of bonds by the City for any public purpose.

(Ord. 2765, 2-2-99; Am. Ord. 3011, 8-2-11; 3127, 1-31-25)

*ECONOMIC DEVELOPMENT PROGRAM; CITIZEN ADVISORY REVIEW COMMITTEE*

**§ 32.025 PROGRAM ADOPTION**

The Mayor and City Council shall by ordinance adopt an Economic Development Program for the City as authorized by the Local Option Municipal Economic Development Act, Neb. Rev. Stat. 18-2701 et seq. The “City of Fairbury, Nebraska Economic Development Plan,” attached to Ordinance No. 3089 as Exhibit “A” and incorporated therein by reference, is incorporated herein by reference. (Ord. 2762, 11-17-98; Am. Ord. 2995, 6-1-10; 3089, 6-16-20; 3128, 1-31-25)

**§ 32.026 COMMITTEE CREATED**

There is hereby created, in and for the City, a Citizen Advisory Review Committee as authorized by the Local Option Municipal Economic Development Act, Neb. Rev. Stat. 18-2701 et seq. (Ord. 2762, 11-17-98)

**§ 32.027 COMMITTEE COMPOSITION**

- (1) The Citizen Advisory Review Committee shall consist of not less than five or more than ten registered voters of the City who shall be appointed to the committee by the Mayor subject to approval by the City Council. At least one member of the committee shall have expertise or experience in the field of business finance or accounting.
- (2) No member of the citizen advisory review committee shall be an elected or appointed City official, an employee of the City, a participant in a decision-making position regarding expenditures of program funds, or an official or employee of any qualifying business receiving financial assistance under the economic development program or of any financial institution participating directly in the economic development program.

(Ord. 2762, 11-17-98)

**§ 32.028 COMMITTEE MEMBERS; APPOINTMENT; VACANCIES; REMOVAL**

- (A) The members of the Citizen Advisory Review Committee shall be appointed by the Mayor by and with the approval of the Council. Vacancies occurring in the membership of the Citizen Advisory Review Committee other than by reason of the expiration of terms shall be filled by the Mayor by and with the approval of the Council.
- (B) Any member of the Citizen Advisory Review Committee may be removed from office by the Mayor by and with the approval of the Council.

(Ord. 2762, 11-17-98)

**§ 32.029 MEMBER TERMS**

The members of the Citizen Advisory Review Committee shall serve five-year terms. (Ord. 2762, 11-17-98)

### **§ 32.030 COMMITTEE OFFICERS**

The Citizen Advisory Review Committee shall elect its chairperson from its members and shall create and fill such other offices as it may determine. The term of the chairperson shall be one year, with eligibility for reelection. (Ord. 2762, 11-17-98)

### **§ 32.031 COMMITTEE MEETINGS**

The Citizen Advisory Review Committee shall hold regular meetings on the second Wednesday in January, April, July, and October of each year to review the functioning and progress of the Economic Development Program of the City and to advise the City Council with regard to the Program. Special meetings of the Citizen Advisory Review Committee shall be held whenever called by the Mayor or the chairperson of the Committee. (Ord. 2762, 11-17-98; Am. Ord. 2981, 3-3-09)

### **§ 32.032 REPORTS TO CITY COUNCIL**

At least once in every six-month period after the effective date of this subchapter, the Citizen Advisory Review Committee shall report to the City Council on its findings and suggestions at a public hearing called for that purpose. (Ord. 2762, 11-17-98)

### **§ 32.033 PROGRAM ADMINISTRATION**

The Mayor shall be responsible for the administration of the Economic Development program of the City, shall be an ex-officio member of the committee, and shall be responsible for assisting the committee and providing it with necessary information and advice on the Economic Development Program. (Ord. 2762, 11-17-98)

### **§ 32.034 DISCLOSURE OF CONFIDENTIAL INFORMATION**

- (A) Members of the citizen advisory review committee, in their capacity as members and consistent with their responsibilities as members, may be permitted access to business information received by the City in the course of its administration of the economic development program, which information would otherwise be confidential (a) under Neb. Rev. Stat. 84-712.05, (b) by agreement with a qualifying business participating in the economic development program, or (c) under any ordinance of the City providing access to such records to members of the committee and guaranteeing the confidentiality of business information received by reason of its administration of the economic development program.
- (B) Unauthorized disclosure of any business information which is confidential under Neb. Rev. Stat. 84-712.05 shall be a Class III misdemeanor. Any person who knowingly releases this confidential information other than to persons who are authorized to have access to the information in accordance with the provisions of this section shall be guilty of a misdemeanor.

(Ord. 2762, 11-17-98) Penalty, see § 10.14

## **UTILITY DEPARTMENTS**

### **§ 32.045 WATER DEPARTMENT; OPERATION AND FUNDING**

The municipality owns the municipal water works and Water Department and operates them through the City Council. 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 Utilities Superintendent shall have the direct management and control of the Water Department and shall faithfully carry out the duties of this office. 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. (Am. Ord. 3090, 9-1-20; 3128, 1-31-25)

#### **§ 32.046 SEWER DEPARTMENT; OPERATION AND FUNDING**

- (A) The municipality owns the municipal sewer system and operates it through the City Council.
- (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 Sanitary Sewer Fund and shall be used exclusively for the purpose of maintenance and repairs of the water and sewer system and for all purposes allowed by law.
- (C) The Utilities Superintendent shall have the direct management and control of the Sewer Department, shall faithfully carry out the duties of the office, and shall have the authority to adopt rules and regulations for the sanitary and efficient management of the Department subject to the supervision and review of the City Council. The 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.

(Am. Ord. 3090, 9-1-20; 3128, 1-31-25)

#### **§ 32.047 ELECTRICAL SYSTEM; OPERATION AND FUNDING**

The municipality owns the municipal electrical system and operates it through the City Council. The City Council, for the purpose of defraying the cost of the care, management, and maintenance of the municipal electrical system may each year levy a tax not exceeding the maximum limit prescribed by state law, on the actual valuation of all real estate and personal property within the corporate limits that is subject to taxation. The revenue from this tax shall be known as the Electrical Fund and shall remain in the custody of the Municipal Treasurer. The Utilities Superintendent shall have the direct management and control of the municipal electrical system and shall faithfully carry out the duties of his or her office. The City Council shall have the authority to adopt rules and regulations for the safe and efficient management of the electrical system subject to the supervision and review of the City Council. The City Council shall by ordinance set the rates to be charged for services rendered and shall file the same in the office of the Municipal Clerk for public inspection at any reasonable time. (Neb. Rev. Stat. 17-902 through 17-904, 17-906, and 17-909) (Am. Ord. 3090, 9-1-20; 3128, 1-31-25)

### **FIRE DEPARTMENT**

#### **§ 32.060 OPERATION AND FUNDING**

The municipality operates the Municipal Fire Department through the Municipal Fire Chief or principal appointed City public safety official, and the firefighters. 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 this tax shall be known as the Fire Department Fund. The Fund shall be at all times in the possession of the Municipal Treasurer.

#### **§ 32.061 FIRE CHIEF**

The Fire Chief or principal appointed City public safety official 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. The Fire Chief or principal appointed City public safety official 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 or principal appointed City public safety official to come before the City Council at a 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. (Neb. Rev. Stat. 17-147) (Am. Ord. 2944, 8-15-06)

#### **§ 32.062 MEMBERSHIP**

- (A) 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. The Fire Chief or principal appointed City public safety official 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.
- (B) 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 principal appointed City public safety official or the City Council. The members of the Fire Department shall, during the time of a fire or great public danger, have and exercise the powers and duties of police officers and shall have full power and authority to arrest all persons guilty of any violation of the Municipal Code or the laws of the State of Nebraska.
- (C) Members of the Fire Department 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.
- (D) Members of the Fire Department shall be considered to be employees of the City for the purpose of providing them with workers' compensation and other benefits. The City Council may compensate or reimburse any member of the Fire Department for expenses incurred in carrying out his or her duties in an amount set by resolution.
- (E) The City Council shall purchase and maintain in force a policy of group term life insurance to age 65 covering the lives of all of the City's active volunteer fire and rescue personnel, except that when any such person serves more than one municipality or rural or suburban fire protection district, the policy shall be purchased only by the first municipality or district which he or she serves. The policy shall provide a minimum death benefit of \$10,000 for death from any cause and shall, at the option of the insured, be convertible to a permanent form of life insurance at age 65. The coverage of such policy shall terminate as to any individual who ceases to be an active volunteer member of the Fire Department of the City. (Neb. Rev. Stat. 35-108)
- (F) For purposes of Neb. Rev. Stat. 33-139.01, volunteer firefighters and rescue squad members testifying as witnesses in that capacity alone shall not be deemed employees of the City.

(Am. Ord. 2338, 9-3-85; 2892, 9-7-04)

### **§ 32.063 RECORDS**

- (A) (1) The Fire Chief or principal appointed City public safety official 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 these records to the Municipal Clerk during the last week in April each year.
  - (2) The record of any fire shall include the cause, origin, circumstances, property involved, and whether criminal conduct may have been involved.
  - (3) In the event of sizable property damage, he or she shall include the information of whether the losses were covered by insurance, and if so, in what amount.
- (B) All records shall be available to the public at any reasonable time.

### **§ 32.064 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.

### **§ 32.065 DISTANT FIRES**

- (A) Upon the permission of the Fire Chief or principal appointed City public safety official, 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 Fire Chief or principal appointed City public safety official or some person authorized to act for the Chief or principal appointed City public safety official and in so doing, may take such fire equipment of the municipality as may be designated by the City Council.

### **§ 32.066 INSPECTIONS**

It shall be the duty of the Fire Chief or principal appointed City public safety official to inspect or cause to be inspected by Fire Department officers, members, or some other official as often as may be necessary, but not less than two times a year, all buildings, premises and public thoroughfares, except the interiors of private dwellings, for the purpose of ascertaining and causing to be corrected any conditions liable to create a fire hazard. The inspection shall be of the storage, sale and use of flammable liquids, combustibles, and explosives; electric wiring and heating; and the means and adequacy of exits; the design, construction, location, installation, and operation of equipment for storing, handling, and utilizing of liquefied petroleum gases, specifying the odorization of such gases and the degree thereof; and chemicals, prozylin plastics, nitrocellulose films, or any other hazardous material that may now or hereafter exist. (Am. Ord. 2944 8-15-06)

### **§ 32.067 NOTICE OF VIOLATION**

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

- (B) Any such order shall be immediately complied with by the owner, occupant, or manager of the premises or building. The owner, occupant, or manager may, within five days after the order by the Fire Chief or his or her 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 10 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 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 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. Penalty, see § 10.14

### **§ 32.068 POWER OF ARREST**

The Municipal Fire Chief or principal appointed City public safety official or official serving as an assistant of such officer shall have the power, if he or she is a certified law enforcement officer, to arrest any suspected arsonist or other person hindering or resisting the firefighting 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. (Am. Ord. 2941, 6-20-06)

### **§ 32.069 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 the officers shall especially make an investigation and report as to whether the fire was the result of carelessness, accident, or design. This investigation shall be begun within two days of the occurrence of the 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.

## **POLICE DEPARTMENT**

### **§ 32.080 DUTIES**

The Police Department shall consist of the Chief of Police and that further number of regular police officers as may be duly ordered by resolution of the Council. The Chief of Police shall, subject to the direction of the Mayor, have control and management of all matters relating to the Police Department, its officers and members, and shall have the custody and control of all property and books belonging to the Department. The Chief shall devote his or her whole time to the municipal affairs and interests of the municipality and to the preservation of peace, order, safety, and cleanliness thereof. The Department shall execute and enforce all laws and also the orders of the Mayor. It shall be the duty of the Department to protect the rights of persons and property. The Department shall take notice of all nuisances, impediments, obstructions, and defects in the streets, avenues, alleys, business places, and residences of the municipality. The Department shall execute, or cause to be executed, the processes issued and shall cause all persons arrested to be brought before the proper court for trial as speedily as possible. The Chief of Police and all regular and special police officers shall become thoroughly conversant with the laws of

the municipality and shall see that the same are strictly enforced and shall make sworn complaints against any person or persons for violation of the same. (Neb. Rev. Stat. 17-107; 17-118; 17-124)

### **§ 32.081 RESERVE OFFICER BOND**

No appointment of a law enforcement reserve officer shall be valid until a bond in the amount of \$2,000, payable to the City, has been filed with the Municipal Clerk by the individual appointed, or a blanket surety bond arranged and paid for by the City Council and bonding all such officers of the City Council has been filed. The bonds shall be subject to the provisions of Neb. Rev. Stat. Ch. 11, Art. 1. (Neb. Rev. Stat. 81-1444) (Ord. 2379, 9-2-86)

### **§ 32.082 ARREST AND ENFORCEMENT JURISDICTION**

- (1) A law enforcement officer has the power and authority to enforce the laws of this State and of the City or otherwise perform the functions of that office anywhere within the City.
- (2) Any law enforcement officer who is within this State, but beyond his or her primary jurisdiction of the City, has the power and authority to enforce the laws of this State or any legal ordinance of the City or otherwise perform the functions of his or her office, including the authority to arrest and detain suspects, as if enforcing the laws or performing the functions within his or her primary jurisdiction of the City in the following cases:
  - (a) Any such law enforcement officer, if in a fresh attempt to apprehend a person suspected of committing a felony, may follow such person into any other jurisdiction in this State and there arrest and detain such person and return such person to the law enforcement officer's primary jurisdiction of the City;
  - (b) Any such law enforcement officer, if in a fresh attempt to apprehend a person suspected of committing a misdemeanor or a traffic infraction, may follow such person anywhere in an area within twenty-five miles of the boundaries of the law enforcement officer's primary jurisdiction of the City and there arrest and detain such person and return such person to the law enforcement officer's primary jurisdiction of the City;
  - (c) Any such law enforcement officer shall have such enforcement and arrest and detention authority when responding to a call in which a local, state, or federal law enforcement officer is in need of assistance. A law enforcement officer in need of assistance shall mean (i) a law enforcement officer whose life is in danger or (ii) a law enforcement officer who needs assistance in making an arrest and the suspect (A) will not be apprehended unless immediately arrested, (B) may cause injury to himself or herself or others or damage to property unless immediately arrested, or (C) may destroy or conceal evidence of the commission of a crime; and
  - (d) The City may, under the provisions of the Interlocal Cooperation Act or the Joint Public Agency Act, enter into a contract with any other municipality or county for law enforcement services or joint law enforcement services. Under such an agreement, law enforcement personnel may have such enforcement authority within the jurisdiction of each of the participating political subdivisions if provided for in the agreement. Unless otherwise provided in the agreement, each participating political subdivision shall provide liability insurance coverage for its own law enforcement personnel as provided in section 13-1802.



- (3) When probable cause exists to believe that a person is operating or in the actual physical control of any motor vehicle, motorboat, personal watercraft, or aircraft while under the influence of alcoholic liquor or of any drug or otherwise in violation of Neb. Rev. Stat. 28-1465, 28-1466, 28-1472, 37-1254.01, 37-1254.02, 60-4,163, 60-4,164, 60-6,196, 60-6,197, 60-6,211.01, or 60-6,211.02, the law enforcement officer has the power and authority to do any of the following or any combination thereof:
  - (a) Transport such person to a facility outside of the law enforcement officer's primary jurisdiction of the City for appropriate chemical testing of the person;
  - (b) Administer outside of the law enforcement officer's primary jurisdiction of the City any post-arrest test advisement to the person; or
  - (c) With respect to such person, perform other procedures or functions outside of the law enforcement officer's primary jurisdiction of the City which are directly and solely related to enforcing the laws that concern a person operating or being in the actual physical control of any motor vehicle, motorboat, personal watercraft, or aircraft while under the influence of alcoholic liquor or of any other drug or otherwise in violation of Neb. Rev. Stat. 28-1465, 28-1466, 28-1472, 37-1254.01, 37-1254.02, 60-4,163, 60-4,164, 60-6,196, 60-6,197, 60-6,211.01, or 60-6,211.02. (Neb. Rev. Stat. 29-215)
- (4) If municipal law enforcement personnel are rendering aid in their law enforcement capacity outside the limits of the municipality in the event of disaster, emergency, or civil defense emergency or in connection with any program of practice or training for such disaster, emergency, or civil defense emergency when such program is conducted or participated in by the Nebraska Emergency Management Agency or with any other related training program, the law enforcement personnel have the power and authority to enforce the laws of this State or any legal ordinances or resolutions of the local government where they are rendering aid or otherwise perform the functions of their office, including the authority to arrest and detain suspects, as if enforcing the laws or performing the functions within their primary jurisdiction. The municipality shall self-insure or contract for insurance against any liability for personal injuries or property damage that may be incurred by it or by its personnel as the result of any movement made pursuant to this division. (Neb. Rev. Stat. 81-829.65)

(Ord. 2632, 2-21-95; Am. Ord. 2750, 10-20-98; 2892, 9-7-04)

### **§ 32.083 OFFICERS; DISCIPLINE OR REMOVAL FROM DUTY; NOTICE AND HEARING; DETERMINATION**

- (A) No police officer, including the Police Chief, shall be suspended, demoted, or removed except upon written accusation by the Police Chief, the Mayor, or any citizen or taxpayer stating the accusation. Notice and a copy of the written accusation shall be delivered to the police officer. Such notice shall also inform the police officer of:
  - (1) the police officer's right to have an attorney or representative retained by the police officer present with him or her at all hearings or proceedings regarding the written accusation;
  - (2) the right of the police officer or his or her attorney or representative retained by the police officer to be heard and present evidence;

- (3) the right of the police officer as well as the individual imposing the action or their respective attorneys or representatives to record all hearings or proceedings regarding the written accusation; and
  - (4) the right of the police officer to appeal any decision to remove, demote, or suspend the officer to the City Council for a hearing within 10 days after being notified of the decision to remove, demote, or suspend the officer filing with the Municipal Clerk a written demand for a hearing before the City Council. The City Council shall set the matter for hearing not less than 10 nor more than 20 days after the filing of the written demand for a hearing. The City Council shall give the police officer written notice of the hearing not less than 7 nor more than 14 days prior to the hearing.
- (B) At the hearing, the police officer shall have the right to:
- (1) Respond in person to the charges and to present witnesses and documentary evidence;
  - (2) Confront and cross-examine available adverse witnesses; and
  - (3) Be represented by counsel.
- (C) Not later than 30 days following the adjournment of the meeting at which the hearing was held, the City Council shall vote to uphold, reverse, or modify the decision to remove, demote, or suspend the officer. The failure of the City Council to act within 30 days or the failure of a majority of the elected Council members to vote to reverse or modify the decision to remove, demote, or suspend the officer shall be construed as a vote to uphold the same. The decision of the City Council shall be based upon its determination that, under the facts and evidence presented at the hearing, the challenged decision to remove, demote, or suspend the officer was necessary for the proper management and the effective operation of the Police Department in the performance of its duties under the state statutes.
- (D) Nothing in this section shall be construed to prevent the preemptory suspension or immediate removal from duty of an officer, pending the hearing authorized by this section, in cases of gross misconduct, neglect of duty, or disobedience of orders.

(Neb. Rev. Stat. 17-107) (Ord. 2655, 2-20-96)

## **CHAPTER 33: GENERAL PROVISIONS**

All meetings of the City subject to the Nebraska Open Meetings Act shall be conducted pursuant to the Act, Neb. Rev. Stat. 84-1407 to 1414.

### MEETINGS

**§ 33.01 (RESERVED)**

**§ 33.02 (RESERVED)**

**§ 33.03 (RESERVED)**

**§ 33.04 (RESERVED)**

**§ 33.05 (RESERVED)**

**§ 33.06 (RESERVED)**

**§ 33.07 (RESERVED)**

**§ 33.08 (RESERVED)**

**§ 33.09 (RESERVED)**

**§ 33.10 (RESERVED)**

**§ 33.11 (RESERVED)**

**§ 33.12 (RESERVED)**

**§ 33.13 ORDER OF BUSINESS**

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

**§ 33.14 PARLIAMENTARY PROCEDURE**

In all cases in which provisions are not made by this Code or state law for conduct of meetings of the City Council and other City bodies, Robert's Rules of Order is the authority by which the City Council and such bodies shall decide all procedural disputes that may arise.

**§ 33.15 CHANGE IN OFFICE**

The change in office shall be made as follows: The Mayor and City 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, if any. Upon the old Council having completed its business up to the time, the outgoing Council members 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.

**§ 33.16 ORGANIZATIONAL MEETINGS**

- (A) 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 itself for the ensuing year. The Mayor, elected for the new municipal year or continuing in office, as the case may be, 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, if such elections have not previously been certified by law, to see that each has been duly and properly elected and to see that those oaths and bonds have been given as are required. After ascertaining that all members are duly qualified, if such qualification has not previously been certified by law, the Council shall then elect one of its own body who shall be styled President of the Council. The Mayor may then nominate a number of candidates for appointive offices as are necessary to be made at that time, consistent with the Mayor's statutory code and other legal authority regarding removal

and appointment of officers, including police officers, and the City Council's statutory and Code authority to give advice and consent on mayoral nominations made. The Mayor shall then proceed with the regular order of business.

- (B) It is hereby made the duty of each and every member of the Council or his 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 federal Constitution, the State Constitution, and the laws of the municipality and to perform faithfully and impartially the duties of office, this 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 Clerk with sufficient sureties, conditioned on the faithful discharge of the duties of his or her office, with the oath endorsed thereon.

(Am. Ord. No. 3003, 1-18-2011)

### BONDS AND OATHS

#### **§ 33.30 BONDS; FORM**

- (A) 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, for each particular official. All official bonds of the municipal officials shall be executed by the principal named in the 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 this State shall be eligible for suretyship on the bond of an official of the municipality. All these bonds shall obligate the principal and sureties for the faithful discharge of all duties required by law of the principal and shall inure to the benefit of the municipality and any persons who may be injured by a breach of the conditions of the 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 that instrument by the Mayor and Municipal Clerk pursuant to that approval of the City Council.
- (B) 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 surety and other bonds required by City ordinances or by Nebraska law for city officials may be provided by the purchase of a blanket bond, undertaking or equivalent insurance. The bond or insurance coverage shall be, at a minimum, an aggregate of the amounts fixed by the law or by the City Council requiring such bond or undertaking and on such terms and conditions as may be required. (Neb. Rev. Stat. 11-104 (2))
- (C) 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 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 that 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 office. Any official who is reelected to office shall be required to file a new bond after each election.

(Am. Ord. 2695, 10-16-07)

### **§ 33.31 OATH OF OFFICE; MUNICIPAL OFFICIALS**

- (A) All officials of the municipality, whether elected or appointed, shall before entering upon their respective duties take and subscribe the following oath, which shall be endorsed upon their respective bonds:

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

- (B) If any officer is not required to give bond, the oath shall be filed with the Municipal Clerk. (Neb. Rev. Stat. 11-101)

### **COMPENSATION**

### **§ 33.45 COMPENSATION; HOW FIXED; INCREASE OR DIMINISHMENT**

- (A) The officers and employees of the City shall receive such compensation as the Mayor and Council shall fix by ordinance. (Neb. Rev. Stat. 17-108)
- (B) No officer shall receive any pay or perquisites from the City other than his or her salary. The City Council shall not pay or appropriate any money or other valuable thing to any person not an officer for the performance of any act, service, or duty, the doing or performance of which shall come within the proper scope of the duties of any officer of the City. (Neb. Rev. Stat. 17-611)
- (C) The emoluments of any elective officer shall not be increased or diminished during the term for which he or she shall have been elected, except when there has been a combination and merger of offices, except that when there are officers elected to the Council, or a board or commission having more than one member and the terms of one or more members commence and end at different times, the compensation of all members may be increased or diminished at the beginning of the full term of any member thereof. No person who shall have resigned or vacated any office shall be eligible to the same during the time for which he or she was elected if during the same time the emoluments thereof were increased. (Neb. Rev. Stat. 17-612)

### **§ 33.46 CONFLICTS OF INTEREST**

For purposes of conflicts of interest, the City and its officials shall adhere to all applicable provisions of the Nebraska Political Accountability and Disclosure Act.

### **§ 33.47 (RESERVED)**

### **§ 33.48 EMPLOYEE HANDBOOK**

The City shall maintain an Employee Handbook which shall contain those rules and regulations relating to full and part-time employees of the City as the Council deems necessary for good management of the City.

## **CHAPTER 34: ELECTIONS**

### **§ 34.01 GENERALLY**

All municipal issues and offices shall be combined on the statewide primary and general election ballots whenever possible. The issuance of separate ballots shall be avoided in a statewide election if municipal offices or issues can reasonably be combined with the 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. Any other election by the municipality shall be held as provided in the Election Act unless otherwise provided by Neb. Rev. Stat. Chapter 32. (Neb. Rev. Stat. 32-556)

### **§ 34.02 NOTICE**

The notice of election required to be published by the Election Commissioner or County Clerk not later than 42 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. (Neb. Rev. Stat. 32-802) (Am. Ord. 3127, 1-31-25)

### **§ 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 valid voter registration record on file with the election commissioner or county clerk in the county of his or her residence. (Neb. Rev. Stat. 32-115)

- (B) All registered voters residing within the corporate limits of the municipality on or before election day shall be entitled to vote at all municipal elections. (Neb. Rev. Stat. 17-602)

### **§ 34.04 SPECIAL ELECTIONS**

- (A) (1) Except as provided in Neb. Rev. Stat. 77-3444, any issue to be submitted to the registered voters at a special election by the City shall be certified by the City Clerk to the Election Commissioner or County Clerk at least eight (8) Fridays prior to the election. A special election may be held by mail as provided in Neb. Rev. Stat. 32-952 through 32-959. Any other special election shall be subject to 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 such 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. Rev. Stat. 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. Rev. Stat. 32-405)

(Ord. 2305, 8-21-84; Am. Ord. 2700, 7-1-97; 2892, 9-7-04; 3127, 1-31-25)

#### **§ 34.05 ELECTION OF OFFICERS; CERTIFICATION**

- (A) All municipal elections involving the election of officers shall be held in accordance with the Election Act and in conjunction with the statewide primary or general election. (Neb. Rev. Stat. 32-556)
- (B) No later than January 5 of each even-numbered year, the City Council shall certify to the Secretary of State, the Election Commissioner, or the County Clerk the name of the municipality, the number of officers to be elected, the length of the terms of office, the vacancies to be filled by election and length of remaining term, and the number of votes to be cast by a registered voter for each office. (Neb. Rev. Stat. 32-404(2))

#### **§ 34.06 PARTISAN BALLOT; WHEN ALLOWED; REQUIREMENTS**

All elective municipal 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. The ordinance providing for nomination and election on a partisan ballot shall be adopted and effective not less than 60 days prior to the filing deadline. (Neb. Rev. Stat. 32-557)

#### **§ 34.07 FILING FEE**

- (A) Except as provided in divisions (C) or (D) of this section, a filing fee shall be paid to the Municipal Treasurer by or on behalf of each candidate prior to filing for office. The filing fee shall be a sum equal to 1% of the annual salary as of November 30 of the year preceding the election for the office for which he or she files as a candidate. The fee shall be placed in the

general fund of the municipality. No candidate filing forms shall be filed until the proper receipt showing payment of the filing fee is presented to the filing officer. On the day of the filing deadline, the City treasurer's office shall remain open to receive filing fees until the hour of the filing deadline.

- (B) All declared write-in candidates shall pay the filing fees that are required for the office at the time that they present the write-in affidavit to the filing officer. Any undeclared write-in candidate who is nominated or elected by write-in votes shall pay the filing fee required for the office within 10 days after the canvass of votes by the County Canvassing Board and shall file the receipt with the person issuing the certificate of nomination or the certificate of election prior to the certificate being issued.
- (C) No filing fee shall be required on any candidate filing for an office in which a per diem is paid rather than a salary or for which there is a salary of less than \$500 per year.
- (D)
  - (1) No filing fee shall be required of any candidate completing an affidavit requesting to file for elective office in forma pauperis.
  - (2) For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**AVAILABLE RESOURCES.** Include every type of property or interest in property that an individual owns and may convert into cash except real property used as a home; household goods of a moderate value used in the home; and assets to a maximum value of \$3,000 used by a recipient in a planned effort directed towards self-support.

**PAUPER.** A person whose income and other resources for maintenance are found under assistance standards to be insufficient for meeting the cost of his or her requirements and whose reserve of cash or other available resources does not exceed the maximum available resources that an eligible individual may own.

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

#### **§ 34.08 PETITION, WRITE-IN, AND OTHER CANDIDATES FOR GENERAL ELECTION BALLOT; PROCEDURES**

- (A)
  - (1) Any registered voter who was not a candidate in the primary election and who was not registered to vote with a party affiliation on or after March 1 and before the general election in the calendar year of the general election may have his or her name placed on the general election ballot for a partisan office by filing petitions as prescribed in Neb. Rev. Stat. 32-617 and Neb. Rev. Stat. 32-621 or by nomination by political party convention or committee pursuant to Neb. Rev. Stat. 32-627 or 32-710.
  - (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. Rev. Stat. 32-625(2) and the candidate files for the office by petition as prescribed in Neb. Rev. Stat. 32-617 and 32-618, files as a write-in candidate as prescribed in Neb. Rev. Stat. 32-615, or is nominated by political party convention or committee pursuant to Neb. Rev. Stat. 32-627 or 32-710. (Neb. Rev. Stat. 32-616)



- (B) Petitions for nomination for partisan and nonpartisan offices shall conform to the requirements of Neb. Rev. Stat. 32-628. Petitions shall state the office to be filled and the name and address of the candidate. Petitions for partisan office shall also indicate the party affiliation of the candidate. Petitions shall be signed by registered voters residing in the ward in which the officer is to be elected, if candidates are chosen by ward, or residing in the municipality, 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. Rev. Stat. 32-607. Petition signers and circulators shall conform to the requirements of Neb. Rev. Stat. 32-629 and 32-630. No petition for nomination shall be filed unless there is attached thereto a receipt showing payment of the filing fee required pursuant to Neb. Rev. Stat. 32-608. The petitions shall be filed by September 1 in the year of the general election. (Neb. Rev. Stat. 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 municipality, 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 municipality, not to exceed 2,000. (Neb. Rev. Stat. 32-618)

(Am. Ord. 2868, 9-2-03)

### **§ 34.09 EXIT POLLS**

No person shall conduct any exit poll, public opinion poll, or any other interview with voters on election day seeking to determine voter preference within 20 feet of the entrance of any polling place room or, if inside the polling place building, within 100 feet of any voting booth. (Neb. Rev. Stat. 32-1525) Penalty, see § 10.14

### **§ 34.10 CERTIFICATE OF NOMINATION OR ELECTION**

- (A) The Election Commissioner or County Clerk shall, on or before the sixth (6th) Monday after the election, prepare, sign, and deliver a certificate of nomination or a certificate of election to each person whom the Canvassing Board has declared to have received the highest vote for each municipal office. No person shall be issued a certificate of nomination as a candidate of a political party unless that person has received a number of votes at least equal to 5% of the total ballots cast at the primary election by registered voters affiliated with that political party in the district which the office for which he or she is a candidate serves. (Neb. Rev. Stat. 32-1033)

(Ord. 2813, 1-16-01) (Am. Ord. 3217, 1-31-25)

## **CHAPTER 35: FINANCE AND REVENUE**

### **§ 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 County and City Lottery Act,

only those net proceeds which are actually received by the City from a licensed lottery operator shall be considered public funds, and public funds shall not include amounts awarded as prizes. (Neb. Rev. Stat. 13-503(7))

(Ord. 2629, 2-21-95)

### **§ 35.02 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. This audit shall be made on a cash or accrual method at the discretion of the City Council. The audit shall be completed and the annual audit report made not later than 6 months after the close of the fiscal year. The accountant making the audit shall submit not less than 3 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 these audits shall appear separately in the annual audit report, and the 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 each year financial statements showing its actual and budgeted figures for the most recently completed fiscal year. (Neb. Rev. Stat. 13-606)

(Am. Ord. 2307, 8-21-84)

### **§ 35.03 CLAIMS; WARRANTS**

- (A) All liquidated and unliquidated claims and accounts payable against the City shall: (1) Be presented in writing; (2) state the name and address of the claimant and the amount of the claim; and (3) fully and accurately identify the items or services for which payment is claimed or the time, place, nature, and circumstances giving rise to the claim.
- (B) As a condition precedent to maintaining an action for a claim, other than a tort claim as defined in Neb. Rev. Stat. 13-903, the claimant shall file such claim within ninety days of the accrual of the claim in the office of the City Clerk.
- (C) The City Clerk shall notify the claimant or his or her agent or attorney by letter mailed to the claimant's address within five days if the claim is disallowed by the City Council.
- (D) No costs shall be recovered against the City in any action brought against it for any claim or for any claim allowed in part which has not been presented to the City Council to be audited, unless the recovery is for a greater sum than the amount allowed with the interest due. (Neb. Rev. Stat. 17-714)
- (E) 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 exist at the time such warrant is drawn obligated funds from the federal government or the State of Nebraska, or both from the federal government and the State of Nebraska, for the general

purpose or purposes of such warrant, then such warrant may be drawn in excess of eighty-five percent of the current levy for the purpose for which it is drawn to the additional extent of one hundred percent of such obligated federal or state funds. No claim shall be audited or allowed unless an order or warrant for the payment thereof may legally be drawn. Neb. Rev. Stat. 17-715)

- (F) 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 that fund. (Neb. Rev. Stat. 17-711)

#### **§ 35.04 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, or the claim for the payment of which such order or warrant is issued has been allowed according to the provisions of Neb. Rev. Stat. 17-714 and 17-715, and funds for the class or object out of which such claim is payable have been included in the adopted budget statement or transferred according to law. (Neb. Rev. Stat. 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.

#### **§ 35.05 EXPENDITURES FROM CONTINGENCY FUND**

Expenditures from the contingency fund of the municipality shall require a 3/4 vote of the City Council. (Ord. 2344, 11-5-85)

#### **§ 35.06 EXPENDITURES EXCEEDING \$1,000**

No municipal official, member of any municipal board or commission, or any other municipal employee, shall obligate or expend municipal funds exceeding the amount of \$1,000, other than for recurring operational expenses and routine repairs and maintenance, without first obtaining the approval of the City Council. (Ord. 2394, 5-5-87; Am. Ord. 2578, 10-19-93; 3090, 9-1-20; 3128, 1-31-25)

#### **§ 35.07 MISCELLANEOUS EXPENDITURES**

- (A) In addition to other expenditures authorized by law, the City Council may approve the expenditure of public funds for the payment of reimbursement of the following authorized expenses incurred by elected and appointed officials, employees, or volunteers at educational workshops, conferences, training programs, official functions, hearings, or meetings, whether incurred within or authorized expenses shall be:
  - (1) Registration costs, tuition costs, fees, or charges;
  - (2) Mileage at the rate allowed by Neb. Rev. Stat. 81-1176, resolution adopted by the governing body, or actual travel expense if travel is authorized by commercial or charter means; and
  - (3) Meals and lodging at a rate not exceeding the applicable federal rate unless a fully itemized claim is submitted substantiating the costs actually incurred in excess of that rate and those additional expenses are expressly approved by the City Council.

- (B) Authorized expenditures shall not include expenditures for meals of members of the City Council provided while the members are attending a public meeting of the City Council unless the meeting is a joint public meeting with one or more other governing bodies.
- (C) No expenditure for authorized expenses shall be approved by the City Council unless the following conditions have been met:
  - (1) Prior to attendance, a request in writing has been made to the Mayor for authority to attend the educational workshop, and the like;
  - (2) The purpose of the attendance has been concisely described in writing by the requesting party to the Mayor and the requesting party shall have submitted in writing to the Mayor an estimated cost for travel and attendance relating to the educational workshop, and the like;
  - (3) Prior to attendance, the Mayor has approved the travel and attendance in writing; and
  - (4) After attendance, the requesting party shall submit to the City Clerk an accounting for reimbursement of actual and necessary authorized expenses incurred by the individual, and the City Council shall consider the claim at its next duly convened meeting.
- (D) In no event shall a claim be submitted or approved for any alcoholic beverages. Nothing in this section shall authorize the expenditure of public funds to pay for any expenses incurred by a spouse or other family member of any elected or appointed official, employee, or volunteer unless the spouse or other family member is also an elected or appointed official, employee, or volunteer of the municipality.

(Ord. 2580, 11-16-93)

#### **§ 35.08 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 the special assessments are assessed or to the lending institution or other party responsible for paying the special assessments. Failure to receive this notice shall not relieve the taxpayer from any liability to pay the 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. Rev. Stat. 18-1216)

#### **§ 35.09 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 this money shall be used for no other purpose whatever, unless to reimburse the municipality for money expended for any such improvement. (Neb. Rev. Stat. 17-710)

## § 35.10 SINKING FUNDS

- (A) The City Council, subject to the limitations set forth in Neb. Rev. Stat. 19-1301 to 19-1304, shall have the power to levy a tax not to exceed ten and five-tenths cents on each one hundred dollars in any one year upon the taxable value of all taxable property within the municipality for a term not to exceed ten years 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 any one or more of the following public improvements, including acquisition of any land incident to the making thereof: Municipal library; municipal auditorium or community house for social or recreational purposes; City hall; municipal public library, auditorium, or community house in a single building; municipal swimming pool and appurtenances thereto; municipal jail; municipal building to house equipment or personnel of a fire department, together with firefighting equipment or apparatus; municipal park; municipal cemetery; municipal medical clinic building, together with furnishings and equipment; or municipal hospital. The City shall not be authorized to levy the tax or to establish the sinking fund as provided in this section if, having bonded indebtedness, the City has been in default in the payment of interest thereon or principal thereof for a period of ten years prior to the date of the passage of the resolution providing for the submission of the proposition for establishment of the sinking fund as required in Neb. Rev. Stat. 19-1303. (Neb. Rev. Stat. 19-1302)
- (B) Before any sinking fund or funds shall be established or before any annual tax shall be levied for planned municipal improvement mentioned in Neb. Rev. Stat. 19-1302 by the City, the City Council shall declare its purpose by resolution to submit to the qualified electors of the municipality at the next general municipal election the proposition to provide the improvement. The resolution shall, among other things, set forth a clear description of the improvement planned, the estimated cost according to the prevailing costs, the amount of the annual levy, over a definite period of years (not exceeding 10 years) required to pay that 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 that election. Notice of the proposition, together with a copy of the official ballot containing the same, shall be published in its entirety three successive weeks before the day of the election in a legal newspaper of general circulation in the municipality. No such sinking fund shall be established unless the same shall have been authorized by a majority or more of the legal votes of such city or village cast for or against the proposition. If less than a majority of the legal votes favor the establishment of the sinking fund, the planned improvement shall not be made, no annual tax shall be levied therefor, and no sinking fund or sinking funds shall be established in connection therewith, but such resolution of submission shall immediately be repealed. If the proposition shall carry at such election in the manner prescribed in this section, the City Council and its successors in office shall proceed to do all things authorized under such resolution of submission but never inconsistent with Neb. Rev. Stat. 19-1301 to 19-1304. Provisions of the statutes of this State relating to election of officers, voting places, election apparatus and blanks, preparation and form of ballots, information to voters, delivery of ballots, conduct of elections, manner of voting, counting of votes, records and certificates of elections, and recounts of votes, so far as applicable, shall apply to voting on the proposition under this section. (Neb. Rev. Stat. 19-1303)
- (C) All funds received by the City Treasurer, by donation or by tax levy, as hereinbefore provided, shall, as they accumulate, be immediately invested by said treasurer, with the written approval of the City Council, in the manner provided in Neb. Rev. Stat. 77-2341. Whenever investments of said sinking fund or funds are made, as aforesaid, the nature and character of the same shall be reported to the City Council, and said investment report shall

be made a matter of record by the City Clerk in the proceedings of the City Council. The sinking fund, or sinking funds, accumulated under the provisions of Neb. Rev. Stat. 19-1301 to 19-1304, shall constitute a special fund, or funds, for the purpose or purposes for which the same was authorized and shall not be used for any other purpose unless authorized by sixty percent of the qualified electors of the City voting at a general election favoring such change in the use of said sinking fund or sinking funds; Provided, that the question of the change in the use of said sinking fund or sinking funds, when it shall fail to carry, shall not be resubmitted in substance for a period of one year from and after the date of said election. (Neb. Rev. Stat. 19-1304)

### **§ 35.11 DEPOSIT OF FUNDS**

- (A) The City Treasurer shall deposit, and at all times keep on deposit, for safekeeping, in banks, capital stock financial institutions, or qualifying mutual financial institutions of approved and responsible standing, all money collected, received, or held by him or her as City Treasurer. Such deposits shall be subject to all regulations imposed by law or adopted by the City Council for the receiving and holding thereof. The fact that a stockholder, director, or other officer of such bank, capital stock financial institution, or qualifying mutual financial institution is also serving as Mayor, as a member of the City Council, or as any other officer of the City shall not disqualify such bank, capital stock financial institution, or qualifying mutual financial institution from acting as a depository for such municipal funds.
- (B)
  - (1) The City Council shall require from all banks, capital stock financial institutions, or qualifying mutual financial institutions:
    - (a) A bond in such penal sum as may be the maximum amount on deposit at any time less the amount insured or guaranteed 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 City Treasurer shall not be liable for any loss of any money sustained by reason of the failure of any such depository so designated and approved. (Neb. Rev. Stat. 17-607)
- (C) The insurance afforded to depositors in banks, capital stock financial institutions, or qualifying mutual financial institutions through the Federal Deposit Insurance Corporation, organized under the laws of the United States, shall be deemed and construed to be, for the purposes of such laws, a surety bond to the extent that the deposits are insured or guaranteed by such corporation, and for deposits so insured or guaranteed, no other surety bond or other security shall be required. (Neb. Rev. Stat. 77-2362)
- (D) Neb. Rev. Stat. 77-2366 shall apply to deposits in capital stock financial institutions. Neb. Rev. Stat. 77-2365.01 shall apply to deposits in qualifying mutual financial institutions. (Neb. Rev. Stat. 17-607, 77-2362)

(Am. Ord. 2769, 2-16-99; 2864, 7-15-03; 2892, 9-7-04; 3090, 9-1-20; 3128, 1-31-25)

### **§ 35.12 CERTIFICATES OF DEPOSIT; TIME DEPOSITS; CONDITIONS**

The City Treasurer may, upon resolution of the Mayor and City Council authorizing the same, purchase certificates of deposit from and make time deposits in any bank, capital stock financial institution, or qualifying mutual financial institution in this State to the extent that those certificates of deposit or time deposits are insured or guaranteed 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 same manner as is provided for cities of the first class in Neb. Rev. Stat. 16-714 through 16-716. Neb. Rev. Stat. 77-2366 shall apply to deposits in capital stock financial institutions. Neb. Rev. Stat. 77-2365.01 shall apply to deposits in qualifying mutual financial institutions. (Neb. Rev. Stat. 17-720)

### **§ 35.13 INVESTMENT OF FUNDS**

Whenever the City has accumulated a surplus of any fund in excess of its current needs or has accumulated a sinking fund for the payment of its bonds and the money in the sinking fund exceeds the amount necessary to pay the principal and interest of any bonds which become due during the current year, the City Council may invest any such surplus in excess of current needs or such excess in its sinking fund in certificates of deposit, in time deposits, and in any securities in which the state investment officer is authorized by law to invest pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act and as provided in the authorized investment guidelines of the Nebraska Investment Council in effect on the date the investment is made. (Neb. Rev. Stat. 77-2341(1)) (Am. Ord. 2463, 12-5-89; 2474, 4-17-90)

### **§ 35.14 BOND ISSUES**

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

### **§ 35.15 DEBT COLLECTION; AUTHORITY TO CONTRACT WITH COLLECTION AGENCY**

- (A) The municipality may contract to retain a collection agency licensed pursuant to Neb. Rev. Stat. 45-601 through 45-622, within or without this State, for the purpose of collecting public debts owed by any person to the 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; and
    - (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 4.5% of the debt, whichever is greater. The collection fee shall be paid by the person who owes the debt directly to the person or agency providing the collection service. (Neb. Rev. Stat. 45-623)

### **§ 35.16 CREDIT CARDS; AUTHORITY TO ACCEPT**

- (A) The City Council may authorize municipal officials to accept credit cards, charge cards, or debit cards, whether presented in person or electronically, or electronic funds transfers as a

method of cash payment of any tax, levy, excise, duty, custom, toll, interest, penalty, fine, license, fee, or assessment of whatever kind or nature, whether general or special, as provided by Neb. Rev. Stat. 77-1702.

- (B) The total amount of the 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, charge card, debit card, or electronic funds transfer shall be collected by the municipal official.
- (C) With respect to a facility which it operates in a proprietary capacity, the City Council may choose to accept credit cards, charge cards, or debit cards, whether presented in person or electronically, or electronic funds transfers as a means of cash payment 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 that service.
- (E) The City Council may choose to participate in the state contract for these payment services. If the City Council chooses not to participate in the state contract, it 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 these 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, but the surcharge or convenience fee shall not exceed the surcharge or convenience fee imposed by the credit card or charge card companies or third-party merchant banks which have contracted with the state or under division (E) of this section. 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 the surcharge or convenience fee shall be deemed voluntary by that person and shall be in no case refundable. If a payment is made electronically by credit card, charge card, debit card, or electronic funds transfer as part of a system for providing or retrieving information electronically, the municipal official shall be authorized but not required to impose an additional surcharge or convenience fee upon the person making a payment.
- (G) For the purpose of this section, the following definition shall apply unless the context clearly indicates or requires a different meaning.

***ELECTRONIC FUNDS TRANSFER.*** The movement of funds by non-paper means, usually through a payment system, including, but not limited to, an automated clearinghouse or the Federal Reserve's Fedwire system. (Neb. Rev. Stat. 13-609)

(Ord. 2770, 2-16-99)



### **§ 35.17 INTERGOVERNMENTAL RISK MANAGEMENT; AUTHORITY**

The City Council and any one or more public agencies, as defined in Neb. Rev. Stat. 44-4303, may make and execute an agreement providing for joint and cooperative action in accordance with Neb. Rev. Stat. 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. Rev. Stat. 44-4301 through 44-4339)

(Ord. 2414, 10-6-87)

### **CONTRACTS AND PURCHASES**

### **§ 35.30 CONTRACTS AND PURCHASES; BIDDING AND OTHER REQUIREMENTS**

- (A) Except as provided in Neb. Rev. Stat. 18-412.01, 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 thirty thousand dollars, shall be made unless it is first approved by the City Council.
- (B) Except as provided in Neb. Rev. Stat. 18-412.01, before the City Council makes any contract in excess of thirty thousand dollars for enlargement or general improvements, such as water extensions, sewers, public heating system, bridges, work on streets, or any other work or improvement when the cost of such enlargement or improvement is assessed to the property, an estimate of the cost shall be made by the City Engineer and submitted to the City Council. In advertising for bids as provided in subsections (C) and (E) of this section, the City Council may publish the amount of the estimate.
- (C) Advertisements for bids shall be required for any contract costing over \$30,000 entered into:
  - (1) For enlargement or general improvements, such as water extensions, sewers, public heating system, bridges, work on streets, or any other work or improvement when the cost of that enlargement or improvement is assessed to the property; or
  - (2) For the purchase of equipment used in the construction of the 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 that enlargement or improvement without advertising for bids if the price is:
  - (1) \$30,000 or less;
  - (2) \$60,000 or less and the municipal electric utility has gross annual revenue from retail sales in excess of \$1,000,000;
  - (3) \$90,000 or less and the municipal electric utility has gross annual revenue from retail sales in excess of \$5,000,000; or

- (4) \$120,000 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) and (D) of this section shall be published at least 7 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. Rev. Stat. 17-613 when adopted by a three-fourths vote of the City Council and entered of record.
- (F) If, after advertising for bids as provided in this section, the City Council receives fewer than two bids on a contract or if the bids received by the 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 the materials and may thereafter approve the estimated cost expenditure when it is provided by the manufacturer. (Neb. Rev. Stat. 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. Rev. Stat. 81-145 through 81-162; or
  - (2) When the contract is negotiated directly with a sheltered workshop pursuant to Neb. Rev. Stat. 48-1503. (Neb. Rev. Stat. 17-568.02)
- (I)
- (1) 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.
  - (2) For the purpose of this division (I), the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**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.

**PURCHASING or PURCHASE.** The obtaining of personal property by sale, lease, or other contractual means. (Neb. Rev. Stat. 18-1756)

(Am. Ord. 2271, 10-4-83; 2724, 1-20-98; 2754, 10-20-98)

### **§ 35.31 BIDS; ADVERTISEMENT CONTENT; BID OPENING**

In advertising for bids for road contract work, public improvements work, or for supplies, construction, repairs, and improvements, and in all other cases where bids for supplies or work of any character whatsoever are received for the municipality or any of its departments or agencies, there shall be fixed not only the day upon which the bids shall be returned, received, or opened, but also the hour at which the bids shall close, or be received, or opened, and it shall be provided that the bids shall be immediately and simultaneously opened in the presence of the bidders or representatives of the bidders when the hour is reached for the bids to close; provided, that where bids are being opened on more than one contract, the officials having charge of the opening of the bids may, if they deem it advisable, award each contract as the bids are opened. (Neb. Rev. Stat. 73-101)

### **§ 35.32 RESIDENT AND NONRESIDENT BIDDERS**

- (A) When a public contract is to be awarded to the lowest responsible bidder, a resident bidder shall be allowed a preference over a nonresident bidder from a state which gives or requires a preference to bidders from that state. The preference shall be equal to the preference given or required by the state of the nonresident bidder. Resident bidder as used herein shall mean any person, partnership, association, or foreign or domestic corporation authorized to engage in business in this State and who shall have met the residence requirements of the state of the nonresident bidders, necessary for receiving the benefit of that state's preference law on the date when any bid for a public contract is first advertised or announced, or has had a bona fide establishment for doing business within this State for the length of time established by the state of the nonresident bidders, necessary for receiving the benefit of that state's preference law on the date when any bid for a public contract is first advertised or announced.
- (B) Any contract entered into without compliance with this section shall be null and void. The provisions of this section shall not apply to any contract for any project upon which federal funds would be withheld because of these provisions. (Neb. Rev. Stat. 73-101.01 and 73-101.02)

### **§ 35.33 FAIR LABOR STANDARDS; COMPLIANCE REQUIRED**

- (A) Statement of compliance. In awarding contracts for public works, all contractors bidding shall be required to file with the municipality a statement that they are complying with, and will continue to comply with, fair labor standards in the pursuit of their business and in the execution of the contract on which they are bidding. There shall be written into each and every contract for public works, in addition to other provisions as are necessary and prescribed by law, a provision that in the execution of the contract fair labor standards shall be maintained. (Neb. Rev. Stat. 73-102)
- (B) Noncompliance; bidder disqualification. A showing in a public hearing by interested parties, to the satisfaction of the letting authority, that any contractor bidding upon public works and having filed the statement as required herein, has not complied with fair labor standards in the pursuit of his or her business or occupation, shall be the basis for disqualification of the low bid, in which case the awarding authority shall let the bid to the next lowest responsible bidder. (Neb. Rev. Stat. 73-103)
- (C) Definition. For the purpose of this section, the following definition shall apply unless the context clearly indicates or requires a different meaning.

***FAIR LABOR STANDARDS.*** A scale of wages and conditions of employment as are paid and maintained by at least 50% of the contractors in the same business or field of endeavor as the contractor filing the statement. (Neb. Rev. Stat. 73-104)

#### **§ 35.34 VIOLATIONS; EARLY OPENING OR DISCLOSURE**

It shall be unlawful for any officer or person who may be in charge of any bids referred to herein prior to the time fixed for the simultaneous opening, to open prior to that time, or otherwise disclose to any bidder the contents, amount, or other details of any rival bid. (Neb. Rev. Stat. 73-105) Penalty, see § 10.14

### **ANNUAL BUDGET**

#### **§ 35.45 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. Rev. Stat. 17-701) (Am. Ord. 2573, 8-17-93; 2683, 6-17-97)

#### **§ 35.46 BUDGET PROCEDURES**

The budget instruction manual prepared by the Auditor of Public Accounts is incorporated by reference for the purpose of proper budget preparation.

#### **§ 35.47 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, those 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. These expenditures shall be charged against the appropriations for each individual fund or purpose as provided in the budget when adopted. (Neb. Rev. Stat. 13-509.01)
- (B) The restriction on expenditures in 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. Rev. Stat. 13-509.02) (Ord. 2630, 2-21-95)

#### **§ 35.48 PROPOSED BUDGET STATEMENT; CONTENTS; AVAILABILITY; CORRECTION**

- (A) The City Council shall annually prepare a proposed budget statement on forms prescribed and furnished by the Auditor of Public Accounts. The proposed budget statement shall be made available to the public prior to publication of the notice of the hearing on the proposed budget statement pursuant to Neb. Rev. Stat. 13-506. A proposed budget statement shall contain the following information, except as provided by state law:
  - (1) For the immediately preceding fiscal year, the revenue from all sources, including motor vehicle taxes, other than revenue received from personal and real property

- taxation, allocated to the funds and separately stated as to each such source: the unencumbered cash balance at the beginning and end of the year; the amount received by taxation of personal and real property; and the amount of actual expenditures;
- (2) For the current fiscal year, actual and estimated revenue from all sources, including motor vehicle taxes, allocated to the funds and separately stated as to each such source: the actual unencumbered cash balance available at the beginning of the year; the amount received from personal and real property taxation; and the amount of actual and estimated expenditures, whichever is applicable. The statement shall contain the cash reserve for each fiscal year and shall note whether or not the reserve is encumbered. The cash reserve projections shall be based upon the actual experience of prior years. The cash reserve shall not exceed 50% of the total budget adopted exclusive of capital outlay items;
  - (3) For the immediately ensuing fiscal year, an estimate of revenue from all sources, including motor vehicle taxes, other than revenue to be received from taxation of personal and real property, separately stated as to each such source: the actual or estimated unencumbered cash balances, whichever is applicable, to be available at the beginning of the year; the amounts proposed to be expended during the year; and the amount of cash reserve, based on actual experience of prior years, which cash reserve shall not exceed 50% of the total budget adopted exclusive of capital outlay items;
  - (4) A statement setting out separately the amount sought to be raised from the levy of a tax on the taxable value of real property:
    - (a) (a) For the purpose of paying the principal or interest on bonds issued or authorized to be issued by the City Council or the legal voters of the City; and
    - (b) (b) For all other purposes.
  - (5) A uniform summary of the proposed budget statement, including each proprietary function fund included in a separate proprietary budget statement prepared pursuant to the Municipal Proprietary Function Act, and a grand total of all funds maintained by the City Council; and
  - (6) A list of the proprietary functions which are not included in the budget statement. The 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.
  - (C) The municipality shall correct any material errors in the budget statement detected by the Auditor of Public Accounts or by other sources. (Neb. Rev. Stat. 13-504)
  - (D) The estimated expenditures plus the required cash reserve for the ensuing fiscal year less all estimated and actual unencumbered balances at the beginning of the year and less the estimated income from all sources, including motor vehicle taxes, other than taxation of personal and real property shall equal the amount to be received from taxes, and this amount shall be shown on the proposed budget statement pursuant to this section. The amount to be raised from taxation of personal and real property, as determined above, plus the estimated revenue from other sources, including motor vehicle taxes, and the unencumbered balances shall equal the estimated expenditures, plus the necessary required cash reserve, for the ensuing year. (Neb. Rev. Stat. 13-505)

(Am. Ord. 2306, 8-21-84; 2590, 6-21-94; 2701, 7-1-97; 2755, 10-20-98; 3127, 1-31-25)

**§ 35.49 PROPOSED BUDGET STATEMENT; HEARING; ADOPTION; CERTIFICATION OF AMOUNT TO BE RECEIVED FROM TAXATION**

- (A) The City Council shall each year conduct a public hearing on its proposed budget statement. Notice of the place and time of the hearing, together with a summary of the proposed budget statement, shall be published at least 5 days prior to the date set for the hearing in a newspaper of general circulation 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 the 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 or authorized to be issued by the City Council or the legal voters of the City; and
  - (2) The amount to be received for all other purposes. (Neb. Rev. Stat. 13-506)
- (C) If the adopted budget statement reflects a change from that shown in the published proposed budget statement, a summary of the 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 the changes. (Neb. Rev. Stat. 13-506)
- (D) When a levy increase has been authorized by vote of the electors, the adopted budget statement shall indicate the amount of the levy increase. (Neb. Rev. Stat. 13-507)

(Am. Ord. 2862, 7-1-03; 3127, 1-31-25)

**§ 35.50 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 30 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 or authorized to be issued by the City Council or the legal voters of the City; 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 these 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 that body by this section. (Neb. Rev. Stat. 13-508)

(Am. Ord. 2591, 6-21-94; 2685, 6-17-97; 2702, 7-1-97; 2757, 10-20-98; 3127, 1-31-25)

### **§ 35.51 APPROPRIATION BILL**

The City Council shall adopt a budget statement pursuant to the State 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. Rev. Stat. 17-706) (Am. Ord. 2593, 6-21-94; 2686, 6-17-97)

### **§ 35.52 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 the proposal whenever during the current fiscal year it becomes apparent to the City Council that:
- (1) There are circumstances which could not reasonably have been anticipated at the time the budget for the current year was adopted;
  - (2) The budget adopted violated Neb. Rev. Stat. 13-518 through 13-522, so that the revenue of the current fiscal year for any fund thereof will be insufficient, additional expenses will be necessarily incurred, or there is a need to reduce the budget requirements to comply with Neb. Rev. Stat. 13-518 through 13-522; or
  - (3) The City Council has been notified by the Auditor of Public Accounts of a mathematical or accounting error or noncompliance with the State Budget Act.
- (B) Notice of the time and place of the hearing shall be published at least 5 days prior to the date set for hearing in a newspaper of general circulation within the municipality. The published notice shall set forth:
- (1) The time and place of the hearing;
  - (2) The amount in dollars of additional or reduced money required and for what purpose;
  - (3) A statement setting forth the nature of the unanticipated circumstances and, if the budget requirements are to be increased, the reasons why the previously adopted budget of expenditures cannot be reduced during the remainder of the current year to meet the need for additional money in that manner;
  - (4) A copy of the summary of the originally adopted budget previously published; and
  - (5) A copy of the summary of the proposed revised budget.
- (C) At the hearing any taxpayer may appear or file a written statement protesting any application for additional money. A written record shall be kept of all these 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 the City is located, and with the Auditor of Public Accounts, a copy of the revised budget, as adopted. The City Council may then issue warrants in payment for expenditures authorized by the adopted revised budget. These warrants shall be referred to as registered warrants and shall be repaid during the next fiscal year from funds derived from taxes levied therefor.
- (E) Within 30 days after the adoption of the budget under Neb. Rev. Stat. 13-506, the City Council may, or within 30 days after notification of an error by the Auditor of Public Accounts, the City Council shall, correct an adopted budget which contains a clerical, mathematical, or accounting error which does not affect the total amount budgeted by more

than 1% or increase the amount required from property taxes. No public hearing shall be required for such a correction. After correction, the City Council shall file a copy of the corrected budget with the County Clerk and with the Auditor of Public Accounts. The City Council may then issue warrants in payment for expenditures authorized by the budget. (Neb. Rev. Stat. 13-511)

(Am. Ord. 2850, 7-1-02; 2861, 7-1-03)

### **§ 35.53 PROPRIETARY FUNCTIONS; FISCAL YEAR; BUDGET STATEMENTS; FILING; HEARING; ADOPTION; RECONCILIATION**

- (A) (1) 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 State Budget Act.
- (2) For the purpose of this section, the following definition shall apply unless the context clearly indicates or requires a different meaning.

***PROPRIETARY FUNCTION.*** 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. Rev. Stat. 18-2803(5))

- (B) (1) 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.
- (2) For the purpose of this section, the following definition shall apply unless the context clearly indicates or requires a different meaning.

***SUBSIDIZATION.*** 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. Rev. Stat. 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 2 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 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 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) This statement shall contain the estimated cash reserve for each fiscal year and shall note whether or not the reserve is encumbered. The cash reserve projections shall be based upon the actual experience of prior years. (Neb. Rev. Stat. 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 the 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 5 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 the hearing, the proposed proprietary budget statement shall be adopted or amended and adopted as amended, and a written report shall be kept of the 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 legal newspaper in or of general circulation within the City Council's jurisdiction or by mailing to each resident within the City Council's jurisdiction. (Neb. Rev. Stat. 18-2806)
  - (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 the fiscal year which reflects any difference between the adopted proprietary budget statement for the previous fiscal year and the actual expenditures and revenue for the fiscal year. After the adoption of a proprietary function reconciliation statement, it shall be filed with the Municipal Clerk and published in a legal newspaper in or 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 the fiscal year is greater than 10%, the proprietary function reconciliation statement shall only be adopted following a public hearing. (Neb. Rev. Stat. 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 State Budget Act. (Neb. Rev. Stat. 18-2808)
- (Ord. 2574, 8-17-93; Am. Ord. 2592, 6-21-94; 3127, 1-31-25)

### TAX LEVIES

#### **§ 35.65 ALL-PURPOSE LEVY; ALLOCATION; ABANDONMENT; EXTRAORDINARY LEVIES**

- (A) The City Council has decided to certify to the County Clerk for collection one all-purpose levy required to be raised by taxation for all municipal purposes instead of certifying a schedule of levies for specific purposes added together. Subject to the limits in Neb. Rev. Stat. 77-3442, the all-purpose levy shall not exceed the annual levy specified in Neb. Rev. Stat. 19-1309 to be levied upon the taxable valuation of all taxable property in the municipality. (Neb. Rev. Stat. 19-1309)

- (1) The amount of the all-purpose levy shall be certified as a single amount for general fund purposes. (Neb. Rev. Stat. 19-1312)
- (2) The City Council shall allocate the amount raised by the all-purpose levy to the several departments of the municipality in its annual budget and appropriation ordinance, or in other legal manner, as the City Council deems wisest and best. (Neb. Rev. Stat. 19-1310)
- (B) The municipality shall be bound by its election to follow the all-purpose levy method during the ensuing fiscal year but may abandon the method in succeeding fiscal years. (Neb. Rev. Stat. 19-1311)
- (C) Otherwise authorized extraordinary levies to service and pay bonded indebtedness of the municipality may be made by the municipality in addition to the all-purpose levy. (Neb. Rev. Stat. 19-1309)

(Am. Ord. 2752, 10-20-98)

### **§ 35.66 PROPERTY TAX LEVY; MAXIMUM; AUTHORITY TO EXCEED**

- (A) Property tax levies for the support of the City for fiscal years beginning on or after July 1, 1998, shall be limited to the amounts set forth in this division (A), except as provided in division (C). The City may levy a maximum levy of \$0.45 per \$100 of taxable valuation of property subject to the levy plus an additional \$0.05 per \$100 of taxable valuation to provide financing for the City's share of revenue required under an agreement or agreements executed pursuant to the Interlocal Cooperation Act or the Joint Public Agency Act. The maximum levy shall include amounts levied to pay for sums to support a library pursuant to Neb. Rev. Stat. 51-201, museum pursuant to Neb. Rev. Stat. 51-501, visiting community nurse, home health nurse, or home health agency pursuant to Neb. Rev. Stat. 71-1637, or statue, memorial, or monument pursuant to Neb. Rev. Stat. 80-202. Property tax levies for judgments, except judgments or orders from the Commission of Industrial Relations, obtained against the City which require or obligate the City to pay the judgment, to the extent the judgment is not paid by liability insurance coverage of the City, for preexisting lease-purchase contracts approved prior to July 1, 1998, for bonded indebtedness approved according to law and secured by a levy on property, and for payments by a public airport to retire interest-free loans from the Department of Aeronautics in lieu of bonded indebtedness at a lower cost to the public airport 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. Rev. Stat. 77-1606 unless approved under division (C). (Neb. Rev. Stat. 77-3442)
- (B) (1) All city airport authorities established under the Cities Airport Authorities Act, community redevelopment authorities established under the Community Development Law, and off-street parking districts established under the Offstreet Parking District Act may be allocated property taxes as authorized by law which are authorized by the City and are counted in the municipal levy limit provided by division (A), except that the limitation shall not apply to property tax levies for preexisting lease-purchase contracts approved prior to July 1, 1998, for bonded indebtedness approved according to law and secured by a levy on property, and for payments by a public airport to retire interest-free loans from the Department of Aeronautics in lieu of bonded indebtedness at a lower cost to the public airport. For off-street parking districts established under the Offstreet Parking District Act, the tax shall be counted in the allocation by the City proportionately, by dividing the total

taxable valuation of the taxable property within the district by the total taxable valuation of the taxable property within the City multiplied by the levy of the district. 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 City may be exceeded as provided in division (C).

- (2) On or before August 1, all political subdivisions subject to municipal levy authority under this division (B) shall submit a 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 that political subdivision from using procedures set forth in Neb. Rev. Stat. 77-3444 to exceed the final levy allocation as determined in this division (B).
  - (3) (a) The City Council shall:
    - 1. Adopt a resolution by a majority vote of members present which determines a final allocation of levy authority to its political subdivisions; and
    - 2. Forward a copy of the resolution to the chairperson of the governing body of each of its political subdivisions.(b) 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. (Neb. Rev. Stat. 77-3443)
- (C)
- (1) The City may exceed the limits provided in division (A) 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) (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 City; or
    - (b) Upon receipt of a petition by the County Clerk or Election Commissioner of every county containing all or part of the City requesting an election signed by at least 5% of the registered voters residing in the City.
  - (3) The resolution or petition shall include the amount of levy which would be imposed in excess of the limits provided in division (A) and the duration of the excess levy authority. The excess levy authority shall not have a duration greater than 5 years. Any resolution or petition calling for a special election shall be filed with the County Clerk or Election Commissioner on or before the eighth Friday prior to the election, and the time of publication and providing a copy of the notice of election required in Neb. Rev. Stat. 32-802 shall be no later than 20 days prior to the election.
  - (4) 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 31 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. Rev. Stat. 32-628 through 32-631.

- (5) 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 (C)(8), whichever is earliest.
- (6) The City Council may pass no more than one resolution calling for an election pursuant to this division (C) during any calendar year. Only one election may be held in any calendar year pursuant to a petition initiated under this division (C). The ballot question may include any terms and conditions set forth in the resolution or petition and shall include the language specified in Neb. Rev. Stat. 77-3444.
- (7) If a majority of the votes cast upon the ballot question are in favor of the tax, the County Board shall authorize a tax in excess of the limits in division (A), but the tax shall not exceed the amount stated in the ballot question. If a majority of those voting on the ballot question are opposed to the tax, the City Council shall not impose the tax.
- (8)
  - (a) The City may rescind or modify a previously approved excess levy authority prior to its expiration by a majority of registered voters voting on the issue in a primary, general, or special election at which the issue is placed before the registered voters. A vote to rescind or modify must be approved prior to October 10 of the fiscal year for which it is to be effective.
  - (b) The City Council may call for the submission of the issue to the voters:
    - 1. By passing a resolution calling for the rescission or modification by a vote of at least two-thirds of the members of the City Council and delivering a copy of the resolution to the County Clerk or Election Commissioner of every county which contains all or part of the City; or
    - 2. Upon receipt of a petition by the County Clerk or Election Commissioner of every county containing all or part of the City requesting an election signed by at least 5% of the registered voters residing in the City.
  - (c) The resolution or petition shall include the amount and the duration of the previously approved excess levy authority and a statement that either the excess levy authority will be rescinded or the excess levy authority will be modified. If the excess levy authority will be modified, the amount and duration of the modification shall be stated. The modification shall not have a duration greater than 5 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 31 days after receipt of the resolution or petition, and the time of publication and providing a copy of the notice of election required in Neb. Rev. Stat. 32-802 shall be no later than 20 days prior to the election. The election shall be held pursuant to the Election Act. (Neb. Rev. Stat. 77-3444)

(Am. Ord. 2863, 7-15-03; 3127, 1-31-25)

### **§ 35.67 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. Rev. Stat. 77-3442, the maximum amount of tax which may be so certified, assessed, and collected shall not require a tax levy in excess of the amounts specified in Neb. Rev. Stat. 17-702. (Am. Ord. 2758, 10-20-98)

### **§ 35.68 PROPERTY TAX LEVY AND REQUEST; AUTHORITY TO SET**

- (A) The property tax request for the prior year shall be the property tax request for the current year for purposes of the levy set by the County Board of Equalization in Neb. Rev. Stat. 77-1601 unless the City Council passes by a majority vote a resolution or ordinance setting the tax request at a different amount. The resolution or ordinance shall only be passed after a special public hearing called for the purpose is held and after notice is published in a newspaper of general circulation in the area of the municipality at least 5 days prior to the hearing.
- (B) The hearing notice shall contain the following information:
  - (1) The dollar amount of the prior year's tax request and the property tax rate that was necessary to fund that tax request;
  - (2) The property tax rate that would be necessary to fund last year's tax request if applied to the current year's valuation; and
  - (3) The proposed dollar amount of the tax request for the current year and the property tax rate that will be necessary to fund that tax request.
- (C) Any resolution setting a tax request under this section shall be certified and forwarded to the County Clerk prior to October 14 of the year for which the tax request is to apply.
- (D) Any tax levy which is not in compliance with this section and Neb. Rev. Stat. 77-1601 shall be construed as an unauthorized levy under Neb. Rev. Stat. 77-1606. (Neb. Rev. Stat. 77-1601.02)

(Ord. 2703, 7-1-1997; Am. Ord. 2751, 10-20-98; 2814, 1-16-01)

### **§ 35.69 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. Rev. Stat. 18-1214)

(Ord. 2432, 10-4-88; Am. Ord. 2464, 12-5-89)

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## **CHAPTER 50: GENERAL PROVISIONS**

### **§ 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. Rev. Stat. 70-1601)

### **§ 50.02 UTILITY BILLS; COLLECTION**

- (A) Charges for utility services provided by or through the City shall be billed monthly following consumption and reading of meters. The billing cycle as set forth each year shall be determined on the basis that each customer account will be billed for 12 individual months of consumption. The bill is due upon receipt and becomes delinquent one day after the due date printed thereon.
- (B) Courtesy disconnect notices will be mailed for all bills which become delinquent, and the cutoff date will be in accordance with the delinquent date as shown on the courtesy notice. The procedure for discontinuance of service shall be as set forth in § 50.03. The service shall remain disconnected until such charges are paid. A reconnection fee shall be charged as set forth by ordinance.

(Am. Ord. 2962, 9-4-07)



### **§ 50.03 DISCONTINUANCE OF SERVICE; NOTICE PROCEDURE**

- (A) The City shall have the right to discontinue utility services and remove its properties if the charges for those services are not paid within seven days after the date that the charges become delinquent. Before any termination, the City shall first give notice by first-class mail or in person to any domestic subscriber whose service is proposed to be terminated. If notice is given by first-class mail, that mail shall be conspicuously marked as to its importance. Service shall not be discontinued for at least seven days, weekends and holidays excluded, after notice is sent or given. As to any subscriber who has previously been identified as a welfare recipient to the City by the Department of Health and Human Services, the notice shall be by certified mail, and notice of the proposed termination shall also be given to HHS.
- (B) The notice shall contain the following information:
- (1) The reason for the proposed disconnection;
  - (2) A statement of the intention to disconnect unless the domestic subscriber either pays the bill or reaches an agreement with the 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 the proposed disconnection;
  - (6) A statement that the City may not disconnect service pending the conclusion of the conference;
  - (7) A statement to the effect that disconnection may be postponed or prevented upon presentation of a duly licensed physician's certificate which shall certify that the domestic subscriber or a resident within such subscriber's household has an existing illness or handicap which would cause the subscriber or resident to suffer an immediate and serious health hazard by the disconnection of the City's service to that household. This certificate shall be filed with the City within 5 days of receiving notice under this section and will prevent the disconnection of service for a period of 30 days from that filing. Only one postponement of disconnection shall be allowed under this division for each incidence of nonpayment of any past-due account;
  - (8) The cost that will be borne by the domestic subscriber for restoration of service;
  - (9) A statement that the domestic subscriber may arrange with the City for an installment payment plan;
  - (10) A statement to the effect that those domestic subscribers who are welfare recipients may qualify for assistance in payment of their utility bill and that they should contact their caseworker in that regard; and
  - (11) Any additional information not inconsistent with this section which has received prior approval from the City Council.
- (C) A domestic subscriber may dispute the proposed discontinuance of service by notifying the City with a written statement that sets forth the reasons for the dispute and the relief requested. If a statement has been made by the subscriber, a conference shall be held before the City may discontinue services.
- (D) The procedures adopted by the City Council for resolving utility bills, three copies of which are on file in the office of the 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 City for reasons of repair or maintenance or to protect the health or safety of the domestic subscriber or of the general public.

(Am. Ord. 2311, 8-21-84; 2705, 7-1-97)

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

- (A) It is an offense for any person:
- (1) To connect any instrument, device, or contrivance with any wire supplying or intended to supply electricity or electric current or to connect any pipe or conduit supplying water, without the knowledge and consent of the City, in such a manner that any portion thereof may be supplied to any instrument by or at which electricity, electric current, or water may be consumed without passing through the meter made or provided for measuring or registering the amount or quantity thereof passing through it;
  - (2) To knowingly use or knowingly permit the use of electricity, electric current, or water obtained unlawfully pursuant to this section;
  - (3) To reconnect electrical or water service without the knowledge and consent of the City if the service has been disconnected pursuant to Neb. Rev. Stat. 70-1601 through 70-1615 or any section of this Code; or
  - (4) To willfully injure, alter, or by any instrument, device, or contrivance in any manner interfere with or obstruct the action or operation of any meter made or provided for measuring or registering the amount or quantity of electricity, electric current, or water passing through it, without the knowledge and consent of the City.
- (B) Proof of the existence of any wire, pipe, or conduit connection or reconnection or of any injury, alteration, interference, or obstruction of a meter is prima facie evidence of the guilt of the person in possession of the premises where that connection, reconnection, injury, alteration, interference, or obstruction is proved to exist. (Neb. Rev. Stat. 28-515.02) Penalty, see § 10.14

**§ 50.05 DIVERSION OF SERVICES; PENALTY**

- (A) For purposes of this section, the definitions found in Neb. Rev. Stat. 25-21,275 shall apply.
- (B)
- (1) The City may bring a civil action for damages against any person who commits, authorizes, solicits, aids, abets, or attempts (a) bypassing, (b) tampering, or (c) unauthorized metering when that act results in damages to a municipal utility. The City may bring a civil action for damages pursuant to this section against any person receiving the benefit of utility service through means of bypassing, tampering, or unauthorized metering.
  - (2) In any civil action brought pursuant to this section, the City shall be entitled, upon proof of willful or intentional bypassing, tampering, or unauthorized metering, to recover as damages:
    - (a) The amount of actual damage or loss if the amount of the damage or loss is susceptible of reasonable calculation; or
    - (b) Liquidated damages of \$750 if the amount of actual damage or loss is not susceptible of reasonable calculation.
  - (3) In addition to damage or loss under division (B)(2)(a) or (B)(2)(b), the City may recover all reasonable expenses and costs incurred on account of the bypassing,

tampering, or unauthorized metering, including, but not limited to, disconnection, reconnection, service calls, equipment, costs of the suit, and reasonable attorneys' fees in cases within the scope of Neb. Rev. Stat. 25-1801. (Neb. Rev. Stat. 25-21,276)

- (C) (1) 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 that bypassing, tampering, or unauthorized metering if the tenant or occupant:
  - (a) 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
  - (b) 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.
- (2) 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 that bypassing, tampering, or unauthorized metering if the customer controlled access to the part of the utility supply system on the premises where the bypassing, tampering, or unauthorized metering was proven to exist. (Neb. Rev. Stat. 25-21,277)
- (D) The remedies provided by this section shall be deemed to be supplemental and additional to powers conferred by existing laws. The remedies provided in this section are in addition to and not in limitation of any other civil or criminal statutory or common-law remedies. (Neb. Rev. Stat. 25-21,278) Penalty, see § 10.14

(Am. Ord. 2274, 10-4-83)

#### **§ 50.06 LIEN**

In addition to all other remedies, if a customer shall for any reason remain indebted to the City for water and sewer services furnished, the 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 all utilities services 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 as to water and sewer services to be collected as a special tax in the manner provided by law. (Neb. Rev. Stat. 17-538 and 18-503)

#### **§ 50.07 EXCAVATIONS**

No excavation or excavation of trenches in any street, avenue, alley, or public ground in the City, for water, gas, sewer pipes, electric conduits, or for any other purpose, shall be made by any person without first having filed an application with and securing a permit from the Utilities Superintendent. All such excavations shall be replaced in a good and workmanlike manner and all paving materials or other materials shall be renewed or replaced in a perfect or substantial condition as before excavating. The soil shall be packed to the same density as the natural soil adjacent thereto. The filling of the excavation and renewing and replacement of paving material or other materials shall be done by the City at the expense of the applicant. The applicant shall make a deposit with the Clerk to cover the cost of refilling the excavation and replacing or renewing the paving material or other materials. Penalty, see § 10.14

## **§ 50.08 UTILITY FEES**

- (A) The general fees, charges, and regulations relating to utility services provided by the City are those figures and terms set forth hereafter. The schedules and terms shall be on file in the office of the Municipal Clerk for public inspection at normal hours of operation.
- (B) A deposit shall be required of all customers requesting utility service unless they meet one of the exceptions as outlined in (D). The deposit must be paid prior to the service being connected. Deposits are not transferable between customers. Any customer who has his or her deposit waived or refunded as outlined in (D) or (E), and thereafter has the service cutoff for nonpayment of bills shall be required to make a deposit in the amount set forth herein. Commercial customers may provide a surety of performance bond by an insurance company or bonding company as their form of deposit.
- (C) Residential: \$150.00  
Commercial: One and one half (1.5) of monthly charge based on average from previous twelve months. In case of a new business, an estimated amount of deposit will suffice. Upon request of the customer, a review of the charges can be made after six months of usage and the deposit amount adjusted accordingly.
- (D) Deposits may be waived for customers who have maintained a good payment record as evidenced by payment of previous utility bills to the City prior to the cutoff date. The payment record to be analyzed shall include up to two years of the most recent utility bills. Any history of extensions, utility shut offs, or other outstanding bills/invoices with the City shall disqualify a customer from being exempt from the utility deposit requirement. Deposits may also be waived for customers who provide proof of financial responsibility as evidenced by a current payment record from the previous utility dating back two years. The City Administrator shall have the authority to make the final decision regarding the waiving of a utility deposit.
- (E) Customers who maintain a good payment record for two (2) years, as evidenced by payment of utility bills prior to the cutoff date, shall have their deposit refunded. The payment record to be analyzed shall include up to two years of the most recent utility bills. Any history of extensions, utility shut offs, or other outstanding bills/invoices with the City shall disqualify a customer from having their utility deposit refunded. Refunds shall be made to the person who made the deposit, their heirs, successors, or assigns. If the customer is the person who made the deposit, the deposit shall be applied to their utility account.  
  
If a customer is cancelling utility service altogether, the utility deposit will not be refunded until the final bill is paid. If the customer is the person who made the deposit, the deposit shall be applied toward the final bill. If there is a credit on the account after the final bill is paid, a check with the remaining amount will be sent to the person who made the deposit. If the customer is not the person who made the deposit, the deposit will be applied to the final bill if the final bill is not paid within (30) days after the due date.
- (F) A separate utility deposit shall be required for all separately metered properties, even if they are owned by the same customer. The deposits for multiple properties can be waived in accordance with (D).
- (G) In instances of a rental property where the tenant has requested utility services be put into their name, a deposit shall be required, even if a deposit has already been made under the landlord's name. The deposit received under the landlord's name shall be kept on file with the City, even if a renter has a deposit on file for the same address. Both of these deposits are subject to the same exceptions and refunds as outlined in (D) and (E).

- (H) Customers who are moving from one service address to another will have their deposit transferred from the original service address to the new service address.
- (I) In the instance that a customer has moved to a different service address, the City reserves the right to disconnect utility services at the new address unless and until all billings at any and all previous service addresses are paid in full. If a customer has multiple properties, the City reserves the right to disconnect services to any and all the customer's properties due to failure to pay at a single property.

Disconnection shall be postponed or prevented upon presentation of a duly licensed physician's, physician assistants, or advanced practice registered nurse's certificate, which shall certify that a resident within the household has an existing illness or handicap which would cause the resident to suffer an immediate and serious health hazard by the disconnection of the utility's service to that household. Such certificate shall be filed with the City within five days of receiving the courtesy notice, excluding holidays and weekends, and will prevent the disconnection of the utility's service for a period of at least (30) days from such filing.
- (J) All delinquent bills shall be assessed a five percent (5%) late fee on the outstanding balance. This late fee can be waived by the City Administrator if extenuating circumstances are present.
- (K) A customer who knows that they are going to be unable to make the full payment of their utility bill by the due date can request an extension. Customers can request an extension for their full bill or part of the bill. A late fee will still apply to the outstanding balance. Customers are allowed one extension every six months. Extensions shall not be for more than two weeks following the cutoff date unless extenuating circumstances are present. Utility bill extensions require City Administrator approval. The sole and final discretion of an extension rests with the City Administrator.

(Ord. 3107, 4-19-2022)

## CHAPTER 51: WATER

### § 51.01 DEFINITIONS

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning. Where no definition is specified, the normal dictionary usage of the word shall apply.

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

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

**SUPPLY PIPE.** Any pipe tapped into a main and extending from there to a point at or near the lot line of the consumer's premises where the shutoff, stop box, or curb cock is located.

### CONNECTION

#### **§ 51.15 APPLICATION FOR SERVICE**

Every person or persons desiring a supply of water must make application therefor to the Utilities Superintendent. The Superintendent may require any applicant to make a service deposit in the amount as has been set by the City Council and placed on file at the office of the Municipal Clerk. Water may not be supplied to any house or private service pipe except upon the order of the Superintendent. (Neb. Rev. Stat. 17-537) Penalty, see § 10.14

#### **§ 51.16 SERVICE TO NONRESIDENTS**

The Department shall not supply water service to any person outside the corporate limits without special permission from the City Council; provided, the entire cost of laying mains, service pipe, and supply pipe shall be paid by the consumer. Every person or persons so desiring a supply of water shall make a written application for this special permission. The application shall be signed by the applicant(s) and shall include a statement that the applicant(s) consents to the annexation of the property to which service is being extended if the same is presently or subsequently contiguous to the corporate limits of the City. Nothing herein shall be construed to obligate the City to provide water service to nonresidents. (Neb. Rev. Stat. 19-2701) (Am. Ord. 2744, 7-7-98; 3090, 9-1-20; 3128, 1-31-25) Penalty, see § 10.14

#### **§ 51.17 WATER SERVICE**

The City, through its Water Department, shall furnish water to persons within its corporate limits whose premises abut a street or alley in which a commercial main is now or may hereafter be laid. The City may furnish water to persons within its corporate limits whose premises do not abut a street or alley in which a 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 City, 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 or filed in the office of the City Clerk shall be considered a part of every application hereafter made for water service and 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 that consumer shall obligate the consumer to abide by such rules, regulations, water rates, and by all law applicable. If the consumer shall violate any of the provisions of the same, the Utilities Superintendent or his or her agent may cut off or disconnect the water service from the building or premises or place of the violation. No further connection for water service to that building, premises, or place shall again be made save or except by order of the Superintendent or his or her agent. (Am. Ord. 3090, 9-1-20; 3128, 1-31-25)

#### **§ 51.18 SERVICE NONTRANSFERABLE; SHUTOFF NOTICE REQUIRED**

Approved applications and service for water service are not transferable. Any person wishing to change from one location to another shall make a new application. If any consumer shall move from the premises where service is furnished, or if that premises 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 premises. If the consumer should fail to give this notice, he or she shall be charged for all water used on the premises until the Utilities Superintendent is otherwise advised of those circumstances. (Neb. Rev. Stat. 17-537)

#### **§ 51.19 INSTALLATION PROCEDURE**

Before making excavations in any street, avenue, alley, or on any public property for the purpose of installing pipe, or making repairs, the consumer or plumbing permit holder must comply with the requirements of § 50.07 of this Code. 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. 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 Plumbing Inspector. 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 responsibility of the consumer or the plumbing permit holder to notify the Plumbing Inspector 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 that installation by the City Council (Neb. Rev. Stat. 17-537) (Am. Ord. 3090, 9-1-20; 3128, 1-31-25) Penalty, see § 10.14

#### **§ 51.20 INSTALLATION EXPENSE**

The expense of installation shall be paid by the consumer for new service. The City Council shall by resolution set a tap fee which shall be paid by the customers requiring new service installation at the time of the making of the application. The City shall then make the tap. The City shall supply the meter and other appurtenances, if any, which the City Council may deem appropriate to supply to the customer. It shall be the duty of the customer to supply all other labor and materials from the City's main to the place of disbursement. It shall be unlawful for any person other than an agent for the City to tap the main. It shall be unlawful for any person other than a licensed plumber to do any work on the municipal water system. (Am. Ord. 3090, 9-1-20; 3128, 1-31-25) Penalty, see § 10.14

#### **§ 51.21 WATER MAIN EXTENSION; APPLICATION; ASSESSMENT**

Applicants for water service whose property is situated outside the corporate limits may be allowed to connect with the City's main on such terms as the City Council shall on application in each case prescribe. The City mains may be extended into unsupplied territory within the corporate limits by means of water extension districts. No credit for construction cost of water service paid for by the applicant shall hereafter be given any applicant or consumer for any purpose. Hereafter no permit shall be granted to any person to make connections with any water main of the City, other than a water main within a water district in which the property proposed to be connected is situated, until the owners of that property shall have filed a written petition for the privilege with the City Council, platting and describing the lot, part of lot, subdivision of lot, or piece of land for which the connection and water privilege is desired and designating the point in the water main at and with which the connection is desired, and the Council by a 2/3 vote and with the approval of the Mayor shall have authorized the connection and fixed the amount of money to be paid by the applicant to the City Council for this privilege, which amount of money shall be determined in each case by the Council upon the basis of the probable cost and special assessment to be apportioned to and assessed against the real property described in the petition for the construction of a proper water main within a proper water district created to include and accommodate that property, this water main to be on such lines and levels and having that capacity and equipment as may be found necessary to conform to the general plans and purposes of the water system of the City, and no connection with any of the mains or pipes within the tract shall be permitted with any property outside thereof, without further application and further action of the Council in the same manner as above described and set out; provided, that any part of real properties extending beyond a depth of 150 feet from the street line of the street in which the abutting water main is situated shall not be included in this exemption but shall be subject to the operation of the foregoing assessment provisions for water extension districts; and provided further, that water privileges extended under the foregoing provisions shall be exercised and enjoyed on payment of the rates for water consumer and under the same rules and regulations as are provided generally for the consumers of water furnished by the City Council by its Water Department. Upon the payment of the amount of money as determined by the City Council for deposit with the Municipal Clerk/Treasurer, the Clerk/ Treasurer shall issue a certificate therefor, describing the real property for the accommodation of which the same was issued, which certificate shall thereafter be receivable at its face value by the authorized collector of any special water district assessment which may

be assessed against the real property described therein, for the payment of the cost of constructing any water main in any water district which may be created to include that real property; and in case the face value of the certificate shall exceed the amount of the special tax when so determined and levied against the property therein described, the City Council on a proper showing of the facts may allow and pay a properly verified claim for the excess to the party entitled to receive the same. (Am. Ord. 3090, 9-1-20; 3128, 1-31-25) Penalty, see § 10.14

#### **§ 51.22 REPAIRS AND MAINTENANCE**

All repairs to pipe and other appurtenances, except the water meter from the place of disbursement to the water main shall be the responsibility of the customer. Repairs to the main and to the meter shall be the responsibility of the City. All water meters shall be kept in repair by the City at the expense of the City. When meters are worn out, they shall be replaced and reset by the City at the expense of the City; 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 the 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 the test shall be borne by the City. The City reserves the right to test any water service meter at any time, and if a meter is found to be beyond repair the City shall always have the right to place a new meter on the customer's water service fixtures at 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 quarter of the preceding year; provided, that if no such basis for comparison exists, the customer shall be charged an amount as may be reasonably fixed by the Utilities Superintendent. (Am. Ord. 2970, 2-5-08) Penalty, see § 10.14

#### **§ 51.23 SINGLE PREMISES; SEPARATE CONNECTION; RESUPPLY AND METER TAMPERING PROHIBITED**

No consumer shall supply water to other premises or allow other persons to take water from his or her premises, nor after water is supplied into a building shall any person make or employ a plumber or other person to make a tap or connection with the pipe upon the premises for alteration, extension, or attachment without the written permission of the Utilities Superintendent. 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. Rev. Stat. 17-537) Penalty, see § 10.14

#### **§ 51.24 SERVICE SHUTOFF OR REDUCTION; LIABILITY DISCLAIMER**

The City Council may order a reduction in the use of water or shut off the water on any premises in the event of a water shortage due to fire or other good and sufficient cause. The City shall not be liable for any damages caused by shutting off the supply of water of any consumer while the system or any part thereof is undergoing repairs or when there is a shortage of water due to circumstances over which the City has no control. (Neb. Rev. Stat. 17-537) (Am. Ord. 3090, 9-1-20; 3128, 1-31-25)

#### **§ 51.25 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 Water Department to open or attempt to open



any of the hydrants and draw water from the same, or in any manner to interfere with the hydrants.  
Penalty, see § 10.14

#### **§ 51.26 UNSAFE CONNECTIONS AND BACKFLOW HAZARDS PROHIBITED**

- (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 once every 5 years, customers of the municipal water distribution and supply system shall be required to assess and report potential backflow and back siphonage hazards to the City on a form supplied by the City to the customer. The customer shall take any steps necessary for protection of public health and safety as determined by the Utilities Superintendent.

(Ord. 2549, 1-5-93) Penalty, see § 10.14

#### **§ 51.27 BACKFLOW PREVENTION DEVICES; REQUIREMENT; INSTALLATION; TESTING**

- (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 or her expense appropriate to the potential hazards set forth in Title 179, State 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 City. 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 or her opinion of whether the installation will protect the municipal water distribution system from potential backflow and back siphonage 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 City, if applicable.
- (E) The customer shall also certify to the City at least one time annually that the backflow prevention device has been tested by a State Department of Health Grade VI Certified Water Operator if the device is equipped with a test port. This 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 City Council.

(Ord. 2550, 1-5-93) (Am. Ord 3090, 9-1-20; 3128, 1-31-25) (A) Penalty, see § 10.14

### **ADMINISTRATION AND ENFORCEMENT**

#### **§ 51.41 CONSUMERS LIABLE**

All water consumers shall be liable to pay, in addition to any amounts for water consumption, the fee charged for connection to and service from the City's water system 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 so liable thereafter until the water is turned on again. (Neb. Rev. Stat. 17-542) Penalty, see § 10.14

#### **§ 51.42 RATES**

The rates, fees, charges, and collections for the use of water sold by the City Council are those figures and terms set forth in the schedules incorporated by ordinance, which shall be on file in the office of the City Clerk for public inspection during normal office hours. (Am. Ord. 2970, 2-5-08; 3090, 9-1-20; 3128, 1-31-25)

#### **§ 51.43 LIEN**

In addition to all other remedies, if a customer shall for any reason remain indebted to the municipality for water service furnished, the amount due, together with any rents and charges in arrears, shall be considered a delinquent water rent which is hereby declared to be a lien upon the real estate for which the same was used. (Neb. Rev. Stat. 17-538)

#### **§ 51.44 POLLUTION OF WATERS PROHIBITED**

It shall be unlawful for any person to pollute or injure, or attempt to pollute or injure, any stream or source of water for the supply of the Municipal Water Department. The jurisdiction of the City to prevent such pollution or injury shall extend 15 miles beyond the City's corporate limits. (Neb. Rev. Stat. 17-536) Penalty, see § 10.14

#### **§ 51.45 INSPECTION; RIGHT OF ENTRY**

The Utilities Superintendent, or his or her duly authorized agents, shall have free access, at any reasonable time, to all parts of each premises and building to or in which water is delivered, for the purpose of examining the pipes, fixtures, and other portions of the system to ascertain whether there is any disrepair or unnecessary waste of water. (Neb. Rev. Stat. 17-537)

#### **§ 51.46 PROTECTION OF DEPARTMENT 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. Penalty, see § 10.14

#### **§ 51.47 CRYSTAL SPRINGS PARK WATERS**

All operations of Crystal Springs Park related to the supply, pumping, or handling of water from Crystal Springs Park for use of that water as a part of the municipal water supply shall be retained by the City Council. Plans for improvements or changes to be made at Crystal Springs Park shall be filed with the Superintendent of Utilities prior to construction. (Am. Ord. 3090, 9-1-20; 3128, 1-31-25) Penalty, see § 10.14

#### **§ 51.48 DROUGHT EMERGENCY CONTINGENCY PLAN**

- (A) The City shall address any short-term water shortage problems through a series of stages based on conditions of supply and demand with accompanying triggers, goals, and actions. Each stage is more stringent in water use than the previous stage since there will be a greater deterioration in water supply conditions. The Mayor is hereby authorized to implement the

appropriate conservation measures as set forth in this section, when any of the conditions have been reached which would qualify for any of the specific stages. The Mayor is given discretion to declare each particular stage as deemed appropriate by the City Council by reviewing the severity of the trigger conditions and other additional information, and is further authorized to implement conservation measures within the guidelines provided for each particular stage.

- (B) **STAGE ONE: WATER WATCH.** This stage is triggered by any one of the following conditions when system pressure falls below 35 pounds per square inch or demand for one day is in excess of 4,000,000 gallons per day.
- (1) The goals of this stage are to heighten awareness of the public of the water conditions and to maintain the integrity of the system.
  - (2) The City will monitor the water supply daily, repair leaks within 48 hours of detection, and curtail activities such as hydrant flushing and street cleaning.
  - (3) The public will be informed through the local media of the water watch and be asked to voluntarily reduce outdoor water use and to efficiently use water for indoor purposes, for example, washing full loads of clothing and/or dishes, limiting the length and frequency of showers, checking for water leaks and dripping of faucets, to prevent any unnecessary use of water.
- (C) **STAGE TWO: WATER WARNING.** This stage is triggered by any one of the following conditions when system pressure falls below 35 pounds per square inch, plant operations are at 80% capacity for more than three consecutive days or demand for one day is in excess of 4,000,000 gallons per day.
- (1) The goals of this stage are to reduce peak demands by 20% and to reduce overall weekly consumption by 10%.
  - (2) The City will monitor the water supply daily, repair leaks within 24 hours of detection, and curtail its own usage including watering of City grounds and washing of vehicles.
  - (3) The public will be informed as provided for in Section 2. The Mayor may also regulate water usage by: creating an odd/even lawn watering system will be imposed on City residents, so that Residents with odd-numbered houses will water on odd days, even-numbered houses, on even days; restricting outdoor water use, including lawn watering and car washing will be restricted to before 10:00 a.m. and after 9:00 p.m.; restricting refilling of swimming pools will be limited to one day a week after sunset; and waste of water will be prohibited.
- (D) **STAGE THREE: WATER EMERGENCY.** This stage is triggered by any one of the following conditions when system pressure falls below 35 pounds per square inch, plant operations are at 90% capacity for more than three consecutive days, ground water levels have fallen below normal seasonal levels or demand for one day is in excess of 4,000,000 gallons per day.
- (1) The goals of this stage are to reduce peak demands by 50% and to reduce overall weekly consumption by 25%.
  - (2) The City will monitor the water supply daily, repair leaks within 24 hours of detection, and will seek additional emergency supplies from other users, the state or federal government.
  - (3) The public will be informed as provided for in Section 2. The Mayor may also regulate water usage as provided in Section 3, and expanded to include the ban of outdoor water use, except for businesses which require outdoor water use to operate.

- (4) The City will make news releases to local media describing current conditions and indicate the water supply outlook for the City, and will hold public meeting(s) to discuss the emergency, the status of the water supply and further actions which need to be taken.
- (E) ENFORCEMENT. In the event that any water consumer fails to comply with the regulatory action taken by the City, then the Mayor may direct the immediate discontinuance of water service to the location which is not in compliance with the restrictions imposed. Water service may be resumed upon the Mayor being provided adequate evidence to show that compliance has been instituted and that compliance will continue under the restrictions imposed.

(Ord. 2945, 10-17-06; Am. Ord. 3090, 9-1-20; 3128, 1-31-25)

## CHAPTER 52: SEWERS

### § 52.01 DEFINITIONS

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

**BUILDING DRAIN** or **HOUSE DRAIN**. Includes the part of the lowest horizontal piping of a house or building drainage system which receives the discharge from soil, waste, or other drainage pipes inside the walls of any building or house.

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

**GARBAGE**. Includes solid wastes from the preparation of cooking and dispensing of food and produce.

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

**PLUMBING FIXTURES**. Include receptacles intended to receive and discharge water, liquid, or water-carried wastes into the sewer system with which they are connected.

**PROPERLY SHREDDED**. Includes shredding to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle larger than 1/2 inch in diameter.

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

**SEWAGE**. Includes 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.

**SEWER SYSTEM**. Includes all facilities for collecting, pumping, treating, and disposing of sewage.

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

**STORM SEWER**. Includes a sewer which carries storm and surface drainage, but excludes sewage and polluted industrial wastes.

**TRAP**. Includes a fitting or 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.** Includes the vertical distance between the crown weir and the dip of the trap.

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

**WASTE PIPE.** Includes 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.

### CONNECTION

#### **§ 52.15 APPLICATION FOR PERMIT**

Any person wishing to connect with the sewer system shall make an application therefor to the Utilities Superintendent. Sewer service may not be supplied to any house or building except upon the order of the 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 those consumers. Every person or persons so desiring sewer service shall make a written application for that special permission. This application shall be signed by the applicant(s) and shall include a statement that the applicant(s) consents to the annexation of the property to which service is being extended if the same is presently or subsequently contiguous to the corporate limits of the City. Nothing herein shall be construed to obligate the municipality to provide sewer service to nonresidents. (Neb. Rev. Stat. 17-145, 17-149, 18-503, and 19-2701) ) (Am. Ord. 2744, 7-7-98; 3090, 9-1-20; 3128, 1-31-25) Penalty, see § 10.14

#### **§ 52.16 SEWER SERVICE**

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 shall be considered a part of every application hereafter made for sewer service and without further formality, the making of the application on the part of any applicant or the use of sewer service by a present customer shall obligate the consumer to abide by such rules, regulations, sewer rates, and by all law applicable. If the consumer shall violate any of the provisions of the same, the Utilities Superintendent or his or her agent may cut off or disconnect the sewer service from the building or premises of the violation. No further connection for sewer service to that building or premises shall again be made save or except by order of the Superintendent or his or her agent. (Am. Ord. 3090, 9-1-20; 3128, 1-31-25) Penalty, see § 10.14

#### **§ 52.17 SERVICE NONTRANSFERABLE; SHUTOFF NOTICE REQUIRED**

Approved applications and service for sewer service are not transferable. Any person wishing to change from 1 location to another shall make a new application. If any customer shall move from the premises where service is furnished, or if the premises are 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 that premises. 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 those circumstances. Penalty, see § 10.14

#### **§ 52.18 INSTALLATION PROCEDURE**

Before making excavations in any street, avenue, alley, or any public property for the purpose of installing pipe, or making repairs, the customer or plumbing permit holder must comply with the requirements of §50.07 of this Code. No person shall leave an excavation made in the street, avenue, or

alley open at any time without a barricade, and during the night, warning lights. 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 may 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 Plumbing Inspector, if one has been appointed. The first inspection shall be made when connections or repairs are complete and before the pipes are covered. The second inspection shall be made after the dirt work is completed and the service restored. It is the responsibility of the customer or plumbing permit holder to notify the Plumbing Inspector 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 that installation prescribed by the City Council. (Am. Ord. 2944, 8-15-06; 3090, 9-1-20; 3128, 1-31-25) Penalty, see § 10.14

#### **§ 52.19 INSTALLATION EXPENSE**

The customer, upon approval of his or her application for sewer service, shall pay to the Utilities Superintendent a tap fee which shall compensate the City for the expense of processing the application and tapping the sewer main. The customer shall be required to pay the expense of procuring the materials required as well as the services of a plumber, if any, and shall pay all other costs of installation. (Am. Ord. 2404, 8-18-87) Penalty, see § 10.14

#### **§ 52.20 REPAIRS AND REPLACEMENT**

- (A) The Municipal Sewer Department may require the owner of any property which is within the City and connected to the public sewers or drains to repair or replace any connection line which serves the owner's property and is broken, clogged, or otherwise in need of repair or replacement. The property owner's duty to repair or replace such a connection line shall include those portions upon the owner's property and those portions upon public property or easements up to and including the point of junction with the public main.
- (B) The Municipal Clerk shall give the property owner notice by registered letter or certified mail, directed to the last known address of the owner or the agent of the owner, directing the repair or replacement of the connection line. If within 30 days of mailing this notice the property owner fails or neglects to cause the repairs or replacements to be made, the Utilities Superintendent may cause the work to be done and assess the cost upon the property served by that connection. (Neb. Rev. Stat. 18-1748)

(Am. Ord. 2310, 8-21-84) Penalty, see § 10.14

#### **§ 52.21 OLD BUILDING SEWERS**

Old house sewers and drains may be used in connection with new buildings or new plumbing only when they are found, on examination by the Utilities Superintendent, to conform in all respects to the requirements governing new sewers and drains. If the old work is found defective or otherwise unsatisfactory, he or she shall notify the owner to make the necessary changes to conform with the provisions of this Code. Penalty, see § 10.14

### **USE OF PUBLIC SEWERS**

#### **§ 52.35 PRIVATE WASTE DISPOSAL RESTRICTED**

Privies, cesspools, or septic tanks for the reception of sewage or waste from a drain from any building shall be permitted or allowed only when the sewerage system is not available to the premises on which the privy, cesspool, or septic tank is located or serves. The sewerage system shall be considered available

when it abuts or is installed in a right-of-way that abuts the premises on which the privy, cesspool, or septic tank is located or serves. All cesspools and septic tanks constructed on premises to which the system is not available shall not be permitted or allowed until after a written permit for the same is secured from the City Council. All such cesspools and septic tanks shall meet the Rules and Regulations of the Department of Environmental Control of the State and approved by the City Council. In case an available sewer main is later available, the existing privy, cesspool, or septic tank used on the premises must be abandoned forthwith when the sewer main is made available, and the drain from any building shall be connected to the sewerage system, and the abandoned cesspool, septic tank, or privy must then be cleaned and filled with fresh earth, tamped in properly. Any person violating this section shall be deemed guilty of a misdemeanor, and the court shall order as part of the judgment of conviction, that every such nuisance be abated or removed, and that any such privy, vault, cesspool, septic tank, or other contrivance shall be cleaned and filled up. (Am. Ord. 3090, 9-1-20; 3128, 1-31-25) Penalty, see § 10.14

#### **§ 52.36 UNLAWFUL DISCHARGES**

- (A) It shall be unlawful for any person to discharge or cause to be discharged any storm water, surface water, ground water, roof runoff, surface drainage, or unpolluted industrial process waters into the sanitary sewer.
- (B) Except as hereinafter provided, no person shall discharge or cause to be discharged any of the following described waters or wastes into the municipal sewer system:
  - (1) Liquids or vapors having a temperature higher than 150°F;
  - (2) Gasoline, benzene, naphtha, fuel oil, other flammable or explosive liquid, solid, or gas;
  - (3) Garbage that has not been properly shredded;
  - (4) Sand, mud, metal, rags, paper, or other solid or viscous substance capable of causing obstruction to the flow in the sewer system;
  - (5) Toxic or poisonous substances in sufficient quantity to interfere with or injure the sewage treatment process, constitute a hazard to humans, animals, or fish, or create any hazard in the receiving area of the sewage treatment plant;
  - (6) Suspended solids of such character and quantity that unusual attention or expense is required to handle the materials;
  - (7) Waters or wastes having a pH lower than 5.5 or higher than 9.0 or having other corrosive properties capable of causing damage to the structures, equipment, and personnel of the Municipal Sewer Department;
  - (8) Any noxious or malodorous gas or substance capable of creating a public nuisance; or
  - (9) Foundation drain discharges. (Neb. Rev. Stat. 17-145)

Penalty, see § 10.14

#### **§ 52.37 INTERCEPTORS AND PRELIMINARY TREATMENT EQUIPMENT**

In the event a customer of the Municipal Sewer Department discharges an unusually large amount of waste daily, an unusually large amount of grease or oil, or waste with an unusually high biochemical oxygen demand, suspended solids, or other pollutants, the City Council may require that customer to install interceptors or other preliminary treatment equipment to reduce the objectionable characteristics of the waste to within those maximum limits as prescribed. All preliminary treatment facilities shall be purchased and maintained continuously in satisfactory and efficient operation at the customer's expense. Nothing herein shall be construed to prohibit a special agreement or arrangement between the City Council and an industrial concern whereby an industrial waste of unusual strength or character may be

accepted by the municipality for treatment subject to additional rental fees or other charges. (Am. Ord. 3090, 9-1-20; 3128, 1-31-25) Penalty, see § 10.14

#### **§ 52.38 MANHOLE USE RESTRICTED**

Entrance into a manhole or opening for any purpose except by authorized persons is hereby prohibited. It shall be unlawful to deposit or cause to be deposited in any receptacle connected with the sewer system any substance which is not the usual and natural waste carried by the sewer system. Penalty, see § 10.14

### **ADMINISTRATION AND ENFORCEMENT**

#### **§ 52.51 CUSTOMER CLASSIFICATION**

The City Council may classify for the purpose of rental fees the customers of the Municipal Sewer Department; provided, the classifications are reasonable and do not discriminate unlawfully against any consumer or group of consumers. (Neb. Rev. Stat. 17-925.02)

#### **§ 52.52 RATES**

- (A) For the use of the sewerage system, residential sewer use charge shall be based upon the water usage during the months of December, January and February as determined by the meter reading. Commercial sewer use charge shall be based upon each month's water usage as determined by the meter reading.
- (B) The rates, fees, charges, and collections for the use of the sewer system as sold by the City are those figures and terms set forth in the schedules incorporated by ordinance, which shall be on file in the office of the City Clerk for public inspection during normal office hours.

(Am. Ord. 2971, 2-5-08; 3090, 9-1-20; 3128, 1-31-25)

#### **§ 52.53 SAMPLING; STRENGTH OF SEWAGE SURCHARGE**

- (A) For use in determining the sewer use surcharge to be made against a given property for a given period of time, the Superintendent shall sample and analyze the sewage discharge from that property into the municipal sanitary sewer system in order to determine the strength of that sewage over that period. Usually, samples shall be taken from the sewage discharge on at least three composites during operations on the property.
- (B) The Superintendent shall then determine the classification to be used for that property and the corresponding surcharge as shown in the surcharge table under the sewer use fee schedule. All such sampling and analyzing of the sewage discharge from a given property shall be in accordance with the latest edition of Standard Methods for the Examination of Water and Wastewater; provided, however, that the Superintendent may in his or her discretion accept those sampling and analyzing results as may be submitted to him or her by the sewer user on the property if the Superintendent reasonably determines that those results properly reflect the overall nature of the discharge.

#### **§ 52.54 INSPECTION; RIGHT OF ENTRY**

The Utilities Superintendent, or his or her authorized agents, shall have free access at any reasonable time to all parts of each premises and building which is connected with the sewer system to ascertain whether there is any disrepair or violations of this chapter therein.



### **§ 52.55 LIEN**

In addition to all other remedies, if a customer shall for any reason remain indebted to the City for sewer service furnished, the amount due, together with any rents and charges in arrears, shall be considered a delinquent sewer 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 sewer rent. It shall be the duty of the Utilities Superintendent on the first day of June of each year to report to the City Council a list of all unpaid accounts due for sewer 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. (Neb. Rev. Stat. 17-925.01 and 18-503)

## **CHAPTER 53: ELECTRICAL SYSTEM**

### **SERVICE CONNECTION**

#### **§ 53.01 SERVICE AND TERMS**

The City, 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, the City Council may see fit to do so. The rules, regulations, and rates for electric service, hereinafter named, in this chapter, without further formality, the making of application on the part of any applicant or the use or consumption of electric energy by present consumers and the furnishing of electric service to that applicant or consumer shall obligate the consumer to abide by such rules, regulations, water rates, and by all law applicable. If the customer should violate any of the same, the Utilities Superintendent, or his or her agent, shall cut off or disconnect the electric service from the building or place of the violation and no further connection of electric service for that building or place shall again be made save or except by order of the Superintendent or his or her agent. (Am. Ord. 3090, 9-1-20; 3128, 1-31-25) Penalty, see § 10.14

#### **§ 53.02 APPLICATION FOR SERVICE**

Every person or persons desiring electrical service must make application therefor to the Utilities Superintendent. The Utilities Superintendent shall charge and collect from each rental and commercial applicant a service deposit in the sum as may be set by ordinance of the City Council. The system shall not supply to any person outside the corporate limits electrical service without special permission from the City Council. Nothing herein shall be construed to obligate the City to supply electrical service to nonresidents. (Neb. Rev. Stat. 17-902 and 19-2701) (Am. Ord. 3090, 9-1-20; 3128, 1-31-25)

#### **§ 53.03 SERVICE NONTRANSFERABLE; SHUTOFF NOTICE REQUIRED**

Approved applications and service for electrical service are not transferable. Any person wishing to change from one location to another shall make a new application. If any consumer shall sell, dispose, or remove from the premises where service is furnished in his or her name, or if the premises are destroyed by fire or other casualty, he or she shall at once inform the Utilities Superintendent who shall cause the electrical service to be shut off from the premises. If the consumer should fail to give this notice, he or she shall be charged for all electricity used on the premises until the Utilities Superintendent is otherwise advised of those circumstances. Penalty, see § 10.14

#### **§ 53.04 INSTALLATION EXPENSE**

The expense of installation and equipment from the City's transmission line to the point of service shall be charged to the customer under a policy adopted by the City Council. The installation and purchase of the meter loop shall be the expense of the customer. The meter shall be provided and installed by the City at the expense of the City. The customer shall pay all other expenses beyond the meter to the place of use. Nonresident customers shall have service extended to the yard pole on the property to be served. (Am. Ord. 3090, 9-1-20; 3128, 1-31-25)

#### **§ 53.05 REPAIRS AND MAINTENANCE**

The expense of the repair and maintenance of the electrical wires and other appurtenances shall be apportioned between the customer and the City according to which wires and appurtenances were installed and provided by each party. The City shall have the responsibility of repairing and maintaining all wire and other appurtenances provided and installed by the City. Penalty, see § 10.14

#### **§ 53.06 WIRING AND CONNECTION; LICENSED ELECTRICIAN**

Under no circumstances shall connections be made between the wires of the electrical distribution system of this City and the meter of the consumer, except by an employee of the City or an electrician authorized to do so by the Utilities Superintendent. The consumer may have wiring done by any competent 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 City. All installation shall be done under the supervision and strictly in accordance with the rules, regulations, and specifications for that installation prescribed by the City Council. (Neb. Rev. Stat. 17-902) (Am. Ord. 2405, 8-18-87; 3090, 9-1-20; 3128, 1-31-25) Penalty, see § 10.14

#### **§ 53.07 BUILDING MOVING; REQUIREMENTS**

Should any house or building moving occur or be necessary and it becomes necessary in that 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 the cost shall be paid by the applicant prior to the moving of the building or house. All expense 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 expense will be incurred, an additional deposit as deemed necessary may be demanded. Persons wishing to move buildings within the City must notify the Utilities Superintendent at least 5 days prior to the date the building is to be moved. Penalty, see § 10.14

#### **§ 53.08 AIR CONDITIONERS; INSTALLATION**

New air conditioning units installed on 110 volts shall not exceed 10 amps motor rating. Anything over 10 amps shall be on 220 volts. All air conditioning units installed shall first be approved by the Electrical Inspector. Penalty, see § 10.14

### **COGENERATION**

#### **§ 53.20 PURPOSE**

In order to comply with §§ 201 and 210 of the Public Utility Regulatory Policies Act of 1978 and with the rules and regulations of the Federal Energy Regulatory Commission pertaining thereto, the following policies relating to interconnections of the electric system of the City with cogeneration and small power

production facilities, rates for sales of electric energy to these facilities, and rates for purchases of electric energy from these facilities are hereby established.

### § 53.21 DEFINITIONS

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

***AVOIDED COSTS.*** The incremental costs to an electric utility of electric energy or capacity or both which, but for the purchase from qualifying facilities, the utility would generate itself or purchase from another source.

***COGENERATION FACILITY.*** A facility which produces electric energy and steam or other forms of useful energy (such as heat) which are used for industrial, commercial, heating, or cooling purposes.

***INTERCONNECTION COSTS.*** The reasonable costs of connection, switching, metering, transmission, distribution, safety provisions, and administrative costs incurred by the electric utility directly related to the installation and maintenance of the physical facilities necessary to permit interconnected operations with a qualifying facility, to the extent those costs are in excess of the corresponding costs which the electric utility would have incurred if it had not engaged in interconnected operations, but instead generated an equivalent amount of electric energy itself or, purchased an equivalent amount of electric energy or capacity from other sources. (INTERCONNECTION COSTS do not include any costs involved in the calculation of avoided costs.)

***QUALIFYING COGENERATION FACILITY.*** A cogeneration facility that meets the requirements of the Federal Energy Regulatory Commission regarding ownership, fuel use, and operating and efficiency standards.

***QUALIFYING SMALL POWER PRODUCTION FACILITY.*** A small power production facility that meets the requirements of the Federal Energy Regulatory Commission regarding ownership, fuel use, fuel efficiency, and reliability.

***SMALL POWER PRODUCTION FACILITY.*** A facility which produces electric energy solely by the use, as a primary energy source, of biomass, waste, renewable resources, or any combination thereof totaling not greater than 80 megawatts at one site.

### § 53.22 INTERCONNECTIONS WITH QUALIFYING FACILITIES

- (A) Qualifying facilities desiring to interconnect with the electric system of the City shall make application to the City Council for that interconnection. Applicants shall use those forms as are prescribed by the City and shall furnish all information requested.
- (B) The City shall establish reasonable standards to be met by qualifying facilities to ensure system safety and reliability of interconnected operations. These standards may include but shall not be limited to the following areas: power factor; voltage regulations; fault, overcurrent, and over-under voltage protection; harmonics; synchronization; and isolation.
- (C) Interconnection costs associated with the interconnection with a qualifying facility shall be paid for by the qualifying facility. Qualifying facilities shall be required to execute contractual agreements with the City before any interconnection is established.

(Am. Ord. 3090, 9-1-20; 3128, 1-31-25) Penalty, see § 10.14

### **§ 53.23 RATES FOR ELECTRIC ENERGY SALES TO QUALIFYING FACILITIES**

Rates for sales of electric energy to qualifying facilities shall be those current standard rates adopted from time to time by resolution of the Mayor and City Council which apply to other customers of the utility in the same classification(s) of electric service.

### **§ 53.24 RATES FOR ELECTRIC ENERGY PURCHASES FROM QUALIFYING FACILITIES**

- (A) Rates for purchases of electric energy from qualifying facilities shall be established by resolution of the Mayor and City Council.
- (B) The rates shall be just and reasonable to the electric consumer of the utility and in the public interest, shall not discriminate against qualifying cogeneration and small power production facilities, and shall be related to avoided costs; however, in no case is the utility required to pay more than the avoided costs.
- (C) Standard rates shall be established for purchases from qualifying facilities with a design capacity of 100 kilowatts or less. Rates for purchases from qualifying facilities with a design capacity over 100 kilowatts may be standard rates or may be by individual contracts, the terms of which are fair and reasonable.

### **ADMINISTRATION AND ENFORCEMENT**

### **§ 53.35 SERVICE INTERRUPTION; LIABILITY DISCLAIMER**

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 this service for any good and sufficient reason without liability. The City 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 City has no control, and the City expressly reserves the right to discontinue or disconnect any consumer's service without preliminary notice.

### **§ 53.36 POSTING SIGNS ON SYSTEM PROPERTY PROHIBITED**

It shall be unlawful for any person to post, tack, or fasten to the poles, structures, fixtures, or equipment of the municipal electrical system any sign, poster, advertisement, or banner without written permission from the Utilities Superintendent. Penalty, see § 10.14

### **§ 53.37 DESTRUCTION OF SYSTEM PROPERTY PROHIBITED**

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 electrical system. (Neb. Rev. Stat. 28-512) Penalty, see § 10.14

### **§ 53.38 TRIMMING TREES NEAR LINES; PERMISSION**

Any person desiring to cut or remove trees or branches thereof in close proximity to the lines of the municipal electrical system shall, before doing the work, give reasonable written notice to the Utilities Superintendent and shall follow any and all rules and regulations which he or she may prescribe for doing that work. It shall be unlawful for any person felling or removing such trees or branches to disrupt or damage the lines without first giving proper notice and receiving permission in writing to do so. Whenever it becomes necessary to protect the lines or property of the electrical system, the City Council

shall have the power to order cut and removed any overhanging branches, or limbs of trees, so that the lines will be free and safe. (Am. Ord. 3090, 9-1-20; 3128, 1-31-25) Penalty, see § 10.14

#### **§ 53.39 INSPECTION; RIGHT OF ENTRY**

The Utilities Superintendent or his or her duly authorized agents shall have free access at any reasonable time to each premises and building to or in which electricity is supplied; provided, that in the event of an emergency, the inspections may take place at any time.

#### **§ 53.40 METER TESTING**

Any consumer has the right to request the City Council to test the meter or meters upon the consumer's premises any reasonable number of times at the consumer's expense, and the City Council or its agents shall comply with the request, subject to those reasonable rules and regulations as the City Council may adopt. If the test shows the electric meter to be running 2% or more off, then the expense of the test shall be borne by the City. The City Council reserves the right to test and replace any meter in use at any time. The City Council shall keep all meters in proper repair and shall replace without cost to the consumer any meter where the replacement is required as a result of ordinary depreciation or obsolescence; provided, however, the consumer shall reimburse the City Council for any replacement necessitated by any negligence or willful act of the consumer, his or her agents, employees, invitees, guests, or members of his or her household, or by fire. (Am. Ord. 3090, 9-1-20; 3128, 1-31-25)

### **RATES AND CHARGES**

#### **§ 53.56 CONSUMERS LIABLE**

All electrical consumers shall be liable to pay, in addition to any amounts for electrical consumption, the fee charged for connection to and service from the City's electrical system 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 so liable thereafter until the electricity is turned on again. Penalty, see § 10.14

#### **§ 53.57 SERVICE DEPOSIT; DISPOSITION**

The service deposit required for electrical service shall be promptly paid upon demand by all customers of the electrical system. From this deposit shall be deducted all delinquent electrical charges. The service deposit shall be collected by the Utilities Superintendent and immediately turned over to the Municipal Treasurer who shall keep these 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. Penalty, see § 10.14

#### **§ 53.58 RATES**

The rates, fees, charges, and collections for the use of electricity sold by the City Council are those figures and terms set forth in the schedules incorporated by ordinance, which shall be on file in the office of the City Clerk for public inspection during normal office hours. (Am. Ord. 2962, 9-4-07; 3090, 9-1-20; 3102, 9-21-2021; 3128, 1-31-25)

#### **§ 53.59 METER IN DISREPAIR; BILLING**

In the event that any customer's meter falls out of repair or fails to register properly, the Superintendent shall charge the customer the same amount billed 1 year previous to the disrepair. In the event that there is

no such basis for comparison, the Superintendent shall charge the customer an amount as he or she deems is fair both to the customer and the municipality.

## **CHAPTER 54: SANITATION; GARBAGE**

### **SANITATION DEPARTMENT**

#### **§ 54.01 SANITARY SERVICES PROVIDED**

- (A) The sanitation services provided by the City further the health, safety, and welfare of the citizenry, and include but are not limited to:
  - (1) Removal of waste materials placed at pickup locations;
  - (2) Removal of household garbage properly wrapped and drained and contained in metal or plastic cans;
  - (3) Fly and mosquito control for the entire City; and
  - (4) Nuisance abatement.
- (B) Each resident of the City, having a light and water bill, shall be assessed a fee each month set by ordinance of the City Council and on file in the office of the Municipal Clerk to compensate the City for the above services, and these services shall be paid for at the time of the billing for light and water services. In addition, the monthly fee for waste removal for each business firm or commercial establishment shall be the residential rate multiplied by the number of waste removal pickups per week. In multiple dwellings or apartments if the owner is billed for the dwelling, rates for waste removal shall be set by ordinance of the City Council and on file in the office of the Municipal Clerk.

(Am. Ord. 3117,12-19-23; 3128, 1-31-25) Penalty, see § 10.14

#### **§ 54.02 (RESERVED)**

#### **§ 54.03 (RESERVED)**

#### **§ 54.04 RELIEF FROM PAYMENTS**

- (A) Any person, firm, or corporation asking relief from the payment of the fees as described herein shall make application in writing for relief directly to the City Council, stating where and how disposal of refuse will be made and to show that he or she directly or indirectly received no benefit from the defined service. Upon the Council granting this relief, he or she shall register his or her name and address with the Municipal Clerk and shall be issued a notice reading as follows:

*NOTICE: Sanitation service not required at (street address) by permission of the City Council.*
- (B) It shall be the duty of the resident to keep this notice posted at all times at a point on the alley or at the point determined by the Public Works Director, and failure to post this notice shall constitute a misdemeanor.

Penalty, see § 10.14

## **§ 54.05 RULES AND REGULATIONS**

The Street and Sanitation Superintendent is authorized to establish rules and regulations as may be necessary. This authority expressly includes the power to issue refuse collection regulations and rules. A copy of those rules and regulations shall be placed on file in the office of the Municipal Clerk, and copies thereof shall be available to the residents of the municipality. Any changes in the regulations shall be published at least 1 time in a newspaper of general circulation in the municipality. (Am. Ord. 2944, 8-15-06)

### **GARBAGE DISPOSAL**

## **§ 54.20 DEFINITIONS**

For the purpose of this subchapter, 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 or TRASH.*** 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.

***YARD WASTE.*** Grass and leaves. (Neb. Rev. Stat. 13-2016.01)

(Ord. 2634, 2-21-95)

## **§ 54.21 RULES AND REGULATIONS**

It shall be the duty of the Street and Sanitation Superintendent to establish rules and regulations necessary to give satisfactory garbage removal service. A copy of those rules and regulations shall be available to each resident of the municipality, and any changes shall be made known to the residents of the municipality. (Am. Ord. 2944, 8-15-06)

## **§ 54.22 (RESERVED)**

## **§ 54.23 GARBAGE AND REFUSE COLLECTION; AUTHORITY**

The City may, by ordinance, prohibit and control the throwing, depositing, or accumulation of litter on any lot or piece of ground within the City or within its one-mile zoning jurisdiction and require the removal thereof so as to abate any nuisance occasioned thereby. If the owner fails to remove such litter, after five days' notice by publication and by certified mail, the City, through its proper officers, shall remove the litter or cause it to be removed and shall assess the cost thereof against the property so benefited as provided by ordinance.

## **§ 54.24 (RESERVED)**

## **§ 54.25 (RESERVED)**

## **§ 54.26 (RESERVED)**

## **§ 54.27 SOLID WASTE; HAZARDOUS ITEMS AND ITEMS REQUIRING SPECIAL HANDLING OR DISPOSAL**

- (A) (A) No person shall put out any of the items specified below to be collected by the municipal solid waste collector for land disposal.
- (1) Yard waste from April 1 through November 30 of each year unless such yard waste has been separated from its source and is put out for separate collection and delivery to the landfill for the purpose of soil conditioning or composting under the conditions otherwise specified.
  - (2) Lead-acid batteries.
  - (3) Waste oil.
  - (4) Waste tires in any form except tires that are nonrecyclable. Tires are not considered disposed if they meet the requirements of Neb. Rev. Stat. 13-2039.
  - (5) Discarded household appliances.
  - (6) Unregulated hazardous wastes, except household hazardous wastes, which are exempt from the regulations under the Environmental Protection Act.
- (B) Any such items shall be disposed of only as permitted under the Nebraska Integrated Solid Waste Management Act or any amendments thereof. (Neb. Rev. Stat. 13-2039)
- (C) For purposes of this section:

**LAND DISPOSAL** includes, but is not limited to, incineration at a landfill.

**NONRECYCLABLE TIRE** means a press-on solid tire, a solid pneumatic shaped tire, or a foam pneumatic tire. (Neb. Rev. Stat. 13-2039)

**WASTE TIRE** means a tire that is no longer suitable for its original intended purpose because of wear, damage, or defect. (Neb. Rev. Stat. 13-2013.02)

**YARD WASTE** means grass and leaves. (Neb. Rev. Stat. 13-2016.01)

(Ord. 2892, 9-7-04)

## **TITLE VII: TRAFFIC CODE**

### **Chapter 70: General Provisions**

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- § 70.02 EMERGENCY REGULATIONS
- § 70.03 POLICE ENFORCEMENT
- § 70.04 REFUSAL TO OBEY
- § 70.05 TRAFFIC OFFICERS
- § 70.06 TRAFFIC CITATIONS; ILLEGAL CANCELLATION
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### **Chapter 71: Traffic Regulations**

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### **Chapter 73: Traffic Schedules**

#### SCHEDULE I. SPEED LIMITS

### **CHAPTER 70: GENERAL PROVISIONS**

#### **§ 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. Rev. Stat. Ch. 60, Art. 6, as now existing or hereafter amended. (Am. Ord. 2595, 6-21-94)

#### **§ 70.02 EMERGENCY REGULATIONS**

The Chief of Police is hereby empowered to make and enforce temporary traffic regulations to cover emergencies.

### **§ 70.03 POLICE ENFORCEMENT**

The Police Department 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 any police officer. Penalty, see § 10.14

### **§ 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 a police officer. Penalty, see § 10.14

### **§ 70.05 TRAFFIC OFFICERS**

The City Council or the Chief of Police 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 intersection. Penalty, see § 10.14

### **§ 70.06 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. Penalty, see § 10.14

### **§ 70.07 TRAFFIC INFRACTION; CITATION**

In view of the policy of the state to issue citations in lieu of arrest or continued custody, whenever any person shall be charged with a traffic infraction in violation of the State Rules of the Road relating to traffic violations, any peace officer shall issue that person a citation pursuant to the provisions of Neb. Rev. Stat. 29-424 and thereupon be released from custody. Any such person who refuses to sign the citation shall be guilty of a misdemeanor and shall, upon conviction thereof, be punished as provided by the provisions of Neb. Rev. Stat. 29-426. (Neb. Rev. Stat. 29-104, 29-422, 29-424, and 39-6,105) Penalty, see § 10.14

## **CHAPTER 71: TRAFFIC REGULATIONS**

### **§ 71.01 RULES OF THE ROAD; INCORPORATED BY REFERENCE**

The State Rules of the Road, together with all subsequent amendments thereto, as adopted by this State relating to traffic regulations are incorporated by reference into this section and made a part of this chapter as though spread at large herein, except those provisions in conflict with this chapter when the City Council has the authority to alter those regulations. Three copies of the State Rules of the Road and amendments shall be on file with the Municipal Clerk and shall be available for public inspection at any reasonable time.

### **TRAFFIC CONTROL**

### **§ 71.15 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 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 the truck shall return to the 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 § 10.14

### **§ 71.16 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 those streets have been so designated by resolution.

### **§ 71.17 TRAFFIC LANES; DESIGNATION**

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

### **§ 71.18 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 those other places as it may deem necessary.

### **§ 71.19 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 for the purpose of regulating or prohibiting traffic thereon. The 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 the sign, signal, standard, or mechanical device shall be placed, and the hours when the regulation or prohibition shall be effective. It shall be unlawful for any person to fail, neglect, or refuse to comply with the regulation or prohibition. Penalty, see § 10.14

### **§ 71.20 STOP SIGNS**

Every person operating any vehicle shall, upon approaching any stop sign erected in accordance with the resolution prescribed heretofore, cause the 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. Penalty, see § 10.14

### **§ 71.21 SCHOOL CROSSING ZONES; DESIGNATION**

- (A) Neb. Rev. Stat. 60-682.01 provides fines for operating a motor vehicle in violation of authorized speed limits and states that the fines are doubled if the violation occurs within a school crossing zone.
- (B) Neb. Rev. Stat. 60-6,134.01 makes it unlawful for a person operating a motor vehicle to overtake and pass another vehicle in a school crossing zone in which the roadway has only one lane of traffic in each direction and provides fines for violation of that prohibition.

- (C) The City Council may, by resolution, designate to the public any area of a roadway, other than a freeway, as a school crossing zone through the use of a sign or traffic-control device 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. Rev. Stat. 60-658.01)

(Ord. 2771, 2-16-99) Penalty, see § 10.14

## **§ 71.22 QUIET ZONES; UNNECESSARY NOISE**

All streets, or portions thereof, lying within 300 feet of any hospital, nursing home, or school, and which have been declared to be quiet zones by the City Council, shall be respected as such by all drivers, and no driver of any vehicle shall, within those zones, make any unnecessary noise or sound the horn or other warning device of the vehicle except in an emergency. It shall be unlawful for any person in any part of the municipality to make, or cause to be made, any unnecessary noise with any signal device, or to use the same except as a road signal. (Neb. Rev. Stat. 39-697) Penalty, see § 10.14

## **TRAFFIC RULES**

### **§ 71.35 CARELESS DRIVING**

Any person who drives any motor vehicle in this municipality carelessly or without due caution so as to endanger a person or property shall be guilty of careless driving. (Neb. Rev. Stat. 39-669) Penalty, see § 10.14

### **§ 71.36 BACKING**

It shall be unlawful for any person to back a motor vehicle on the municipal streets except to park in or to remove the vehicle from a permitted parking position, to move the vehicle from a driveway, or to back to the curb for unloading where unloading is permitted; provided, a vehicle shall be backed only when that movement can be made in safety, and in no case shall the distance of the backing exceed 1.5 lengths of the vehicle. (Neb. Rev. Stat. 39-675 and 39-697) Penalty, see § 10.14

### **§ 71.37 FUNERAL PROCESSIONS**

No vehicle, except police vehicles, Fire Department vehicles, when responding to emergency calls or orders in their several departments, ambulances responding to emergency calls, or vehicles carrying U.S. mails, shall be driven through a funeral procession or cortege except with the permission of a police officer. (Neb. Rev. Stat. 60-6,140 and 60-680) Penalty, see § 10.14

### **§ 71.38 RIDING OUTSIDE VEHICLE**

No person shall permit any other person to ride on the running board, hood, top, or fenders of any motor vehicle. Nor shall any person ride on the running board, hood, top, or fenders of any motor vehicle. (Neb. Rev. Stat. 60-680) Penalty, see § 10.14

### **§ 71.39 U TURNS**

No vehicle shall be turned so as to proceed in the opposite direction, except at a street intersection. No vehicle shall be turned so as to proceed in the opposite direction at any intersection where an automatic signal is in operation, or where a sign is posted indicating that U turns are prohibited.

### **§ 71.40 J TURN PROHIBITED**

It shall be unlawful for the driver of any vehicle to turn such vehicle so as to proceed from one side of the street to the other in order to enter a parking space. (Ord. 2941, 6-20-06)

### **§ 71.41 ENGINE BRAKES PROHIBITED**

It shall be unlawful for any person to attempt to retard the forward movement of any vehicle within the City limits by using motor vehicle brakes that are in any way activated or operated by the compression of an engine of any such vehicle or any unit or part thereof. (Ord. 2800, 9-19-00) Penalty, see § 10.14

### **§ 71.42 RACING ON HIGHWAYS**

It shall be unlawful for any person to drive a motor vehicle on a street or highway within the limits of the municipality in a race, speed competition, or contest; in a drag race or acceleration contest; in a test of physical endurance; in an exhibition of speed or acceleration; or for the purpose of making a speed record. (Neb. Rev. Stat. 39-668) Penalty, see § 10.14

### **§ 71.43 HITCHHIKING**

It shall be unlawful for any person to be found soliciting trucks, automobiles, or other vehicles to stop or slow down for the purpose of asking for a ride, or riding on the vehicle. (Neb. Rev. Stat. 39-647 and 39-6,113) Penalty, see § 10.14

### **§ 71.44 COASTING IN NEUTRAL**

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. Penalty, see § 10.14

## **SPEED LIMITS**

### **§ 71.55 GENERAL SPEED LIMIT**

No person shall operate a motor vehicle on any street, alley, or other place within the corporate limits at a rate of speed greater than 10 miles per hour in an alley, 25 miles per hour within the residential district, and 20 miles per hour within the business district, unless a different rate of speed is specifically permitted by ordinance. In no instance shall a person drive a vehicle on a highway at a speed greater than is reasonable and prudent under the conditions. (Ord. 3093, 3-16-21) Penalty, see § 10.14

### **§ 71.56 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 the vehicle at a rate of speed in excess of 25 miles per hour past the premises, and the driver shall stop at all stop signs located at, or near, the school premises, and it shall be unlawful for the driver to make a U-turn at any intersection where stop signs are located at, or near, the school premises. (Am. Ord. 2941, 6-20-06) Penalty, see § 10.14

### **§ 71.57 SPEED; DUE CARE**

The fact that the speed of a vehicle does not exceed the applicable maximum speed limits does not relieve the driver from the duty to decrease speed when approaching and crossing an intersection, when approaching and going around curves, when approaching a hill crest, when traveling upon any narrow or winding roadway, or when special hazards exist with respect to pedestrians or other traffic by reason of weather or highway conditions. Speed shall be decreased as may be necessary to avoid colliding with any person, vehicle, or other conveyance on or entering the highway in compliance with legal requirements and the duty of all persons to use due care. Penalty, see § 10.14

### **BICYCLES, SKATES, MOTORCYCLES, MINI-BIKES, ALL-TERRAIN VEHICLES, UTILITY-TYPE VEHICLES**

### **§ 71.70 BICYCLE LICENSE**

Anyone wishing to operate a bicycle within the corporate limits shall make an application to the municipal police for a license. A license shall then be issued by the municipal police upon the payment of a fee of \$3 to the Police Department. The license shall then be attached to the frame of the bicycle in a substantial manner. The removal of this tag, except by the proper authorities, shall be unlawful. (Neb. Rev. Stat. 60-6,317 and 60-680(h)) (Am. Ord. 2476, 6-19-90) Penalty, see § 10.14

### **§ 71.71 BICYCLE OPERATING REGULATIONS**

- (A) No person shall operate a bicycle on a street or highway within the municipality with another person on the handlebars or in any position in front of the operator.
- (B) No bicycle shall be operated faster than is reasonable and proper, but every bicycle shall be operated with reasonable regard to the safety of the operator and any other persons upon the streets and highways.
- (C) Persons operating bicycles shall observe all traffic signs and stop at all stop signs.
- (D) No bicycle shall be operated on any street or highway from sunset to sunrise without a headlight visible from the front thereof for not less than 500 feet on a clear night and a red reflector on the rear of a type which shall be visible on a clear night from all distances between 100 feet and 600 feet to the rear when directly in front of lawful lower beams of headlights on a motor vehicle. A red light visible from a distance of 500 feet to the rear may be used in addition to the red reflector.
- (E) Any person who operates a bicycle upon a street or highway shall not ride more than single file except on parts of streets or highways set aside for the exclusive use of bicycles.
- (F)
  - (1) Any person who operates a bicycle upon a roadway at less than the normal speed of traffic at the time and place and under conditions then existing shall ride as near to the right-hand curb or right-hand edge of the roadway as practicable except when:
    - (a) Overtaking and passing another bicycle or vehicle proceeding in the same direction;
    - (b) Preparing for a left turn onto a private road or driveway or at an intersection;
    - (c) Reasonably necessary to avoid conditions that make it unsafe to continue along the right-hand curb or right-hand edge of the roadway, including fixed or moving objects, stopped or moving vehicles, bicycles, pedestrians, animals, or surface hazards;

- (d) Riding upon a lane of substandard width which is too narrow for a bicycle and a vehicle to travel safely side by side within the lane; or
  - (e) Lawfully operating a bicycle on the paved shoulders of a highway included in the state highway system as provided in Neb. Rev. Stat. 60-6,142.
- (2) Any person who operates a bicycle upon a roadway with a posted speed limit of 35 miles per hour or less on which traffic is restricted to 1 direction of movement and which has 2 or more marked traffic lanes may ride as near to the left-hand curb or left-hand edge of the roadway as practicable. Whenever a person operating a bicycle leaves the roadway to ride on the paved shoulder or leaves the paved shoulder to enter the roadway, the person shall clearly signal his or her intention and yield the right-of-way to all other vehicles.
- (G) No person shall park a bicycle on any sidewalk unless a bicycle stand is located on that sidewalk.
- (H) No person shall operate a bicycle on the sidewalks within the business district. (Neb. Rev. Stat. 60-6,315, 60-6,317 and 60-6,318)

(Am. Ord. 2596, 6-21-94) Penalty, see § 10.14

#### **§ 71.72 ATTACHING TO VEHICLES**

It shall be unlawful for any person to attach or allow another person to attach any sled, toboggan, bobsled, coaster wagon, or other small vehicle to a motor vehicle, for the purpose of moving those vehicles.

Penalty, see § 10.14

#### **§ 71.73 BICYCLES, SKATES, AND THE LIKE ON SIDEWALKS AND CROSSWALKS**

It shall be unlawful for any person to ride a bicycle or tricycle, push, coast, or skate with roller skates, ice skates, skateboards, express wagons, sleds, scooters, or other kindred contrivances on the sidewalks and crosswalks within the business district of the municipality. Nothing herein shall be construed to prohibit or prevent this use of sidewalks and crosswalks within park, school, residential, or any other districts of the municipality not prohibited in this section. Penalty, see § 10.14

#### **§ 71.74 SKATES AND SKATEBOARDS ON STREETS**

It shall be unlawful for any person to coast or skate with roller skates or skateboards on the streets within the municipality. (Ord. 2360, 5-6-86) Penalty, see § 10.14

#### **§ 71.75 MOTORCYCLES; TANDEM RIDING**

No person operating a motorcycle shall carry another person in front of the operator. (Neb. Rev. Stat. 60-6,307) Penalty, see § 10.14

#### **§ 71.76 MINI-BIKES; OPERATION ON STREETS PROHIBITED; EXEMPTION**

- (A) Unlawful operation. It shall be unlawful for any person to operate a mini-bike upon any street or highway within the corporate limits of the municipality.
- (B) Definitions. For the purpose of this section, the following definition shall apply unless the context clearly indicates or requires a different meaning.

**MINI-BIKE.** A two-wheel motor vehicle which has a total wheel and tire diameter of less than 14 inches or an engine rated capacity of less than 45 cubic centimeters displacement,



or any other two-wheel motor vehicle primarily designed by the manufacturer for off-road use only. (Neb. Rev. Stat. 60-2101.01 and 60-2107)

- (C) Exemption; emergencies and parades. Mini-bikes shall be exempt from the provisions of this subchapter during any public emergency or while being used in parades by regularly organized units of any recognized charitable, social, educational, or community service organization. (Neb. Rev. Stat. 60-2102)

Penalty, see § 10.14

## § 71.77 ALL-TERRAIN AND UTILITY-TYPE VEHICLES

- (A) For purposes of this section:

- (1) **ALL-TERRAIN VEHICLE (ATV)** means any motorized off-highway vehicle which
    - (a) is 50 inches or less in width, (b) has a dry weight of 900 pounds or less, (c) travels on three or more low-pressure tires, (d) is designed for operator use only with no passengers or is specifically designed by the original manufacturer for the operator and one passenger, (e) has a seat or saddle designed to be straddled by the operator, and (f) has handlebars or any other steering assembly for steering control.
  - (2)
    - (a) **UTILITY-TYPE VEHICLE (UTV)** means any motorized off-highway vehicle which
      - (i) is not less than 48 inches nor more than 74 inches in width,
      - (ii) is not more than 135 inches in length, including the bumper,
      - (iii) has a dry weight of not less than 900 pounds nor more than 2000 pounds,
      - (iv) travels on four or more low-pressure tires, and
      - (v) is equipped with a steering wheel and bench- or bucket-type seating designed for at least two people to sit side-by-side.
    - (b) “Utility-type vehicle” does not include a golf cart or low-speed vehicle.
  - (3) **STREET** or **HIGHWAY** means the entire width between the boundary limits of any street, road, avenue, boulevard, or way which is publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.
- (B) An ATV or a UTV may be operated on streets and highways within the corporate limits of the City only if the operator and the vehicle comply with the provisions of this section.
- (C) An ATV or a UTV may be operated only between the hours of sunrise and sunset and shall not be operated at a speed in excess of 30 miles per hour. When in operation as authorized in subsection (B) of this section, the headlight and taillight of the vehicle shall be on and the vehicle shall be equipped with a bicycle safety flag which extends not less than five feet above ground attached to the rear of such vehicle. The bicycle safety flag shall be triangular in shape with an area of not less than 30 square inches and shall be Day-Glo in color.
- (D) Any person operating an ATV or a UTV as authorized in subsection (B) of this section shall have:
- (1) A valid Class O operator’s license or a farm permit as provided in Neb. Rev. Stat. 60-4,126; and
  - (2) Liability insurance coverage for the ATV or UTV while in operation on a street or highway. The person operating the ATV or UTV shall provide proof of such insurance coverage to any peace officer requesting such proof within five days of such a request.

- (E) ATVs and UTVs may be operated without complying with subsections (C) and (D) of this section on streets and highways in parades which have been authorized by the State or any department, board, commission, or political subdivision of the State.
- (F) An ATV or a UTV shall not be operated on any controlled-access highway with more than two marked traffic lanes, and the crossing of any controlled-access highway with more than two marked traffic lanes shall not be permitted, except as provided in subsection (G) of this section.
- (G) Subject to subsection (F) of this section, the crossing of a highway shall be permitted by an ATV or a UTV without complying with subsection (C) of this section only if:
  - (1) The crossing is made at an angle of approximately 90 degrees to the direction of the highway and at a place where no obstruction prevents a quick and safe crossing;
  - (2) The vehicle is brought to a complete stop before crossing the shoulder or roadway of the highway;
  - (3) The operator yields the right-of-way to all oncoming traffic that constitutes an immediate potential hazard;
  - (4) In crossing a divided highway, the crossing is made only at an intersection of such highway with another highway; and
  - (5) Both the headlight and taillight of the vehicle are on when the crossing is made.
- (H) Every ATV and UTV shall be equipped with:
  - (1) A brake system maintained in good operating condition;
  - (2) An adequate muffler system in good working condition; and
  - (3) A United States Forest Service-qualified spark arrester.
- (I) No person shall:
  - (1) Equip the exhaust system of an ATV or a UTV with a cutout, bypass, or similar device;
  - (2) Operate an ATV or a UTV with an exhaust system so modified; or
  - (3) Operate an ATV or a UTV with the spark arrester removed or modified.

(Ord. 2973, 6-6-08; Am. Ord. 3005, 2-15-11)

## **CHAPTER 72: PARKING REGULATIONS**

### **§ 72.01 BRAKES AND TURNED WHEELS REQUIRED**

No person having control or charge of a motor vehicle shall allow the vehicle to stand unattended without first effectively setting the brakes thereon and, when standing upon any grade, without turning the front wheels of the vehicle to the curb or side of the street. Penalty, see § 10.14

### **§ 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 a 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 4 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 the stalls. No vehicle shall be parked upon a roadway when there is a shoulder adjacent to the roadway which is available for parking. (Am. Ord. 2597, 6-21-94) Penalty, see § 10.14

### **§ 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 BUSINESS DISTRICT; DESIGNATION OF TYPE OF PARKING**

The City Council may, by resolution, designate any street, or portion thereof, within the business district where vehicles shall be parked parallel with and adjacent to the curb so as to have both right wheels within 6 inches of the curb; or where vehicles shall be parked at an angle so as to have the right front wheel of the vehicle at the curb. Where stalls are designated either on the curb or pavement in the congested district, vehicles shall be parked within the stalls. (Neb. Rev. Stat. 60-680) Penalty, see § 10.14

### **§ 72.05 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 § 10.14

### **§ 72.06 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 1/2 hour. Every vehicle while loading or unloading in any alley shall be parked in a manner as will cause the least obstruction possible to traffic in the alley. Penalty, see § 10.14

### **§ 72.07 UNLOADING; FREIGHT VEHICLES**

Vehicles of an overall 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. Penalty, see § 10.14

### **§ 72.08 TRUCK PARKING AND UNLOADING**

- (A) It shall be unlawful for the operator of any truck with an overall length of more than 20 feet to stop or park any such vehicle on a street which the City Council has designated to be within the business district, except to load or unload, and then only when loading or unloading in an alley is impossible. Vehicles may stop or stand for a period of time not to exceed what is reasonably necessary to load or unload.
- (B) It shall be unlawful for the operator of any truck, regardless of length, to park the vehicle within a street intersection, on a crosswalk, in front of a private driveway, or on a sidewalk.
- (C) The Council may, by resolution, provide truck parking areas adjoining or adjacent to the business district, and when such parking areas are provided, it shall be the duty of all truck operators to use those parking areas for all parking purposes.
- (D) No truck, including oil tankers, shall park, or stop for any period of time, within the limits of any street outside the business district except for the purpose of loading or unloading the cargo thereof in the ordinary course of business, except in the area or areas provided for by the Council by resolution.

Penalty, see § 10.14

#### **§ 72.09 PARKING TRAILERS IN RESIDENTIAL AREAS PROHIBITED**

Any trailer, except a semi-trailer, may remain parked on a street or alley in the residential area for a reasonable duration of time, not to exceed 72 hours without prior special permission of the City Police Department, provided that proper reflectors are displayed on all trailers and OSHA-approved wheel chocks are used on unattached parked trailers. (Ord. 2522, 9-17-91; 3019, 7-3-12) Penalty, see § 10.14

#### **§ 72.10 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 the area of 15 feet in either direction of the fire hydrant shall be painted red to indicate this prohibition. (Neb. Rev. Stat. 60-6,166) Penalty, see § 10.14

#### **§ 72.11 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 the curbs adjacent to the entrance of the school house, school building, or theater shall be painted red to indicate this prohibition.

#### **§ 72.12 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 this prohibition. Penalty, see § 10.14

#### **§ 72.13 OBSTRUCTING TRAFFIC**

No person shall, except in case of an accident or emergency, stop any vehicle in any location where stopping will obstruct any street, intersection, or entrance to an alley or public or private drive. Penalty, see § 10.14

#### **§ 72.14 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 a position so 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 those 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 § 10.14

### **§ 72.15 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 the garage or shop for the purpose of working on automobiles or vehicles of any description. Penalty, see § 10.14

### **§ 72.16 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 § 10.14

### **§ 72.17 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 the 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 the 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 § 10.14

### **§ 72.18 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 3 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 Chief of Police 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 the street or alley or by posting appropriate signs along those streets or alleys. The signs shall be posted not less than 4 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 the vehicle may be removed and parked, under the supervision of the Chief of Police, to a suitable nearby location without further notice to the owner or operator of the vehicle.

Penalty, see § 10.14

### **§ 72.19 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.

### **SNOW EMERGENCY ROUTES**

### **§ 72.30 ESTABLISHMENT**

The Public Works Director is hereby authorized to establish snow emergency routes upon any street or highway of the City and shall place appropriate signs indicating the existence of these snow emergency routes.

### **§ 72.31 DECLARATION OF PROHIBITION**

Whenever the Mayor of the City or his or her designated representative shall find, on the basis of falling snow, sleet, or freezing rain or on the basis of an official forecast by the U.S. Weather Bureau of snow, sleet, or freezing rain, the weather conditions will make it necessary that motor vehicle traffic be expedited and that parking on City snow emergency routes be prohibited or restricted for snow plowing and other purposes, the Mayor or his or her designated representative may place into effect a parking prohibition on all snow emergency routes by declaring that emergency conditions exist. In the declaration of emergency conditions, the Mayor or his or her designated representative shall state the time that the emergency shall be in effect, and from the time so designated all parking of vehicles on snow emergency routes shall be prohibited. While the prohibition is in effect, no person shall park or allow to remain parked any vehicle on any portion of a snow emergency route. Once in effect, the parking prohibition imposed under this section shall remain in effect until terminated by declaration of the Mayor or his or her designated representative. However, nothing in this section shall be construed to permit parking at any time or place where it is forbidden by any other provision of law. Penalty, see § 10.14

### **§ 72.32 PROHIBITION OF PARKING ON RESIDENTIAL STREETS**

Whenever the Mayor or his or her designated representative shall find on the basis of accumulated snow that conditions make it necessary that parking on residential streets be prohibited or restricted for snow plowing and other purposes, he or she may put into effect a parking prohibition on parts of or on all residential streets by declaring that parking be prohibited on one side of the residential streets, designating either the odd or even address numbered side, at his or her discretion. In the declaration, the Mayor or his or her designated representative shall state the date and time on which the parking prohibition shall take effect. The prohibition shall remain in effect until terminated by announcement of the Mayor or his or her designated representative, who may then declare that there shall be in effect a parking prohibition on the opposite side of those residential streets designated above, which prohibition shall remain in effect until terminated by announcement of the Mayor or his or her designated representative.

### **§ 72.33 OPERATION OF MOTOR VEHICLES**

- (A) Whenever an emergency has been declared pursuant to § 72.31, no person operating a motor vehicle on a snow emergency route shall allow the vehicle to become stalled or stuck.
- (B) No person operating a motor vehicle on a snow emergency route during the declaration of emergency snow conditions shall allow the vehicle to become stalled because the motor fuel supply is exhausted or the battery has become inoperative.

Penalty, see § 10.14

### **§ 72.34 STALLED VEHICLES; REMOVAL REQUIRED**

Whenever a motor vehicle becomes stalled for any reason, whether or not in violation of this subchapter, on any snow emergency route on which there is a parking prohibition in effect, the person operating the vehicle shall take immediate action to have the vehicle towed or pushed off the roadway of the snow emergency route, either onto the nearest cross street which is not a snow emergency route, or other appropriate location. No person shall abandon or leave his or her vehicle in the roadway of a snow emergency route, except for the purpose of securing assistance during the actual time necessary to go to a

nearby telephone or to a nearby garage, gasoline station, or other place of assistance and return without delay. Penalty, see § 10.14

#### **§ 72.35 ANNOUNCEMENT OF EMERGENCY DECLARATION; TERMINATION**

- (A) The Mayor or his or her designated representative shall cause each declaration of a snow emergency made by him or her, pursuant to this subchapter, to be publicly announced by means of broadcast or telecast from broadcasting stations with a normal operating range covering the City, and he or she may cause the declaration to be further announced in newspapers of general circulation when feasible. Each announcement shall describe the action taken by the Mayor or his or her designated representative, including the time it became or will become effective, and shall specify the streets or areas affected. The Mayor or his or her designated representative shall make or cause to be made a record of each time and date when any declaration is announced to be public.
- (B) Whenever the Mayor or his or her designated representative shall find that some or all of the conditions which give rise to a parking prohibition placed in effect pursuant to the provisions of this subchapter no longer exist, he or she may declare the prohibition terminated, in whole or in part, effective immediately upon announcement or at a later specified time.

#### **§ 72.36 TEMPORARY PROVISIONS; PRECEDENCE**

Any provision of this subchapter which becomes effective by declaration of the Mayor or his or her designated representative upon the occurrence of a snow emergency, while temporarily in effect, takes precedence over other conflicting provisions of law normally in effect, except that it shall not take precedence over provisions of law relating to traffic accidents, emergency travel of authorized emergency vehicles, or emergency traffic directions by a police officer.

#### **§ 72.37 REMOVAL OF PARKED OR STALLED VEHICLES BY CITY**

Members of the Police Department are hereby authorized to remove or have removed, at the owner's expense, a vehicle from a street to another place or location on a street or to a lot, garage, or other similar facility designated by the Police Department when:

- (A) The vehicle is parked on a snow emergency route on which a parking prohibition is in effect;
- (B) The vehicle is stalled on a snow emergency route on which there is a parking prohibition in effect and the person who is operating the vehicle does not appear to be removing it in accordance with the provisions of this subchapter; or
- (C) The vehicle is parked on any street or other public area in violation of any parking prohibition or provision of law contained in this subchapter and is interfering or about to interfere with snow removal operations.

#### **PARKING FOR PERSONS WITH DISABILITIES**

#### **§ 72.50 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. Rev. Stat. 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. Rev. Stat. 18-1741.01)

**TEMPORARILY HANDICAPPED OR DISABLED PERSON.** Any handicapped or disabled person whose personal mobility is expected to be limited in that manner for no longer than one year. (Neb. Rev. Stat. 18-1738)

(Ord. 2530, 2-18-92; Am. Ord. 2600, 6-21-94; 2708, 8-5-97)

#### **§ 72.51 DESIGNATION OF ON-STREET PARKING SPACES AND ACCESS AISLES; PERMIT DISPLAY**

- (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. Rev. Stat. 60-3,113; handicapped or disabled persons whose motor vehicles display a distinguishing license plate issued to a handicapped or disabled person by another state; those 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. Rev. Stat. 18-1739; and those other motor vehicles, as certified by the municipality, which display this permit. All permits of this type 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. Rev. Stat. 18-1737. In addition to the sign, the space or access aisle may also be indicated by blue paint on the curb or edge of the paved portion of the street adjacent to the space or access aisle. (Neb. Rev. Stat. 18-1736)

(Ord. 2530, 2-18-92; Am. Ord. 2598, 6-21-94; 2706, 8-5-97)

#### **§ 72.52 DESIGNATION OF OFF-STREET PARKING STALLS, SPACES AND ACCESS AISLES; PERMIT DISPLAY**

The municipality and any person in lawful possession of any off-street parking facility may designate stalls or spaces, including access aisles, in the 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 those individuals pursuant to Neb. Rev. Stat. 60-3,113; those 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. Rev. Stat. 18-1739; and those other motor vehicles, as certified by the municipality, which display this permit. The designation shall be made by posting aboveground and immediately adjacent to and visible from each stall or space, including access aisles, a sign which is in conformance with the requirements in Neb. Rev. Stat. 18-1737. (Ord. 2530, 2-18-92; Am. Ord. 2599, 6-21-94; 2707, 8-5-97)

#### **§ 72.53 PERSONAL PERMIT APPLICATION; 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 the 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 those 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 6 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 § 72.54, 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 30 days prior to the expiration of the permit. The existing permit shall be invalid upon receipt of the new permit. (Neb. Rev. Stat. 18-1738)
- (F) The Municipal Clerk shall not accept the application for a permit of any person making application contrary to the provisions of Neb. Rev. Stat. 18-1738.02.

(Ord. 2530, 2-18-92; Am. Ord. 2709, 8-5-97) Penalty, see § 10.14

#### **§ 72.54 MOTOR VEHICLE PERMIT APPLICATION; ISSUANCE**

- (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. The 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 that person will enter or exit the motor vehicle while it is parked in those 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 those 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 permit of this type shall be issued for each motor vehicle. A person may hold either a permit under this section or a permit under § 72.53, 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. Rev. Stat. 18-1738.01)
- (F) The Municipal Clerk shall not accept the application for a permit of any person making application contrary to Neb. Rev. Stat. 18-1738.02.

(Ord. 2530, 2-18-92; Am. Ord. 2710, 8-5-97) Penalty, see § 10.14

#### **§ 72.55 PROHIBITED PERMIT 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 that person or for that motor vehicle and the permit has been suspended pursuant to § 72.57. At the expiration of the 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. The 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. Rev. Stat. 18-1739)

(Ord. 2530, 2-18-92; Am. Ord. 2560, 3-16-93; 2711, 8-5-97)

#### **§ 72.56 PERMIT TERM; RENEWAL; FEE**

- (A) Permanently issued permits for handicapped or disabled parking authorized by this subchapter shall be issued for a period ending September 30 of the third year following the date of issuance and shall expire on that date. Permanently issued permits issued on or after August 1, 2005, shall be valid for a period ending on the last day of the month of the applicant's birthday in the third year after issuance and shall expire on that day.
- (B) All permits authorized under this subchapter, for temporarily handicapped or disabled parking shall be issued for a period ending not more than 6 months after the date of issuance but may be renewed for a 1-time period not to exceed 6 months. For the renewal period, there

shall be submitted an additional application with proof of a handicap or disability and the required permit fee. (Neb. Rev. Stat. 18-1740)

(Ord. 2530, 2-18-92; Am. Ord. 2601, 6-21-94; 2712, 8-5-97)

**§ 72.57 PERMIT NONTRANSFERABLE; UNLAWFUL USE; SUSPENSION**

- (A) Permits issued under this subchapter shall not be transferable and shall be used only by the party to whom issued or for the motor vehicle for which issued and only for the purpose for which it is issued. No person shall alter or reproduce in any manner a permit issued pursuant to this subchapter. No person shall knowingly hold more than 1 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 that 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 the permit for a period of 6 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 the 6-month period, a suspended permit may be renewed in the manner provided for renewal in this subchapter. (Neb. Rev. Stat. 18-1741)

(Ord. 2530, 2-18-92; Am. Ord. 2713, 8-5-97) Penalty, see § 10.14

**§ 72.58 REMOVAL OF UNAUTHORIZED VEHICLE; UNLAWFUL PARKING**

- (A) The owner or person in lawful possession of an off-street parking facility, after notifying the Chief of Police, and the municipality, if it provides on-street parking or owns, operates, or provides an off-street 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 the stall or space,

including access aisles, a sign which clearly and conspicuously states the area so designated as a towing zone.

- (B) A person who parks a vehicle in any on-street 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 off-street 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 the violation and shall be guilty and subject to the penalties and procedures described in this section.
- (C) In the case of a privately owned off-street parking facility, the municipality shall not require the owner or person in lawful possession of the facility to inform the municipality of a violation of this section prior to the municipality issuing the violator a handicapped parking infraction citation. (Neb. Rev. Stat. 18-1737)

(Ord. 2465, 12-5-89; Am. Ord. 2530, 2-18-92; 2559, 3-16-93; 2602, 6-21-94; 2715, 8-5-97) Penalty, see § 10.14

#### **§ 72.59 CITATION; ISSUANCE; COMPLAINT; TRIAL; DISMISSAL**

- (A) For any offense classified as a handicapped parking infraction, a handicapped parking citation may be issued by any peace officer or by any person designated by ordinance by the City Council to exercise the authority to issue a citation for any handicapped parking infraction.
- (B) When a handicapped parking citation is issued for a handicapped parking infraction, the person issuing the handicapped parking citation shall enter thereon all required information, including the name and address of the cited person or, if not known, the license number and description of the offending motor vehicle, the offense charged, and the time and place the person cited is to appear in court. Unless the person cited requests an earlier date, the time of appearance shall be at least 3 days after the issuance of the handicapped parking citation. One copy of the handicapped parking citation shall be delivered to the person cited or attached to the offending motor vehicle.
- (C) At least 24 hours before the time set for the appearance of the cited person, either the Municipal Attorney or other person authorized by law to issue a complaint for the particular offense shall issue and file a complaint charging the person with a handicapped parking infraction or the person shall be released from the obligation to appear as specified.
- (D) The trial of any person for a handicapped parking infraction shall be by the court without a jury. A person cited for a handicapped parking violation may waive his or her right to trial.
- (E) For any handicapped parking citation issued for a handicapped parking infraction by reason of the failure of a vehicle to display a handicapped parking permit issued pursuant to Neb. Rev. Stat. 18-1738 or 18-1738.01, the complaint shall be dismissed if, within 7 business days after the date of issuance of the citation, the person cited files with the court the affidavit

included on the citation, signed by a peace officer certifying that the recipient is the lawful possessor in his or her own right of a handicapped parking permit issued under Neb. Rev. Stat. 18-1738 or 18-1738.01 and that the peace officer has personally viewed the permit. (Neb. Rev. Stat. 18-1741.01, 18-1741.04, and 18-1741.06)

(Ord. 2603, 6-21-94; Am. Ord. 2714, 8-5-97) Penalty, see § 10.14

#### ADMINISTRATION AND ENFORCEMENT

### **§ 72.75 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; and
- (B) The location where payment may be made.

(Am. Ord. 2941, 6-20-06) Penalty, see § 10.14

### **§ 72.76 REMOVAL OF ILLEGALLY PARKED VEHICLES**

- (A) Whenever any police officer shall find a vehicle standing upon a street or alley in violation of any of the provisions of the chapter, the individual may remove or have the vehicle removed or require the driver or other person in charge of the vehicle to move the vehicle to a position off the roadway of the street or alley or from the 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 the vehicle until the charges are paid. The lien provided for in this section shall not apply to the contents of any vehicles. (Neb. Rev. Stat. 60-6,165)

(Ord. 2313, 8-21-84; Am. Ord. 2438, 10-4-88) Penalty, see § 10.14

## CHAPTER 73: TRAFFIC SCHEDULES

### SCHEDULE I. SPEED LIMITS

<i>Street</i>	<i>Location</i>	<i>Hours</i>	<i>Speed Limit</i>
	In the business district as defined in this title		20 mph
	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 opening or closing hours	25 mph, unless otherwise posted
All streets and roads within the area of the City parks	All streets and roads within the area of the City parks		20 mph
Highway 136	Commencing on or about Elm Street and extending east along the highway to the east city limits		45 mph
Highway 136	Commencing on or about Elm Street and extending east along the highway to the east city limits		35 mph
Highway 15	From south city limits north to 150 feet south of Third Street		35 mph
Highway 15	From 150 feet south of Third Street north to, on or about Eleventh Street		25 mph
Highway 15	From, on or about Eleventh Street north to, on or about Sixteenth Street		35 mph
Highway 15	From, on or about Sixteenth Street north to the north city limits		45 mph
Ninth Street	From K Street to L Street	Between the hours of 7:30 a.m. and 4:00 p.m. on school days only	20 mph
All other streets within City limits			25 mph

(Am. Ord. 2282, 10-4-83; 2392, 4-7-87; 2430, 8-16-88; 2461, 12-5-89; 2475, 6-5-90; 2943, 7-5-06)

Penalty, see § 10.14

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## CHAPTER 90: LEISURE AND RECREATION

### PARKS

#### § 90.01 OPERATION AND FUNDING

- (A) The municipality owns the municipal parks and other recreational areas and operates them through the Park Director. 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 this tax shall be known as the Park Fund and shall remain in the custody of the Municipal Treasurer. The City Council 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 Park Director 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.
- (B)
- (1) The City Council of the City, by and through the Municipal Water Department, shall be responsible for management and operation of the facilities and municipal property commonly known as Crystal Springs Park.
  - (2) The City Council shall pay all costs of operation and maintenance of that park and shall receive all income generated from operation of the park.
  - (3) The City Council shall designate a Utilities Department employee as Park Director, and this employee shall supervise day-to-day operations of the park.
  - (4) The City wellhead protection plan and maintenance of the quality of the municipal water supply are declared to be priority considerations in management and operational decisions made by the City Council and its agents pursuant to the powers granted herein, and the maintenance of recreational opportunities shall be incidental to those priorities.
  - (5) The City Council shall adopt and promulgate rules and regulations pertaining to operation and use of park facilities. Upon adoption of those rules and regulations and any future amendments thereto, same shall be submitted to the Mayor for approval, and upon adoption of appropriate resolution by the Mayor approving same, the rules and regulations shall become effective. Copies of the rules and regulations shall be made available to the public in the City Clerk's office, and where appropriate, the Park Director shall cause notice thereof to be posted at Crystal Springs Park.
  - (6) It shall be unlawful for any person to violate any rules and regulations adopted and promulgated pursuant to this section with respect to operation and use of Crystal Springs Park.
  - (7) Any person, or any person's agent or servant, who violates any of the provisions of this section or rules and regulations adopted and promulgated pursuant thereto, unless otherwise specifically provided herein, shall be deemed guilty of an offense.

(Ord. 2857, 2-18-03; Am. Ord. 2944, 2496, 12-4-90, 8-15-06; 3090, 9-1-20; 3128, 1-31-25) Penalty, see § 10.14

#### § 90.02 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. Penalty, see § 10.14

**§ 90.03 (RESERVED)**

**§ 90.04 (RESERVED)**

**§ 90.05 CRYSTAL SPRINGS; UNLAWFUL ACTS**

No one but nonprofit organizations shall be granted concessions in Crystal Springs, and it shall be unlawful to construct or attempt to construct any private entrance to the premises; to hunt or trap on the premises; or to commit any waste or litter the premises. Penalty, see § 10.14

**§ 90.06 CRYSTAL SPRINGS PARK; RULES AND REGULATIONS**

- (A) Rules and regulations adopted by the Mayor and City Council pursuant to § 90.01 shall be in full force and effect at Crystal Springs Park to the extent they are not inconsistent with this section.
- (B)
  - (1) No person shall operate a motor vehicle within the park at a speed in excess of the posted speed.
  - (2) Overnight camping is only permitted within areas of the park designated by the Public Works Committee.
  - (3) Open fires shall be permitted within the park only where fire rings are provided.
  - (4) Consumption or possession of alcoholic liquor and beverages is only permitted within designated camping areas of the park.
  - (5) Dogs shall not be permitted to run at large within the park, and shall be restrained securely by chain or leash.
  - (6) Operation of motor boats is prohibited, and all other boats or non-motorized vessels shall be launched only at areas designated by the City Council and where appropriate docks or ramps are provided.
  - (7) Ice skating within the park is prohibited.
  - (8) Motor vehicles, including, but not limited to, all-terrain vehicles (ATVs), utility-type vehicles (UTVs), snowmobiles, and unlicensed motor bikes, are prohibited in the park.
  - (9) No commercial vendors, whether profit or nonprofit, shall conduct business within the park in the absence of specific authorization by the City Council.
  - (10) The park is designated a quiet zone from the hours of 10:00 p.m. to 7:00 a.m. During that time, no driver shall make any unnecessary engine noise or sound any horn, and it shall be unlawful to play any music or cause other sounds or noises at a level that disturbs the peace and quiet of park occupants.
  - (11) The Park Manager, subject to approval of the City Council, shall determine appropriate fees and camping restrictions and limitations. The Park Manager shall also monitor and regulate usage of facilities to ensure protection of the municipal water supply, preservation of lake water transparencies and habitat, and promotion of the general safety of employees and park visitors.
  - (12) Motor vehicles shall be operated only on public roads, access to designated camping areas, and access to designated parking areas.

(Ord. 2944, 8-15-06; Am. Ord. 3090, 9-1-20; 3115, 9-19-2023) (Res. 536, 5-6-03; 808, 3-15-11) Penalty, see § 10.14

## SWIMMING POOLS

### **§ 90.20 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 Park Director shall manage the swimming pool. The Park Director shall have the power and authority to hire and supervise the swimming pool manager and those employees as he or she may deem necessary and shall pass rules and regulations for the operation of the swimming pool as may be proper for its efficient operation. All actions by the Park Director shall be under the supervision and control of the Mayor and City Council. (Am. Ord. 2498, 12-4-90; 2944, 8-15-06)

### **§ 90.21 ADMISSION CHARGE**

The Park Director 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. The 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. (Am. Ord. 2499, 12-4-90; 2944, 8-15-06)

### **§ 90.22 RENTALS**

The Park Director shall have the authority to rent the municipal swimming pool to those organizations and other persons as he or she may in his or her discretion see fit, subject to the review of the City Council. The Park Director shall prescribe rules and regulations for these rentals and shall require an appropriate number of qualified lifeguards to be in attendance during the rental period. The 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. (Am. Ord. 2500, 12-4-90; 2944, 8-15-06)

### **§ 90.23 RULES AND REGULATIONS**

The Park Director 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 those bylaws, rules, and regulations subject to the review and supervision of the City Council. (Am. Ord. 2501, 12-4-90; 2944, 8-15-06) Penalty, see § 10.14

## MUSEUM

### **§ 90.35 ESTABLISHMENT; OPERATION AND FUNDING**

For the support and maintenance of the Public Museum, the City Council may levy a tax on all real and personal within the corporate limits subject to taxation which tax shall not exceed the maximum limit prescribed by state law. All revenue from the tax shall be known as the Museum Fund. The Museum

Board shall have the power and authority to operate and manage the Museum. The Museum shall be free for the use of the public, subject to those reasonable regulations as the Museum Board may adopt. The title of all property donated or devised shall vest in the Museum Board and their successors in office. Whereas the City, prior to the effective date of the applicable laws of the State, had established a Museum, no election is necessary for its establishment. (Neb. Rev. Stat. 51-501 through 51-513)

### MUNICIPAL LIBRARY

#### **§ 90.50 OPERATION AND FUNDING**

- (A) The City owns the Municipal Library and manages it 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. Rev. Stat. 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. Rev. Stat. 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.

#### **§ 90.51 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. Rev. Stat. 51-201 through 51-219. (Neb. Rev. Stat. 51-205)
- (B) The Library Board shall have exclusive control of expenditures, of all money collected or donated to the credit of the Library Fund, of the renting and construction of any Library building, and the supervision, care, and custody of the grounds, rooms, or buildings constructed, leased, or set apart for that purpose. (Neb. Rev. Stat. 51-207)
- (C) The Library Board shall have the power to appoint a suitable Librarian and assistants, to fix their compensation, and to remove such appointees at pleasure. The City Council shall approve any personnel administrative or compensation policy or procedure before implementation of such policy or procedure by the library board. The Library Board shall have the power to establish rules and regulations for the government of the Library as may be deemed necessary for its preservation and to maintain its usefulness and efficiency. It shall have the power to fix and impose, by general rules, penalties, and forfeitures for trespasses upon or injury to the Library grounds, rooms, books, or other property, for failure to return any book, or for violation of any bylaw, rule, or regulation. The Board shall have and

exercise such power as may be necessary to carry out the spirit and intent of Neb. Rev. Stat. 51-201 through 51-219 in establishing and maintaining the Library and reading room. (Neb. Rev. Stat. 51-211)

#### **§ 90.52 GROUNDS AND BUILDING**

- (A) The Library Board may purchase or lease grounds, exercise the power of eminent domain, and condemn real estate for the purpose of securing a site for a Library building. The procedure to condemn property shall be exercised in the manner set forth in Neb. Rev. Stat. 76-704 through 76-724. (Neb. Rev. Stat. 51-210)
- (B) The Board may erect, lease, or occupy an appropriate building for the use of the Library. (Neb. Rev. Stat. 51-211)

#### **§ 90.53 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. Rev. Stat. 51-216.

#### **§ 90.54 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. Rev. Stat. 51-206)

#### **§ 90.55 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 of the City. The Library Board or 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. Rev. Stat. 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 non-basic services. (Neb. Rev. Stat. 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;
- (b) Media equipment;
- (c) Telephones, facsimile equipment, and other telecommunications equipment;
- (d) Personal computers; and
- (e) Videocassette recording and playing equipment. (Neb. Rev. Stat. 51-201.01)

#### **§ 90.56 DISCRIMINATION PROHIBITED**

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

#### **§ 90.57 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, videos and audio materials, software programs, and materials in other formats; the number of periodic 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 Library Board. (Neb. Rev. Stat. 51-213)

#### **§ 90.58 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. Rev. Stat. 51-214)

#### **§ 90.59 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. Rev. Stat. 51-215)

#### **§ 90.60 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 § 10.14

### **CHAPTER 91: FIRE REGULATIONS**

#### **FIRE PREVENTION**

##### **§ 91.01 FIRE PREVENTION CODE**

The rules and regulations promulgated by the office of the State Fire Marshal of this State 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.



## **§ 91.02 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 or principal appointed City public safety officer.

## **§ 91.03 FIRE LIMITS DEFINED**

The following described territory in the municipality shall be and constitute the fire limits: Business "A" and Business "B" Zoning Districts. (Neb. Rev. Stat. 17-549)

## **§ 91.04 FIRE LIMITS BUILDING MATERIALS**

Within the fire limits set forth in § 91.03, no structure shall be built, altered, moved, or enlarged unless that 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 or principal appointed City public safety officer that the structure will be reasonably fireproof. (Neb. Rev. Stat. 17-549) Penalty, see § 10.14

## **§ 91.05 LUMBER YARDS**

It shall be unlawful for any person to locate, establish, or maintain any lumber yard or place for the piling, storing, keeping, or selling any lumber, or to keep any lime, lath, shingles, hay, straw, or other combustible materials on any lot or parcel of ground within the fire limits, unless the same is securely kept in a building constructed of brick, stone, concrete, or other noncombustible material; provided, the foregoing shall not apply to lumber yards now built and in use. (Neb. Rev. Stat. 17-549; 17-550) Penalty, see § 10.14

## **§ 91.06 PERMITTED REPAIRS**

It shall be unlawful for any person to repair, alter, or add to any building in the fire limits where the repair is less than 50% of the building unless that person shall first submit an application to the Building Inspector to make those repairs, alterations, or to add to any building and shall state on the application that the material used will be noncombustible and approved by the Fire Chief or principal appointed City public safety officer. Repairs in the form of patching and other minor repairs shall not require a permit. In the event that the repairs, alteration, or addition is to involve more than 50% of the building, the owner shall be required to apply for a new building permit which shall state that the building, when completed, shall be fireproof and made of noncombustible materials. (Neb. Rev. Stat. 17-550) Penalty, see § 10.14

## **§ 91.07 REMOVAL REQUIRED**

In the event that any wooden or combustible building or structure, or any noncombustible 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 the fire or other casualty. (Neb. Rev. Stat. 17-550) Penalty, see § 10.14

## **§ 91.08 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 the damaged or decayed condition. Any such building shall be removed or

repaired within 30 days after receiving notice to do so by the City Council. (Neb. Rev. Stat. 17-550) Penalty, see § 10.14

#### **§ 91.09 OPEN BURNING BAN; WAIVER**

- (A) There shall be a statewide open burning ban on all bonfires, outdoor rubbish fires, and fires for the purpose of clearing land.
- (B) The Fire Chief or principal appointed City public safety officer 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 principal appointed City public safety officer or his or her designee to a person desiring to conduct open burning shall be in writing, signed by the Fire Chief or principal appointed City public safety officer or his or her designee, and on a form provided by the State Fire Marshal.
- (C) The Municipal Fire Chief or principal appointed City public safety officer 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 that 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 or principal appointed City public safety officer 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. These 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 that state's or political subdivision's official duties.

(Am. Ord. 2636, 2-21-95) Penalty, see § 10.14

#### **§ 91.10 PROHIBITED STOVES**

It shall be unlawful for any person to permit or allow to be burned any flammable substance in any stove not tested and approved for the specific fuel used by a nationally recognized testing laboratory. (Neb. Rev. Stat. 17-549) Penalty, see § 10.14

#### **§ 91.11 RIGHT OF ENTRY**

It shall be the duty of the owner, lessee, or occupant of any building or structure, except the interiors of private dwellings, to allow the Fire Chief or principal appointed City public safety officer to inspect, or cause to be inspected, as often as necessary that structure for the purpose of ascertaining and enumerating all conditions therein that are likely to cause fire, or any other violations of the provisions of the municipal ordinances affecting the hazard of fire. (Neb. Rev. Stat. 81-512) Penalty, see § 10.14

#### **FIRES**

### **§ 91.25 PRESERVATION OF PROPERTY**

- (A) The Fire Chief or principal appointed City public safety officer, or any officer in charge of the Fire Department, shall have the authority and power to cause the removal of property whenever it shall become necessary for the preservation of more valuable property, the protection of human life, or to prevent the spreading of fire to adjoining property. The Fire Chief may direct the municipal firefighters to remove any building, structure, or fence for the purpose of checking the progress of any fire. The Fire Chief or principal appointed City public safety officer shall have the authority to blow up, or cause to be blown up, with explosives any building or structure during the progress of a fire for the purpose of checking the progress of the same.
- (B) Any official of the Municipal Fire Department shall have the power during the time of a fire to cause the removal of any private or public property whenever it shall become necessary to do so for the preservation of the property from fire, to prevent the spreading of fire, or to protect adjoining property. These officials may direct the municipal firefighters to remove any building, structure, or fence for the purpose of checking the progress of any fire, and the official in charge of the firefighting effort shall have the power to blow up, or cause to be blown up, with powder or otherwise, any building or erection during the progress of a fire for the purpose of extinguishing or checking the same.

### **§ 91.26 DISORDERLY SPECTATOR**

It shall be unlawful for any person during the time of a fire and for a period of 36 hours after its extinguishment to hinder, resist, or refuse to obey the Municipal Fire Chief or principal appointed City public safety officer, or to act in a noisy or disorderly manner. The Fire Chief or principal appointed City public safety officer or any officer in charge of the Fire Department shall have the power and authority during that time to arrest, if they are a certified law enforcement officer, or command any such person to assist them in the performance of their official duties. (Neb. Rev. Stat. 28-908) (Am. Ord. 2944, 8-15-06) Penalty, see § 10.14

### **§ 91.27 EQUIPMENT; TAMPERING UNLAWFUL**

It shall be unlawful for any person, except the Fire Chief or principal appointed City public safety officer and the members of the Municipal Fire Department, to molest, destroy, handle, or in any other way to interfere with the use and storage of any of the fire trucks and other apparatus belonging to the municipality. (Neb. Rev. Stat. 28-519) Penalty, see § 10.14

### **§ 91.28 INTERFERENCE UNLAWFUL**

It shall be unlawful for any person or persons to hinder or obstruct the Municipal Fire Chief or the members of the Fire Department in the performance of their duty. (Neb. Rev. Stat. 28-908) Penalty, see § 10.14

### **§ 91.29 OBSTRUCTION OF FIRE HYDRANT**

It shall be unlawful for any person to obstruct the use of a fire hydrant or have or place any material within 15 feet of the hydrant. Any vehicle or material found as an obstruction may be immediately removed by the Fire Chief or principal appointed City public safety officer or any member of the Fire Department, at the risk, cost, and expense of the owner or claimant. (Neb. Rev. Stat. 39-672) Penalty, see § 10.14

### **§ 91.30 ASSISTANCE; REFUSAL UNLAWFUL**

- (A) It shall be unlawful for any person to refuse, after the command of the Fire Chief or principal appointed City public safety officer or any officer in charge of the Fire Department, to aid in extinguishing a fire or to assist in the removal and protection of property.
- (B) Any official of the Fire Department may command the assistance and services of any person present at a fire to help in extinguishing the fire, or in the removal and protection of property. In the event that a spectator refuses, neglects, or fails to assist the Fire Department after a lawful order to do so, he or she shall be deemed guilty of a misdemeanor. Penalty, see § 10.14

### **§ 91.31 DRIVING OVER HOSE UNLAWFUL**

It shall be unlawful for any person, without the consent of the Fire Chief or principal appointed City public safety officer or any officer in charge of the Fire Department, to drive any vehicle over unprotected hose of the Fire Department. (Neb. Rev. Stat. 60-6,184) Penalty, see § 10.14

### **§ 91.32 TRAFFIC IN VICINITY**

No vehicle, except by the specific direction of the Fire Chief or principal appointed City public safety officer or any officer in charge of the Fire Department shall follow, approach, or park closer than 500 feet to any fire vehicle or to any fire hydrant to which a hose is connected. Nothing herein shall be construed to apply to vehicles carrying doctors or members of the Fire Department or to emergency vehicles. (Neb. Rev. Stat. 60-6,184) (Am. Ord. 2941, 6-20-06) Penalty, see § 10.14

### **§ 91.33 (RESERVED)**

### **§ 91.34 FALSE ALARM**

It shall be unlawful for any person to intentionally and without good and reasonable cause raise any false alarm of fire. Penalty, see § 10.14

### **§ 91.35 RESIDENTIAL FIRE ALARM; PERMIT**

- (A) Any person desiring to connect automatic fire detector equipment, in a residence, capable of sending an alarm of fire directly or indirectly, shall file with the Fire Chief or principal appointed City public safety officer an application for a residential fire alarm permit. The application shall be in writing on a form to be furnished by the Fire Chief or principal appointed City public safety officer for that purpose. Every such application shall set forth the legal description of the land upon which the building is located, the names of the owner, an agreement by the applicant to reimburse the municipality for all expenses incurred in responding to a false alarm and indemnifying and holding harmless the municipality for all damages to the property of applicant incurred by reason of response to an alarm, and such other information as may be requested thereon. The application shall be checked and examined by the Fire Chief or principal appointed City public safety officer and if it is found to be in conformity with the requirements of this chapter and all other ordinances applicable thereto, the Fire Chief or principal appointed City public safety officer shall issue the applicant a permit upon the payment of the permit fee set by resolution of the City Council.
- (B) It shall be unlawful for any person to violate any provision of this section.

(Ord. 2292, 1-3-84) Penalty, see § 10.14

*POISONOUS AND FLAMMABLE GASES; EXPLOSIVES*

**§ 91.50 PETROLEUM GASES**

- (A) Storage location. 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. (Neb. Rev. Stat. 17-549)
- (B) State regulations. All regulations and requirements pertaining to the commercial storage of petroleum gas which have been adopted by the state, shall have full force and effect and control over the storage of all these gases within the corporate limits of the municipality.
- (C) Permit and regulations. Anyone desiring to store or handle liquefied petroleum gas shall first file an application with the City Council of the municipality and obtain the permission of the City Council to store that gas. This storage and handling shall comply with the rules and regulations promulgated by the Office of the State Fire Marshal, hereby adopted by reference in addition to all supplements and amended editions as though printed in full herein.
- (D) Compressed gases. These restrictions and regulations shall not apply to any non-flammable compressed gas.

Penalty, see § 10.14

**§ 91.51 POISONOUS AND FLAMMABLE GASES; STORAGE**

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 those gases, must first get permission from the Fire Chief or principal appointed City public safety officer, who shall require the name of the gas, the place of storage, and the amount of gas stored. If permission is granted, the governing body shall prescribe those rules, regulations, and precautionary actions as it 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. (Am. Ord. 2944, 8-15-06) Penalty, see § 10.14

**§ 91.52 DYNAMITE AND OTHER EXPLOSIVES; STORAGE**

No person, firm, or corporation shall store or keep for any period of time dynamite, nitroglycerine, or other high explosives within the municipality. (Neb. Rev. Stat. 17-549) (Am. Ord. 2944, 8-15-06)  
Penalty, see § 10.14

**§ 91.53 BULLETS**

Cartridges, shells, and percussions caps shall be kept away from flame, flammable materials, and high explosives. (Am. Ord. 2944, 8-15-06) Penalty, see § 10.14

**§ 91.54 BLASTING PERMIT**

In addition to notifying the Municipal Fire Department pursuant to Neb. Rev. Stat. 28-1233(3), any person desiring to discharge explosive materials within the municipality shall secure a permit from the City Council and shall discharge those 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 State Patrol. (Am. Ord. 2467, 12-5-89; 2604, 6-21-94) Penalty, see § 10.14

## § 91.55 TRANSPORTATION

Any person wishing to transport high explosives in the municipality shall first acquire a permit from the City Council and shall take those precautions and use that 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 5 minutes within the municipality and in the event of mechanical failure, immediate notice of the breakdown shall be given the Chief of Police, who shall then prescribe those precautions as may be necessary to protect the residents of the municipality and a reasonable time for removal of the vehicle from the municipality. Penalty, see § 10.14

## FIREWORKS

## § 91.70 DEFINITIONS

For the purpose of this subchapter, unless the context otherwise requires:

**PERSON** means any individual, corporation, company, association, firm, partnership, limited liability company, society, or joint-stock company;

**FIREWORKS** means 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 consumer or special fireworks set by the United States Department Transportation in Title 49 of the Code of Federal Regulations;

### **CONSUMER FIREWORKS:**

- (A) Means any of the following devices that (i) meet the requirements set forth in 16 C.F.R. parts 1500 and 1507, as such regulations existed on January 1, 2010, and (ii) are tested and approved by a nationally recognized testing facility or by the State Fire Marshal:
  - (1) Any small firework device designed to produce visible effects by combustion and which is required to comply with the construction, chemical composition, and labeling regulations of the United States Consumer Product Safety Commission set forth in 16 C.F.R., as such regulations existed on January 1, 2010;
  - (2) Any small device designed to produce audible effects such as a whistling device;
  - (3) Any ground device or firecracker containing 50 milligrams or less of explosive composition; or
  - (4) Any aerial device containing 130 milligrams or less of explosive composition;
- (B) Means Class C explosives as classified by the United States Department of Transportation;
- (C) Does not mean:
  - (1) Rockets that are mounted on a stick or wire and project into the air when ignited, with or without report;
  - (2) Wire sparklers, except that silver and gold sparklers are deemed to be consumer fireworks until January 1, 2014;
  - (3) Nighttime parachutes;
  - (4) Fireworks that are shot into the air and after coming to the ground cause automatic ignition due to sufficient temperature;
  - (5) Firecrackers that contain more than 50 milligrams of explosive composition; and

- (6) Fireworks that have been tested by the State Fire Marshal as a response to complaints and have been deemed to be unsafe; and
- (7) Sky lanterns or similar devices, defined as any unmanned balloon-like or similar structure; a device having as part of its structure a portion designed to capture heated gases from an open flame to produce lift or propulsion.

**DISPLAY FIREWORKS** means those materials manufactured exclusively for use in public exhibitions or displays of fireworks designed to produce visible or audible effects by combustion, deflagration, or detonation. Display fireworks includes, but is not limited to, firecrackers containing more than 130 milligrams of explosive composition, aerial shells containing more than 40 grams of explosive composition, and other display pieces which exceed the limits for classification as consumer fireworks. 1.3G explosives, as defined in Neb. Rev. Stat. 28-1241, shall be considered display fireworks.

(Ord. 2436, 10-4-88; Am. Ord. 2998, 10-19-10; 3025, 11-6-12; 3127, 1-31-25)

#### **§ 91.71 PERMITTED FIREWORKS**

- (A) It shall be unlawful for any person to ignite or cause to be exploded any fireworks other than consumer fireworks.
- (B) The provisions of this section shall not apply to display fireworks to be used for the purpose of public exhibitions or display under authorization of the City Council or to fireworks furnished for agricultural purposes pursuant to written authorization from the State Fire Marshal.

(Ord. 2439, 10-4-88; Am. Ord. 2998, 10-19-10) Penalty, see § 10.14

#### **§ 91.72 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. Penalty, see § 10.14

#### **§ 91.73 SALES; LICENSE REQUIRED**

It shall be unlawful for any person to sell any fireworks, except consumer fireworks. Consumer fireworks may be sold at retail only from 8:00 a.m. through 10:00 p.m. on July 1 through July 4 and from 8:00 a.m. through 10:00 p.m. on December 30 through December 31 of each year; provided; the person selling consumer fireworks shall secure a license from the City prior to such sales. Application shall be filed with the City Clerk upon forms supplied by the City and requesting such information and documents as the City may deem necessary as to whether or not to grant the license. Upon the determination to grant the license, the City Fire Chief or principal appointed City public safety officer shall direct the City Clerk to collect the appropriate fee and issue the license. If the granting of a license is denied, the applicant may appeal the Fire Chief's or principal appointed City public safety officer's decision to the City Council if requested within seven days of said denial of license. Any license issued may be revoked at any time by the City Fire Chief or principal appointed City public safety officer, with a right of appeal retained by the licensee to the City Council if requested within 7 days of said revocation of license. (Neb. Rev. Stat. 17-137; 28-1003.03 through 28-1003.08) (Am. Ord. 2785, 9-21-99; 2876, 1-6-04; 2998, 10-19-10; 2999, 11-2-10) Penalty, see § 10.14

### **§ 91.74 IGNITION OF FIREWORKS IN HISTORIC DISTRICT**

No person shall ignite or cause to be exploded any fireworks as defined by § 91.70 of this Code within the historic district of the municipality. (Ord. 2876, 1-6-04) Penalty, see § 10.14

### **§ 91.75 TIME LIMITATIONS ON IGNITION OR EXPLOSION OF FIREWORKS**

- (A) Only consumer fireworks may be ignited or exploded within the City; provided, consumer fireworks may be ignited or discharged only during the following times:

Between the Hours of:      Dates:

8:00 a.m. and 11:00 p.m.      July 1 through July 3

8:00 a.m. and 11:59 p.m.      July 4

8:00 a.m. and 11:00 p.m.      December 29 through December 30

8:00 a.m. and 11:59 p.m.      December 31

- (B) The provisions of this section shall not apply to display fireworks, which may be used for purposes of public exhibitions or displays as authorized by and according to regulation by the City Council. Unless otherwise provided by the City Council, the usual time for the City-sponsored exhibition of display fireworks shall be July 4 between the hours of 8:00 a.m. and 11:59 p.m. If weather conditions prevent such exhibition at that time, the City-sponsored exhibition of display fireworks shall occur at the same time on July 5, unless otherwise provided by the City Council.
- (C) It shall be unlawful for any person to ignite or cause to be exploded any fireworks except during the dates and times prescribed by this section.

(Ord. 2876, 1-6-04; 2998, 10-19-10; 3025, 11-6-12) Penalty, see § 10.14

## **CHAPTER 92: HEALTH AND SAFETY**

### **§ 92.01 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 those rules and regulations relative thereto and shall make those inspections, prescribe those penalties, and make those reports as may be necessary toward that purpose.

### **§ 92.02 ENFORCEMENT OFFICIAL.**

The Police Chief, 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.

### **§ 92.03 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.

### **NUISANCES**



## § 92.20 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, house yards, 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.

Penalty, see § 10.14.

## **§ 92.21 ABATEMENT PROCEDURE**

- (A) It shall be the duty of every owner, occupant, lessee, or mortgagee of real estate within the corporate limits or zoning jurisdiction of the City to keep that real estate free of public nuisances. Upon determination by the Board of Health or official designated by the City Council that the owner, occupant, lessee, or mortgagee has failed to keep the real estate free of public nuisances, the Code Enforcement Officer shall thereupon cause notice to abate and remove such nuisance to be served upon the owner or owner's duly authorized agent and to the occupant, if any, by personal service, certified mail, or first-class mail. If notice is given by first-class mail, such mail shall be conspicuously marked as to its importance. The notice shall describe the condition as found by the Board of Health or designated official, state that the condition has been declared a public nuisance and that the condition must be remedied at once and inform the recipient of the right to an appeal hearing before the City as provided by this Code and the manner in which it may be requested.
- (B) Within five days after receipt of such notice, if the owner or occupant of the lot or piece of ground does not request a hearing with the City or fails to comply with the order to abate and remove the nuisance, the City may have such work done. The costs and expenses of any such work shall be paid by the owner. If unpaid for two months after such work is done, the City may either (a) levy and assess the costs and expenses of the work upon the lot or piece of ground so benefited as a special assessment in the same manner as other special assessments 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.
- (C) If within five days after receipt of such notice, the owner or occupant requests in writing a hearing by the City in appeal of the determination of the Board of Health or designated enforcement official, the City shall, upon receipt of that notice, cause a hearing date to be fixed and notice thereof to be served upon the owner, owner's duly authorized agent, or occupant. This notice of hearing shall be by personal service, certified mail, or first class mail, in a manner calculated to provide notice to the party or parties of the hearing within a reasonable time and not less than two days prior to the hearing unless the City and the party or parties agree to a lesser time of notice, and require the party or parties to appear before an elected or appointed City officer designated by the Board of Health as a hearing officer for such appeals, to show cause why the condition should not be found to be a public nuisance

and remedied. Upon the date fixed for the hearing and pursuant to notice, which hearing shall be held within fourteen days after the filing of the appeal, the hearing officer shall hear all objections made by interested parties and shall hear evidence submitted by the Board of Health or designated enforcement official. If, after consideration of all of the evidence, the hearing officer shall find that the condition is a public nuisance, the hearing officer shall order and direct, in a written decision on the appeal made within five business days after the conclusion of the hearing, the owner, owner's authorized agent, or occupant to remedy the public nuisance at once; provided, the party or parties may appeal the decision to the appropriate court for adjudication, during which proceedings the decision of the hearing officer shall be stayed.

- (D) Should the owner or occupant refuse or neglect to comply with the order of the City within 10 days of issuance of the decision on appeal, the City may proceed to cause the abatement of the described public nuisance. The costs and expenses of abatement shall be paid by the owner. If unpaid for two months after the work is done, the City may either:
- (1) levy and assess the costs and expenses of the work upon the lot or piece of ground so benefited as a special assessment in the same manner as other special assessments for improvements are levied and assessed; or
  - (2) recover in a civil action the costs and expenses of the work upon the lot or piece of ground and the adjoining streets and alleys. (Neb. Rev. Stat. 17-563)

(Am. Ord. 2833, 7-17-01; 2980, 2-17-09; 3128, 1-31-25) Penalty, see § 10.14

## **§ 92.22 JURISDICTION**

The Mayor and Police Department are directed to enforce this Municipal Code against all nuisances. The jurisdiction of the Mayor, Police Department, and court shall extend to and the territorial application of this chapter shall include all territory adjacent to the limits of the municipality within one mile thereof and all territory within the corporate limits.

## **§ 92.23 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. Rev. Stat. 19-710) (Ord. 2339, 9-3-85)

## **§ 92.24 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 Police Department shall have the authority to enter upon private property to inspect the trees thereon.
- (C) Notice to abate and remove this nuisance and notice of the right to a hearing and the manner in which it may be requested shall be given as provided in § 92.21 of this Code.

(Ord. 2633, 2-21-95) Penalty, see § 10.14

## **POLLUTION**

#### **§ 92.40 AIR POLLUTION PROHIBITED**

It shall be unlawful for any person, firm, or corporation to permit the emission of smoke from any source that is injurious or offensive to the residents of the municipality in the judgment of the Board of Health. Air shall be considered to be polluted when the discharge into the open air of dust, fumes, gases, mist, odors, smoke, or any combination thereof is of a character and in a quantity which to any group of persons interferes with their health, repose, or safety, or causes severe annoyance or discomfort or is offensive and objectionable to normal persons, and causes injury to real and personal property of any kind. The standards for air pollution established or adopted by the State shall be presumptive evidence as to when the air is deemed to be polluted under this section. It is hereby unlawful for any person, firm, or corporation to permit or cause the escape of the nuisances named above, and the escape of the dust, fumes, gases, mists, odors, and smoke is hereby declared to be a nuisance and shall be summarily abated upon written notice by the Board of Health to the violator. The abatement may be in addition to the penalty for air pollution in the municipality. (Neb. Rev. Stat. 18-1720 and 28-1321) Penalty, see § 10.14

#### **§ 92.41 WATER POLLUTION PROHIBITED**

It shall be unlawful for any person, firm, or corporation to obstruct or impede without legal authority any river or collection of water, or to corrupt and render unwholesome or impure any watercourse, stream, or other water. The standards for water quality established or adopted by the State shall be presumptive evidence as to when the water is deemed to be polluted under this section. Such a corruption of the water in or about the municipality shall constitute a nuisance and shall be summarily abated upon written notice to the violator by the Board of Health. The abatement may be in addition to the penalty for water pollution. (Neb. Rev. Stat. 18-1720 and 28-1321) Penalty, see § 10.14

### **RODENTS AND INSECTS**

#### **§ 92.55 EXTERMINATION REQUIRED**

It shall be the duty of the owner, lessee, or occupant of any dwelling or building to be responsible for the active and continued extermination of any insects, rodents, or other pests therein, or on the premises. In the event that the owner, lessee, or occupant of any dwelling or building neglects, fails, or otherwise refuses to control and actively exterminate the insects, rodents, and other pests in and about his or her premises, the Board of Health shall issue notice for him or her to do so. If that owner, lessee, or occupant has not made a good faith effort to exterminate the pests within 5 days, the premises shall be deemed to be a nuisance and a health hazard. (Neb. Rev. Stat. 18-1720 and 28-1321) Penalty, see § 10.14

#### **§ 92.56 OCCUPANT RESPONSIBILITY**

It shall be the responsibility of the occupant in a single dwelling unit whether or not the dwelling unit is located in a multiple unit structure to exterminate the rodents and insects infesting the premises when it is found by the Board of Health that only the occupant's dwelling is so infested. (Neb. Rev. Stat. 18-1720 and 28-1321) Penalty, see § 10.14

#### **§ 92.57 OWNER RESPONSIBILITY**

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

resistant to the entrance and habitability of pests. (Neb. Rev. Stat. 18-1720 and 28-1321) Penalty, see § 10.14

## **CHAPTER 93: PUBLIC WAYS AND PROPERTY**

### **MUNICIPAL PROPERTY**

#### **§ 93.001 DEFINITIONS**

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

***SIDEWALK SPACE.*** The portion of a street between curb lines and adjacent property line.

#### **§ 93.002 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. Rev. Stat. 17-567(1))

#### **§ 93.003 OBSTRUCTIONS**

- (A) (1) 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. The trees and shrubs and their roots may be removed by the City at the expense of the owner of the property upon which the tree is located should the owner fail, or neglect, after notice, to do so. 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 premises 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 the premises or not. It shall be the duty of owners and occupants to keep trimmed and pruned all such similar growth at all times. 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 those obstructions within five days after having been served with a copy of the resolution by the City stating that the City will do so and will charge the costs thereof to the owner or occupant as a special assessment for improvements as herein provided, or shall collect the same by civil suit brought in the name of the municipality against the owner or occupant.
- (2) 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 these trees, shrubs, and roots may be removed by the City pursuant to the procedure prescribed above.
- (3) It shall be unlawful for any person to plant, or allow to grow, any tree or shrub within any sidewalk space, street right of way, or other public property of the City without first receiving a written permit for the same from the City pursuant to its regulations. Any tree or shrub otherwise planted and growing hereafter or any other obstruction

within such sidewalk space, street right of way, or other public property of the City may be declared a nuisance by the City and ordered to be removed. Pursuant to the nuisance provisions of this Code and state law, upon failure of the owner to remove such a nuisance, the City may cause such removal at the owner's expense.

- (B) It shall be unlawful for any person to place any structure, facility, utility, or other obstruction, whether above ground or below, including but not limited to underground sprinklers, ornamental mailboxes, signage, lighting, or other structures within any sidewalk space, street right of way, or other public property of the City without first receiving a written permit for the same from the City pursuant to its regulations. The City shall not repair, pay for, or otherwise compensate or be responsible for any damage done to any structures located in any sidewalk space, street right of way, or other public property of the City by the City while engaged in municipal operations, which limitation of responsibility shall be noted on any permits received by applicants for construction of the same. Failure to obtain a permit prior to placement of any such structure in any sidewalk space, street right of way, or other public property of the City does not alter the limitation of the City's responsibility under this section.
- (C) 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 City to stop all work upon the buildings and improvements until suitable guards are erected and kept in the manner aforementioned.
- (D) 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 those 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 one-third of the roadway of the public space adjacent to the real estate on which the 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.
- (E) In the event the property owner is a nonresident 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 nonresident property owner. The last known address shall be that address listed on the current tax rolls at the time the required notice was first published.

(Am. Ord. 2990, 3-16-10) Penalty, see § 10.14

#### **§ 93.004 WEEDS**

It is hereby the duty of the Police Chief 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 those 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 that sidewalk space within the municipality is a nonresident of the

municipality or cannot be found therein, the notice may be given to any person having the care, custody, or control of that 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 Police Chief or his or her agent to post a copy of the notice on the premises 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 nonresident 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 nonresident property owner. The last known address shall be that address listed on the current tax rolls at the time the required notice was first published. (Am. Ord. 2941, 6-20-06) Penalty, see § 10.14

### **§ 93.005 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. 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 premises where such a sign, canopy, poster, or signboard is located shall cause the same to be removed within the time limit specified on the notice, upon payment of a fee set by the City Council by resolution. Penalty, see § 10.14

### **§ 93.006 OVERHANGING BRANCHES**

- (A) The owner or occupant of any lot, piece, or parcel of ground abutting or adjacent to any street or sidewalk over which there extend the branches of trees shall at all times keep the branches or limbs thereof trimmed to the height of at least 8 feet above the surface of the walk and at least 14 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 5 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.
- (B) In the event the property owner is a nonresident 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 nonresident property owner. The last known address shall be that address listed on the current tax rolls at the time the required notice was first published.

Penalty, see § 10.14

## **§ 93.007 SALE AND CONVEYANCE OF REAL PROPERTY**

- (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 the property and the manner and terms thereof, except that the property shall not be sold at public auction or by sealed bid when:
  - (1) The property is being sold in compliance with the requirements of federal or state grants or programs;
  - (2) The property is being conveyed to another public agency; or
  - (3) The 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 3 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 the sale (a) conforms to Neb. Rev. Stat. 32-628, (b) 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 (c) is filed with the City Council, the 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 for state armory sites or, if acquired for state armory sites, shall be conveyed strictly in accordance with the conditions of Neb. Rev. Stat. 18-1001 through 18-1006.
- (F) Following passage of the resolution directing a sale, publishing of the notice of the proposed sale, and passing of the 30-day right-of-remonstrance period, the property shall then be sold. The sale shall be confirmed by passage of an ordinance stating the name of the purchaser and terms of the sale. (Neb. Rev. Stat. 17-503)
- (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 3 prominent places within the City for a period of not less than 7 days prior to the sale of the property. The notice shall give a general description of the property offered for sale and state the terms and conditions of sale. Confirmation of the sale by passage of an ordinance may be required. (Neb. Rev. Stat. 17-503.01)

(Am. Ord. 2605, 6-21-94; 2688, 6-17-97; 2749, 10-20-98; 2879, 2-3-04; 3127, 1-31-25)

### **§ 93.008 SALE AND CONVEYANCE OF PERSONAL PROPERTY**

In order to sell personal property owned by the City, the City Council shall adopt a resolution directing the sale and the manner and terms of the sale. Following passage of the resolution directing the sale of the property, notice of the sale shall be posted in three prominent places within the City for a period of not less than seven days prior to the sale of the property. If the fair market value of the property is greater than \$5,000.00, notice of the sale shall also be published once in a legal newspaper in or of general

circulation in such city at least seven days prior to the sale of the property. The notice shall give a general description of the property offered for sale and state the terms and conditions of sale. When such personal property is being (a) sold in compliance with the requirements of federal or state grants or programs or (b) conveyed to another public agency, the notice procedure set forth above may be dispensed with. (Neb. Rev. Stat. 17-503.02) (Ord. 2879, 2-3-04; Am. Ord. 2966, 10-16-07)

### **§ 93.009 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. Rev. Stat. 17-954 and be adopted by a majority of the electors voting on the question. (Neb. Rev. Stat. 17-953)
- (C) If the funds to be used to finance the purchase or construction of a building pursuant to this section are available other than through a bond issue, then either:
  - (1) Notice of the proposed purchase or construction shall be published in a newspaper of general circulation in the 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 division (C)(1) of this section 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. Rev. Stat. 18-1755. (Neb. Rev. Stat. 17-953.01)

(Am. Ord. 2689, 6-17-97)

### **§ 93.010 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 the property has been performed by a certified real estate appraiser. (Neb. Rev. Stat. 13-403)

### **§ 93.011 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. The City shall provide to the public a right of access for recreational use to the real property acquired for public recreational purposes. Such access shall be at designated access points and shall be equal to the right of access for recreational use held by adjacent landowners. The right of access granted to the public for recreational use shall meet or exceed such right held by a private landowner adjacent to the real property. (Neb. Rev. Stat. 18-1755)

### **§ 93.012 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 \$100,000; (Neb. Rev. Stat. 81-3445, 81-3449(4), and 81-3453(3))
  - (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; (Neb. Rev. Stat. 81-3449(5) and 81-3453(4))
  - (3) Performance 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; (Neb. Rev. Stat. 81-3423, 81-3449(9), and 81-3453(6))
  - (4) The practice of any other certified trade or legally recognized profession; (Neb. Rev. Stat. 81-3449(11) and 81-3453(7))
  - (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; (Neb. Rev. Stat. 81-3449(13) and 81-3453(12))
  - (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; (Neb. Rev. Stat. 81-3449(14) and 81-3453(13))
  - (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; (Neb. Rev. Stat. 81-3453(10))
  - (8) The construction of municipal water wells as defined in Neb. Rev. Stat. 46-1212, the installation of pumps and pumping equipment into municipal water wells, and the decommissioning of municipal water wells, unless that 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 (Neb. Rev. Stat. 81-3453(15))
  - (9) Any other activities described in Neb. Rev. Stat. 81-3449 through 81-3453.

(Ord. 2773, 2-16-99; Am. Ord. 2818, 1-16-01)

**§ 93.013 SPECIAL IMPROVEMENT DISTRICT; ASSESSMENT AND CREATION PROCEDURE**

- (A) The City Council may, by ordinance, create a special improvement district for the purpose of replacing, reconstructing, or repairing an existing street, alley, water line, sewer line, or any other such improvement.
- (B) Except as provided in Neb. Rev. Stat. 19-2428 through 19-2431, the City Council shall have power to assess, to the extent of such benefits, the costs of such improvements upon the properties found especially benefited thereby, whether or not those properties were previously assessed for the same general purpose. In creating such special improvement district, the City Council shall follow procedures applicable to the creation and assessment of the same type of improvement district as otherwise provided by law. (Neb. Rev. Stat. 18-1751)

(Ord. 2415, 4-1-87)

**§ 93.014 IMPROVEMENT DISTRICT; LAND ADJACENT**

Supplemental to any existing law on the subject, a municipality may include land adjacent to the municipality when creating an improvement district, such as a sewer, paving, water, water extension, or sanitary sewer extension district. The City Council may levy a special assessment for the costs of such improvements upon the properties found specially benefited thereby, except as provided in Neb. Rev. Stat. 19-2428 to 19-2431. (Neb. Rev. Stat. 19-2427) (Ord. 2416, 4-1-87)

**SIDEWALKS**

**§ 93.025 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 5 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 9:00 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. (Neb. Rev. Stat. 17-555, 17-557, 17-557.01) Penalty, see § 10.14

**§ 93.026 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 the owner's property, within the time and in the manner as directed and required herein by the Mayor and City Council after having received due notice to do so, the Mayor and City Council may cause the sidewalk to be constructed or repaired and may assess the cost thereof against the property. Penalty, see § 10.14

## § 93.027 (RESERVED)

### § 93.028 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 the permit shall submit plans and specifications of any present or proposed construction to the Municipal Engineer. Should the 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 the space used or constructed to be used and pay all damages that may be sustained by any person by reason of that use or by reason of the 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 the 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 the use. The bond shall be in the sum as the City Council, in its discretion, may designate. (Neb. Rev. Stat. 17-555(3)) Penalty, see § 10.14

### § 93.029 UNDERGROUND STRUCTURES UNDER SIDEWALKS; PERMIT

- (A) Definitions. For the purpose of this chapter, the following definitions shall prevail:
- OWNER** shall mean and include the record owner of the fee simple of property or the lessee for a term of twenty-five years or more of such property, or purchaser in possession under land contract.
- STRUCTURE** shall mean and include, but not be limited to, vaults, underpasses, areaways, basements, liquid storage tanks, boilers, and cantilevered areas of buildings.
- (B) Permit Required. It shall be unlawful for any person to use any space underneath or above the surface of any street, alley, sidewalk, or other public ground within this City, or to construct any structure thereunder or thereover unless approved by the City by a permit issued as a privilege. No permit shall be issued except to the owner of the lot or land adjacent to the space sought to be used, and no permit shall be issued unless authorized by action of the City Council. A building permit shall also be required from the Building Inspector if a permit would be required under the ordinances of the City to construct a similar structure upon private property. All buildings that have any such structures around the Courthouse Square, defined as those buildings located on the 400 blocks of 4th, 5th, D and E Streets, must petition for a permit prior to August 1, 2006 or any such structure will be filled in by the City.
- (C) Application for Permit. Applications for such permit shall be made to the City Clerk, and such application shall be in writing stating specifically the space size of the structure being used or being built including, its length, breadth and depth, and the use intended to be made thereof, or the structure to be built therein; and the City Clerk shall then refer said application to the City Council.
- (D) (1) Bond and Public Liability Insurance. Every applicant for such permit shall file with the application required, a continuing bond in the sum of not less than \$5,000.00, but in the event that the City Council in the resolution authorizing the permit shall fix a different sum, then a bond for such sum so fixed shall be substituted and filed with the application. All bonds and sureties shall be approved by the City Attorney before such permit becomes effective. All bonds shall be conditioned that the person to whom such permit shall be issued and such person's heirs, successors, or assigns shall strictly comply with all applicable laws and regulations and all conditions of the

permit and which shall save and keep the City free and harmless from any and all loss or damages or claims for damages arising from or out of the use of the space or structure therein mentioned, and for the maintenance of the street, alley, sidewalk, or other public way in such condition that said street, alley, sidewalk, or other public way shall at all times after such structure is completed or such space is covered, be safe for the public use; for the full and complete protection of the City against any and all litigation growing out of the granting of such permit or anything done under such permit and for the removal of any structure permitted in the public space by such permit at the sole expense of the permittee and the permittee's heirs, successors, or assigns; for the faithful performance and observance of all the terms and conditions of this chapter; and where the permit is given to use space which under this chapter is taxed, such bond shall also be conditioned for the prompt and full payment of the compensation required by this chapter, or any other ordinance required to be paid during the period said permit shall be outstanding. Following the issuance of such permit and as long as the use continues or as long as the structure exists in such public space, the owners of such property from time to time shall also be responsible to the City for the performance of all of the conditions of said bond above described.

- (2) Whenever the City Council shall be of the opinion that the surety on such bond given for such permit issued hereunder has become insufficient and shall so declare by resolution, a new bond for such permit shall thereupon be filed with a new surety to be approved by the City Attorney.
- (3) In addition to the bond, the applicant shall be required to:
  - (a) At all times maintain public liability insurance in the form of a commercial or comprehensive general liability policy, or an acceptable substitute policy form as permitted by the City Attorney, with a minimum combined single limit of \$500,000.00 aggregate for any one occurrence. The coverages required herein shall be subject to review and approval by the City Attorney for conformance with the provisions of this section;
  - (b) At all times keep on file with the City Clerk a current certificate of insurance signed by a qualified agent of an insurance company licensed to do business in the State of Nebraska and approved by the City Attorney for conformance with the provisions of this section evidencing the existence of valid and effective policies of insurance naming the City as an additional insured for the coverage required by subsection (a) of this section, the limits of each policy, the policy number, the name of the insurer, the effective date and expiration date of each policy, the deductibles or self-insurance retainers of each policy and a copy of an endorsement placed on each policy requiring thirty days' notice by mail to the City Clerk before the insurer may cancel the policy for any reason, and upon request of the City Clerk or the City Attorney, a copy of any endorsements placed on such policies or the declarations page of such policies. Any termination or lapse of such insurance shall automatically revoke any permit issued pursuant to this chapter.
- (E) Interference with Sewer, Gas, or Water Pipes. No person shall ever use the space under any such street, alley, or public way in such manner as to interfere with any wastewater collector, gas, water, or any other public works or utilities lawfully in such street, alley, or other public way unless by consent of the City Council especially granted by resolution; and no such permit shall be granted until the applicant therefor has deposited with the City Clerk and a sum of money equal to the estimated cost prepared by the City Clerk to defray the cost and

expense of removing, replacing, and relaying such wastewater collector, gas, water pipes, or other public works or utilities, and making the necessary connections therewith. Each and every applicant disturbing any such wastewater collector, gas, water pipes, or other public works or utilities, shall, within ten days after so disturbing it, restore the same to such condition as will meet with the approval of the Department of Public Works and Utilities. When such wastewater collector, gas, water pipes, or other public works or utilities are so restored by said applicant, the sum so deposited with the City Clerk shall be refunded to such applicant less any sums which may be necessary to defray any damages which might arise from such disruption. If such applicant shall fail to restore such wastewater collector, gas, or water pipes, or other public works or utilities within ten days after the same is disturbed, then the City Clerk shall cause the same to be restored in a manner meeting with his/her approval, and the cost thereof shall be paid out of the sum thus deposited.

- (F) (1) Revocation of Permit; Removal of Structure. A permit issued under this chapter may be revoked by resolution of the City Council upon a finding by them of such fact and the giving of five days' written notice to such person by the City Clerk, for the following reasons:
- (a) Failure of the permit holder to pay the compensation required within ten days after the date for payment is due;
  - (b) Failure or neglect of the permit holder to comply with the provisions of this chapter or any of the provisions of the Municipal Code or provisions of the permit;
  - (c) Failure to use the space for which the permit was granted for a continuous period of at least six months; or
  - (d) Upon a determination by the City that the space for which the permit was granted is needed for public use.
- (2) Upon revocation of a permit, the permit holder shall forthwith remove or abandon the space for which the permit was granted, together with the removal of any structures at his/her own cost and expense and return that space to the City, free and clear of all structures or encroachments of any type, at no expense to the City. If said space is below ground, such space shall be filled to the satisfaction of the Director of Public Works and Utilities at the expense of the permit holder. If a removal, abandonment, or fill has been requested and the said removal, abandonment, or fill is not completed within six months after revocation of such permit, the City Council may cause such removal, abandonment, or fill to be so done, and the costs of such work shall become a lien against the property of the permit holder.
- (G) Exceptions. The provisions of this chapter shall apply to all uses of any space under or over the public space where said use involves the existence, construction of or excavation of structures to be placed in that space. The provisions of this chapter shall not apply to public utilities located above or under the public space, the use of street or sidewalk areas during construction work occurring on adjacent property and for parking of vehicles within the sidewalk space, balconies, appendages, marquees, footings, and awnings provided for in this Code.

(Ord. 2936, 6-6-06)

### **§ 93.030 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 § 10.14

#### **§ 93.031 CONSTRUCTION AT OWNER'S INITIATIVE**

- (A) (1) Any person desiring to construct, or cause to be constructed, any sidewalk shall do so only as herein provided and according to standards and specifications required by the City. It shall be unlawful for any person to construct any sidewalk without first having obtained a permit.
- (2) The owner shall make application in writing for a permit and file the 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 § 10.14

#### **§ 93.032 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 the property, or, when personal service is not possible, the notice shall be posted upon the premises 10 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. This 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 nonresident 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 nonresident property owner. The last known address shall be that address listed on the current tax rolls at the time the required notice was first published.

### **§ 93.033 CONSTRUCTION BIDS**

Whenever the municipality shall construct, widen, replace, or reconstruct any sidewalk, notice prepared by the Municipal Attorney, specifying the work to be done and calling for bids for doing that work and supplying the necessary materials and labor shall be published in at least 1 issue of a legal newspaper of general circulation in the municipality; provided, bids so invited shall be filed in the office of the Municipal Clerk within 10 days after the date of publication. Bids shall be opened at the next regular or special meeting of the City Council, and the City Council shall then award the work to the lowest responsible bidder. Upon approval of the work, the City Council may require the contractor to accept payment in certificates issued to him or her by the Municipal Clerk entitling him or her to all assessments or special taxes against such real estate whenever the assessments or special taxes shall be collected, together with the interest or penalty collected thereon. Each certificate shall give the legal description of the lot, lots, or parcel of ground against which the assessments or special taxes are assessed. The certificate or certificates may be assigned and transferred, entitling the holder to the same rights as if held by the original contractor. The County Treasurer shall pay over to the contractor or other holder of the certificate or certificates all assessments or special taxes against the real estate, together with the interest and penalty thereon, at any time upon presentation of the certificate or certificates after the assessments or special taxes against the real estate together with interest or penalty thereon shall have been collected.

### **§ 93.034 CONSTRUCTION BY PETITION**

If the owners of the record title representing more than 60% of the front footage of the directly abutting property, subject to assessment for sidewalk improvements, petition the City Council to make the same, the Council shall proceed in all things as though the construction had been ordered by it. Upon the petition of any freeholder who is an abutting owner in fee simple of property subject to assessment for sidewalk improvements, the Council may order permanent sidewalks built in accordance with this subchapter upon the freeholder making, executing, and delivering to the City an agreement to the effect that the petitioning freeholder will pay the engineering service fee and all other incidental construction costs until paid shall be a perpetual lien upon the real estate along which the freeholder desires the sidewalk to be constructed and that the petitioner gives and grants to the municipality the right to assess and levy the costs of this construction against the freeholder's real estate abutting the sidewalk improvement and promises to pay the costs with interest. The total cost of the improvement shall be levied, allocated, financed, and specially assessed as provided by law. In the event the property owner is a nonresident of the county in which the property lies, the 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 nonresident property owner. The last known address shall be that address listed on the current tax rolls at the time the required notice was first published.

### **§ 93.035 CONSTRUCTION SPECIFICATIONS**

All sidewalks shall be constructed in conformity with those specifications as are adopted by the Street Superintendent and approved by the City Council. The Street Superintendent may reject the use of any materials that do not comply with those requirements and specifications or any material that is lacking in quality, and it shall be unlawful to construct any sidewalks from any material so rejected. In case any lot owner of a piece of land within the municipality, under notice given or otherwise, shall construct a sidewalk in violation of this chapter, the Street Superintendent may stop the work of the construction and order the same to be constructed in accordance with this chapter and order the work already done to be

changed, and on the failure of the owner to change any such work, the Street Superintendent shall forthwith change the work, and the expense of the same shall be assessed and taxed to that lot. Penalty, see § 10.14

### **§ 93.036 CERTIFICATION**

The Street Superintendent shall certify to the City Council a detailed schedule of all sidewalks laid, widened, or rebuilt and the cost of same, from which the City Council may be aided in determining the amount to be assessed as a special assessment against each lot or piece of ground. The Street Superintendent shall certify such other facts as may be necessary to enable the City Council to make the proper special assessment. He or she shall also certify to the City Council the acceptance of any sidewalk improvements to the adjoining lots or parcels of land and prepare all necessary data for assessment sheets. The cost of improvements provided for in this chapter shall be assessed by the Mayor and Council meeting as a Board of Equalization, following notice of such sitting at least 10 days prior thereto by publication in a newspaper having general circulation in the municipality, and the assessments shall be equalized and levy made in the manner provided by law.

## **STREETS**

### **§ 93.050 OPENING, WIDENING, IMPROVING, OR VACATING**

- (A) (1) The City shall have power to open, widen, or otherwise improve or vacate any street, avenue, alley, or lane within the limits of the City and also to create, open, and improve any new street, avenue, alley, or lane. All damages sustained by the citizens of the City, or by the owners of the property therein, shall be ascertained in such manner as shall be provided by ordinance.
- (2) Whenever any street or alley is vacated, the same shall revert to the owners of the abutting real estate, 1/2 on each side thereof, and become a part of that property, unless the City reserves title in the ordinance vacating such street or alley. If title is retained by the City, such property may be sold, conveyed, exchanged, or leased upon such terms and conditions as shall be deemed in the best interests of the City.
- (3) When a portion of a street, avenue, alley, or lane is vacated only on 1 side of the center thereof, the title to the land shall vest in the owner of the abutting property and become a part of that property, unless the City reserves title in the ordinance vacating such street or alley. If title is retained by the City, such property may be sold, conveyed, exchanged, or leased upon such terms and conditions as shall be deemed in the best interests of the City.
- (4) When the City vacates all or any portion of a street, avenue, alley, or lane, the City shall, within 30 days after the effective date of the vacation, file a certified copy of the vacating ordinance with the Register of Deeds for the county in which the vacated property is located to be indexed against all affected lots.
- (5) The title to property vacated pursuant to this section shall be subject to the following:
  - (a) There is reserved to the City the right to maintain, operate, repair, and renew public utilities existing at the time title to the property is vacated there; and
  - (b) There is reserved to the City, any public utilities and any cable television systems the right to maintain, repair, renew and operate water mains, gas mains, pole lines, conduits, electrical transmission lines, sound and signal transmission lines, and other similar services and equipment and appurtenances, including lateral connections or branch lines, on, or below the surface of the ground that are existing as valid easements at the time title to the property is vacated for the purposes of serving the general public or the

abutting properties and to enter upon the premises to accomplish such purposes at any and all reasonable times. (Neb. Rev. Stat. 17-558)

- (B) The City shall have power to create, open, widen, or extend any street, avenue, alley, off-street parking area, or other public way, or annul, vacate, or discontinue the same. (Neb. Rev. Stat. 17-559)

#### **§ 93.051 GRADING, PAVING, AND OTHER IMPROVEMENTS**

- (A) The municipality has the power to provide for the grading and repair of any street, avenue, or alley and the construction of bridges, culverts, and sewers. 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. Rev. Stat. 17-508)
- (B) The City Council may grade, partially or to an established grade, change grade, curb, re-curb, gutter, re-gutter, pave, gravel, re-gravel, macadamize, re-macadamize, 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 the benefits, except as provided in Neb. Rev. Stat. 19-2428 through 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. Rev. Stat. 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 benefited, the City Council shall by ordinance create an improvement district. (Neb. Rev. Stat. 17-511)

Penalty, see § 10.14

#### **§ 93.052 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 1 continuous paved street, but the portion to be so improved shall not exceed 2 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 that 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 that major traffic street.
- (B) These 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. Rev. Stat. 18-2003. (Neb. Rev. Stat. 18-2001 through 18-2004)

### § 93.053 VACATING PUBLIC WAYS

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

***SPECIAL DAMAGES.*** 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 a street, avenue, alley, lane, or similar public way. SPECIAL DAMAGES shall not mean those losses or damages or injuries that a property owner suffers that are in common with the rest of the City or public at large, even though those losses or damages or injuries suffered by the property owner are greater in degree than the rest of the City or public at large.

- (B) Whenever the City Council decides that it would be in the best interests of the City to vacate a street, avenue, alley, lane, or similar public way, the City Council shall comply with the following procedure.
- (1) Notice shall be given to all abutting property owners either by first class mail to their last known address or if there is no known address then by publishing the notice in a newspaper that is of general circulation in the City. The content of the notice shall advise the abutting property owners that the City Council will consider vacating the street, avenue, alley, lane, or similar public way at its next regular meeting or, if a special meeting is scheduled for the discussion, then the date, time, and place of that meeting.
  - (2) The City Council may have all the abutting property owners sign a form stating that they consent to the action being taken by the City Council and waive their right of access. The signing of this form shall have no effect on claims for special damages by the abutting property owners but shall create the presumption that the City Council's action was proper. If the abutting property owners do not sign the consent/waiver form, the City Council may still proceed with vacating the street, avenue, alley, lane, or similar public way under the authority granted by Neb. Rev. Stat. 17-558 and 17-559.
  - (3) The City Council shall pass an ordinance that includes essentially the following provisions:
    - (a) A declaration that the action is expedient for the public good or in the best interests of the City;
    - (b) A statement that the City will have an easement for maintaining all utilities; and
    - (c) A method or procedure for ascertaining special damages to abutting property owners.
- (C) The Mayor shall appoint three or five or seven disinterested residents of the City to a special commission to ascertain the amount of special damages that the abutting property owners are entitled to receive and which resulted from the City Council vacating the street, avenue, alley, lane, or similar public way. The appointees of the special commission shall be approved by the City Council. Only special damages shall be awarded to the abutting property owners.
- (D) In determining the amount of compensation to award the abutting property owners as special damages, the commission shall use the following rule:
- (E) An abutting property owner is entitled to recover as compensation the difference between the value of the property immediately before and immediately after the vacating of such street, avenue, alley, lane, or similar public way. If no difference in value exists, the abutting property owner is entitled to no compensation.

(Ord. 2380, 9-2-86; Am. Ord. 2381, 9-2-86)

#### **§ 93.054 CROSSINGS**

The City Council may order and cause to be constructed, under the supervision of the municipal official in charge of streets, those 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 the application to the Utilities Superintendent who shall investigate and make a recommendation to the City Council. Action by the City Council on the application, whether the application is approved or rejected, shall be considered final.

#### **§ 93.055 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 the streets shall retain those 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. Penalty, see § 10.14

#### **§ 93.056 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 the owner or the agent of the owner, directing the repair or replacement of the driveway approach. If within 30 days of mailing this notice the property owner fails or neglects to cause the repairs or replacements to be made, the Utilities Superintendent may cause the work to be done and assess the cost upon the property served by the approach. (Neb. Rev. Stat. 18-1748)

(Ord. 2314, 8-21-84) Penalty, see § 10.14

#### **§ 93.057 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 the excavations. Penalty, see § 10.14

#### **§ 93.058 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 § 10.14

#### **§ 93.059 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 § 10.14

### **§ 93.060 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 the streets. Penalty, see § 10.14

### **§ 93.061 GASOLINE PUMPS**

No gasoline pump shall be located in the sidewalk space or street. All gasoline pumps shall be located within the building-line or lot line, and the servicing of any vehicle while in the street or within the sidewalk space is hereby prohibited. Penalty, see § 10.14

### **§ 93.062 MANHOLES**

It shall be unlawful for any person to use a manhole in the streets or alleys of the municipality for anchorage or for any purpose other than that for which it was built. Penalty, see § 10.14

### **§ 93.063 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 wastewaters 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 § 10.14

### **§ 93.064 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 the curb, gutter, bridge, culvert, sidewalks, crosswalk, or crossing with heavy plank sufficient in strength to warrant against the breaking or damaging of the 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 those 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 inch in diameter inclusive of the stud-casting with an average protrusion beyond the tread surface of not more than 7/64 inch between November 1 and April 1, provided that mail carriers, school buses 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 that 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, the vehicle is escorted by another vehicle or vehicles assigned by the municipality, and the vehicle's gross weight does not exceed the limits set out in Neb. Rev. Stat. 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 § 10.14

### **§ 93.065 PIPELINES AND WIRES**

Poles, wires, gas mains, pipelines, and other appurtenances of public service companies shall be located, or erected over, upon, or under the streets, alleys, and common grounds of the 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, pipelines, and wires shall at all times erect and locate their poles, wires, gas mains, pipelines, and other appurtenances at those places and in the manner as shall be designated by the City Council. These poles, wires, gas mains, pipelines, and other appurtenances shall be removed or relocated by the companies at their own expense when requested to do so by the 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, pipelines, or other appurtenances to be removed. The City Council shall designate another location as closely as possible where the poles, wires, gas mains, pipelines, or other appurtenances, may be reset or placed. All poles, wires, gas mains, pipelines, or other appurtenances shall be reset, placed, or erected in such a manner that they will not interfere with the water system, sewerage system, poles, wires, and mains of any public utility, adjacent buildings, or with travel on the public ways and property. Whenever possible, all pole lines, wires, gas mains, pipelines, or appurtenances shall be confined to the alleys of the municipality. Penalty, see § 10.14

### **§ 93.066 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 § 10.14

### **§ 93.067 CONSTRUCTION NOTICE**

The Street Superintendent shall notify the owners in fee simple of real estate abutting a street, alley, or a part thereof which is to be put under contract for paving or repaving. Notice shall also be given to all gas, electric service, and telephone companies. Notice shall also be given to all consumers of gas, water, and sewer services which will be discontinued during the construction. This notice shall be published 1 time in a legal newspaper at least 20 days prior to the beginning of the construction by the party undertaking the construction, and this notice shall state at what date connections must be made and excavation completed. All gas, water, sewer, and underground connections must be made prior to the paving or repaving of the street under construction. After expiration of such time, permits for excavation will not be issued, nor will excavation be allowed, until after the completion of the pavement in that street or alley, and the formal final acceptance thereof by the proper officials of the municipality. Penalty, see § 10.14

### **§ 93.068 IMPROVEMENT AUTHORITY**

The Council shall have the power to open, control, name, rename, extend, widen, narrow, vacate, grade, curb, gutter, park, and pave, or otherwise to improve and control and keep in good repair and condition, in any manner it may deem proper, any street, avenue or alley, public parks or square, or part of either, within or without the limits of the municipality. It may grade, park, or otherwise improve any width or part of any such street, avenue, or alley. (Neb. Rev. Stat. 17-508, 17-509, and 17-558)

### **§ 93.069 IMPROVEMENT DISTRICTS; OBJECTIONS**

Whenever the City Council deems it necessary to make any improvements allowed by statute which are to be funded by a levy of special assessment on the property especially benefited, the City Council shall by ordinance create a paving, graveling, or other improvement district and, after the passage, approval, and publication or posting of the ordinance, shall publish notice of the creation of any such district for 6 days in a legal newspaper of the municipality, if a daily newspaper, or for 2 consecutive weeks if it is a weekly

newspaper. If no legal newspaper is published in the municipality, the publication shall be in a legal newspaper of general circulation in the municipality. If the owners of the record title representing more than 50% of the front footage of the property directly abutting on the street or alley to be improved file with the Municipal Clerk within 20 days after the first publication of the notice written objections to the creation of that district, the improvement shall not be made as provided in the ordinance, but the ordinance shall be repealed. If objections are not filed against the district in the time and manner prescribed in this section, the City Council shall immediately cause the work to be done or the improvement to be made, shall contract for the work or improvement, and shall levy assessments on the lots and parcels of land abutting on or adjacent to the street or alley especially benefited in that district in proportion to the benefits to pay the cost of the improvement. (Neb. Rev. Stat. 17-511) (Am. Ord. 2690, 6-17-97)

### **§ 93.070 PETITION FOR IMPROVEMENTS**

Whenever a petition signed by the owners of record title representing more than 60% of the front footage of the property directly abutting upon the street, streets, alley, alleys, public way, or the public grounds proposed to be improved, shall be presented and filed with the Municipal Clerk, petitioning therefor, the City Council shall by ordinance create a paving, graveling, or other improvement district or districts, and shall cause the work to be done or the improvement to be made, and shall contract therefor, and shall levy assessments on the lots and parcels of land abutting on or adjacent to the street, streets, alley, or alleys especially benefited thereby in that district in proportion to the benefits, to pay the cost of the improvement. The City Council shall have the discretion to deny the formation of the proposed district when the area has not previously been improved with a water system, sewer system, and grading of streets. If the City Council should deny a requested improvement district formation, it shall state the grounds for this denial in a written letter to interested parties. (Neb. Rev. Stat. 17-510) (Am. Ord. 2275, 10-4-83)

### **§ 93.071 CONSTRUCTION ASSESSMENT**

To defray the costs and expenses of street improvements, as may be authorized by law, the City Council shall have power and authority to levy and collect special taxes and assessments upon the lots and pieces of ground adjacent to, abutting upon, or especially benefiting from the street, avenue, alley, or sidewalk in whole or in part opened, widened, curbed, curbed and guttered, graded, paved, repaired, graveled, macadamized, parked, extended, constructed, or otherwise improved or repaired. The City Council sitting as the Board of Equalization shall review all such improvements in accordance with the procedure provided by law. All special assessments shall be made by the City Council at a regular or special meeting by resolution, taking into account the benefits derived or injuries sustained in consequence of the improvements and the amount charged against same. The vote shall be recorded in the minutes. Notice of the time of holding this meeting and the purpose for which it is to be held shall be published in some newspaper published, or of general circulation, in the municipality at least 4 weeks before the same shall be held. In lieu of the aforementioned notice, personal service may be had upon the persons owning or occupying the property to be assessed. The assessments shall be known as "special assessments for improvements" and with the cost of notice shall be levied and collected as a special tax in addition to the taxes for general revenue purposes, subject to the same penalties and collected in like manner as other municipal taxes, and shall be certified to the County Clerk by the Municipal Clerk forthwith after the date of levy, for collection by the County Treasurer unless otherwise specified. After it shall become delinquent, the assessment shall draw interest at the legal interest rate per annum. In the event the property owner is a nonresident of the county in which the property lies, the 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



nonresident property owner. The last known address shall be that address listed on the current tax rolls at the time the required notice was first published. (Neb. Rev. Stat. 17-511 and 17-524)

#### **§ 93.072 IMPROVEMENT OF STREETS ON CORPORATE LIMITS**

The Mayor and Council shall have the power to improve any street or part thereof which divides the municipal corporate area and the area adjoining the municipality. When creating an improvement district including land adjacent to the municipality, the Council shall have power to assess, to the extent of special benefits, the costs of the improvements upon the properties found especially benefited thereby. (Neb. Rev. Stat. 17-509)

#### **§ 93.073 IMPROVEMENT OF THOROUGHFARES**

The Mayor and City Council shall have the power, by a three-fourths vote of the City Council, to create by ordinance a paving, graveling, or other improvement district and to order this work done upon any federal or state highway in the municipality or upon a street or route, designated by the Mayor and City Council as a main thoroughfare, that connects, on both ends, to either a federal or state highway or a county road. The City Council shall contract therefor and shall have the power to assess, to the extent of special benefits, the costs of the improvements upon the properties found especially benefited thereby. (Neb. Rev. Stat. 17-512)

#### **§ 93.074 DAMAGING NEWLY LAID STREETS**

No person shall remove, destroy, or tear down any barricade, fence, railing, or other device erected or constructed for the purpose of protecting paving or any other work on any street, alley, or public grounds of the municipality. No person shall drive over or upon or go upon any paving or other public grounds while the same is protected by any barrier, fence, or railing until that barrier, fence, or railing has been removed by the contractors doing the work or by the duly authorized officials of the municipality. No person shall mar, deface, destroy, remove, or carry away any street sign or highway marker within the municipality. Penalty, see § 10.14

#### **§ 93.075 DEFERRAL FROM SPECIAL ASSESSMENTS**

- (A) Whenever the City Council of a municipality creates an improvement district as specified in § 93.014 which includes land adjacent to the municipality which is within an agricultural use zone and is used exclusively for agricultural use, the owners of record title of that adjacent land may apply for a deferral from special assessments. For purposes of this section, the terms "agricultural use" and "agricultural use zone" shall have the meaning specified in Neb. Rev. Stat. 77-1343.
- (B) Any owner of record title eligible for the deferral granted by this section shall, to secure the assessment, make application to the City Council of the municipality within 90 days after creation of an improvement district as specified in § 93.014. Any owner of record title who makes application for the deferral provided by this section shall notify the County Register of Deeds of that application in writing prior to approval by the City Council. The City Council shall approve the application of any owner of record title upon determination that:
  - (1) The property is within an agricultural use zone and is used exclusively for agricultural use; and
  - (2) The owner has met the requirements of this section.
- (C) The deferral provided for in this section shall be terminated upon any of the following events:
  - (1) Notification by the owner of record title to the City Council to remove the deferral;

- (2) Sale or transfer to a new owner who does not make a new application within 60 days of the sale or transfer, except as provided in division (C)(3) of this section;
  - (3) Transfer by reason of death of a former owner to a new owner who does not make application within 125 days of the transfer;
  - (4) The land is no longer being used as agricultural land; or
  - (5) Change of zoning to other than an agricultural zone.
- (D) Whenever property which has received a deferral pursuant to this section becomes disqualified for that deferral, the owner of record title of the property shall pay to the municipality an amount equal to:
- (1) The total amount of special assessments which would have been assessed against the property, to the extent of special benefits, had the deferral not been granted; and
  - (2) Interest upon the special assessments not paid each year at the rate of 6% from the dates at which the assessments would have been payable if no deferral had been granted.
- (E) In cases where the deferral provided by this section is terminated as a result of a sale or transfer described in division (C)(2) or (C)(3) of this section, the lien for assessments and interest shall attach as of the day preceding the sale or transfer. (Neb. Rev. Stat. 19-2428 through 19-2431)

(Ord. 2276, 10-4-83; Am. Ord. 2417, 10-6-87) Penalty, see § 10.14

### STREET TREES

#### § 93.090 CONTROL OVER TREES

- (A) (1) It shall be the duty and responsibility of the Public Works Director to study, investigate, develop, formulate, and administer a written plan for the care, preservation, pruning, planting, replanting, removal, and disposition of all park trees and street trees within the municipality and to present this plan annually to the City Council, which plan shall, upon its acceptance and approval by the City Council, constitute the official Comprehensive Municipal Tree Plan of the municipality.
- (2) For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

**PARK TREES.** Include all trees, shrubs, bushes, and all other, or different, woody vegetation situated in all public parks having individual names and all other, or different, areas or tracts of land owned by the municipality or open to the general public as a park or public recreational area.

**STREET TREES.** Include all trees, shrubs, bushes, and all other, or different, woody vegetation situated on any land between the property lines on either side of all streets, avenues, alleys, and all other, or different, public thoroughfares within the City. The following species of trees, listed by common name, in addition to those species specifically approved by the City, constitute the officially recognized street tree species for the City.

<i>SMALL TREES</i>		<i>LARGE TREES</i>	
<i>Type</i>	<i>Species</i>	<i>Type</i>	<i>Species</i>
Other	Amur cork tree	Evergreen	Fir - medium

Other	Amur maple	Evergreen	Spruce - medium
Other	Bradford pear	Pine	Eastern white pine - large
Other	Eastern redbud	Pine	Ponderosa - medium
Other	Flowering crab (scab resistant varieties)	Other	Bald cypress
Other	Golden rain tree	Other	Burr oak
Other	Hawthorne	Other	Ginkgo
Other	Lilac, Japanese tree	Other	Honey locust, thornless
Other	Ohio buckeye	Other	Horse chestnut
Other	Purple leaf plum	Other	Kentucky coffeetree
Other	Saucer magnolia	Other	Little leaf linden
		Other	Norway maple
		Other	Pagoda tree, Japanese
		Other	Red maple
		Other	Red oak
		Other	Redmond linden
		Other	River birch
		Other	Scarlet oak
		Other	Sugar maple
		Other	Swamp white oak
		Other	Sweet gum

- (B) All trees planted as street trees in the City shall be planted at least 40 feet apart; provided, trees of one or more species, hereinabove classified by common name as small trees, may be planted less than 40 feet apart but not less than 30 feet apart. All trees planted as street trees in the municipality shall be planted at least 4 feet from all curbs, curb lines, and sidewalks; provided, trees of one or more species, hereinabove classified by common name as small trees, may be planted less than 4 feet but not less than 3 feet, from all curbs, curb lines, and sidewalks.
- (C) No street trees, other than those species hereinabove classified by common name as small trees, shall be planted under or within 10 lateral feet of any overhead electrical, telephone, or other utility wire or line or over or within 5 lateral feet of any underground water, sewer, electrical, telephone, or other utility wire, line, or main. No street tree shall be planted within ten feet of any fireplug or within a 20-foot radius of an intersection of any two or more curbs or curb lines. Any and all trees, bushes, and shrubs planted or allowed to become or remain in conflict with the provisions of this section or any parts or portions hereof are hereby declared to be a public nuisance and the City shall be, and hereby is, authorized and empowered to institute and prosecute legal proceedings for the abatement of the same in the manner provided by law.
- (D) It shall be unlawful for any person, firm, or corporation to plant any tree or trees in the space between the sidewalk and curb line on any street without first obtaining a permit from the Public Works Director permitting the planting of trees and also signing an agreement to pay all cost of removal of those trees if it becomes necessary for the health and welfare of the residents of the City to remove the trees.

- (E) It shall be unlawful for any person, firm, or corporation to trim, prune, treat, care for, or sever any street tree or park tree from any land or any part of portion thereof in return for any sum of money or any other thing of value without first applying for and obtaining the written consent of the Public Works Director.
- (F) The City shall have the right to care for, preserve, prune, plant, re-plant, maintain, remove, cause to be removed, order to be removed, and dispose of all street trees and all park trees at those times, for those reasons, and in those manners as the City may, in its sole and absolute discretion, decide from time to time. It shall be unlawful for any person to obstruct, delay, impede, or interfere with the Public Works Director or any other agents, servants, or employees of the City while they are engaging in or performing any duties or activities authorized, empowered, ordered, or directed by, under or pursuant to this section or any part or portion thereof.
- (G) The City of Fairbury Tree Board shall be, in addition to any of its other duties, a consulting organization for the City for the purposes of administering and making recommendations regarding this ordinance.

(Ord. 2359, 2-4-86; Am. Ord. 3016, 1-3-12; 3128, 1-31-25) Penalty, see § 10.14

### CURBS AND GUTTERS

#### **§ 93.105 CUTTING CURB**

- (A) It shall be unlawful for any person to cut into any paving, curb, or sidewalk for the purpose of constructing a driveway or any other purpose whatsoever without first having obtained a written permit from the Street Superintendent therefor. Before any person shall obtain a permit, that person shall inform the Superintendent of the place where the cutting is to be done and it shall be his 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 those rules and regulations as may be prescribed by the Street Superintendent or City Council; provided, all such cuts shall be saw cuts unless the applicant secured written permission to use another method from the Superintendent. When the applicant is ready to close the opening made, he or she shall inform the Superintendent, who shall supervise and inspect the materials used and the work done in the closing. It shall be discretionary with the Street Superintendent to do the work of cutting and closing the paving and charge the costs thereof to the party who obtained the permit. He may consent to the work of cutting and closing the paving to be done by the party holding the permit. Before any permit is issued by the Superintendent, the applicant for that 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. The sum shall be set on a per-square-foot cost of construction basis. The deposit shall be retained by the City for the purpose of replacing the paving, curb, or sidewalk in the event the work is done by the City. In the event the City elects to require the applicant to replace the paving, curb, or sidewalk, the deposit shall be retained by the City until the work is completed to the satisfaction of the Street Superintendent.
- (B) No permit shall be granted unless the applicant shall, in addition to all other requirements, agree in writing to the following conditions:
  - (1) The applicant will, if requested by the City, promptly replace and repair each and every place cut into any pavement, curb, or sidewalk under such rules as may be prescribed by the Street Superintendent or the City Council and leave the same in as good a condition as before the same was cut;

- (2) The applicant will promptly compensate the City for all work done by the City in replacing or repairing any places cut in the pavement, curb, or sidewalk by the applicant;
  - (3) The applicant will obey all applicable laws in doing the work and will save the City harmless from any damages which may occur as the result of either cutting or repairing the pavement, curb, or sidewalk; and
  - (4) The applicant will maintain and keep in repair the place where the pavement, curb, or sidewalk is cut to the satisfaction of the City and its officers for a period of one year after the completion of the work.
- (C) In addition to making the deposit above set forth, the applicant shall, before any permit is issued, execute a bond to the City with a good and sufficient surety or sureties to be approved by the Street Superintendent or City Council, in a sum set by resolution of the Council.

(Am. Ord. 3002, 1-18-11)

### **§ 93.106 DRIVEWAYS**

On all streets to be hereafter curbed, guttered, and paved, it shall be the duty of the Street Superintendent to notify all parties desiring driveways into their premises to furnish him or her with the width and location of those driveways. The cost of all such driveways in excess of the cost of the continuous gutter and curb shall be charged against the lots or real estate so benefited by their use when the levy for this work shall be made.

## **CHAPTER 94: ANIMALS**

### **§ 94.01 RUNNING AT LARGE**

It shall be unlawful for the owner, keeper, or harbinger of any animal, or any person having the charge, custody, or control thereof, to permit a horse, mule, cow, sheep, goat, swine, or other animal to be driven or run at large on any of the public ways and property, or upon the property of another, or to be tethered or staked out in a manner so as to allow the animal to reach or pass into any public way. (Ord. 2388, 4-7-87) Penalty, see § 10.14

### **§ 94.02 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) For the purpose of this section, the following definition shall apply:  
**LIVESTOCK.** Any animal which is kept for the use or profit of its owner.
- (C) It shall be unlawful for any person to keep or maintain within the corporate limits any poultry, chickens, turkeys, geese, or any other fowl.

(Ord. 2389, 4-7-87; Am. Ord. 2391, 4-7-87; 2941, 6-20-06) Penalty, see § 10.14

### **§ 94.03 (RESERVED)**

### **§ 94.04 WILD ANIMALS**

No wild animals may be kept within the corporate limits except those animals kept for exhibition purposes by circuses and educational institutions. Penalty, see § 10.14

#### § 94.05 UNUSUAL ANIMAL, DEFINITION

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

**UNUSUAL ANIMAL** shall mean any exotic, wild, poisonous, or potentially dangerous animal not normally considered domesticated and shall include animals prohibited by the City, State, or federal requirements, and also:

- (A) Class *Mammalia*; order *Carnivora*, family *Felidae* (such as lions, tigers, jaguars, leopards, and cougars) and hybrids of the same except domesticated cats; family *Canidae* (such as wolves, coyotes, and foxes) and hybrids of the same except domesticated dogs; family *Mustelidae* (such as weasels, martins, fishers, skunks, wolverines, minks, and badgers) except ferrets; family *Procyonidae* (such as raccoons); family *Ursidae* (such as bears); order *Primata* (such as monkeys and chimpanzees); and order *Chiroptera* (such as bats).
- (B) Class *Reptilia*; (1) all poisonous or venomous snakes, lizards, amphibians and other reptiles, including but not limited to cobras and their allies (*Elapidae*, *Hydrophidae*); vipers and their allies (*Crotalidae*, *Viperidae*); boomslang and Kirtland's tree snakes (*Clonophis*); and gila monsters (*Helodermatidae*); (2) order *Loricata* (such as alligators, caymans, and crocodiles); (3) green anacondas (*Eunectes murinus*), Indian pythons (*Molurus molurus*), reticulated pythons (*Python reticulatus*), and African rock pythons (*Python sebae*).
- (C) Class *Aves*, all birds over a foot in height, including, but not limited to, emus (*Dromaius novaehollandiae*) and ostriches (*Struthio camelus*).

(Ord. 2941, 6-20-06)

#### § 94.06 UNUSUAL ANIMALS PROHIBITED

- (A) It shall be unlawful for any person or persons to own, keep, or harbor any unusual animal within the corporate limits of the City. This section shall not apply to: (1) a circus, or carnival that maintains all legally required permits under applicable state or federal law, including applicable rules and regulations of the Nebraska Game and Parks Commission and federal wildlife agencies; (2) a humane society kenneling or boarding impounded unusual animals for Animal Control; (3) any wildlife rescue organizations with appropriate permits from the Nebraska Game and Parks Commission that rehabilitate or shelter unusual animals; or (4) authorized individuals sheltering animals belonging to a public zoo which require extensive care or rehabilitation.
- (B) It shall be unlawful for any person to sell, give away, transfer, or import into the City any unusual animals as defined in this chapter.
- (C) In the event that the Health Board determines an unusual animal is being owned, kept, or harbored by any person in violation of this chapter, the said Board may have such person prosecuted for such violation and shall order such person to remove said unusual animal from the City or destroy it. Such order shall be contained in a written notice to remove or destroy said unusual animal within ten days and shall be delivered in person or by certified mail, return receipt requested. If the owner fails to remove or destroy such unusual animal after the expiration of eleven days from receipt of notice, the Health Inspector is hereby authorized and empowered to seek a warrant from the appropriate court to enable him or her to enter private property in order to impound the unusual animal in violation of this chapter.

- (D) If the Health Inspector reasonably believes that a violation of this section exists, he or she is hereby authorized and empowered to seek a warrant from the appropriate court to enable him or her to enter private property in order to inspect, care for, or impound unusual animals in violation of this chapter.
- (E) Any person or persons violating this section shall bear full cost and expenses incurred by the City in the recovery, care, medical treatment, impoundment cost, and disposal of said animals, including removal from a motor vehicle or trailer.
- (F) Whenever an unusual animal has been seized pursuant to a warrant issued by the court, the release or disposition of the unusual animal shall be within the sound discretion of the court. The court may, upon conviction of the owner for a violation of this title, order that the unusual animal may be destroyed in a humane fashion, and any such impoundment or disposal costs incurred by the City shall be payable by the person so convicted.

(Ord. 2941, 6-20-06)

#### **§ 94.07 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 § 10.14

#### **§ 94.08 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. Penalty, see § 10.14

#### **§ 94.09 ABANDONMENT, NEGLECT, AND CRUELTY**

- (A) Definitions: For the purpose of this section, 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 humans. 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 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. Rev. Stat. 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 must make prompt investigation of such violation. A law enforcement officer may, in lieu of making an arrest, 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 that damage is not the result of the officer's negligence. (Neb. Rev. Stat. 28-1012)
- (C) Violation. A person commits cruelty to animals if he or she abandons, cruelly mistreats, or cruelly neglects an animal. (Neb. Rev. Stat. 28-1009)

(Am. Ord. 3127, 1-31-25) Penalty, see § 10.14

#### **§ 94.10 PITTING PROHIBITED**

- (A) For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.
- BEARBAITING.** The pitting of any animal against a bear.
- COCKFIGHTING.** The pitting of a fowl against another fowl.
- DOGFIGHTING.** The pitting of a dog against another dog.
- PITTING.** Bringing animals together in combat. (Neb. Rev. Stat. 28-1004)
- (B) No person shall knowingly promote, engage in, or be employed at dogfighting, cock-fighting, bearbaiting, or pitting an animal against another. Nor shall any person knowingly receive money for the admission of another person to a place kept for that purpose. Nor shall any person knowingly own, use, train, sell, or possess an animal for the purpose of animal pitting. Nor shall any person knowingly permit any act as described in this section to occur on any premises owned or controlled by him or her.
- (C) No person shall knowingly and willingly be present at and witness as a spectator dogfighting, cockfighting, bearbaiting, or the pitting of an animal against another as prohibited in this section. (Neb. Rev. Stat. 28-1005)

Penalty, see § 10.14

#### **DOGS; GENERAL PROVISIONS**

#### **§ 94.20 OWNER DEFINED**

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

**OWNER.** Any person who shall harbor or permit any dog to be for 10 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 that dog and shall be deemed to be liable for all penalties herein prescribed. (Neb. Rev. Stat. 54-606)

(Am. Ord. 2893, 9-78-2004) Penalty, see § 10.14



#### **§ 94.21 RUNNING AT LARGE**

- (A) It shall be unlawful for the owner of any dog to allow that dog to run at large at any time within the corporate limits of the municipality. It shall be the duty of the municipal police to cause any dog found to be running at large within the municipality to be taken up and impounded.
- (B) For the purpose of this section, the following definition shall apply unless the context clearly indicates or requires a different meaning.

***RUNNING AT LARGE.*** 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.

(Am. Ord. 2893, 9-7-04) Penalty, see § 10.14

#### **§ 94.22 RABIES THREAT; PROCLAMATION**

It shall be the duty of the City Council whenever in its opinion the danger to the public safety from rabid dogs is great or imminent, to issue a proclamation ordering all persons owning, keeping, or harboring any dog to muzzle the same, or to confine it for a period of not less than 30 days or more than 90 days from the date of the proclamation, or until the danger is passed. The dogs may be harbored by any good and sufficient means in a house, garage, or yard on the premises wherein the 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. (Am. Ord. 2893, 9-7-04) Penalty, see § 10.14

#### **§ 94.23 CAPTURE IMPOSSIBLE**

The municipal police shall have the authority to kill any animals showing vicious tendencies, or characteristics of rabies, which make capture impossible because of the danger involved. (Am. Ord. 2893, 9-7-04)

#### **§ 94.24 LIABILITY OF OWNER**

It shall be unlawful for any person to allow a dog owned, kept, or harbored by him, 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. (Am. Ord. 2893, 9-7-04) Penalty, see § 10.14

#### **§ 94.25 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 5 days after notice has been given unless reclaimed earlier by the owner. Notice of the impoundment of any licensed dog shall be mailed to the owner listed on the license application of that dog, by regular U.S. mail, at the address of the 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 Police Department. 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, that 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 in the summary and humane manner as prescribed by the Board of Health unless a suitable home can be found for the dog. (Am. Ord. 2893, 9-7-04; 2941, 6-20-06)

#### **§ 94.26 BARKING AND OFFENSIVE DOGS**

It shall be unlawful for any person to own, keep, or harbor any dog which by loud, continued, or frequent barking, howling, or yelping shall annoy or disturb any neighborhood or person or which habitually barks at or chases pedestrians, drivers, or owners of horses or vehicles while they are on any public sidewalks, streets, or alleys in the municipality. The provisions of this section shall not be construed to apply to the municipal dog shelter. (Neb. Rev. Stat. 17-526) (Am. Ord. 2893, 9-7-04; 2941, 6-20-06) Penalty, see § 10.14

#### **§ 94.27 FIGHTING**

It shall be unlawful for any person, by agreement or otherwise, to set dogs to fighting, or by any gesture or word to encourage the same to fight. (Neb. Rev. Stat. 17-526) (Am. Ord. 2893, 9-7-04) Penalty, see § 10.14

#### **§ 94.28 DANGEROUS DOGS; DEFINITIONS**

For purposes of Code §§ 94.28 to 94.30, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

**ANIMAL CONTROL AUTHORITY** shall mean the Fairbury Police Department or other law enforcement agency designated by the Mayor to enforce the animal control laws of the City.

**ANIMAL CONTROL OFFICER** shall mean shall mean any City police officer or other law enforcement officer designated by the Mayor to enforce the animal control laws of the City or any individual employed, appointed, or authorized by the Animal Control Authority for purposes of aiding in the enforcement of the animal control laws of the City, and shall include any state or local law enforcement officer or other employee whose duties in whole or in part include assignments that involve the seizure and impoundment of any animal.

**DANGEROUS DOG** shall:

- (A) mean a dog that, according to the records of an animal control authority: (1) has killed a human being; (2) has inflicted injury on a human being that requires medical treatment; (3) has killed a domestic animal without provocation; or (4) has been previously determined to be a potentially dangerous dog by an animal control authority, the owner has received notice from an animal control authority or an animal control officer of such determination, and the dog inflicts an injury on a human being that does not require medical treatment, injures a domestic animal, or threatens the safety of humans or domestic animals.
- (B) A dog shall not be defined as a dangerous dog under (A)(2) of this definition, and the owner shall not be guilty under Neb. Rev. Stat. 54-622.01, if the individual was tormenting, abusing, or assaulting the dog at the time of the injury or has, in the past, been observed or reported to have tormented, abused, or assaulted the dog.

- (C) A dog shall not be defined as a dangerous dog under (A)(4) of this definition, and the owner shall not be guilty under Neb. Rev. Stat. 54-622.01, if the injury, damage, or threat was sustained by an individual who, at the time, was committing a willful trespass as defined in Neb. Rev. Stat. 20-203, 28-520, or 28-521, was committing any other tort upon the property of the owner of the dog, was tormenting, abusing, or assaulting the dog, or has, in the past, been observed or reported to have tormented, abused, or assaulted the dog, or was committing or attempting to commit a crime.
- (D) A dog shall not be defined as a dangerous dog under this definition if the dog is a police animal as defined in Neb. Rev. Stat. 28-1008.

**DOMESTIC ANIMAL** shall mean a cat, a dog, or livestock. Livestock includes, but is not limited to, buffalo, deer, antelope, fowl, and any other animal in any zoo, wildlife park, refuge, wildlife area, or nature center intended to be on exhibit.

**MEDICAL TREATMENT** shall mean treatment administered by a physician or other licensed health care professional that results in sutures or surgery or treatment for one or more broken bones or for a puncture wound.

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

**POTENTIALLY DANGEROUS DOG** shall mean (A) any dog that, when unprovoked, (1) inflicts an injury on a human being that does not require medical treatment, (2) injures a domestic animal, or (3) chases or approaches a person upon streets, sidewalks, or any public grounds in a menacing fashion or apparent attitude of attack or (B) any specific dog with a known propensity, tendency, or disposition to attack when unprovoked, to cause injury, or to threaten the safety of humans or domestic animals. (Neb. Rev. Stat. 54-617)

(Ord. 2893, 9-7-04; Am. Ord. 3001, 1-18-11)

#### **§ 94.29 DANGEROUS DOGS; OWNERSHIP**

- (A) Once the Animal Control Authority has declared a dog a dangerous dog or a potentially dangerous dog, such declaration may not be rescinded and shall not expire.
- (B) A dangerous dog that has been declared as such shall be spayed or neutered and implanted with a microchip identification number by a licensed veterinarian within thirty (30) days after such declaration. The cost of both procedures is the responsibility of the owner of the dangerous dog. Written proof of both procedures and the microchip identification number shall be provided to the Animal Control Authority after the procedures are completed.
- (C) 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.
- (D) Except as provided in subsection (E) of this section or for a reasonable veterinary purpose, no owner of a dangerous dog shall transport such dog or permit such dog to be transported to another county, city, or village in this State.
- (E) An owner of a dangerous dog may transport such dog or permit such dog to be transported to another county, city, or village in this State for the purpose of permanent relocation of the owner if the owner has obtained written permission prior to such relocation from the animal control authority of City and from the county, city, or village in which the owner will reside. Each animal control authority may grant such permission based upon a reasonable evaluation of both the owner and the dog, including if the owner has complied with the laws of this State and of the City with regard to dangerous dogs after the dog was declared dangerous. An

animal control authority shall not grant permission under this subsection if the county, city, or village has an ordinance or resolution prohibiting the relocation of dangerous dogs. After the permanent relocation, the animal control authority of the county, city, or village in which the owner resides shall monitor the owner and such dog for a period of at least thirty but not to exceed ninety days to ensure the owner's compliance with the laws of this State and of such county, city, or village with regard to dangerous dogs. Nothing in this subsection shall permit the rescindment of the declaration of dangerous dog.

- (F) No person, firm, partnership, limited liability company, or corporation shall own, keep, or harbor or allow to be in or on any premises occupied by him, her, or it or under his, her, or its charge or control any dangerous dog without such dog being confined so as to protect the public from injury including, but not limited to, complying with subsection (F) of this section.
- (G) 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 at a depth of at least one (1) foot. The pen or structure shall also protect the dog from the elements. The pen or structure shall be at least ten (10) feet from any property line of the owner. The owner of a dangerous dog shall post warning signs on the property where the dog is kept that are clearly visible from all areas of public access and that inform persons that a dangerous dog is on the property. Each warning sign shall be no less than ten (10) inches by twelve (12) inches and shall contain the words "Warning" and "Dangerous Animal" in high-contrast lettering at least three (3) inches high on a black background.

(Ord. 2893, 9-7-04; Am. Ord. 3001, 1-18-11)

#### **§ 94.30 DANGEROUS DOGS; FAILURE TO COMPLY**

- (A) Any dangerous dog may be immediately confiscated by an animal control officer if the owner is in violation of this subchapter. 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 subchapter. Prior to or within three (3) days following such confiscation, the Animal Control Authority shall give notice to the owner of the Animal Control Authority's decision to destroy the dangerous dog. Within seven (7) days of receipt of such notice, the owner of the dangerous dog may file with the City Clerk a written request for a hearing before the City Council to review the Animal Control Authority's decision. Within thirty (30) days after the filing of the appeal, the City Council shall convene a hearing, for which the owner shall receive written notice by personal service or certified mail at least five (5) days prior to the hearing, and at which the owner may be heard and present evidence why the dangerous dog should not be destroyed and at which the Animal Control Authority may be heard and present evidence why the dangerous dog should be destroyed. If, after consideration of all of the evidence, the City Council shall find that the dangerous dog presents a clear danger to the public of attacking or biting a human being or domestic animal and should be destroyed, it shall, by resolution, order and direct the Animal Control Authority to destroy the dangerous dog. The owner may appeal the City Council's decision to the appropriate court for adjudication, during which proceedings the decision of the City Council shall be stayed.
- (B) 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.

- (C) If a dangerous dog attacks or bites a human being or domestic animal, the dangerous dog shall be immediately confiscated by the Animal Control Authority, placed in quarantine for the proper length of time, and thereafter destroyed in an expeditious and humane manner. (Neb. Rev. Stat. 54-620)

(Ord. 2893, 9-7-04; Am. Ord. 3001, 1-18-11)

DOGS; LICENSEING

**§ 94.45 LICENSE REQUIRED**

Any person who shall own, keep, or harbor a dog over the age of 6 months within the municipality shall, within 30 days after acquisition of the dog, acquire a license for each such dog annually by or before January 1 each year. The tax shall be delinquent from and after January 10; provided, 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 the tax shall be delinquent if not paid within 10 days thereafter. Licenses shall be issued by the Police Department upon the payment of a license fee as set by resolution of the City Council for each neutered dog and for each unneutered dog; provided, the tax shall be as set by resolution of the Council for each neutered dog for every license issued after the fee has become delinquent and 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 that 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. (Am. Ord. 2941, 6-20-06) Penalty, see § 10.14

**§ 94.46 MULTI-DOG HOUSEHOLD PERMITS**

- (A) It shall be unlawful for any person to have or maintain a multi-dog household of more than three dogs within the City without first having obtained such a permit from the Chief of Police.
- (B) Any person having a multi-dog household of more than three dogs shall make application to the Chief of Police for said permit. The following shall be submitted with the application:
- (1) Proof of current licenses and rabies vaccination for each dog to be owned, kept or harbored on the premises.
  - (2) A drawing or plan showing the location and dimensions of the premises, dog runs or pens, and distances to neighboring properties. Drawings or plans must be drawn to scale.
  - (3) The permit fee shall be the sum of \$50.00 in addition to the licensing fee for each dog as required by the Municipal Code.
- (C) Upon a finding by the Chief of Police that the premises are in compliance with the terms of the permit and the law, said permit will be issued. Only one multi-dog household permit per premises shall be issued. A permit shall not be granted if permit holder possesses a current commercial breeding kennel permit on the same premises.

(Ord. No. 2960, 8-7-07)

#### **§ 94.47 COMMERCIAL BREEDING KENNEL; PERMIT REQUIRED**

- (A) It shall be unlawful for any person to have or maintain a commercial breeding kennel within the City without first having obtained such a permit from the Chief of Police.
- (B) Any person wanting to operate a commercial breeding kennel shall make application to the Chief of Police for a commercial breeding kennel permit. The following shall be submitted with the application:
  - (1) Proof of current licenses, rabies vaccination, and registration with a nationally recognized registration organization for each dog to be kept or harbored on the premises.
  - (2) A drawing or plan showing the location and dimensions of the premises, dog runs or pens, and distances to neighboring properties.
  - (3) The permit fee shall be \$100 in addition to required licensing fees for each dog as required in the Municipal Code.
- (C) Upon a finding by the Chief of Police that the premises are in compliance with the terms of the permit and the law, said permit will be issued. Only one permit per premises shall be issued. A permit shall not be granted if permit holder possesses a current multi-dog household permit on the same premises.

(Ord. No. 2960, 8-7-07)

#### **§ 94.48 MULTI-DOG HOUSEHOLD AND COMMERCIAL BREEDING KENNEL; TERMS AND REQUIREMENTS**

For the purposes of this article, the following terms and requirements shall apply:

- (A) A permit is not transferable to another person or premises.
- (B) The permits shall expire December 31 of each calendar year for which issued. All permits shall be renewed by January 1 of the following year.
- (C) A permit holder shall notify the Chief of Police of any changes in ownership or death of dogs, property, or any other changes which may affect the status of said permit and shall keep the Chief of Police apprised of any change in name or location of the permit holder's kennel.
- (D) For a multi-dog household permit, all dogs owned, kept or harbored on the premises shall be spayed and neutered. There shall be no breeding of dogs permitted under this permit. The commercial breeding kennel permit holders shall limit dog reproduction to no more than one litter of offspring per license year per adult female dog.
- (E) It shall be unlawful for any multi-dog household permit holder to own, keep or harbor more than three dogs over the age of six months on the premises. It shall be unlawful for any commercial breeding kennel permit holder to keep or harbor more than ten dogs over six months of age on the premises.
- (F) All dogs shall be kept confined on the permit holder's premises.
- (G) A permit holder may either have a multi-dog household permit or a commercial breeding kennel permit, but not both.
- (H) The minimum lot size shall be one acre for any premises in which a multi-dog household or a commercial breeding kennel is to be located. The permit holder shall be allowed to maintain a multi-dog household or commercial breeding kennel permit until such premises is completely or partially sold or a change of ownership occurs, or termination of the permit.

- (I) It shall be unlawful to have indoor or outdoor housing facilities, pens, enclosures, or shelter closer than 75 feet to a neighboring residence and closer than ten feet to a neighboring property line. The Chief of Police may require additional setbacks, fencing, screening or soundproofing requirements as deemed necessary to ensure the compatibility of the multi-dog household or commercial breeding kennel with the surrounding neighborhood. Factors to be considered in determining such capability are as follows:
  - (1) Statements regarding approval/disapproval of surrounding neighbors relative to maintenance of a multi-dog household or commercial breeding kennel at the address applied for;
  - (2) Past history of animal control complaints relating to the dogs of the applicant at the address for which the multi-dog household or commercial breeding kennel is applied for;
  - (3) Facility specifications/dimensions in which the dogs are to be maintained;
  - (4) Animal size, type and characteristics of breed.
- (J) Noise or barking from the dogs shall not interfere with an adjoining property owner's use and peaceful enjoyment of his/her property.
- (K) Any odor or unsanitary conditions caused by the dogs shall not interfere with an adjoining property owner's use and peaceful enjoyment of his/her property.
- (L) It shall be unlawful for the owner, proprietor, employee, or volunteer of any commercial breeding kennel to knowingly sell or offer for sale an ill dog or misrepresent the breed or sex of a dog to any buyer or consumer.
- (M) It shall be unlawful to operate a multi-dog household or commercial breeding kennel thereof in an area within the City that kennels are not allowed by law.
- (N) Failure to maintain the premises in compliance with the law, or failure to make payment of the permit fee, or failure to maintain proof showing that each dog has been properly licensed or vaccinated against rabies may result in the immediate termination of the commercial breeding kennel permit by the Chief of Police.
- (O) Permit holders shall allow a police officer to inspect or investigate premises. Failure to permit a police officer to investigate or inspect may result in the termination of the multi-dog or commercial breeding kennel permit.
- (P) A person residing within the jurisdictional limits of Fairbury does not commit a violation of this section if he/she owns more than three dogs and said dogs' residence within the jurisdiction limits of the City predate the passage of this ordinance. However, said exception shall cease whenever a dog predating the ordinance is moved outside the jurisdictional limits or expires, whichever occurs first.

(Ord. No. 2960, 8-7-07)

#### **§ 94.49 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 this 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. (Neb. Rev. Stat. 54-603) (Ord. 2772, 2-16-99; Am. Ord. 2893, 9-7-04) Penalty, see § 10.14

## **§ 94.50 LICENSE TAGS**

- (A) Upon the payment of the license fee, the Police Department shall issue to the owner of a metallic tag for each dog so licensed. It shall be the duty of every owner of a dog to securely place upon the neck of such animal a good and sufficient collar with the current metallic license tag and current rabies vaccination tag attached thereto. The license so issued shall entitle the owner to keep or harbor the dog until December 31 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 Police Department 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 Police Department to issue tags of a suitable design that are different in appearance each year.

(Am. Ord. 2742, 6-2-98; 2941, 6-20-06)

## **§ 94.51 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. (Am. Ord. 2893, 9-7-04) Penalty, see § 10.14

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**CHAPTER 110: BUSINESS LICENSING**

OCCUPATION TAX

**§ 110.01 AMOUNT**

For the purpose of raising revenue an occupation tax may be levied on such businesses as the City Council may prescribe by ordinance. The type of business so taxed and the amount of each tax shall be on file in the office of the City Clerk and available for public inspection at any reasonable time. (Neb. Rev. Stat. 17-525) Penalty, see § 10.14

#### **§ 110.02 FIRE DEPARTMENT FUND**

For the use, support, and benefit of the Fire Department, the City Clerk shall pay over the proceeds of the occupation tax on fire insurance corporations, companies, and associations to the City Treasurer, who shall credit them to the special occupation tax fund for benefit of the Fire Department.

#### **§ 110.03 COLLECTION DATE**

All occupation taxes shall be due and payable on May 1 of each year, except in the event that the tax is levied daily, and except as levied upon certain businesses herein. Upon the payment thereof by any person or persons to the City Clerk, he/she shall give a receipt, properly dated, and specifying the person paying the tax, and the amount paid; provided, occupation taxes collected from Class C liquor licensees shall be due and payable on November 1. The revenue collected shall then be immediately deposited into the General Fund or such other fund or funds as designated by the City Council by the City Treasurer, who 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. Rev. Stat. 17-525) (Am. Ord. 2972, 3-4-08)

#### **§ 110.04 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.

#### **§ 110.05 PRIOR PAYMENT**

Any occupation tax previously paid by any business, in the year application is granted for a license of different classification, shall be deducted from the occupation tax due by reason of granting the new license in that year.

#### **§ 110.06 NEW BUSINESSES; DUTY TO PAY TAX; CITY TREASURER TO COLLECT**

It is hereby made the duty of any person desiring to exercise, carry on or engage in any occupation within the provisions of this chapter to pay to the City Treasurer the amount specified for the occupation tax as provided for in this chapter. The amount of the occupation tax shall be due and payable to the City Treasurer immediately after such person shall begin business in any occupation within the provisions of this chapter. (Ord. 2972, 3-4-08)

#### **§ 110.07 FAILURE TO PAY**

If any person, company, or corporation fails or neglects to pay the occupation taxes as provided herein on the day they become due and payable, the City shall then proceed by civil suit to collect the amount due. All delinquent taxes shall bear interest at the rate of 1% per month until paid.

#### **§ 110.08 CITY ATTORNEY TO ENFORCE COLLECTION**

The City Attorney may bring suit in the name of the City against any person, corporation, firm, or association in any court of competent jurisdiction of the amount of such tax levied by this chapter, together with interest and penalties, upon the failure of such person, corporation, firm, or association to pay the same as herein provided, whenever the City Attorney is so directed by the City Treasurer. (Ord. 2972, 3-4-08)

### **§ 110.09 GAMES OF CHANCE OR LOTTERIES**

- (A) Occupation tax levied. An occupation tax is hereby imposed on all persons engaged in the occupation of conducting games of chance or lottery activities within the City, and upon all persons engaged in the occupation of distributing gambling devices to persons engaged in the business of conducting games of chance or lotteries within the City.
- (B) Amount of tax. The occupation tax for each person engaged in the occupation of conducting games of chance or lottery activities within the City shall be 5% of the gross receipts received by that person. The occupation tax for each person engaged in the occupation of distributing gambling devices to persons engaged in the business of conducting games of chance or lottery within the City shall be 5% of the gross receipts received by that distributor.
- (C) Exception. The provisions of this section shall not apply to persons conducting a lottery pursuant to the provisions of the State County and City Lottery Act.

(Ord. 2490, 11-6-90)

### **§ 110.10 GAS DISTRIBUTION COMPANIES**

- (A) Occupation tax levied. There is hereby assessed an occupation tax against all persons distributing natural gas for sale in an amount of 5% on the gross receipts derived from the business of distributing and selling natural gas within the City, exclusive of such sale to governmental agencies, departments or other bodies whether they be federal, state, or local. Payment shall be made within 30 days to the clerk semiannually for the preceding six-month periods ending June 30 and December 31. If the tax is not paid when due, 9% per annum on the amount in default shall be added to the tax. The statement shall show the gross receipts derived from the distribution and sale of natural gas within the City. Gross receipts as used herein are revenues received from the sale, distribution or transportation of natural gas, after adjustment for the net write-off of uncollectible accounts and corrections of bills theretofore rendered. The amount paid by energy providers shall be in lieu of, and energy providers shall be exempt from, all other fees, charges, taxes or assessments which the City may impose for the privilege of doing business within the City, including without limitation excise taxes, occupation taxes, licensing fees, or right-of-way permit fees, and in the event the City imposes any such fees, charge, tax or assessment, the payment to be made by energy providers in accordance with this ordinance shall be reduced in an amount equal to any such fee, charge, tax or assessment imposed upon the energy providers. Ad valorem property taxes imposed generally upon all real and personal property within the City shall not be deemed to affect energy providers' obligations under this ordinance.
- (B) When due and payable; manner of payment; franchise fee billing. Energy providers shall report and pay any amount payable under this chapter on a semi-annual basis. Such payment shall be made no more than 30 days following the close of the period for which payment is due. Initial and final payments shall be prorated for the portions of the periods at the beginning and end of any franchise granted by the City to an energy provider. Every energy provider shall list the franchise fee collected from customers as a separate item on bills for utility service issued to its customers.
- (C) Obligation to collect. The City shall provide copies of annexation ordinances to energy providers on a timely basis to ensure appropriate franchise fee collection from customers within the City's corporate limits. An energy provider's obligation to collect and pay the franchise fee from customers within an annexed area shall not commence until the later: (a) of 60 days after such energy provider's receipt of the annexation ordinance pertaining to such

area, or (b) such time as is reasonably necessary for such energy provider to identify the customers in the annexed area obligated to pay the franchise fee.

- (D) City's right to examine records; underpayments and overpayments. The City shall have access to and the right to examine, during normal business hours, such books, receipts, files, records, and documents of an energy provider as is necessary to verify the accuracy of payments due hereunder. If it is determined that a mistake was made in the payment of any franchise fee required hereunder, such mistake shall be corrected promptly upon discovery, such that any underpayment by an energy provider shall be paid within 30 days of recalculation of the amount due, and any overpayment by an energy provider shall be deducted from the next payment of such franchise fee due by such energy provider to the City.

(Ord. 2958, 4-17-07)

### **§ 110.11 TELEPHONE AND TELECOMMUNICATIONS COMPANIES**

- (A) Occupation tax levied. Commencing February 5, 2008, there is hereby levied upon every person, firm, partnership, corporation, or association engaged in the business of offering or providing telecommunication services to the public for hire in the City an occupation tax of 5% on the gross receipts resulting from any toll services and charges on basic local exchange services; inter-exchange services; mobile services; and other telecommunication services as follows:
- (1) Basic local exchange services shall include the access and transmission of two-way switched communications within the City, including local telephone and telecommunication services;
  - (2) "Inter-exchange services" shall mean the access and transmission of communications between two or more local exchange areas, provided that such inter-exchange service either originates from an end user within the City or (b) terminates with an end user within the City, and is charged to a service address within the City regardless of where the charges are actually paid;
  - (3) Mobile services shall include any radio or similar communication services provided pursuant to license or authority granted by the Federal Communications Commission, charged to a service address within the City regardless of where the charges are actually paid, including cellular, radio paging, and mobile radio services; and
  - (4) Any other similar telecommunication services involving any electronic or electro-magnetic transmission of messages originating and terminating in the State of Nebraska and charged to a service address in the City, regardless of where the charges are actually paid.
- (B) Internet usage excepted. Taxation for Internet usage shall be excepted as contained in The Internet Tax Freedom Act, 47 U.S.C. §151.
- (C) When due and payable; manner of payment; penalty for late payment. On or before the last day of each and every month, said companies shall pay to the City a percentage of the gross receipts as provided in Subsection (A) from the preceding month as an occupation tax, provided that if the total amount due and payable is less than \$10.00, then the occupation tax shall be due and payable on May 1 each year. Such businesses shall be entitled to a credit for any occupation tax or other similar tax based on gross receipts, satisfactorily documented or verified as paid to any other jurisdiction upon any gross receipts taxed herein. All deferred payments shall draw interest at the rate of 1% per month. After default for six months, a penalty of 5% shall be added in addition to the interest charges.

- (D) Report of gross receipts; City's right of inspection. Every company taxed by this division shall make a report to the Mayor and City Council of all income and gross receipts of such company during the period for which such tax is due. Said report shall be submitted to the City Treasurer on the last day of each month and shall be a full, complete and detailed statement of the income and gross receipts, omitting any exemptions provided for in Subsection (A) hereof, and said statement shall be duly verified and sworn to by the officer(s) in charge of the business. All such businesses shall at any reasonable times during business hours permit the City, through its officers, agents, or representatives, to inspect the books and records of any such business for the purpose of verifying such report(s).

(Ord. 2972, 3-4-08)

### FRANCHISES

#### **§ 110.20 COMMUNITY ANTENNA TELEVISION SERVICE; RATE INCREASES**

Approval of a rate increase for a person or entity furnishing community antenna television service shall be required and shall be made by the City Council which granted the franchise to that person or entity. This approval shall be made by ordinance or resolution. Prior to voting on a rate increase, the City Council shall hold at least two public meetings at which the rate payers and the franchisee may comment on the programming content and rates of the franchise. At least 30 days prior to the first meeting held to examine programming content and rates, each rate payer or subscriber shall be notified by a billing statement or other written notice when and where the public meeting shall be held. This notice shall also provide information as to what rates are proposed by the franchisee for consideration by the City Council. (Neb. Rev. Stat. 18-2201 and 18-2206)

## **CHAPTER 111: ALCOHOLIC BEVERAGES**

#### **§ 111.01 DEFINITIONS**

All words and phrases herein used are to have the definitions applied thereto as defined in the Liquor Control Act of this State. (Neb. Rev. Stat. 53-103)

### LICENSING

#### **§ 111.15 LOCATION RESTRICTIONS**

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 that distance when the establishment has been licensed by the State Liquor Control Commission at least 2 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 was licensed and in operation prior to May 24, 1935, or to a college or university in the State which is subject to section 53-177.01; and further provided that if a proposed location for the sale at retail of any alcoholic liquor is within one hundred fifty feet of any church, a license may be issued if the State Liquor Control Commission gives notice to the affected church and holds a hearing as prescribed in Neb. Rev. Stat. 53-133 if the affected church submits a written request for a hearing. No alcoholic liquor, other than beer, shall be sold for consumption on the premises within 300 feet from the campus of any college within the municipality, except as provided by law. (Neb. Rev. Stat. 53-177, 177.01) Penalty, see § 10.14

### **§ 111.16 DWELLINGS**

Except in the case of hotels and clubs, no alcoholic liquor shall be sold at retail upon any premises which has any access which leads from the premises to any other portion of the same building used for dwelling or lodging purposes, and which is permitted to be used by the public. Nothing herein shall prevent any connection with the premises, and such other portion of the building which is used only by the licensee, his or her family, or personal guests. (Neb. Rev. Stat. 53-178) Penalty, see § 10.14

### **§ 111.17 LICENSE DISPLAY REQUIRED**

Every licensee under the State 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 premises. (Neb. Rev. Stat. 53-148) Penalty, see § 10.14

### **§ 111.18 LICENSEE REQUIREMENTS**

(A) No license shall be issued to:

- (1) A person who is not a resident of this State, except in case of railroad, airline, or boat licenses;
- (2) A person who is not of good character and reputation in the community in which he or she resides;
- (3) A person who is not a citizen of the United States;
- (4) A person who has been convicted of or has pleaded guilty to a felony under the laws of this State, any other state, or the United States;
- (5) A person who has been convicted of or has pleaded guilty to any Class I misdemeanor pursuant Neb. Rev. Stat. Ch. 28, Art. 3, 4, 7, 8, 10, 11, or 12, or any similar offense under a prior criminal statute or in another state, except that any additional requirements imposed by this division on May 18, 1983, shall not prevent any person holding a license on that date from retaining or renewing that license if the conviction or plea occurred prior to May 18, 1983;
- (6) A person whose license issued under the State Liquor Control Act has been revoked for cause;
- (7) A person who at the time of application for renewal of any license issued under the Act would not be eligible for that license upon initial application;
- (8) A partnership, unless one of the partners is a resident of this State and unless all the members of that partnership are otherwise qualified to obtain a license;
- (9) A limited liability company, if any officer or director of the limited liability company or any member having an ownership interest in the aggregate of more than twenty-five percent of such company would be ineligible to receive a license under this section for any reason other than the reasons stated in subdivisions (A)(1) and (A)(3) of this section, or if a manager of a limited liability company licensee would be ineligible to receive a license under this section for any reason;
- (10) A corporation, if any officer, manager, or director of the corporation or any stockholder owning in the aggregate more than 25% of the stock of that corporation would be ineligible to receive a license under this section for any reason other than the reasons stated in divisions (A)(1) and (A)(3) of this section, except that a manager of a corporate licensee shall be a resident of this State. This division shall not apply to railroad licenses;
- (11) A person whose place of business is conducted by a manager or agent, unless that manager or agent possesses the same qualifications required of the licensee;

- (12) A person who does not own the premises for which a license is sought or does not have a lease or combination of leases on the premises for the full period for which the license is to be issued;
  - (13) Except as provided in this division, an applicant whose spouse is ineligible under this section to receive and hold a liquor license. Such an applicant shall become eligible for a liquor license only if the State Liquor Control Commission finds from the evidence that the public interest will not be infringed upon if the license is granted. It shall be prima facie evidence that when a spouse is ineligible to receive a liquor license, the applicant is also ineligible to receive a liquor license. This prima facie evidence shall be overcome if it is shown to the satisfaction of the Commission:
    - (a) The licensed business will be the sole property of the applicant; and
    - (b) The licensed premises will be properly operated.
  - (14) A person seeking a license for premises which do not meet standards for fire safety as established by the State Fire Marshal;
  - (15) A law enforcement officer, except that this division shall not prohibit a law enforcement officer from holding membership in any nonprofit organization holding a liquor license or from participating in any manner in the management or administration of a nonprofit organization; or
  - (16) A person less than 21 years of age.
- (B) When a trustee is the licensee, the beneficiary or beneficiaries of the trust shall comply with the requirements of this section, but nothing in this section shall prohibit any such beneficiary from being a minor or person who is mentally incompetent. (Neb. Rev. Stat. 53-125)

(Am. Ord. 2278, 10-4-83) Penalty, see § 10.14

#### **§ 111.19 LICENSE RENEWAL; MUNICIPAL POWERS AND DUTIES**

- (A) A retail license issued by the commission and outstanding may be automatically renewed by the commission without formal application upon payment of the renewal fee and license fee if payable to the commission prior to or within thirty days after the expiration of the license. The payment shall be an affirmative representation and certification by the licensee that all answers contained in an application, if submitted, would be the same in all material respects as the answers contained in the last previous application. The commission may at any time require a licensee to submit an application, and the commission shall at any time require a licensee to submit an application if requested in writing to do so by the City Council.
- (B) Any licensed retail premises located in an area which is annexed to the City shall file a formal application for a license, and while such application is pending, the licensee may continue all license privileges until the original license expires or is canceled or revoked. If such license expires within sixty days following the annexation date of such area, the license may be renewed by order of the commission for not more than one year. (Neb. Rev. Stat. 53-135)
- (C) The Municipal Clerk shall cause to be published in a legal newspaper in or of general circulation in the municipality, one time between January 10 and January 30 of each year, individual notice in the form prescribed by law of the right of automatic renewal of each retail liquor and beer license within the municipality, except that notice of the right of automatic renewal of Class C licenses shall be published between the dates of July 10 and July 30 of each year. If written protests to the issuance of automatic renewal of a license are filed in the office of the Municipal Clerk by three or more residents of the municipality on or before February 10, or August 10 for Class C licenses, the City Council shall hold a hearing to determine whether continuation of the license should be allowed. Upon the conclusion of



any hearing required by this section, the City Council may request a licensee to submit an application as provided in Neb. Rev. Stat. 53-135. (Neb. Rev. Stat. 53-135.01)

(Am. Ord. 2278, 10-4-83) Penalty, see § 10.14

#### **§ 111.20 CATERING LICENSES**

- (A) The holder of a license to sell alcoholic liquor at retail issued under Neb. Rev. Stat. 53-124(6), a craft brewery license, a micro distillery license, or a farm winery license may obtain an annual catering license by filing an application and license fee with the State Liquor Control Commission. The catering license shall be issued for the same period and may be renewed in the same manner as the retail license, craft brewery license, micro distillery license, or farm winery license.
- (B) When an application for a catering license is filed, the commission shall notify the City Clerk of the receipt of the application. The commission shall include with such notice one copy of the application by mail or electronic delivery. The City Council and the commission shall process the application in the same manner as provided in Neb. Rev. Stat. 53-132.
- (C) The City Council with respect to catering licensees within its liquor license jurisdiction may cancel a catering license for cause for the remainder of the period for which such catering license is issued. Any person whose catering license is canceled may appeal to the district court of the county in which the City is located.
- (D) The City Council may impose an occupation tax on the business of a catering licensee doing business within the liquor license jurisdiction of the City Council. The tax may not exceed double the license fee for a catering license. (Neb. Rev. Stat. 53-124.12)

(Ord. 2437, 10-4-88; Am. Ord. 2532, 2-18-92; 2639, 2-21-95; 2716, 8-5-97; 2821, 2-6-01) Penalty, see § 10.14

#### **§ 111.21 LICENSE APPLICATION HEARING; NOTICE; PROCEDURE**

- (A) Notice. Notice of a hearing held pursuant to Neb. Rev. Stat. 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. 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 his or her 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).
  - (1) The City Council may admit and give probative effect to evidence which possesses probative value commonly accepted by reasonably prudent individuals. The Municipal Attorney may limit testimony where it appears incompetent, irrelevant, or unduly repetitious. If there is opposition to any application and the opposition desires the opportunity to present arguments and to cross-examine the applicant and any witnesses in favor of the application, they shall choose a spokesperson to perform this function who shall notify the Municipal Attorney of his or her representation prior to the start of the hearing.
  - (2) 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 the applicant;
  - (c) Testimony of any other citizens in favor of the proposed license;
  - (d) Examination of applicant, witnesses, or citizens by the Municipal Attorney, City Council, or duly appointed agent;
  - (e) Cross-examination of the applicant, witnesses, or citizens by the spokesperson for opposition, if any;
  - (f) Presentation of evidence and witnesses by the opposition;
  - (g) Testimony of any other citizens in opposition to the proposed license;
  - (h) Presentation of evidence by the municipality and law enforcement personnel;
  - (i) Cross-examination by the applicant;
  - (j) Rebuttal evidence by both parties, and by municipality administration and agent; and
  - (l) Summation by the applicant and the opposition spokesperson, if any.
- (3) In all cases, the burden of proof and persuasion shall be on the party filing the application.
  - (4) Any member of the City Council and the Municipal Attorney may question any witness, call witnesses, or request information.
  - (5) All witnesses shall be sworn.
  - (6) The City Council may make further inquiry and investigation following the hearing.
  - (7) The City Council or the applicant may order the hearing to be recorded by the Clerk, at the expense of the applicant(s). (Neb. Rev. Stat. 53-134)

(Ord. 2470, 12-5-89)

#### OPERATING REGULATIONS

#### **§ 111.35 SALES TO MINORS AND INCOMPETENTS**

It shall be unlawful for any person or persons to sell, furnish, give away, exchange, or deliver, or permit the sale, gift, or procuring of, any alcoholic liquors to or for any minor or to any person who is mentally incompetent. (Neb. Rev. Stat. 53-180) Penalty, see § 10.14

#### **§ 111.36 CREDIT SALES RESTRICTED**

- (1) No person shall sell or furnish alcoholic liquor at retail to any person on credit, on a passbook, on an order on a store, in exchange for any goods, wares, or merchandise, or in payment for any services rendered, and if any person extends credit for any such purpose, the debt thereby attempted to be created shall not be recoverable at law.
- (2) Nothing in this section shall prevent:
  - (a) Any club holding a Class C license from permitting checks or statements for alcoholic liquor to be signed by members or bona fide guests of members and charged to the account of such members or guests in accordance with the bylaws of such club;
  - (b) Any hotel or restaurant holding a retail license from permitting checks or statements for liquor to be signed by regular guests residing at such hotel or eating at such restaurant and charged to the accounts of such guests; or
  - (c) Any licensed retailer engaged in the sale of wine or distilled spirits from issuing tasting cards to customers. (Neb. Rev. Stat. 53-183)

Penalty, see § 10.14

#### **§ 111.37 (RESERVED)**

### § 111.38 ORIGINAL PACKAGE REQUIRED

No person except a manufacturer or wholesaler shall fill or refill, in whole or in part, any original package of alcoholic liquor with the same or any other kind or quality of alcoholic liquor. It shall be unlawful for any person to have in his or her possession for sale at retail any bottles, casks, or other containers containing alcoholic liquor except in original packages. Nothing in this section shall prohibit the refilling of original packages of alcoholic liquor for strictly private use and not for resale. (Neb. Rev. Stat. 53-184) (Am. Ord. 2531, 2-18-92) Penalty, see § 10.14

### § 111.39 PRESENCE OF MINORS RESTRICTED

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 that establishment unless that minor is accompanied by his or her parent or legal guardian, and unless that minor remains seated with, and under the immediate control of, the parent or legal guardian. (Neb. Rev. Stat. 53-147) Penalty, see § 10.14

### § 111.40 HOURS OF SALE

- (A) (1) 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.

<i>Type of Beverage</i>	<i>Type of Sale</i>	<i>Days</i>	<i>Hours of Sale</i>
Alcoholic liquors (except beer and wine)	Off sale	Monday thru Saturday	6:00 a.m. to 2:00 a.m.
Alcoholic liquors (except beer and wine)	Off sale	Sunday	12:00 noon to 2:00 a.m.
Alcoholic liquors (except beer and wine)	On sale	Monday thru Saturday	6:00 a.m. to 2:00 a.m.
Alcoholic liquors (except beer and wine)	On sale	Sunday	12:00 noon to 2:00 a.m.
Beer and wine	Off sale	Monday thru Saturday	6:00 a.m. to 2:00 a.m.
Beer and wine	Off sale	Sunday	6:00 a.m. to 2:00 a.m.
Beer and wine	On sale	Monday thru Saturday	6:00 a.m. to 2:00 a.m.
Beer and wine	On sale	Sunday	6:00 a.m. to 2:00 a.m.

- (2) Provided, that these limitations shall not apply after 12:00 noon on Sunday to a licensee which is a nonprofit corporation holding a license pursuant to Neb. Rev. Stat. (1943) 53-124(5)(C) and (H).
- (B) (1) 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.
- (2) For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning:
- OFF SALE.** Alcoholic beverages sold at retail in the original container for consumption off the premises of the licensed establishment.

**ON SALE.** Alcoholic beverages sold by the drink for consumption on the premises of the licensed establishment.

- (C) Nothing in this section shall be construed to prohibit licensed premises from being open for other business on days and hours during which the sale or dispensing of alcoholic beverages is prohibited by this section. (Neb. Rev. Stat. 53-179)

(Am. Ord. 2279, 10-4-83; 2579, 10-19-93; 3092, 1-5-2021) Penalty, see § 10.14

#### **§ 111.41 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 the licensed premises shall be subject to any health inspections the City Council or the municipal police may make, or cause to be made. All applications for liquor licenses shall be viewed in part from the standpoint of the sanitary conditions, and a report concerning those sanitary conditions shall be made at all hearings concerning the application for, or renewal of, a liquor license. (Neb. Rev. Stat. 53-118) Penalty, see § 10.14

#### **§ 111.42 CONSUMPTION IN PUBLIC PLACES; RESTRICTIONS**

- (A) Except when the State Liquor Control Commission has issued a license as provided in Neb. Rev. Stat. 53-186(2), it is unlawful for any person to consume alcoholic liquor upon property owned or controlled by the state or any governmental subdivision thereof unless authorized by the governing bodies having jurisdiction over that property. (Neb. Rev. Stat. 53-186(1))
- (B) It is unlawful for any person owning, operating, managing, or conducting any dance hall, restaurant, cafe, or club or any place open to the general public to permit or allow any person to consume alcoholic liquor upon the premises except as permitted by a license issued for the premises pursuant to the State Liquor Control Act. It is unlawful for any person to consume alcoholic liquor in any dance hall, restaurant, cafe, or club or any place open to the general public except as permitted by a license issued for the premises pursuant to the Act. This division does not apply to a retail licensee while lawfully engaged in the catering of alcoholic beverages. (Neb. Rev. Stat. 53-186.01)

(Am. Ord. 2822, 2-6-01) Penalty, see § 10.14

#### **§ 111.43 ACQUISITION AND POSSESSION OF LIQUOR; RESTRICTIONS**

- (A) No person shall manufacture, bottle, blend, sell, barter, transport, deliver, furnish, or possess any alcoholic liquor for beverage purposes except as specifically provided in this chapter and the State Liquor Control Act.
- (B) Nothing in this chapter shall prevent:
  - (1) The possession of alcoholic liquor legally obtained as provided in this chapter or the Act for the personal use of the possessor and his or her family or guests;
  - (2) The making of wine, cider, or other alcoholic liquor by a person from fruits, vegetables, or grains, or the product thereof, by simple fermentation and without distillation, if made solely for the use of the maker and his or her family and guests;
  - (3) Any duly licensed practicing physician or dentist from possessing or using alcoholic liquor in the strict practice of his or her profession, any hospital or other institution caring for the sick and diseased persons from possessing and using alcoholic liquor for the treatment of bona fide patients of that hospital or other institution, or any drug

- store employing a licensed pharmacist from possessing or using alcoholic liquor in the compounding of prescriptions of licensed physicians;
- (4) The possession and dispensation of alcoholic liquor by an authorized representative of any religion on the premises of a place of worship, for the purpose of conducting any bona fide religious rite, ritual, or ceremony;
  - (5) Persons who are 16 years old or older from carrying alcoholic liquor from licensed establishments when they are accompanied by a person not a minor;
  - (6) Persons who are 16 years old or older from handling alcoholic liquor containers and alcoholic liquor in the course of their employment;
  - (7) Persons who are 16 years old or older from removing and disposing of alcoholic liquor containers for the convenience of the employer and customers in the course of their employment; or
  - (8) Persons who are 19 years old or older from serving or selling alcoholic liquor in the course of their employment. (Neb. Rev. Stat. 53-168.06)

Penalty, see § 10.14

#### ADMINISTRATION AND ENFORCEMENT

#### **§ 111.60 MUNICIPAL POWERS AND DUTIES**

- (A) The City Council is authorized to regulate by ordinance, not inconsistent with the State Liquor Control Act, the business of all retail, bottle club, or craft brewery licensees carried on within the corporate limits of the municipality. (Neb. Rev. Stat. 53-134.03)
- (B) During the period of 45 days after the date of receiving from the State Liquor Control Commission an application for a new license to sell alcoholic liquor at retail, a bottle club license, or a craft brewery license, the City Council may make and submit to the Commission recommendations relative to the granting or refusal to grant the license to the applicant. (Neb. Rev. Stat. 53-131(2))
- (C) The City Council, with respect to licenses within the corporate limits of the municipality, has the following powers, functions, and duties with respect to retail, bottle club, and craft brewery licenses:
  - (1) To cancel or revoke for cause retail, bottle club, or craft brewery licenses to sell or dispense alcoholic liquor issued to persons for premises within its jurisdiction, subject to the right of appeal to the State Liquor Control Commission;
  - (2) To enter or to authorize any law enforcement officer to enter at any time upon any premises licensed under the State Liquor Control Act to determine whether any provision of the Act, any rule or regulation adopted and promulgated pursuant to the Act, or any ordinance, resolution, rule, or regulation adopted by the City Council has been or is being violated and at that time examine the premises of the licensee in connection with that determination;
  - (3) To receive a signed complaint from any citizen within its jurisdiction that any provision of the Act, any rule or regulation adopted and promulgated pursuant to the Act, or any ordinance, resolution, rule, or regulation relating to alcoholic liquor has been or is being violated, and to act upon those complaints in the manner provided in the Act;
  - (4) To receive retail license fees, bottle club license fees, and craft brewery license fees as provided in Neb. Rev. Stat. 53-124 and pay the same, after the license has been delivered to the applicant, to the Municipal Treasurer;

- (5) To examine or cause to be examined any applicant or any retail licensee, bottle club licensee, or craft brewery licensee upon whom notice of cancellation or revocation has been served as provided in the Act, to examine or cause to be examined the books and records of any applicant or licensee, and to hear testimony and to take proof for its information in the performance of its duties. For purposes of obtaining any of the information desired, the City Council may authorize its agent or attorney to act on its behalf;
- (6) To cancel or revoke on its own motion any license if, upon the same notice and hearing as provided in § 111.65 of this Code (citizen complaints), it determines that the licensee has violated any of the provisions of the State Liquor Control Act or any valid and subsisting ordinance or regulation duly enacted, adopted, and promulgated relating to alcoholic liquor. This order of cancellation or revocation may be appealed to the Commission within 30 days after the date of the order by filing a notice of appeal with the Commission. The Commission shall handle the appeal in the manner provided for hearing on an application in Neb. Rev. Stat. 53-133; and
- (7)
  - (a) Upon receipt from the Commission of the notice and copy of application as provided in Neb. Rev. Stat. 53-131, to fix a time and place for a hearing at which the City Council shall receive evidence, either orally or by affidavit from the applicant and any other person, bearing upon the propriety of the issuance of a license. Notice of the time and place of this hearing shall be published in a legal newspaper in or of general circulation in the municipality, 1 time not less than 7 and not more than 14 days before the time of the hearing. The notice shall include, but not be limited to, a statement that all persons desiring to give evidence before the City Council in support of or in protest against the issuance of the license may do so at the time of the hearing.
  - (b) The hearing shall be held not more than 45 days after the date of receipt of the notice from the Commission, and after the hearing the City Council shall cause to be recorded in the minute record of their proceedings a resolution recommending either issuance or refusal of the license. The Municipal Clerk shall mail to the Commission by first-class mail, postage prepaid, a copy of the resolution which shall state the cost of the published notice, except that failure to comply with this provision shall not void any license issued by the Commission. If the Commission refuses to issue such a license, the cost of publication of notice shall be paid by the Commission from the security for costs. (Neb. Rev. Stat. 53-134)
- (D)
  - (1) When the State Liquor Control Commission mails or delivers to the Municipal Clerk a license issued or renewed by the Commission, the Clerk shall deliver the license to the licensee upon proof of payment of:
    - (a) The license fee if by the terms of Neb. Rev. Stat. 53-124(5) the fee is payable to the Municipal Treasurer;
    - (b) Any fee for publication of notice of hearing before the City Council upon the application for the license;
    - (c) The fee for publication of notice of renewal, if applicable, as provided in Neb. Rev. Stat. 53-135.01; and
    - (d) Occupation taxes, if any, imposed by the municipality.
  - (2) Notwithstanding any ordinance or charter power to the contrary, the municipality shall not impose an occupation tax on the business of any person, firm, or corporation licensed under the State Liquor Control Act and doing business within the corporate limits of the municipality in any sum which exceeds 2 times the amount of the license

fee required to be paid under the Act to obtain the license. (Neb. Rev. Stat. 53-132(4))

(Am. Ord. 2278, 10-4-83; 2823, 2-6-01) Penalty, see § 10.14

#### **§ 111.61 OWNER OF PREMISES OR AGENT; LIABILITY**

If the owner of the licensed premises or any person from whom the licensee derives the right to possession of the premises, or the agent of that owner or person, knowingly permits the licensee to use the licensed premises in violation of the terms of the State Liquor Control Act or any municipal ordinance, that owner, agent, or other person shall be deemed guilty of a violation of the Act or ordinance to the same extent as the licensee and be subject to the same punishment. (Neb. Rev. Stat. 53-1,101) Penalty, see § 10.14

#### **§ 111.62 LICENSEE; LIABILITY FOR ACTS OF OFFICER, AGENT, OR EMPLOYEE**

Every act or omission of whatsoever nature constituting a violation of any of the provisions of the State Liquor Control Act or any municipal ordinance by any officer, director, manager, or other agent or employee of any licensee, if the act is committed or omission is made with the authorization, knowledge, or approval of the licensee, shall be deemed and held to be the act of the employer or licensee, and the employer or licensee shall be punishable in the same manner as if the act or omission had been done or omitted by the licensee personally. (Neb. Rev. Stat. 53-1,102) Penalty, see § 10.14

#### **§ 111.63 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 that intoxicated person to his or her home or to place the person in any hospital, clinic, alcoholism center, or with a medical doctor as may be necessary to preserve life or to prevent injury. The effort at placement shall be deemed reasonable if the officer contacts those facilities or doctors which have previously represented a willingness to accept and treat such individuals and which regularly do accept such individuals. If these efforts are unsuccessful or are not feasible, the officer may then place the 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 the 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 the 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 these 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 the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**PUBLIC PROPERTY.** Any public right-of-way, street, highway, alley, park, or other state, county, or municipally owned property.

***QUASI-PUBLIC PROPERTY.*** Includes private or publicly owned property utilized for proprietary or business uses which invites patronage by the public or which invites public ingress and egress. (Neb. Rev. Stat. 53-1,121)

Penalty, see § 10.14

#### **§ 111.64 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 State Liquor Control Act or regulations of the State Liquor Control Commission, or is failing to observe in good faith the purposes of the Act, the license may be suspended, canceled, or revoked after the licensee has been given an opportunity to be heard by the City Council. (Neb. Rev. Stat. 53-146)

#### **§ 111.65 CITIZEN COMPLAINTS**

Any 5 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 State Liquor Control Act or the rules or regulations issued pursuant thereto. The 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 that belief, it shall set the matter for hearing within 10 days from the date of the filing of the complaint and shall serve notice upon the licensee of the time and place of the 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, this resolution shall be deemed the final order for purposes of appeal to the State Liquor Control Commission as provided by law. (Neb. Rev. Stat. 53-1,114) Penalty, see § 10.14

### **CHAPTER 112: TOBACCO**

#### **§ 112.01 RETAIL SALES; LICENSE REQUIRED**

Every person, partnership, limited liability company, or corporation desiring a license to sell tobacco at retail shall file with the Municipal Clerk a written application on forms provided by the municipality, stating the name of the person, partnership, limited liability company, or corporation for whom the license is desired and the exact location of the place of business and shall deposit with the application a license fee in the amount of \$10. If the applicant is an individual, the application shall include the applicant's social security number. (Neb. Rev. Stat. 28-1422 and 28-1423) (Ord. 2777, 2-16-99)

### **CHAPTER 113: SALES AND ADVERTISING**

#### **PEDDLERS AND HAWKERS**

#### **§ 113.01 LICENSE REQUIRED**

To prevent the sale of fraudulent, dangerous, and unhealthful goods and services, and to protect the public by maintaining records of the products sold and the persons and companies responsible for those sales, all peddlers and hawkers shall, before doing business within the municipality, make application for, and be issued a license. Application for a license shall be made to the Municipal Clerk upon forms supplied by



the municipality, and shall contain all the necessary information, and documents required for the protection of the residents of the municipality. Any person or persons granted a peddler and hawker license shall be subject to any fees, occupation taxes, and other rules and regulations which the City Council deems appropriate for the purposes stated herein. Any license so granted shall be subject to revocation for good and sufficient cause by the municipal police. (Neb. Rev. Stat. 17-134 and 17-525) Penalty, see § 10.14

## **§ 113.02 DEFINITIONS**

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

**PEDDLERS** and **HAWKERS**. Include any person, firm, or corporation vending merchandise and services within the corporate limits who sell directly or indirectly, for present or future delivery, whether sold by sample or by taking orders. Businesses and activities included in this definition shall include, but not be limited to, dealers in home improvements, termite control, tree servicing, insurance solicitation, magazine sales, book sales, novelties, tapestries, fruit and vegetable vendors, flea markets, and garage or yard sales or similar sales events that last longer than three days at a time or that occur more frequently than once every six months. (Neb. Rev. Stat. 17-134)

(Am. Ord. 3033, 8-6-13)

## **§ 113.03 HOURS OF SOLICITATION**

It shall be unlawful for any solicitor, salesperson, or peddler to solicit any individual between the hours of 9:00 p.m., and 8:00 a.m., unless he or she has a previous appointment with the resident, or residents, of the premises solicited. It shall be unlawful at any hour for a solicitor, salesperson, or peddler to solicit without a proper permit on his or her person at all times. (Neb. Rev. Stat. 17-134 and 17-562) (Am. Ord. 2485, 12-18-90) Penalty, see § 10.14

## **§ 113.04 EXCEPTIONS**

Nothing herein shall be construed to apply to any person, or persons, selling produce raised within the county, or to wholesale salespersons soliciting merchants directly, or to a representative of a nonprofit or charity organization soliciting on behalf of that organization.

## **§ 113.05 SALES FROM STAND; CONSENT; LICENSE**

Any person desiring to erect, establish, or maintain a stand or apparatus for the sale of popcorn, ice cream, cold drinks, vegetables, produce, fruit, or other commodities and wares shall present to the Municipal Clerk a written consent of the owner or occupant of the lot in front of which the sidewalk space or street space is located which is desired to be occupied for those sales purposes. The Municipal Clerk shall then present the written consent and the application to use the public ways and property for sales purposes to the City Council, which shall determine whether or not to grant the application. The licensee, upon being granted permission to use the sidewalk or street space, shall pay to the Municipal Clerk a permit fee which shall be in addition to any other license fee which might be required of certain classes of peddlers and hawkers as hereinbefore provided. The Municipal Clerk shall then issue a license whereon shall be prescribed the length of time, not exceeding one year, to permit the use of the area of the public ways and property prescribed thereon for the purposes set out in the license issued. Any license issued may be revoked at will by the City Council. (Neb. Rev. Stat. 17-134) Penalty, see § 10.14

## SIGNS

### **§ 113.20 PERMIT REQUIRED**

It shall be unlawful for any person or persons to erect or cause to be erected any advertising display, sign, or other construction in the parkways or on other municipal property without first obtaining a permit. (Neb. Rev. Stat. 17-140) Penalty, see § 10.14

### **§ 113.21 PERMIT APPLICATION; ISSUANCE**

Any person or persons wishing to erect or cause to be erected any advertising display, sign, or other construction for the purpose of advertising on or over any municipal property shall make an application to the Municipal Clerk. The application shall contain all the necessary information and documents which the City Council deems appropriate. The City Council shall then assign to a Sign Committee the duty to consider the application, to visit the proposed location of the contemplated construction, and to recommend the acceptance or rejection of the proposed application. The Sign Committee shall consist of the Mayor, the Line Superintendent, the Chief of Police, and the City Attorney, except when the City Council shall appoint some other official or person to fill 1 or more of the Sign Committee positions. If the City Council accepts the application, it shall then direct the Municipal Clerk to issue the permit. Any person or persons granted a sign permit shall be subject to any fees, taxes, or other rules and regulations which the City Council deems appropriate. Any permit so granted shall be subject to revocation for good and sufficient cause by the City Council. (Neb. Rev. Stat. 17-140) Penalty, see § 10.14

### **§ 113.22 DIMENSIONS**

It shall be unlawful for any person or persons to erect or cause to be erected any signs, posts, awning posts, billboard advertisements, or mercantile displays upon any street or sidewalk; provided, signs may be erected, and fastened to buildings at least 8 feet above the sidewalks if they are constructed in such a way as not to exceed 3 feet in length. Electrical illuminated signs may be erected not to extend beyond the building more than 8 feet but must be fastened to the building at least 12 feet above the sidewalks. Nothing herein shall be construed to apply to any sign or signs erected prior to the passage of this section that are not an immediate danger to the residents of the municipality. (Neb. Rev. Stat. 17-140) Penalty, see § 10.14

## PAWNBROKERS

### **§ 113.35 PERMIT REQUIRED; FEES AND APPLICATION; BOND; RESTRICTIONS**

- (A) Every person engaged in the business of pawnbroking shall pay to the City Treasurer for a permit to carry on business the sum of \$50 per year or the sum of \$25 for every 6 months. This permit shall be obtained by filing an application with, and having the application approved by, the City Council of the City or an officer or agency designated by the City Council for that purpose.
- (B) The application shall contain the following information:
  - (1) The name and address of the owner and the manager of the business;
  - (2) If the applicant is a corporation, a copy of the articles of incorporation and the names of its officers and shareholders;
  - (3) The exact location where the business is to be conducted; and
  - (4) The exact location where any goods, wares, and merchandise may be stored or kept if other than the business location.
- (C) When reviewing applications for a permit required by this section, the City Council or delegated officer or agency shall take into consideration the criminal record, if any, of the

applicant and, if the applicant is a corporation, of its officers and shareholders. No permit shall be issued to any applicant who has been convicted of a felony and, if the applicant is a corporation, no permit shall be issued when any officer or shareholder has been convicted of a felony.

- (D) The person shall also give bond to the City in the sum of \$5,000 with surety to be approved by the Mayor, conditioned for the faithful performance by the principal, of each and all of the trusts imposed by law or by usage attached to pawnbrokers.
- (E) No person shall be allowed to do business in more than one location under one permit. Each permit shall state the place where the business is to be carried on and shall not be assigned. Goods, wares, and merchandise shall be kept or stored only at those locations specifically listed in the permit application.
- (F) It shall be unlawful for any person not having a permit as required in this section or Neb. Rev. Stat. 69-202 to display any sign or advertisement stating that money is lent on goods or that goods are purchased as described in Neb. Rev. Stat. 69-201.

(Ord. 2681, 5-6-97) Penalty, see § 10.14

## **CHAPTER 114: BINGO AND LOTTERY**

### **BINGO**

#### **§ 114.01 LICENSE AND PERMIT**

Games of bingo shall be conducted within the municipality in accordance with all laws of the municipality and the state if the game of bingo is played for or involves profit or gain. Any association duly licensed by the state to conduct the game of bingo shall obtain a written permit from the City Council before commencing operation of the game. Application shall be made to the Municipal Clerk for this permit. The application form shall contain such information and documents or copies thereof as the City Council deems necessary to determine whether to grant or reject the application. Upon the determination that granting the application would be proper, the City Council shall immediately direct the Municipal Clerk to issue the license to the applicant upon the payment of an annual permit fee of \$10. This license shall be subject to revocation at any time for good cause. Any person or persons so licensed shall be subject to any other fees, rules, and regulations which the City Council may designate. All permits so issued will automatically expire on September 30, following their issuance or renewal. The fee for each renewal unless otherwise prescribed shall be in the sum of \$10. This fee shall be credited to the general fund. The permit shall be on display at any place where a game of bingo is conducted. (Am. Ord. 2316, 8-21-84) Penalty, see § 10.14

#### **§ 114.02 STATE REGULATIONS ADOPTED**

All applicable state statutes as they now exist or may hereafter be amended shall be, and will constitute, a part of this chapter as if repeated verbatim herein, and violation of any state statute will be a distinct and separate offense against the municipality as well as against the state. Violators thereof shall be separately prosecuted by the municipality for each of these offenses, and if convicted, shall be deemed to be guilty of a misdemeanor. Penalty, see § 10.14

### **LOTTERY**

#### **§ 114.15 LICENSE REQUIRED; DISPLAY**

- (A) It shall be unlawful for any person to engage in the occupation of conducting games of chance or lottery activities within the City without first obtaining a license to do so. Every person desiring a license shall make application to the Municipal Clerk. Accompanying each application shall be:
  - (1) A sworn statement by the applicant that he or she will be responsible for compliance with rules and regulations for each game of chance or lottery which he or she supervises; and
  - (2) A sworn statement by the applicant that he or she will be responsible for the proper utilization of gross receipts pursuant to all applicable federal, state, and local laws.
- (B) Every license issued under the provisions of this section shall be conspicuously displayed at the place where the game of chance or lottery is conducted. The license fee for engaging in the occupation of conducting games of chance or lotteries within the City shall be \$50 for each location wherein that activity is conducted.
- (C) The provisions of this section shall not apply to persons conducting a lottery pursuant to the provisions of the State County and City Lottery Act.

(Ord. 2492, 11-6-90) Penalty, see § 10.14

#### **§ 114.16 PARTICIPATION RESTRICTIONS**

- (A) No person under 19 years of age shall play or participate in any way in the lottery established and conducted by the municipality.
- (B) No owner or officer of a lottery operator with whom the municipality contracts to conduct its lottery shall play the lottery conducted by the municipality. No employee or agent of the municipality, lottery operator, or authorized sales outlet location shall play the lottery of the municipality for which he or she performs work during the time that he or she is actually working at the lottery or while on duty.
- (C) Nothing shall prohibit the following persons from playing the lottery conducted by the municipality as long as the person is 19 years of age or older:
  - (1) Any member of the City Council, a municipal official, or the immediate family of such a member or official; or
  - (2) An owner or officer of an authorized sales outlet location for the municipality.
- (D) No person, or employee or agent of any person or the municipality, shall knowingly permit an individual under 19 years of age to play or participate in any way in the lottery conducted by the municipality.
- (E) For the purpose of this section, the following definition shall apply unless the context clearly indicates or requires a different meaning.

##### ***IMMEDIATE FAMILY OF A MEMBER OF THE CITY COUNCIL OR A MUNICIPAL OFFICIAL***

- (a) A person who is related to the member or official by blood, marriage, or adoption and resides in the same household; or
- (b) A person who is claimed by the member or official, or the spouse of the member or official, as a dependent for federal income tax purposes. (Neb. Rev. Stat. 9-646)

(Ord. 2607, 6-21-1994; Am. Ord. 2677, 2-18-97; 2776, 2-16-99) Penalty, see § 10.14

**§ 114.17 SALES OUTLET LOCATIONS; APPROVAL REQUIRED; QUALIFICATION STANDARDS**

- (A) The lottery operator with whom the City Council contracts to conduct its lottery shall not operate the lottery at a sales outlet location other than the location of the lottery operator without prior approval of the sales outlet location by the City Council. The City Council shall approve or disapprove each sales outlet location and individual, sole proprietorship, partnership, limited liability company, or corporation which desires to conduct the lottery at its sales outlet location solely on the basis of the qualification standards prescribed in division (B).
- (B) Any individual, sole proprietorship, partnership, limited liability company, or corporation which seeks to have its location approved as an authorized sales outlet location shall:
  - (1) Obtain a retail liquor license for consumption on the premises pursuant to Neb. Rev. Stat. Chapter 53, Article 1;
  - (2) Not have been convicted of, forfeited bond upon a charge of, or pleaded guilty or nolo contendere to any offense or crime, whether a felony or a misdemeanor, involving any gambling activity or fraud, theft, willful failure to make required payments or reports, or filing false reports with a governmental agency at any level;
  - (3) Not have been convicted of, forfeited bond upon a charge of, or pleaded guilty or nolo contendere to any felony other than those described in division (B)(2) within the 10 years preceding the filing of the application;
  - (4) Not have had a gaming license revoked or canceled under the Nebraska Bingo Act, the Nebraska County and City Lottery Act, the Nebraska Lottery and Raffle Act, the Nebraska Pickle Card Lottery Act, the Nebraska Small Lottery and Raffle Act, or the State Lottery Act; and
  - (5) Be fit, willing, and able to properly provide the service proposed in conformance with all provisions and requirements of the Nebraska County and City Lottery Act and the rules and regulations adopted and promulgated pursuant to the act.
- (C) If the person seeking to have its location approved as an authorized sales outlet location is a partnership, limited liability company, or corporation, the qualification standards shall apply to every partner of such partnership, every member of such limited liability company, every officer of such corporation, and every stockholder owning more than 10% of the stock of such corporation.
- (D) The City shall notify the Department of Revenue of all approved lottery locations within 30 days of approval.

**CHAPTER 115: CONSTRUCTION CONTRACTORS**

*PLUMBERS*

**§ 115.01 CERTIFICATE OF REGISTRATION**

- (A) No person, partnership, corporation, or other legal entity shall hereafter engage in or work at the business of a plumber installing or making repairs in any building, except a residential dwelling, but not larger than a 4-family dwelling, until he or she shall have registered with the City Clerk as a plumber doing work in the City. Application for registration shall be made in writing to the City Clerk, showing the name and residence of the applicant, business location, and other information as may be required. If the applicant is a holder of any current

plumbing license, a copy of that license shall be provided. The fee for application for certificate of registration shall be set by resolution adopted by the City Council and shall be paid at the time of application.

- (B) Before the applicant can be registered to do plumbing in the City, he or she shall state his or her willingness to be governed by the rules and regulations now and hereafter adopted by the City Council concerning his or her business. All plumbing work shall be done to comply with the standards set forth in the National Standard Plumbing Code. The applicant shall deposit with the City Clerk an insurance policy providing public liability and property damage insurance to the City and general public, minimum liability insurance in the amount of \$100,000 for each person, \$300,000 for each accident, and \$100,000 for property damage.
- (C) Certificates of registration shall expire on December 31 each year, and shall not be assignable. Certificates of registration, at the time of their expiration, may be renewed by paying the renewal filing fees as set out by resolution adopted by the City Council and without filing a new application. Any person who does not renew his or her certificate of registration by April 1 after expiration of the same, shall be required to reapply and pay filing fees as required.

(Ord. 2477, 11-6-90) Penalty, see § 10.14

#### **§ 115.02 JOB PERMIT REQUIRED**

- (A) It shall be unlawful for any person, partnership, corporation, or other legal entity to install or repair any sanitary plumbing in any building, except a single-family dwelling or a farm or ranch structure, within the zoning jurisdiction of the municipality without a permit issued by the municipality.
- (B) The applicant for a job permit shall pay a permit fee set by resolution of the City Council.
- (C) It shall be the duty of the applicant to keep all job permits on the premises where the work is being done for which the job permits were issued until the time that the work is completed. (Neb. Rev. Stat. 18-1915, 18-1916, and 18-1918)

(Am. Ord. 2406, 8-18-87) Penalty, see § 10.14

#### **§ 115.03 INSPECTIONS REQUIRED**

- (A) The Plumbing Inspector shall inspect all plumbing work in process of construction, alteration, or repair within the municipality's jurisdiction, and for which a permit either has or has not been granted, and shall require any plumbing work not being done in accordance with law to be stopped and shall cause plumbing to be removed, if, after notice to the owner or plumber doing the work, he or she shall find the work or any part thereof to be defective.
- (B) It shall be the duty of the plumber to notify the Plumbing Inspector when plumbing work is ready to be inspected. Inspections shall be held at such stages as may be prescribed. (Neb. Rev. Stat. 18-1912 and 18-1913)

(Am. Ord. 2407, 8-18-87) Penalty, see § 10.14

#### **ELECTRICIANS**

### **§ 115.15 JOB PERMIT REQUIRED**

- (A) It shall be unlawful for any person, partnership, corporation, or other legal entity to install electrical equipment in commercial or industrial buildings or buildings designated for public use, including installation both inside and outside of the buildings, within the zoning jurisdiction of the municipality without a permit issued by the municipality.
- (B) The applicant for a job permit shall pay a permit fee set by resolution of the City Council.
- (C) It shall be the duty of the applicant to keep all job permits on the premises where the work is being done for which the job permits were issued until the time that the work is completed. (Neb. Rev. Stat. 18-1915, 18-1916, and 18-1918)

(Am. Ord. 2408, 8-18-87) Penalty, see § 10.14

### **§ 115.16 INSPECTION AND CERTIFICATE REQUIRED**

- (A) All electrical installations within the zoning jurisdiction of the municipality for which a permit is required shall be subject to inspection as hereinafter provided. At or before commencement of any electrical installation which is required by law to be inspected, the person responsible for the installation shall forward a request for inspection to the certified Electrical Inspector completed in the manner prescribed by the certified Electrical Inspector.
- (B) Where the Electrical Inspector finds the installation to be in conformity with the provisions of this Code, he or she shall issue to the person, firm, or corporation making the installation a certificate of approval, with a duplicate copy for delivery to the owner, authorizing the use of the installation and connection to the supply of electricity, and shall notify the supplying agency of this authorization.
- (C) If, upon inspection, the installation is not found to be fully in conformity with the provisions of this Code, the Electrical Inspector shall at once forward to the person, firm, or corporation making the installation a written notice stating the defects which have been found to exist. (Neb. Rev. Stat. 81-5,100)

(Am. Ord. 2409, 8-18-87) Penalty, see § 10.14

### **§ 115.17 UNLAWFUL CONNECTIONS**

It shall be unlawful for any person, firm, or corporation to make connections from a supply of electricity, to supply electricity to any electrical equipment, or to use or operate equipment, for the installation of which a permit is required, or which has been disconnected or ordered to be disconnected by the Electrical Inspector, until that connection or use has been authorized by the Electrical Inspector. Penalty, see § 10.14

## **CHAPTER 116: RAILROADS**

### **§ 116.01 SAFE CROSSING CONDITIONS; MAINTENANCE**

It shall be the duty of every railroad company doing business in or traveling through the municipality to keep in a suitable and safe condition the crossings and rights-of-way in the municipality. If any such crossing shall at any time fall into disrepair and become unsafe, or inconvenient for public travel, the City Council may, by resolution, call upon the company to make whatever repairs it may deem necessary to correct the dangerous condition. Notice of this resolution shall be served upon the local agent of that company. In the event that the railroad shall fail or neglect to repair and correct the condition as stated above within 48 hours, neglect for each 24 hours thereafter shall be deemed and is hereby made a separate

and distinct offense against the provisions herein. (Neb. Rev. Stat. 17-143, 17-144, 17-551, 17-552, and 75-414) Penalty, see § 10.14

#### **§ 116.02 DITCHES, DRAINS, AND CULVERTS ALONG TRACKS**

Any railroad company owning, maintaining, or operating a railroad within the municipality shall construct and keep in repair ditches, drains, and culverts along and under its railroad tracks at all places within the municipality, where the same may be necessary for the escape of water and the proper draining of the area on either side of the tracks. When any such drain, ditch, or culvert may be necessary, the City Council may, by resolution, call upon the railroad company to construct or repair the drain, ditch, or culvert and to place the same in a proper condition for the escape of water. A copy of this resolution shall be served upon the local agent of the railroad company whose duty it is to construct or keep in repair any such drain, ditch, or culvert within 14 days after the service thereof. (Neb. Rev. Stat. 17-552) Penalty, see § 10.14

#### **§ 116.03 OBSTRUCTION OF TRAFFIC RESTRICTED**

It shall be unlawful for any railroad company, its employees, agents, or servants operating a railroad through the municipality to obstruct traffic on any public street, except in the event of an emergency, for a longer period than 10 minutes at one time. (Neb. Rev. Stat. 17-552) Penalty, see § 10.14

#### **§ 116.04 LIGHTING AND SIGNALS**

It shall be the duty of all railroad companies owning, operating, and maintaining a railroad through the municipality to sufficiently light all crossings and to install as many signal systems as the City Council shall deem necessary at the expense of the company. (Neb. Rev. Stat. 17-561) Penalty, see § 10.14

#### **§ 116.05 OBSTRUCTION OF VIEW AT CROSSINGS PROHIBITED**

It shall be unlawful for any railroad company to obstruct or obscure the traveling public's view by storing or parking any railroad car on a railroad track within 50 feet of the crossing of any railroad track and a public road within the corporate limits of the municipality; provided, however, in no instance shall any person who is authorized to control the movement of the railroad car or cars within that distance be prevented from reasonably conducting his or her business. (Neb. Rev. Stat. 74-1323) (Ord. 2340, 10-15-85) Penalty, see § 10.14

### **CHAPTER 117: SALES TAX**

#### **§ 117.01 SALES TAX IMPOSED; ADMINISTRATION; INCREASE APPROVED**

- (A) Pursuant to the approval of the question by a majority of the qualified electors of the City of Fairbury, Nebraska, at the City's primary election held on May 11, 2020, following fulfillment of all requirements to submit the question to all qualified voters as provided by law, there is hereby adopted pursuant to the provisions of the Nebraska Revenue Act of 1967, Neb. Rev. Stat. §§ 77-2701 et seq., as amended, and the Nebraska Local Option Revenue Act of 1969, Neb. Rev. Stat. §§ 77-27,142 et seq., as amended, a sales and use tax effective as provided by law, of one-half of one percent (1/2%) upon the same transactions within the corporate limits of the City as the same may from time to time be extended, on which the State is authorized to impose a tax pursuant to the provisions of the aforementioned statutes of the State as the same may from time to time be amended.



- (B) The administration of the sales and use tax imposed herein, the making of returns for the ascertainment and assessment, the provisions for tax claims and remedies, the laws governing consummation of sales, penalties and collection, and for the disposition and distribution of the taxes so imposed and collected shall be as provided by the Nebraska Revenue Act of 1967, as amended, and the Nebraska Local Option Revenue Act of 1969, as amended.
- (C) Pursuant to the approval of the question by a majority of the qualified electors of the City at the City's general election held in November 2014, following fulfillment of all requirements to submit the question to all qualified voters as provided by law, there is now hereby adopted pursuant to the provisions of the Nebraska Revenue Act, Neb. Rev. Stat. §§ 77-27,142 et seq., as amended, an increase of the local sales and use tax rate by an additional one-half of one percent from one and one-half percent (1½%) to two percent (2%), effective as provided by law, upon the same transactions that are sourced under the provisions of Neb. Rev. Stat. § 77-2703.01 to 77-2703.04 within the corporate limits of the City on which the State of Nebraska is authorized to impose a tax pursuant to the Nebraska Revenue Act of 1967, as amended.

(Am. Ord. 2996, 6-1-10; 3046, 11-18-14; 3088, 6-16-20)

#### **§ 117.02 SALES TAX INCREASE; REVENUES; INFRASTRUCTURE PROJECTS**

- (A) Revenues from the increased sales and use tax shall be used for such public infrastructure projects as are allowed pursuant to the Local Option Revenue Act, including, but not limited to, public highways and bridges and municipal roads, streets, bridges, and sidewalks; solid waste management facilities; wastewater, storm water, and water treatment works and systems, water distribution facilities, and water resources projects, including, but not limited to, pumping stations, transmission lines, and mains and their appurtenances; hazardous waste disposal systems; resource recovery systems; airports; port facilities; buildings and capital equipment used in the operation of municipal government; convention and tourism facilities; redevelopment projects as defined in Neb. Rev. Stat. § 18-2103; mass transit and other transportation systems, including parking facilities; and equipment necessary for the provision of municipal services.
- (B) The City and the City of Fairbury Community Redevelopment Authority have entered into an interlocal agreement that created a separate administrative entity for purposes of the agreement, related to public infrastructure projects. Such interlocal agreement contains provisions relating to the long-term development of unified governance of public infrastructure projects in the City with respect to the parties, including but not limited to any such infrastructure projects as may be funded by revenues from the increased sales and use tax as noted above. A portion of the rate greater than one and one-half percent, such portion being at least one-eighth percent (1/8%), shall be imposed for the purpose of the interlocal agreement.

(Ord. 3046, 11-18-14)

#### **§ 117.03 SALES TAX INCREASE; TERMINATION**

The increase in the sales and use tax shall terminate no more than ten years after the effective date of the increased sales and use tax or, if bonds are issued and the local option sales and use tax revenue is pledged for payment of such bonds, upon payment of such bonds and any refunding bonds, whichever date is later, provided that:

- (A) If proceeds equal to at least 1/8%, but less than 3/8%, of the rate greater than 1½% are imposed for the purpose of funding the interlocal agreement between the City and the City of

- Fairbury Community Redevelopment Authority, which interlocal agreement is related to public infrastructure projects, there is no termination date for  $\frac{1}{4}\%$  of the amount;
- (B) If proceeds equal to at least  $\frac{3}{8}\%$  of the rate greater than  $1\frac{1}{2}\%$  are imposed for the purpose of funding the interlocal agreement between the City and the City of Fairbury Community Redevelopment Authority, which interlocal agreement is related to public infrastructure projects, there is no termination date for any of the increase.

(Ord. 3046, 11-18-14)

## **TITLE XIII: GENERAL OFFENSES**

### **Chapter 130: Property Offenses**

- § 130.01 CRIMINAL MISCHIEF
- § 130.02 CRIMINAL TRESPASS
- § 130.03 RADIO INTERFERENCE
- § 130.04 INJURY TO TREES
- § 130.05 POSTING
- § 130.06 REMOVING MATERIAL FROM PUBLIC WAYS
- § 130.07 SHOPLIFTING
- § 130.08 THROWING SNOWBALLS, ROCKS, AND THE LIKE

### **Chapter 131: Offenses Against Public Order**

- § 131.01 DISORDERLY CONDUCT
- § 131.02 (Reserved)
- § 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
- § 131.07 SOLICITING ALMS
- § 131.08 MENACING; ASSAULT
- § 131.09 UNLAWFUL LOITERING
- § 131.10 SUPPRESSION OF NUISANCES; DISORDERLY HOUSES
- § 131.11 DISORDERLY HOUSE; MAINTAINING
- § 131.12 INMATE OF A DISORDERLY HOUSE

### **Chapter 132: Offenses Against Public Justice and Administration**

- § 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
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## **Chapter 133: Offenses Against Public Health and Safety**

### General Provisions

- § 133.01 MAINTAINING A NUISANCE
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- § 133.03 PUTTING CARCASS OR FILTHY SUBSTANCE INTO WELL, SPRING, BROOK, OR STREAM
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### Substance Offenses

- § 133.20 DEFINITIONS
- § 133.21 USE OF TOBACCO BY MINORS
- § 133.22 SALE OF TOBACCO TO MINORS
- § 133.23 MISREPRESENTATION BY MINOR TO OBTAIN ALCOHOL
- § 133.24 MINORS; PROHIBITED ACTS
- § 133.25 DRINKING ON PUBLIC PROPERTY; OPEN BEVERAGE CONTAINER

### Motor Vehicle and Highway Offenses

- § 133.40 ABANDONED AUTOMOBILES
- § 133.41 SHOOTING HIGHWAY SIGNS, MARKERS, OR NOTICES
- § 133.42 REMOVAL AND POSSESSION OF HIGHWAY SIGNS, MARKERS, OR NOTICES
- § 133.43 (Reserved)
- § 133.44 (Reserved)

### Weapons Offenses

- § 133.60 DISCHARGE OF FIREARMS, SLINGSHOTS, AIR GUNS, AND THE LIKE

## **Chapter 134: Offenses Against Public Morals**

- § 134.01 PROSTITUTION
- § 134.02 PUBLIC INDECENCY
- § 134.03 GAMBLING
- § 134.04 PUBLIC NUDITY; UNLAWFUL
- § 134.05 URINATION OR DEFECATION IN PUBLIC, PROHIBITED
- § 134.06 SEXUAL PREDATOR; FINDINGS AND INTENT
- § 134.07 SEXUAL PREDATOR; DEFINITIONS
- § 134.08 SEXUAL PREDATOR RESIDENCE PROHIBITION; PENALTIES; EXCEPTIONS
- § 134.09 PROPERTY OWNERS PROHIBITED FROM RENTING REAL PROPERTY TO CERTAIN SEXUAL PREDATORS; PENALTIES
- § 134.10 VIOLATION

## **CHAPTER 130: PROPERTY OFFENSES**

### **§ 130.01 CRIMINAL MISCHIEF**

- (A) A person commits criminal mischief if he or she:
  - (1) Damages property of another intentionally or recklessly; or

- (2) Intentionally tampers with property of another so as to endanger person or property; or
  - (3) Intentionally or maliciously causes another to suffer pecuniary loss by deception or threat.
- (B) Criminal mischief is a Class IV felony if the actor intentionally or maliciously causes pecuniary loss of five thousand dollars or more, or a substantial interruption or impairment of public communication, transportation, supply of water, gas, or power, or other public service.
- (C) Criminal mischief is a Class I misdemeanor if the actor intentionally or maliciously causes pecuniary loss of one thousand five hundred dollars or more but less than five thousand dollars.
- (D) Criminal mischief is a Class II misdemeanor if the actor intentionally or maliciously causes pecuniary loss of five hundred dollars or more but less than one thousand five hundred dollars.
- (E) Criminal mischief is a Class III misdemeanor if the actor intentionally, maliciously, or recklessly causes pecuniary loss in an amount of less than five hundred dollars, or if his or her action results in no pecuniary loss. (Neb. Rev. Stat. 28-519)

Penalty, see § 10.14

#### **§ 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. Rev. Stat. 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;
  - (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. Rev. Stat. 28-521)

Penalty, see § 10.14

#### **§ 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 § 10.14

#### **§ 130.04 INJURY TO TREES**

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

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

Penalty, see § 10.14

### **§ 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 § 10.14

### **§ 130.06 REMOVING MATERIAL FROM PUBLIC WAYS**

It is hereby declared unlawful for any person to remove, disturb, or take away from any street, alley, or public grounds any dirt, earth, stones, or other materials forming a part of the street, alley, or public grounds without first having obtained written permission to do so from the City Council. Penalty, see § 10.14

### **§ 130.07 SHOPLIFTING**

- (A) A person commits the crime of theft by shoplifting when he or she, with the intent of appropriating goods or merchandise to his or her own use without paying for the goods or merchandise or to deprive the owner of possession of such goods or merchandise or its retail value, in whole or in part, does any of the following:
- (1) Conceals or takes possession of the goods or merchandise of any store or retail establishment;
  - (2) Alters the price tag or other price marking on goods or merchandise of any store or retail establishment;
  - (3) Transfers the goods or merchandise of any store or retail establishment from one container to another;
  - (4) Interchanges the label or price tag from one item of a good or of merchandise with a label or price tag for another item of a good or of merchandise;
  - (5) Causes the cash register or other sales recording device to reflect less than the retail price of the goods or merchandise; or
  - (6) Alters, bypasses, disables, shields, or removes any security or alarm device attached to or housing any goods or merchandise of any store, including the use or possession of a security device countermeasure as defined in section 28-511.03, prior to purchase of the goods or merchandise.
- (B) In any prosecution for theft by shoplifting, photographs of the shoplifted property may be accepted as prima facie evidence as to the identity of the property. Such photograph shall be accompanied by a written statement containing the following:
- (1) Actual communication to the actor;
  - (2) The name of the owner or owners of the property;
  - (3) The time, date, and location where the shoplifting occurred;
  - (4) The time and date the photograph was taken;
  - (5) The name of the photographer; and
  - (6) Verification by the arresting officer.

The purpose of this subsection is to allow the owner or owners of shoplifted property the use of such property during pending criminal prosecutions.

Prior to allowing the use of the shoplifted property as provided in this section, legal counsel for the alleged shoplifter shall have a reasonable opportunity to inspect and appraise the property and may file a motion for retention of the property, which motion shall be granted if there is any reasonable basis for believing that the photographs and accompanying affidavit may be misleading. (Neb. Rev. Stat. 28-514)

Penalty, see § 10.14

### **§ 130.08 THROWING SNOWBALLS, ROCKS, AND THE LIKE**

It shall be unlawful for any person to propel or throw any snowball, rock, tomato, or other missile at any real or personal property of any description belonging to another. Penalty, see § 10.14

## **CHAPTER 131: OFFENSES AGAINST PUBLIC ORDER**

### **§ 131.01 DISORDERLY CONDUCT**

It shall be unlawful for any person with intent to cause public inconvenience, annoyance, or alarm, or recklessly creating a risk thereof, to:

- (A) Engage in fighting, threatening, or violent conduct;
- (B) Use abusive, threatening, or other fighting language or gestures;
- (C) In a public place, use obscene language or make an obscene gesture or display; or
- (D) Create a hazardous, physically offensive, or seriously alarming condition by an act which serves no legitimate purpose.

(Ord. 2801, 9-19-00) Penalty, see § 10.14

### **§ 131.02 (RESERVED)**

### **§ 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 § 10.14

### **§ 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 § 10.14

### **§ 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 6:00 a.m. of the following day on Sunday through Saturday.
- (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 that 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 6:00 a.m. of the following day on Sunday through Saturday.

- (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 that 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 that minor and was using a direct route;
  - (3) In a motor vehicle involved in interstate travel;
  - (4) Engaged in an employment activity, including, but not limited to, newspaper delivery, and was using a direct route;
  - (5) Involved in an emergency;
  - (6) On the sidewalk abutting the minor's residence or abutting the residence of a next door neighbor if the neighbor did not complain to the police officer about the minor's presence;
  - (7) Attending an official school or religious activity or returning home by a direct route from an official school or religious activity;
  - (8) Exercising First Amendment rights protected by the U.S. 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 this State.

(Am. Ord. 2941, 6-20-06) Penalty, see § 10.14

#### **§ 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. Rev. Stat. 28-1322) Penalty, see § 10.14

#### **§ 131.07 SOLICITING ALMS**

It is hereby declared unlawful for any person to solicit upon the public streets or in any private residences alms, gifts, or contributions for private benefit unless the person so soliciting shall have first secured a permit from the Municipal Clerk authorizing him or her to conduct operations of this type within the corporate limits. Penalty, see § 10.14

#### **§ 131.08 MENACING; ASSAULT**

It is hereby declared unlawful for any person within the corporate limits of this municipality to assault or threaten another in a menacing manner or strike or injure another. Penalty, see § 10.14

#### **§ 131.09 UNLAWFUL LOITERING**

No person, except law enforcement, Fire Department, or other emergency personnel, shall loiter or stand on any public street, so as to impede or obstruct the flow of motor vehicle traffic on the street, and no person shall loiter upon any sidewalk or public right-of-way in a manner that causes alarm to other individuals for the safety of their persons and property. (Ord. 2831, 7-3-01) Penalty, see § 10.14

#### **§ 131.10 SUPPRESSION OF NUISANCES; DISORDERLY HOUSES**

Any room, house, building, structure, or place, and any property kept and used in maintaining the same, where, in violation of the ordinances of the City, unlawful or illegal acts are committed, is hereby

declared to be an unreasonable interference with the health, safety, welfare, and property of the citizens of the City, a disorderly house, and a public or common nuisance. Such nuisances may be restrained or suppressed by the City in any manner provided by law, and the City Attorney is hereby authorized and empowered to take such legal action as may be necessary to restrain or suppress such nuisances. (Ord. 2941, 6-20-06)

#### **§ 131.11 DISORDERLY HOUSE; MAINTAINING**

The term “disorderly house” as used in this chapter shall be deemed to be any room, house, building, structure, or premises, where unlawful or illegal acts are being committed. It shall be unlawful for the owner, lessee, resident, manager, or proprietor of any room, house, building, structure, or premises to knowingly collect or permit to be collected therein persons who are engaging in any unlawful act, or to knowingly make, cause, permit, or suffer to be made therein any loud or improper noise to the annoyance or disturbance of any person or neighborhood. (Ord. 2941, 6-20-06)

#### **§ 131.12 INMATE OF A DISORDERLY HOUSE**

It shall be unlawful for any person to be an inmate of or visit or frequent any disorderly house as declared in Section 131.11 with knowledge of, and participation in, the illegal activities occurring therein. (Ord. 2941, 6-20-06)

### **CHAPTER 132: OFFENSES AGAINST PUBLIC JUSTICE AND ADMINISTRATION**

#### **§ 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. Rev. Stat. 28-609) Penalty, see § 10.14

#### **§ 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. Rev. Stat. 28-610) Penalty, see § 10.14

#### **§ 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 the peace officer in:

- (A) Apprehending any person charged with or convicted of any offense against any of the laws of this State or municipality;
- (B) Securing the offender when apprehended; or
- (C) Conveying the offender to the jail of the county. (Neb. Rev. Stat. 28-903)

Penalty, see § 10.14

#### **§ 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 that person or on another by:

- (1) Using or threatening to use physical force or violence against the peace officer or another;
- (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. Rev. Stat. 28-904)

Penalty, see § 10.14

### **§ 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. Rev. Stat. 28-906)

Penalty, see § 10.14

### **§ 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;
- (B) Disobeys the lawful orders given by any firefighter while performing his or her duties;
- (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. Rev. Stat. 28-908)

Penalty, see § 10.14

### **§ 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 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 that 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; or
- (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 the investigation.

- (B) A person who violates this section commits the offense of false reporting. (Neb. Rev. Stat. 28-907)

Penalty, see § 10.14

### **§ 132.08 FAILURE TO DISPERSE**

- (A) Whenever a police officer has probable cause to believe that a person or persons are creating a disturbance of the peace and quiet of any person or neighborhood, such police officer may order said person or persons not residing on the premises to disperse for the purpose of abating the said disturbance.
- (B) It shall be unlawful for any person to refuse to comply with a lawful order to disperse given by a police officer in the performance of the officer's duties under this section.

(Ord. 2941, 6-20-06)

## **CHAPTER 133: OFFENSES AGAINST PUBLIC HEALTH AND SAFETY**

### **GENERAL PROVISIONS**

### **§ 133.01 MAINTAINING A NUISANCE**

- (A) A person commits the offense of maintaining a nuisance if he erects, keeps up or continues and maintains any nuisance to the injury of any part of the City.
- (B) The erecting, continuing, using, or maintaining of any building, structure, or other place for the exercise of any trade, employment, manufacture, or other business which, by occasioning noxious exhalations, noisome or offensive smells, becomes injurious and dangerous to the health, comfort, or property of individuals or the public; the obstructing or impeding, without legal authority, of the passage of any navigable river, harbor, or collection of water; or the corrupting or rendering unwholesome or impure of any watercourse, stream, or water; or unlawfully diverting any such watercourse from its natural course or state to the injury or prejudice of others; and the obstructing or encumbering by fences, building, structures or otherwise of any of the public highways or streets or alleys of the City, shall be deemed nuisances.
- (C) A person guilty of erecting, continuing, using, maintaining, or causing any such nuisance shall be guilty of a violation of this section, and in every such case the offense shall be construed and held to have been committed in any county whose inhabitants are or have been injured or aggrieved thereby.
- (D) Maintenance of nuisances is a Class III misdemeanor

- (E) The court, in case of conviction of such offense, shall order every such nuisance to be abated or removed. (Neb. Rev. Stat. 28-1321).

Penalty, see § 10.14

### **§ 133.02 APPLIANCES IN YARD**

It shall be unlawful for any person to permit a refrigerator, icebox, freezer, or any other household 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 § 10.14

### **§ 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. Rev. Stat. 28-1304) Penalty, see § 10.14

### **§ 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 that fence abuts a public sidewalk, street, or alley. Penalty, see § 10.14

### **§ 133.05 WORTHLESS VEGETATION**

- (A) It shall be the duty of every owner or occupant of any lot or piece of ground within the municipality or within its one-mile zoning jurisdiction to keep the lot or piece of ground and the adjoining street and alleys free of any growth of 12 inches or more in height of weeds, grasses, or worthless vegetation. It shall be a nuisance to permit, allow, or maintain any growth of 12 inches or more in height of weeds, grasses, or worthless vegetation and, if during any calendar year, the City has previously acted to remove weeds, grasses, or worthless vegetation exceeding 12 inches in height on the same lot or piece of ground and had to seek recovery of the costs and expenses of such work from the owner of such lot or piece of ground, it shall be a nuisance to permit, allow, or maintain any growth of 8 inches or more in height of weeds, grasses, or worthless vegetation within that same calendar year on such lots or piece of ground.
- (B) Notice to abate and remove the nuisance shall be given to each owner or owner's duly authorized agent and to the occupant, if any, by personal service, certified mail, or first-class mail. If notice is given by first-class mail, such mail shall be conspicuously marked as to its importance.
- (C) Within five days after receipt of such notice, if the owner or occupant of the lot or piece of ground does not request a hearing with the City or fails to comply with the order to abate and remove the nuisance, the City may have the work done. The costs and expenses of any such work shall be paid by the owner. If unpaid for two months after the work is done, the City may either:
- (1) Levy and assess the costs and expenses of the work upon the lot or piece of ground so benefited in the same manner as other special taxes for improvements are levied and assessed; or
  - (2) Recover in a civil action the costs and expenses of the work upon the lot or piece of ground and the adjoining streets and alleys.

- (D) Weeds shall include but are not limited to bindweed (*Convolvulus arvensis*), puncture vine (*Tribulus terrestris*), leafy spurge (*Euphorbia esula*), Canada thistle (*Cirsium arvense*), perennial peppergrass (*Lepidium draba*), Russian knapweed (*Centaurea picris*), Johnson grass (*Sorghum halepense*), nodding or musk thistle, quack grass (*Agropyron repens*), perennial sow thistle (*Sonchus arvensis*), horse nettle (*Solanum carolinense*), bull thistle (*Cirsium lanceolatum*), buckthorn (*Rhamnus sp.*) (*Tourn.*), hemp plant (*Cannabis sativa*), and ragweed (*Ambrosiaceae*). (Neb. Rev. Stat. 17-563)

(Ord. 2525, 2-3-91; Am. Ord. 2832, 7-17-01; 2894, 9-7-04; 2988, 12-15-09) Penalty, see § 10.14

### § 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 that 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 contained installed on the property for that purpose.
- (B) For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning:
- LITTER.** Includes 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.** Any material appearing in a place or in a context not associated with that material's function or origin.
- (C) Whenever litter is thrown, deposited, dropped, or dumped from any motor vehicle or watercraft in violation of this section, the operator of the motor vehicle or watercraft commits the offense of littering. (Neb. Rev. Stat. 28-523)

(Ord. 2631, 2-21-95) Penalty, see § 10.14

### § 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. Rev. Stat. 28-1303) Penalty, see § 10.14

## SUBSTANCE OFFENSES

### §133.20 DEFINITIONS

For the purpose of this subchapter, unless the context otherwise requires:

**ALTERNATIVE NICOTINE PRODUCT** means any noncombustible product containing nicotine that is intended for human consumption, whether chewed, absorbed, dissolved, or ingested by any other means. Alternative nicotine product does not include any vapor product, cigarette, cigar, or other tobacco product, or any product regulated as a drug or device by the United States Food and Drug Administration under Chapter V of the federal Food, Drug, and Cosmetic Act.

**VAPOR PRODUCT** means any noncombustible product containing nicotine that employs a heating element, power source, electronic circuit, or other electronic, chemical, or mechanical means, regardless of shape or size, that can be used to produce vapor from nicotine in a solution or other form. Vapor product includes any electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device and any vapor cartridge or other container of nicotine in a solution or other form that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device. Vapor product does not include an alternative nicotine product, cigarette, cigar, or other tobacco product, or any product regulated as a drug or device by the United States Food and Drug Administration under Chapter V of the federal Food, Drug, and Cosmetic Act.

#### **§ 133.21 USE OF TOBACCO BY MINORS**

It shall be unlawful for any person under the age of 18 years to smoke cigarettes or cigars, to use vapor products or alternative nicotine products, 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, tobacco, vapor products, or alternative nicotine products. (Neb. Rev. Stat. 28-1418) Penalty, see § 10.14

#### **§ 133.22 SALE OF TOBACCO TO MINORS**

It shall be unlawful for any person to sell, give, or furnish in any way any tobacco in any form whatever, or any cigarettes, cigarette paper, vapor products, or alternative nicotine products to any minor under 18 years of age. (Neb. Rev. Stat. 28-1419) Penalty, see § 10.14

#### **§ 133.23 MISREPRESENTATION BY MINOR TO OBTAIN ALCOHOL**

It shall be unlawful for any minor, as defined by Neb. Rev. Stat. 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. Rev. Stat. 53-180.01) Penalty, see § 10.14

#### **§ 133.24 MINORS; PROHIBITED ACTS**

- (A) For purposes of this section, the definitions found in Neb. Rev. Stat. 53-103 shall apply, including, but not limited to, the definitions of the terms "alcoholic liquor," "consume," "minor," "sale," and "to sell."
- (B) Except as may otherwise provided by ordinance or state law, no minor may sell, dispense, consume, or have in his or her possession or physical control any alcoholic liquor in any tavern or in any other place, including public streets, alleys, roads, or highways, upon property owned by the state or any subdivision thereof, or inside any vehicle while in or on any other place, including, but not limited to, the public streets, alleys, roads, or highways, or upon property owned by the state or any subdivision thereof, except that a minor may consume, possess, or have physical control of alcoholic liquor as a part of a bona fide religious rite, ritual, or ceremony or in his or her permanent place of residence
- (C) It shall be unlawful for any person under 21 years of age to transport, consume, or knowingly possess or have under his or her control beer or other alcoholic liquor in or transported by any motor vehicle. (Neb. Rev. Stat. 53-180.02)

Penalty, see § 10.14

### § 133.25 DRINKING ON PUBLIC PROPERTY; OPEN BEVERAGE CONTAINER

- (A) Except when the State Liquor Control Commission has issued a license as provided in Neb. Rev. Stat. 53-186(2), it is unlawful for any person to consume alcoholic liquor upon property owned or controlled by the state or any governmental subdivision thereof unless authorized by the governing bodies having jurisdiction over that property. (Neb. Rev. Stat. 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. Rev. Stat. 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 the purpose of this division (B), the following definitions shall apply unless the context clearly indicates or requires a different meaning.

***ALCOHOLIC BEVERAGE*** includes:

- (a) Beer, ale, porter, stout, and other similar fermented beverages, including sake or similar products, of any name or description, containing 0.5% or more of alcohol by volume, brewed or produced from malt, wholly or in part, or from any substitute therefor;
- (b) Wine of not less than 0.5% of alcohol by volume; or
- (c) 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.

***HIGHWAY.*** A road or street including the entire area within the right-of-way.

***OPEN ALCOHOLIC BEVERAGE CONTAINER.*** Any bottle, can, or other receptacle:

- (a) That contains any amount of alcoholic beverage; and
- (b) That is open or has a broken seal; or
- (c) The contents of which are partially removed.

***PASSENGER AREA*** includes 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 that area. PASSENGER AREA does not include the area behind the last upright seat of the 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. Rev. Stat. 60-6,211.08)

(Ord. 2824, 2-6-01) Penalty, see § 10.14

### *MOTOR VEHICLE AND HIGHWAY OFFENSES*

### § 133.40 ABANDONED AUTOMOBILES

- (A) Definitions. For the purpose of this article, the following words and phrases shall have the meanings respectively ascribed to them:

- (1) Motor vehicle: A machine propelled by power other than human power designed to travel along the ground by use of wheels, treads, runners or slides and transport persons or property or pull machinery and shall include, without limitation, automobile, truck, motorcycle, tractor, and wagon.
- (2) Junked motor vehicle: A motor vehicle on which the engine, wheels or other parts have been removed, altered, damaged or otherwise so treated or allowed to deteriorate that the motor vehicle is incapable of being drawn under its own power without repairs or intervention. A motor vehicle which does not have an unexpired license plate or plates affixed thereto shall be presumed to be a junked motor vehicle; provided, that such presumption may be rebutted.
- (3) Abandoned vehicle: A motor vehicle:
  - (a) If left unattended, with no license plates or valid "In Transit" stickers issued pursuant to the Motor Vehicle Registration Act affixed thereto, for more than six hours on any public property;
  - (b) If left unattended for more than 24 hours on any public property, except a portion thereof on which parking is legally permitted;
  - (c) 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;
  - (d) 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;
  - (e) If left for more than 30 days in the custody of a law enforcement agency after the agency has sent a letter to the last registered owner under Neb. Rev. Stat. §60-1903.01; or
  - (f) If removed from private property by the City pursuant to a municipal ordinance.
  - (g) An all-terrain vehicle, a utility-type vehicle, or a minibike is an abandoned vehicle:
    - (i) If left unattended for more than twenty-four hours on any public property, except a portion thereof on which parking is legally permitted;
    - (ii) If left unattended for more than forty-eight 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;
    - (iii) 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;
    - (iv) If left for more than thirty days in the custody of a law enforcement agency after the agency has sent a letter to the last-registered owner under section 60-1903.01; or
    - (v) If removed from private property by a municipality pursuant to a municipal ordinance.
  - (h) A mobile home is an abandoned vehicle if left in place on private property for more than thirty days after the City, pursuant to an ordinance or resolution, has sent a certified letter to each of the last-registered owners and posted a notice on the mobile home, stating that the mobile home is subject to sale or auction or vesting of title as set forth in Neb. Rev. Stat. 60-1903. For purposes of this section:
    - (i) Mobile home means a movable or portable dwelling constructed to be towed on its own chassis, connected to utilities, and designed with

or without a permanent foundation for year-round living. It may consist of one or more units that can be telescoped when towed and expanded later for additional capacity, or of two or more units, separately towable but designed to be joined into one integral unit, and shall include a manufactured home as defined in Neb. Rev. Stat. 71-4603. Mobile home does not include a mobile home or manufactured home for which an affidavit of affixture has been recorded pursuant to Neb. Rev. Stat. 60-169;

- (ii) Public property means any public right-of-way, street, highway, alley, or park or other state, county, or municipally owned property; and
      - (iii) Private property means any privately owned property which is not included within the definition of public property.
    - (j) No motor vehicle subject to forfeiture under Neb. Rev. Stat. 28-431 shall be an abandoned vehicle under this section. (Neb. Rev. Stat. 60-1901) (Am. Ord. No. 2989, 12-15-09)
  - (4) Private property: Any privately owned property which is not included within the definition of public property.
  - (5) Public property: Any public right-of-way, street, highway, alley, park, or other state, county, or municipally owned property.
- (B) Abandonment of motor vehicles. It shall be unlawful for any person to cause or allow any motor vehicle to become an abandoned motor vehicle.
- (C) Parked, junked, or unregistered motor vehicles.
- (1) It shall be unlawful for any person to park, store, leave or permit the parking, storing, or leaving of any junked motor vehicle, or parts of a motor vehicle, on private property within the City for a period of time in excess of twenty-one (21) days. It shall be unlawful for any person in charge or control of any private property within the City, whether as owner, tenant, occupant, lessee or otherwise, to allow any motor vehicle which has been unregistered for more than twenty-one (21) days to remain upon any private property. Any motor vehicle allowed to remain on private property in violation of this subsection shall constitute a nuisance and shall be abated.
  - (2) Any person violating any of the provisions of this section shall be guilty of a misdemeanor and, upon conviction thereof, such person shall be fined in a sum not to exceed five hundred dollars (\$500.00), except that each person so convicted shall be fined in a sum not less than one hundred dollars (\$100.00) for the first offense, not less than one hundred fifty dollars (\$150.00) for the second offense, and not less than two hundred dollars (\$200.00) for the third offense and each offense thereafter. Each day that a violation of any of the provisions of this section continues shall constitute a distinct offense and shall be punishable as such.
- (D) Exception for enclosures and screening. Section C shall not be construed to prohibit any person from storing junked or unregistered motor vehicles, or parts of a motor vehicle, upon private property when completely enclosed within a building. Section C shall not be construed to prohibit any person from storing up to two (2) junked or unregistered motor vehicles upon private property when screened from view by a solid fence or wall.
- (E) Exception in business. Nothing in this article shall be construed to apply to any motor vehicle in connection with a lawful business enterprise, operating in an appropriate commercial or industrial zoning district.



- (F) Junked motor vehicles on City property. No person shall leave any junked motor vehicle on public property within or without the corporate limits in excess of forty-eight (48) hours.
- (G) Impoundment. The chief of police is hereby authorized to remove or have removed any vehicle left on public property within the corporate limits which reasonably appears to be an abandoned vehicle. Such vehicle shall be impounded until lawfully claimed or disposed of in accordance with the provisions of this article.
- (H) Abandoned motor vehicle; value of \$250.00 or less; title vests in City. If an abandoned vehicle at the time of abandonment has no license plates of the current year affixed or valid In Transit decals issued pursuant to section 60-230 of the Nebraska Revised Statutes affixed and is of a wholesale value, taking into consideration the condition of the vehicle, of two hundred fifty dollars (\$250.00) or less, title shall immediately vest in the City.
- (I) Police Department; duties.
  - (1) Except vehicles governed by section H, the Police Department, having custody of an abandoned vehicle, shall make an inquiry as follows, concerning the last registered owner of each abandoned vehicle in its custody:
    - (a) An abandoned vehicle with license plates affixed, to the jurisdiction that issued such number plates; or
    - (b) An abandoned vehicle with no license plates affixed, to the state department of motor vehicles.
  - (2) The Police Department shall notify the last registered owner, if any, and any lienholder, if any, within fifteen business days 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 (5) days from the date such notice was mailed; or (b) title will vest in the City thirty (30) days after the date such notice was mailed. If the agency described in subsection (1)(a) or (b) of this section also notifies the Police Department that a lien or mortgage exists, such notice shall also be sent to the lienholder or mortgagee. Any person claiming such vehicle shall be required to pay the cost of removal and storage of such vehicle. Notice required by this subsection shall be either by personal service or by United States registered mail, return receipt required.
  - (3) Title to such abandoned vehicle, if unclaimed, shall vest in the City (a) five (5) days after the date the notice is mailed if the vehicle will be sold or will be offered at public auction under subsection (2) of this section; (b) thirty (30) days after the date the notice is mailed if the City will retain the vehicle; or (c) if the last registered owner cannot be ascertained, when notice of such fact is received.
  - (4) If the Police Department has custody of a motor vehicle for investigatory purposes and has no further need to keep it in custody, then the Police Department shall send a certified letter to each of the last registered owners stating that the vehicle is in the custody of the Police Department, that the vehicle is no longer needed for law enforcement purposes, and that after thirty (30) days the City will dispose of the vehicle. This subsection shall not apply to motor vehicles subject to forfeiture under Section 28-431 of the Nebraska Revised Statutes. No storage fees shall be assessed against the registered owner of a motor vehicle held in custody for investigatory purposes under this subsection 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 Police Department took the vehicle into custody. If a registered owner or 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.

- (J) Disposition. After title to the abandoned vehicle vests pursuant to state law in the City, the City may retain for use, sell, or auction the abandoned vehicle. If the Police Department has determined that the vehicle should be retained for use, the City shall at the time that the notice, if any, is mailed, publish in a newspaper of general circulation in the City an announcement that the City intends to retain the abandoned vehicle for its use and that title will vest in the City thirty (30) days after the publication. Any proceeds from the sale of the abandoned vehicle, less any expenses incurred by the City shall be held by the City without interest, for the benefit of the owner of such vehicle, for a period of two (2) years. If not claimed within such two (2) year period, such proceeds shall be paid into the general fund of the City.
- (K) Costs of removal and storage. The last registered owner of an abandoned vehicle shall be liable to the City for the costs of removal and storage of such vehicle.
- (L) Liability for removal. Neither the owner, lessee, nor occupant of the premises for which any abandoned vehicle shall be removed, nor the State, nor the City shall be liable for any loss or damage to such vehicle which occurs during its removal or while in the possession of the City or as a result of any subsequent disposition. (Neb. Rev. Stat. 60-1903)

(Ord. 2937, 6-12-07; Am. Ord. 3127, 1-31-25)

#### **§ 133.41 SHOOTING HIGHWAY SIGNS, MARKERS, OR NOTICES**

It shall be unlawful for any person willfully or maliciously to shoot upon the public highway and injure, deface, damage, or destroy any signs, monuments, road markers, traffic-control or surveillance devices, or other public notices lawfully placed upon the highways. (Neb. Rev. Stat. 60-6,130(1)) Penalty, see § 10.14

#### **§ 133.42 REMOVAL AND POSSESSION OF HIGHWAY SIGNS, MARKERS, OR NOTICES**

It shall be unlawful for any person, other than those authorized to do so, to remove any sign, traffic-control, or traffic surveillance device placed along a public street, road, or highway for traffic control, warning, or informational purposes. Moreover, it shall be unlawful for any person to possess such a sign or device which has been removed in violation of this section. (Neb. Rev. Stat. 60-6,130(3)) Penalty, see § 10.14

#### **§ 133.43 (RESERVED)**

#### **§ 133.44 (RESERVED)**

### **WEAPONS OFFENSES**

#### **§ 133.60 DISCHARGE OF FIREARMS, SLINGSHOTS, AIR GUNS, AND THE LIKE**

It shall be unlawful for any person to discharge within the city limits any firearm or airgun, BB gun, slingshot, bow and arrow, or any other air, gas, or spring-operated gun, weapon, apparatus, or instrument for the purpose of throwing or projecting any bullet, projectile, object, or missile within the city limits, except in a regularly established shooting gallery; provided, that this section shall not be construed to prohibit any officer of the law from discharging a firearm in the performance of his or her duty, to prohibit any citizen from discharging a firearm when lawfully defending a person or property, nor to prohibit the operation of any range supervised and maintained by the state or any political subdivision thereof, when it is connected with an educational or training program and upon property owned or leased

by the state or a subdivision or agency thereof or to apply to officially sanctioned public celebrations if the persons so discharging firearms have written permission from the City Council. (Ord. 2802, 9-19-00) Penalty, see § 10.14

## **CHAPTER 134: OFFENSES AGAINST PUBLIC MORALS**

### **§ 134.01 PROSTITUTION**

It shall be unlawful for any person to perform, offer, or agree to perform any act of sexual contact or penetration, as defined in Neb. Rev. Stat. 28-318, with any person not his or her spouse in exchange for money or other things of value. (Neb. Rev. Stat. 28-801) Penalty, see § 10.14

### **§ 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. Rev. Stat. 28-318(6);
- (B) An exposure of the genitals of the body 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. Rev. Stat. 28-806)

Penalty, see § 10.14

### **§ 134.03 GAMBLING**

- (A) For purposes of this section, the definitions found in Neb. Rev. Stat. 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. Rev. Stat. 28-1102 through 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. Rev. Stat. 28-1107)

### **§ 134.04 PUBLIC NUDITY; UNLAWFUL**

- (A) It shall be unlawful for a person to, knowingly or intentionally, in a public place or in any place open to the public, appear in a state of nudity.
- (B) **NUDITY** means the showing of the human male or female genitals or pubic area with less than a fully opaque covering, the showing of the female breast with less than a fully opaque covering on any part of the areola and nipple, or the showing of covered male genitals in a discernibly turgid state.
- (C) This section shall not apply to:

- (1) Any theater, concert hall, art center, museum, or similar establishment which is primarily devoted to the arts or theatrical performances and in which any of the circumstances contained in this section were permitted or allowed as part of such art exhibit or performance;
- (2) Any dressing/changing room or restroom facility open to the public;
- (3) Any person under twelve years of age; or
- (4) Mothers who are breastfeeding.

(Ord. 2941, 6-20-06)

#### **§ 134.05 URINATION OR DEFECATION IN PUBLIC, PROHIBITED**

- (A) It shall be unlawful for any person to urinate or defecate on a public street, alley, or any other property, public or private, open to or visible to the public.
- (B) This section shall not apply to urinating or defecating in any restroom facility in a manner for which that facility was designed.

(Ord. 2941, 6-20-06)

#### **§ 134.06 SEXUAL PREDATOR; FINDINGS AND INTENT**

- (A) Sexual Predators present an extreme threat to the public safety. Sexual Predators are extremely likely to use physical violence or to repeat their offenses. And most Sexual Predators commit many offenses, have many more victims that are never reported, and are prosecuted for only a fraction of their crimes. This makes the cost of sexual predator victimization to society at large, while incalculable, extremely exorbitant.
- (B) It is the intent of this ordinance to serve the City's compelling interest to promote, protect and improve the health, safety and welfare of the citizens of the City by creating certain areas around locations where children regularly congregate in concentrated numbers where certain sexual predators are prohibited from establishing temporary or permanent residence.

(Ord. 2935, 6-6-06; Am. Ord. 3017, 12-20-11)

#### **§ 134.07 SEXUAL PREDATOR; DEFINITIONS**

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

- (A) **SEXUAL PREDATOR** shall be any person defined in the Sexual Predator Residency Restriction Act (Neb. Rev. Stat. §§29-4015 to 29-4017, inclusive) or any amendments thereto.
- (B) **PERMANENT RESIDENCE** shall mean a place where the person abides, lodges, or resides for fourteen (14) or more consecutive days.
- (C) **TEMPORARY RESIDENCE** shall mean a place where the person abides, lodges, or resides for a period of fourteen (14) or more days in the aggregate during any calendar year and which is not the person's permanent address, or a place where the person routinely abides, lodges, or resides for a period of four (4) or more consecutive or non-consecutive days in any month and which is not the person's permanent residence.
- (D) **CHILD CARE FACILITY** means a facility licensed pursuant to the Nebraska Child Care Licensing Act.

- (E) **SCHOOL** means a public, private, denominational, or parochial school which meets the requirements for accreditation or approval prescribed by state statute.

(Ord. 2935, 6-6-06; Am. Ord. 3017, 12-20-11)

**§ 134.08 SEXUAL PREDATOR RESIDENCE PROHIBITION; PENALTIES; EXCEPTIONS**

- (A) Prohibited Location of Residence. It is unlawful for any Sexual Predator to establish a permanent residence or temporary residence within 500 feet of any school or licensed day care center.
- (B) Measurement of Distance. For purposes of determining the minimum distance separation, the requirement shall be measured by following a straight line from the outer property line of the permanent residence or temporary residence to the nearest outer property line of a school or licensed day care center.
- (C) Penalties. A person who violates this section shall be punished by a fine not exceeding \$500.00.
- (D) Exceptions. A person residing within 500 feet of any school or licensed day care center does not commit a violation of this section if any of the following apply:
- (1) The person resides within a prison, correctional facility or treatment facility operated by the state or a political subdivision;
  - (2) The person established a residence before July 1, 2006, and has not moved from that residence; or
  - (3) The person has established a residence after July 1, 2006, and the school or child care facility triggering the restriction was established after the initial date of the sexual predator's residence at that location.

(Ord. 2935, 6-6-06; Am. Ord. 3017, 12-20-11)

**§ 134.09 PROPERTY OWNERS PROHIBITED FROM RENTING REAL PROPERTY TO CERTAIN SEXUAL PREDATORS; PENALTIES**

- (A) It is unlawful to let or rent any place, structure, or part thereof or any trailer or other conveyance with the knowledge that it will be used as a permanent residence or a temporary residence by any person prohibited from establishing such permanent residence or temporary residence pursuant to this ordinance if such place, structure, or part thereof or trailer or other conveyance is located within 500 feet of any school or child care facility.
- (B) A property owner's failure to comply with the provisions of this section shall constitute a violation of this section and shall subject the property owner to a fine of \$500.00. The City may seek any other relief as otherwise provided by law.

(Ord. 2935, 6-6-06; 3017, 12-20-11)

**§ 134.10 VIOLATION**

Any person who shall violate or refuse to comply with the enforcement of any of the provisions of this ordinance shall be deemed to have committed a new violation every twenty-four (24) hours of such failure to comply. (Ord. 2935, 6-6-06; 3017, 12-20-11)

## **TITLE XV: LAND USAGE**

### **Chapter 150: Building Regulations**

#### **Regulatory Codes**

§ 150.01 INTERNATIONAL BUILDING AND RESIDENTIAL CODES; ADOPTED BY  
REFERENCE

#### **Building Permits and Regulations**

§ 150.05 REQUIREMENT  
§ 150.06 LIMITATION  
§ 150.07 DUPLICATE TO COUNTY ASSESSOR  
§ 150.08 BARRICADES AND LIGHTS

#### **Residential Rental Certificate of Occupancy and Inspection Program**

§ 150.10 TITLE  
§ 150.11 DEFINITIONS  
§ 150.12 RULES OF CONSTRUCTION  
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§ 150.15 CERTIFICATE OF OCCUPANCY; REQUIREMENT  
§ 150.16 CERTIFICATE OF OCCUPANCY; FORM  
§ 150.17 CERTIFICATE OF OCCUPANCY; APPLICATION  
§ 150.17.1 CERTIFICATE OF OCCUPANCY; DURATION  
§ 150.18 CERTIFICATE OF OCCUPANCY; GENERAL INSPECTION  
§ 150.19 ALTERNATE INSPECTION  
§ 150.20 SPECIAL INSPECTION  
§ 150.21 INSPECTION; ENTRY TO PREMISES  
§ 150.22 RETALIATORY EVICTION PROHIBITED  
§ 150.23 VIOLATION  
§ 150. 24 APPEALS  
§ 150.25 CIVIL ENFORCEMENT

#### **Moving of Buildings**

§ 150.30 DEFINITIONS  
§ 150.31 GENERAL PERMIT REQUIRED  
§ 150.32 APPLICATION; COSTS; TERM; RENEWAL; CERTIFICATE OF INSURANCE  
§ 150.33 DEPOSIT  
§ 150.34 BOND  
§ 150.35 PERMISSION TO MOVE  
§ 150.36 INSPECTION  
§ 150.37 CUTTING TREES

#### **Unsafe Buildings**

§ 150.50 ADOPTION OF INTERNATIONAL PROPERTY MAINTENANCE CODE, 2006  
EDITION

#### **Building Inspector**

§ 150.70 POWER AND AUTHORITY  
§ 150.71 RIGHT OF ENTRY  
§ 150.72 PERMIT CARDS

- § 150.73 TIME OF INSPECTION
- § 150.74 APPEAL FROM DECISION

## **Chapter 151: Zoning and Subdivision Regulations**

### City Regulations Adopted by Reference

- § 151.01 COMPREHENSIVE PLAN ADOPTED BY REFERENCE
- § 151.02 ZONING REGULATIONS ADOPTED BY REFERENCE
- § 151.03 SUBDIVISION REGULATIONS ADOPTED BY REFERENCE

### Wellhead Protection Area

- § 151.15 FINDINGS
- § 151.16 DEFINITIONS AND INTERPRETATIONS
- § 151.17 RESTRICTED WELLHEAD STRUCTURE OR ACTIVITY; PERMIT REQUIRED
- § 151.18 SETBACK REQUIREMENTS
- § 151.19 ADMINISTRATION AND ENFORCEMENT
- § 151.20 ADDITIONAL STRUCTURES AND ACTIVITIES; PERMIT
- § 151.21 CONSTRUCTION; PERMIT APPLICATION
- § 151.22 EXISTING STRUCTURES AND ACTIVITIES
- § 151.23 INJUNCTIVE RELIEF; REMEDIES NOT EXCLUSIVE

## **CHAPTER 150: BUILDING REGULATIONS**

### REGULATORY CODES

#### **§ 150.01 INTERNATIONAL BUILDING AND RESIDENTIAL CODES; ADOPTED BY REFERENCE**

To provide certain minimum standards, provisions, and requirements for safe and stable design, methods of construction, and uses of materials in buildings hereafter erected, constructed, enlarged, altered, repaired, relocated, and converted, the 2003 edition of the International Building Code and the 2003 edition of the International Residential Code, printed in book or pamphlet form, are hereby incorporated by reference as though printed in full herein insofar as those codes do not conflict with the statutes of the State. Whenever new editions of these codes are published, those new editions shall be considered the municipal building codes. The provisions of the International Building Code and International Residential Code shall be controlling throughout the municipality and throughout its zoning jurisdiction. At least 1 copy of the foregoing codes shall be on file in the office of the Municipal Clerk and made available for public inspection at any reasonable time. (Neb. Rev. Stat. 17-1001, 18-132, 19-902, and 19-922) (Am. Ord. 2421, 10-20-1987; 2875, 12-16-2003)

### BUILDING PERMITS AND REGULATIONS

#### **§ 150.05 REQUIREMENT**

Any person desiring to commence or proceed to erect, construct, repair, enlarge, demolish, or relocate any building or dwelling, or cause the same to be done, shall file with the Assistant Street Superintendent an application for a building permit. The application shall be in writing on a form to be furnished by the Municipal Clerk for that purpose. Every such application shall set forth the legal description of the land

upon which the construction or relocation is to take place, the nature of the use or occupancy, the principal dimensions, the estimated cost, the names of the owner, architect, and contractor, and such other information as may be requested thereon upon payment of the permit fee set by resolution of the City Council. The application, plans, and specifications so filed with the Assistant Street Superintendent shall be checked and examined by the Building Inspector or his designee, and if they are found to be in conformity with the requirements of this chapter and all other ordinances applicable thereto, the Building Inspector or his designee shall authorize the Municipal Clerk to issue the applicant a permit. Whenever there is a discrepancy between permit application procedures contained herein and those contained in any building code adopted by reference, the provisions contained herein shall govern. Extension of construction period may be granted by request to the Building Inspector. ) (Am. Ord. 2954, 11-7-06) Penalty, see § 10.14

#### **§ 150.06 LIMITATION**

If the work for which a permit has been issued shall not have begun within 6 months of the date thereof or if construction is discontinued for a period of 6 months, the permit shall be void. Before work can be resumed, a new permit shall be obtained in the same manner and form as the original. Penalty, see § 10.14

#### **§ 150.07 DUPLICATE TO COUNTY ASSESSOR**

Whenever a building permit is issued for the erection, alteration, or repair of any building within the City's jurisdiction and the improvement is \$2,500 or more, a duplicate of the permit shall be issued to the County Assessor. (Neb. Rev. Stat. 18-1743) (Am. Ord. 2892, 9-7-04)

#### **§ 150.08 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 City to have 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 to erect such guards shall constitute a violation of this section and the municipal police, Chief of Police, or the Building Inspector shall stop all work until guards are erected and maintained as required. Penalty, see § 10.14

### **RESIDENTIAL RENTALS**

#### **§ 150.10 TITLE**

The title of this Section shall be known as the Residential Rental Certificate of Occupancy and Inspection Program. (Am. Ord. No. 3020, 7-3-12)

#### **§ 150.11 DEFINITIONS**

For purposes of this Section, the following definitions shall apply:

**RENTAL UNIT** shall mean any residential dwelling within the City's jurisdiction, regardless of location therein, that is, whether by written agreement or otherwise, rented or leased or to be rented or leased to tenants, or is otherwise occupied or to be occupied for consideration by a person or persons other than the owner of record of such dwelling, for residential purposes on a non-transient basis, when one or more tenants reside on the property or rents or leases or are to rent or lease the property for thirty consecutive days or longer.

**OWNER** shall mean any Person who is the owner of record in whole or in part, of one or more Rental Units.



**PERSON** shall mean any individual or entity.

**CODE ENFORCEMENT AUTHORITY** shall mean the City of Fairbury Board of Health or the Code enforcement officer of the City of Fairbury.

**CERTIFICATE OF OCCUPANCY** shall mean a permit issued by the City, pursuant to this Ordinance and any regulations promulgated by the Code Enforcement Authority, that permits under this Section an Owner to rent or lease a Rental Unit.

#### **§ 150.12 RULES OF CONSTRUCTION**

This Section shall be liberally construed and applied to promote its underlying purpose, which is to encourage the maintenance and improvement of the quality of rental housing in the City.

#### **§ 150.13 COMPLIANCE**

No Person shall offer the use of a Rental Unit to any Person unless in accordance with the provisions of this Section.

#### **§ 150.14 SCOPE**

This Section shall apply to all Rental Units, but shall not apply to the following:

- (A) facilities administered by the Fairbury Housing Authority;
- (B) transient occupancy in hotel, motel, or other similar lodgings;
- (C) persons who reside in a single-family dwelling unit but who wish to lease to individuals or a family while they are absent from the City for short periods of time, not to exceed one year, and who intend to return to their single-family dwelling unit at the expiration of the lease period;
- (D) persons who occupy the premises and rent to no more than two occupants; provided that this exception does not apply to the renting of basements, attics, or garages which are used as habitable spaces.

#### **§ 150.15 CERTIFICATE OF OCCUPANCY; REQUIREMENT**

On and after April 1, 2015, no Person may use real estate for the purpose of erecting or affording to any Person the use of a Rental Unit thereon without having first obtained a Certificate of Occupancy from the office of the Code Enforcement Authority pursuant to this Section.

#### **§ 150.16 CERTIFICATE OF OCCUPANCY; FORM**

The form of the Certificate of Occupancy shall be as determined by regulations promulgated by the Code Enforcement Authority.

#### **§ 150.17 CERTIFICATE OF OCCUPANCY; APPLICATION**

Any Owner wishing to rent or lease or afford to any Person the use of a Rental Unit must apply for a Certificate of Occupancy for such Rental Unit with the office of the Code Enforcement Authority. The application shall be in a form as determined by the Code Enforcement Authority, and shall require the following information:

- (A) Name of Owner;
- (B) Address of Owner
- (C) Street address of Owner
- (D) Street address of Rental Unit(s)

- (E) Brief description of type and number of Rental Unit(s);
- (F) Name and address of Owner's agent, if any, authorized to receive notification of complaints, damages, emergencies, substandard conditions, or other communications, including service of process. The address of any agent so designated shall be within this State. Any Owner who does not reside in the State of Nebraska shall be required to designate a resident agent.
- (G) Certificate of Occupancy fees as established by the Code Enforcement Authority. Such fees are compensation for necessary paperwork and work to inspect Rental Units.

The application shall be signed by the Owner. Whenever ownership of a Rental Unit changes, the existing Certificate of Occupancy shall expire upon such change of ownership, and the new Owner shall complete a new application and must be issued a new Certificate of Occupancy. Notification of the Owner or Owner's agent at the address shown on the application shall constitute sufficient notice pursuant to any provision of this Section. It is a violation of this Section for an Owner to rent or lease or afford to any Person the use of a Rental Unit for which a Certificate of Occupancy has not been issued or for which a Certificate of Occupancy is not currently valid in accordance with this Section.

#### **§ 150.17.1 CERTIFICATE OF OCCUPANCY; DURATION**

The first Certificate of Occupancy issued to an Owner for a Rental Unit shall be a One Year Certificate valid for 12 months following the date of issuance. Except as otherwise provided in this subsection, (1) the Certificate of Occupancy issued to such Owner for such Rental Unit following expiration of a One Year Certificate shall be a Two Year Certificate valid for 24 months following the date of issuance; (2) the Certificate of Occupancy issued to such Owner for such Rental Unit following expiration of a Two Year Certificate shall be a Three Year Certificate valid for 36 months following the date of issuance; and (3) each subsequent Certificate of Occupancy issued to an Owner for a Rental Unit following expiration of a Three Year Certificate therefor shall be a Three Year Certificate. Notwithstanding the foregoing, should a Rental Unit at any time be the subject of a Special Inspection, or any re-inspection pursuant to Section 150.18, any subsequent Certificate of Occupancy issued therefor by the Code Enforcement Authority may be the next duration-advancing Certificate of Occupancy as provided in this subsection, any lower-duration Certificate of Occupancy, or the same-duration Certificate of Occupancy in the discretion of the Code Enforcement Authority.

#### **§ 150.18 CERTIFICATE OF OCCUPANCY; GENERAL INSPECTION**

In addition to the other requirements of this Section and any regulations promulgated by the Code Enforcement Authority not in conflict with this Section, it shall be a requirement to obtain a Certificate of Occupancy to pass an inspection of the Rental Unit carried out by the office of the Code Enforcement Authority (a "General Inspection"), or to provide proof to the Code Enforcement Authority of an Alternate Inspection as provided herein. Such General Inspection shall require the Rental Unit to meet the inspection check list promulgated by the Code Enforcement Authority and any other applicable local and state property maintenance provisions included as part of the inspection by the Code Enforcement Authority. Each General Inspection shall apply to the Certificate of Occupancy issued for the Rental Unit inspected, and a new General Inspection or approved Alternate Inspection shall be required for the issuance of a new Certificate of Occupancy following the expiration for any reason of a prior Certificate of Occupancy. Owners shall be notified in writing of any reason for failure of a General Inspection and disapproval of a Certificate of Occupancy. For Rental Units that do not pass the General Inspection, Owners may request one re-inspection for no additional fee following correction of the issues identified by the Code Enforcement Authority or designated inspector. There shall be no limit to the number of re-inspections authorized per Rental Unit, but there shall be an additional fee as established by the Code Enforcement Authority per reinspection after the initial reinspection.

### **§ 150.19 ALTERNATE INSPECTION**

In lieu of a General Inspection, it shall be a requirement to obtain a Certificate of Occupancy to provide the Code Enforcement Authority proof of the Rental Unit passing an inspection, within the past 6 months prior to applying for a Certificate of Occupancy, conducted by or at the requirement of another governmental entity possessing authority to conduct or require property inspections, that meets the minimum inspection requirements of the Code Enforcement Authority and that is approved by the Code Enforcement Authority, as determined by regulations promulgated by the Code Enforcement Authority consistent with this Section (“Alternate Inspection”). Each approved Alternate Inspection shall apply to the Certificate of Occupancy issued for the Rental Unit inspected, and a new approved Alternate Inspection or General Inspection shall be required for the issuance of a new Certificate of Occupancy following the expiration for any reason of a prior Certificate of Occupancy. Owners shall be notified in writing of any reason for disapproval of an Alternate Inspection and disapproval of a Certificate of Occupancy. For Rental Units that do not receive approval for an Alternate Inspection, Owners may request a General Inspection as provided herein.

### **§ 150.20 SPECIAL INSPECTION**

A special inspection may be done at the discretion of the Code Enforcement Authority, upon the written, signed request of any resident of the City, any governmental agency, or the Rental Unit’s tenant, the tenant’s legal representative, the Owner, or the Owner’s agent (a “Special Inspection”). A Special Inspection shall be confined to the defects complained of, if any, by the person requesting the inspection unless the Code Enforcement Authority determines that the condition of the Rental Unit or premises has deteriorated since the last General Inspection to such an extent that a complete inspection is required to effectuate the purposes of this Section, in which case a complete new inspection of the entire Rental Unit and premises may be performed. If a complete General Inspection is performed, a new Certificate of Occupancy shall be issued upon passage of the General Inspection, with a duration as provided by the Code Enforcement Authority pursuant to Section 150.17.1.

### **§ 150.21 INSPECTION; ENTRY TO PREMISES**

The Owner shall contact the tenants and a date shall be established for inspection. The Owner or tenant shall furnish to the Code Enforcement Authority dates available for inspection. If either the tenant or the Owner refuses entry for inspection after proper notification, the Code Enforcement Authority or designated inspector shall not inspect without first obtaining an inspection warrant from a court of competent jurisdiction. (Am. Ord. 3128, 1-31-25)

### **§ 150.22 RETALIATORY EVICTION PROHIBITED**

It shall be a violation of this Section for any Owner or Owner’s agent to bring or threaten to bring an action for possession of the Rental Unit for the purpose of retaliating against a tenant for requesting a special inspection as provided for in this section.

### **§ 150.23 VIOLATION**

In addition to any penalty that may be imposed pursuant to § 10.14 of this Code for any violation of the Code, the Code Enforcement Authority may:

- (A) Declare a Rental Unit to be unsafe pursuant to the Property Maintenance Code, or take other action pursuant to that Code.
- (B) Issue an emergency order where immediate action is required to protect the health and safety of the public or of the occupants of the Rental Unit.

- (C) Seek any of the additional remedies which provide for an appropriate action or proceeding at law or in equity against the person responsible for the violation for the purpose of ordering the person to:
- (1) Restrain, correct, or remove the violation or refrain from any further execution of work causing a violation;
  - (2) Restrain or correct the erection, installation, or alteration of such structure;
  - (3) Require the removal of work in violation, or part thereof erected, construed, installed, or altered in violation of, or not in compliance with, the provisions of this Code, or in violation of a plan or specification under which an approval, permit or certificate was issued.

#### **§ 150.24 APPEALS**

Appeals of decisions of the Code Enforcement Authority pursuant to this Section may be had to the City Council, in the same manner as appeals of nuisance declarations pursuant to this Code.

#### **§ 150.25 CIVIL ENFORCEMENT**

Any violation of this Section is hereby declared to be a nuisance under this Code, and as such may be abated in a manner as nuisances are now or may hereafter be abated pursuant to this Code, or may be enjoined and abated by a suit in equity, in the manner provided by law.

### **MOVING OF BUILDINGS**

#### **§ 150.30 DEFINITIONS**

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

***BUILDING MOVERS*** or ***HOUSE MOVERS***. Any person who engages in the work of moving in any way or raising, lowering, supporting by shoring, or upon temporary blocking any building or other structure or any part or parts thereof.

#### **§ 150.31 GENERAL PERMIT REQUIRED**

It shall be unlawful for any person, persons, or corporation to engage in the business of building mover within the corporate limits until the person or corporation has qualified for and obtained a general permit for the current year as hereinafter set forth. Penalty, see § 10.14

#### **§ 150.32 APPLICATION; COSTS; TERM; RENEWAL; CERTIFICATE OF INSURANCE**

- (A) Before a permit shall be granted to any person the applicant shall satisfy the City Council as to his, her, or their qualifications and experience to do and perform the things set forth herein. Upon satisfying the City Council of his, her or their qualifications and upon the payment of a fee set by resolution of the Council and on file in the office of the Municipal Clerk, together with the payment of a cash deposit, the furnishing of a bond or bonds as required by the City Public Works Department, and providing insurance coverage and a certificate of insurance as required herein, a general permit shall be issued to the individual, persons, or corporation to engage in the business of building moving either as an individual or for and in the name of the firm or corporation of which he or she is a member or representative. This general permit shall entitle the holder thereof to obtain permits to move, raise, lower, or support in any approved temporary manner any building or other structure within the municipality from the

date of issuance of the general permit until the December 31 next ensuing. The general permit may thereafter be renewed upon payment of a renewal fee. The renewed general permit shall be valid up to and including December 31 next ensuing, from the date of renewal. General permits and renewals thereof shall not be transferable and shall be subject to cancellation as hereinafter set forth.

- (B) In order to be granted a permit, an applicant shall provide to the City a certificate of insurance evidencing bodily injury and property damage liability insurance retained by the applicant with a combined single limit of at least one million and 00/100 dollars (\$1,000,000.00) per occurrence. Such insurance shall insure, on an occurrence basis, against liability of the applicant, its employees, and agents arising out of or in connection with, or related in any way, directly or indirectly, to the applicant's building moving activities for which a permit is sought hereunder, and shall provide for payment to the City for any and all damages which may occur to any public property, and shall provide for payment for any and all damages which may occur to any private property, whether the damages or injury is inflicted by the applicant or by his or her agents, employees, or workers. The City shall be named as an additional insured on any such policy for purposes of the building moving activities for which a permit is sought hereunder, and such policy shall save and indemnify and keep harmless the City against all liabilities, judgments, costs, and expenses which may in anywise accrue against the City in consequence of the issuance to the applicant of any permit to move any building or other structure, or any part or parts thereof. The applicant shall also agree, as a condition of the application being approved, to pay any and all damages which may occur to any public or private property, whether the damages or injury is inflicted by that party or by his or her agents, employees, or workers, and also that the party will save and indemnify and keep harmless the City against all liabilities, judgments, costs, and expenses which may in anywise accrue against the City in consequence of the issuance to the applicant of any permit to move any building or other structure or any part or parts thereof.

(Am. Ord. 3018, 6-5-12) Penalty, see § 10.14

### **§ 150.33 DEPOSIT**

- (A) Before any person enters into any work in moving a building after a permit has been granted upon his or her application to the City Council as hereinafter provided, he or she shall deposit with the municipality a sum set by resolution of the City Council and on file at the office of the Clerk as security for the restoration of any street, alley, or other City property, to its proper condition where the street, alley, or other City property has been damaged by that person. The deposit shall be drawn against by the municipality to pay for the restoration of any street, alley, or other City property to the condition that street, alley, or other City property was in prior to the damage, and the Assistant Street Superintendent shall assess the damages caused to any tree or other City property which cannot be restored and draw from the fund the amount of the damages.
- (B) The proper official shall keep an accurate account of all these deposits and all drafts by the municipality against these deposits. The drafts must contain the name of the person who caused the damage.
- (C) When the permittee has completed the work in moving the building for which the permit is granted, he or she shall notify the Assistant Street Superintendent, who shall make an inspection of the streets over which the house was moved to determine the damages, if any, to the property. If no damages were caused, the Assistant Street Superintendent shall notify the proper official who, upon receiving this notice, shall return the whole sum deposited; provided, however, that if the Assistant Street Superintendent determines that damages were

caused to City property by the permittee in moving the house, then only that part of the deposit shall be returned to the permittee as remains after the damages have been deducted.

(Am. Ord. 2944, 8-15-06) Penalty, see § 10.14

#### **§ 150.34 BOND**

The type of bond or bonds required to be filed, if any as determined by the City Public Works Department, by an applicant for a general permit as building mover shall be as determined by regulations of the Public Works Department, and shall be in a sum set by resolution of the City Council and on file at the office of the Clerk, executed by at least two good and sufficient sureties, or executed by any one qualified surety company alone. The bond or bonds, as determined by the Public Works Department, may be conditioned upon, among other things, the applicant paying any and all damages which may occur to any public or private property, whether the damages or injury is inflicted by that party or by his or her agents, employees, or workers, and conditioned also that the party will save and indemnify and keep harmless the municipality against all liabilities, judgments, costs, and expenses which may in anywise accrue against the municipality in consequence of the issuance to the applicant of any permit to move any building or other structure or any part or parts thereof, that the applicant will faithfully perform the work, and that the applicant will in all things strictly comply with the conditions of the general permit and the laws of the municipality relating to building movers. Should the bond or bonds of the applicant, if required, be not approved, the Municipal Clerk shall return the fee paid by the applicant. (Am. Ord. 2944, 8-15-06; 3018, 6-5-12) Penalty, see § 10.14

#### **§ 150.35 PERMISSION TO MOVE**

- (A) Before moving any building or structure from one lot to another, or from one piece of property to another at a different and entirely separate location, or from one location on one lot to another place on that lot, permission must be obtained from the Assistant Street Superintendent. Before any work of any nature is done on that operation, application to move the building structure shall be filed with the Assistant Street Superintendent, stating the address and legal description of the property upon which the building or structure to be moved is located as well as the description of the property to which the building or structure is to be moved, the size, height, type of construction, and condition of the building. Every applicant for this type of permit shall, at the time of filing the same with the Assistant Street Superintendent, pay to the Clerk the cost of publication of the notice to the public.
- (B) It shall be the duty of the Assistant Street Superintendent to determine upon what streets it shall be necessary for the building mover to travel in the moving of any building or structure, and the Assistant Street Superintendent shall designate in the permit the streets over and across which the building or structure shall be moved. The fee for the permit shall be set by resolution of the City Council and on file at the office of the Municipal Clerk.
- (C) It shall be unlawful for any such building mover, under the permit, to move the building or structure for which permit is given, over, onto, or along any street other than the streets mentioned in the permit.
- (D) When the building or other structure is to be moved along or across any paved street in the municipality, the Assistant Street Superintendent may order in the permit that the house mover properly plank all or any portion of the street, pavement, sidewalk, or curbs over which the house is to be moved.

(Am. Ord. 2944, 8-15-06) Penalty, see § 10.14

### § 150.36 INSPECTION

- (A) Before a permit is issued for any of the building moving operations and before any of the operations defined therein shall have begun, the Assistant Street Superintendent shall examine the building or other structure or part thereof on which it is desired to perform those operations and report his or her findings to the City Council.
- (B) The Assistant Street Superintendent may refuse to grant a permit if any of the following conditions are found to exist.
  - (1) No building or other structure shall be moved into the municipality or from one place to another if the building or structure is in such a condition that it is worth less than 40% of the cost of a similar new one.
  - (2) No building or other structure shall be moved into the municipality from its present location to a new location in the municipality if to do so would be in violation of the zoning laws of the municipality.

(Am. Ord. 2944, 8-15-06) Penalty, see § 10.14

### § 150.37 CUTTING TREES

It shall be unlawful for any person engaged in the business of building moving to remove, cut, or temporarily bend by rope, tackle, or otherwise, any tree or any limb or branch of any tree located upon property of the municipality for the purpose of obtaining passageway through the streets for a house or other structure unless he or she shall have first obtained the approval and consent of the Street and Sanitation Superintendent. All cutting or temporary displacing in any manner of these trees or any parts of trees shall be done under the direction of the Public Works Director. (Am. Ord. 2358, 2-4-86; 2944, 8-15-06) Penalty, see § 10.14

### UNSAFE BUILDINGS

### § 150.50 ADOPTION OF INTERNATIONAL PROPERTY MAINTENANCE CODE, 2006 EDITION

- (A) Except as hereinafter provided by specific amendment, the International Property Maintenance Code, 2006 edition, published by the International Code Council, is hereby adopted with the following amendments, incorporated and made a part of this Code the same as though spread at large herein. One printed copy of said publication has been filed in the office of the City Clerk for the use and examination of the public.
- (B) Sections 101.1, 103.5, 304.14, 602.3, and 602.4 of the International Property Maintenance Code, 2006 edition, are amended to read as follows:

***Section 101.1 Title.*** These regulations shall be known as the Property Maintenance Code of the City of Fairbury, Nebraska, hereinafter referred to as “this code.”

***Section 103.5 Fees.*** The fees for activities and services performed by the department in carrying out its responsibilities under this code shall be indicated by resolution adopted by the City Council.

***Section 304.14 Insect Screens.*** During the period from April 1 to October 31, every door, window and other outside opening required for ventilation of habitable rooms, food preparation areas, food service areas or any areas where products to be included or utilized in food for human consumption are processed, manufactured, packaged or stored, shall be supplied with approved tightly fitting screens of not less than 16 mesh per inch

(16 mesh per 25 mm) and every swinging door shall have a self-closing device in good working condition.

**Exception:** Screens shall not be required where other approved means, such as air curtains or insect repellent fans, are employed.

**Section 602.3 Heat Supply.** Every owner and operator of any building who rents, leases or lets one or more dwelling unit, rooming unit, dormitory or guestroom on terms, either expressed or implied, to furnish heat to the occupants thereof shall supply an approved heating source during the period from September 1 to May 31 to maintain a temperature of not less than 68°F (20°C) in all habitable rooms, bathrooms, and toilet rooms.

**Exceptions:** (1) When the outdoor temperature is below the winter outdoor temperature for the locality, maintenance of the minimum room temperature shall not be required provided that the heating system is operating at its full design capacity. The winter outdoor design temperature for the locality shall be as indicated in Appendix D of the International Plumbing Code. (2) In areas where the average monthly temperature is above 30°F (-1°C) a minimum temperature of 65°F (18°C) shall be maintained.

**Section 602.4 Occupiable Work Spaces.** Indoor occupiable work spaces shall be supplied with heat during the period from September 1st to May 31st to maintain a temperature of not less than 65°F (18°C) during the period the spaces are occupied.

**Exceptions:** (1) Processing, storage and operation areas that require cooling or special temperature conditions. (2) Areas in which persons are primarily engaged in vigorous physical activities.

(Ord. 2974, 5-20-08)

### BUILDING INSPECTOR

#### **§ 150.70 POWER AND AUTHORITY**

The Building Inspector shall be the municipal official who shall have the duty of enforcing all building and housing regulations as herein prescribed. He or she shall inspect all buildings repaired, altered, built, or moved in the municipality as often as necessary to ensure compliance with all municipal ordinances. He or she shall have the power and authority to order, at the direction of the City Council, all work stopped on any construction, alteration, or relocation which violates any provisions prescribed herein. He or she shall, at the direction of the City Council, issue permission to continue any construction, alteration, or relocation when the City Council is satisfied that no provision will be violated. If the stop order is an oral one, it shall be followed by a written stop order within one hour. The written order may be served by any municipal police officer. In the event that the City Council fails to appoint a Building Inspector, the Fire Chief shall be the Building Inspector ex officio.

#### **§ 150.71 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. Penalty, see § 10.14

#### **§ 150.72 PERMIT CARDS**

Upon the issuance of a building permit, the Building Inspector shall furnish to the applicant a permit card which shall be a distinctive color and shall contain the nature of the work, the location of the building, the number of the permit, and the date of issuance. The card shall be prominently displayed on the principal



frontage of the building site close to or upon the building or structure and shall so remain until the final inspection has been made. Penalty, see § 10.14

#### **§ 150.73 TIME OF INSPECTION**

The Building Inspector, upon notification from the permit holder or his or her agent, shall make the following inspections of the building or structure and shall either approve that portion of the construction as completed or shall notify the permit holder or his or her agent that the work fails to comply with the requirements of the Municipal Code: foundation inspection shall be made after trenches are excavated and the necessary forms erected; frame inspection shall be made after the roof, framing, fire-blocking, and backing are in place and all pipes, chimneys, and vents are complete; and final inspection shall be made after the building is completed and ready for occupancy. It shall be unlawful for any person to do work or cause work to be done beyond the point indicated in each successive inspection without the written approval of the Building Inspector. Penalty, see § 10.14

#### **§ 150.74 APPEAL FROM DECISION**

In the event it is claimed that the true intent and meaning of this chapter has been wrongly interpreted by the Building Inspector, that the time allowed for compliance with any order of the Building Inspector is too short, or that conditions peculiar to a particular building make it unreasonably difficult to meet the literal requirements prescribed by this chapter and by the Building Inspector, the owner, his or her agent, or the occupant may file a notice of appeal within 10 days after the decision or order of the Building Inspector has been made. The City Council shall hear all appeals and shall have the power and authority, when appealed to, to modify the decision or order of the Building Inspector. Such a decision shall be final, subject only to any remedy which the aggrieved person may have at law or equity. Applications for review shall be in writing and shall state the reasons why the variance should be made. A variance shall be granted only where it is evident that reasonable safety and sanitation is assured and may include conditions not generally specified by this code to achieve that end. A copy of any variance so granted shall be sent to both the Building Inspector and the applicant.

### **CHAPTER 151: ZONING AND SUBDIVISION REGULATIONS**

#### **§ 151.01 COMPREHENSIVE PLAN ADOPTED BY REFERENCE**

The City's Comprehensive Development Plan, as it may be amended from time to time, is adopted by reference and shall be a part of this Code as if set forth fully herein. (Ord. 2680, 3-18-97; Am. Ord. 2847, 3-19-02; 3029, 4-2-13)

#### **§ 151.02 ZONING REGULATIONS ADOPTED BY REFERENCE**

The City's zoning regulations, as they may be amended from time to time, are adopted by reference and shall be a part of this Code as if set forth fully herein. (Ord. 2718, 9-2-97; Am. Ord. 3030, 5-21-13)

#### **§ 151.03 SUBDIVISION REGULATIONS ADOPTED BY REFERENCE**

The City's subdivision regulations, as they may be amended from time to time, are adopted by reference and shall be a part of this Code as if set forth fully herein. (Ord. 2718, 9-2-97; Am. Ord. 2882, 3-16-04; 3030, 5-21-13)

## WELLHEAD PROTECTION AREA

### **§ 151.15 FINDINGS**

The findings set forth in Ord. 2848 are hereby made a part of this subchapter as fully as if set out at length herein. (Ord. 2848, 8-6-02)

### **§ 151.16 DEFINITIONS AND INTERPRETATIONS**

Words or phrases used in this subchapter shall be interpreted so as to give them the same meaning as they have in common usage and so as to give this subchapter its most reasonable application. Definitions set forth in county zoning regulations shall be applied in the event of any ambiguity or uncertainty in the interpretation of the rules and regulations established by this subchapter. (Ord. 2848, 8-6-02)

### **§ 151.17 RESTRICTED WELLHEAD STRUCTURE OR ACTIVITY; PERMIT REQUIRED**

- (A) It shall be unlawful for any person to place, install, construct, or replace any of the following structures or conduct any of the following activities within the Wellhead Protection Area, except as may be provided herein, to-wit:
- (1) Non-potable water well;
  - (2) Sewage lagoon;
  - (3) Absorption or disposal field for waste;
  - (4) Cesspool;
  - (5) Dump;
  - (6) Livestock confinement facilities/operation;
  - (7) Pit toilet;
  - (8) Sanitary landfill;
  - (9) Chemical or petroleum product storage;
  - (10) Septic tank;
  - (11) Sewage treatment plant;
  - (12) Sewage wet well;
  - (13) Sanitary sewer connection;
  - (14) Sanitary sewer manhole;
  - (15) Sanitary sewer line; or
  - (16) Sanitary sewer line (permanently watertight).
- (B) The placing, installing, constructing, or replacing of any structure or activity as set forth in division (A) of this section, hereinafter termed "wellhead structure or activity," within the Wellhead Protection Area shall not be permitted after the effective date of this subchapter unless a permit approved by the Wellhead Protection Administrator has been obtained. The owner of any wellhead structure or activity shall have the burden of establishing the existence and use of that wellhead structure or activity at the time of the effective date of Ord. 2848.

(Ord. 2848, 8-6-02) Penalty, see § 10.14

### § 151.18 SETBACK REQUIREMENTS

- (A) No permit shall be issued by the Wellhead Protection Administrator within the following setback distances from any municipal water well:

<i>Structure or Activity</i>	<i>Minimum Distance From Public Water Supply (measured in feet)</i>
Absorption or disposal or leach field for waste	500
Cesspool (illegal anywhere)	500
Chemical or petroleum storage	1,000
Fertilizer and pesticide storage	1,000
Lawn & garden recycling compost	1,000
Livestock confinement facilities/operation	1,000
Non-potable water well	1,000
Pit toilet	1,000
Sanitary landfill	1,000
Sanitary sewer connection	100
Sanitary sewer line	50
Sanitary sewer line (permanently watertight)	10
Sanitary sewer manhole	100
Septic tank	500
Septic tank (gpd exceeding 1,000)	1,000
Sewage lagoon	1,000
Sewage treatment plant	1,000
Sewage wet well	1,000

- (B) Any activity described above located within the defined setback distance shall be considered prima facie a hazard to the quality of the municipal water supply.

(Ord. 2848, 8-6-02) Penalty, see § 10.14

### § 151.19 ADMINISTRATION AND ENFORCEMENT

The City Council shall be responsible for implementation and enforcement of the rules and regulations established by this subchapter and shall consider all applications filed pursuant hereto. All applications shall be approved or rejected by roll call vote. The City Council shall designate 1 of its employees as Wellhead Protection Administrator, which employee shall be charged with administration of the rules and regulations. (Ord. 2848, 8-6-02; Am. Ord.3090, 9-1-20; 3128, 1-31-25) Penalty, see § 10.14

### § 151.20 ADDITIONAL STRUCTURES AND ACTIVITIES; PERMIT

Any wellhead structure or activity not prohibited by § 151.18 above shall be allowed upon determination by the City Council that the activity does not constitute a hazard or threat to the quality of the municipal

water supply and upon issuance of a permit by the Wellhead Protection Administrator. (Ord. 2848, 8-6-02; Am. Ord. 3090, 9-1-20; 3128, 1-31-25) Penalty, see § 10.14

#### **§ 151.21 CONSTRUCTION; PERMIT APPLICATION**

Prior to placing, installing, constructing, expanding, or replacing any wellhead structure or activity, the owner of the real estate upon which the structure or activity is proposed shall file with the Wellhead Protection Administrator an application for a wellhead structure or activity permit. The application shall be on a form furnished by the Wellhead Protection Administrator and shall include supporting information indicating why approval would not adversely impact the City's municipal water supply. The Wellhead Protection Administrator shall thereafter submit the application to the City Council for consideration. Prior to acting upon this application, the City Council may seek an engineering report, recommendations of the Little Blue Natural Resources District, the State Department of Environmental Quality, or any other party or agency in evaluating the impact of the proposed structure or activity on the municipal water supply. A permit shall be issued if the City Council determines that the structure or activity is unlikely to contaminate or pollute the water supply. (Ord. 2848, 8-6-02; Am. Ord. 3090, 9-1-20; 3128, 1-31-25) Penalty, see § 10.14

#### **§ 151.22 EXISTING STRUCTURES AND ACTIVITIES**

Wellhead structures or activities in existence and use in the Wellhead Protection Area as of the effective date of Ord. 2848 shall continue to be permitted unless that continued existence or use, in the opinion of the City Council, presents a hazard to the quality of the municipal water supply. If the City Council determines that an existing wellhead structure or activity presents a hazard, the City Council shall authorize the Wellhead Protection Administrator to notify the owner of the structure or activity to cease and desist that structure or activity. If the owner of the wellhead structure or activity desires to continue operation of the structure or activity, the owner may seek to procure a permit pursuant to this subchapter. If the owner does not cease and desist pursuant to this notice, the Wellhead Protection Administrator may proceed pursuant to §§ 151.23 and 10.14 of this Code against the owner and the wellhead structure or activity. (Ord. 2848, 8-6-02; Am. Ord. 3090, 9-1-20; 3128, 1-31-25) Penalty, see § 10.14

#### **§ 151.23 INJUNCTIVE RELIEF; REMEDIES NOT EXCLUSIVE**

In addition to penalties as set forth in § 10.14 for violations of this subchapter, the City may obtain injunctive relief and sue for damages and remediation and pursue any other remedy available to it under the laws of the State or other authority having jurisdiction over such matters. (Ord. 2848, 8-6-02) Penalty, see § 10.14

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