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CHAPTER I – CIVIL ADMINISTRATION

ARTICLE I – MAYOR AND CITY COUNCIL

SECTION 1-101: CORPORATE EXISTENCE

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

SECTION 1-102: CITY COUNCIL; NUMBER AND QUALIFICATIONS OF MEMBERS

The elected officials of the City shall consist of a mayor and four council members, who shall be citizens of the United States, residents of the City and registered voters. The mayor shall be elected in the manner provided in the Election Act. No person shall be eligible to the office of council member who is not at the time of the election an actual resident of the ward for which he or she is elected. The mayor and council members shall take office on the date of the first regular meeting of the city council held in December following the statewide general election. (Ref. Neb. Rev. Stat. §17-103, 17-104, 17-107) (Am. by Ord. No. 676, 1/16/12)

SECTION 1-103: ELECTION OF CITY OFFICIALS

The term of office of the City Council is four years. The members elected in the general election in 1998 shall continue to hold their office until December, 2002. Those members elected in 2000 shall continue to hold their office until December, 2004. Thereafter, two council members' terms shall expire every two years. The election of the council members shall be held on the date of the statewide general election.

SECTION 1-104: MAYOR; DUTIES AND POWERS

1. The mayor of the City shall have the general and immediate control over all property and officials of the City. He/she shall preside at all meetings of the City Council, and may vote when his/her vote shall be decisive on any pending matter, legislation or transaction and the mayor shall, for the purpose of such vote, be deemed to be a member of the Council. His/her signature must appear on the city clerk's minutes of all meetings, he/she must sign all resolutions which have been passed, and warrants for the payment of money when ordered by the City Council; provided, any ordinance vetoed by the mayor may be passed over his/her veto by a two-thirds vote by the members of the City Council, but if the mayor neglects or refuses to sign any ordinance, and returns it to the Council with his/her objections in writing at the next regular council meeting, the same shall become a law without his/her signature. He/she shall from time to time communicate to the council such information and recommendations as, in his/her opinion, may improve the City.

2. He/she may require at reasonable intervals any city official to exhibit his/her accounts and make reports to the Council on any subject pertaining to his/her office. He/she may remove at any time an appointed police officer of the City. His/her territorial authority shall extend over all places within five miles of the corporate limits of the City for the enforcement of any health ordinance, and one-half mile in all matters vested in him/her except taxation. He/she shall also have such other duties as the City Council may by resolution confer upon him/her.

3. Any candidate for mayor must be a registered voter and resident of the City prior to filing for the said office.
(Ref. Neb. Rev. Stat. §17-107, 17-110 through 17-117)

SECTION 1-105: MAYOR; VACANCY

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

2. When the successful candidate for mayor shall be prevented from assuming office, the incumbent mayor shall not be entitled to hold over the term but such office shall automatically become vacant and the president of the Council shall exercise the office of mayor until such vacancy is filled.

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

SECTION 1-106: PRESIDENT OF COUNCIL; ACTING PRESIDENT

In case of any vacancy in the office of mayor, or in case of his/her disability or absence, the president of the Council shall exercise the office of mayor until such vacancy is filled or such disability is removed, or in case of temporary absence, until the mayor returns. In the absence of the president, the Council shall elect one of its own body to occupy his/her place temporarily, who shall be styled "acting president of the Council." 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. (Ref. Neb. Rev. Stat. §17-148)

SECTION 1-107: SUCCESSION OF CONTROL

In order to designate the succession of control of the City and to declare and control a disaster or emergency when the mayor is not present or is unable to act as the principal executive officer of the City, then the following is the procedure used to determine who is next in line to fulfill those duties and responsibilities: If the mayor is not present or is incapable of performing his/her duties in order to declare a disaster or emergency and/or act as principal executive officer in a disaster or emergency situation, then the president of the City Council shall perform those functions and duties. Should the president of the Council not be present or is unable to perform those functions and duties,

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

SECTION 1-108: VACANCIES IN CITY OFFICES

1. Vacancies shall be filled by the Council for the balance of the unexpired term. In the event of vacancies on the Council, the Council shall give public notice of the vacancy by causing to be published in a newspaper of general circulation within the City, or posting in three public places in the City, notice of the office vacated and the length of the unexpired term. Within two weeks after the regular meeting at which such notice of vacancy has been presented, or after the death of the incumbent, the mayor shall call a special meeting of the Council, at which time he/she shall submit the name of a qualified elector to fill the vacancy for the balance of the unexpired term. The council members shall vote upon such nominee, and if a majority of the Council votes in favor of such nominee, the vacancy shall be declared filled. If a majority fails to confirm such appointment, the nomination shall be rejected and the mayor shall, at the next regular meeting, submit the name of another qualified elector to fill the vacancy.

2. If the vote on the nominee at such meeting fails to carry by a majority vote, the mayor shall continue at such meeting to submit the names of qualified electors of the City in nomination and the Council shall continue to vote until the vacancy is filled. The mayor shall vote for or against the nominee in case of a tie vote of the Council. All council members present shall cast a ballot for or against the nominee.
(Ref. Neb. Rev. Stat. §17-212, 32-568, 32-569)

SECTION 1-109: CITY COUNCIL; POWERS

The Council shall have all powers granted under the laws of the State of Nebraska, including but not limited to the following: power to pass ordinances to prevent and remove nuisances; to prevent, restrain and suppress gambling and disorderly houses; to license and regulate amusements; to establish and provide for police protection; to prevent the spread of contagious diseases; to regulate business; to erect, repair, construct and regulate public ways and property; to maintain good government, public welfare and domestic tranquility; and to enforce all ordinances by inflicting penalties upon inhabitants or other persons for violation thereof not exceeding the amount permitted by Nebraska law for each offense, recoverable with costs, together with enforcement by injunction where necessary.

SECTION 1-110: OFFICERS' SALARIES

1. The salary of the mayor of the City shall be $150.00 per monthly meeting, for a total of $1,800.00 payable annually.

2. The salary of each member of the City Council shall be $100.00 per monthly meeting, for a total of $1,200.00 payable annually.

3. The increased compensation payable to the mayor and City Council members, referred to in this section, shall be deferred until the next citywide general election is conducted, and shall then commence and become effective at the beginning of the full term of the mayor or any member of the City Council who shall be elected thereat.

(Ref. Neb. Rev. Stat. §17-108.02, 17-612) (Am. by Ord. No. 570, 10/16/06)

SECTION 1-111: COMPENSATION; CONFLICT OF INTEREST

1. For purposes of this section, "officer" shall mean any member of any board or commission of the City; or any appointed official if such official (A) serves on a board or commission which spends and administers its own funds and (B) is dealing with a contract made by such board or commission; or any elected city official.

2. Unless specified otherwise, volunteer firefighters and ambulance drivers shall not be considered officers for purposes of this section, with respect to their duties as firefighters and ambulance drivers.

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

A. Has a business with which the individual is associated or business association which shall mean a business: (1) in which the individual is a partner, director or officer; or (2) in which the individual or a member of the individual's immediate family is a stockholder of a closed corporation stock worth $1,000.00 or more at fair market value or which represents more than 5% equity interest, or is a stockholder of publicly traded stock worth $10,000.00 or more at fair market value or which represents more than 10% equity interest; or

B. Will receive a direct pecuniary fee or commission as a result of the contract;

Provided, however, if such officer is (a) an employee of the business involved in the contract and (b) has no ownership interest or will not receive pecuniary fee, such officer shall not be deemed to have an interest within the meaning of this section.

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

A. Makes a declaration on the record to the governmental body responsible for approving the contract regarding the nature and extent of his/her interest, prior to official consideration of the contract;

B. Does not vote on the matter of granting the contract, except that if the number of members of the Council declaring an interest in the contract would prevent the Council, with all members present, from securing a quorum on the issue, then all members may vote on the matter; and

C. Does not act for the City as to inspection or performance under the contract in which he/she has an interest.

5. The receiving of deposits, cashing of checks, and buying and selling of warrants and bonds of indebtedness of any City by a financial institution shall not be considered a contract under the provisions of this section. The ownership of less than 5% of the outstanding shares of a corporation shall not constitute an interest within the meaning of this section. Notwithstanding the provisions of Subsections (A) through (C) above, if an officer's parent, spouse of child is an employee of the City, the officer may vote on all issues of the contract which are generally applicable to all employees or all employees within a classification and do not single out his/her parent, spouse or child for special action. If an officer has the power to employ personnel and he/she hires his/her parent, spouse or child, such officer shall disclose the hiring pursuant to subsections (6) (A) through (E) below, except that if the parent, spouse or child is already employed in the position at the time the officer takes office and such position does not change, no disclosure need be made. Notwithstanding any other provision of this section, any contract entered into with an interested officer shall be subject to applicable competitive bidding requirements and shall be fair and reasonable to the City.

6. The city clerk shall maintain, separately from other records, a ledger containing the information listed in subsections (A) through (E) of this section about every contract entered into by the City in which an officer has an interested as specified above for which disclosure is made as provided in subsections (4) (A) through (C) above. Such information shall be kept in the ledger for five years from the date of the officer's last day in office and shall include the:

A. Names of the contracting parties;
B. Nature of the interest of the officer in question;
C. Date that the contract was approved by the City;
D. Amount of the contract; and
E. Basic terms of the contract.

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

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

9. Any officer who knowingly violates the provisions of this section shall be guilty of a Class III misdemeanor. Any officer who negligently violates this section shall be guilty of a Class V misdemeanor.

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

11. No officer, including volunteer firefighters and ambulance drivers, shall receive any pay or perquisites from the City other than his/her salary. The City Council shall not

pay or appropriate any money or other valuable thing to pay a person who is not an officer for the performance of any act, service or duty, which shall come within the proper scope of the duties of any officer of the City.
(Ref. Neb. Rev. Stat. §17-611, 18-305 through 18-312, 49-14,103.01 through 49-14,103.03, 70-624.04)

ARTICLE II – APPOINTIVE OFFICERS

SECTION 1-201: APPOINTIVE OFFICERS; APPOINTMENT, REMOVAL; EXCEPTIONS

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. All officers appointed by the mayor and confirmed by the council shall hold their offices until the end of the mayor's term of office and until their successors are appointed and qualified, unless sooner removed. (Ref. Neb. Rev. Stat. §17-107) (Am. by Ord. Nos. 532, 5/19/03; 676, 1/16/12)

SECTION 1-202: MERGER OF OFFICES

The City Council may, in its discretion, by ordinance combine and merge any elective or appointive office or employment, except the mayor or a city council member, with any other elective or appointive office so that one or more of such offices may be held by the officer or employee at the same time. Any offices so merged and combined shall always be construed to be separate, and the effect of the combination or merger shall be limited to a consolidation of official duties only. The salary of the officer holding the merged offices shall not be in excess of the maximum amount provided by law for the salary of the offices so combined. For purposes of this section, volunteer firefighters and ambulance drivers shall not be considered officers.

SECTION 1-203: CLERK-TREASURER POSITION CREATED

The appointive offices of city clerk and city treasurer are hereby combined and merged, in accordance with the authority granted to the City Council by Section 1-202. The office so merged and combined shall always be construed to be separate, and the effect of the combination or merger shall be limited to a consolidation of official duties only.

SECTION 1-204: CITY CLERK; DUTIES

1. The city clerk shall have custody of all laws and ordinances. He/she shall keep a current journal of the proceedings of the City Council. He/she shall also maintain a complete record of all outstanding bonds against the City, showing the number and amount of each, for and to whom the said bonds were issued and all other pertinent information in regard to said bonds. He/she shall take possession of all books, papers and all other official records of the City, and shall maintain said records in a safe place for the City. He/she shall have custody of the seal of the City and all written official papers of the City. The city clerk shall attend the meetings of the City Council and keep a minute record of the proceedings thereof.

2. The city clerk shall maintain an account of all of the appropriations of the several funds of the City. He/she shall draw, sign and attest all warrants ordered for the payment of money on a particular fund from which the same is payable, and at the end of

each month make a report of the amount appropriated to each fund and the amount of warrants drawn thereon. The city clerk shall further attest to the mayor's signature to be attested and shall attach the city seal to all official documents. Whenever any claim presented by any person has been disallowed by the City Council, the city clerk shall notify said claimant of said disallowance by the Council within five days after such disallowance.

3. The city clerk shall account for all money received by him/her in the normal course of city business and shall keep a proper record of all monies received by him/her, issuing a proper receipt to those parties making payment to him/her to the account of the City.

4. The city clerk shall publish all notices required in the performance of his/her duties and shall keep a record of all published notices issued by him/her, and shall keep a record of the publisher's affidavit of said publication if said notices are published in a legal newspaper.

5. He/she shall maintain all books and public records of the City for public inspection for any resident of the City during normal business hours. He/she shall make a notation on all correspondence received by him/her of the date of its receipt, and shall, as soon as possible, convey said correspondence to the appropriate official of the City. The city clerk shall keep and maintain all other legal papers required to be maintained by him/her by these ordinances or by Nebraska law and shall maintain a proper minute book wherein shall be recorded all of the formal and informal actions of the mayor and City Council, and shall maintain an ordinance record which shall record the various ordinances and resolutions passed by the City Council.

6. The duties of the city clerk will be those set forth herein and as set forth specifically in the job description separately adopted by the mayor and City Council.
(Ref. Neb. Rev. Stat. §17-605, 19-1102, 19-1104, 84-1201 through 84-1220, 84-712)

SECTION 1-205: CITY TREASURER; DUTIES

1. The city treasurer shall be custodian of all monies belonging to the City; he/she shall deposit public funds which have come into his/her hands in such depository bank or banks or in other eligible financial institutions for depository purposes as designated by the mayor and City Council.

2. He/she shall keep a separate account of each and every fund or appropriation and the debits and credits belonging to the City; he/she shall provide a receipt for anyone paying money into the city treasury if such person requests a receipt, specifying the date of payment and on what account paid, and also file copies of said receipts with his/her monthly reports made to the mayor and City Council; he/she shall, at the end of each month and as often as may be required, render a report to the mayor and City Council showing, under oath, the condition of the various accounts of the treasury at the time of such reports and the balance of money in the treasury; he/she shall accompany such accounts with a statement of all receipts and disbursements, together with all warrants paid by him/her, which warrants with any and all vouchers held by him/her shall be filed with his/her accounts in the city clerk's office. He/she shall keep a record, in a book suitable for that purpose, of each and every warrant paid and from what fund paid.

3. He/she shall also procure and keep a warrant register which shall show in columns arranged for that purpose the number, date and amount of each warrant presented and registered, as hereinafter provided, the particular fund upon which the same is drawn, the date of presentation, the name and address of the person in whose name the same is registered, the date of payment, the amount of interest, and the total amount paid thereon, with the date when the notice to such person in whose name such warrant is registered is mailed as hereinafter provided. It shall be the duty of the city treasurer, upon presentation of any warrant for payment, in the presence of such person to enter such warrant in the warrant register for payment in the order of its presentation and, upon every warrant as presented and registered, he/she shall endorse, Registered for Payment with the date of such registration and register number; and he/she shall sign such endorsement, whereupon such warrant shall draw interest at the legal rate from the date of registration until notice of payment shall be given to the holder as provided by law.

4. If the city treasurer neglects or fails, for a period of ten days from the end of each and every month, to render his/her account, his/her office shall be declared vacant pursuant to Neb. Rev. Stat. §17-606, and the mayor and City Council shall fill the vacancy by appointment until the next election of city officials.

5. The city treasurer is also required to publish or cause to be published in a legal weekly newspaper published in or of general circulation in said city within 60 days following the end of each fiscal year a report of the activities of his/her office, which said report shall show in detail all receipts, disbursements, warrants outstanding, and the debit or credit balance of the City.

6. The duties of the city treasurer will be those set forth herein and as set forth specifically in the job description separately adopted by the mayor and City Council.
(Ref. Neb. Rev. Stat. §17-606 through 17-609, 84-712)

SECTION 1-206: CITY TREASURER; MONTHLY REPORT

He/she shall, at the end of each month and as often as may be required, render a report to the mayor and City Council showing, under oath, the condition of the various accounts of the treasury at the time of such reports and the balance of money in the treasury; he/she shall accompany such accounts with a statement of all receipts and disbursements, together with all warrants paid by him/her, which warrants with any and all vouchers held by him/her shall be filed with his/her accounts in the city clerk's office. He/she shall keep a record, in a book suitable for that purpose, of each and every warrant paid and from what fund paid. He/she shall also produce depository evidence that all city money is in a solvent and going bank in the name of the City. If the city treasurer neglects or fails, for a period of ten days from the end of each and every month, to render his/her account, the City Council shall by resolution declare the office vacant, and the mayor and City Council shall fill the vacancy by appointment. (Ref. Neb. Rev. Stat. §17-606)

SECTION 1-207: CITY TREASURER; ANNUAL REPORT

The city treasurer is also required to publish or cause to be published in a legal weekly newspaper published in or of general circulation in said city within 60 days following the end of each fiscal year a report of the activities of his/her office, which said report shall show in detail all receipts, disbursements, warrants outstanding, and the debit or credit

balance of the City. (Ref. Neb. Rev. Stat. §19-1101)

SECTION 1-208: CITY ATTORNEY; DUTIES

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

SECTION 1-209: CITY POLICE CHIEF; DUTIES

1. It shall be the duty of the city police chief, and he/she is hereby authorized and empowered, to diligently inquire into any and all violations of the city ordinances. In the event that he/she determines that an ordinance violation has occurred he/she shall issue a written complaint and cause the arrest of such person violating the ordinance.

2. The city police chief shall have general control over motor vehicular traffic, and said police chief, together with such special officers detailed to assist him/her as traffic officers by the mayor and City Council, shall direct the movement of traffic at intersections and elsewhere; and it shall be unlawful for any person to violate any order or signal of the city police or of any special traffic officer.

3. The city police chief shall bring all prisoners who are under arrest for the violation of any city ordinances before the County Court whenever required to do so by rule or order of the county judge, and he/she shall make or cause to be made the necessary written complaint against such person or persons when arrested.

4. He/she shall perform such other duties as may be required of him/her by resolution or by order of the mayor and City Council.

5. The duties of the city police chief will be those set forth herein and as set forth specifically in the job description separately adopted by the mayor and City Council.
(Ref. Neb. Rev. Stat. §17-107, 17-121)

SECTION 1-210: UTILITIES SUPERINTENDENT

The City Council shall have the power to appoint a utilities superintendent supervising the city water system and sewer system. The utilities superintendent shall have the general control and supervisory authority over all the city utilities. When requested, he/she shall make a detailed report to the Council of the condition of said water and sewer system, all mains, pipes, hydrants, reservoirs, and machinery and such improvements, repairs and extensions thereof as he/she may think proper. The duties of the utilities superintendent will be those set forth herein and as set forth specifically in

the job description separately adopted by the mayor and City Council. He/she may be removed for good cause by a two-thirds vote of the City Council. (Ref. Neb. Rev. Stat. §17-107, 17-541, 17-543)

SECTION 1-211: SEWER COMMISSIONER

The City Council shall have the power to appoint a sewer commissioner to maintain immediate control and supervision over all employees and property that make up the city sewer system, subject to the general control and direction of the Council. He/she shall, when requested, make a detailed report to the City Council on the condition of the sewer system and direct its attention to such improvements, repairs, extensions, additions and additional employees as he/she may believe are needed, along with estimates of the costs thereof. He/she shall issue permits for all connections to the city water system and inspect and supervise all repairs made to said system. He/she shall have such other duties as the City Council may designate. (Ref. Neb. Rev. Stat. §17-107)

SECTION 1-212: WATER COMMISSIONER

1. There is hereby created the office of water commissioner in and for the City. The mayor shall nominate and by and with the advice and consent of the City Council shall appoint some competent person as water commissioner. The water commissioner shall be liable upon his/her official bond for the faithful performance of his/her duties. It shall be the duty of the water commissioner to have the general management and control of the waterworks of the City, except for billing for water consumption and collections of money therefor. The salary of the water commissioner shall be fixed and determined annually at the beginning of the fiscal year by the City Council. The City Council shall employ such laborers as deemed necessary upon the written recommendation of the water commissioner.

2. The water commissioner shall make detailed reports to the City Council, when requested, concerning the condition of the water system. The water commissioner shall not purchase any material or supplies for the use of the department nor employ any help in the department except upon the authority of the City Council, unless it be for repairs in cases of emergency. The water commissioner, who may be removed at any time by a two-thirds vote of the City Council, shall perform such additional duties as may be prescribed by the Council.
(Ref. Neb. Rev. Stat. §17-107, 17-541, 17-543)

SECTION 1-213: CITY STREET COMMISSIONER

The Council shall have the power to appoint a city street superintendent who shall have general charge, direction and control of all work on the streets, sidewalks, culverts and bridges of the City, and shall perform such other duties as the Council may require. It shall be his/her responsibility to see that gutters and drains therein function properly and that the same are kept in good repair. He/she shall, at the request of the Council, make detailed reports on the condition of the streets, sidewalks, culverts, alleys and bridges of the City, and direct their attention to such improvements, repairs, extensions, additions and additional employees as he/she may believe or need to maintain a satisfactory street system in the City, along with an estimate of the cost thereof. It shall be the special duty of the street superintendent to supervise and direct the snow and tree removal work in the City. The duties of the street superintendent will be those set forth herein

and as set forth specifically in the job description separately adopted by the mayor and City Council. (Ref. Neb. Rev. Stat. §17-107, 17-119)

SECTION 1-214: SPECIAL ENGINEER

The City Council may employ a special engineer to make or assist the city engineer in making any particular estimate, survey or other work. The special engineer shall make a record of the minutes of his/her surveys and all other work done for the City. He/she shall, when directed by the City Council, accurately make all plats, sections, profiles and maps as may be necessary in the judgment of the City Council. He/she shall, upon request of the City Council, make estimates of the costs of labor and material which may be done or furnished by contract with the City, and make all surveys, estimates and calculations necessary for the establishment of grades, bridges, building of culverts, sewers, electric systems, waterworks, power plants, public heating system, curbing and gutters, and the improvement of streets and erection and repair of buildings, and shall perform such other duties as the City Council may require. All records of the special engineer shall be public records which shall belong to the City and shall be turned over to his/her successor. (Ref. Neb. Rev. Stat. §17-405, 17-568, 17-568.01, 17-919)

SECTION 1-215: BUILDING INSPECTOR

The building inspector shall conduct surveys and make inspections in any area of the City to determine whether all buildings and structures are in compliance with this code. He/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. He/she is authorized, upon properly identifying himself/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/she shall keep records of all complaints received, inspections reports, orders and complaints issued. The records shall be available for public inspection and he/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/she is the owner of a building, and he/she shall not act as an agent for any said dealer, or as an agent for the sale, lease or rental of any real estate. The building inspector shall report to the City Council and Planning Commission as often as they may deem necessary, and shall have such other duties as either body may direct. The building inspector may be removed at any time for good and sufficient cause by the City Council. He/she may also function as the plumbing, electrical and zoning inspector.

ARTICLE III – ADMINISTRATION

SECTION 1-301: CORPORATE SEAL

There shall be owned by the City, in the office of the city clerk, a common seal of the corporation, having engraved thereon the words "City of Fort Calhoun, Nebraska, Seal." The city clerk shall affix an impression of said seal on all papers or documents executed by him/her in his/her official capacity. (Ref. Neb. Rev. Stat. §17-502)

SECTION 1-302: OFFICERS; BONDS

1. The officers of the City, before entering upon their duties, shall give bonds for the faithful performances of their duties in the following amounts:

City Clerk	$ 1,000.00
City Treasurer	5,000.00

which said bonds shall be executed with a corporate surety and approved by the City Council. Said bonds shall be filed in the office of the city clerk. Premiums on said bonds shall be paid out of the general funds or other proper funds of said city.

2. In the event that sureties on the official bond of any officer of the City, in the opinion of the City Council, become insufficient, the Council may require by resolution a reasonable time within which such officer may give a new bond or additional sureties thereon as directed. In the event that this officer shall fail, refuse or neglect to give a new bond or additional sureties to the satisfaction and approval of the Council, then the office shall by such failure, refuse or neglect, become vacant and it shall be the duty of the City Council to appoint a competent and qualified person to fill this said office. Any official who is re-elected to office shall be required to file a new bond after each election.

SECTION 1-303: OATH OF OFFICE

All officers of the City, whether elected or appointed, shall before entering upon the duties of their respective offices declare and subscribe the following oath or affirmation: "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." This oath or affirmation so subscribed shall be filed in the office of the city clerk. (Ref. Neb. Rev. Stat. §11-101)

SECTION 1-304: MEETINGS; PUBLIC

1. All public meetings as defined by law shall be held in a public building located within the City, which shall be open to attendance, by the public. All meetings shall be held in the public building in which the City Council usually holds such meetings unless the publicized notice hereinafter required shall designate some other public building or other specified place. The advance publicized notice of all public, convened meetings shall be transmitted to all members of the Council and to the public by a method designated by the Council. Such notice shall contain the time and specific place for each meeting and either an enumeration of the agenda subjects known at the time of the notice or a statement that such agenda, kept continually current, shall be available for public inspection at the office of the city clerk. Agenda items shall be sufficiently descriptive to give the public reasonable notice of the matters to be considered at the meeting. Except for items of an emergency nature, the agenda shall not be altered less than 24

hours before the scheduled commencement of the meeting or 48 hours before the scheduled commencement of a meeting of the City Council scheduled outside the corporate limits of the City. The City shall have the right to modify the agenda to include items of an emergency nature only at the public meeting when convened. The minutes of the city clerk shall include a record of the manner by which the advance publicized notice was given, the time and the specific place of each meeting and the names of each member of the Council present or absent at each convened meeting.

2. Any official action on any question or motion duly moved and seconded shall be taken only by roll call vote of the City Council in open session. The record of the City clerk shall show how each member voted or that the member was absent and did not vote.

3. Any formal actions taken at any public meeting not in conformity with the provisions of this section shall be deemed to be void. Any official who shall violate the provisions of this section shall be deemed to be guilty of a misdemeanor.

4. This section does not apply to chance meetings nor to attendance at or travel to conventions or workshops of the City Council at which there is no meeting of the Council then intentionally convened, if these is no vote or other action taken regarding any matter over which the Council has supervision, control, and jurisdiction or advisory power.

5. The City Council shall make available at least one current copy of the Open Meetings Act, to be posted in the meeting room at a location accessible to members of the public. At the beginning of each meeting, the public shall be informed about the location of the posted information.
(Ref. Neb. Rev. Stat. §84-1408, 84-1409, 84-1411, 84-1413) (Am. by Ord. Nos. 548, 12/19/05; 572, 11/20/06)

SECTION 1-305: SPECIAL MEETINGS

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

2. At the hour appointed for the meeting, the city clerk shall proceed to call the roll of members and announce whether a quorum is present. If a quorum is present, the Council shall be called to order by the mayor, if present, or if absent, by the president of the Council. In the absence of both the mayor and the president of the Council, the council members shall elect a president pro tempore. All ordinances passed at any special meeting shall comply with procedures set forth in Chapter I, Article IV (Ordinances).
(Neb. Rev. Stat. §17-106)

SECTION 1-306: MEETINGS; CLOSED SESSIONS

1. The City Council may hold a closed session by affirmative vote of a majority of its voting members if a closed session is clearly necessary for the protection of the public interest or for the prevention of needless injury to the reputation of an individual if such individual has not requested a public meeting. The subject matter and the reason necessitating the closed session shall be identified in the motion to close. Nothing in this section shall permit a closed meeting for discussion of the appointment or election of a new member to the Council.

2. The vote to hold a closed session shall be taken in open session. The entire motion to close, the vote of each member on the holding of a closed session and the time when the closed session commenced and concluded shall be recorded in the minutes lithe motion passes, then the mayor shall, immediately prior to the dosed session, restate on the record the limitation of the subject matter of the closed session. In holding such a closed session, the Council shall restrict its consideration of matters during the closed portion to only those purposes set forth in the motion to close as the reason for the closed session.

3. Any member of the Council shall have the right to challenge the continuation of a closed session if the member determines that the session has exceeded the reason stated in the original motion to hold the closed session. Such challenge shall be overruled only by a majority of the members of the Council. Such challenge and its disposition shall be recorded in the minutes.
(Ref. Neb. Rev. Stat. 84-1410) (Am. by Ord. No. 572, 11/20/06)

SECTION 1-307: MEETINGS; NOTICE TO NEWS MEDIA

The city clerk, secretary or designee of each public body shall maintain a list of the news media requesting notification of meetings and shall make reasonable efforts to provide advance notification to them of the time and place of each meeting and the subjects to be discussed at that meeting. (Ref. Neb. Rev. Stat. §84-1411)

SECTION 1-308: MEETINGS; PUBLIC PARTICIPATION

1. Subject to the provisions of this article, the public shall have the right to attend and the right to speak at meetings of public bodies and all or any part of a meeting of a public body, except for closed meetings called pursuant to Section 1-305, may be videotaped, televised, photographed, broadcast or recorded by any person in attendance by means of a tape recorder, camera, video equipment or any other means of pictorial or sonic reproduction or in writing.

2. It shall not be a violation of this section for any public body to make and enforce reasonable rules and regulations regarding the conduct of persons attending, speaking at, videotaping, televising, photographing, broadcasting or recording its meetings. A body may not be required to allow citizens to speak at each meeting, but it may not forbid public participation at all meetings. No public body shall require members of the public to identify themselves as a condition for admission to the meeting. The body may require any member of the public desiring to address the body to identify himself/herself. The public body shall, upon request, make a reasonable effort to accommodate the public's right to hear the discussion and testimony presented at the meeting. Public bodies shall make available at the meeting, for examination and copying by

members of the public, at least one copy of all reproducible written material to be discussed at an open meeting. No public body shall for the purpose of circumventing the provisions of this article hold a meeting in place known by the body to be too small to accommodate the anticipated audience. No public body shall be deemed in violation of this section if it holds its meetings in its traditional meeting place which is located in this state.

3. An agency which contracts with cities outside the State of Nebraska may hold meetings of any committee outside the State of Nebraska if such meetings are held only in such contracting cities. Final action on any agenda items shall only be taken by the agency at a meeting in the State of Nebraska, which meeting shall comply with Neb. Rev. Stat. §84-1408 to 84-1414.
(Ref. Neb. Rev. Stat. §84-1412, 18-2438)

SECTION 1-309: MEETINGS; CITY COUNCIL

1. The meetings of the City Council shall be held at the council chambers or other location set by the Council by resolution. Regular meetings shall be held on the third Monday of each month at the hour of 7:00 P.M. Special meetings may be called by the mayor or by a majority of the City Council for those purposes which shall be submitted in writing to the council members prior to said meeting. The call and object of said meeting shall be entered upon the journal by the city clerk as well as the disposition of said meeting.

2. A majority of the members of the City Council shall constitute a quorum for the transaction of business but a smaller number may adjourn from day to day and compel the attendance of the absent members. At the hour appointed for the meeting, the city clerk shall proceed to call the roll of members and announce whether a quorum is present. If a quorum is present, the City Council shall be called to order by the mayor. In the absence of the mayor, the Council shall have the power to appoint a mayor pro tempore, who shall exercise and have the powers and perform the same duties as the regular mayor.
(Ref. Neb. Rev. Stat. §17-105, 17-106)

SECTION 1-310: ABSENCE AT MEETINGS; HEARING; VACANCY DECLARED

In the event that an elected official of the City shall be absent for five consecutive meetings, the City Council at its next regular meeting shall hold a hearing to determine whether such absences shall be excused. Notice of such, in writing, shall be delivered to the absent member at least ten days prior to such hearing and he/she shall be given the opportunity to present evidence and testimony to support a determination that such absences should be excused. After such hearing, the Council shall vote to either excuse such absences or to determine that such absences are unexcused and declare the seat vacant. In the event the seat is determined vacant, the vacancy shall be filled pursuant to Section 1-108.

SECTION 1-311: MEETINGS; ORDER OF BUSINESS

All meetings of the City Council shall be open to the public. Promptly at the hour set by law on the day of each regular meeting, the members of the City Council, the city clerk or approved designee, the mayor, and such other city officials that may be required shall take their regular stations in the city hall and the business of the City shall be taken

up for consideration and disposition in the following suggested order:

Roll Call
Reading and approval of the minutes of the previous meeting(s)
Treasurer report(s)
Appropriations and consideration of claims
Reports of officers, boards and committees
Public hearing(s)
Presentations/guests/SDL requests
Consideration of petitions and other communications
Unfinished business of the preceding meeting
Introduction of ordinances and resolutions; first, second and third readings as required
Final passage of ordinances
New business
Miscellaneous business
Public comments
Adjournment

(Am. by Ord. No. 645, 5/17/10)

SECTION 1-312: MEETINGS; PARLIAMENTARY PROCEDURE

The mayor shall preserve order during meetings of the City Council and shall decide all questions of order, subject to an appeal to the City Council. When any person is called to order, he shall be seated until the point is decided. When the mayor is putting the questions, no person shall leave the meeting room. Every person present, previous to speaking, shall rise from his/her seat and address himself/herself to the presiding officer, and while speaking shall confine himself/herself to the question. All resolutions or motions shall be reduced to writing before being acted upon, if requested by the city clerk or any member of the Council. Every member of the Council who is present when a question is voted upon shall cast his/her vote, unless excused by a majority of the City Council present. No motion shall be put or debated unless seconded. When seconded, it shall be stated by the mayor before being debatable. In all cases where a motion or resolution is entered on the minutes, the name of the member of the Council making the motion or resolution shall be entered also. After each vote, a roll call vote shall be taken and entered in the minutes upon the request of any member of the Council. Before the vote is actually taken, any resolution, motion or proposed ordinance may be withdrawn from consideration by the sponsor thereof with the consent of the member of the Council seconding the said resolution, motion or ordinance. When any question is under debate, no motion shall be made, entertained or seconded except the previous question, a motion to commit, a motion to table, and to adjourn. Each of the said motions shall be decided without debate. Any of the rules of the City Council for meeting may be suspended by a two-thirds vote of the members present. In all cases in which provisions are not made by these rules, *Robert's Rules of Order* is the authority by which the City Council shall decide all procedural disputes that may arise. (Am. by Ord. No. 645, 5/17/10)

SECTION 1-313: MEETINGS; CHANGE IN OFFICE

The change in office shall be made as follows: The mayor and Council shall meet on the first regular meeting date in December of each year in which a city election is held and the outgoing officers and members of the Council shall present their reports. Upon the old Council having completed its business up to the said time, the outgoing mem-

bers shall each surrender to his/her successor in office all property, records, papers and monies belonging to the same.

SECTION 1-314: MEETINGS; ORGANIZATIONAL

The newly elected council members shall convene in the council chambers on the first regular meeting in December of each year in which a city election is held, immediately after the prior Council adjourns, and proceed to organize themselves for the ensuing year. The mayor elected for the new municipal year shall call the meeting to order. The Council shall then proceed to examine the credentials of its members and other elective officers of the City to see that each has been duly and properly elected and to see that such oaths and bonds have been given as are required. After ascertaining that all members are duly qualified, the Council shall then elect one of its own body who shall be styled as "president of the Council." The mayor shall then nominate his/her candidates for appointive offices. He/she shall then proceed with the regular order of business. It is hereby made the duty of each and every member of the Council or his/her successor in office and of each officer elected to any office to qualify prior to the first regular meeting in December following his/her 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 his/her subscribing and taking an oath to support the Constitution of the United States, the Constitution of the State of Nebraska, and the laws of the City and to perform faithfully and impartially the duties of his/her office, said oath to be filed in the office of the city clerk. Each officer who is required to give a bond shall file the required bond in the office of the city clerk with sufficient sureties, conditioned on the faithful discharge of the duties of his/her office, with the oath endorsed thereon.

SECTION 1-315: APPOINTMENT OF COMMITTEES

At the organizational meeting of the City Council, the mayor may appoint members of such committees as may be necessary from time to time, which committees shall serve at the pleasure of the Council. The membership of such standing committees may be changed at any time by the mayor, who shall be a member ex officio of each standing committee. The members of the standing committees shall serve terms of office of one year, unless reappointed.

ARTICLE IV – ORDINANCES

SECTION 1-401: GRANT OF POWER

The City Council shall have the responsibility of making all ordinances, by-laws, rules, regulations and resolutions, not inconsistent with the laws of the State of Nebraska, as may be necessary and proper for maintaining the peace, good government and welfare of the City and its trade, commerce and security. (Ref. Neb. Rev. Stat. §17-505)

SECTION 1-402: INTRODUCTION

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

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

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

SECTION 1-403: RESOLUTIONS AND MOTIONS

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

SECTION 1-404: PASSAGE

Ordinances, resolutions or orders for the appropriation of money shall require for their passage the concurrence of the majority of the members elected to the Council. Ordinances of a general or permanent nature shall be fully and distinctly read on three different days. (Ref. Neb. Rev. Stat. §17-614)

SECTION 1-405: SUSPENSION OF RULES

In the event that three-fourths of the members of the Council present vote to dispense with the rule that ordinances of a general or permanent nature be fully read on three different days, such ordinances may be passed by reading the title one time when introduced, read by title a second time after the rule has been dispensed with, read at large a third time, and then put upon final passage.

SECTION 1-406: STYLE

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

SECTION 1-407: EFFECTIVE DATE

The city clerk shall, within 15 days after the passage of any ordinances, publish the same in a legal newspaper of general circulation in the City, or post the ordinance in the normal three public places. The ordinance shall then become effective upon publication or posting.

SECTION 1-408: TITLE

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

SECTION 1-409: EMERGENCY ORDINANCES

In the case of riot, infectious or contagious diseases, or other impending danger, failure of a public utility, or other emergency requiring its immediate operation, such ordinance shall take effect upon the proclamation of the mayor, and the posting thereof in at least three of the most public places in the City. Such emergency notice shall recite the emergency and be passed by a three-fourths vote of the Council, and entered upon the city clerk's minutes. (Ref. Neb. Rev. Stat. §17-613, 19-3701)

SECTION 1-410: CERTIFICATE OF PUBLICATION OR POSTING

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

SECTION 1-411: AMENDMENTS AND REVISIONS

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

ARTICLE V – FISCAL MANAGEMENT

SECTION 1-501: FISCAL YEAR

The fiscal year of the City shall commence on October 1 and extend through the following September 30. (Ref. Neb. Rev. Stat. §17-701)

SECTION 1-502: BUDGET PROCEDURE

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

SECTION 1-503: BUDGET STATEMENT; FILING

The City Council shall adopt a budget statement pursuant to the Nebraska Budget Act, to be termed "The Annual Appropriation Bill," in which the Council shall appropriate such sums of money as may be deemed necessary to defray all necessary expenses and liabilities of the City. Such budget statement shall be prepared on forms prescribed and furnished by the Nebraska Auditor of Public Accounts and shall contain that information required by the *Manual of Instructions for City/Village: Budgets*, prepared by the state auditor. The annual appropriation bill shall not be amended without a majority vote of the City Council after a public hearing. Notice of the time and place of the hearing shall be published at least five days prior to the date set for hearing in a newspaper of general circulation within the City. The income arising from the operation of proprietary functions shall be deemed especially appropriated to the payment of the current expenses of and to the cost of improvements, extensions and additions to such functions and shall not be included in the annual appropriation bill. (Ref. Neb. Rev. Stat. §13-504)

SECTION 1-504: BUDGET HEARING

Subsequent to the filing of the proposed budget statement, the City Council shall publish a proposed budget and conduct a public hearing on the proposed budget statement. Notice of the place and time of the said hearing, as well as a copy of the proposed budget, shall be published at least five days prior to the date set for the hearing in a newspaper of general circulation in the City. The city clerk shall make available to the public the proposed budget statement prior to publication of the notice of the hearing on such proposed budget statement. After such hearing, the statement shall be adopted or amended, and adopted as amended, and a written record shall be made of such hearing. If the adopted budget statement reflects a change from that shown in the published proposed budget statement, a summary of such changes shall be published within 20 days after its adoption. (Ref. Neb. Rev. Stat. §13-506)

SECTION 1-505: BUDGET FILING

The City Council shall file with and certify to the levying board and file with the Nebraska State Auditor a copy of the adopted budget statement, together with the amount of the tax to be levied and proof of publication. Such filing shall be made on or before September 20. The City Council shall not certify any tax that exceeds the maximum levy prescribed by state law; provided, in certifying the amount to be so levied, allowance may be made for delinquent taxes not exceeding five percent of the amount to be levied plus the actual percentage of delinquent taxes for the preceding tax year. (Ref. Neb. Rev. Stat. §13-508)

SECTION 1-506: ANNUAL AUDIT

The City Council shall cause an audit of the city accounts to be made by a qualified accountant or shall prepare an unaudited statement of cash receipts and disbursements, in lieu of an audit, as expeditiously as possible following the close of the fiscal year. If an audit is authorized by the City Council, it shall be made on a cash or accrual method at the discretion of the Council and shall be completed within six months of the close of the fiscal year. In the event the City elects not to have an audit performed, the city treasurer shall prepare an unaudited statement of cash receipts and disbursements in a form prescribed by the state auditor, and shall submit not less than three copies of the unaudited report to the City Council. (Ref. Neb. Rev. Stat. §19-2901 through 19-2909)

SECTION 1-507: ALL-PURPOSE LEVY

The City Council has determined that the amount of money to be raised by taxation shall be certified to the county clerk in the form of one all-purpose levy instead of certifying a schedule of levies for specific purposes added together. Said all-purpose levy shall not exceed an annual levy in excess of the legal maximum as prescribed by state law upon the assessed valuation of all taxable property in the City, except intangible property. (Ref. Neb. Rev. Stat. §17-702)

SECTION 1-508: CONTRACTS

The City Council shall, before entering into any contract for labor, materials or any public improvement which exceeds $20,000.00 in cash as estimated by the city engineer, advertise for bids once each week for three consecutive weeks in a legal newspaper of

general circulation in the City or post a printed or written copy thereof in each of three public places in the City; provided that in the case of a public emergency which is a serious danger to life, health or property, estimates of costs and advertising for bids may be waived in the emergency ordinance when adopted by a three-fourths vote of the City Council.

SECTION 1-509: CLAIMS

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

SECTION 1-510: WARRANTS

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

SECTION 1-511: TRANSFER OF FUNDS

Whenever during the current fiscal year it becomes apparent due to unforeseen emergencies that there is temporarily insufficient money in a particular fund to meet the requirements of the adopted budget of expenditures for that fund, the City Council may by a majority vote transfer money from other funds to such fund. No expenditure during any fiscal year shall be made in excess of the amounts indicated in the adopted budget statement except as authorized herein. If, as the result of unforeseen circumstances, the revenue of the current fiscal year shall be insufficient, the City Council may propose to supplement the previously adopted budget statement and shall conduct a public hearing at which time any taxpayer may appear or file a written statement protesting the application for additional money. A written record shall be kept of all such hearings. Notice of a place and time for the said hearing shall be published at least five days prior to the date set for the hearing in a newspaper of general circulation in the City. The published notice shall set forth the time and place of the proposed hearing, the amount of additional money required, the purpose of the required money, a statement setting forth the reasons why the adopted budget of expenditures cannot be reduced to meet the need for additional money, and a copy of the summary of the originally adopted budget previously published. Upon the conclusion of the public hearing on the proposed supplemental budget and approval by the City Council, said council shall file with the county clerk and the state auditor a copy of the supplemental budget and shall certify the amount of additional tax to be levied. The City Council may then issue warrants in payment for expenditures authorized by the adopted supplemental budget. The said war-

rants shall be referred to as "registered warrants" and shall be repaid during the next fiscal year from funds derived from taxes levied therefor.

SECTION 1-512: SPECIAL ASSESSMENT FUND

All money received on special tax assessments shall be held by the city treasurer as a special fund to be applied to the payment of the improvement for which the assessment was made. (Ref. Neb. Rev. Stat. §17-710)

SECTION 1-513: SINKING FUNDS

The City Council, subject to the limitations set forth herein, shall have the power to levy a tax not to exceed that prescribed by state law in addition to the amount of tax which may be annually levied for the purposes of the adopted budget statement of the City, for the purpose of establishing a sinking fund for the construction, purchase, improvement, extension or repair of the approved uses as authorized by state law. To initiate the said sinking fund, the City Council shall declare its purpose by resolution to submit to the qualified electors of the City the proposition to provide the improvement at the next general city election. The resolution shall set forth the improvement, the estimated cost, the amount of the annual levy, the number of years required to provide the required revenue, the name of the sinking fund proposed, and the proposition as it will appear on the ballot. Notice of the said proposition shall be published in its entirety three times on successive weeks before the day of the election in a legal newspaper of general circulation in the City. The sinking fund may be established after the election if a majority or more of the legal votes were in favor of the establishment of the fund. The City Council may then proceed to establish the said fund in conformity with the provisions of the proposition and applicable state law. The funds received by the city treasurer shall, as they accumulate, be immediately invested with the written approval of the City Council in the manner provided by state law. No sinking fund so established shall be used for any purpose or purposes contrary to the purpose as it appeared on the ballot unless the City Council is authorized to do so by 60% of the qualified electors of the City voting at a general election favoring such a change in the use of the sinking fund. (Ref. Neb. Rev. Stat. §19-1301 through 19-1304, 77-2337, 77-2339)

SECTION 1-514: DEPOSIT OF FUNDS

The City Council, at its first meeting in each fiscal year, shall designate one or more banks of approved and responsible standing in which the city treasurer shall keep at all times all money held by him/her; provided, if more than one bank in the City meets the requirements for approved banks as herein defined, the said funds shall be deposited in each of them and the city treasurer shall not give a preference to any one or more of them in the money he/she shall deposit. A bond shall be required from all banks so selected in a penal sum which equals the maximum amount on deposit at any time less the amount insured by the Federal Deposit Insurance Corporation or a pledge of sufficient assets of the bank to secure the payment of all such deposits. (Ref. Neb. Rev. Stat. §17-607, 77-2362 through 77-2364)

SECTION 1-515: INVESTMENT OF FUNDS

The City Council may, by resolution, direct and authorize the city treasurer to invest surplus funds in the outstanding bonds or registered warrants of the City, and other approved bonds and obligations as provided by law. The interest on such bonds or war-

rants shall be credited to the fund out of which the said bonds or warrants were purchased. (Ref. Neb. Rev. Stat. §17-608, 17-609, 72-1259, 77-2341)

SECTION 1-516: EXPENDITURES

No city official shall have the power to appropriate, issue or draw any order or warrant on the city treasury for money, unless the same has been appropriated or ordered by ordinance, or the claim for the payment of such order or warrant has been allowed according to Nebraska law and funds for the claim or out of which said claim is payable had been included in the adopted budget statement according to law.

SECTION 1-517: BOND ISSUES

The City Council may, after meeting all the requirements of state law, issue bonds, fund bonds, and retire bonds for such purposes as may be permitted by state law. The City Council shall have the authority to levy special assessments for the payment of interest and principal on such bonds, and may spread the payments up to the maximum number of years permitted by state law. (Ref. Neb. Rev. Stat. §10-201 through 10-411, 10-606 through 10-612, 12-1001, 17-529.08, 17-534, 17-905, 17-908, 17-911, 17-939, 17-958, 17-968, 18-1801 through 18-1805, 23-3513, 39-836)

SECTION 1-518: MOTOR VEHICLE TAX

The City Council of the City may levy a tax on all motor vehicles owned or used in such city, which tax shall be paid to the county treasurer of the county in which such city is located when the registration fees as provided in Neb. Rev. Stat. §60-329 to 60-339 are paid. Such taxes shall be credited by the county treasurer to the road fund of such city. Such funds shall be used by such city for constructing, resurfacing, maintaining or improving streets, roads, alleys, public ways, or parts thereof, for the amortization of bonded indebtedness when created for such purposes. (Ref. Neb. Rev. Stat. §18-1214)

ARTICLE VI – ELECTIONS

SECTION 1-601: ELECTION OF OFFICERS; CERTIFICATION

All city elections involving the election of officers shall be held in accordance with the Election Act and in conjunction with the statewide general election. No later than July 1 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 City, the number of officers to be elected, the length of the terms of office, the vacancies to be filled by election and length of remaining term, and the number of votes to be cast by a registered voter for each office. (Ref. Neb. Rev. Stat. §16-302.01, 32-401, 32-404, 32-532, 32-556)

SECTION 1-602: PRIMARY ELECTION; NUMBER OF CANDIDATES FILING

If the number of candidates properly filed for nomination at the primary election does not exceed two for each vacancy to be filled, all candidates properly filed shall be considered nominated, and no primary election for their nomination shall be required.

SECTION 1-603: TIE VOTES

In the case of a tie vote of any of the candidates in either the primary or general election, the county clerk shall notify such candidates to appear at his/her office on a given day and hour to determine the same by lot before the canvassing board, and the certificate of nomination or election shall be given accordingly. Notice to appear shall be given by certified mail. (Ref. Neb. Rev. Stat. §32-1122)

SECTION 1-604: FILING FEE

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

SECTION 1-605: VOTER QUALIFICATIONS

"Elector" shall mean a person of the constitutionally prescribed age or upwards, who shall have the right to vote for all officers to be elected to public office, and upon all questions and proposals, lawfully submitted to the voters at any and all elections authorized or provided for by the Constitution or the laws of the State of Nebraska, except school elections; provided, no person shall be qualified to vote at any election unless such person shall be a resident of the State and shall have been properly registered with the election official of the county. (Ref. Neb. Rev. Stat. §17-602, 32-110)

SECTION 1-606: PETITION CANDIDATES

Any registered voter who was not a candidate in the primary election may have his/her name placed on the general election ballot for a partisan office by filing petitions as prescribed in this section and Neb. Rev. Stat. §32-621, or by nomination by political party convention or committee. Any candidate who was defeated in the primary election and any registered voter who was not a candidate in the primary election may have his/her name placed on the general election ballot if a vacancy exists on the ballot under Neb. Rev. Stat. §32-626(1) and the candidate files for the office by petition as prescribed in this section. The number of signatures of registered voters needed to place the name of a candidate upon the nonpartisan ballot for the general election shall be at least 10% of the total number of registered voters voting for governor or president of the United States at the immediately preceding general election in the City. The number of signatures of registered voters needed to place the name of a candidate upon the partisan ballot for the general election shall be at least 20% of the total vote for governor or president of the United States at the immediately preceding general election within the City, not to exceed 2000. Petitions for nomination shall conform to the requirements of Neb. Rev. Stat. §32-628. Petitions shall state the office to be filled and the name and address of the candidate. Petitions for partisan office shall also indicate the party affiliation of the candidate. Petitions shall be signed by registered voters residing in the City and shall be filed with the filing officer in the same manner as provided for candidate filing forms in Neb. Rev. Stat. §32-607. Petition signers and circulators shall conform to the requirements of Neb. Rev. Stat. §32-629 and 32-630. No petition for nomination shall be filed unless there is attached thereto a receipt showing payment of the required filing fee.

The petitions shall be filed by September 1 in the year of the general election. (Ref. Neb. Rev. Stat. §32-616 through 32-618)

SECTION 1-607: NOMINATION BY WRITE-IN VOTES

Candidates for elected office may be nominated by write-in; however, when the name of a candidate who did not file or become a petition candidate for nomination is written in and voted for as a candidate for a council member, such person shall not be entitled to a certificate of nomination at a statewide primary election or have his/her name placed on the general election ballot unless he/she shall have received not less than 20% of the total vote cast for the candidate receiving the greatest number of votes in the precinct or ward at the preceding election in which candidates were elected to serve the precinct or ward.

SECTION 1-608: SPECIAL JOINT ELECTIONS

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

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/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 absentee ballots and shall also conduct the submission of the issue, including the receiving and counting of the ballots on the issue. The election returns shall be made to the election commissioner or county clerk. The ballots, including absentee ballots, shall be counted and canvassed at the same time and in the same manner as the other ballots. Upon completion of the canvass of the vote by the county canvassing board, the 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.
(Ref. Neb. Rev. Stat. §32-559)

SECTION 1-609: CERTIFICATE OF NOMINATION OR ELECTION

The city clerk shall, within 40 days after the election, prepare, sign and deliver a certificate of nomination or certificate of election to each person whom the canvassing board

has declared to have received the highest vote for each municipal office. A certificate of election prepared by the city clerk shall be in the form as nearly as possible prescribed in Neb. Rev. Stat. §32-1033 and shall be signed by the mayor under the seal of the City, and countersigned by the city clerk. (Ref. Neb. Rev. Stat §19-3041, 32-558, 32-1033)

SECTION 1-610: INABILITY TO ASSUME OFFICE

In any general election, where the person who received the highest number of votes in ineligible, disqualified, deceased, or for any other reason is unable to assume the office for which he was a candidate, and the electorate had reasonable notice of such disability at the time of election, the candidate in such election who received the highest number of votes shall be declared elected, and shall be entitled to the certificate of election; provided that any candidate so declared elected received not less than 35% of the total number of votes cast for such office in the election. If any of the qualifications of this section are not met by the candidate to be declared elected, or reasonable notice of the winner's ineligibility is not available to the voters, a vacancy in such office shall be declared to exist at the time of commencement of the term and shall be filled as prescribed by law.

SECTION 1-611: RECALL PROCEDURE

1. Any or all of the elected officials of the City may be removed from office by recall pursuant to Neb. Rev. Stat. §32-1301 to 32-1309.

2. Petition circulators shall conform to the requirements of the Election Act. The petition papers shall be procured from the city clerk. Each petition paper shall conform to the requirements of state law. Prior to the issuance of such petition papers, an affidavit shall be signed and filed with the city clerk by at least one registered voter. Such voter or voters shall be deemed to be the principal circulator(s) of the recall petition. The affidavit shall state the name and office of the official sought to be removed and shall request that the city clerk issue initial petition papers to the principal circulator for circulation. The city clerk shall notify the principal circulator that the necessary signatures must be gathered within 30 days from the date of issuing petitions.

3. The city clerk, upon issuing the initial petition papers or any subsequent petition papers, shall enter in a record, to be kept in his/her office, the name of the principal circulator to whom the papers were issued, the date of issuance, and the number of papers issued. The city clerk shall certify on the papers the name of the principal circulator to whom the papers were issued and the date they were issued. No petition paper shall be accepted as part of the petition unless it bears such certificate. The principal circulator who checks out petitions from the city clerk may distribution such petitions to registered voters residing in the City who may act as circulators of such petitions.

4. Petition signers shall conform to the requirements of the Election Act. Each signer of a recall petition shall be a registered voter and qualified by his/her place of residence to vote for the office in question on the date of the issuance of the initial petition papers.

5. A petition demanding that the question of removing a member of the City Council be submitted to the registered voters shall be signed by registered voters equal in number to at least 35% of the total vote cast for the person receiving the most votes for that office in the last general election.

6. The principal circulator shall file, as one instrument, all petition papers comprising a recall petition for signature verification with the city clerk within 30 days after the city clerk issues the initial petition papers to the principal circulator. Within 15 days after the filing of the petition, the city clerk shall ascertain whether or not the petition is signed by the requisite number of registered voters. No new signatures may be added after the initial filing of the petition papers. No signatures may be removed unless the city clerk receives an affidavit signed by the person requesting his/her signature be removed before the petitions are filed with the city clerk for signature verification. If the petition is found to be sufficient, the city clerk shall attach to the petition a certificate showing the result of such examination. If the requisite number of signatures has not been gathered, the city clerk shall file the petition in his/her office without prejudice to the filing of a new petition for the same purpose.

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

8. If a majority of the votes cast at a recall election are against the removal of the official named on the ballot or the election results in a tie, the official shall continue in office for the remainder of his/her term but may be subject to further recall attempts as provided in subsection 10 of this section. If a majority of the votes cast at a recall election are for the removal of the official named on the ballot, he/she shall, regardless of any technical defects in the recall petition, be deemed removed from office unless a recount is ordered. If the official is deemed removed, the removal shall result in a vacancy in the office which shall be filled as otherwise provided in this code and state law. If the election results show a margin of votes equal to 1% or less between the removal or retention of the official in question, the secretary of state, election commissioner or county clerk shall order a recount of the votes cast unless the official named on the ballot files a written statement with the city clerk that he/she does not want a recount. If there are vacancies in the offices of a majority or more of the members of the City Council at one time due to the recall of such members, a special election to fill such vacancies shall be conducted as expeditiously as possible by the secretary of state, election commissioner or county clerk.

9. No official who is removed at a recall election or who resigns after the initiation of the recall process shall be appointed to fill the vacancy resulting from his/her removal or the removal of another member of the City Council during the remainder of his/her term of office.

10. No recall petition shall be filed against an elected official within 12 months after a recall election has failed to remove him/her from office or within six months after the beginning of his/her term of office or within six months prior to the incumbent filing deadline for the office.

(Ref. Neb. Rev. Stat. §32-1301 through 32-1309)

SECTION 1-612: BALLOTS

The county clerk shall provide printed ballots for every general municipal election and the expense of printing and delivering the ballots and cards of instruction shall be a charge upon the City. (Ref. Neb. Rev. Stat. §32-1202)

SECTION 1-613: WARDS

All elected officials of the City shall be nominated and elected on an at-large basis. The City shall have one ward.

SECTION 1-614: 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 to any polling place or, if inside the polling place or building, within 100 feet of any voting booth. (Ref. Neb. Rev. Stat. §32-1525)

ARTICLE VII – PLANNING COMMISSION

SECTION 1-701: MEMBERS; TERM; REMOVAL; VACANCIES

The Planning Commission shall consist of five members, three of which shall be residents of the City and two of which may be residents of the area outside of the city limits over which the City is authorized to exercise extraterritorial zoning and subdivision regulations. The members shall represent, insofar as is possible, the different professions or occupations in the City and shall be appointed by the mayor by and with the approval of a majority vote of the City Council. All members of the commission shall serve as such without compensation and shall hold no other municipal office. The term of each member shall be three years. All 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 by and with the consent of a majority vote of the 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 term by the mayor. (Ref. Neb. Rev. Stat. § 19-926(1)) (Am. by Ord. No. 616, 1/19/09)

SECTION 1-702: ORGANIZATION; MEETINGS, RULES; RECORDS

The Planning Commission shall elect its chairman from its members and create and fill such other of its offices as it may determine. The term of chairman shall be one year, and he/she shall be eligible for re-election. The commission shall hold at least one regular meeting each month. It shall adopt rules for transaction of business and shall keep a record of its resolutions, transactions, findings and determination, which record shall be a public record.

SECTION 1-703: FUNDS; LIMIT UPON EXPENDITURES

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

SECTION 1-704: PURPOSE

It shall be the function and duty of the commission to make and adopt plans for the physical development of the City, including any areas outside its boundaries which, in the commission's judgment, bear relation to the planning of such city.

SECTION 1-705: DUTIES

The commission shall, from time to time, recommend to the appropriate public officials programs for public structures and improvements and for the financing thereof. Part of its duties shall be to consult and advise with public officials and agencies, public utility companies, civic, educational, profession and other organizations and with citizens with relation to the protecting or carrying out of the plan.

ARTICLE VIII – BOARD OF HEALTH

SECTION 1-801: MEMBERS

The Board of Health shall consist of four members: the mayor; a city physician, who shall be the medical advisor to the Board; the president of the City Council; and one other health care provider. The mayor shall act as chairman. The members of the Board shall serve one-year terms of office, unless reappointed, and shall reorganize at the first meeting in December of each general election year. (Ref. Neb. Rev. Stat. 17-121)

SECTION 1-802: POWERS AND DUTIES

A majority of the Board shall constitute a quorum and shall enact rules and regulations to safeguard the health of the people of the city and shall provide fines and punishments for the violations thereof. The Board is authorized and directed to make all necessary rules and regulations relating to matters of sanitation, including the removal of dead animals, and sanitary conditions of the streets and alleys, and vacant grounds and of private and public stock yards and all other buildings and places where filth, nuisances or offensive matter is kept or is liable to and does accumulate. It shall suppress and prevent the occurrence of nuisances and enforce all laws of the State and ordinances of the City relating to the matters of sanitation of the City. It shall keep a record of all matters transacted at its meetings and all actions taken by it, which records shall be filed with the city clerk and be part of the public records of the City. (Ref. Neb. Rev. Stat. §17-121)

SECTION 1-803: DEPOSITING OR PERMITTING DEPOSIT OR ACCUMULATION OF ANY SUBSTANCE DETRIMENTAL TO HEALTH OR OFFENSIVE TO SMELL; PENALTY

It shall be unlawful for any person to deposit, or permit the deposit or accumulation of any garbage, refuse of any kind or article or thing which is detrimental to health or from which obnoxious or offensive odors arise, on the streets, alleys or public grounds or on any private premises including enclosures in which livestock is kept within said city, and any person who violates this section and shall fail to remove such objectionable substances or otherwise comply with the orders of the Board of Health with reference thereto within 24 hours from the receipt of written notice thereof, upon conviction shall be fined in a sum not to exceed $500.00 for each offense, and the offensive matter shall be

ordered removed by or at the expense of the defendant. Each 24-hour failure to comply with the orders of the Board of Health shall constitute a separate and distinct offense.

ARTICLE IX – CITY TREE BOARD

SECTION 1-901: CREATION AND ESTABLISHMENT

The City Council may create and establish a Tree Board for the City. If created, it shall consist of five permanent members and as many advisory members as the City Council determines necessary. The permanent members shall be citizens and residents of this City and the advisory members shall be residents of Washington County. Such permanent and advisory members shall be appointed by the mayor with the approval of the City Council. In the event that a vacancy shall occur during the term of any member, his/her successor shall be appointed by the mayor with the approval of the City Council for the unexpired term.

SECTION 1-902: DEFINITIONS

"Street trees" are herein defined as trees, shrubs, bushes and all other woody vegetation on land lying between property lines on either side of all streets, avenues, or ways with the City.

"Park trees" are herein defined as trees, shrubs, bushes and all other woody vegetation in public parks having individual names, and all areas owned by the City, or to which the public has free access as a park.

"Nuisance or obstruction" is hereby defined as trees and shrubs growing upon or near the lot line or upon public ground, including the public owned sidewalk space, and interfering with the use or construction of any public improvements.

SECTION 1-903: TERM OF OFFICE

The term of the five persons to be appointed by the mayor with the approval of the City Council shall be three years with staggered terms, so that two members' terms shall expire every two years. The advisory members shall have no term and shall serve at the pleasure of the mayor and City Council. In the event that a vacancy shall occur during the term of any member, his/her successor shall be appointed for the unexpired portion of the term.

SECTION 1-904: COMPENSATION

Members of the Tree Board shall serve without compensation.

SECTION 1-905: DUTIES AND RESPONSIBILITIES

It shall be the responsibility of the Tree Board to study, investigate, counsel and develop and/or update annually and administer a written plan for the care, preservation, pruning, planting, replanting, removal or disposition of trees and shrubs in parks, along streets and in other public areas. Such plan will be presented annually to the City Council and, upon their acceptance and approval, shall constitute the official comprehensive city tree plan. The Tree Board, when requested by the Council, shall consider, investigate, make

finding, report and recommend upon any special matter of question coming within the scope of its work.

SECTION 1-906: OPERATION

The Tree Board shall choose its own officers, make its own rules and regulations and keep a minute book of its proceedings. A majority of its members shall be a quorum for the transaction of business.

SECTION 1-907: STREET TREE SPECIES TO BE PLANTED

The tree list adopted by the Tree Board and published by them constitutes the official street tree species for the City. No species other than those included in this list may be planted as street trees without written permission of the Tree Board.

SECTION 1-908: SPACING

The spacing of street trees will be in accordance with the three species size classes listed in the tree list and no trees may be planted closer together than the following: small trees, 30 feet; medium trees, 40 feet; and large trees, 50 feet; except in special plantings designed or approved by a landscape architect.

SECTION 1-909: DISTANCE FROM CURB AND SIDEWALK

The distance trees may be planted from curbs or curblines and sidewalks will be in accordance with the three species size classes listed in the tree list and no trees may be planted closer to any curb or sidewalk than the following: small trees, two feet; medium trees, three feet; and large trees, four feet.

SECTION 1-910: DISTANCE FROM STREET CORNERS AND FIREPLUGS

No street tree shall be planted closer than 35 feet of any street corner, measured from the point of nearest intersecting curbs or curblines. No street tree shall be planted closer than ten feet of any fireplug.

SECTION 1-911: UTILITIES

No street trees other than those species listed as small trees in the tree list may be planted under or within ten lateral feet of any overhead utility wire, or over or within five lateral feet of any underground water line, sewer line, transmission line or other utility.

SECTION 1-912: PUBLIC TREE CARE

The City shall have the right to plant, subject to Section 1-913 herein, prune, maintain and remove trees, plants and shrubs within the lines of all streets, alleys, avenues, lanes, squares and public grounds, as may be necessary to insure public safety or to preserve or enhance the symmetry and beauty of such public grounds. This section does not prohibit the planting of street trees by adjacent property owners, providing that the selection and location of said trees is in accordance with this article.

SECTION 1-913: CONSENT OF PROPERTY OWNER

The City Tree Board shall plant no trees on public right of way without the consent of the adjacent property owners. Such consent shall be in writing and shall be maintained as part of the official Tree Board records.

SECTION 1-914: TREE TOPPING

It shall be unlawful as a normal practice for any person, firm or city department to top any street tree, park tree or other tree on public property. Topping is defined as the severe cutting back of limbs to stubs larger than three inches in diameter within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree. Trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions where other pruning practices are impractical may be exempted from this article at the determination of the Tree Board.

SECTION 1-915: PRUNING, CORNER CLEARANCE

Every owner of any tree overhanging any street or right of way within the City shall prune the branches, so that such branches shall not obstruct the light from any street lamp or obstruct the view of any street intersection, and so that there shall be a clear space of eight feet above the surface of the street or sidewalk.

SECTION 1-916: DEAD OR DISEASED TREE REMOVAL ON PRIVATE PROPERTY

1. All trees that are in a diseased, dying or dead condition are declared to be a public nuisance and shall be removed by the property owner from the private property on which they are located. For the purpose of carrying out the provisions of this section, the City Tree Board shall have the authority to enter on private property to inspect the trees thereon. In the event that the trees are diseased or dead, notice shall be given to the owner of the property by mail or personal service and such notice shall allow the said owner 60 days to remove the said tree or trees. In the event that the owner is a non-resident, notice shall be made by publication in a newspaper of general circulation, or by certified mail if the name and address is known.

2. The person charged with the removal may enter into an agreement with the City that such work be accomplished by the City, and the expense shall be declared to be a lien upon such property from the time the same becomes due until paid. If the owner fails, neglects or refuses to enter into such an agreement, or to remove the trees, the Tree Board may enter upon the property and proceed to direct the removal of the trees and the cost thereof shall be chargeable to the property owner. If the owner fails to reimburse the City after being properly billed, the costs shall be assessed against the property and certified by the city clerk to the county treasurer to be collected in the manner prescribed by law.

3. In the event the property owner is a non-resident of the county in which the property lies, the City shall, before levying any special assessment against that property, send a copy of any notice required by law to be published by means of certified mail, return receipt requested, to the last known address of the non-resident property owner. The last known address shall be that address listed on the current tax rolls at the time such required notice was first published.

SECTION 1-917: REMOVAL OF STUMPS

All stumps of street and park trees shall be removed below the surface of the ground so that the top of the stump shall not project above the surface of the ground.

SECTION 1-918: INTERFERENCE WITH CITY TREE BOARD

It shall be unlawful for any person to prevent, delay or interfere with the City Tree Board, or any of its agents, while engaging in and about the planting, cultivating, mulching, pruning, spraying or removing of any street trees, park trees, or trees on private grounds, as authorized in this article.

SECTION 1-919: REVIEW BY CITY COUNCIL

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

ARTICLE X – BOARD OF PARK COMMISSIONERS

SECTION 1-1001: MEMBERS; TERMS; COMPENSATION

The Board will be composed of no fewer than six members, with no fewer than three of members being residents of the City. No more than three of the Board's members may be drawn from persons who are non-residents of the City but do own real estate within the City and have an interest in parks and recreation. Only city residents will be voting members and those who are not residents of the City will be non-voting members. A quorum of the Board will consist of a simple majority of voting members. The members shall be appointed by the mayor with the approval of the City Council and shall serve terms of three years. The board members shall serve without compensation and may be required, at the discretion of the City Council, to give a bond in a sum set by resolution of the Council, conditioned upon the faithful performance of their duties. (Neb. Rev. Stat. §17-952) (Am. by Ord. Nos. 598, 1/21/08; 642, 4/19/10, 661, 1/17/11)

SECTION 1-1002: ORGANIZATION; DUTIES

1. At the time of the Board's first meeting in February of each year, the members shall organize by selecting from their number a president and secretary. It shall be the duty of the secretary to keep the full and correct agendas, minutes and records of all meetings and to file the same with the city clerk, where they shall be available for public inspection during office hours. A simple majority of voting members of the Board shall constitute a quorum for meetings. The Board shall hold regular monthly meetings on the first Thursday of each month from February to October at 7:00 P.M. Special meetings may be held upon the call of the president or any two of the board members.

2. It shall be the duty of the Board to have charge of all parks and recreational facilities belonging to the City. The Board shall have the power to establish rules for the care and use of the same. All accounts against the park fund shall be audited by such Board. All actions of the Board shall be subject to the review and control of the City Council.
(Am. by Ord. Nos. 604, 3/17/08; 642, 4/19/10)

SECTION 1-1003: EXPENDITURES

All expenditures of the Board for salaries and wages of its employees and all other expenses for the maintenance and operation of the parks of said city shall be audited and approved by the Board and presented to the City Council for final approval and payment. The Board shall not enter into any contracts of any nature involving an expenditure of more than $500.00 unless such contracts have been approved by the majority of the members of the City Council. (Ref. Neb. Rev. Stat. §17-952) (Am. by Ord. No. 642, 4/19/10)

SECTION 1-1004: PARKS; OPERATION AND FUNDING

The City owns and operates the city parks and other recreational areas through the Board of Park Commissioners. The City Council, for the purpose of defraying the cost of the care, management and maintenance of the city park, may each year levy a tax not exceeding the maximum limit prescribed by state law on the actual valuation of all real estate and personal property within the corporate limits that is subject to taxation. The revenue from the said tax shall be known as the Park Fund and shall remain in the custody of the city treasurer. The Board shall have the authority to adopt rules and regulations for the efficient management of the city parks and other recreational areas of the City. The Board 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 a majority of the City Council prior to the contractual agreement. (Neb. Rev. Stat. §17-948 through 17-952) (Am. by Ord. No. 642, 4/19/10)

SECTION 1-1005: PARKS; INJURY TO PROPERTY; LITTERING

It shall be unlawful for any person to maliciously or willfully cut down, injure or destroy any tree, plant or shrub. It shall be unlawful for any person to injure or destroy any sodded or planted area or injure or destroy any building, structure, equipment, fence, bench, table or any other property of the city parks and recreational areas. No person shall commit any waste on or litter the city parks or public grounds.

SECTION 1-1006: PARKS; ANIMALS AND VEHICLES PROHIBITED

It shall be unlawful for any person to ride, drive, have or bring any horse, mule or donkey in, over or through any park or to operate any vehicle propelled by any power other than muscular power in, over or through any park. This section shall not apply to officers or employees of the City while engaged in the performance of their regular duties.

ARTICLE XI – BOARD OF ADJUSTMENT

SECTION 1-1101: MEMBERS; TERM OF APPOINTMENT

Membership of the Board of Adjustment, length of terms, the grounds and procedures for removal, and the filling of vacancies shall be governed by Neb. Rev. Stat. §19-908.

SECTION 1-1102: POWERS AND DUTIES

A Board of Adjustment is hereby established in strict conformity with Article 9 of Chapter 19 of the Revised Statutes of Nebraska and shall have all of the powers and perform all of the duties set forth therein.

SECTION 1-1103: APPEALS TO BOARD

1. The Board of Appeals shall have the following powers and duties: (A) to hear and decide appeals where 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; (B) to hear and decide in accordance with the provisions of any zoning regulation, requests for interpretation of any map; and (C) to grant or deny variances, explicitly following the provisions of Neb. Rev. Stat. §19-910(3).

2. Within the scope of the foregoing, all questions concerning interpretation or enforcement of the zoning and subdivision chapters of the Land Development Ordinance of the City of Fort Calhoun (Ordinance No. 454, 1/15/96), shall first be presented to the Planning Commission of this city and any appeals from its decisions shall be made to the Board of Adjustment. Similarly, in the event it is claimed that the true intent and meaning of any building codes adopted by reference in the municipal code of this city have been wrongfully interpreted by the building inspector or other administrative official or agency, the person so claiming may appeal to the Board of Adjustment through the office of the city clerk by following the procedure for appeals as set forth in subsection (b) of Chapter 12, Section 8 of the zoning chapter of the Land Development Ordinance of this city. Appeals from decisions of the Board of Adjustment shall be taken to the District Court of Washington County, Nebraska.

SECTION 1-1104: RULES AND REGULATIONS

The procedural rules and regulations governing the operation of the Board of Adjustment shall be those as set forth in Neb. Rev. Stat. §19-907 through 19-912. The Board of Adjustment may also adopt any additional rules and regulations as may facilitate its operation.

ARTICLE XII - PENAL PROVISION

SECTION 1-1201: VIOLATION; PENALTY

Any person who shall violate or refuse to comply with the enforcement of any of the provisions of this chapter, whether set forth at full length herein or incorporated by reference, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in a sum of not more than $500.00 for each offense. A new violation shall be deemed to have been committed every 24 hours of such failure to comply.

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CHAPTER II – MISDEMEANORS

ARTICLE I – MISDEMEANORS

SECTION 2-101: DRINKING ON STREETS, IN PUBLIC PLACES OR ON PUBLIC PROPERTY; PERMITS FOR; APPLICATION

1. It shall be unlawful for any person to drink alcoholic liquor of any kind on the streets or alleys, or upon property used or owned by the government of the United States, the State of Nebraska, or any governmental subdivision thereof, or in theaters, dance halls or in any other place open to or frequented by the public within said city, unless such premises are licensed for such purposes by the State or unless a special permit has been granted for the same by the City Council.

2. Upon application for a special permit for the consumption of alcoholic liquor on public streets or other public places, the City Council may permit such consumption on such terms and conditions as it may determine. For such permit to be issued, written application must be made to the city clerk and the same must be acted upon at a special or regular meeting of the City Council. The terms and conditions for issuance of a special permit shall be set forth in the minutes of the meeting at which such application is considered.
(Ref. Neb. Rev. Stat. §53-186, 53-1,100)

SECTION 2-102: DISTURBING THE PEACE

It shall be unlawful for any person to disturb the peace and quiet of any person, family, neighborhood or public assembly or to make any loud, boisterous or unusual noise, or to quarrel, curse, swear or use obscene or indecent language within this city so as to disturb the peace and quiet of any person.

SECTION 2-103: EXCESSIVE NOISE

It is hereby determined to be unlawful to operate industrial equipment, heavy machinery, jack hammer and other industrial equipment emitting loud noise or to race automobile engines within the City between the hours of 8:00 P.M. and 7:00 A.M., in such a manner so as to disturb the comfort, repose, peace and quiet of residents of the City unless such activity has been approved in advance by the City Council.

SECTION 2-104: DISORDERLY CONDUCT

It shall be unlawful for any person to engage in any riotous or disorderly conduct, or to fight, strike or assault another person in a threatening manner, or to do or engage in any other disorderly act within said city. (Ref. Neb. Rev. Stat. §17-129, 17-556)

SECTION 2-105: MALICIOUS DESTRUCTION OF PROPERTY

It shall be unlawful for any person, wantonly or maliciously, in any manner to molest, injure or destroy any property of another in this city.

SECTION 2-106: MALICIOUS MISCHIEF

It shall be deemed a misdemeanor for any person to willfully destroy, mutilate, deface, injure or remove any tomb, monument, gravestone, structure or thing of value which is located upon any government property, cemetery or property of historic value. Any such

offender shall be liable, in an action for trespassing in the name of the beneficial holder of said property, for all damages which arise from the commission of such unlawful act.

SECTION 2-107: CRIMINAL TRESPASS

It shall be unlawful for any person, knowing that he/she is not licensed or privileged to do so, to:

1. Enter or secretly remain in any building or occupied structure, or any separately secured or occupied portion thereof; or

2. Enter or remain in any place as to which notice against trespass is given by: (A) actual communication to the actor; or (B) posting in a manner prescribed by law or reasonably likely to come to the attention of intruders; or (C) fencing or other enclosure manifestly designed to exclude intruders.
(Ref. Neb. Rev. Stat. §28-520, 28-521)

SECTION 2-108: DISTURBING AN ASSEMBLY

It shall be unlawful for any person to disturb, interrupt or interfere with any lawful assembly of people, whether religious or otherwise, by loud and unnecessary noise, threatening behavior, refusal to leave when ordered or other conduct or action which interferes with the lawful discharge of business.

SECTION 2-109: DISCHARGE OF SLINGSHOTS, PAINTBALL GUNS, BLOW GUNS, AIR RIFLES OR SIMILAR INSTRUMENTS

It shall be unlawful for any person to discharge a slingshot, paint ball gun, blow gun, air rifle or other like instruments capable of launching a dangerous projectile therefrom at any time or under any circumstances within the City or within a one-half mile radius of the City where the projectile from the piece could reach the city limits of the City; provided nothing herein shall be construed to apply to officially sanctioned public celebrations if the person so discharging the firearm has written permission from the City Council.

SECTION 2-110: WINDOW PEEPING

It shall be unlawful for any person to maliciously or stealthily go upon the premises of another in said city and look or peep into any window, door or other opening in any building located thereon which is occupied as a place of abode, or to go upon the premises of another for the purpose of looking or peeping into any window, door or other opening in any building thereon which is occupied as a place of abode.

SECTION 2-111: STALKING

Any person who willfully and maliciously harasses another person with the intent to terrify, threaten or intimidate commits the offense of stalking. For purposes of this section, "harass" shall mean to engage in a knowing and willful course of conduct directed at a specific person which seriously terrifies, threatens, or intimidates the person and which serves no legitimate purpose, and "course of conduct" shall mean a pattern of conduct

composed of a series of acts of following, detaining, restraining the personal liberty of or stalking the person or repetitiously telephoning the person.

SECTION 2-112: GAMBLING

It shall be unlawful for any person to participate in bingo games, lotteries or games of chance in this city unless authorized and licensed by state law. (Ref. Neb. Rev. Stat. §28-1101 through 28-1104)

SECTION 2-113: HOUSE OF PROSTITUTION; DISORDERLY HOUSE

It shall be unlawful for any person to keep, operate or maintain or to be an inmate of or visit a house of prostitution or a disorderly house within this city. A house of prostitution shall be construed to mean a house or other place which is kept, used or operated as a place for hire for prostitution purposes. A disorderly house shall be construed to mean any place kept in such a manner as to disturb, annoy or scandalize the public generally or persons within the particular neighborhood, or any place used as a public resort by drunkards, prostitutes or other idle or vicious persons, or any place of public resort where illegal practices are habitually carried on to the corruption of public morals.

SECTION 2-114: INDECENT EXPOSURE OF PERSON; PUBLIC URINATION; INDECENT BOOK, PICTURE, PLAY DESIGN

It shall be unlawful for any person within this city to make an indecent exposure of his or her person (in the case of a male, such indecent exposure would consist of public exhibit of his genitals, and in the case of a female, indecent exposure would be public exposure of her nipples and/or genitals); to urinate or defecate in public view; to commit any indecent or lewd act; or to sell or offer for sale, or to dispense of in any manner any obscene, lewd or indecent book, picture or other publication or thing; to exhibit or perform any indecent, immoral, lewd or obscene play or other representation; or in any public place to write, draw, or make any profane, obscene, indecent or lewd work, sentence, figure or design.

SECTION 2-115: CARRYING CONCEALED WEAPONS; DISCHARGING FIREARMS, ETC.

It shall be unlawful for any person, except a police officer in the performance of his/her duties, to carry any dangerous weapons concealed on or about his/her person, his/her automobile or elsewhere, or to discharge any firearms, air gun or slingshot loaded with rock or other dangerous missiles, within this city; provided, this section shall not apply to shooting galleries or other private shooting ranges within buildings or other structures approved by the mayor and City Council. (Ref. Neb. Rev. Stat. §28-1202)

SECTION 2-116: RESISTING OR FAILING TO ASSIST OFFICER

It shall be unlawful for any person in this city to hinder, obstruct or resist any police officer or policeman in making any arrest or performing any duty of his/her office, or to refuse or neglect to assist any such officer when called upon by him/her in making of any arrest or the conveying of a prisoner to jail. (Ref. Neb. Rev. Stat. §28-903, 28-904)

SECTION 2-117: IMPERSONATING OFFICER

It shall be unlawful for any person in said city, other than a regular policeman or other authorized officer or employee of the city, to wear a badge similar to or resembling the badges prescribed for or furnished the police force or any other officer or employee of the city, or to willfully impersonate, or endeavor to impersonate, any such policeman, officer or employee or seek to exercise authority as such. (Ref. Neb. Rev. Stat. §28-610)

SECTION 2-118: OBSTRUCTING OFFICER

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

SECTION 2-119: LITTERING

1. 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 (A) such property is in an area designated by law for the disposal of such material and such person is authorized by the proper public authority to so use such property; or (B) the litter is placed in a receptacle or container installed on such property for such purpose.

2. Definitions.

   A. "Litter" as used in this section shall mean all waste material susceptible to being dropped, deposited, discarded or otherwise disposed of by any person upon any property in the state, but does not included wastes of primary processes of farming or manufacturing.

   B. "Waste material" as used in this section shall mean any material appearing in a place or in a context not associated with the material's function or origin.

3. Whenever litter is thrown, deposited, dropped or dumped from any motor vehicle or watercraft in violation of this section, the operator of such motor vehicle or watercraft commits the offense of littering.
(Ref. Neb. Rev. Stat. §17-123.01, 28-523)

SECTION 2-120: TRASH

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

SECTION 2-121: APPLIANCES IN YARD

It shall be unlawful for any person to permit any household appliance to be stored in the open on private or public property. (Ref. Neb. Rev. Stat. §18-1720)

SECTION 2-122: POSTING

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

SECTION 2-123: OBSTRUCTION OF PUBLIC WAYS

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

SECTION 2-124: 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.

SECTION 2-125: STREET GAMES

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

SECTION 2-126: INJURY TO TREES

It shall be unlawful for any person to purposely or carelessly, and without lawful authority, cut down, carry away, injure, break down, or destroy any fruit, ornamental, shade or other tree standing or growing on any land belonging to another person or on any public land in the corporate limits of the City. Any public service company desiring to trim or cut down any tree, except on property owned and controlled by them, shall make an application to the City Council to do so, and the written permit of the Council in accordance with their decision to allow such an action shall constitute the only lawful authority on the part of the company to do so.

SECTION 2-127: DEAD ANIMALS

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

SECTION 2-128: SEXUAL PREDATORS

1. *Definitions.* For purposes of the Sexual Predator Residency Restriction Act:

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

B. “Political subdivision” means a village, a city, a county, a school district, a public power district, or any other unit of local government;

C. “School” means a public, private, denominational, or parochial school which meets the requirements for accreditation or approval prescribed in Neb. Rev. Stat. Chapter 79;

D. “Sex offender” means an individual who has been convicted of a crime listed in Neb. Rev. Stat. §29-4003 and who is required to register as a sex offender pursuant to the Sex Offender Registration Act; and

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

2. *Residency Restrictions.* It is hereby determined unlawful for any sexual predator to reside with 500 feet of a school or child care facility. For the purpose of determining the minimum distance separation, the distance shall be measured at a straight line from the closest point of the sexual predator's place of residence property line to the property line of the school or child care facility.

3. *Exceptions.* These restrictions shall not apply to any sexual predator who (A) resides in a prison or correctional or treatment facility operated by the state or a political subdivision; (B) established a residence within such minimum distance before July 1, 2006, and has not moved from that residence; or (C) established a residence after July 1, 2006, but a school or child care facility triggering the restriction was established after the initial date of the sexual predator's residence at that location.

4. *Public Assistance*. The Nebraska State Patrol and all other law enforcement officials shall be charged with the enforcement within the jurisdiction of this city of the Nebraska Sexual Predator Residency Restriction Act. Any person subject to said Act shall be provided with a copy of this section and any current amendments upon making request to the City.

5. *Severability*. If any provision of this section or its application to any person or circumstances shall be held invalid, the remainder of this section, or the application of the provisions to other persons or circumstances, shall not be affected.
(Ord. No. 560, 6/19/06) (Am. by Ord. No. 660, 12/20/10)

ARTICLE II – CURFEW

SECTION 2-201: CURFEW HOURS

It shall be unlawful for any person under the age of 16 years to loiter, idle, wander, stroll, play or be in or upon the public streets, public places and public buildings, places

of amusement and entertainment, vacant buildings, vacant lots or otherwise operate any bicycle or other vehicle, in, upon, over or through the streets of other public places of the city between the hours of 11:00 P.M. of any day until the hour of 6:00 A.M. of the following day, unless such person is accompanied by a parent, guardian or other adult person having the legal care and custody of said minor person or unless the minor person is upon an emergency errand or legitimate business, directed by his/her parents, guardian or legal custodian, except as hereinafter provided.

SECTION 2-202: CURFEW HOURS EXTENDED

Nothing herein contained shall prohibit said minor persons from attending special school functions or adult supervised entertainment conducted by any school, church or fraternal organization, which continue beyond the curfew hours as set out in Section 2- 201 above. In all such cases the hours herein prohibited shall be extended for those minors attending said special social function or entertainment one hour after the closing of said special function.

SECTION 2-203: VIOLATION; PARENTAL LIABILITY

It shall be unlawful for the parent, guardian or other adult person, having the care and custody of minors under the age of 16 years to allow or permit said minor person to do any of the acts or things prohibited by Section 2-201 or 2-202.

SECTION 2-204: ENFORCEMENT; POLICE AUTHORIZATION

Every member of the police force, while on duty, shall be authorized to detain any such minor willfully violating the provisions of this ordinance, and upon apprehension of said minor shall forthwith notify by telephone or other appropriate means the parents or legal guardians or person in custody of said minor child.

SECTION 2-205: PENALTIES

Any violation of the foregoing provisions of this article shall constitute a misdemeanor and shall be punishable by a warning for the first offense, a fine of $10.00 for the second offense, and a third and any subsequent violation shall constitute a violation of Section 2-203 and a complaint shall be filed against the parents of said child for violation of such section.

ARTICLE III – DOGS

(Article amended by Ord. No. 669, 10/17/11)

SECTION 2-301: DEFINITIONS

“Animal Control Authority” shall mean an entity authorized by the City Council of Fort Calhoun to enforce the animal control laws of the City or, in the absence of such authorization the council, in whole or in part, may act as the Animal Control Authority.

"Animal control officer" shall mean any individual employed, appointed or authorized by

the Animal Control Authority or the City Council for the purpose of aiding in the enforcement of this act or any other law or ordinance relating to the licensing of animals, control of animals, or seizure and impoundment of animals and shall include any state or local law enforcement personnel or other employee whose duties in whole or in part include assignments that involve the seizure and impoundment of any animal.
(Ref. Neb. Rev. Stat. §54-617)

SECTION 2-302: OWNER DEFINED

Any person who shall harbor or permit any dog or cat to be present for ten days or more in or about his or her house, store or enclosure or allow it to remain to be fed shall be deemed liable for all penalties herein described. (Ref. Neb. Rev. Stat. §54-606, 71-4401)

SECTION 2-303: LICENSES

1. Any person who shall own, keep or harbor a dog or cat over the age of six months within the City shall, within ten days after acquisition of said dog or cat, acquire a license for each such dog or cat annually by or before January 30 each year. The license fee shall be delinquent from and after March 15; provided, the possessor of any dog or cat brought into or harbored within the corporate limits subsequent to January 30 of any year shall be liable for the payment of the license fee levied herein and such fee shall be delinquent if not paid within ten days thereafter.

2. Licenses shall be issued by the City. Said license shall not be transfer-able and no refund will be allowed in case of death, sale, or other disposition of the licensed dog or cat.

3. The owner shall state at the time the application is made, upon a printed form provided for such purpose, his or her name and address and the name, breed, color, and sex of each dog or cat owned and kept by him or her. A certificate that the dog or cat has had a rabies vaccination, 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.

4. License fees for dogs and cats shall be set by ordinance of the City Council and shall be on file in the city office, where they shall be available for inspection by the public during office hours.
(Ref. Neb. Rev. Stat. §54-603) (Penalties: See Sections 2-340 through 2-342)

SECTION 2-304: LICENSE TAGS

Upon payment of the required license fee, the City shall issue a numbered receipt and tag as necessary to the owner for the dog or cat licensed. Tags shall be issued annually or at another interval determined by the City. (Ref. Neb. Rev. Stat. §17-526, 54-603)

SECTION 2-305: NUMBER RESTRICTED

It shall be unlawful to own, keep or harbor at any time more than three dogs and/or three cats over the age of four months per residential or dwelling unit in the City; provided, however, this section shall not apply to kennels and catteries. (Penalties: See Sec-

tions 2-340 through 2-342)

SECTION 2-306: EXCEPTIONS

Notwithstanding any other provision herein, the provisions of this article shall not be deemed to apply to, or in any way to interfere with, the ordinary conduct and operation of veterinary clinics, biological laboratories or pet shows when conducted within the City.

SECTION 2-307: 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 but no license fee 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 fee. (Ref. Neb. Rev. Stat. §54-603)

SECTION 2-308: WRONGFUL LICENSING

It shall be unlawful for the owner, keeper, or harborer of any dog or cat to permit or allow such dog or cat to wear any license, or other city identification other than that issued by the City for such dogs or cats. (Ref. Neb. Rev. Stat. §17-526) (Penalties: See Sections 2-340 through 2-342)

SECTION 2-309: 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 or cat without the consent of the owner, keeper, or possessor thereof. (Ref. Neb. Rev. Stat. §17-526) (Penalties: See Sections 2-340 through 2-342)

SECTION 2-310: UNLAWFUL USE

It shall be unlawful for any person to make use of a dog or cat in the commission or furtherance of any criminal act in the City. (Penalties: See Sections 2-340 through 2-342)

SECTION 2-311: FIGHTING

It shall be unlawful for any person, by agreement or otherwise, to set dogs or cats to fighting or by any gesture or word to encourage the same to fight. (Ref. Neb. Rev. Stat. §17-526, §28-1004 to 28-1005.01) (Penalties: See Sections 2-340 through 2-342)

SECTION 2-312: KILLING AND POISONING

It shall be unlawful to kill, administer, or cause to be administered poison of any sort to a dog or cat or in any manner to injure, maim, or destroy, or in any manner attempt to injure, maim, or destroy any dog or cat that is the property of another person or to place any poison or poisoned food where the same is accessible to a dog or cat; provided,

this section shall not apply to the City and/or its agents acting within its or their power and duty. (Ref. Neb. Rev. Stat. §28- 1008 and §28-1014) (Penalties: See Sections 2-340 through 2-342)

SECTION 2-313: 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 vehicles while they are on any public sidewalks, streets, or alleys in the City. (Penalties: See Sections 2-340 through 2-342)

SECTION 2-314: OFFENSIVE CATS

It shall be unlawful for any person to own, keep, or harbor any cat which shall annoy or disturb any neighborhood or person. (Ref. Neb. Rev. Stat. §17-526) (Penalties: See Sections 2-340 through 2-342)

SECTION 2-315: RUNNING AT LARGE

Any dog or cat found to be at large upon the private premises of others or upon the public grounds, streets or highways of the City is hereby declared to be a public nuisance. It shall be unlawful for any person or persons to have any dog or cat which is owned, kept, harbored, or allowed to be habitually in or upon the premises occupied by him, her or them or under his, her or their control to be at large and to go in or upon the private premises of others or upon the public grounds, streets or highways of the City; and it shall be unlawful for such person or persons to own, keep, or harbor, or to have in or upon the premises occupied by him, her or them or under his, her or their control any dog or cat, unless said dog or cat is securely fastened by a chain or otherwise confined in or upon said premises in some enclosure. However, when a dog or cat is away from the occupied premises there is no violation of this section if the dog or cat is on a secure leash and under control of the owner or other person. (Ref. Neb. Rev. Stat. §17-526, §17-548) (Penalties: See Sections 2-340 through 2-342)

SECTION 2-316: DOGS; RESTRAINT

It shall be unlawful for the owner of any dog within the City to fail to keep his or her dog securely restrained or otherwise confined in or upon his or her premises in an enclosure sufficient to contain the dog. Each animal shall be separately tethered. No animal shall be tethered outdoors in excess of 15 minutes at any one time unless an owner, custodian or person responsible for the animal, 19 years of age or older, is present in the same yard in which the animal is tethered. The tether shall be at least five times the length of the animal's body as measured from the tip of the nose to the base of the tail, terminates at each end with a swivel, weighs no more than one-eighth of the animal's weight, is free of tangles, prevents strangulation or injury and prevents the animal from being within 15 feet from the edge of any public street or sidewalk; provided, if the tethering method is a trolley system, at least 15 feet in length and less than 7 feet above ground and meets the foregoing tether requirements, the animal may be tethered outdoors for up to one hour with an owner, custodian or person responsible for the animal, 19 years of age or older, in the same yard in which the animal is tethered. In addition to the sanctions which may be imposed by law, any person who fails to keep his or her

dog securely restrained or otherwise confined as required by this section shall pay the following penalties, which shall be paid to the City:

1. First violation, $100.00.
2. Second violation within 24 months of the first violation, $250.00.
3. Third violation within 24 months of the first violation and each subsequent violation thereafter, $500.00.

SECTION 2-317: DAMAGING PROPERTY OF OTHERS

It shall be unlawful for the owner of a dog or cat to allow or permit his or her dog or cat to damage the property of others or to cause bodily injury. If the owner is adjudged guilty of a violation of this section, the court may, in addition to the penalty provided for the violation of this Code, order such disposition or destruction of the offending dog or cat as may seem reasonable and proper. (Ref. Neb. Rev. Stat. §17-526 and §54-601) (Penalties: See Sections 2-340 through 2-342)

SECTION 2-318: DANGEROUS AND POTENTIALLY DANGEROUS DOGS OR CATS; GENERALLY

1. No person shall own, keep or harbor, or allow to be in or upon any premises occupied by him or her or under his or her charge or control any dangerous dog, cat or potentially dangerous dog or cat without complying with the requirements of this chapter regarding dangerous or potentially dangerous animals.

2. A “dangerous dog or cat” is defined as one who meets one or more of the following conditions:

A. Any dog or cat which attacks, snaps at, bites, or has a history of attacking a human being or other domestic animal one or more times, without provocation.
B. Any dog engaging in or found to have been trained to engage in exhibitions of fighting.
C. Any dog or cat previously declared a potentially dangerous animal that bites a human being without provocation.

3. A “potentially dangerous dog or cat” is defined as one who meets one or more of the following conditions:

A. Any dog or cat that, when unprovoked: (i) inflicts an injury on a human being that does not require medical treatment, (ii) injures a domestic animal, or (iii) 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 animal with a known propensity, tendency, or disposition to attack when unprovoked, to cause injury, or to threaten the safety of humans or domestic animals.

4. No dog or cat may be declared dangerous or potentially dangerous that inflicts injury or damage on a person committing a willful trespass or other tort upon premises occupied by the owner or lessee of the animal or a person committing or attempting to

commit a crime. No dog or cat may be declared dangerous or potentially dangerous for taking any action to defend or protect a human being within the immediate vicinity of the animal from an unjustified attack or assault. No dog used in connection with lawful activities of law enforcement officials shall be declared a dangerous or potentially dangerous animal.

5. The court may, in addition to any other fine or judgment, order the Animal Control Authority to forthwith put the animal to death by removing the same to the animal shelter for such purpose. Any person found guilty of violating this section shall pay all expenses, including shelter, food, veterinary expenses for identification or certification of the animal, boarding and veterinary expenses necessitated by the seizure of any animal for the protection of the public and such other expenses as may be required for the destruction of any such animal.
(Ref. Neb. Rev. Stat. §54-617 and §54-524) (Penalties: See Sections 2-340 through 2-342)

SECTION 2-319: JUDICIALLY EXCLUDED DOG

It shall be unlawful for any person to bring any dog into the City which has been judicially determined in another jurisdiction to be a dangerous, potentially dangerous or vicious dog, a nuisance, or a threat to the health or safety of human beings. (Ref. Neb. Rev. Stat. §54-618 and §54-624) (Penalties: See Sections 2-340 through 2-342)

SECTION 2-320: IMPOUNDMENT

1. *Impoundment of Certain Dogs during Enforcement Proceedings.* If there is reasonable cause shown that an offending animal under Section 2-317 or 2-318 may constitute a hazard to the safety of the public at large during the pendency of any action commenced thereunder, the court may order such animal or animals impounded pending the outcome of such proceedings. Any person who owns, keeps, harbors, maintains, or controls any animal involved in such impoundment shall pay all expenses, including shelter, food, veterinary expenses, boarding, or other expenses necessitated by the impoundment of the animal for the protection of the public. The authority may require such person to pay, prior to expiration of ten days after the date of impoundment, an amount sufficient to pay all reasonable expenses incurred in caring and providing for the animal, including estimated medical care, for 30 days, inclusive of the date on which the animal was impounded. If such payment is not made prior to expiration of such ten-day period, the animal shall become the property of the Animal Control Authority to be disposed of as the authority deems appropriate. Such payment shall be required for each succeeding 30-day period. If any such payment is not made prior to the end of each succeeding 30-day period, the animal shall become the property of the authority to be disposed of as the authority deems appropriate. The amount of the payment shall be determined by the authority based on the current rate for board at the animal shelter and the condition of the animal after examination by a veterinarian acting for the authority. Any such payment received by the authority in excess of the amount determined by the authority to be due for the board and care of the animal shall be refunded by the authority upon expiration of the order of impoundment. Notwithstanding the foregoing, if the owner or custodian is found not guilty of animal neglect or cruelty, the owner or custodian shall only be required to pay the veterinary expenses and one-half of the board and care fees determined by the authority to be due. Notwithstanding the foregoing, if it is determined by a veterinarian acting for the authority that such animal is diseased or disabled beyond

any useful purpose, the animal shall immediately become the property of the authority to be humanely disposed of, as the authority deems appropriate.

2. *General Impoundment; Time Period*. It shall be the duty of the animal control officer to capture, secure and remove in a humane manner to the designated city animal shelter any animal violating any of the provisions of this article. Each impounded animal shall be kept and maintained at the pound for a period of not less than five days, unless reclaimed earlier by the owner. No later than 24 hours after the impoundment of any animal, notice of impoundment, including any significant marks or identification, shall be posted at the office of the city clerk as public notification of such impoundment. Any animal 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, on file at the office of the city clerk. The owner shall then be required to comply with the rabies vaccination requirements within 72 hours after release. If the animal is not claimed at the end of the required waiting period after public notice has been given, the animal control officer may dispose of the animal in accordance with the applicable rules and regulations pertaining to the same; provided, if the animal control officer can find a suitable home for the impounded animal, he or she may turn it over to any person willing to provide the animal with a home. In this event the new owner shall be required to pay all fees and meet all licensing and vaccinating requirements provided in this article. The City shall acquire legal title to any unlicensed animal impounded in the animal shelter for a period longer than the required waiting period, after giving notice. All animals not placed for adoption shall be destroyed and buried in a humane manner as prescribed by the Board of Health. (Ref. Neb. Rev. Stat. §17-548, §71-4401 to 71-4410)

3. *Animal Shelter; Conditions*. All impounded animals shall be treated in a humane manner and shall be provided with a sufficient supply of food and fresh water each day. The animal shelter shall be safe, suitable and conveniently located for the impounding, keeping and destruction of animals. The said shelter shall be sanitary, ventilated and lighted.

SECTION 2-321: DANGEROUS OR POTENTIALLY DANGEROUS DOGS; SPAYING OR NEUTERING; MICROCHIP ID AND LICENSE

Any dog judicially determined to be dangerous or administratively determined to be potentially dangerous shall be spayed or neutered and implanted with microchip identification by a licensed veterinarian at the owner's expense no less than 30 days after such determination is entered, with written proof of spaying or neutering and the microchip identification number being provided to the animal control authority within 72 hours of the procedure being completed. In addition, such dangerous or potentially dangerous dog shall be required to be licensed as a dangerous or potentially dangerous dog within 30 days of the determination. (Penalties: See Sections 2-340 through 2-342)

SECTION 2-322: DANGEROUS OR POTENTIALLY DANGEROUS DOGS; CLASSES REQUIRED

The owner of any dog judicially determined to be dangerous or administratively determined to be potentially dangerous shall be required to attend, at the owner's expense, within 90 days after such determination is entered, a responsible pet ownership class approved by the Animal Control Authority and, at the discretion and direction of the au-

thority, a dog behavior class provided or approved by the authority. (Penalties: See Sections 2-340 through 2-342)

SECTION 2-323: DANGEROUS OR POTENTIALLY DANGEROUS DOGS OR CATS; WARNING SIGNS REQUIRED:

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

1. Be no less than 10 inches by 12 inches in size;

2. Contain the words "Warning; Dangerous Animal" in high contrast lettering on a black background in English; and

3. Lettering must be no less than 3 inches high.
(Ref. Neb. Rev. Stat. §54-619) (Penalties: See Sections 2-340 through 2-342)

SECTION 2-324: DANGEROUS DOGS; CONFINED

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

1. Confined indoors; or

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

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

3. The pen must be constructed with chain link fencing for all four sides and the top. If the pen or structure has no bottom secured to the sides, the sides must be imbedded in the ground no less than one foot or must have a concrete pad for the bottom. The pen or structure shall be set back at least ten feet from the nearest property line.
(Ref. Neb. Rev. Stat. §54-619) (Penalties: See Sections 2-340 through 2-342)

SECTION 2-325: DANGEROUS OR POTENTIALLY DANGEROUS DOGS; LEASH, MUZZLE AND HARNESS REQUIRED

It shall be unlawful for any person owning, harboring or having the care of a dangerous or potentially dangerous dog to permit such dog to go beyond the property of such person unless the animal is under the control of a person 19 years of age or older, restrained securely by a harness and leash no longer than 6 feet, and properly muzzled to reasonably prevent the animal from biting. (Ref. Neb. Rev. Stat. §54-624) (Penalties: See Sections 2-340 through 2-342)

SECTION 2-326: DANGEROUS DOGS, POTENTIALLY DANGEROUS DOGS AND AGGRESSIVE AND/OR POTENTIALLY DANGEROUS BREEDS; PROOF OF INSURANCE

Any animal that has been determined to be a dangerous dog by a court determination, any dog administratively determined to be a potentially dangerous dog, and any aggressive and/or potentially dangerous breed as defined in Section 2-331 that is required to be licensed under this chapter cannot be licensed unless the person having custody, ownership or control of such dog or other animal first presents written proof of public liability insurance of not less than $100,000.00 to the city clerk. Such insurance shall be maintained in effect for the period that such dangerous or potentially dangerous animal is so designated, provided that insurance for an aggressive and/or potentially dangerous breed as defined in Section 2-331 shall be maintained in effect for the life of the dog. (Ref. Neb. Rev. Stat. § 54-624) (Penalties: See Sections 2-340 through 2-342)

SECTION 2-327: DANGEROUS AND POTENTIALLY DANGEROUS DOGS OR CATS; IMPOUNDMENT

Any dog or cat that has been determined to be a dangerous animal or a potentially dangerous animal that, without provocation, bites a human being may be immediately impounded by an animal control officer if in violation of this chapter. The owner shall be responsible for the reasonable costs incurred for the care of such impounded dangerous dog or cat. (Ref. Neb. Rev. Stat. §54-624)

SECTION 2-328: DANGEROUS DOGS OR CATS; FOUND AT LARGE; DESTRUCTION

In the event that a dog or cat that has been determined to be dangerous as defined in Section 2-318 is found at large and unattended upon public property, park property, or a public right-of-way or upon the property of someone other than its owner, thereby creating a hazard to person or property, such animal may, in the discretion of the county sheriff or authorized designee, be destroyed if it cannot be confined or captured. The City shall be under no duty to attempt the confinement or capture of a dangerous dog or cat found at large nor shall it have a duty to notify the owner of such dog or cat prior to its destruction. (Ref. Neb. Rev. Stat. §54-624)

SECTION 2-329: DANGEROUS DOGS OR CATS; REGISTRY

1. The owner of any dog or cat that has been determined to be dangerous as defined in Section 2-318, or previously determined to be dangerous under this chapter

shall register such animal with the City within 30 days of such determination or within 30 days of enactment of this section if previously determined to be dangerous. Such registration shall include the following information:

A. The name of the current owner of the animal;
B. The address where the animal is harbored;
C. A description of the animal, including name, breed, sex, and coloring;
D. The current license number for the animal;
E. The carrier and policy number for public liability insurance as required in Section 2-326;
F. Microchip manufacturer and microchip identification number.

2. At least once per calendar year, the Animal Control Authority shall publish a list of animals on the above registry, providing the name of the owner, the address where the animal is harbored, and a description of the animal, including name and breed.

3. Any person who has registered an animal pursuant to this section shall have a continuing obligation to provide updated registration information to the authority and shall, within 30 days of the sale or transfer of such animal, provide to the authority the date of such sale or transfer, the name of the new owner, and the address where the animal will be harbored.
(Ref. Neb. Rev. Stat. §54-624) (Penalties: See Sections 2-340 through 2-342)

SECTION 2-330: POTENTIALLY DANGEROUS DOGS OR CATS; DETERMINATION

1. The Animal Control Authority shall initiate administrative proceedings to determine an animal to be a potentially dangerous animal, if it meets the definition of potentially dangerous animal under Section 2-318, by service of a notice, in writing, upon such animal's owner either by certified or regular mail to the owner's last known address or personal delivery. The notice shall contain:

A. The name and address of the owner whose animal is subject to such determination;
B. The name, description and license number of the animal that is subject to such determination;
C. A description of the facts which form the basis of such determination;
D. A summary of the effects of such determination, including the requirements for Sections 2-321 through 2-325 and a statement that non-compliance will result in an owner being declared a reckless owner by the animal control authority;
E. The date of proposed entry of the determination, which shall be not less than ten days after the date of mailing or personal service of the notice; and
F. Notification of the availability of an appeal if the owner objects to such determination, within ten days of the date of mailing or personal service of the notice.

2. An owner whose animal is determined to be a potentially dangerous animal shall be required to comply with Section 2-321 immediately, Sections 2-322 and 2-323 within 30 days of the date of entry of the determination order, and shall be required to comply with Section 2-324 within 90 days of the date of entry of the determination order, unless

a notice of appeal of the order is filed with the Animal Control Authority; provided, non-compliance with any of the sections set forth above in this paragraph shall result in the owner being declared a reckless owner by the authority under Section 2-339.

3. An appeal of such determination order shall be heard by a hearing officer designated by the Animal Control Authority within ten days of the date of the filing of the notice of appeal to provide an opportunity for the owner to appear and offer evidence to dispute the determination order. The filing fee for each notice of appeal shall be $100.00. A decision to affirm or reverse such order shall be entered by the hearing officer within ten days of the date of the hearing.

4. An owner may request termination of the determination order if there are no incidents of the type specified in Section 2-318 for at least two years following the date of the determination order. Such request for termination shall be heard by a hearing officer designated by the Animal Control Authority within ten days of the date of the filing of the request for termination to provide an opportunity for the owner to appear and offer evidence to support termination of the determination order. The owner must provide documented evidence that the animal's behavior has changed due to environment, health, age, training, neutering or other relevant factor. The filing fee for each request for termination shall be $200.00. A decision to continue or terminate such determination order shall be entered by the hearing officer within ten days of the date of the hearing.

SECTION 2-331: AGGRESSIVE OR POTENTIALLY DANGEROUS BREEDS

It shall be unlawful for any person owning, harboring or having the care of an aggressive or potentially dangerous breed to permit such animal to be outdoors unless confined in a securely fenced yard or unless the animal is under the control of a person 19 years of age or older, restrained securely by a harness and leash no longer than 6 feet, and properly muzzled to reasonably prevent the animal from biting. For purposes of this section, “an aggressive or potentially dangerous breed” shall be defined as any dog that is a Pit Bull, Doberman Pinscher, Rottweiler, or any dog displaying the majority of physical traits of any one or more of the above breeds (more so than any other breed), or any dog exhibiting those distinguishing characteristics which substantially conform to the standards established by the American Kennel Club or United Kennel Club for any of the above breeds. The A.K.C. and U.K.C. standards for the above breeds are on file in the office of the Animal Control Authority; provided, an aggressive or potentially dangerous breed which is a participant in an organized dog event approved by the authority shall not be required to be leashed and muzzled while outdoors and being shown or otherwise actively competing in such event. (Penalties: See Sections 2-340 through 2-342)

SECTION 2-332: CLASSES OF DOGS AND ANIMALS PROHIBITED AND DETERMINED A NUISANCE

1. Any dog exhibiting the following breeds’ characteristics is hereby deter-mined to be a public nuisance. It is unlawful to keep, shelter or harbor such breeds of dogs for any purpose within the city limits. For purposes of this section, “Pit Bull” shall be defined as any dog that is an American Pit Bull Terrier, American Staffordshire Terrier, Staffordshire Bull Terrier, Dogo Argentina, Presa Canario, Cane Corso, American Bulldog, or any dog displaying the majority of physical traits of any one or more of the above breeds (more so than any other breed), or any dog exhibiting those distinguishing characteris-

tics which substantially conform to the standards established by the American Kennel Club or United Kennel Club for any of the above breeds. The A.K.C. and U.K.C. standards for the above breeds are on file in the office of the Animal Control Authority.

2. Any animal exhibiting the following characteristics is hereby determined to be a public nuisance and it is unlawful to keep, shelter or harbor such animals for any purpose within the city limits: Wolves and/or any cross between a wolf and dog; any cat not a domesticated house cat; venomous snakes or large carnivorous reptiles; and any and all other wild animals.
(Penalties: See Sections 2-340 through 2-342)

SECTION 2-333: RABIES CONTROL; DEFINITIONS

For the purposes of this section, the following words and phrases shall have the meanings respectively ascribed to them by this section:

“Cat” shall mean any feline animal, male or female, sexed or neutered.

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

“Own,” unless otherwise specified, shall mean to possess, keep, harbor or have control of, charge of or custody of a dog or cat. “Own” shall not apply to dogs or cats owned by other persons which are temporarily maintained on the premises of a veterinarian or kennel operator for a period of not more than 30 days.

“Owner” shall mean any person possessing, keeping, harboring or having charge or control of or permitting any dog or cat to habitually be or remain on or be lodged or fed within such person's house, yard or premises. “Owner” shall not apply to veterinarians or kennel operators temporarily maintaining on their premises dogs or cats owned by other persons for a period of not more than 30 days.

“Rabies control authority” shall mean any city law enforcement officer, animal control officer or other officer designated by the mayor.

“Vaccination against rabies” shall mean the inoculation of a dog or cat with a rabies vaccine licensed by the U. S. Department of Agriculture on the effective date of this code. Such vaccination must be performed by a veterinarian duly licensed to practice veterinary medicine in the state.
(Ref. Neb. Rev. Stat. §71-4401 to §71-4412)

SECTION 2-334: RABIES CONTROL; VACCINATION REQUIRED

Every dog and cat four months of age and older shall be vaccinated against rabies by a veterinarian duly licensed to practice veterinary medicine in the State of Nebraska. Young dogs or cats shall be vaccinated within ten days after they have reached four months of age. Unvaccinated dogs and cats acquired or moved into the City must be vaccinated within ten days after purchase or arrival, unless under four months of age, as specified above. (Ref. Neb. Rev. Stat. §71-4401 to §71-4412) (Penalties: See Sections 2-340 through 2-342)

SECTION 2-335: RABIES CONTROL; REVACCINATION

Every dog or cat shall be revaccinated against rabies according to product label directions following a period of not more than 36 months since its last vaccination. Such revaccination shall be performed by a veterinarian duly licensed to practice veterinary medicine in the State of Nebraska. The intervals of any other anti-rabies vaccine shall be set by the state veterinarian, and he or she shall follow the latest recommendations of the U. S. Public Health Service. (Ref. Neb. Rev. Stat. §71-4401 to §71-4412) (Penalties: See Sections 2-340 through 2-342)

SECTION 2-336: RABIES CONTROL; PERSON BITTEN BY DOG OR CAT; PROCEDURE

1. Any dog or cat suspected of being afflicted with rabies or any dog or cat not vaccinated in accordance with the regulations herein which has bitten any person and caused an abrasion of the skin of such person shall be seized by the City and impounded under the supervision of a licensed veterinarian or a public health authority for a period of not less than ten days. If, upon examination by a veterinarian, the dog or cat has no clinical signs of rabies at the end of such impoundment, it may be released to the owner or, in the case of a stray, it shall be disposed of in accordance with applicable law.

2. Any dog or cat vaccinated in accordance with the provisions herein which has bitten any person(s) shall be confined by the owner or other responsible person as required by the rabies control authority for a period of at least ten days, at which time the dog or cat shall be examined by a licensed veterinarian. If no signs of rabies are observed by the veterinarian, the dog or cat may be released from confinement.

3. All costs of impoundment and examination fees shall be the responsibility of the owner.

SECTION 2-337: RABIES CONTROL; RABID ANIMALS; CAPTURE IMPOSSIBLE

The animal control officer shall have the authority to kill any domestic animal with the characteristics of rabies which make capture impossible because of the danger involved.

SECTION 2-338: RABIES CONTROL; PROCLAMATION

It shall be the duty of the City Council, whenever in its opinion the danger to the public safety from rabid dogs or cats is great or imminent, to issue a proclamation ordering all persons owning, keeping, or harboring any dog or cat to muzzle the same or to confine it for a period of not less than 30 days or more than 90 days from the date of such proclamation or until such danger is past. The dogs or cats may be harbored by any good and sufficient means in a house, garage, or yard on the premises wherein the said owner may reside. Upon issuance of the proclamation, it shall be the duty of all persons owning, keeping, or harboring any dog or cat to confine the same as herein provided. (Neb. Rev. Stat. §17-526)

SECTION 2-339: RECKLESS OWNER

1. The City may initiate administrative proceedings to declare an owner, who has been convicted of one or more violations of this chapter on two separate occasions in a 24-month period or whose animal(s) have been determined to be dangerous or potentially dangerous and who has not complied with the requirements of this chapter pertaining to dangerous or potentially dangerous animal(s), a reckless owner and to revoke all pet license(s) associated with said animal(s) issued to such person. Such proceedings shall be instituted by service of a notice in writing upon such owner either by certified mail or regular mail to the owner's last known address or by personal delivery. The notice shall contain:

A. The name and address of the owner who is subject to such declaration and revocation decision;
B. The name(s), description(s) and license number(s) of any animal(s) associated with such violations licensed to the owner;
C. A description of the violations or requirements which form the basis of such declaration and revocation decision, including the case numbers, if any;
D. A summary of the effects of such declaration, including the revocation of said pet license(s) and surrender of said animal(s);
E. The date of proposed entry of the declaration and revocation decision, which shall be not less than ten days after the date of mailing or personal service of the notice; and
F. Notification of the availability of an appeal, if the owner objects to such declaration and revocation decision, within 10 days of the date of mailing or personal service of the notice.

2. Upon entry of such declaration and revocation decision, unless an appeal of such is filed with the City in accordance with this section, such reckless owner shall be required to surrender said animal(s) to any city law enforcement officer or animal control officer within 24 hours. Failure to surrender such animal(s) shall result in immediate impoundment by the City. Such surrendered or impounded animal(s) shall immediately become the property of the City and may be disposed of by the City as it deems appropriate.

3. An owner who is declared a reckless owner shall be prohibited from licensing, residing with, or owning any additional animal(s) in the City for a period of 48 months from the date of entry of the declaration and revocation decision.

4. An appeal of such declaration and revocation decision shall be heard by the City Council, which shall provide an opportunity for the owner to appear and offer evidence to dispute the declaration and revocation decision. The filing fee for each appeal shall be $200.00, payable to the City at the time of the filing of said appeal. A determination to affirm or reverse such decision shall be deter-mined by the council.

SECTION 2-340: VIOLATIONS; PENALTY

It shall be unlawful for any person to fail to comply with the provisions herein. Every person failing to comply with or violating any of the provisions of this chapter shall, unless specifically provided otherwise, be deemed to be guilty of a Class III misdemeanor

as defined by Neb. Rev. Stat. §28-106 and upon conviction thereof shall be fined accordingly.

SECTION 2-341: VIOLATIONS BUREAU

A Violations Bureau for the City is hereby created pursuant to Neb. Rev. Stat. §18-1729 for the purpose of collecting penalties for city code violations. Any person accused of a violation as established by Sections 2-303, 2-305, 2-308, 2-309, 2-310, 2-311, 2-312, 2-313, 2-314, 2-315, 2-316, 2-317, 2-318, 2-319, 2-321, 2-322, 2-323, 2-324, 2-325, 2-326, 2-329, 2-331, 2-332, 2-334, and 2-335 may, within ten days after the issuance of a citation of the violation and before the appearance date thereon, dispose of the citation by appearing at the office of the city clerk and remitting full payment of the penalty assessed for the specific violation. Any person may plead not guilty to the citation and he or she may appear before the County Court of Washington County on the date and at the time specified on the citation. At the time of commission of the alleged violation, the accused shall be served with printed notice informing the accused of his or her options in disposing of the citation as noted hereinabove. If the accused fails to appear at the office of the city clerk or before the County Court of Washington County on or before the date specified on the citation, a warrant for his or her arrest shall be issued by the said court.

SECTION 2-342: PENALTIES

1. A conviction for violation of Sections 2-303, 2-308, 2-309, 2-310, 2-311, 2-312, 2-313, 2-314, 2-315, 2-317, 2-319, 2-321, 2-322, 2-323, 2-334 and 2-335 shall result in the following fines in any one calendar year:

A. First offense, $25.00;
B. Second offense, $50.00; and
C. Third and subsequent offenses, $100.00.

2. A conviction for violation of Sections 2-305, 2-311, 2-318, 2-324, 2-325, 2-326, 2-329, 2-331 and 2-332 shall result in the following fines in any one calendar year:

A. First offense, $100.00;
B. Second offense, $150.00; and
C. Third and subsequent offenses, $200.00.

ARTICLE IV – KENNELS

SECTION 2-401: DEFINED

"Kennel" is defined for this article as any lot or parcel of land or place where more than three dogs or more than three cats over the age of 12 weeks are confined, treated, boarded, housed or cared for, and shall include any lot or parcel of land or place where a person, corporation or other entity engages in, conducts, manages or maintains a veterinary business, regardless of the number of animals treated, kept, confined or boarded; provided, however, that this article shall not apply to animal shelters operated by licensed veterinarians.

SECTION 2-402: UNLICENSED KENNELS; NUISANCE

It is hereby declared that it is and shall be a nuisance for any person, corporation, partnership or other entity to maintain, keep, conduct or operate any kennel within the zoning limits of the City without first obtaining a license therefore.

SECTION 2-403: LICENSE REQUIRED

It is unlawful for any person, corporation, partnership or other entity to maintain, keep, conduct or operate any kennel within the zoning limits of the City without first obtaining a license.

SECTION 2-404: LICENSE; APPLICATION FOR

Any person or legal entity seeking a kennel license shall make written application to the City Council. Such application shall state in detail the type, number and gender of animals to be held in such kennel, describe the kennel facility in detail and provide such other information as may be required by the City Council. Such application shall also have attached thereto the consent of all property owners or occupants of lands or lots adjoining the land upon which the proposed kennel is to be located. In the event that the City Council determines that such kennel would not constitute a nuisance, it shall issue such license on such terms and conditions as it deems appropriate. Such license shall be on an annual basis and may be revoked after notice and hearing for violation of any term or condition of the issuance of the license. The annual license fee shall be $50.00 and the license shall not be issued until such fee is paid.

SECTION 2-405: REGULATIONS

Every place used as a kennel shall be kept in a clean and sanitary condition and no refuse or waste material shall be allowed to remain thereon for more than 24 hours. All animals shall be humanely treated and any animal having any disease shall be properly isolated and treated.

ARTICLE V – ANIMALS AND FOWL

SECTION 2-501: CATS; REGISTRATION REQUIRED

1. Any person who shall own, keep or harbor a cat over the age of three months within the City shall, within 30 days after acquisition of the said cat, acquire a license for each such cat annually by or before May 1 each year. The said tax shall be delinquent from and after May 10. After the ten-day grace period allowed herein, there shall be a penalty of $3.00 on the licenses subsequently obtained. Licenses shall be issued by the city clerk upon the payment of a license fee in an amount set by resolution of the City Council. Such resolution shall be on file at the office of the city clerk. When issued, such license shall not be transferable and no refund will be allowed in case of death, sale or other disposition of the licensed cat. The owner shall state at the time the application is made and upon printed forms provided for such purpose, his/her name and address and the name, breed, color and sex of each cat owned and kept by him/her. A certificate

that the cat 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.

2. Upon payment of the license fee, the city clerk shall issue to the owner of a cat a license certificate and a metallic tag for each cat so licensed. The metallic tag shall be properly attached to the collar or harness of any cat so licensed and shall entitle the owner to keep or harbor the said cat until April 30 following such licensing. In the event that a license tag is lost and upon satisfactory evidence that the original plate or tag issued in accordance with the provisions herein, the city clerk shall issue a duplicate or new tag for the balance of the year and may charge and collect a fee set by resolution of the City Council for each such duplicate or new tag so issued. All license fees and collections shall be immediately credited to the General Fund. It shall be the duty of the city clerk to issue tags of a suitable design that are different in appearance each year.

SECTION 2-502: ANIMALS; PROHIBITION

It is hereby determined unlawful for any person to keep, maintain or confine any snakes, exotic animals or domestic farm animals within the corporate limits of the City or within one mile thereof except as hereinafter provided.

1. "Domestic farm animal" is defined as any horse, sheep, mule, cow, goat, swine or offspring thereof or any other livestock generally raised for commercial sale.

2. "Exotic animal" is defined as any llama, zebra, buffalo or other animal other than a domestic farm animal or dog, weighing more than 50 pounds.

SECTION 2-503: ANIMALS; RUNNING AT LARGE

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

SECTION 2-504: ANIMALS; CRUELTY

No person shall cruelly or unnecessarily beat, overwork or insufficiently shelter or feed any animal within the City.

SECTION 2-505: ANIMALS; 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 said animal.

SECTION 2-506: ENCLOSURES

All pens, cages, sheds, yards or any other area or enclosure for the confinement of animals and fowls not specifically barred within the corporate limits shall be kept in a clean

and orderly manner so as not to become a menace or nuisance to the neighborhood in which the said enclosure is located.

SECTION 2-507: FOWL; CONSENT REQUIRED

It shall be unlawful or any person to keep on their private property poultry, chickens, turkeys, geese or other fowls unless and until they have received the written consent of the owners or lessees of the property immediately adjoining the private property where such fowls are to be kept, and all other property owners within 150 feet of the place where such animals are to be kept, which consent shall be filed at the office of the city clerk and shall be subject to revocation by any of the said owners or lessees at any time.

SECTION 2-508: FOWL; RUNNING AT LARGE

It shall be unlawful for any person to allow poultry, chickens, turkeys, geese or any other fowl to run at large within the corporate limits. Such fowl may be maintained within the City if the same are confined in enclosed places on private property.

SECTION 2-509: FOWL; COCK FIGHTING

It shall be unlawful for any person, by agreement or otherwise, to set gamecocks, game roosters or game fowls of any kind to fighting, or by any gesture or word to encourage the same to do so.

SECTION 2-510: DANGEROUS ANIMALS; DEFINITION

"Dangerous animal" means and includes any animal which is not naturally tamed or gentle, or which is of a naturally wild disposition, or which is capable of inflicting serious injury upon or killing human beings and having known tendencies, individually or as a species, to do so, or which because of its size or other characteristics would constitute a danger to human life or property if not kept or maintained in a safe manner or in secure quarters, including but not limited to the following animals which shall be deemed to be dangerous per se:

> Bears, wolves, lions, tigers, panthers, bobcats, elephants, bison, poisonous snakes and spiders, alligators, crocodiles, anacondas, pythons, boa constrictors and piranhas.

SECTION 2-511: DANGEROUS ANIMALS; PROHIBITED

No person shall keep, shelter or harbor for any purpose within the City a dangerous animal as herein defined.

SECTION 2-512: DANGEROUS ANIMALS; EXCEPTIONS

The prohibition contained herein shall not apply to the keeping of a dangerous animal in the following circumstances: (1) the keeping of dangerous animals in a public zoo, bona fide educational or medical institution, museum or other place where they are kept as live specimens for the public to view, or for the purpose of instruction or study; (2) The keeping of dangerous animals for exhibition to the public by circus, carnival, exhibit,

show or pet shop; (3) the keeping of dangerous animals in a bona fide, licensed veterinary hospital for treatment.

SECTION 2-513: DANGEROUS ANIMALS; REGULATIONS

1. Every person, firm or corporation owning, keeping, sheltering or harboring a dangerous animal shall report such fact to the Police Department together with the following information:

A. The species name of each such animal;
B. The number of such animal to each such species kept on the premises;
C. A physical description of each such animal, including any pet name to which it might respond.
D. The location of such animal(s) within the City, including the location of the cage or place of confinement upon or in said premises wherein said animal(s) is kept.
E. In the case of poisonous dangerous animals, the location of the nearest source of anti-venom for that species.

2. Every person, firm or corporation keeping, sheltering or harboring a dangerous animal shall at all times keep such animals securely confined within a cage or other enclosure.

3. No person, firm or corporation owning, keeping, harboring or sheltering a dangerous animal shall permit or allow such animal to enter upon or traverse any public property, park property, public right-of-way, or the property of another, except when such animal is being transported while caged or confined.

4. In the event that a dangerous animal is found at large and unattended upon public property, park property, public right-of-way, or the property of someone other than its owner, such animal may, in the discretion of the city police chief or his/her designee, be destroyed if it cannot be confined or captured, thereby creating a hazard to life or property. The City, its officers, employees and designees shall be under no duty to attempt the confinement or capture of a dangerous animal found at large, nor shall they have a duty to notify the owner of such animal prior to its destruction.

SECTION 2-514: DANGEROUS ANIMALS; DUTY OF OWNER

1. All persons owning or having custody of or control over an animal or animals, whether licensed or unlicensed, which attack, bite or attempt to bite a person or persons, or domestic animals or fowl, or is vicious or dangerous, or chases, maims or kills domestic animals or fowl, are required to keep such animal(s) from running at large and from going into the streets and other public places within the City unless muzzled and on a leash, and shall keep such animal(s) from attacking or injuring persons lawfully on the premises of the owner.

2. The police chief or his/her designee, upon being satisfied that there is a vicious or dangerous animal at large, shall, if practicable, notify in writing the owner or person in control or in charge of such animal to restrain the same from going at large and to control it on the premises of the owner and he/she may or may not, at his/her discretion,

institute a prosecution for violation of subsection (1) above occurring before such notice is given. The right of the police chief or his/her designee to prosecute for the violation of subsection (1) granted herein shall not be exclusive.

3. If satisfied that an animal is vicious and has, without provocation, actually bitten or attacked a person or a domestic animal or fowl, the city police chief may, if the animal is found at large within the City, cause the animal to be destroyed without previous notice to the owner, or he/she may, if he/she sees fit, without killing the animal, notify the owner as provided in subsection (2) hereof and prosecute the owner for violation of subsection (1) hereof.

ARTICLE VI - WEEDS, JUNK CARS, LITTER AND DANGEROUS BUILDINGS REGULATIONS

SECTION 2-601: DEFINITIONS

1. The terms “weeds,” “grasses” or “worthless vegetation” shall mean any weed or grass growth of more than 12 inches in height, subject to Section 2-607. Weeds shall include, but not be limited to, bindweed, puncture vine, leafy spurge, Canada thistle, perennial peppergrass, Russian knapweed, Johnson grass, nodding or musk thistle, quack grass, perennial sow thistle, horse nettle, bull thistle, buckthorn, hemp plant and ragweed.

2. The term "litter" shall include, but not be limited to: (A) trash, rubbish, refuse, garbage, paper, rags and ashes; (B) wood, plaster, cement, brick or stone building rubble; (C) grass, leaves and worthless vegetation; (D) offal and dead animals; (E) any machine, vehicle, or parts of a machine or vehicle which have lost their identity, character, utility or serviceability as such through deterioration, dismantling or the ravages of time, are inoperative or unable to perform their intended functions, or are cast off, discarded or thrown away or left as waste, wreckage or junk; (F) any motor vehicle which is not currently licensed and not housed in a storage or other building.

3. The term "dangerous building" as used in this article is hereby defined to mean and include (A) any building, shed, fence or other manmade structure which is dangerous to the public health because of its condition and which may cause or aid in the spread of disease or injury to the health of its occupants or those of neighboring structures; (B) any building, shed, fence or other manmade structure which, because of faulty construction, age, lack of proper repair or any other cause, is especially liable to fire and constitutes or creates a fire hazard; (C) any building, shed, fence or other manmade structure which, by reason of faulty construction or any other cause, is liable to cause injury or damage by collapsing or by a collapse or fall of any part of such structure; (D) any building, shed, fence or other manmade structure which, because of its condition or because of lack of doors or windows, readily admits birds and animals or is an attraction for children or other persons to enter.

SECTION 2-602: PUBLIC NUISANCE; GRASSES OR WEEDS

It is hereby declared to be a public nuisance to permit grasses to grow in excess of 12 inches or weeds of any height to be grown on any property within the corporate limits of

the City, subject to Section 2-607.

SECTION 2-603: PUBLIC NUISANCE; LITTER OR DANGEROUS BUILDING

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

SECTION 2-604: ABATEMENT

Whenever the Board of Trustees, by resolution, determines that any grass in excess of 12 inches or weeds of any height are growing on property within the City, or litter is found on any property, or that any building or structure in the City is a dangerous building, the village clerk shall cause written notice to be served upon the owner of the property on which grass, weeds, litter or such dangerous building is located, and further, upon the occupant thereof, by registered mail or by personal service. Such notice shall state that the premises have thereon grass in excess of 12 inches, weeds or litter or that the building situated thereon has been declared to be in a dangerous condition and that the grass in excess of 12 inches, weeds, litter or dangerous building must be removed or remedied within 15 days of receipt of notice.

SECTION 2-605: FAILURE TO CORRECT

In the event that the owner or occupant of said premises fails to correct and eliminate said nuisance pursuant to the notice to correct delivered by the village clerk, he/she shall be guilty of a misdemeanor and fined in a sum of not more than $500.00. Each day's violation after the expiration of the 15 days' notice shall be a separate offense.

SECTION 2-606: COST OF REMOVAL

If the owner or occupant of the lot or piece of ground fails to comply with the order to abate and remove the nuisance within 15 days from receipt of the notice to abate, the City may have such work done and the cost and expense of such work shall be paid by the owner of the property. If unpaid for two months after such work is done, the City may either 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 recover in a civil action the costs and expenses of the work.

SECTION 2-607: REMOVAL OF GRASSES OR WEEDS WITHIN THE SAME CALENDAR YEAR

If within the same calendar year, the City has, pursuant to Section 2-604 and Section 2-606 of this article, acted to remove grasses, weeds, or worthless vegetation exceeding 12 inches in height on the same lot or piece of ground, it shall be declared a nuisance to permit or maintain any growth of 8 inches or more in height of grass, weeds, or worthless vegetation and the City shall proceed to address said condition pursuant to the foregoing sections. (Ord. No. 629, 10/19/09)

ARTICLE VII – PENAL PROVISION

SECTION 2-701: VIOLATION; PENALTY

Any person who shall violate or refuse to comply with the enforcement of any of the provisions of this chapter, whether set forth at full length herein or incorporated by reference, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in a sum of not more than $500.00 for each offense. A new violation shall be deemed to have been committed every 24 hours of such failure to comply.

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3-417 ALL-TERRAIN VEHICLES; ENFORCEMENT

ARTICLE V – PENAL PROVISION

3-501 VIOLATION; PENALTY

CHAPTER III – MOTOR VEHICLES AND BICYCLES

ARTICLE I – TRAFFIC REGULATIONS

SECTION 3-101: TERMS DEFINED

The words and phrases used in this ordinance pertaining to motor vehicles and traffic regulations shall be construed as defined in Neb. Rev. Stat. Chapter 60, Article 6, unless the context otherwise requires; and, if not so defined, the common meaning of such words and phrases shall prevail.

SECTION 3-102: TRUCK ROUTES

The City Council may, by resolution, designate certain streets in the City restricting traffic for vehicles weighing in excess of ten tons and it shall be unlawful for persons operating vehicles to travel on streets other than those designated for such vehicles, except to travel to and from their personal residence and/or to pick up or deliver goods, wares, or merchandise; and in these events, the operator of such vehicle shall return to such truck routes as soon as possible in traveling through or about the City. The City Council shall cause notices to be posted or shall erect signs indicating the streets so designated as restricted routes.

SECTION 3-103: ENGINE BRAKING

It shall be unlawful for any person within the city limits of the City to make or cause to be made loud or disturbing noises with any mechanical device operated by compressed air and used for purposes of assisting braking on any semi-tractor; provided, however, it shall be permitted to use engine brakes in an emergency situation. Proper notices shall be posted by the City notifying the public of such prohibition.

SECTION 3-104: TURNING; "U" TURNS

No vehicle shall be turned so as to proceed in the opposite direction, except at a street intersection. No vehicle shall be turned so as to proceed in the opposite direction at any intersection where an automatic signal is in operation or where a sign is posted indicating that “U” turns are prohibited. It shall be unlawful for any operator of a motor vehicle to turn any vehicle on 14th Street in said city between the north city limits and the south city limits so as to proceed in the opposite direction and make a “U” turn or 180° turn along said street.

SECTION 3-105: TURNING; SIGNALS

A signal of intention to turn right or left shall be given continuously during not less than the last 50 feet traveled by the vehicle before turning. The signals herein required shall

be given either by means of the hand and arm or by a signal device of a type approved by the Department of Roads.

SECTION 3-106: TURNING; GENERALLY

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

SECTION 3-107: TURNING; CAUTION

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

SECTION 3-108: RIGHT OF WAY; GENERALLY

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

SECTION 3-109: RIGHT OF WAY; EMERGENCY VEHICLES

Upon the approach of any authorized emergency vehicles, all vehicles within one block of the route of such emergency vehicle shall immediately stop, except at the time they are on or crossing a street intersection, in which event, such vehicle shall drive clear of the street intersection and then stop. Every vehicle along the route of such emergency vehicle shall immediately move to a position as near the right hand curb as possible and remain there until such authorized emergency vehicle or vehicles have passed; provided, said vehicles are operated on official business and the drivers thereof sound aud-

ible signal by bell, siren or whistle.

SECTION 3-110: POSITION OF VEHICLE ON HIGHWAY; GENERALLY

Upon all highways of sufficient width, the driver of a vehicle shall drive the same on the right half of the roadway. In passing or meeting other vehicles, drivers shall give each other at least one half of the main traveled portion of the roadway.

SECTION 3-111: POSITION OF VEHICLE ON HIGHWAY; PASSING

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

SECTION 3-112: BACKING

Before backing, ample warning shall be given and while backing, unceasing vigilance must be exercised not to injure those behind. The driver of a parked vehicle about to back shall give moving vehicles the right of way.

SECTION 3-113: DRIVING IN SIDEWALK SPACE

No motor vehicle, including motorcycles or scooters, except for snow removal purposes, shall be driven on any sidewalk or within any sidewalk space, except a permanent or temporary driveway. (Ref. Neb. Rev. Stat. §60-6,178)

SECTION 3-114: STOPS; MANDATORY

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

SECTION 3-115: SIGNS, SIGNALS

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

SECTION 3-116: STOP SIGNS

Every person operating any vehicle shall, upon approaching any stop sign erected in accordance with ordinances prescribed heretofore, cause such vehicle to come to a

complete stop with the front wheels of said vehicle parallel with said stop sign.

SECTION 3-117: UNNECESSARY STOPPING

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

SECTION 3-118: SPEED ZONES

No person shall operate a motor vehicle within the city limits at a speed greater than is reasonable and proper, having regard for the traffic, use and condition of the streets or at such speeds as to endanger the life, limb or property of any person, and under no circumstances in excess of 25 miles per hour, except on 14th Street. On 14th Street, the speed limit from the southernmost city limits to Madison Street shall be 35 miles per hour; on 14th Street from Madison Street north to Clay Street, 25 miles per hour; and from Clay Street to the northernmost city limits, 35 miles per hour. Every driver of a vehicle on the streets of the City shall at all times have such vehicle under complete control. Such speed limits shall be indicated by appropriate posted signs. (Am. by Ord. No. 566, 8/21/06)

SECTION 3-119: FUNERAL PROCESSIONS

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

SECTION 3-120: FOLLOWING DISTANCE; GENERALLY

The operator of a vehicle shall not follow another vehicle more closely than is reasonable and prudent, having due regard for the speed of the vehicles and the traffic and condition of the street.

SECTION 3-121: FOLLOWING DISTANCE; FIRE APPARATUS

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

SECTION 3-122: GLASS; POINTED OBJECTS

No person shall throw, cast, lay or place upon any street any thorns, nails, tacks, glass, bottles, window glass or other articles made of or containing glass, and in case of an accident causing the breaking of any glass upon any street, the owner or person in charge of such glass or the person responsible for such breakage shall at once remove or cause the same to be removed from the street.

SECTION 3-123: SIGNS; DEFACING OR INTERFERING WITH

It shall be unlawful for any person to willfully deface, injure, remove, obstruct or interfere

with any official traffic sign or signal. (Ref. Neb. Rev. Stat. §60-6,129, 60-6,129.01)

SECTION 3-124: SIGNS; UNAUTHORIZED DISPLAY

It shall be unlawful for any person to maintain or display upon or in view of any street any unofficial sign, signal or device which purports to be, is an imitation of, or resembles an official traffic sign or signal which attempts to direct the movement of traffic, or which hides from view, or interferes with the effectiveness of any official sign or signal. Every such prohibited sign, signal or device is hereby declared to be a public nuisance, and any police officer is hereby empowered to remove the same or cause it to be removed, without notice.

SECTION 3-125: SPEED; ELECTRONIC DETECTOR

The speed of any motor vehicle within the City may be determined by the use of radio microwaves or other electronic device. The results of such determinations shall be accepted as prima facie evidence of the speed of such motor vehicle in any court or legal proceedings where the speed of the motor vehicle is at issue. The driver of any such motor vehicle may be arrested without a warrant under the authority herein granted if the arresting officer is in uniform or displays his/her badge of authority; provided that such officer shall have observed the recording of the speed of such motor vehicle by the radio microwaves or other electronic device, or had received a radio message from the officer who observed the speed of the motor vehicle recorded by the radio microwaves or other electronic device. In the event of an arrest based on such a message, such radio message must have been dispatched immediately after the speed of the motor vehicle had been recorded, and must include a description of the vehicle and the recorded speed. (Ref. Neb. Rev. Stat. §60-6,192)

SECTION 3-126: CARELESS DRIVING

No person shall operate a vehicle on any highway, street or alley within the City in such a manner as to endanger the safety of others, disregard the property of others, and/or cause immoderate wear and damage to any street or alley in the City. Any person so operating a motor vehicle within the city limits of the City shall be deemed guilty of careless driving. It shall be prima facie evidence that a person has operated a motor vehicle in such a careless manner if he/she has operated such vehicle in a manner contrary to the duly published rules and regulations of the State Department of Roads governing the use of state highways.

SECTION 3-127: RECKLESS DRIVING

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

SECTION 3-128: RECKLESS DRIVING; WILLFUL

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

SECTION 3-129: EMERGENCY; REGULATIONS

The city police are hereby empowered to make and enforce temporary regulations to cover emergencies.

SECTION 3-130: POLICE; TRAFFIC POWERS

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

SECTION 3-131: POLICE; REFUSAL TO OBEY

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

SECTION 3-132: POLICE; TRAFFIC OFFICERS

The city 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 such intersection.

SECTION 3-133: LITTERING

It shall be unlawful for any person to drop, cause to be left, upon any city highway, street or alley, except at places designated by the City Council, any rubbish, debris or waste, and any person so doing shall be guilty of littering.

SECTION 3-134: DRIVING ABREAST

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

SECTION 3-135: RIDING OUTSIDE VEHICLE

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

SECTION 3-136: CROWDING FRONT SEAT OR OBSTRUCTING DRIVER'S VIEW OR DRIVING MECHANISM

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

front or sides of the vehicle or to interfere with the driver's control over such vehicle. No passenger in a vehicle shall ride in such a position as to interfere with the driver's control over such vehicle.

SECTION 3-137: MUFFLER

Every motor vehicle operated within this city shall be provided with a muffler in good working order to prevent excessive or unusual noise. It shall be unlawful to use a "muffler cut-out" on any motor vehicle upon any streets; provided, the provisions of this section shall not apply to authorized emergency vehicles.

SECTION 3-138: LOADS; PROJECTING

When any vehicle shall be loaded in such a manner that any portion of the load extends more than four feet beyond the rear of the bed or the body of such vehicles, a red flag shall be carried by day and red light after sunset on such load.

SECTION 3-139: LOADS; SPILLING

All vehicles used for carrying coal, earth, sand, gravel, rock, asphalt, tar or any similar substance shall be so constructed as to prevent the sifting or spilling of any of the contents.

SECTION 3-140: DRAGGING; ROPE, CHAIN

No person shall permit any rope, strap, chain or other article to drop behind any vehicle while in use on the streets, except persons operating vehicles transporting gasoline, benzene or other flammable materials.

ARTICLE II – ABANDONED VEHICLES

SECTION 3-201: TERMS DEFINED

1. No person, firm, partnership, association, corporation or organization of any kind shall abandon any vehicle, as defined by Neb. Rev. Stat. §60-301(1), within the City. A motor vehicle shall be deemed to be an abandoned vehicle if left unattended:

A. With no number plates affixed thereto, for more than six hours on any public property;

B. For more than 24 hours on any public property, except a portion thereof on which parking is legally permitted;

C. For more than 48 hours, after the parking of such vehicle shall have become illegal if left on a portion of public property on which parking is legally permitted;

D. For more than seven days on private property if left initially without the permission of the owner, or after permission of the owner shall be terminated.

2. No person in charge or control of any private property, whether as owner, tenant, occupant, lessee or otherwise, shall allow any partially dismantled, non-operating,

wrecked, junked or discarded vehicle to remain on such property longer than seven continuous days. Any vehicle described in this paragraph shall be deemed to be an abandoned vehicle for purposes of this article.

3. For purposes of this article, "public property" shall mean (A) any public right of way, street, highway, alley, park or other city-owned property, and (B) any privately owned property which is not included within the definition of public property.

4. Vehicles in an enclosed building, appropriate storage pound, or depository licensed by the City, or owned and being restored or repaired, with satisfactory progress being shown by the controller of the real property where said vehicle is located, is specifically hereby excluded from this section. This article shall not apply to the premises for which a permit to operate a junkyard has been obtained, nor shall it apply to the premises where a licensed motor vehicle dealer or a farm implement dealer conducts a business. It shall not apply to racing vehicles which are stored on licensed trailers.

SECTION 3-202: ENFORCEMENT

The city police shall remove or cause to be removed any abandoned vehicle. Such vehicle shall be impounded until lawfully claimed or disposed of, as provided in Section 3-204 hereafter; provided, any such abandoned vehicle which is located on private property shall not be removed or impounded until the city police have given written notice of intent to remove said abandoned vehicle ten days prior thereto to the property owner upon whose property said abandoned vehicle is located. The city police may enter upon private property at all reasonable hours for the purpose of inspecting such abandoned vehicle, posting notice thereon and/or removing or impounding such abandoned vehicle. It shall be unlawful for any person to prevent the city police from entering on private property for the purpose of carrying out their duties. Neither the owner, lessee, occupant of the premises from which any abandoned vehicle shall be removed, nor the city shall be liable for any loss or damage to such abandoned vehicle which occurs during its removal, while in the possession of the City, or as a result of any subsequent disposition.

SECTION 3-203: NOTICE

1. Except for vehicles automatically becoming the property of the City as set forth in Section 3-205 hereunder, the Board shall make an inquiry concerning the last registered owner of such abandoned vehicle as follows:

A. Abandoned vehicles with numbered plates affixed: to the jurisdiction which issued said plates; or

B. Abandoned vehicles with no numbered plates affixed: to the Department of Motor Vehicles.

2. The city police shall notify the last registered owner, if any, that the vehicle in question has been recovered as an abandoned vehicle and that, if unclaimed, it will be sold at public auction after five days from the date that such notice was mailed. If the agency described in Subsections (1) (A) or (B) of this section also notifies the city police that a lien or mortgage exists, such notice shall also be sent to the lien holder or mortgagee. Any person claiming such vehicle shall be required to pay the cost of its removal and storage. In the event the owner does not appear within the time prescribed here-

in, or in the event that the owner cannot be determined, such abandoned vehicle shall be disposed of as hereinafter provided.

SECTION 3-204: DISPOSITION

The city police shall sell said abandoned vehicle at public auction to the highest bidder within 60 days from the date that title to an abandoned vehicle is vested in the city as provided for in Section 3-205 hereafter. Such sale and the time and place thereof shall be advertised for one week in a newspaper of general circulation in the City. Any proceeds from the sale of an 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 abandoned vehicle for a period of two years. If not claimed within such two-year period, such proceeds shall be paid into the general fund of the City.

SECTION 3-205: TRANSFER OF TITLE

If an abandoned vehicle at the time of abandonment has no numbered plates of the current year affixed and is of a wholesale value of $250.00 or less, taking into consideration the vehicle's condition as determined by the city police, title shall immediately vest in the City and the city police is not required to follow Section 3-203 herein. With respect to those abandoned vehicles governed by Section 3-203 herein, title to such vehicles, if unclaimed, shall vest in the City five days from the date the notice referred to therein is mailed or, if the last registered owner cannot be determined, when notice of that fact is received by the city police. Upon the sale of an abandoned vehicle at auction, the City shall furnish the purchaser with the requisite affidavit to provide to the county clerk where the vehicle was last registered that said vehicle was abandoned and became the property of the City prior to the sale.

SECTION 3-206: PENAL PROVISIONS

Any person who violates any of the prohibitions or provisions of this article shall be deemed guilty of a misdemeanor. Penalties for such violation shall not exceed $500.00 and/or imprisonment for a time not to exceed three months, in the discretion of the court.

ARTICLE III – PARKING

SECTION 3-301: VEHICLES; UNATTENDED

No person having control or charge of a motor vehicle shall allow such vehicle to stand unattended without first effectively setting the brakes thereon and, when standing upon any grade, without turning the front wheels of such vehicle to the curb or side of the street. The driver of a motor vehicle, when traveling upon a downgrade upon any street, shall not coast with the gears of the vehicle in neutral. (Ref. Neb. Rev. Stat. §60-6,168)

SECTION 3-302: PARKING; GENERALLY

1. The City Council may, by resolution, designate and 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 at such place shall stand or be parked adjacent to the curb of

the street, alley, public way, or portion, longer than a period of time reasonably necessary to load or unload freight or passengers.

2. When a parking rule or limitation is made by the City Council through resolution or separate ordinance, the rule or limitation shall be indicated by appropriate stalls, signs, standards or markings, as the City Council may direct.

3. Where stalls are designated either on the curb or pavement, vehicles shall be parked within such stalls. No vehicle shall be parked within a roadway where there is a shoulder adjacent to the roadway, which is available for parking. No person shall parka vehicle so as to obstruct a public or private driveway or drive. No person shall park a vehicle, or permit it to stand, within 20 feet in either direction from the entrance of any fire station or fire hydrant.

4. It shall be unlawful for the driver of a vehicle to park such vehicle in any place where official traffic signs prohibit parking.
(Am. by Ord. No. 536, 6/16/03)

SECTION 3-303: PARKING; AREAS

The City Council, may, by resolution, set aside and post any street, alley, public way or portion thereof for the parking of any particular kind or class of vehicle, and where the parking of vehicles has been prohibited by resolution, no vehicle prohibited from parking thereon shall stand or be parked adjacent to the curb of said street, alley, public way or portion thereof, longer than a period of time necessary to load and unload freight or passengers. The placement of no parking or restricted parking signs shall be prima facie evidence of the restricting resolution. (Ref. Neb. Rev. Stat. §60-680)

SECTION 3-304: OBSTRUCTING ALLEY

No vehicle, while parked, shall have any portion thereof projecting into any alley entrance. (Ref. Neb. Rev. Stat. §60-680)

SECTION 3-305: ALLEYS; LOADING AND UNLOADING

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 one half hour. Every vehicle while loading or unloading in any alley shall be parked in such manner as will cause the least obstruction possible to traffic in such alley. (Ref. Neb. Rev. Stat. §60-680)

SECTION 3-306: BUSINESS DISTRICT UNLOADING

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. It shall be unlawful for the operator of any truck, regardless of length, to park said vehicle within a street intersection, on a crosswalk, in front of a private driveway, or on a sidewalk. The City 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 opera-

tors to use such parking areas for all parking purposes. 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 provided for by the City Council by resolution.

SECTION 3-307: UNLOADING; FREIGHT VEHICLES

Vehicles of an overall length of less than 20 feet, including load, while discharging freight may back to the curb but shall occupy as little of the street as possible. (Ref. Neb. Rev. Stat. §60-680)

SECTION 3-308: FIRE HYDRANTS AND STATIONS

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

SECTION 3-309: SCHOOLS, THEATERS

The City Council may, by resolution, prohibit the parking or stopping of vehicles at the curb on streets directly in front of any entrance to a school house, school building, fire station or theater, and such curbs adjacent to the entrance of said school house, school building, fire station or theater shall be painted red or yellow to indicate such prohibition.

SECTION 3-310: CURB 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 of curb lines, or if none, then within 15 feet of the intersection of property lines nor where said curb lines are painted yellow or red to indicate such prohibition. (Ref. Neb. Rev. Stat. §60-6,166)

SECTION 3-311: CURBS

No vehicle shall park on any street with its left side to the curb, unless said street has been designated to be a "one-way" street by the City Council. Vehicles must not be parked at any curb in such a position as to prevent another vehicle already parked at the curb from moving away. (Ref. Neb. Rev. Stat. §60-680)

SECTION 3-312: OBSTRUCTING TRAFFIC

No vehicle shall, except in case of an accident or emergency, stop within any street intersection, alley entrance or any such location as to obstruct any street, crosswalk or alley entrance. (Ref. Neb. Rev. Stat. §60-680)

SECTION 3-313: CURBS, PAINTED

It shall be the duty of the City Council to cause the curb space to be painted and keep the same painted as in this article provided. No person, firm or corporation shall paint the curb of any street, or in any manner set aside or attempt to prevent the parking of

vehicles in any street or part thereof, except at such places where the parking of vehicles is prohibited by the provisions of this article. The marking or designating of portions of streets or alleys where the parking of vehicles is prohibited or limited shall be done only by the City through its proper officers, at the direction of the City Council. (Ref. Neb. Rev. Stat. §60-680)

SECTION 3-314: DISPLAY OR REPAIR OF VEHICLES

It shall be unlawful for any person to park upon any street, alley or public place within this city 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 city, excepting in case of breakdown or other emergency requiring same. No person or employee connected with a garage or repair shop shall use sidewalks, streets or alleys in the vicinity of such garage or shop for the purpose of working on automobiles or vehicles of any description. (Ref. Neb. Rev. Stat. §60-680)

SECTION 3-315: TIME LIMIT

The City Council may, by resolution, entirely prohibit or fix a time limit for the parking and stopping of vehicles on any street or district designated by such resolution, and the parking or stopping of any vehicle in any such street or district for a period of time longer than fixed in such resolution shall constitute a violation of this article.

SECTION 3-316: MAXIMUM TIME LIMIT

It shall be unlawful for any person to park or leave unattended any motor vehicle upon a public street of the City for more than 72 consecutive hours, except where a different maximum time limit is posted. (Ref. Neb. Rev. Stat. §60-680)

SECTION 3-317: EMERGENCY VEHICLES

The provisions of this article regulating the movement, parking and standing of vehicles shall not apply to authorized emergency vehicles, as defined in this article, while the driver of such vehicle is operating the same in an emergency in the necessary performance of public duties.

SECTION 3-318: HANDICAPPED PARKING; RESERVING PLACES FOR VEHICLES OF HANDICAPPED PERSONS; IDENTIFICATION OF SUCH VEHICLES; IDENTIFICATION OF RESERVED PARKING SPACES; ISSUANCE OF PERMITS; PENALTIES

1. The mayor and City Council may, by resolution, designate parking spaces for the exclusive use of paraplegics or other handicapped persons whose vehicles display the distinguishing license plates issued by the State of Nebraska or as certified by the mayor and City Council, where vehicles display the identification card used by the City.

2. Whenever such parking spaces are so designated by the mayor and City Council, they shall be indicated by blue paint either on the curb or edge of the paved portion of the street adjacent to each space and by a sign consisting of a profile view of a wheelchair with occupant in white on a blue background.

3. It shall be the duty of the city clerk, upon approval of the mayor and City Council,

to issue a permit to physically handicapped persons who have reached school age and persons who drive a motor vehicle for a visually handicapped person which will entitle the holder thereof to park in those spaces herein provided.

4. For the purposes of this section,

A. "Physically handicapped persons" shall mean those using crutches, canes, walkers, wheelchairs, or having definite walking problems, including but not limited to amputees and those persons who have respiratory problems which incapacitate their walking ability.

B. "Visually handicapped person" shall mean those persons using the white cane or seeing-eye dog.

5. The permit shall be on a suitable card containing the letter "H" and an identifying number on the front of the card. The name, address, phone number, date of birth, and the age of the party to whom issued shall appear on the reverse side.

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

7. Permits issued under this section shall not be transferable and shall be used only by the party to whom issued. Use by any other party shall be cause for suspension of such permit for a period of six months. At the expiration of such period, a suspended permit may be renewed.

8. When reserved parking spaces, so designated as provided herein, are posted as a tow-away zone, any vehicle parked in such a space and not displaying proper identification may be removed and anyone violating the provisions of this section shall be subject to a fine of not less than $10.00 nor more than $50.00.

9. The owner or persons in lawful possession of an offstreet parking facility may provide reserved parking spaces for handicapped persons as provided herein and may, after notifying the city law enforcement officials, cause the removal of any vehicle in violation of this section.
(Am. by Ord. No. 549, 12/19/05)

SECTION 3-319: PRIVATE LOTS

Any person parking a motor vehicle in a properly posted, restricted parking lot without the consent of the owner or tenant authorized to give permission shall be guilty of an infraction and the vehicle shall be subject to being towed away at the request of such lot owner or tenant. Any person found guilty under this section shall be subject to the penalties provided for infractions. If the identity of the operator of a motor vehicle in violation of this section cannot be determined, the owner or person in whose name such vehicle is registered shall be held prima facie responsible for such infraction. When any law enforcement officer observes or is advised that a motor vehicle may be in violation of this section, he/she shall make a determination as to whether a violation has in fact occurred and, if so, shall personally serve or attach to such motor vehicle a citation di-

rected to the owner or operator of such vehicle, which shall set forth the nature of the violation. Any person who refuses to sign the citation or otherwise comply with the command of the citation shall be punished as provided by Neb. Rev. Stat. §29-426. Signs designating a restricted parking lot shall be readily visible and shall state the purpose for parking on the restricted parking lot, state the hours for restricted parking, and state who to contact for information regarding a towed vehicle. (Ref. Neb. Rev. Stat. §60-2401, 60-2402)

SECTION 3-320: DESIGNATION OF PARALLEL AND ANGLE PARKING STREETS

1. The City Council may be resolution designate any street or portion thereof where vehicles shall be parked parallel with and adjacent to the curb, or where parking at an angle may be permitted or required. Angle parking shall not be indicated nor permitted at any place where passing traffic would thereby be caused or required to drive upon the left side of the street.

2. Upon those streets which have been signed or marked for angle parking, no person shall park or stand a vehicle other than at the angle to the curb or roadway indicated by such signs or markings.

3. Unless their context otherwise requires, the meaning of all terms used herein shall be as defined in the Nebraska Rules of the Road; and in addition, the following:

A. “Angle parking” shall mean parking in the space between painted lines, (or as otherwise comparably marked or signed), headed in the general direction of traffic, with the right front wheel of the vehicle to the curb at an angle of approximately 30 degrees; and not more than one tier deep.

B. “Driver” shall mean the person actually driving the vehicle or apparently in charge and control of the same.

C. “Owner” shall mean the person in whose name the vehicle is registered.

D. "Parallel parking" shall mean parking parallel with the outside edge of the roadway, headed in the direction of lawful traffic movement and with the wheels of the vehicle on the side next to the edge of such roadway and within 12 inches thereof.

E. “Police officer” shall mean any officer authorized to direct or regulate traffic, or to make arrests for violations of traffic regulations.

F. “Street” shall mean and include all public streets, alleys, ways, roads, highways and other thoroughfares.

(Am. by Ord. No. 536, 6/16/03)

SECTION 3-321: VIOLATIONS; RESPONSIBILITY OF OWNER AND DRIVER

1. If any vehicle is found upon a street or alley or other area designated in accordance with this article to be in violation of any of the provisions of this code regulating the stopping, standing or parking of vehicles, its owner as well as its driver shall be held prima facie responsible for such violation.

2. With further respect to vehicles found to be unlawfully stopped, parked or standing upon a street or alley in violation of any of the provisions of this article, any police officer may remove or cause such offending vehicle to be removed; or to require its owner or driver to move such vehicle to a position off the roadway of such street or alley, or from such street or alley.

3. The owner or other person lawfully entitled to the possession of such vehicle may be charged with the reasonable cost for such removal and storage, payable before such vehicle is released. Any such towing or storage fee shall become a security interest in the vehicle prior to all other claims.

4. No enforcement or remedial actions which may be taken by the City as authorized under subparagraphs (1) through (3) of this section shall constitute a bar or exonerate either driver or owner from prosecution provided by Section 3-501 of this code.
(Am. by Ord. No. 536, 6/16/03)

SECTION 3-322: BUREAU OF VIOLATIONS

There is hereby created the Bureau of Violations within the powers and duties of the office of the city clerk. A copy of each citation issued for nonmoving traffic violations shall be deposited with the city clerk, whose duty it shall be to collect all fines and to maintain appropriate and accurate records of all such fines paid to him/her. Fines shall be payable at the office of the city clerk. All money collected by the city clerk under this section shall be transferred to the school district in which the City lies.

SECTION 3-323: TICKETS

All tickets issued for violations of nonmoving traffic regulations contained in this article shall, in addition to information normally stated on such tickets, carry the following information:

1. The amount of the fine if paid within ten days;
2. The amount of the fine if not paid within ten days;
3. The location where payment must be made; and
4. The fact that a complaint will be filed after ten days if the fine is not paid in that time.

ARTICLE IV – BICYCLES, MOTORCYCLES, SNOWMOBILES AND ALL-TERRAIN VEHICLES

SECTION 3-401: BICYCLES; OPERATION

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

2. 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 public highways.

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

4. 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.

5. 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 righthand curb or righthand 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 righthand curb or righthand 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 vehicle to travel safely 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.

6. Any person who operates a bicycle upon a roadway with a posted speed limit of 35 miles per hour or less on which traffic is restricted to one direction of movement and which has two or more marked traffic lanes may ride as near to the lefthand 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.

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

8. No person shall operate a bicycle on the sidewalks within the business district.
(Ref. Neb. Rev. Stat. §60-6,315, 60-6,317, 60-6,318)

SECTION 3-402: CLINGING TO MOTOR VEHICLE

No person riding upon any bicycle, coaster, roller skates, sled, skis or toy vehicle shall attach the same or himself/herself to any moving vehicle upon any roadway, and it shall be unlawful for the driver of any vehicle to suffer or permit any person riding upon any bicycle, coaster, roller skates, sled, skis or toy vehicle to cling to or attach himself/herself or his/her bicycle, coaster, roller skates, sled, skis or toy vehicle to such vehicle so driven and operated by him/her. (Ref. Neb. Rev. Stat. §60-6,316)

SECTION 3-403: MOTORCYCLE OPERATION

1. Any person who operates a motorcycle shall have all of the rights and shall be subject to all of the duties applicable to the driver of any other vehicle under this chapter.

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

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

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

5. No operator shall carry any person, nor shall any person ride, in a position that will interfere with the operation or control of the motorcycle or the view of the operator.

6. A motorcycle shall be entitled to full use of a traffic lane of any highway and no vehicle shall be driven in such a manner as to deprive any motorcycle of the full use of such land. This subsection shall not apply to motorcycles operated two abreast in a single lane.

7. The operator of a motorcycle shall not overtake and pass in the same lane occupied by the vehicle being overtaken.

8. No person shall operate a motorcycle between lanes of traffic or between adjacent lines or rows of vehicles.

9. Motorcycles shall not be operated more than two abreast in a single lane.

10. Subsections (7) and (8) of this section shall not apply to police officers in the performance of their official duties.
(Ref. Neb. Rev. Stat. §60-6,306 through 60-6,308)

SECTION 3-404: MOTORCYCLE; LIGHTS

No person shall ride a motorcycle upon the streets, alleys or highways from one half hour after sunset to one half hour before sunrise, unless the same shall be equipped with at least one and not more than two headlights, plainly visible from the front and with a light on the rear exhibiting a red light visible under normal atmospheric conditions from a distance of at least 500 feet to the rear thereof; provided, said lamps shall comply with the requirements and limitations of the statutes of the State of Nebraska.

SECTION 3-405: SNOWMOBILES; EQUIPMENT

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

2. All laws applying to the operation of other motor vehicles shall apply to snowmo-

biles, except those relating to required equipment and those which, by their nature, have no application.
(Ref. Neb. Rev. Stat. §60-6,335)

SECTION 3-406: SNOWMOBILES; UNLAWFUL ACTS

It shall be deemed a misdemeanor for any person to allow a snowmobile, either owned or operated by him/her, to be operated (1) within the congested area of the City unless said snowmobile is engaged in responding to an emergency; (2) at a rate of speed greater than reasonable or proper under the surrounding circumstances; (3) in a careless, reckless or negligent manner so as to endanger person or property; (4) without a lighted headlight and taillight when such would be required by conditions; (5) in any tree nursery or planting in a manner which damages or destroys growing stock; or (6) upon any private lands, without first having obtained permission of the owner, lessee or operator of such lands. (Ref. Neb. Rev. Stat. §60-6,337)

SECTION 3-407: SNOWMOBILES; ON PUBLIC LANDS

Snowmobiles shall be prohibited upon the public lands owned by the City except where allowed by resolution of the City Council. (Ref. Neb. Rev. Stat. §60-6,338)

SECTION 3-408: SNOWMOBILES; ENFORCEMENT; PENALTY

Any peace officer, including a conservation officer, may enforce the provisions relating to snowmobiles. Any person convicted of violating any rule or regulation dealing with snowmobiles shall be punished by a fine of not more than $500.00. (Ref. Neb. Rev. Stat. §60-6,343)

SECTION 3-409: ALL-TERRAIN VEHICLES; DEFINED

1. As used in this article, unless the context otherwise requires, all-terrain vehicle shall mean any motorized off-highway vehicle which (A) is 50 inches or less in width; (B) has a dry weight of 600 pounds or less; (C) travels on three or more low pressures tires; (D) is designed for operator use only with no passengers; (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. All-terrain vehicles which have been modified to include additional equipment not required by Sections 3-411 and 3-412 of this article shall not be registered under Neb. Rev. Stat. Chapter 60, Article 3.
(Ref. Neb. Rev. Stat. §60-6,355)

SECTION 3-410: ALL-TERRAIN VEHICLES; OPERATION

1. Except as provided in subsections (2) through (4) of this section, an all-terrain vehicle shall not be operated on any street, road or highway within the City. The crossing of any controlled-access highway shall not be permitted.

2. The crossing of a street, road or highway shall be permitted only if:

A. The crossing is made at an angle of approximately 90 degrees to the direction of the street, road or highway and at a place where no obstruction prevents a quick and

safe crossing;

B. The vehicle is brought to a complete stop before crossing the shoulder or roadway of the street, road or highway;

C. The operator yields the right-of-way to all oncoming traffic that constitutes an immediate potential hazard;

D. In crossing a divided street, road or highway, the crossing is made only at an intersection of such street, road or highway with another street, road or highway; and

E. Both the headlight and taillight of the vehicle are on when the crossing is made.

3. An all-terrain vehicle may be operated on a street, road or highway when such operation occurs only between the hours of sunrise and sunset and such operation is incidental to the vehicle's use for agricultural purposes. Any person operating an all-terrain vehicle on a street, road or highway shall have a valid Class O operator's license or a farm permit as provided in Neb. Rev. Stat. §60-4,126, and shall not operate such vehicle at a speed in excess of 30 miles per hour. When operated on a street, road or highway, 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 the 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-glow in color.

4. All-terrain vehicles may be operated on street, roads or highways in parades which have been authorized by the State of Nebraska or the City.
(Ref. Neb. Rev. Stat. §60-6,356)

SECTION 3-411: ALL-TERRAIN VEHICLES; HEADLIGHTS

Every all-terrain vehicle shall display a lighted headlight and taillight during the period of time from one half hour after sunset to one half hour before sunrise and at any time when visibility is reduced due to insufficient light or unfavorable atmospheric conditions.
(Ref. Neb. Rev. Stat. §60-6,357)

SECTION 3-412: ALL-TERRAIN VEHICLES; EQUIPMENT, REQUIREMENT

Every all-terrain vehicle shall be equipped with (1) a brake system maintained in good operation condition; (2) an adequate muffler system in good working condition; and (3) a U.S. Forest Service-qualified spark arrester. (Ref. Neb. Rev. Stat. §60-6,358)

SECTION 3-413: ALL-TERRAIN VEHICLES; PROHIBITIONS

No person shall (1) equip the exhaust system of an all-terrain vehicle with a cutout, by-pass or similar device; (2) operate an all-terrain vehicle with an exhaust system so modified; or (3) operate an all-terrain vehicle with the spark arrester removed or modified except for use in closed-course competition events. (Ref. Neb. Rev. Stat. §60-6,359)

SECTION 3-414: ALL-TERRAIN VEHICLES; COMPETITION

All-terrain vehicle participating in competitive event may be exempted from Section 3-

411 to 3-413 at the discretion of the Director of Motor Vehicles. (Ref. Neb. Rev. Stat. §60-6,360)

SECTION 3-415: ALL-TERRAIN VEHICLES; ACCIDENT REPORT

If an accident results in the death of any person or in the injury of any person which requires the treatment of the person by a physician, the operator of each all-terrain vehicle involved in the accident shall give notice of the accident in the same manner as provided in Neb. Rev. Stat. §60-699. (Ref. Neb. Rev. Stat. §60-6,361)

SECTION 3-416: ALL-TERRAIN VEHICLES; PENALTY

Any violation of Section 3-410 through 3-413 of this article which is also a violation under Neb. Rev. Stat. Chapter 60 may be punished under the penalty provisions of such Chapter. (Ref. Neb. Rev. Stat. §60-6,362)

SECTION 3-417: ALL-TERRAIN VEHICLES; ENFORCEMENT

Any peace officer of the State or of any political subdivision, including conservation officers of the Game and Parks Commission, shall be charged with the enforcement of the provisions of Section 3-410 to 3-417 of this article.

ARTICLE V – PENAL PROVISION

SECTION 3-501: VIOLATION; PENALTY

Any person who shall violate or refuse to comply with the enforcement of any of the provisions of this chapter, whether set forth at full length herein or incorporated by reference, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in a sum of not more than $500.00 for each offense. A new violation shall be deemed to have been committed every 24 hours of such failure to comply.

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CHAPTER IV – BUSINESS REGULATIONS

ARTICLE I – OCCUPATION TAX

SECTION 4-101: PURPOSE

For the purpose of raising revenue, there is hereby levied an occupation tax upon such occupations and businesses carried on within the corporate limits of this city and in such amounts as set by ordinance and on file with the city clerk; and every person, firm, association or corporation carrying on the occupation or business specified within the limits of said city shall pay to the city treasury the sum named as a tax upon such occupation or business. All money so collected shall be credited to the General Fund of said city; the said money shall be and remain under the control of the City Council for such use and purpose as other monies belonging to the General Fund.

SECTION 4-102: FIRE INSURANCE COMPANIES

Each and every fire insurance company doing business with the City, on or before the May 1 each year, shall pay a special occupation tax of $5.00 to the city treasurer, which shall entitle it to write business in said city for the current fiscal year. The city treasurer shall issue a receipt for such payment as in case of other taxes and shall keep all such payments in a special fund, which shall be disbursed only upon order of the mayor and Council for the support and maintenance of the Volunteer Fire Department.

SECTION 4-103: INTERSTATE OR GOVERNMENT BUSINESS

The license tax levied by this ordinance is not levied upon any business or occupation which is interstate or which is done or conducted by any department of the government of the United States, the State of Nebraska, this city or the officers thereof, as such in the course of its or their official duties or by any county or subdivision of this state or its officers.

SECTION 4-104: COLLECTION DATE

All occupation taxes shall be due and payable on May 1 each year, except in the event that the said tax is levied daily, and upon the payment thereof by any person to the city clerk, the said clerk shall give a receipt, properly dated and specifying the person paying the said tax and the amount paid.

SECTION 4-105: CERTIFICATES

The receipt issued after payment of any occupation tax shall be the Occupation Tax Certificate. The said certificate shall specify the amount of the tax and the name of the person and/or business that paid the said tax. The occupation tax certificate shall then be displayed in a prominent place or carried in such a way as to be easily accessible while business is being conducted.

SECTION 4-106: DUTIES OF PARTIES LIABLE

It is hereby made the duty of each and every person, firm, association or corporation to pay the tax levied against him, her, them or it at the time the same becomes due as provided in Section 4-103.

SECTION 4-107: PAID TO TREASURER; NOT ASSIGNABLE

The tax herein levied shall be paid in cash to the city treasurer or other person designated by resolution of the mayor and City Council which, upon the payment thereof, shall issue receipt therefor to the person, persons, partnership, firm or corporation paying the same, properly dated and specifying on behalf of whom and for what the sum is paid. The city treasurer's receipt shall be the warrant and proper authority of any person to carry on and conduct the business specified in said receipt and for which the money has been paid; provided, said receipt shall not be assignable.

SECTION 4-108: NO REFUND

No person paying occupation tax shall be entitled to a refund of any part of the tax so paid.

SECTION 4-109: VIOLATION; PENALTY

Any person, firm, association or corporation who shall refuse or neglect to pay the occupation tax or taxes herein levied or who shall transact any such business or engage in any such occupation without having complied with the provisions of this article shall, upon conviction thereof, be fined in a sum not less than $5.00 nor more than $500.00 and assessed the court costs of prosecution; provided, every suit brought under this section shall be in the name of this city and may be commenced by a warrant and arrest of the person or persons against whom the suit is brought, or that suit may be commenced by a common summons; and provided further, whenever any of the above-enumerated businesses or occupations shall be conducted by an agent for a corporation or a non-resident, such agent shall be subject to arrest and punishment under the provisions of this section if his/her principal shall not have complied with the provisions of this ordinance.

ARTICLE II – LIQUOR REGULATIONS

SECTION 4-201: TERMS DEFINED

Unless the context otherwise requires, the words and phrases defined in Neb. Rev. Stat. §53-103 shall be adopted for the purpose of construing this article; and said words and phrases are hereby incorporated by reference the same as though copied at full length herein.

SECTION 4-202: LICENSE REQUIRED

No persons shall manufacture for sale, sell, keep for sale, barter, or exchange under any pretext any alcoholic liquor within this city unless said person shall have in full force and effect a license therefor as provided by the Nebraska Liquor Control Act as amended. A violation of this section shall constitute a misdemeanor, and any persons convicted of such shall be fined in any sum not exceed permitted by Nebraska law and assessed the court costs of prosecution. (Ref. Neb. Rev. Stat. §53-168.06)

SECTION 4-203: LICENSE APPLICATION; RETAIL LICENSING STANDARDS

The City Council adopts the following licensing standards and criteria for consideration by the Liquor Control Commission of any applicant for a retail alcoholic liquor license, for the upgrading of a license to sell alcoholic liquor, or for the expansion or change in location of the premises, in accordance with the Nebraska Liquor Control Act, Neb. Rev. Stat. §53-132(3)(a) and Section 7 of LB 911, 89th Legislature, Second Session, 1986:

1. The adequacy of existing law enforcement resources and services in the area.

2. Existing motor vehicle and pedestrian traffic flow in the vicinity of the proposed licensed premises, potential traffic and parking problems, and the proximity and availability of on- street and off-street parking.

3. Zoning restrictions.

4. Sanitation or sanitary conditions on or about the proposed licensed premises.

5. The existing population and projected growth, both city- wide and within the area to be served.

6. Existing liquor licenses, the class of such license and the distance and time of travel to such licenses.

7. The nature and needs of the neighborhood or community where the proposed premises are located as well as its projected growth.

8. Whether the type of business or activity proposed to be operated in conjunction with the proposed license is and will be consistent with the public interest.
(Ref. Neb. Rev. Stat. §53-134)

SECTION 4-204: SALE TO MINORS AND INCOMPETENTS PROHIBITED

No persons shall within this city sell, give away, dispose of, exchange or deliver, or permit the sale, gift or procuring of any alcoholic liquors, to or for any person who is physically or mentally incapacitated by the consumption of such liquors. No minor shall have in his/her possession alcoholic liquor in any tavern, public place, street or alley in this city or inside a vehicle while upon any street, alley or public place in this city. No minor shall obtain or attempt to obtain alcoholic liquor, by misrepresentation of age or any other method, in any tavern or other public place where liquor is sold in this city.
(Ref. Neb. Rev. Stat. §53-180)

SECTION 4-205: HOURS OF SALE

1. It shall be unlawful for any licensed person or persons or their agents to sell any alcoholic beverages within the City except during the hours provided herein:

Alcoholic Liquors (except Beer and Wine)	
Monday through Saturday	
Off Sale	6:00 A.M. to 1:00 A.M.
On Sale	6:00 A.M. to 2:00 A.M.
Sunday	
Off Sale	12:00 Noon to 1:00 A.M.
On Sale	12:00 Noon to 2:00 A.M.
Beer and Wine	
Daily	
Off Sale	6:00 A.M. to 1:00 A.M.
On Sale	6:00 A.M. to 2:00 A.M.

2. 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 said premises. For the purposes of this section, “on sale” shall be defined as alcoholic beverages sold by the drink for consumption on the premises of the licensed establishment; “off sale” shall be defined as alcoholic beverages sold at retail in the original container for consumption off the premises of the licensed establishment.

3. 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 liquor is prohibited by this section.
(Ref. Neb. Rev. Stat. §53-179) (Am. by Ord. No. 674, 1/17/12)

SECTION 4-206: RESTRICTIONS ON PLACE OF CONSUMPTION

No person shall drink or consume alcoholic liquors on any street or alley in this city or inside any vehicle on any street or alley of this city or in any place open to the general public, other than premises having an on-sale liquor license. (Ref. Neb. Rev. Stat. §53-186, 53-186.01)

SECTION 4-207: OCCUPATION TAX

1. City occupation taxes for businesses selling alcoholic liquor shall be 100% of the applicable state liquor license fee. The amount of such occupation tax shall be deposited with the city treasurer at the time the application for license is made, whether such application be filed with the city clerk or the Nebraska Liquor Control Commission. The city treasurer shall hold such occupation tax as a trust fund until the application is finally passed on, and if the application is refused and license denied, then the amount thereof shall be returned to the applicant without interest. The occupation tax year shall commence on May 1 each year and shall end on April 30 the next succeeding year; provided, during any license year no license shall be issued, unless the occupation tax for the full license year shall have been deposited with the city treasurer as hereinabove provided, regardless of the time when the application for license shall be made, and no reduction shall be made in the amount of the occupation tax, regardless of the time when the application for license shall have been made and regardless of the time when such license is issued.

2. The city treasurer shall credit such occupation tax fees to the general fund of the City. Upon the failure of any such applicant to pay such occupation tax as provided for by this section, it shall be mandatory upon the mayor and City Council to pass a resolution denying the application for a license, or requesting the Liquor Control Commission to deny such application and such resolution shall state the reason therefore and shall be forwarded to the Commission.
(Ref. Neb. Rev. Stat. §17-525)

SECTION 4-208: ENTRY OF PREMISES FOR INSPECTION

The mayor, any member of the City Council, the city marshal, any policeman or the city attorney shall have the right to enter any licensed premises at any time for the purpose of determining whether or not the licensee is violating any provision of the Nebraska Liquor Control Act or of this article, and for that purpose to examine and inspect said premises.

SECTION 4-209: FORM FOR CITIZEN COMPLAINT

The following form is hereby prescribed for the use of residents of this city desiring to complain to the mayor and the City Council that any licensee is violating any provision of the Nebraska Liquor Control Act, regulations prescribed by the Nebraska Liquor Control Commission or any provision of this ordinance.

To the mayor and City Council of the City of Fort Calhoun, Nebraska.

The undersigned respectfully state:

1. That they are each residents of the City of Fort Calhoun, Nebraska.

2. That they believe that _____, the holder of a Class ___ license in the aforesaid city, has violated Section _____ of (check one or more)

_____ the Nebraska Liquor Control Act.
_____ the regulations prescribed by the Nebraska Liquor Control Commission.
_____ the municipal code of the City of Fort Calhoun, Nebraska.

3. That the aforesaid belief is based on the following facts, to-wit:
_____
_____

STATE OF NEBRASKA)
) ss
COUNTY OF WASHINGTON)

Subscribed in my presence and sworn to before me by _____, _____, _____, _____ and _____, this _____ day of _____, _____.

My commission expires _____.

_____
Notary Public

(Ref. Neb. Rev. Stat. §53-134.04)

SECTION 4-210: FORMS, CONTINUED; PROCEDURE

1. The city clerk shall supply the forms prescribed herein and shall, on request, supply one to any resident of this city desirous of initiating a complaint thereon. Any complaint duly executed on the aforesaid form by five residents of this city and filed with the city clerk shall be presented by the clerk to the mayor and City Council at their next meeting. If the mayor and the Council are satisfied that the complaint substantially charges a violation and that from the facts alleged there is a reasonable cause for such belief, they shall, by resolution, set the matter for hearing within ten days from the filing of the complaint.

2. Said resolution shall state the time and place of said hearing and shall direct the city marshal to serve the same on the licensee by delivering to him/her personally a true and certified copy thereof at least 72 hours prior to the time of hearing. Said resolution shall also state the section or sections of the Nebraska Liquor Control Act, the regulations prescribed by the Nebraska Liquor Control Commission or this code alleged to have been violated, and the facts on which said allegations are based as stated in the complaint. Present at said hearing shall be the city attorney and the licensee, who may be represented by counsel employed by him/her. The complainants shall be present and may be represented by counsel employed by them. The mayor and the City Council shall, within 30 days from the date the complaint is filed, by resolution, dispose of the

complaint, which resolution shall be deemed the final order for purposes of appeal to the Nebraska Liquor Control Commission.
(Ref. Neb. Rev. Stat. §53-134.04)

SECTION 4-211: COMPLAINT INITIATED BY CITY COUNCIL

The mayor and City Council may on their own motion, by resolution, fix the time and place for a hearing on whether or not a licensee has violated any section of the Nebraska Liquor Control Act, the regulations of the Nebraska Liquor Control Commission or this code, which resolution shall state the section or sections in question. Said resolution shall be served in the same manner and within the same time as the initial resolution mentioned in Section 4-210 of this code, and insofar as possible the procedure shall be the same as is provided in that section.

SECTION 4-212: PREREQUISITES TO DELIVERY OF LICENSE

Retail licenses issued or renewed by the Nebraska Liquor Control Commission for licensees within this city shall be delivered to said licensee by the city clerk, but he/she shall not deliver any such license to a licensee who does not exhibit receipts showing payment of the occupation tax levied under Section 4-207 of this code, payment of the license fee, payment of the publication fee for giving notice of the hearing before the City Council on any application for license and, if a renewal, payment of the publication fee of the automatic renewal notice provided for in this code.

SECTION 4-213: ACTION ON APPLICATION FOR LICENSE

1. Upon receipt from the Nebraska Liquor Control Commission of the notice and copy of the application provided for in Neb. Rev. Stat. §53-131, the city clerk shall present it to the mayor and the City Council at their next meeting, and said mayor and City Council shall, by resolution, fix a time and place at which a hearing will be had and evidence taken under oath from any person desiring to be heard on the propriety of the issuance of the license in question.

2. Notice of the time and place of such hearing shall be published in a legal newspaper in this city one time, not less than three nor more than seven days before the time of hearing. The hearing shall be held not more than 21 days after the date of receipt of the notice and copy of the application by the city clerk. After said hearing, the mayor and City Council shall, by resolution, spread at large in the minute record of their proceedings, recommend either the issuance or the refusal of said license. The clerk shall thereupon mail to the Nebraska Liquor Control Commission by first class mail, postage prepaid, a copy of the resolution which shall state the cost of the published notice.
(Ref. Neb. Rev. Stat. §53-131, 53-132, 53-134)

SECTION 4-214: RENEWAL OF LICENSE

1. The city clerk shall cause to be published in a legal newspaper in this city one time between January 10 and January 30 of each year individual notice of the right of automatic renewal of each retail liquor and beer license for which provisions are made in Neb. Rev. Stat. §53-124(5) in the following form:

NOTICE OF RENEWAL OF RETAIL LIQUOR LICENSE

Notice is hereby given that pursuant to Neb. Rev. Stat. §53-135.01, the liquor license may be automatically renewed for one year from May 1, 20____, for the following retail liquor licensee, to-wit:

(Name of Licensee)
(Address of licensed premises)

Notice is hereby given that a written protest to the issuance of automatic renewal of license may be filed by any resident of the City of Fort Calhoun on or before February 10, 20___, in the office of the city clerk; that in the event protests are filed by three or more such persons, hearing will be had to determine whether continuation of said license should be allowed.

(Name)
City Clerk

2. The city clerk shall file or cause to be filed with the Nebraska Liquor Control Commission proof of publication of said notices on or before February 6 each year.

SECTION 4-215: PROTESTS AGAINST RENEWAL

In the event written protests are filed with the city clerk by three or more residents of this city against the automatic renewal of a license, the clerk shall present the same to the mayor and City Council at their next meeting and they shall thereupon, by resolution, direct the licensee to submit an application in the same manner as he/she would be required to do for an original license, and the city police chief shall forthwith serve said resolution on said licensee by delivering to him/her personally a true and certified copy thereof. Upon receipt by the city clerk from the Nebraska Liquor Control Commission of the notice and copy of application, the same procedure shall be followed as is provided for in the case of an application for an original license.

SECTION 4-216: SPIKING BEER

It shall be unlawful for any person or persons who own, manage or lease any premises in which the sale of alcoholic beverages is licensed, to serve or offer for sale any beer to which there has been added any alcohol, or permit any person to add alcohol to any beer on the licensed premises of such licensee. (Ref. Neb. Rev. Stat. §53-174)

SECTION 4-217: CHANGE OF PREMISES

Any retailer licensee desiring to transfer his/her license from one premises to another shall file a written request for permission to do so with the city clerk, and shall also file with said clerk a sworn statement showing that the premises to which removal is to be made comply with all respects with the requirements of the Nebraska Liquor Control Act as amended. The city clerk shall present said application and statement to the mayor and City Council at their next meeting, and they shall, by resolution, approve or disapprove the transfer. If they approve the transfer, the approval thereof shall be endorsed on the license by the mayor and attested by the city clerk.

SECTION 4-218: GAMBLING

Unless sanctioned by Nebraska law, no licensee in this city holding a license covering premises open to the public for the sale of intoxicating liquor or beer shall directly or indirectly permit gambling on or in the licensed premises; nor shall he permit the operation or possession of any pay-off gambling device, slot machine, or punchboard, mechanical or otherwise, whether pay-off is in cash or merchandise, in, on or about the licensed premises.

SECTION 4-219: SALE FOR RESALE

No retail licensee in this city shall engage, directly or indirectly, in any transaction including or conspiring as to the resale of any liquors owned by him/her as a licensee, nor shall such licensee so permit the sale or delivery of any such liquors in such quantities as would place a reasonable-minded person on notice that such liquor might be intended for resale.

SECTION 4-220: TRANSPORTATION OF LIQUOR OF RETAIL LICENSEES

No retail licensee in this city shall permit the transportation of alcoholic liquor from his/her licensed premises for storage purposes in any manner for any purpose, or to any location other than has been expressly authorized in writing by the commission.

SECTION 4-221: NO DELIVERY AFTER CLOSING HOURS

No retail licensee in this city operating premises open to the public shall act as retainer or keeper of liquor for customers or other persons for the purpose of delivering or disposing of such liquor after closing hours as provided by state law, ordinance or resolution or on days when sales are prohibited.

SECTION 4-222: RESTRICTIONS ON CONDUCT OF OTHER BUSINESS

Retail licensees in this city shall not maintain in their licensed premises any door opening into or access leading into the premises owned, used, or occupied by other persons; nor shall any retail licensee permit any other person to use his/her licensed premises for the purpose of carrying on within such licensed premises any business activity of such other persons in any of its phases, such as solicitation, sale, service, delivery, storage or otherwise.

SECTION 4-223: CONDUCT PROHIBITED ON LICENSED PREMISES

No licensee in this city shall engage in, allow, or suffer in or upon the licensed premises any disturbances, lewdness, immoral activities or displays, brawls or unnecessary noise, or allow, permit or suffer the licensed premises to be used in such a manner as to create public censure or become a nuisance, public or private.

SECTION 4-224: ADVERTISEMENTS AND SALES

Advertising by licensees in this city shall not contain misrepresentation or misleading statements, and no sales shall be promoted or made by any licensee by unlawful means. Alcoholic liquors shall not be offered, delivered or disposed of by any licensee as a prize.

SECTION 4-225: SANITATION

Sanitary conditions conducive to public health and welfare must be maintained at all times in or about licensed premises in this city. (Ref. Neb. Rev. Stat. §53-118)

SECTION 4-226: SALES FOR CASH ONLY

No person shall, in this city, sell or furnish alcoholic liquor at retail: (1) on credit or on a passbook, or (2) order on a store, or (3) in exchange for any goods, wares or merchandise, or (4) in payment for any services rendered. (Ref. Neb. Rev. Stat. §53-183)

SECTION 4-227: PREMISES OPEN TO VIEW

In premises within this city in which the sale of alcoholic liquor for consumption upon the premises is licensed, other than as a restaurant, hotel or club, no screen, blind, curtain, partition, article or thing shall be permitted in the windows or upon the door of such premises which shall prevent a clear view into the interior of such licensed premises from the street, road or sidewalk at all times, and no booth, screen, partition or other obstruction nor any arrangements of lights or lighting shall be permitted in or about the interior of such licensed premises which shall prevent a full view of the entire interior of such licensed premises from the street, road or sidewalk. All rooms where liquor is sold for consumption upon the premises shall be continuously lighted during business hours by natural or artificial white light so that all parts of the interior of the premises shall be clearly visible.

SECTION 4-228: DISPLAY OF LICENSE

Every licensee in this city shall cause his/her license to be framed and hung in plain view in a conspicuous place on the licensed premises. (Ref. Neb. Rev. Stat. §53-148)

SECTION 4-229: REMOVAL OF INTOXICATED PERSONS FROM PUBLIC OR QUASI-PUBLIC PROPERTY

1. Any law enforcement officer with the power to arrest for traffic violations may take a person who is intoxicated and in the judgment of the officer dangerous to himself/herself or others, or who is otherwise incapacitated, from any public or quasi-public property. An officer removing an intoxicated person from public or quasi-public property shall make a reasonable effort to take such person to his/her home or to place such person in any hospital, clinic, alcoholism center, or with a medical doctor as may be necessary to preserve life or to prevent injury. Such effort at placement shall be deemed reasonable if the officer contacts those facilities or doctors which have previously represented a willingness to accept and treat such individuals and which regularly do accept such individuals. If such efforts are unsuccessful or are not feasible, the officer may then place such intoxicated person in civil protective custody, except that civil protective custody shall be used only as long as is necessary to preserve life or to prevent injury, and under no circumstances longer than 24 hours. The placement of such person in civil protective custody shall be recorded at the facility or jail at which he/she is delivered and communicated to his/her family or next of kin, if they can be located, or to such person designated by the person taken into civil protective custody.

2. The law enforcement officer who acts in compliance with this section shall be

deemed to be acting in the course of his/her official duty and shall not be criminally or civilly liable for such actions. The taking of an individual into civil protective custody under this section shall not be considered an arrest. No entry or other record shall be made to indicate that the person has been arrested or charged with a crime.

3. For purposes of this section, "public property" shall mean any public right-of-way, street, highway, alley, park or other state, county or city-owned property; and "quasi-public property" shall mean and include private or publicly-owned property utilized for proprietary or business uses which invites patronage by the public or which invites public ingress and egress.
(Ref. Neb. Rev. Stat. §53-1,121)

ARTICLE III – NONRESIDENT SALESMEN

SECTION 4-301: REGULATION

All non-resident individuals going door to door in the residential district with the intent to sell any goods, service, product or insurance or to solicit money for any purpose, shall, before doing business within the City, make application for and be issued a license. This registration and licensing is to prevent the sale of fraudulent, dangerous and unhealthful goods and services, to protect the public by maintaining records of the products sold and the persons and companies responsible for such sales and for the purpose of raising revenue. Application for a license shall be made to the city clerk upon blank forms supplied by the City, and shall contain all the necessary information and documents required for the protection of the residents of the City. Any person or persons granted a 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 in the event that the information provided is inaccurate or misleading.

SECTION 4-302: HOURS OF SOLICITATION

It shall be unlawful for any license holder to solicit any individual between the hours of 6:00 P.M. and 8:00 A.M., unless they have a previous appointment with the resident of the premises solicited. It shall be unlawful at any hour for any person to solicit without having a proper license on his/her person at all times.

SECTION 4-303: EXCEPTIONS

Nothing herein shall be construed to apply to any person selling produce raised within the county, to wholesale salespeople soliciting merchants directly, to residential route salespersons, to individuals not selling goods or services for profit, nor to persons canvassing residents of the City for religious, political or other noncommercial purposes.

ARTICLE IV – PLUMBERS

SECTION 4-401: LICENSED PLUMBER DEFINED

The term "licensed plumber" as used herein is hereby defined to denote any person to whom a plumber's license has been duly issued or renewed, as hereinafter provided,

which has not been revoked or terminated by lapse of time.

SECTION 4-402: PROCEDURE TO OBTAIN LICENSE

1. Any person wishing to obtain a license as a plumber shall file in the office of the city clerk a written application asking to become a licensed plumber and stating his/her willingness to be governed in all respects by the ordinances of said city and all rules and regulations now in effect or hereafter to be adopted by said city concerning its utility systems. Such application shall be presented by the city clerk to the City Council at its next meeting thereafter held, and said council may grant to such applicant a license upon the following conditions:

A. Satisfaction of the City Council of the business capacity, qualifications and good reputation of the applicant and of his worthiness to receive a license;

B. Payment of a license fee of $5.00 by applicant; and

C. Filing of a bond by applicant with corporate surety to be approved by the City Council in the penal sum of $2,000.00, conditioned upon (1) his indemnifying and keeping harmless the City of Fort Calhoun from all liability for any damage arising from any negligence or unskilled act in doing or protecting his work or from any unfaithful or inadequate work done in pursuance of his license; (2) his restoring the streets, alleys, sidewalks and pavements over the pipes he may lay and filling all excavations made by him so as to leave said streets, alleys, sidewalks and pavements in as good condition as he found them, keeping and maintaining the same in good order to the satisfaction of the City Council for the period of one year next thereafter; and (3) satisfaction of the Council that he will pay all fines that may be imposed upon him for a violation of any of the ordinances, rules and regulations adopted by this city and in force during the term of his license.

2. The city clerk shall issue said license, authorizing the applicant to engage in business as a licensed plumber in said city for and during the then current municipal year. Said license and bond shall cover all employees of the applicant.

SECTION 4-403: RENEWAL OF LICENSES

Any license granted as provided in the preceding section may be renewed from year to year at the option of the City Council, on application therefor, upon payment of the license fee of $5.00 for the year and the renewal of applicant's bond.

SECTION 4-404: TERM OF LICENSE

The term of each license or renewal may be revoked at any time, at the option of the City Council.

SECTION 4-405: FEES TO BE PAID TO CITY TREASURER

The city clerk shall pay over to the city treasurer all license fees collected pursuant to this article.

ARTICLE V – TRAILER REGULATIONS

SECTION 4-501: TERMS DEFINED

1. The term "court" as used in this code shall mean and include any tract of land upon which are located two or more trailers or other temporary enclosures used for living purposes, whether a charge is made or not.

2. The term "trailer" as used in this code shall mean and include any vehicle commonly designated as such, also called "mobile home," and constructed to permit occupancy for sleeping, advertising, or business purposes, and so designed that it is or may be mounted on wheels and used as a conveyance on the public ways, and does not comply with the city building code.

3. The term "unit space" as used in this code shall mean and include the ground space that is actually set aside in a trailer court for the occupancy by and use of a trailer or other temporary dwelling.

SECTION 4-502: TRAILER COURTS; PERMIT REQUIRED

1. It shall be unlawful for any person to establish a trailer court within the City or within one-half mile beyond the corporate limits until he or she shall first obtain a permit for such purpose from the City Council. The city clerk shall provide permit application forms, which shall require: the name and address of the applicant; the name and residence of the proposed manager of the premises; the location and size of the court; a plat of the court showing the number and location of each unit space; the water service available; the toilet or sewer facilities available; the proposed means of disposing of garbage; the electrical current sources available; and the type of buildings proposed to be erected thereon.

2. Upon receipt of any such permit application, the city clerk shall furnish the mayor with a copy of the said application. The mayor shall then examine the premises involved and the proposed unit spaces for the purpose of determining whether the proposed court will violate any of the provisions of the municipal code or the laws of the State of Nebraska. The mayor's findings shall then be submitted in writing to the City Council.

3. The City Council at its next regular meeting shall consider such application and if the members find that all of the provisions of this ordinance are complied with, shall issue a permit for the operation of the trailer court. In the event that any of the provisions of this ordinance shall not be provided for in such permit application, then such trailer court permit shall not be issued until the City Council receives assurances that all provisions of this ordinance shall be complied with.

4. In the event that all of the terms and conditions of this ordinance have been complied with and the City Council votes to permit such trailer court to exist, then the city clerk shall issue a permit to such applicant, which permit shall be for a one-year period, to be renewed annually.

SECTION 4-503: PERMIT RENEWAL

The annual fee for such permit shall be set by resolution of the City Council and shall be

on file at the office of the city clerk. The same procedure shall apply for the renewal of a permit as was heretofore prescribed for the issuance of a permit. No permit shall be issued for any period longer than one year.

SECTION 4-504: ASSIGNING PERMIT PROHIBITED

It shall be unlawful to assign or transfer without the written consent of the city clerk and the authorization of the City Council any permit issued by the City for the purpose of allowing the operation of a trailer court.

SECTION 4-505: PERMIT REVOCATION

Any permit granted under the provisions of this code shall be subject to revocation at any time by the City Council. Notice shall be served by the city clerk upon the person holding such permit, setting forth the manner in which the owner or operator of the court has failed to comply with the provisions of this code and allowing him/her an opportunity for a hearing before the City Council at a day and hour therein specified. The said hearing shall be held not less than three days after the personal service of the said notice. The owner or operator shall then be required to show cause why the said permit should not be revoked. Any owner or operator allowed an appearance under the provisions herein shall have the right to be represented by counsel.

SECTION 4-506: UNIT SPACES

Each trailer home shall be located on a site not less than 1,000 square feet. No trailer home shall be parked closer than five feet to the lot lines of the trailer court without the permission of the City Council; provided, nothing herein shall be construed to allow any trailer to be parked or located in such a manner as to obstruct the traffic on or the use of any public way or public property, and in the event that the lot line is adjacent to the public ways and property, the trailer shall be parked not less than ten feet therefrom. Each unit space shall abut a driveway of not less than 20 feet in width and shall have unobstructed access to a public street or alley. There shall be an open space of at least ten feet between the ends of the trailers located thereon, and there shall be on each trailer space an additional parking space for one vehicle for each unit in said court.

SECTION 4-507: DRAINAGE

Every trailer court shall be located on a well-drained area and the premises of such shall be properly graded so as to prevent the accumulation of stagnant water thereon.

SECTION 4-508: PLUMBING FACILITIES

The owner or operator of a trailer court shall make available connections with the sewer system for the trailer homes thereon unless other arrangements are agreed to in writing by the City Council.

SECTION 4-509: WASTE DISPOSAL

For garbage and refuse collection, tight receptacles of the type permitted for use within the City shall be provided for each unit space within the trailer court.

SECTION 4-510: ELECTRICAL SUPPLY

Each unit space within the trailer court shall be provided with an electrical service outlet installed and maintained in accordance with the current issue of the National Electrical Code.

SECTION 4-511: UNLAWFUL PARKING

It shall hereafter be unlawful for any person to place, allow to be placed, or occupy for any purpose a trailer home within the City or one-half mile beyond the corporate limits unless the same shall be located within the boundaries of a duly established trailer court. A modular home shall not be subject to this prohibition if it has its towing tongue and axles removed and is placed on a permanent concrete or concrete block foundation.

SECTION 4-512: CONVERSION

It shall be unlawful for any person to remove the wheels or transporting device from any trailer or to otherwise affix the said trailer to the ground without first obtaining a written permit from the City Council; provided, the trailer so converted shall be subject to all rules and regulations prescribed herein for other habitable dwellings. Applications for such permits shall be made through the city clerk.

SECTION 4-513: EXCEPTIONS

Nothing in this code shall be construed to prohibit the storage of any trailer home for any length of time when the said trailer is not used for living or business purposes nor shall it apply to any trailer homes located within the City at the time of the passage of this code; provided, in the event that such trailer is moved to a different location, all the provisions of this article shall become immediately applicable thereto.

SECTION 4-514: COURTS LIMITED

There shall be a limit of three trailer home courts which shall be licensed within the city or within one-half mile beyond the corporate limits.

SECTION 4-515: LIABILITY

The owner of the property upon which any trailer or trailer court is located shall be primarily liable for any violations of the provisions of this article and shall also be primarily liable for the cost of any and all utility services provided by the City to the owner or occupant of a trailer located thereon.

SECTION 4-516: INSPECTIONS

It shall be the duty of the owner, manager, or occupants of any public trailer court to allow any city officials to enter upon the premises for the purpose of inspection at any reasonable time.

ARTICLE VI – PENAL PROVISION

SECTION 4-601: VIOLATION; PENALTY

Any person who shall violate or refuse to comply with the enforcement of any of the provisions of this chapter, whether set forth at full length herein or incorporated by reference, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in a sum of not more than $500.00 for each offense. A new violation shall be deemed to have been committed every 24 hours of such failure to comply.

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CHAPTER V – PUBLIC WAYS AND PROPERTY

ARTICLE I – PUBLIC PROPERTY REGULATIONS

SECTION 5-101: MAINTENANCE AND CONTROL

The City Council shall have the care, supervision and control of all public highways, bridges, streets alleys, public squares and commons within the City and shall cause the same to be kept open and in repair and free from nuisances. (Ref. Neb. Rev. Stat. §17-567)

SECTION 5-102: OBSTRUCTIONS

Trees and shrubs growing upon or near the lot line or upon public ground and interfering with the use or construction of any public improvements shall be deemed an obstruction under this article. Shrubbery located near a traffic intersection or pedestrian crosswalk must be trimmed and not exceed 3½ feet in height and must be located 20 feet back from said intersection or crosswalk. Said trees, shrubs and their roots may be removed by order of the City Council or its designated city official at the expense of the owner of the property upon which the tree or shrub is located, should the owner fail or neglect,

after notice, to do so. It shall be unlawful for any person, firm or corporation to obstruct or encumber by fences, gates, buildings, structures or otherwise any of the streets, alleys or sidewalks. (Ref. Neb. Rev. Stat. §17-557.01) (Am. by Ord. No. 677, 1/20/12)

SECTION 5-103: PERMITTED OBSTRUCTIONS

Persons engaged in the erection, construction, reconstruction, wrecking or repairing of any building, or the construction or repair of a sidewalk along any street, may occupy the public street space with such building material and equipment as long as is necessary, if such person shall make written application to do so; provided, no permit for the occupancy of the sidewalk space, or more than one-third of the roadway of the public space adjacent to the real estate on which said building is to be constructed, erected, reconstructed, wrecked or repaired shall be granted; and provided further, 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 City Council.

SECTION 5-104: TREES

1. "Sidewalk space" as used herein shall mean that portion of a street between curb lines and adjacent property lines. No person shall plant or allow to grow any tree within the sidewalk space without first making a written or verbal application to, and receiving a written permit from, the City Council. Any tree planted within the sidewalk space shall be deemed to be unlawfully planted and growing and shall, at the discretion of the City Council, be deemed to be a nuisance. When any such tree is declared to be a nuisance, the City Council shall order, with proper notice, the tree removed at the expense of the owner of the property adjacent to the sidewalk space upon which the tree has been unlawfully planted.

2. If the property owner fails or neglects to remove, or cause to be removed, the said tree, the City Council shall order the same removed and assess the expense of such removal against the property adjacent to the sidewalk space wherein the tree is planted and growing. In the event the property owner is a non-resident of the county in which the property lies, the City shall, before levying any special assessment against that property, send a copy of any notice required by law to be published by means of certified mail, return receipt requested, to the last known address of the non-resident property owner. The last known address shall be that address listed on the current tax rolls at the time such required notice was first published. No fee shall be charged for said permit, and nothing in this section shall be construed to apply to any existing trees now growing within the sidewalk space.

SECTION 5-105: SALE AND CONVEYANCE OF REAL PROPERTY

1. Except as provided in subsection (4) of this section, the power of the City to convey any real property owned by it, including land used for park purposes and public squares, except real property used in the operation of public utilities, shall be exercised by resolution, directing the sale at public auction or by sealed bid of such real property and the manner and terms thereof, except that such real property shall not be sold at public auction or by sealed bid when (A) such property is being sold in compliance with the requirements of federal or state grants or programs; (B) such property is being conveyed to another public agency; or (C) such property consists of streets and alleys. The City Council may establish a minimum price for such real property at which bidding shall begin or shall serve as a minimum for a sealed bid.

2. After the passage of the resolution directing the sale, notice of all proposed sales of real property and the terms thereof shall be published once each week for three consecutive weeks in a legal newspaper published in or of general circulation in the City; provided, if a remonstrance against such sale, signed by registered voters thereof equal in number to 30% of the registered voters of the City voting at the last regular municipal election held therein, be filed with the City Council within 30 days after the third publication of the notice, such property shall not then, nor within one year thereafter, be sold. If the date for filing the remonstrance falls upon a Saturday, Sunday, or legal holiday, the signatures shall be collected within the next 30-day period, but the filing shall be considered timely if filed or postmarked on or before the next business day. Real estate now owned or hereafter owned by the City may be conveyed without consideration to the State of Nebraska for state armory sites or, if acquired for state armory sites, such property shall be conveyed strictly in accordance with the conditions of Neb. Rev. Stat. §18-1001 to 18-1006.

3. Following passage of the resolution directing a sale, publishing of the notice of the proposed sale, and passage of the 30-day right of remonstrance period, the property shall then be sold. Such sale shall be confirmed by passage of an ordinance stating the name of the purchaser and terms of the sale. The city clerk shall, upon passage of such ordinance, certify the name of the purchaser to the county register of deeds in which the county is located.

4. This section shall not apply to the sale of real property if the authorizing resolution directs the sale of an item or items of real and personal property the total fair market value of which is less than $5,000.00. 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. Confirmation of the sale by passage of an ordinance may be required.

SECTION 5-106: ACQUISITION OF REAL PROPERTY; CONSTRUCTION; ELECTIONS, WHEN REQUIRED

1. The City is authorized and empowered to (A) purchase, (B) accept by gift or devise, (C) purchase real estate upon which to erect, and (D) erect a building or buildings for an auditorium, fire station, municipal building, or community house for housing city enterprises and social and recreation purposes, and other public buildings, and maintain, manage and operate the same for the benefit of the inhabitants of the City.

2. Except as provided below, before any such purchase can be made or building erected, the question shall be submitted to the electors of the City 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 such question.

3. If the funds to be used to finance the purchase or construction of a building under this section are available other than through a bond issue, then either:

A. Notice of the proposed purchase or construction shall be published in a newspaper of general circulation in the City and no election shall be required to approve the purchase or construction unless within 30 days after the publication of the notice a remonstrance against the purchase or construction is signed by registered voters of the City equal in number to 15% of the registered voters of the City voting at the last regular

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 collected within the 30-day period, but the filing shall be considered timely if filed or postmarked on or before the next business day. If a remonstrance with the necessary number of qualified signatures is timely filed, the question shall be submitted to the voters of the City at a general 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

B. The City Council may proceed without providing the notice and right of remonstrance required herein if the property can be purchased below the fair market value as determined by an appraisal, there is a willing seller, and the purchase price is less than $25,000.00. The purchase shall be approved by the City Council after notice and public hearing as provided in Neb. Rev. Stat. §18-1755.
(Ref. Neb. Rev. Stat. §17-953 and 17-953.01)

SECTION 5-107: SALE 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 sold in compliance with the requirements of federal or state grants or programs or conveyed to another public agency, the notice procedure set forth above may be dispensed with. (Ord. No. 587, 10/15/07)

ARTICLE II – STREETS

SECTION 5-201: NAMES AND NUMBERS

1. The City Council may at any time, by ordinance, rename any street or provide a name for a new street. It shall be the duty of the City Council or its designated official, upon the creation of lot(s); upon the erection of any new building or buildings, to assign the proper numbers to said lot(s), building or buildings, and give notice to the owner, agent, lessee or occupant, of the same.

2. It is hereby made the duty of the owner, agent, lessee or occupant of any principal building in the City to place or cause to be installed and maintained on all buildings and premises which are used for residential, commercial or industrial purposes a proper number in a conspicuous place as near as possible to the main entrance thereto so that it is plainly visible from the street extending in front of said building. In the case of a building or premises that contains occupancy by multiple parties and is served by separate or individual exterior doors, the apartment or unit number(s) or range of numbers must also be installed and maintained on the building along with the assigned address number so that both are plainly visible from the street extending in front of said building and placed In a conspicuous place near as possible to the appropriate entrance thereto. The figures of each number shall be not less than three inches in height. Each figure

shall be plain, legible and of a contrasting color with its background upon which they appear and shall be maintained in such condition at all times.
(Am. Ord. No. 599, 1/21/08)

SECTION 5-202: CROSSINGS

The City Council may order and cause to be constructed, under the supervision of the city engineer and/or designated city official, as each specific case would require, street, avenue and alley crossings. The same shall be constructed of such materials as the Council shall deem necessary. When a petition for the construction of any such crossing is filed by an interested resident in the office of the city clerk, said clerk shall refer such application to the city engineer, who shall investigate and recommend to the City Council allowance or rejection as final action by the Council on such application. (Am. by Ord. No. 677, 1/20/12)

SECTION 5-203: 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 City, authorizing such excavation. Such permit shall not be issued until a designated city official has investigated the application and determined that such excavation shall be done in a workmanlike manner so as to minimize the inconvenience of the residents and motoring public in the area of the excavation. Excavation in streets and alleys shall be made in such a manner as to impede travel as little as possible. Warning lights shall be maintained on all unfinished work at night from sunset until sunrise and sufficient barricades shall be in place at all times until the work is completed to prevent any persons from injury in coming upon or crossing such work. After completion of any job or work, all surplus material must be removed at once from the streets and alleys. (Am. by Ord. No. 677, 1/20/12)

SECTION 5-204: 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 designated city official. (Am. by Ord. No. 677, 1/20/12)

SECTION 5-205: 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 and using said pavement as a mixing board for said material.

SECTION 5-206: HARMFUL LIQUIDS

It shall be unlawful for any person to place, or permit to leak, in the gutter of any street, waste gasoline, kerosene or high lubricating oils, which damage or act as a solvent upon said streets.

SECTION 5-207: EAVES AND GUTTER SPOUTS

It is hereby declared unlawful for any person to erect or maintain any dwelling house or business building within the limits of the City where the said dwelling or building abuts on any sidewalk or street, without providing proper guttering and eave spouts to receive

the waste waters that collect on the said sidewalks and streets. All eave spouts erected on any dwelling house or business building shall be constructed to drain into the alleys, or shall be buried beneath the sidewalks and drain into the streets where it is found to be impossible to drain said eave spouts into the alley.

SECTION 5-208: HEAVY EQUIPMENT

1. It shall hereafter be unlawful for any person or persons to move or operate heavy equipment across any curb, gutter, bridge, culvert, sidewalk, crosswalk or crossing on any unpaved street without first having protected such curb, gutter, bridge, culvert, sidewalks, crosswalk or crossing, with heavy plank sufficient in strength to warrant against the breaking or damaging of such curb, gutter, bridge, culvert, sidewalk, crosswalk or crossing. Hereafter, it shall be unlawful to run, drive, move, operate or convey over or across, any paved street a vehicle, machine or implement, with sharp discs or sharp wheels, that bear upon said pavement; with wheels having cuttings edges; with wheels having lugs, or 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, where heavy vehicles, structures, and machines move along paved or unpaved streets, the City Council is hereby authorized and empowered to choose the route over which the moving of such vehicles, structures or machines will be permitted and allowed.

2. 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; 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.

SECTION 5-209: WIDENING, OPENING, VACATING

The City Council shall have the power to open or widen any street, alley or lane within the limits of the City; and also to create, open and improve any new street, alley or lane; provided, all damages sustained shall be ascertained in such manner as shall be provided by law. Streets and alleys may be vacated as and when the mayor and City Council deem it necessary for the public safety, welfare and convenience and the title to the land so vacated for street or alley purposes shall revert to the owner or owners of the lot or lots from which it was originally taken, as provided by law, one-half on each side thereof. (Ref. Neb. Rev. Stat. §17-558, 17-559, 76-704 through 76-724)

SECTION 5-210: UTILITY LINES, WIRES, ETC.

Poles, wires, gas mains, pipe lines and other appurtenances of public service companies shall be located or erected over, upon or under the streets, alleys and common grounds after a proper application shall have been made to the city clerk in writing, and permission in writing shall have been given by the City Council. Public service companies heretofore or hereafter granted right of way for the erection and maintenance of poles, conduits, gas mains, pipe lines and wires for the purpose of transacting their business upon, under or over the streets, alleys and public grounds shall at all times, when requested by the City Council, erect, locate or relocate their poles, wires, gas mains, pipe lines and other appurtenances, to such places and in such manner as shall be designated by the City Council. Such poles, wires, gas mains, pipe lines and other appurtenances, shall be removed or relocated by said companies at their own expense

when requested to do so by the City Council. Whenever it becomes necessary for the City Council to request such relocation for the public safety and convenience, the City Council shall order said relocation by resolution, and the city clerk shall notify any company or companies affected. Said companies shall, within 24 hours after receiving notice, at their own expense, cause the poles, wires, gas mains, pipe lines or other appurtenances to be removed. The City Council shall designate another location, as close as possible, where said poles, wires, gas mains, pipe lines or other appurtenances may be reset or placed. All poles, wires, gas mains, pipe lines or other appurtenances, shall be reset, placed or erected in such manner that they will not interfere with the water system, sewer system, or poles, wires, and mains of any public utility located on the same street or alley, or with travel, buildings constructed, or hereafter to be constructed. Whenever possible, all pole lines, wires, gas mains, pipe lines or appurtenances shall be confined to the alleys of the City. No water pipe, underground electric line or telephone conduit shall be laid in the same trench with sewer pipe in any street, alley or public grounds in the City, or nearer than three feet to any sewer pipe. No underground electric line shall be laid in the same trench with any water pipe, sewer pipe or telephone conduit in any street, alley or public grounds or nearer than three feet to any such pipes or conduit.

SECTION 5-211: CONSTRUCTION ASSESSMENT

1. 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 such improvements and the amount charged against the same. The vote shall be recorded in the minutes. Notice of the time of holding such meeting and the purpose for which it is to be held shall be published in a legal newspaper published or of general circulation in the City at least four weeks before the same shall be held. In lieu of such aforementioned notice, personal service may be had upon the persons owning or occupying the property to be assessed.

2. Such assessments shall be known as "special assessments for improvements" and with the cost of notice shall be levied and collected as a special tax in addition to the taxes for general revenue purposes, subject to the same penalties and collected in like manner as other municipal taxes, and shall be certified to the county clerk by the city clerk forthwith after the date of levy for collection by the county treasurer unless otherwise specified. After it shall become delinquent, said assessment shall draw interest at the legal interest rate per annum. In the event the property owner is a non-resident of the county in which the property lies, the City shall, before levying any special assessment against that property, send a copy of any notice required by law to be published by means of certified mail, return receipt requested, to the last known address of the non-resident property owner. The last known address shall be that address listed on the current tax rolls at the time such required notice was first published.
(Ref. Neb. Rev. Stat. §17-511, 17-524, 19-2428 through 19-2431, 45-104.01)

SECTION 5-212: IMPROVEMENT DISTRICTS, OBJECTIONS

Whenever the City Council shall deem it necessary to make any improvements allowed by statute, the City Council shall by ordinance create a paving, graveling or other improvement district or districts, and after the passage, approval and publication or posting of such ordinance, shall publish notice of the creation of any such district for six days in a legal newspaper of the City, if a daily newspaper, or for two consecutive weeks if the same be a weekly newspaper. If the owners of record title representing more than 50% of the front footage of the property directly abutting on the street(s) or alley(s) to be improved shall file with the city clerk within 20 days after the first publication of said notice, written objections to the creation of such district(s), said improvements shall not be made as provided in said ordinance; but said ordinance shall be repealed. If said objections are not filed against the district in the time and manner aforesaid, the City Council shall forthwith cause such work to be done or such improvement to be made, and shall contract therefor and shall levy assessments on the lots and parcels of land abutting on or adjacent to such street(s) and alley(s) especially benefited thereby in such district in proportion to such benefits to pay the cost of such improvement. (Ref. Neb. Rev. Stat. §17-511)

SECTION 5-213: IMPROVEMENT OF STREETS ON CORPORATE LIMITS

The mayor and City Council shall have the power to improve any street or part thereof which divides the city corporate area and the land adjoining the City. When creating an improvement district including land adjacent to the City, the Council shall have power to assess, to the extent of special benefits, the costs of such improvements upon the properties found especially benefited thereby. (Ref. Neb. Rev. Stat. §17-509)

SECTION 5-214: IMPROVEMENT OF MAIN THOROUGHFARES

The mayor and City Council shall have the power by a three-fourths vote to create by ordinance a paving, graveling or other improvement district and to order such work done upon any federal or state highway in the City or upon a street or route designated by the mayor and Council as a main thoroughfare that connects on both ends to either a federal or state highway or a county road. The Council shall contract therefor and shall have the power to assess, to the extent of special benefits, the costs of such improvements upon the properties found especially benefited thereby. (Ref. Neb. Rev. Stat. §17-512)

SECTION 5-215: 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(s), alley(s), public way or the public grounds proposed to be improved shall be presented and filed with the city clerk, petitioning therefor, the City Council shall by ordinance create a paving, graveling, or other improvement district and shall cause such work to be done or such improvement to be made, and shall contract therefor and shall levy assessments on the lots and parcels of land abutting on or adjacent to such street or alley especially benefited thereby in such district in proportion to such benefits, to pay the cost of such improvement. The Council shall have the discretion to deny the formation of the proposed district when the area has not previously been improved with a water system, sewer system, and grading of streets. If the Council should deny a requested improvement district formation, it shall state the grounds for such denial in a written letter to interested parties. (Ref. Neb. Rev. Stat. §17-510)

SECTION 5-216: DEFERRAL FROM SPECIAL ASSESSMENTS

1. Whenever the City Council creates an improvement district which includes land adjacent to the City which is within an agricultural use zone and is used exclusively for agricultural use, the owners of record title of such adjacent land may apply for a deferral from special assessments. For purposes of this section, the terms "agricultural use" and "agricultural use zone" shall have the meaning specified in Neb. Rev. Stat. §77-1343.

2. Any owner of record title eligible for the deferral granted by this section shall, to secure such assessment, make application to the City Council within 90 days after creation of an improvement district. Any owner of record title who makes application for the deferral provided by this section shall notify the county register or deeds of such 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 the property (A) is within an agricultural use zone and is used exclusively for agricultural use, and (B) the owner has met the requirements of this section.

3. The deferral provided for in this section shall be terminated upon any of the following events:

A. Notification by the owner of record title to the City Council to remove such deferral;
B. Sale or transfer to a new owner who does not make a new application within 60 days of the sale or transfer, except as provided in subdivision (3) (C) below;
C. Transfer by reason of death of a former owner to a new owner who does not make application within 125 days of the transfer;
D. The land is no longer being used as agricultural land; or
E. Change of zoning to other than an agricultural zone.

4. Whenever property which has received a deferral pursuant to this section becomes disqualified for such deferral, the owner of record title of such property shall pay to the City an amount equal to:

A. The total amount of special assessments which would have been assessed against such property, to the extent of special benefits, had such deferral not been granted; and

B. Interest upon the special assessments not paid each year at the rate of 6% from the dates at which such assessments would have been payable if no deferral had been granted.

5. In cases where the deferral provided by this section is terminated as a result of a sale or transfer described in subdivision (3) (B) or (C) above, the lien for assessments and interest shall attach as of the day preceding such sale or transfer.
(Ref. Neb. Rev. Stat. §19-2428 through 19-2431)

SECTION 5-217: VACATING PUBLIC WAYS; DEFINITIONS AND ASCERTAINING DAMAGES

1. "Special damages" shall mean only those losses, damages or injuries which a

property owner suffers that are peculiar, special or unique to his/her property, and which result from the City Council vacating such street, avenue, alley, lane or similar public ways. Special damages shall not mean those losses, damages or injuries that a property owner suffers that are in common with the rest of the City or public at large, even though those losses, damages or injuries are greater in degree than the rest of the City or public at large.

2. The mayor shall appoint three, 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 such street, avenue, alley, lane or similar public way. The appointees of the special commission shall be approved by the Council. Only special damages, as herein defined, shall be awarded to the abutting property owners.

3. In determining the amount of compensation to award the abutting property owners as special damages, the aforementioned commission shall use the following rule:

> The abutting property owner is entitled to recover as compensation the difference between the value of such property immediately before and immediately after the vacating of such street. However, if no difference in value exists, the abutting property owner is entitled to no compensation.

(Ref. Neb. Rev. Stat. §17-558, 17-559)

SECTION 5-218: VACATING PUBLIC WAYS; PROCEDURE

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. Notice shall be given to all abutting property owners either by first class mail to their last known address or, if there is no known address, then by publishing the notice in a newspaper that is of general circulation in the City. The content of the notice will advise the abutting property owners that the City Council will consider vacating such street, avenue, alley, lane or similar public way at their next regular meeting, or if a special meeting is scheduled for such discussion, then the date, time and place of such meeting.

2. Consent/Waiver. The City Council may have all the abutting property owners sign a form stating that they consent to the action being taken by the City Council and waive their right of access. The signing of such form has no effect on claims for special damages as defined in Section 5-217 by the abutting property owners, but does create the presumption that the City Council's action was proper. However, if all the abutting property owners do not sign the consent/waiver form, the City Council may proceed with vacating such street, avenue, alley, lane or similar public way under the authority granted them by Neb. Rev. Stat. §17-558 and 17-559.

3. Ordinance. The City Council shall pass an ordinance that shall state essentially the following:

A. A declaration that the action is expedient for the public good or in the best interests of the City.
B. A statement that the City shall have an easement for maintaining all utili-

ties.

C. A method or procedure for ascertaining special damages to abutting property owners.

D. Whether the City shall retain ownership of the street or alley to be vacated.

4. Filing. The clerk shall file a copy of the ordinance with the county register of deeds to gain title to their share of the vacated street, avenue, alley, lane or similar public way and so that such land will be drawn to the attention of the county assessor.

SECTION 5-219: RETAINING OWNERSHIP OF VACATED STREETS OR ALLEYS

The City may retain ownership of the vacated city street or alley and in this event may sell, convey, exchange or lease such retained ownership on such terms and conditions as shall be deemed in the best interest of the City. (Am. by Ord. No. 550, 12/19/05)

SECTION 5-220: RESERVATION OF UTILITY RIGHTS IN VACATED STREETS AND ALLEYS

In the event of vacation of a street or alley 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 branch lines, above, on, or below the surface of the ground that are existing as valid easements at the time title to the property is vacated for the purposes of serving the general public or the abutting properties and to enter upon the premises to accomplish such purposes at any and all reasonable times. (Am. by Ord. No. 550, 12/19/05)

SECTION 5-221: CUTTING CURB; PERMIT REQUIRED

1. It shall be unlawful for any person to cut, break, remove or alter any curbing, alley, driveway approach, sidewalk or any vehicular access on any public right-of-way in the City. Permits shall be issued by the city clerk after receiving approval of the designated city official and payment of fees as provided.

2. All driveway permits issued for property located outside the city limits but within its extraterritorial jurisdiction may also be reviewed and approved by the city engineer or the Washington County road superintendent, as each specific case would require.
(Am. by Ord. No. 677, 1/20/12)

ARTICLE III – SIDEWALKS

SECTION 5-301: DUTY OF PROPERTY OWNERS; LIABILITY

Every owner of any lot, lots or piece of land within the limits of this city shall at all times keep and maintain the sidewalks within the frontage right-of-way of said lot, lots or piece of land in good and proper repair and in a condition reasonably safe for all travelers thereon. In case the owner or owners of any lot, lots or land abutting on any street or avenue or part thereof shall fail to construct, maintain or repair any sidewalk within the frontage right-of-way of his/her/their lot, lots or land within the time and in the manner as directed and required by this article after having received due notice to do so,

he/she/they shall be liable for all damages and injury occasioned by reason of the defective or dangerous condition of any sidewalk and the mayor and City Council shall have power to cause such sidewalks to be constructed, repaired, or maintained and assess the cost thereof against such property. Further, maintenance of sidewalks will include removing the weeds in the sidewalk and weeds encroaching thereon and needing edging. (Ref. Neb. Rev. Stat. §17-557.01) (Am. Ord. Nos. 611, 9/15/08; 630, 2/15/10)

SECTION 5-302: NEW SIDEWALK; NOTICE

Whenever the City Council shall deem it necessary, in accordance with written city sidewalk construction policy, that a new sidewalk should be constructed within the frontage right-of-way of any lot, lots or piece of land abutting any street or avenue or part thereof or piece of land in the City in a place where there is no sidewalk, taking into account the benefits derived or injuries sustained in consequence of such improvement, it shall so order the same by resolution. Thereafter the city clerk shall notify the owner of such lot, lots or piece of land or his/her agent of the work or improvements to be done and such owner or person so notified shall be allowed 30 days from the date of said notice in which to construct the same. (Ref. Neb. Rev. Stat. §17-509) (Am. by Ord. Nos. 630, 2/15/10; 677, 1/20/12)

SECTION 5-303: REPAIRING OR MAINTAINING SIDEWALK

Whenever the City Council shall deem it necessary that a sidewalk within a frontage right-of-way is in need of repair, the owner of the lot, lots or piece of land along and continuous to which such sidewalk is situated shall be notified in writing by the city clerk to make arrangements within five days to repair the same. Said repairs shall be completed within 30 days after issuance of said notice. If said owner cannot be found, then a written notice left at the house situated on such lot, lots or piece of land or posted upon said premises shall be sufficient and the five days shall begin to run from the leaving or posting of such notice. (Am. by Ord. Nos. 611, 9/15/08; 630, 2/15/10; 677, 1/20/12)

SECTION 5-304: RECONSTRUCTING SIDEWALKS; NOTICE

Whenever the City Council shall deem it necessary that an old sidewalk within a frontage right-of-way be replaced or reconstructed, it shall order the same to be done by resolution and the City Clerk shall give notice, in the same manner and form as provided in Section 5-303 herein, to replace or reconstruct the same within 30 days from and after such notice. (Am. by Ord. Nos. 630, 2/15/10; 677, 1/20/12)

SECTION 5-305: MANNER OF CONSTRUCTION

All sidewalk construction shall be done strictly in accordance with and pursuant to the instructions and directions of the city engineer and/or designated city official according to standards adopted periodically by the City. (Am. by Ord. Nos. 630, 2/15/10; 677, 1/20/12)

SECTION 5-306: FAILURE TO REBUILD UNLAWFUL SIDEWALK

In case the owner of property on which any unlawful sidewalk is constructed within and abutting frontage right-of-way refuses or neglects to rebuild or relocate the same within five days after notice to do so, then the City Council may order the same to be rebuilt or relocated by resolution and assess the costs upon the abutting property upon the same

notice and in the same manner provided for the construction of and assessment for new sidewalks contained in this article. (Ord. No. 630, 2/15/10)

SECTION 5-307: FAILURE TO CONSTRUCT, RECONSTRUCT, REPAIR, OR MAINTAIN

If any such owner shall neglect or refuse or shall have failed, after notice has been given as provided in this article, to construct, repair, maintain, replace or reconstruct any sidewalk within the time limit in the notice given in such case and whose duty it is made by this article to construct, repair, maintain or rebuild such walks, city officials are empowered, without further notice, to have such side-walks constructed, repaired, maintained, rebuilt or reconstructed, as the case may be, and the expense of such work shall be assessed to such lot or piece of land and collected as provided by law. (Am. by Ord. Nos. 611, 9/15/08; 677, 1/20/12)

SECTION 5-308: CONSTRUCTION BY PETITION OR AGREEMENT

1. If 60% of the recorded resident front footage owners of property subject to assessment for sidewalk improvements petition the City Council to construct the same, the Council shall by ordinance create a sidewalk improvement district or districts and shall cause such work to be done or such improvement to be made. The Council shall contract therefor and shall levy assessments on the lot, lots or piece of land abutting on or adjacent to such side-walk improvement especially benefited thereby in such district in proportion to such benefits, except as provided in Neb. Rev. Stat. §19-2428 to 19-2431, to pay the cost of such sidewalk improvement. The City Council shall have the discretion to deny the formation of the proposed sidewalk improvement district when the area has not previously been improved with a water system, sewer system, and grading of streets. If the Council shall deny the requested sidewalk improvement formation, it shall state the grounds for such denial in a written letter to interested parties. (Ref. Neb. Rev. Stat. §17-510)

2. Upon the petition of an abutting owner in fee simple of property subject to assessment for said sidewalk improvements, the City Council may order permanent sidewalks built in accordance with this article upon the making, executing, and delivery to the City an agreement by the owner that he/she (A) will pay the engineering services fees and the cost of the construction of the sidewalk; (B) grants the City the right to assess and levy the costs of such construction against his/her real estate abutting the sidewalk improvement; (C) promises to pay such costs with interest; and (D) agrees that such costs of construction, until paid, shall be a perpetual lien upon the real estate abutting the sidewalk to be constructed. The total cost of such improvement shall be levied, allocated, financed, and specially assessed as provided by law. (Ref. Neb. Rev. Stat. §17-508 and 17-511)
(Am. by Ord. No. 630, 2/15/10)

SECTION 5-309: IMPROVEMENTS; PETITIONS AND PROTESTS; SUFFICIENCY; NOTICES; HOW DETERMINED; APPEAL

Before proceeding with such sidewalk improvements, the sufficiency of the protests or petitions or the existence of the required facts and conditions shall be determined by the City Council at a hearing of which notice shall be given to all persons who may become liable for assessments by one publication in each of two successive weeks in a newspaper having general circulation in the City. Appeal from the actions of the Council may

be made to the District Court of Washington County. The sufficiency of protests or petitions as to ownership of the property shall be determined by the records in the office of the county clerk or register of deeds at the time of the adoption of said ordinance. In determining the sufficiency of the petition or objections, intersections shall be disregarded and any lot, lots or piece of land owned by the City shall not be counted for or against work sidewalk improvement. (Ref. Neb. Rev. Stat. §17-513) (Ord. No. 630, 2/15/10)

SECTION 5-310: REPAIR; COST; ASSESSMENT; NOTICE

1. The mayor and City Council may construct and repair sidewalks or cause the construction and repair of sidewalks in such manner as they deem necessary and assess the expense thereof on the property in front of which such constructions or repairs are made, after having given notice (A) by publication in one issue of a legal newspaper of general circulation in the City and (B) by either causing a written notice to be served upon the occupant in possession of the property involved or to be posted upon such premises ten days prior to the commencement of such construction or repairs. These powers are in addition to those provided in this article and may be exercised without creating an improvement district.

2. If the owner of any property abutting any street or avenue or part thereof fails to construct or repair any sidewalk within the frontage right-of-way of the owner's property within the time and in the manner as directed and requested by the mayor and the City Council, after having received due notice to do so, the mayor and Council may cause the sidewalk to be constructed or repaired and may assess the cost thereof against the property.
(Ref. Neb. Rev. Stat. §17-522) (Ord. No. 630, 2/15/10)

SECTION 5-311: IMPROVEMENTS; ASSESSMENTS; HOW MADE; COLLECTION

Assessments made under the provisions of this article shall be made and assessed in the following manner:

1. Said assessment shall be made by the City Council at a special meeting, by resolution, taking into account the benefits derived or injuries sustained in consequence of such improvements and the amount charged against the same, which shall be spread at length upon minutes with the vote thereon by yeas and nays. Notice of the time of holding such meeting and the purpose for which it is to be held shall be published in a newspaper published or of general circulation in the City at least four weeks before the same shall be held or, in lieu thereof, personal service may be had upon persons owning or occupying property to be assessed.

2. All such assessments shall be known as "Special Assessments For Improvements" and shall be levied and collected as a separate tax, in addition to the taxes for general revenue purposes, and shall be placed on the tax rolls for collection, subject to the same penalties and collected in the same manner as other city taxes.
(Ref. Neb. Rev. Stat. §17-524) (Ord. No. 630, 2/15/10)

SECTION 5-312: CONSTRUCTION BY OWNER

Any person desiring to construct or cause to be constructed any sidewalk shall do so only as herein provided. It shall be unlawful for any person to construct any sidewalk without first having obtained a permit. Said owner shall make application in writing for a

permit and file such application in the office of the city clerk. The permit shall give a description of the lot or piece of land along which the sidewalk is to be constructed. The city clerk's office shall issue the desired permit unless good cause shall appear why said permit should be denied; provided, if it is desired to construct the sidewalk at any other than the regularly prescribed location, grade or elevation, the city clerk shall submit the application to the Planning Commission, which shall determine whether the permit should be granted or denied. It shall be unlawful for any person to construct or cause to be constructed said sidewalk at any other location, grade or elevation than so designated by the City. All sidewalks shall be built and constructed on the established grade or elevation and if there is no established grade, then on the grade or elevation indicated by the city engineer. (Am. by Ord. No. 677, 1/20/12)

SECTION 5-313: CONSTRUCTION BIDS

1. Whenever the City shall construct, widen, replace or reconstruct any sidewalk, notice prepared by the city attorney specifying the work to be done and calling for bids for doing such work and supplying the necessary materials and labor shall be published in at least one issue of a legal newspaper of general circulation in the City; provided, bids so invited shall be filed in the office of the city clerk within ten days after the date of publication. Bids shall be opened at the next regular or special meeting of the City Council, which shall then award the work to the lowest responsible bidder.

2. Upon approval of the work, the City Council may require the contractor to accept payment in certificates issued by the city clerk entitling him/her to all assessments or special taxes against such real estate whenever such 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 or parcel of ground against which the assessments or special taxes are assessed. Such 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 such contractor or other holder of the certificates all assessments or special taxes against such real estate, together with the interest and penalty thereon, at any time upon presentation of such certificates after said assessments or special taxes against such real estate, together with interest or penalty thereon, shall have been collected.

SECTION 5-314: DUTY TO REMOVE SNOW, SLEET AND ICE; SNOW EMERGENCY; PENALTY

1. 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 such substance to remain upon said sidewalk. In the event that the mayor or his/her representative declares that emergency conditions exist and prohibits parking along snow emergency routes, property owners or occupants of lots abutting such snow emergency routes or within the business district may scoop the snow from the sidewalks under their control into the street. All sidewalks within the business district shall be cleaned within five hours after the cessation of a storm unless the storm or fall of snow shall have taken place during the night, in which case the sidewalk shall be cleaned before 9:00 A.M. the following day. Sidewalks within the residential areas of the City shall be cleaned within 24 hours after the cessation of the storm.

2. It is hereby determined a nuisance to fail to remove accumulated snow from any

sidewalk within the City and such failure to remove accumulated snow within the time set herein shall be punished as a misdemeanor.
(Ref. Neb. Rev. Stat. §17-557)

SECTION 5-315: DUTY TO REMOVE BRANCHES AND SHRUBBERY; PENALTY

It shall be the duty of the occupant of each lot or parcel of ground to keep the sidewalk adjacent thereto free from overhanging branches and free from limbs to a height of 8 feet and to keep such sidewalk free from encroaching hedges or shrubbery. No tree, shrubbery or hedge shall be permitted closer than 18 inches to the sidewalk. It shall be the duty of the occupant of each lot or parcel of ground abutting on any intersection to trim and or remove any shrubbery, sign or other obstacle which obstructs the view for a distance of 10 feet from such intersection. Any such occupant or owner who fails to remove the overhanging branches and limbs or other encroachments within five days after receiving written notice to do so, upon conviction shall be fined in any sum not exceeding $500.00 and shall pay the costs of prosecution and the costs of the removal of such encroachments. (Ref. Neb. Rev. Stat. §17-557.01)

ARTICLE IV – CONSTRUCTION OF DRIVEWAY APPROACHES

SECTION 5-401: DEFINITIONS

1. "Driveway approach" as used herein shall mean the area between the roadway of public streets or highways and private property intended to provide access for vehicles from the roadway of a public street or highway to private property.

2. "Roadway" as used herein shall mean that portion of a street or highway improved, designed or ordinarily used for vehicular traffic.

SECTION 5-402: PERMIT REQUIRED

It shall be unlawful for any person, firm or corporation, without first having obtained a permit or after a permit has been canceled pursuant to this article, to construct, reconstruct, use or allow to exist any driveway approach, whether or not any part of the street or highway roadway is unpaved, curbed or otherwise paved. It also shall be unlawful for any person to cut, deface, break out or remove any curbing or gutter of any street or highway without first having obtained a permit therefor. It shall also be unlawful for any person making a change in land use to any property, the scope of which requires a certificate of occupancy, whether or not served by an existing driveway approach, to utilize any driveway approach thereto without first obtaining a permit therefor related to such new use.

SECTION 5-403: APPLICATION REQUIREMENTS

Any person desiring a permit required by the provisions of this article shall first make application to the City upon the written form provided for that purpose. Such form shall require as much information in as much detail as is necessary to show that the work will be carried out in conformity with this article and the regulations adopted pursuant to this article.

SECTION 5-404: FEES FOR PERMITS; COSTS FOR TRAFFIC STUDIES

Before any permit shall be issued under the provisions of this article, the applicant therefor shall pay a fee of $1.00 per lineal foot of driveway approach as determined at its greatest width; provided, credit shall be given at the same rate per lineal foot for existing lawful driveway approaches, where the permit is for a change in such approach. In addition, any traffic impact studies required by virtue of an application for a driveway approach permit, any related or comparable studies involving signage or speed limits, or other costs payable or reimbursable to the city engineer or other provider, to study or investigate such applications, shall be at the sole expense of the applicant for a driveway approach permit. (Am. by Ord. No. 677, 1/20/12)

SECTION 5-405: STANDARDS

The following are permit terms and all driveway approaches which are required to have driveway approach permits shall comply with these standards. The driveway approaches shall be designed so that under the circumstances for the property:

1. Reasonable access from the roadway to the property is afforded;

2. The separation between the driveway approach and other driveway approaches and intersections is the minimum allowable as prescribed by the design criteria referred to in Section 5-406 hereof;

3. The area and number of points where conflicts can occur between vehicles using the driveway approach and through vehicles on the roadway and pedestrians on the public right-of-way is kept to a minimum;

4. The differential in speeds between the vehicles using the driveway approach and through vehicles on the roadway is kept as low as practical;

5. The driver of a vehicle entering or leaving the roadway from a driveway has the maximum unobstructed view of other vehicles using the roadway;

6. The optimum safety and efficiency of right- and left-turning vehicles using the driveway is afforded;

7. The frequency of vehicles which must stop or substantially reduce their speed on the roadway because of the actions of vehicles entering or leaving the driveway approach is considered;

8. The safety, efficiency and capacity of the roadway are promoted.

"Designed" as used in this section shall include, but is not limited to, the number, size and location of the driveway approach. In addition to the standards of this section, driveway approaches shall also comply with the driveway approach standards as set forth in the regulations.

SECTION 5-406: DESIGN CRITERIA

The city engineer is authorized to establish guidelines and regulations for the design, location and construction of driveway approaches which provide access from any public

street or highway to any private property. When such regulations and amendments thereof have been adopted by resolution of the City Council, they shall be the official regulations for driveway approach design, construction and location.

SECTION 5-407: TEMPORARY; REVOCATION, MODIFICATION OF PERMIT

A driveway approach permit is temporary in nature, revocable and modifiable by the City. The City may cancel any permit issued under the provisions of this article at any time when the continuation of the right under the permit constitutes a traffic hazard or any condition not beneficial to the public welfare, or where the property served has undergone a change in land use requiring a different construction or design of the driveway approach or approaches.

SECTION 5-408: OBLIGATION TO RESTORE RIGHT-OF-WAY

When any permit for constructing a driveway approach has been canceled, surrendered or terminated, or where no permit has been granted for the driveway approach, the permit holder or the owner of the affected property shall be responsible for the cost necessary to replace or restore the curb, sidewalk and other parts of the right-of-way. This obligation shall be a condition upon which permits shall be issued under the provisions of this article. It shall be unlawful to refuse or neglect to replace or restore the curb, sidewalk and other parts of the right-of-way as provided in this section.

SECTION 5-409: COMPLIANCE WITH ARTICLE

It shall be unlawful for any person to do any of the acts described in this article except to the extent and in the manner authorized by the permit so obtained and by the provisions of this article.

SECTION 5-410: INSPECTION, APPROVAL

Before any permit can be issued under the provisions of this article, the application therefor shall be investigated and approved by the City, which may employ the city engineer or other experts for the purpose.

SECTION 5-411: TERMS OF PERMIT; UNLAWFUL TO VIOLATE

The terms of a driveway approach permit are the municipal code, the regulations, the site plan and design approved by the City and other such terms which are placed in writing on the site plan or permit by the City. It shall be unlawful to use, construct, reconstruct, relocate or alter a driveway approach in any manner not authorized by the permit terms.

SECTION 5-412: TIME LIMIT; EXTENSION

Any person receiving a permit under the provisions of this article shall proceed within six months, at his/her own expense, to construct, reconstruct, use or allow to exist any driveway approach, and/or cut, deface, break out or remove any curbing or gutter of any street or highway. If the work is not substantially complete at the end of the six-month period, the permit shall be void unless an extension is granted in writing by the City.

SECTION 5-413: MAINTENANCE WORK; ORDER AUTHORIZED

The City or the city engineer, when employed by the City for this purpose, is authorized to order and effect the removal, reconstruction, relocation or repair of any driveway approach which is causing damage to, or is likely to cause damage to, or interfere with, any street structures, including pavement or sidewalks. Such order shall be sent to the last known address of the abutting property owner by registered letter or certified mail and shall set out the reasons why it is given and the method and materials to be utilized in making the removal, reconstruction, relocation or repair so ordered. If within 30 days of mailing such notice, the property owner fails or neglects to cause such repairs or replacements to be made, the City or the city engineer may cause such work to be done, the cost of which shall be assessed upon the property served by such approach.

SECTION 5-414: APPEALS

Any person aggrieved by the issuance, denial or cancellation of any permit or other order issued under the provisions of this article may appeal from such issuance, denial or cancellation or order to the Board of Adjustment by complying with all of the provisions of law pertinent to the same.

ARTICLE V – PENAL PROVISION

SECTION 5-501: VIOLATION; PENALTY

Any person who shall violate or refuse to comply with the enforcement of any of the provisions of this chapter, whether set forth at full length herein or incorporated by reference, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in a sum of not more than $500.00 for each offense. A new violation shall be deemed to have been committed every 24 hours of such failure to comply.

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CHAPTER VI – PUBLIC UTILITIES

ARTICLE I – UTILITIES GENERALLY

SECTION 6-101: BILLING

Utility bills shall be a joint bill for all utilities and shall be due and payable monthly at the office of the city clerk. It shall be the duty of the city clerk to compute or cause to be computed a joint utility bill by the end of each month according to the appropriate provisions of this Code. It shall be the duty of all utility customers to present themselves monthly at the office of the city clerk and pay their bill for all utility charges. Bills shall be deemed delinquent if not paid by the 25th day of each month. (Ref. Neb. Rev. Stat. §17-537, 18-503, 19-1404)

SECTION 6-102: DEPOSIT

Any customer desiring service may be required to make a joint service deposit for all city utilities. The amount of said deposit shall be on file in the office of the city clerk.

SECTION 6-103: DISCONTINUANCE OF SERVICE, NOTICE PROCEDURE

1. The City shall have the right to discontinue services and remove its properties if the charges for such services are not paid within 10 days after the date that the same becomes delinquent. Before any termination, the utilities superintendent shall first give notice by first class mail or in person to any domestic subscriber whose service is proposed to be terminated. If notice is given by first class mail, such mail shall be conspicuously marked as to its importance. Service shall not be discontinued for at least seven days, weekends and holidays excluded. As to any subscriber who has previously been identified as a welfare recipient to the City by the Department of Social Services, such notice shall be by certified mail and notice of such proposed termination shall be given to the Department of Social Services.

2. The notice shall contain the following information:

A. The reason for the proposed disconnection;

B. A statement of the intention to disconnect unless the domestic subscriber either pays the bill or reaches an agreement with the Department regarding payment of the bill;

C. The date upon which service will be disconnected if the domestic subscriber does not take appropriate action;

D. The name, address and telephone number of the employee or department to

whom the domestic subscriber may address an inquiry or complaint;

E. The domestic subscriber's right, prior to the disconnection date, to request a conference regarding any dispute over such proposed disconnection;

F. A statement that the Department may not disconnect service pending the conclusion of the conference;

G. 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 resident within such subscriber's household has an existing illness or handicap which would cause such subscriber or resident to suffer an immediate and serious health hazard by the disconnection of the utility's service to that household. Such certificate shall be filed with the city clerk within five days of receiving notice under this section and will prevent the disconnection of the utility services for a period of 30 days from such filing. Only one postponement of disconnection shall be allowed under this subsection for each incidence of non-payment of any due account;

H. The cost that will be born by the domestic subscriber for a restoration of service;

I. A statement that the domestic subscriber may arrange with the City for an installment payment plan.

J. A statement to the effect that those domestic subscribers who are welfare recipients may quality for assistance in payment of their utility bill and that they should contact their caseworker in that regard; and

K. Any additional information not inconsistent with this section which has received prior approval from the City Council.

3. A domestic subscriber may dispute the proposed discontinuance of service by notifying the utilities superintendent 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 utility may discontinue services.

4. The procedures adopted by the City Council for resolving utility bills, three copies of which are on file in the office of the city clerk, are hereby incorporated by reference in addition to any amendments thereto and are made a part hereof as though set out in full.

5. This section shall not apply to any disconnection or interruptions of service made necessary by the utility for reasons of repair or maintenance or to protect the health or safety of the domestic subscriber or of the general public.
(Ref. Neb. Rev. Stat. §7-1605 et seq.)

SECTION 6-104: DIVERSION OF SERVICES; PENALTY

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 such act results in damages to a city utility. The City may bring a civil action for damages pursuant to this section against any person receiving the

benefit of utility service through means of bypassing, tampering or unauthorized metering.

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 to reasonable calculation; or

B. Liquidated damages or $750.00 if the amount of actual damage or loss is not susceptible to reasonable calculation.

3. In addition to damage or loss under subdivision (1) or (2) of this section, 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.

4. There shall be a rebuttable presumption that a tenant or occupant at any premises where bypassing, tampering or unauthorized metering is proven to exist caused or had knowledge of such bypassing, tampering or unauthorized metering if the tenant or occupant (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.

5. There shall be a rebuttable presumption that a customer at any premises where bypassing, tampering or unauthorized metering is proven to exist caused or had knowledge of such bypassing, tampering or unauthorized metering if the customer controlled access to the part of the utility supply system on the premises where the bypassing, tampering or unauthorized metering was proven to exist.

6. The remedies provided by this section shall be deemed to be supplemental and additional to powers conferred by existing laws and the remedies provided in this section are in addition to and not in limitation of any other civil or criminal statutory or common law remedies.
(Ref. Neb. Rev. Stat. §86-331.01 through 86-331.04)

SECTION 6-105: LIEN

In addition to all other remedies, if a consumer shall for any reason remain indebted to the City for utility service furnished, such amount due, together with any rents and charges in arrears, shall be considered a delinquent utility rent which is hereby declared to be a lien upon the real estate for which the same was used. The city clerk shall notify in writing, or cause to be notified in writing, all owners or premises of their agents whenever their tenants or lessees are 60 days or more delinquent in the payment of utility rent. It shall be the duty of the utilities superintendent on June 1 each year to report to the City Council a list of all unpaid accounts due for utilities together with a description of the premises upon which the same was used. The report shall be examined, and if approved by the City Council, shall be certified by the city clerk to the county clerk to be collected as a special tax in the manner provided by law.

ARTICLE II – WATER DEPARTMENT

SECTION 6-201: OPERATIONS AND FUNDING

The City owns and operates the Water Department through the utilities superintendent. The City Council, for the purpose of defraying the cost, management and maintenance of the Water Department, may each year levy a tax not exceeding the maximum limit prescribed by state law on the actual valuation of all real estate and personal property within the corporate limits that is subject to taxation. The revenue from the said tax shall be known as the Water Fund and shall remain in the custody of the city treasurer. The utilities superintendent shall have the direct management and control of the Water Department and shall faithfully carry out the duties of his/her office. The utilities superintendent shall have the authority to make rules and regulations for the sanitary and efficient management of the Water 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 city clerk for public inspection at any reasonable time. (Ref. Neb. Rev. Stat. §17-531, 17-534, 19-1305)

SECTION 6-202: TERMS DEFINED

The following definitions shall be applied throughout this article. Where no definition is specified, the normal dictionary usage of the word shall apply.

"Building inspector" is hereby defined to mean the building inspector of the City. The building inspector, to the extent appointed by the City Council, may also be authorized to function as its utilities superintendent, and/or as its plumbing inspector, electrical inspector and zoning inspector.

"Consumer" and "customer" shall have the same meaning and are equivalent terms.

"City" shall mean the City of Fort Calhoun, Washington County, Nebraska, and the term "municipal" shall refer to the same.

"Corporation cock," sometimes referred to as a "corporation," shall mean any valve, shut off or similar device which has been installed upon a water main tap, done with the intent of providing water service to customers by diverting it through supply pipes and related appurtenances to its place of ultimate disbursement.

"Curb stop" – see "stop box."

"Land development ordinance" shall refer to Ordinance No. 454 of this city, adopted January 15, 1996, as amended.

"Main," sometimes referred to herein as "water main" or "commercial main" is hereby defined to be any pipe, other than a supply or service pipe, that is used for the purpose of carrying water to, and disbursing the same, in the City.

"Master services" shall mean water service provided to all parts of every building in an apartment or commercial planned unit development which lies within 600 feet of a public hydrant or a certified private hydrant, measured over roadways accessible to Fire Department motorized vehicles.

"Multiple meter header" shall mean a pipe, tube or other device which continues, collects or brings together water from another pipe or pipes and directs its flow to other pipes or meters.

"Plumbing code" shall refer to the most recent edition of the Uniform Plumbing Code, published by the International Association of Plumbing and Mechanical Officials.

"Private meter" shall mean submeters which are not read nor billed by the City.

"Service pipes" shall mean any pipe extending from the shut-off, stop box, or curb cock at or near the lot line to and beyond the property line of the consumer to the location on the premises where the water is to be disbursed.

"Stop box," also referred to as "stop cock," "shut-off," or "curb cock" or "curb stop" shall mean the valve placed at or near the consumer's lot line and used to stop or regulate the flow of water.

"Supply pipe" is hereby defined to be any pipe tapped into a main and extending from there to a point at or near the lot line of the consumer's premises where the shut-off, stop box or curb cock is located.

"Submeter(s)" shall mean meters that measure water that has already been measured by another meter for billing purposes.

"Utilities superintendent" shall mean that official appointed by the City Council to have the direct management and control of its Water Department. Such official may, additionally, coincidentally or alternatively, perform the functions of, bear the title of, and be vested with the authority of, its building inspector, electrical inspector, plumbing inspector or zoning inspector.

Wherever an action is permitted or required to be taken by such a designated official, or simply by the City itself, such action may, without further specific grant of authority, be taken and performed by his/her or its duly appointed agent or representative.

"Water service" is divided into two or three sections depending upon the location of the meter. These sections are: from the main to the curb stop, and from it to the meter, and if the meter is located outside, from the meter to the building.

"Water service line" is the piping and related appurtenances installed from the water main of the City to the outlet connection of the first shut-off device downstream of the meter(s), or the first shut-off device inside of the building, whichever is farther downstream.

SECTION 6-203: CONSUMER'S APPLICATION

Every person or persons desiring a supply of water must make application therefor to the city clerk upon the blanks to be furnished by him/her for that purpose. The applicant shall be required to accompany his/her application with a deposit, said fee to be set from time to time by resolution of the City Council. Water may not be supplied to any house or private service pipe except upon the order of the utilities superintendent. The department shall not supply water service to any person outside the corporate limits without special permission from the City Council; provided, the entire cost of laying

mains, service pipe and supply pipe shall be paid by the consumer. Nothing herein shall be construed to obligate the City to provide water service to non-residents.

SECTION 6-204: WATER CONTRACT

The City through its water system shall furnish water to persons within its corporate limits whose premises abut a street or alley in which a commercial main now is or may hereafter be laid. The City may furnish water to persons within its corporate limits whose premises do not abut a street or alley in which a city commercial main is now or may hereafter be laid, and may also furnish water to persons whose premises are situated outside the corporate limits of the City, as and when, according to law, the City Council may see fit to do so. The rules, regulations and water rates hereinafter named in this article shall be considered a part of every application hereafter made for water service and shall be considered a part of the contract between every consumer now or hereafter served. Without further formality, the making of application on the part of any applicant or the use of consumption of water service by present consumers thereof and the furnishing of water service to said consumer shall constitute a contract between the consumer and the City, to which said contract both parties are bound. Every such water service contract shall automatically, and without further notice or action being required, immediately terminate upon the happening of any of the following events: (1) whenever a consumer who is the owner of the premises to which water service is provided, sells or rents the same to other persons, (2) whenever a consumer-applicant whose status is that of a lessee of the premises to which water service is provided, subleases or assigns his/her lease or tenancy of any type to other persons, or permanently quits or leaves the said premises for any reason whatsoever. If the consumer shall violate any of the provisions of said contract or any reasonable rules and regulations that the City Council may hereafter adopt, the utilities superintendent or his/her agent may cut off or disconnect the water service form the building or premises or place of such violation. No further connection for water service to said building, premises or place shall again be made, save or except by order of said utilities superintendent or his/her agent. (Ref. Neb. Rev. Stat. §17-537)

SECTION 6-205: INSTALLATION PROCEDURE

In making excavations in streets, alleys or sidewalks for the purpose of installing pipe or making repairs, the paving, stones and earth must be removed and deposited in a manner that will occasion the least inconvenience to the public and provide for adequate drainage. No person shall leave an excavation made in the street, alley or sidewalk open at any time without a barricade. After service pipes are laid, the streets, alleys and sidewalks shall be restored to good condition. If the excavation in any street, alley or sidewalk is left open or unfinished for a period of 24 hours or more, the utilities superintendent shall have the duty to finish or correct the work, and all expenses so incurred shall be charged to the consumer. All installations or repairs of pipes require an inspection by the utilities superintendent. The inspection shall be made when connections or repairs are completed and before the pipes are covered. It is the consumer's responsibility to notify the utilities superintendent at the time the work is ready for each inspection. All installation shall be done under the supervision and strictly in accordance with the rules, regulations and specifications prescribed by the utilities superintendent; provided that said rules, regulations and specifications have been reviewed and approved by the City Council. (Ref. Neb. Rev. Stat. §17-537)

SECTION 6-206: INSTALLATION REQUIREMENTS

1. The City shall tap the main and supply the meter. No person other than the utilities superintendent or his/her duly authorized agent shall tap the water main.

2. The customer shall pay all tap fees, capital facilities charges, and such other fees and charges as may be established from time to time by further ordinances or, when applicable, resolutions of the City Council; provided, however, a tap for a 3/4 inch pipe shall be deemed to be the basis for the minimum tap fee.

3. The customer shall, at his/her own expense, bring water service from the corporation cock and shall employ a licensed master plumber who shall install the water service to the place of disbursement. The customer shall also install a stop box at the lot line and purchase and install the meter; all of the foregoing requirements to be performed strictly in accordance with the plumbing code and all other applicable codes, rules and regulations. Said meter shall be purchased from the City, the cost to be included in the hookup charge.

4. All customers, whether within or outside the corporate city limits, shall be required to see to the installation of their water meters within buildings, when appropriate, or in below-ground pits. Subject to the foregoing, the utilities superintendent shall have discretionary authority to direct the place of installation of all water meters, piping and related water system appurtenances. Nonresidents shall pay such tap fees and installation charges in such sums as the utilities superintendent, pursuant to resolution of the City Council, shall in each case fix.

SECTION 6-207: MAINTENANCE AND REPAIRS

1. The owner of the water service is responsible for the general condition of the water service. The owner is responsible for all piping and appurtenances beyond the corporation cock. The owner, at the owner's expense, shall maintain, repair and renew the service and appurtenances in accordance with these rules and regulations. The owner shall maintain the service in such manner that it does not leak water and does not become a hazard to the public.

2. If the Water Department discovers a need for any maintenance, repair or renewal of a water service, the owner and customer will be given notice of this condition. It will then be the responsibility of the owner to see that the condition is remedied.

3. Materials used for repairs or modifications shall be of the type and size specified for new services. If over one-half of the pipe in a section, as defined herein, is replaced and the remaining pipe does not conform to the materials required in this article, the entire section, including the corporation, if applicable, and the curb stop, if inoperable, shall be replaced with materials approved for new services. Three-quarter inch copper services and taps shall be permitted where existing 3/4 inch or smaller services are being replaced where the length is unchanged and it is serving the same individual premises as the original service. When replacement of the section from the main to the curb stop is required, at a distance of less than 100 feet, it shall be one continuous piece. When the section being replaced is more than one-half of the entire service and the remaining sections are not in compliance with this article, the entire service shall be replaced. When an entire section is being replaced because of relocation requirements, only that section and not the entire service need be replaced. Dissimilar metals shall not

be used in repair of a service unless insulators are used.

4. Branched services that are not permitted as provided in this article may not be repaired. If maintenance of a branched service is required, it shall be replaced with a service or services in accordance with this article.

SECTION 6-208: WATER METERS; FEE, RULES AND REGULATIONS

1. The purpose of this subsection is to require accurate water meters as a condition-precedent to the use of water from the Water Department. The following rules shall apply:

A. Any new building or structure erected or constructed in the City or within its extraterritorial jurisdiction, where water service is provided, shall contain a water meter with remote readouts and fittings to accommodate connections therewith of not less than 5/8 inch.

B. All meters may be tested at the customer's request and expense any reasonable number of times; provided, if the test shows the meter to be running 2% or more fast, the expense of such test shall be borne by the City.

C. The City reserves the right to test any water service meter at any time, and if said meter is found to be inaccurate or defective, to have it repaired, or if not repairable, to have it replaced; in either case at the expense of the City.

D. 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 on the same month during the preceding year; provided that if no basis of comparison exists, the customer shall be charged such amount as may be reasonably fixed by the utilities superintendent.

E. It shall be unlawful for any person to tamper with any water meter, or by any means or device to divert water from the service pipe so that the same will not pass through said meter, or while passing through said meter, to register inaccurately.

F. The installation charge for water meters shall be set by the City Council for each such meter and shall be on file in the office of the city clerk.

2. Master Water Service: When all parts of every building in an apartment or commercial planned unit development are qualified, they may be served by a master water service if the following requirements are met:

A. The hydrants are connected to mains that will give adequate water flow to provide fire protection for the size complex involved and the owner furnishes the utilities superintendent a drawing of the hydrant locations acceptable to the fire protection authority having jurisdiction.

B. All buildings and property shall be owned by one owner. Where one or more of the buildings is sold or transferred to any other ownership, the City shall require installation of separate service lines to the separately owned buildings, at the owner's expense.

C. None of the buildings involved is separated by dedicated streets.

D. Each building must be individually metered and separately billed.

E. No master service of this type can be used for a fire line.

F. The individual line to each building must meet all of the requirements of these rules and regulations as though it was an individual service.

G. Any main assessments due against the properties involved must be paid as though the individual building was being served by separate services and waivers provided for properties abutting streets where future mains may be extended.

H. Master services shall be tested and sterilized prior to initial use in accordance with the plumbing code.

2. Multiple Meter Headers: Except as provided under master water services and combination fire lines, all pipes from the main to the meter shall be continuous and without branched connections from the main to the water meter. When, in commercial and multifamily residential installations these rules provided that more than one meter is permitted to individually metered tenants, a multiple meter header will be permitted, provided:

A. All meters shall meet the requirements of these rules.

B. The header shall be constructed and installed in such a manner that the service entrance, the header piping, the meters and all valves shall be located in the same area and be totally visible for inspection in a public access area.

C. Each meter shall be installed with valves on both sides to permit removal of the individual meter for repair and test purposes. In the case of a two-meter header, where one meter serves a lawn sprinkler and the other meter serves the other house purposes, the master header valve may serve as the upstream valve on the house meter.

D. The meters are not submeters.

E. Each meter will be independently read and billed by the City for water consumed.

F. The header and meters shall be located in a common area readily accessible to meter readers and maintenance personnel. Such area shall be accessible from the exterior of the building without going through residential or commercial space within the building.

G. The headers are properly constructed with materials compatible with the water service pipe approved by the City.

H. Adequate provisions are made to handle drainage from the system or where any meter larger than one and one-half inches is required to handle water flow from the test tee during meter tests.

I. In addition to the shut-off valves at the meters, a single separate valve shall be located immediately ahead of the header.

J. All such installations shall be approved by the City for ease of inspection, maintenance and access.

3. Single Family Residential:

A. Each individual single-family residence must have its own meter. Submetered service from another metered line is not permitted. Water lines may not be extended to another residence or place of business.

B. An existing rear house served with a water line through the front house may continue in this manner as long as both are on the same lot and under the same ownership regardless of any major repairs on the service line to the front house. The rear house may have a submeter but not a main meter when served through the front house.

C. The main water service shall not be branched. If the rear house is sold, replaced, or the property is divided, a new direct service shall be installed.

4. Multifamily Residential: Each building must have at least one individual meter that does not take water from another metered line or building. Additional meters for any number of tenants may be purchased and will be read individually by the City at prevailing rates, providing:

A. They are all installed on a multiple meter header centrally located near the service entrance in an area of public access and are not submeters.

B. They are located in individual units.

C. Submeters may be installed, provided that the conditions required to be met under the section of these rules concerning "submeters" apply and are fully complied with.

D. Central metering of more than one building is prohibited.

5. Mobile Home Parks:

A. Each mobile home park will be metered with a single central master meter; however, when the park is subdivided by dedicated streets a single master meter shall be provided for each subdivision.

B. Individual meters to each unit will not be permitted.

C. Submeters may be installed in compliance with these rules and regulations.

6. Commercial Buildings:

A. Separate meters are required for individual buildings not under the same roof.

B. Additional meters may be purchased and installed for tenants in the same building; provided that they are all located near the service entrance and are not subme-

ters.

C. Individual meters for each tenant may be installed, providing there is an individual service from a main or an approved master service.

7. Industrial: Plants or industrial complexes may be centrally metered, providing the buildings are all required for a central operation and are not separated by a public thoroughfare.

8. Institutions: Schools at all levels, public housing complexes and other institutions with a number of buildings providing public service may be centrally metered if they are not separated by a public thoroughfare and are owned and operated by a governmental body or charitable institution. Central metering of such complexes must be requested in writing and approved by the City Council.

SECTION 6-209: FEES AND COLLECTIONS

The City Council has the power and authority to fix the rates to be paid by the water consumers for the use of water from the Water Department. All such fees shall be on file for public inspection at the office of the city clerk. The utilities superintendent shall bill the consumers and collect all money received by the City on the account of the Water Department. He shall faithfully account for and pay to the city treasurer all revenue collected, making his receipt therefor in duplicate, keeping one and filing the other in the Water Department's official records. (Ref. Neb. Rev. Stat. §17-540)

SECTION 6-210: CAPITAL FACILITIES CHARGES

For the purpose of partial recovery of costs of construction, any and all connections made to the city water system, regardless of whether the same are made within or without the corporate limits of the City, shall require full payment of capital facilities charges by the applicant for service in accordance with the schedule on file in the office of the city clerk, available for public inspection during office hours.

SECTION 6-211: WATER BILLS

1. Water bills shall be due and payable in cash monthly at the office of the city clerk. The utilities superintendent shall read or cause to be read water meters monthly between the 25th day and the last day of the month during which service is used. Bills shall be mailed on the 15th day of each month and shall be payable by the 25th day of each month.

2. The City, in rendering bills and statements, is hereby authorized to set forth therein the new amount that shall be due without setting forth therein the amount of the discount, if any. When bills are so rendered, the City is authorized and empowered to collect an additional charge of not more than 10% of the water and sewer use charges for the current month, when bills or statements rendered are not paid at maturity, it being understood that said additional charge is not added by way of penalty but as a means of economizing in bookkeeping and in rendering bills and statements by which the items of discount are omitted therefrom.

3. Bills and statements not paid within one month of their due date shall be deemed to be delinquent, whereupon the city clerk shall give written notice to the customer of

such delinquency and shall demand payment immediately. The utilities superintendent shall assess an additional fee, set by resolution of the City Council and on file at the office of the city clerk, in the event that water is shut off to compensate the City for the additional hookup necessary to provide water service again to the delinquent customer. (Ref. Neb. Rev. Stat. §17-542, 18-416)

SECTION 6-212: LIEN

In addition to all other remedies, if a consumer shall for any reason remain indebted to the City for water service furnished, such amount due, together with any rents and charges in arrears, shall be considered a delinquent water rent which is hereby declared to be a lien upon the real estate for which the same was used. The city clerk shall notify in writing or cause to be notified in writing all owners of premises of their agents whenever their tenants or lessees are 60 days or more delinquent in the payment of water rent. It shall be the duty of the utilities superintendent on June 1 of each year to report to the City Council a list of all unpaid accounts due for water, together with a description of the premises upon which the same was used. The report shall be examined and if approved by the Council, shall be certified by the city clerk to the county clerk to be collected as a special tax in the manner provided by law.

SECTION 6-213: MINIMUM RATES

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

SECTION 6-214: PROHIBITION OF LEAD PIPES, SOLDER AND FLUX

Any pipe, solders or flux used in the installation or repair of any residential or non-residential facility which is connected to the public water supply system shall be lead free. For purposes of this section, “lead free” shall mean: (1) solders and flux - not more than .2% lead, and (2) pipe and pipe fittings - not more than 8% lead. All new lines shall have check valves installed and such installation shall be inspected and approved by the utilities superintendent. The utilities superintendent shall have the authority to refuse to turn on the city water on any premises until the plumbing has been made to comply with all statutory sections. (Ref. Neb. Rev. Stat. §71-5301)

SECTION 6-215: SINGLE PREMISES

No consumer shall supply water to other families or allow them to take water from his premises, nor after water is supplied into a building shall any person make or employ a plumber or other person to make a tap or connection with the pipe upon the premises for alteration, extension or attachment without the written permission of the utilities superintendent.

SECTION 6-216: RESTRICTED USE

The City Council or the utilities superintendent may order a reduction in the use of water or shut off the water on any premises in the event of a water shortage due to fire or other good and sufficient cause. The City shall not be liable for any damages caused by shutting off the supply of water of any consumer while the system or any part thereof is

undergoing repairs or when there is a shortage of water due to circumstances over which the City has no control. (Ref. Neb. Rev. Stat. §17-537)

SECTION 6-217: FIRE HYDRANTS

1. All hydrants for the purpose of extinguishing fires, other than those identified in the following subsection, are hereby declared to be public hydrants, and it shall be unlawful for any person other than members of the Fire Department or employees of the Water Department to open or attempt to open any public or private hydrant and draw water from the same or in any manner to interfere with the hydrants. Any person doing so or attempting to do so may be prosecuted as provided by law.

2. Fire hydrants located upon privately owned real estate, except those located on easements provided for fire training facilities, or on publicly owned streets not dedicated to public use, are the property of the owner of said real estate and are to be used for fire protection. These hydrants are designated "private fire hydrants." Where it is the owner's intention that such hydrants are to be used by the Fire Department or other public firefighting authority, they shall fully conform to the same requirements as public hydrants; and without limitation thereof, to all of its specifications and color-coding. In addition, all such hydrants shall have a three-inch black strip on the hydrant barrel. Copies of hydrant specifications are on file with the Fire Department. Private hydrants used for public fire protection may, at the sole discretion of the City, be maintained by it.

SECTION 6-218: WATER SERVICE CONTRACTS, NOT TRANSFERABLE

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

SECTION 6-219: INSPECTION

The utilities superintendent, or his/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. (Ref. Neb. Rev. Stat. §17-537)

SECTION 6-220: DESTRUCTION OF PROPERTY

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

SECTION 6-221: POLICE REPORTS

It shall be the duty of the city police to report to the utilities superintendent all cases of leakage and waste in the use of water and all violations of the municipal code relating to the Water Department. They shall have the additional duty of enforcing the observance of all such regulations.

SECTION 6-222: POLLUTION

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

SECTION 6-223: MANDATORY HOOKUP

All persons whose property abuts a water main that is now or hereafter may be laid shall be required, upon notice of the City Council, to hook up with the city water system.

SECTION 6-224: DRILLING AND OPERATION OF WELLS AND OTHER UNDERGROUND FACILITIES OR CONTAMINATING FACILITIES WITHOUT PERMIT; UNLAWFUL

It shall be unlawful for any person, corporation or other legal entity to drill and/or operate any of the following facilities within the corporate limits of the City without first having obtained the proper permit from the City Council: potable water well, any other well; cesspool; dumping grounds; feedlot; livestock pasture or corral; chemical product storage facility; petroleum product storage facility; pit toilet; sanitary landfill; septic tank; sewage treatment plant; sewage wet well.

SECTION 6-225: DRILLING AND OPERATION OF WELLS AND OTHER UNDERGROUND FACILITIES OR CONTAMINATING FACILITIES; PROCEDURE TO OBTAIN PERMIT

In order to obtain a permit to drill and/or operate any of the facilities listed in Section 6-224, the owner of property on which the proposed facility is to be located must make application on the proper form provided by the City Council. Such application must be presented to the City Council at any regular or special meeting. After reviewing the application of any person desiring to drill or operate any of the above-described facilities, then the City Council must approve or deny said permit.

SECTION 6-226: DRILLING OR INSTALLATION OF WELLS OR OTHER FACILITIES WITHIN DESIGNATED DISTANCE FROM MUNICIPAL WATER SOURCES; PROHIBITED

Under no circumstances shall the City Council approve any permit to drill or operate any of the below described facilities within the indicated number of feet from the city water wells:

Potable water well	1,000 feet
Any other well	1,000 feet
Sewage lagoon	1,000 feet
Absorption or disposal field for waste	500 feet

Cesspool	500 feet
Dumping grounds	500 feet
Feedlot or feedlot runoff	500 feet
Livestock pasture or corral	500 feet
Chemical product storage facility	500 feet
Petroleum product storage facility	500 feet
Pit toilet	500 feet
Sanitary landfill	500 feet
Septic tank	500 feet
Sewage treatment plant	500 feet
Sewage wet well	500 feet

SECTION 6-227: DRILLING AND OPERATION OF WELLS AND OTHER UNDERGROUND FACILITIES OR CONTAMINATING FACILITIES; PENALTIES AND ABATEMENT PROCEDURE

In the event any of the above-described facilities are installed or operated without first having obtained a permit from the City and/or within a designated number of feet from the city water supply, then such facilities shall be deemed a nuisance and the City Council shall abate such facility as a public nuisance pursuant to Section 2-602.

SECTION 6-228: BACKFLOW/BACKSIPHONAGE PREVENTION; POLICY AND PURPOSE

1. No water service connection to any premises containing real or potential cross-connections shall be installed or maintained by the City unless the water supply is protected from backflow/backsiphonage as required by the Nebraska State Department of Health Regulations, Nebraska State Fire Marshal Regulations and by the rules and regulations of the City.

2. No piping system connected to a well or other source of water shall be connected to the water distribution system of the City.

SECTION 6-229: BACKFLOW/BACKSIPHONAGE PREVENTION; DEFINITIONS

For the purposes of this article, the following terms shall mean:

"Air gap separation" shall mean the unobstructed vertical distance through the free atmosphere between the lowest opening from any pipe or faucet conveying water or waste to a tank, plumbing fixture, or other device and the flood level rim of the receptacle. These vertical physical separations shall be at least double the diameter of the water supply outlet, never less than one inch.

"Approved" means accepted by the City.

"Auxiliary water supply" means any water supply on or available to premises, other than the approved water supply of the City. This term shall include, but not be limited to, water from another purveyor's public potable water supply or any natural sources, such as a well, spring, river, stream, harbor, used waters or industrial fluids. Auxiliary water supplies may be contaminated or polluted, or may be objectionable and constitute an unacceptable water source over which the City does not have sanitary control.

"Backflow" means the undesirable reversal of flow of water or other liquids, gases or substances into the distributing pipes of a potable water distribution system from any sources other than its intended source, presumptively as a result of a cross connection. (See Backsiphonage)

"Backflow prevention device" means any device, method or type of construction intended to prevent backflow or backsiphonage into a potable water system.

"Backsiphonage" means the flowing back of used, contaminated or polluted water, or other foreign liquids, gases or substances from a plumbing fixture or vessel into the water distribution system due to negative pressure in the piping of the water distribution system. (See Backflow)

"Certified backflow prevention technician" means a person possessing a valid Grade VI Water Operator's license from the Nebraska Department of Health and Human Services and any other license required by the Plumbing Code of the City.

"Contamination" means an introduction of any material that would cause potable water to be a hazard to human health.

"Cross-connection" means any actual or potential connection between the potable water supply and a source of contamination or pollution.

"Master backflow preventer" means a reduced pressure backflow prevention device located to isolate the potential contamination from the public water supply system.

"Pollution" means a material that, if allowed to enter a potable water system, could degrade the esthetic property of water with taste, color or odor, but would not be hazardous to human health.

"Potable water" is any water which is satisfactory for drinking, culinary and domestic purposes and meets the requirements of all health authorities having jurisdiction.

"Pressure vacuum breaker (PVB)" means an assembly consisting of an independently operating internally loaded check valve, an independently operating leaded air inlet valve located on the discharge side of the check valve, with properly located resilient-seated test cocks and tightly closing resilient-seated shutoff valves attached at each end of the assembly, designed to operate under pressure for prolonged periods of time to prevent backsiphonage. PVBs shall not be subject to backpressure.

"Reduced-pressure backflow prevention assembly (RP)" means the approved reduced-pressure principle backflow prevention assembly consisting of two independently acting approved check valves together with a hydraulically operating, mechanically independent pressure differential relief valve located between the check valves and below the first check valve. These units are located between two tightly closing resilient-seated shutoff valves as an assembly and equipped with properly located resilient-seated test cocks.

SECTION 6-230: BACKFLOW/BACKSIPHONAGE PREVENTION; INTERCONNECTED SERVICES AND/OR FIRE LINES

When a customer is served by two or more interconnected service and/or fire lines, the

customer shall install and maintain an approved check valve on each service and/or fire line, and at his/her expense.

SECTION 6-231: BACKFLOW/BACKSIPHONAGE PREVENTION; CROSS-CONNECTIONS PROHIBITED

1. No water service connection shall be installed or maintained to any premises where actual or potential cross-connections to the public water supply system may exist, unless such actual or potential cross-connections are abated or controlled to the satisfaction of the City.

2. No connection shall be installed or maintained whereby an auxiliary water supply may enter a public water supply system.

3. No water service connection shall be installed or maintained to any premises in which the plumbing system, facilities and fixtures have not been constructed and installed using acceptable plumbing practices set forth in the plumbing code and considered by the Water Department as necessary for the protection of health and safety.

SECTION 6-232: BACKFLOW/BACKSIPHONAGE PREVENTION; WHERE PROTECTION IS REQUIRED

An approved backflow prevention device shall be installed between the service connection and the point of potential backflow into a consumer's water supply system when, in the judgment of the City, a health, plumbing, pollution or system hazard exists.

SECTION 6-233: BACKFLOW/BACKSIPHONAGE PREVENTION; BUILDING INSPECTION; DEFECT CORRECTION; SERVICE DISCONTINUANCE

The customer's system shall be open for inspection and testing by the City at all reasonable times to determine whether cross connections, sanitary hazards or other violations of these rules exist. When such conditions are discovered, the customer shall take immediate steps to comply with these rules and shall complete the work within a reasonable time, as determined by the Water Department. When such conditions constitute an immediate and extreme hazard, the department shall immediately discontinue the customer's service.

SECTION 6-234: BACKFLOW/BACKSIPHONAGE PREVENTION; EXPENSE

The cost for purchasing, installing and maintaining a backflow prevention device shall be at the sole expense of the customer.

SECTION 6-235: BACKFLOW/BACKSIPHONAGE PREVENTION; INSTALLATION AND MAINTENANCE

Installation, maintenance and repair of backflow prevention devices shall be done only by a certified backflow prevention technician, in accordance with the manufacturer's instructions, and at a location and in a manner approved by the City. Backflow prevention devices installed at the service connection shall be located on the consumer’s side of the water meter (if one is installed) or the curb stop, as close to the meter or curb stop as is reasonably practical, and in any event, prior to any other connection. All backflow

prevention devices with test ports shall be installed between one and five feet above the floor in a horizontal position. Installation in a pit is prohibited unless approved by the city Water Department. Pressure vacuum breaker shall be installed a minimum of 12 inches above the highest head and at least 12 inches above the surrounding ground. If a by-pass is installed around a backflow prevention device, the bypass shall also be equipped with a similar device.

SECTION 6-236: BACKFLOW/BACKSIPHONAGE PREVENTION; TESTING

1. All backflow prevention devices with test ports shall be tested upon installation. All backflow prevention devices with test ports, except those on a lawn sprinkler system which does not include a booster pump or chemical irrigation equipment, shall be tested at appropriate intervals, not to exceed one year. All backflow prevention devices used in the following applications shall be subject to testing at any reasonable time:

Hospitals, clinics, nursing, extended and critical care facilities;
Car wash facilities;
Industrial plating facilities;
Dry cleaning and laundry facilities;
Mortuaries;
All master backflow preventers.

2. At least one time every five years, customers of the Water Department shall be required to assess and report potential backflow and backsiphonage 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.

SECTION 6-237: BACKFLOW/BACKSIPHONAGE PREVENTION; ELIGIBLE TECHNICIANS

The Water Department shall maintain a list of all approved certified backflow prevention technicians eligible to work in the service area of the City. It shall be the technicians' responsibility to provide the City with proof of their certification to be placed on this list.

SECTION 6-238: BACKFLOW/BACKSIPHONAGE PREVENTION; MASTER BACKFLOW PREVENTERS

1. Where required, a master backflow preventer shall be installed at the following types of facilities:

A. Existing facilities with secondary or auxiliary water systems;

B. Hospitals, clinics, nursing homes, extended and critical care facilities, and other types of medical buildings;

C. Sewage treatment plants or pumping stations;

D. Other commercial or industrial facilities which may constitute a potential cross-connection, as determined by the Water Department.

2. A master backflow preventer shall be installed between the meter and the first

branch off of the main service, except that properly protected fire protection and lawn sprinkler systems may be installed prior to the master backflow preventer.

SECTION 6-239: BACKFLOW/BACKSIPHONAGE PREVENTION; LAWN SPRINKLERS

Any lawn sprinkling system which includes a booster pump or chemical irrigation equipment shall require a reduced pressure backflow prevention device.

SECTION 6-240: BACKFLOW/BACKSIPHONAGE PREVENTION; OTHER DEVICES, WHERE REQUIRED

The following types of equipment or operations shall be adequately protected from backflow by the installation of a reduced pressure backflow preventer:

1. Boilers and cooling towers;

2. Swimming pools;

3. Spas and whirlpools;

4. Car washes;

5. Dry cleaning;

6. Film development, except x-ray film processors protected by an integral backflow prevention device or integral air gap manufactured as a unit, conforming to a national standard acceptable to the City and installed in accordance with the manufacturer's requirements;

7. Medical equipment;

8. Laboratory equipment;

9. Chemical handling facilities;

10. Hydrant usage for other than firefighting or flushing;

11. Others as determined by the Water Department.

SECTION 6-241: BACKFLOW/BACKSIPHONAGE PREVENTION; FIRE PROTECTION SYSTEMS

Fire protection systems shall be equipped with backflow prevention devices as described in AWWA Manual M-14.

SECTION 6-242: TIME OF TAPS AND PLUMBING WORK

All taps or plumbing work done on or to the city water system shall be done between the hours of 8:00 A.M. and 6:00 P.M.

SECTION 6-243: LICENSED PLUMBER

It shall be unlawful for any plumber or pipefitter to do any work upon any of the pipes or appurtenances of the system of waterworks, or to make any connection with or extension of the supply pipes of any consumer taking water from said system until such plumber or pipefitter shall have first procured a license from the State of Nebraska. All plumbing shall be done in the manner required by utilities superintendent. The said licensed plumber shall be at all times subject to the inspection and approval of the utilities superintendent and it shall be further unlawful to cover or conceal willfully any defective or unsatisfactory plumbing work.

ARTICLE III – SEWER DEPARTMENT

SECTION 6-301: TERMS DEFINED

“Abnormal charge” shall mean, for all sewer service users, the sum of: Abnormal SS (suspended solids) and abnormal BOD (biochemical oxygen demand) from Exhibit “C” of the Interlocal Waste Water Treatment agreement with the City of Blair.

"Biological oxygen demand” shall mean and include the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days at 20° C., expressed in parts per million by weight.

"Building or house drain" shall mean that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning 5 feet outside the inner face of the building wall.

"Building or house sewer" shall mean the extension from the building drain to its connection with the main sewer.

"Chlorine requirement" shall mean the amount of chlorine, in parts per million by weight, which must be added to sewage to produce a specified residual chlorine content or to meet the requirements of some other objective, in accordance with procedures set forth in "Standard Methods."

"Combined sewer" shall mean a sewer receiving both surface runoff and sewage.

"Connection charges" shall mean the tap fee required to be paid for the privilege of connecting with the sanitary sewer system of the City.

"Easement" shall mean an acquired legal right for the specific use of land owned by others.

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

"Garbage” shall mean solid wastes from the domestic and commercial preparation, cooking and dispensing of food and from the handling, storage and sale of produce.

“General commercial sewer service user” shall mean a sewer service user engaged in manufacturing, fabricating, processing, selling, warehousing or distributing a commodity or engaged in business, economic or professional activities who normally uses 25,000 gallons of water or less per month or who is so designated by the commissioner.

“General industrial sewer service user” shall mean a sewer service user engaged in manufacturing, fabricating, or processing activities who normally uses more than 125,000 gallons of water per month and not more than 500,000 gallons per month or who is so designated by the commissioner.

"Impact fee" shall mean a predetermined money payment assessed as a condition to issuance of a building permit, as a part of the power of the City to regulate new growth. Payment of the required "impact fee" shall bestow upon the applicant only the right to use the sanitary sewer system as it presently exists and shall not be in extinguishment of any taxes, assessments or charges which may be assessed or levied in the future for general operational purposes or to provide revenue for capital funding.

"Industrial wastes" shall mean the liquid wastes from industrial manufacturing processes, trade or business as distinct from sanitary sewage.

“Large commercial sewer service user” shall mean a sewer service user engaged in manufacturing, fabricating, processing, selling, warehousing or distributing a commodity or engaged in business, economic or professional activities who normally uses more than 75,000 gallons but less than 125,000 gallons per month or who is so designated by the commissioner.

“Large industrial sewer service user” shall mean a sewer service user engaged in manufacturing, fabricating, or processing activities who normally uses more than 500,000 gallons of water per month or who is so designated by the commissioner.

"Local ventilating pipe" shall mean and include any pipe through which foul air is removed from a room or fixture.

“Medium commercial sewer service user” shall mean a sewer service user engaged in manufacturing, fabricating, processing, selling, warehousing or distributing a commodity or engaged in business, economic or professional activities who normally uses more than 25,000 gallons but less than 75,000 gallons per month or who is so designated by the commissioner.

"Natural outlet" shall mean any outlet into a watercourse, pond, ditch, lake or other body of surface or groundwater.

"Normal sewage" shall mean sewage not exceeding maximum tolerance of contamination of 300 milligrams per liter BOD or 350 milligrams per liter of suspended solids.

"OM&R fund" shall mean a non-lapsing fund to be established and used for the operation, maintenance and replacement, including repair, of mechanical, electronic and related components of the sewage system or involving the collection, transmission, distribution or disposal of sewerage itself; however, not including buildings or structures.

"Parts per million" shall mean a weight-to-weight ratio; the parts per million value multip-

lied by the factor 8.345 shall be equivalent to pounds per million gallons of water.

"pH" shall mean and include the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

"Plumbing fixtures" shall mean and include receptacles intended to receive and discharge water, liquid or water-carried wastes into the sewer system with which they are connected.

"Properly shredded" shall mean 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 one-half inch in diameter.

"Properly shredded garbage" shall mean the wastes from the preparation, cooking and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half inch in any dimension.

"Public sewer" shall mean a sewer in which all owners of abutting properties have equal rights and is controlled by public authority.

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

"Residential single sewer service user" shall mean a sewer service user with a single-family dwelling unit used exclusively as a place of abode and served by a separate water meter or any sewer service user so designated by the commissioner.

"Residential multiple sewer service user" shall mean a sewer service user with multiple-family dwelling units used exclusively as a place of abode and served by a separate water meter per unit or one master water meter per building or any sewer service user so designated by the commissioner.

"Sanitary sewer" shall mean and include a sewer which carries sewage and to which storm, surface and ground waters are not intentionally admitted.

"Service charge" shall mean the basic assessment levied on all users of the public sewer system whose waste does not exceed in strength the concentration values established as representative of normal sewage.

"Sewage" means and 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.

"Sewage treatment plant" shall mean any arrangement of devices and structures used for treating sewage.

"Sewage works" shall mean all facilities for collecting, pumping, treating and disposing of sewage.

"Sewer" shall mean a pipe or conduit for carrying sewage.

"Sewer rental charges" shall mean the rental and use charges authorized by and referred to in Neb. Rev. Stat. §17-925.02 through 17-925.04.

"Sewer service charges" shall mean the service rate in lieu of taxes authorized and referred to in Neb. Rev. Stat. §17-925.01.

"Sewer system" shall mean all facilities for collecting, pumping, treating and disposing of sewage.

"Sewerage" shall mean the system of sewers and appurtenances for the collection, transportation and pumping of sewage and industrial wastes.

"Sinking fund" shall mean an additional perpetual fund to be created, separately maintained, invested and used solely for the purpose of abatement or reduction of ad valorem taxes being levied or to be levied for the payment of bonds outstanding or to be issued for the construction of or additions to the sewerage system and may include buildings and structures.

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

"Soil pipe" shall mean and include any pipe which conveys the discharge of water closets with or without the discharge from other fixtures to the house of building drain.

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

"Storm drain" shall mean a drain or sewer for conveying water, groundwater, subsurface water, or unpolluted water from any source.

"Storm sewer" shall mean a sewer which carries storm and surface waters and drainage but excludes sewage and industrial wastes, other than unpolluted cooling water.

"Surcharge" shall mean the assessment in addition to the service charge which is levied on those persons whose wastes are greater in strength than the concentration values established as representative of normal sewage.

"Suspended solids" shall mean and include solids that either float on the surface of or are in suspension in water, sewage or other liquids and are removable by laboratory filtering.

"Trap" shall mean 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" shall mean the vertical distance between the crown weir and the dip of the trap.

"Unpolluted waters" is water of quality equal to or better than the effluent criteria in effect or water that would not cause violation of receiving water quality standards and would not be benefited by discharge to the sanitary sewers and wastewater treatment facilities provided.

"Vent pipe" shall mean any pipe provided to ventilate a house or building drainage system and to prevent trap siphonage and back pressure.

"Waste pipe" shall mean any pipe which receives the discharge of any fixture, except water closets, and conveys the same to the house drain, soil pipe or waste stack.

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

"Wastewater facilities" shall mean the structures, equipment and processes required to collect, carry away and treat domestic and industrial wastes and dispose of the effluent.

"Wastewater treatment works" shall mean an arrangement of devices and structures for treating wastewater, industrial wastes and sludge; sometimes used as synonymous with "waste treatment plant," "wastewater treatment plant" or "water pollution control plant."

"Watercourse" shall mean a natural or artificial channel in which a flow of water occurs, either continuously or intermittently.
(Am. by Ord. Nos. 618, 6/15/09; 641, 4/19/10)

SECTION 6-302: OPERATION AND FUNDING

1. The City owns the sewer system and operates the same through the utilities superintendent. The City Council, for the purpose of defraying the cost of the operation, maintenance and replacement (OM&R) of the sewer system, may establish a user charge system based on actual use and revise the charges, if necessary, to accomplish the following:

A. Maintain the proportional distribution of operation, maintenance and replacement (OM&R) costs among users and user classes;

B. Generate adequate revenues to pay the costs of OM&R;

C. Apply excess revenues collected from a class of users to the costs of OM&R attributable to that class for the next year and adjust the rates accordingly.

2. The revenue from the said tax shall be known as the Sewer Maintenance Fund. The utilities superintendent shall have the direct management and control of the Sewer Department and shall faithfully carry out the duties of his office. The utilities superintendent 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.

SECTION 6-303: SEWER CONTRACT

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

SECTION 6-304: SEWER USE RATES; COLLECTION

Customers of the city Sewer Department shall be charged a rate which is the sum of three charges: (1) the base charge, (2) the flow charge and (3) the abnormal charge; provided, the monthly sewer service charge for a sewer user connected to the system shall not be less than the base charge. Rates shall be set by the City Council and shall be on file and available for public inspection at the office of the city clerk during office hours. Sewer rental bills shall be due and payable at the same time and in the same manner as water bills are due and payable. All penalties and procedures concerning delinquent accounts with the Water Department shall also be applicable to delinquent accounts with the Sewer Department. (Am. by Ord. Nos. 618, 6/15/09; 641, 4/19/10)

SECTION 6-305: SERVICE CONTRACTS

Contracts for sewer service are not transferable. Any person wishing to change from one location to another shall make a new application and sign a new contract. If any customer shall sell, dispose or remove the improvements from the premises where service is furnished or if any improvement where service is furnished on the premises is destroyed by fire or other casualty or ceases to exist as an improvement where service is furnished, he/she shall at once inform the utilities superintendent, who shall cause the sewer service to be shut off from the said improvement on the premises. All three component charges shall cease at the end of the month of such notification and charges through the end of such month will continue to be due and payable through the end of said month. If the customer should fail to give notice provided herein, he/she shall be charged for that period of time until the utilities superintendent is otherwise advised of such circumstances and the three component charges shall be calculated to the end of the month of such notification. Should the customer desire to renew the service that was shut off, the customer shall pay the necessary charges again as if it was a new service as provided by the city code. (Am. by Ord. No. 641, 4/19/10)

SECTION 6-306: PUBLIC SEWERS REQUIRED; UNLAWFUL DEPOSIT OF WASTES

It shall be unlawful for any person to place, deposit or permit to be deposited in any unsanitary manner on public or private property within the City or within one mile of the corporate limits thereof, or in any area under the jurisdiction of said city, any human or animal excrement, garbage or other objectionable waste.

SECTION 6-307: PUBLIC SEWERS REQUIRED; UNLAWFUL DISCHARGE OF WASTES

It shall be unlawful to discharge to any natural outlet within the City or within one mile of the corporate limits thereof, or in any area under the jurisdiction of said city, any sewage or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this article.

SECTION 6-308: PUBLIC SEWERS REQUIRED; CESSPOOLS, PRIVIES AND SEPTIC TANKS PROHIBITED

Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool or other facility intended or used for the disposal of sewage.

SECTION 6-309: PUBLIC SEWERS REQUIRED; MANDATORY HOOKUP

The owner of all houses, buildings or properties used for human employment, recreation or other purposes, situated within the City and abutting on any street, alley or right-of-way in which there is now located or may be located a public sanitary or combined sewer of the City, is hereby required at his/her expense to install suitable toilet facilities therein and to connect such facilities directly with the proper public sewer in accordance with the provisions of this article within 90 days after date of official notice to do so.

SECTION 6-310: PRIVATE SEWAGE DISPOSAL; WHEN APPLICABLE

Where a public sanitary or combined sewer is not available under the provisions of Section 6-309, the building sewer shall be connected to a private sewage disposal system complying with the provisions of this article. At such time as a public sewer becomes available to a property served by a private wastewater disposal system, as provided in Section 6-308, a direct connection shall be made to the public sewer within 60 days in compliance with this article, and any septic tanks, cesspools and similar private wastewater disposal facilities shall be cleaned of sludge and filled with suitable material.

SECTION 6-311: PRIVATE SEWAGE DISPOSAL SYSTEM; PERMIT REQUIRED; FEE

Before commencement of construction of a private sewage disposal system, the owner shall first obtain a written permit signed by the superintendent. The application for such permit shall be made on a form furnished by the City, which the applicant shall supplement by any plans, specifications and other information as is deemed necessary by the superintendent. A permit and inspection fee is on file in the city clerk's office and shall be paid to the City at the time the application is filed.

SECTION 6-312: PRIVATE SEWAGE DISPOSAL SYSTEM; PERMIT, WHEN EFFECTIVE; INSPECTIONS

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

SECTION 6-313: PRIVATE SEWAGE DISPOSAL SYSTEM; SPECIFICATIONS

The type, capacities, location and layout of a private sewage disposal system shall comply with all recommendations of the Department of Environmental Quality. No permit shall be issued for any private sewage disposal system employing subsurface soil absorption facilities when the area of the lot is less than 10,000 square feet. No septic tank or cesspool shall be permitted to discharge to any natural outlet.

SECTION 6-314: PRIVATE SEWAGE DISPOSAL SYSTEM; MAINTENANCE

The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to the City.

SECTION 6-315: PRIVATE SEWAGE DISPOSAL SYSTEM; ADDITIONAL REQUIREMENTS

No statement contained in Section 6-310 through 6-314 shall be construed to interfere with any additional requirements that may be imposed by the health officer.

SECTION 6-316: BUILDING SEWER INSTALLATION; EXPENSE

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

SECTION 6-317: BUILDING SEWER INSTALLATION; PERMIT REQUIRED

No unauthorized person shall uncover, make any connections with or opening into, use, alter or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the superintendent.

SECTION 6-318: BUILDING SEWER INSTALLATION; PERMIT APPLICATION, FEES

All applicants for permits to connect their properties to the sanitary sewer system of this city, irrespective of where said properties are situated, shall, at the time of issuance of their permits, be required to pay to this city a connection charge in the nature of a "tap fee" and also an "impact fee," both of which fees or charges shall be in addition to, and not in substitution for, any and all recurrent monthly charges relating to water usage, sewer use or rental, or other charges or assessments which may, from time to time, be levied by this city. All connection charges and impact fees for residential, commercial

and industrial usage shall be set by the City Council and shall be on file in the office of the city clerk, available for public inspection during office hours.

SECTION 6-319: BUILDING SEWER INSTALLATION; SINGLE PREMISES

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

SECTION 6-320: BUILDING SEWER INSTALLATION; USE OF EXISTING SEWERS

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

SECTION 6-321: BUILDING SEWER INSTALLATION; CONSTRUCTION CODES

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

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

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

SECTION 6-322: BUILDING SEWER INSTALLATION; UNLAWFUL CONNECTION

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

SECTION 6-323: BUILDING SEWER INSTALLATION; INSPECTIONS

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

SECTION 6-324: BUILDING SEWER INSTALLATION; EXCAVATIONS

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

SECTION 6-325: PROHIBITED DISCHARGES; STORM, SURFACE, GROUND, COOLING AND PROCESS WATERS

No person shall discharge or cause to be discharged any storm water, surface water, groundwater, roof runoff, subsurface drainage, including interior and exterior foundation drains, uncontaminated heating or cooling water, or unpolluted industrial waters to any sanitary sewer. Stormwater and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as storm sewers, or to a natural outlet approved by the superintendent. Industrial cooling water or unpolluted process water may be discharged, on approval of the superintendent, to a storm sewer or natural outlet. The contributor of any identifiable discharge of polluted water to the sanitary sewer system shall be held responsible for reimbursing the City for such costs, the costs shall be determined by the superintendent with the approval of the City Council.

SECTION 6-326: HAZARDOUS AND PROHIBITED DISCHARGES; FLAMMABLE, TOXIC, CORROSIVE AND OBSTRUCTIVE SUBSTANCES; PRELIMINARY TREATMENT

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

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

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

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

4. Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the sewage facilities such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, whole blood, paunch manure, unground

garbage, hair and fleshings, entrails and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.

5. Any waters or wastes having (A) a five-day BOD greater than 300 parts per million by weight, or (B) containing more than 350 parts per million by weight of suspended solids, (C) having an average daily flow greater than 2% of the average sewage flow of the Village, or (D) a chlorine requirement greater than demanded by normal sewage as evaluated by the City's consulting engineer shall be subject to the review of the superintendent. Where necessary in the opinion of the superintendent, the owner shall provide, at his/her expense, such preliminary treatment as may be necessary to (a) reduce the biochemical oxygen demand to 300 parts per million by weight, or (b) reduce the suspended solids to 350 parts per million by weight, or (c) control the quantities and rates of discharge of such waters or wastes, or (d) reduce the chlorine requirement to conform with normal sewage. Plans, specifications, and other pertinent information relating to proposed preliminary treatment facilities shall be submitted for the approval of the superintendent and no construction of such facilities shall be commenced until said approvals are obtained in writing.

SECTION 6-327: HAZARDOUS AND PROHIBITED DISCHARGES; SPECIFIC PROHIBITIONS AS DETERMINED BY SUPERINTENDENT

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

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

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

3. Any garbage that has not been properly shredded. The installation and operation of any garbage grinder equipped with a motor 3/4 horsepower or greater shall be subject to the review and approval of the superintendent.

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

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

6. Any waters or wastes containing phenols or other taste- or odor-producing

substances in such concentrations exceeding limits which may be established by the superintendent as necessary, after treatment of the composite sewage, to meet the requirements of state, federal or other public agencies of jurisdiction for such discharge to the receiving waters.

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

8. Any waters or wastes having a pH in excess of 9.5.

9. Materials which exert or cause:

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

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

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

D. Unusual volume of flow or concentration of wastes constituting "slugs" as defined herein.

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

SECTION 6-328: HAZARDOUS AND PROHIBITED DISCHARGES; SUPERINTENDENT'S DISCRETION WITH RESPECT TO

1. If any waters or wastes are discharged or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in Section 6-327, and which in the judgment of the superintendent may have a deleterious effect upon the sewage works, processes, equipment or receiving waters, or which otherwise create a hazard to life to constitute a public nuisance, the superintendent may (A) reject the wastes; (B) require pretreatment to an acceptable condition for discharge to the public sewers; (C) require control over the quantities and rates of discharge; and/or (D) require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges under the provisions of Section 6-333.

2. If the superintendent permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the superintendent and subject to the requirements of all applicable codes, ordinances and laws.

SECTION 6-329: GREASE, OIL AND SAND INTERCEPTORS; WHEN REQUIRED

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

SECTION 6-330: PRELIMINARY TREATMENT OR FLOW-EQUALIZING FACILITIES; MAINTENANCE BY OWNER

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

SECTION 6-331: CONTROL MANHOLES/ SAMPLING STATIONS; WHEN REQUIRED; INSTALLATION AND MAINTENANCE

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

SECTION 6-332: CONTROL MANHOLES/SAMPLING STATIONS; METHOD

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

SECTION 6-333: HAZARDOUS AND PROHIBITED SUBSTANCES; SPECIAL EXCEPTIONS PERMITTED; USE FEE SURCHARGE

No statement contained in this article shall be construed as preventing any special agreement or arrangement between the City and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the City for treatment, subject to payment therefor, by the industrial concern.

SECTION 6-334: DESTRUCTION OF PROPERTY

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

SECTION 6-335: COMPLIANCE WITH ARTICLE; INSPECTIONS

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

SECTION 6-336: COMPLIANCE WITH ARTICLE; INSPECTIONS; INJURY LIABILITY

While performing the necessary work on private properties referred to in Section 6-335 above, the superintendent or duly authorized employees of the City shall observe all safety rules applicable to the premises established by the company and the company shall be held harmless for injury or death to the city employees and the City shall indemnify the company against loss or damage to its property by city employees and against liability claims and demands for personal injury or property damage asserted against the company and growing out of the gauging and sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions as required in Section 6-331.

SECTION 6-337: COMPLIANCE WITH ARTICLE; INSPECTIONS; EASEMENTS

The superintendent and other duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all private properties through which the City holds a duly negotiated easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair and maintenance of any portion of the sewage works lying within said easement. All entry and subsequent work, if any, on said easement shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

SECTION 6-338: SUBDIVISION PLAT APPROVAL; CONTINGENT UPON AGREEMENT OF APPLICANT TO THESE PROVISIONS

No proposed preliminary nor final subdivision plat or subdivision agreement shall henceforth be approved, irrespective of where the proposed subdivision property may be situated, unless and until the final plat, the finalized subdivision agreement, and if so required by the City Council, other legal documents such as but not limited to "protective covenants," containing provisions entirely consistent with the intent of this ordinance, shall be executed by the applicant.

SECTION 6-339: SERVICE TO NON-RESIDENTS

Any person whose premises are located outside the corporate limits of the City and who desires to install a house or building sewer that will be connected with the city sewer system shall file a written application with the city clerk for a permit for such connection, setting forth the name of the owner, occupant or lessee of the premises, the use to which the premises is devoted and such other information as the City Council may require. The City Council may approve or deny such application in its absolute discretion. If it approves the application, it may do so by attaching whatever conditions to such approval as determined necessary.

SECTION 6-340: COMPLAINTS

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

SECTION 6-341: LICENSED PLUMBER

It shall be unlawful for any person, firm or corporation to engage in or conduct the business of sewer connection and house drainage, excavate any trenches for sewer pipe, open, uncover or in any manner make connection with or lay any sewer drain or attach to, modify or repair any appurtenances without complying with the rules and regulations of the utilities superintendent; provided, nothing herein shall be construed to apply to persons, firms or corporations under special contract with the City for the construction, extension or repair of the city sewer system.

SECTION 6-342: PLUMBER'S LIABILITY

The licensed plumber or drainlayer who connects with the public sewer shall be held responsible for any damage he may cause to the sewers or the public ways and property. He shall restore to the complete satisfaction of the utilities superintendent all streets that he has excavated and make good any settlement of the ground or pavement caused by such excavation.

SECTION 6-343: USER CHARGE REVIEW

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

1. Maintain the proportional distribution of operation, maintenance and replacement (OM&R) costs among users and user classes;

2. Generate adequate revenues to pay the costs of OM&R and satisfy the loan payment amount and cash reserve requirement as set forth in the USDA Loan executed in 2009 through 2048.
(Am. by Ord. No. 641, 4/19/10)

SECTION 6-344: USER NOTIFICATION

Each user will be notified, at least annually, with a regular bill of the rate and that portion of the ad valorem taxes which are attributable to wastewater treatment.

SECTION 6-345: SEWER MAINTENANCE FUND

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

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

2. A non-lapsing sinking fund for replacement costs.

3. A cash reserve account, where an amount equal to 10% of the annual payment due under the terms of the USDA loan executed in 2009 will be deposited and held according to the terms of said loan.
(Am. by Ord. No. 641, 4/19/10)

SECTION 6-346: CLASSIFICATION

The City Council may classify for the purpose of rental fees the customers of the city Sewer Department; provided, such classifications are reasonable and do not discriminate unlawfully against any consumer or group of consumers. The classifications must be approved by the Environmental Protection Agency relative to the user charge grant condition.

SECTION 6-347: SEWER MAINTENANCE AND SINKING FUNDS ESTABLISHED

There are hereby separately established an OM&R fund, a sinking fund and a replacement cash reserve fund (each is defined herein) to be funded from such sources and used for such purposes as are set forth following:

1. The OM&R fund shall receive its funds from all connection charges which are received under Section 6-318 and also from the recurrent monthly charges or other charges or assessments as may from time to time be established by further ordinances under Neb. Rev. Stat. §17-925.01. Such fund shall be used exclusively to meet the maintenance, repair and replacement needs of the sewerage system generally, including the replacement needs of the sewerage system and including the replacement needs of equipment used within the system.

2. The replacement cash reserve fund shall receive its funds from the recurrent monthly sewer service charges.

3. The sinking fund shall receive its funds from all impact fees which are received by virtue of Section 6-318 and shall be expended solely for such uses and purposes as are set forth within Neb. Rev. Stat. §17-925.03, as amended.
(Am. by Ord. No. 641, 4/19/10)

ARTICLE IV – SOLID WASTE DISPOSAL

SECTION 6-401: DEFINITIONS

For the purposes of this article, the following words and phrases and their derivations shall have the meaning herein given.

"Act" shall mean the Integrated Solid Waste Management Act of this state.

"DEQ" shall mean the Nebraska Department of Environmental Quality.

"EPA" shall mean the Environmental Protection Agency of the federal government.

"Facility" shall mean any site owned and operated or utilized by any person for the collection, source separation, storage, transportation, transfer, processing, treatment or disposal of solid waste and shall include a solid waste landfill.

"Franchise area" shall mean that area within the corporate limits of the City and shall correspond to the "municipal solid waste jurisdiction area" as defined in Neb. Rev. Stat. §13-2012.

"Franchisee" shall mean the grantee of rights under this agreement or any extension hereof, and any ordinances and resolutions related thereto.

"Solid waste" shall have the same meaning as set forth in Neb. Rev. Stat. §13-2014 and shall be further inclusive of the definitions of refuse, garbage, rubbish and junk as set forth in pertinent sections of Neb. Rev. Stat. §81-1502. Unless otherwise qualified, it shall also include yard waste, lead acid batteries and waste oil, waste tires, discarded household appliances, construction debris and all hazardous waste.

"Street" shall mean the surface of and the space above and below any public street, right-of-way, road, highway, freeway, bridge, lane, path, alley, court, sidewalk, parkway or drive, now or hereafter existing as such within the franchise area.

"Subscriber" or "customer" shall mean any person or entity receiving solid waste collec-

tion services from the franchisee.

"System" shall mean any equipment, vehicles, facilities, personnel or contractors utilized for the purpose of collection, source separation, storage, transportation, transfer, processing, treatment or disposal of solid waste.

SECTION 6-402: REQUIREMENT OF FRANCHISE

It shall be unlawful for any person to receive, pick up or otherwise acquire, or to transport or dispose of any solid waste obtained within the city limits, or attempt to do so, without first having been granted a franchise in accordance with the provisions of the article.

SECTION 6-403: GUARANTEE OF ACCESSIBILITY OF SERVICE

All franchisees shall be required to furnish solid waste collection services to any person within the franchise area who shall request such service; provided, however, that no franchisee shall be required to continue to provide services to any person who is substantially delinquent in payment of prior bills for such services or who consistently and repeatedly fails to comply with reasonable rules and regulations regarding pickup.

SECTION 6-404: CITY COUNCIL'S AUTHORITY TO CONTRACT WITH FACILITIES FOR DISPOSAL

The City Council is hereby authorized and empowered to contract from time to time with facilities for the disposal of solid waste upon such terms and conditions as it may deem reasonable and in the best interest of the City.

SECTION 6-405: FRANCHISEES TO DISPOSE OF SOLID WASTE AS DIRECTED; COMBINING OF LOADS PROHIBITED

All franchisees shall be required to dispose of solid waste acquired within the City only at facilities designated by the City Council, and no franchisee shall be permitted to combine, mix or commingle loads derived from the City with those acquired elsewhere.

SECTION 6-406: PERSONAL DISPOSAL OF SOLID WASTE PROHIBITED; EXCEPTIONS

All persons within the City shall be required to use the solid waste collection, hauling and disposal services of one of the franchisees, and it shall be unlawful for any person to personally dispose of his/her/its solid waste, except in a legal and lawful manner and in compliance with the Act and this article.

SECTION 6-407: TERM OF FRANCHISE

Any franchise granted hereunder shall be for an initial term of two years and may be renewed by mutual agreement of the parties. All such franchises shall provide for termination by the City for repeated violations or other breach of the essential terms of the franchise.

SECTION 6-408: RIGHTS AND PRIVILEGES OF FRANCHISEES

The grant of any franchise contemplated by this article shall authorize and permit the grantee a non-exclusive privilege to use the streets of this city for the operation of its solid waste vehicles; provided, however, that the same shall be subject to the general ordinances necessary for the safety and welfare of the public.

SECTION 6-409: SCOPE OF SERVICES

All franchisees shall provide for residential pickup at least once a week at curbside, or if curb pickup is not available or feasible, then within adjacent alleys. All solid waste shall be collected, and only closed containers for garbage and trash will be permitted. Franchisees shall be permitted to impose reasonable rules, regulations and specifications governing the type, size and number of containers to be utilized by residential subscribers and customers, and may require reasonable presorting.

SECTION 6-410: FEES, CHARGES AND ADJUSTMENTS

The fees to be charged and collected by any franchisee hereunder shall at all times be reasonable. Prior to the issuance of any grant of franchise, the applicant shall file with the City Council its initial schedule of fees, charges and rates, which may be relied upon by the City and the public generally for the initial term of the franchise, unless changed or amended by authority of the City Council following request in writing by the franchisee and hearing before a regular or special council meeting. Except in cases of emergency, no rate adjustment granted by the City shall take effect until at least 30 days following the resolution granting such increase.

SECTION 6-411: NO CREDIT OF THE CITY TO BE EXTENDED

Neither the credit nor funds of the City shall be extended or used by any franchisee hereunder for any purpose contemplated in this article. All such franchisees shall be responsible for all charges and fees of any kind whatsoever imposed by the owners or operators of any facility required to be used by direction of the City.

SECTION 6-412: COMPLAINTS FROM SUBSCRIBERS OR CUSTOMERS

Any subscriber or customer of any franchisee hereunder who shall have an unresolved complaint regarding late pickup of solid waste, abuse or unprovoked conduct by employees of the franchisee, or continuing nuisance or trespass through their property, shall have the right to present such complaint to the City Council. Its determination as to the merits of such complaints and order to the parties shall be conclusive as a final appealable order.

SECTION 6-413: FRANCHISE FEE

Upon approval of any application for a non-exclusive franchise to haul solid waste as set forth herein, the franchisee shall pay to the City a franchise fee of $500.00 for the first two years of the initial franchise and an additional fee of $500.00 for each year of any extension or continuation thereof, said fees to be payable in advance of the execution and delivery of the franchise agreement or any extension thereof.

ARTICLE V – PENAL PROVISION

SECTION 6-501: VIOLATION; PENALTY

Any person who shall violate or refuse to comply with the enforcement of any of the provisions of this chapter, whether set forth at full length herein or incorporated by reference, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in a sum of not more than $500.00 for each offense. A new violation shall be deemed to have been committed every 24 hours of such failure to comply.

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CHAPTER VII – PUBLIC SAFETY REGULATIONS

ARTICLE I – FIRE REGULATIONS

SECTION 7-101: FIRE PREVENTION CODE

The rules and regulations promulgated by the office of the state fire marshal of the State of Nebraska relating to fire prevention are incorporated by reference into this code and made a part of this article as though spread at large herein, together with all subsequent amendments thereto. Three copies of the Fire Prevention Code shall be on file with the city clerk and shall be available for public inspection at any time that the city office is open for business.

SECTION 7-102: FIRE CODE ENFORCEMENT

It shall be the duty of all city officials to enforce the incorporated fire code provisions, and all infractions shall be immediately brought to the attention of the City Council.

SECTION 7-103: LAWFUL ENTRY

It shall be the duty of the owner, lessee, or occupant of any building or structure, except the interiors of private dwellings, to allow the fire inspector, as designated by the City Council, to inspect the structure for purposes of ascertaining and enumerating all conditions therein that are likely to cause fire, or any other violations of the provisions of the city ordinances affecting the hazard of fire.

SECTION 7-104: VIOLATION NOTICE

It shall be the duty of the owner, lessee, or occupant of any building or structure that was lawfully inspected as herein prescribed, and who receives written or verbal notice of a violation of any of the provisions of the city ordinances, to correct the condition within five days of the date of receipt of such notice.

SECTION 7-105: POISONOUS OR FLAMMABLE GAS

Any person, firm or corporation desiring to store or keep any form of poisonous or flammable gas in the City for any period of time must first get permission from the City Council. The Council shall require the name of the gas, the place of storage, and the amount of gas stored. It shall then be the duty of the City Council to prescribe such rules, regulations and precautionary actions as it may deem necessary.

SECTION 7-106: SMOKING IN PUBLIC PLACES

It shall be unlawful for any person to ignite a lighter, strike a match, or indulge in the smoking of tobacco on or in any building or structure where public gatherings take place within the corporate limits while any entertainment, program, show, amusement, game, exhibition or other spectacle to which the general public is invited is in progress, or while patrons thereof are finding or leaving seats and standing room; provided, the foregoing shall not be construed to apply to banquets, dinners or entertainments held in any of the aforesaid buildings or structures where food is served and the entertainment takes place incidental thereto or in connection therewith.

SECTION 7-107: PROHIBITED FUELS

It shall be unlawful for any person to permit or allow crankcase drainings, oil or other flammable substances, other than wood, to be burned in a homemade stove.

SECTION 7-108: BURNING PROHIBITED

It shall be unlawful for any person to set a fire of any kind, either contained fires, such as garbage and other refuse in barrels, or open burning of any kind.

SECTION 7-109: STOVES, FURNACES AND CHIMNEYS

All furnaces, stoves and other heating devices shall be installed at a proper distance from combustible materials and portions of the building. Any combustible materials or portions of the building that are dangerously close to such heating devices shall be protected by non-combustible material. This section shall apply both to existing structures and those which may hereafter be erected.

SECTION 7-110: PRESERVATION OF PROPERTY

Any police officer or official of the rural fire district 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 such property from fire, to prevent the spreading of fire, or to protect adjoining property. The said officials may direct the removal of any building, erection, fence or any part thereof for the purpose of checking the progress of any fire. 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 halting the same.

SECTION 7-111: POWER OF ARREST

The City Police or Rural Fire Department chief shall have the power during the time of a fire and after its extinguishment to arrest any suspected arsonist or any person hindering or resisting the firefighting effort.

SECTION 7-112: FIRE INVESTIGATION

It shall be the duty of the Police Department and the state fire marshal to investigate, or cause to be investigated, the cause, origin and circumstances of every fire occurring in the City in which property has been destroyed or damaged when the damage exceeds $500.00. All fires of unknown origin shall be reported, and such officers shall especially make an investigation and report as to whether such fire was the result of carelessness, accident or design. The officer making the investigation of fires occurring within the City shall immediately notify the fire marshal and shall, within one week of the occurrence of the fire, furnish him/her with a written statement of all the facts relating to the cause and origin of the fire, and such further information as he/she may call for.

SECTION 7-113: DRIVING OVER HOSE

It shall be unlawful for any person to drive a vehicle over any unprotected hose of the Fire Department unless authorized to do so by the Fire Department.

SECTION 7-114: TRAFFIC

Every vehicle within 500 feet of the fire station which is already stationary when the fire alarm shall have been sounded must remain so for a period of five minutes after the sounding of the fire alarm. No vehicle 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 emergency vehicles or vehicles carrying doctors or members of the Fire Department.

SECTION 7-115: FALSE ALARM

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

SECTION 7-116: PEDESTRIANS

It shall be unlawful for any pedestrian to enter or remain in any street after a fire alarm shall have sounded until the fire trucks shall have completely passed.

SECTION 7-117: FIRE EQUIPMENT

It shall be unlawful for any person except the fire chief and the members of the Fire Department to molest, destroy, handle or in any other way to interfere with the use and storage of any of the fire trucks and other apparatus belonging to the Fire Department.

SECTION 7-118: INTERFERENCE

It shall be unlawful for any person or persons to hinder or obstruct the fire chief or other members of the Fire Department in the performance of their duty.

SECTION 7-119: OBSTRUCTION

It shall be unlawful for any person to obstruct the use of any fire hydrant, or have or place any material within 15 feet of said hydrant. Any vehicle or material found as an obstruction may be immediately removed by the fire chief or any member of the Fire Department at the risk, cost and expense of the owner or claimant.

SECTION 7-120: ASSISTANCE

It shall be unlawful for any person to refuse to aid in extinguishing a fire or to assist in the removal and protection of property after the command of the fire chief or assistant fire chief.

SECTION 7-121: SCHOOL DRILLS

It shall be the duty of the officials and teachers of all the schools in the City to cooperate with the Fire Department in conducting fire drills in such number and at such times as the fire chief shall prescribe, provided that at least one fire drill shall be held each month. All doors and exits leading to the outside of the school shall be kept unlocked during school hours.

SECTION 7-122: OPEN BURNING BAN; WAIVER

1. No person shall cause or permit any open fire within the City, except as set forth in subsections (2) and (3) hereof. In explanation, and not by way of limitation, this city-wide open burning ban shall include all bonfires, outdoor rubbish fires, and fires for the purpose of clearing land.

2. Exceptions to subsection (1) hereof shall be limited to the following:

A. Fires set solely for outdoor cooking of food for human consumption and fire pits, portable fireplaces and such related contained burning apparatus for outdoor enjoyment of the same on other than commercial premises where no nuisance or hazard is created. (Am. Ord. No. 589, 11/19/07)

B. Fires set for the purpose of training public or industrial firefighting personnel.

C. Fires set in the operation of smokeless flare stacks for the combustion of waste gases; provided that emissions therefrom are not of a shade or density equal to or darker than that designated as No. 1 on the Ringelmann Chart or equivalent, and are not of such opacity as to obscure an observer's view to a degree equal to or greater than that designated as No. 1 on the Ringelmann Chart or equivalent.

2. A waiver of the citywide open fire ban may be obtained by a permit for the sole purposes of burning straw, hay, leaves, brush, trees or garden vegetation for the purpose of clearing land on roads or other construction activity or for essential agricultural operation in the growing of crops, where no nuisance or hazard is created. Said permit

shall be issued by the fire chief and shall be in writing, signed by the fire chief and on a form provided by the state fire marshal. Anyone burning in such district when the open burning ban has been waived as set forth above must notify the fire chief of his/her intention to burn. Such burning must be done between the hours of 7:00 A.M. and 8:00 P.M. No burning of any kind contemplated by this article shall be done or accomplished while the said fire is unattended by the person setting out the same; and further provided that the said fire shall be located at least 20 feet from any building.
(Ref. Neb. Rev. Stat. §81-520.01)

SECTION 7-123: FIRE LIMITS; BUILDING PERMIT

Prior to the moving or construction of any building in the fire limits, application must be made to the City Council. Construction shall include the enlarging or alteration of any building in the fire limits. Such application shall be furnished by the city clerk and shall require such information as the City Council deems necessary to determine whether or not to grant a building permit. (Ref. Neb. Rev. Stat. §17-550)

SECTION 7-124: FIRE LIMITS; MATERIALS

Within the aforesaid fire limits, no structure shall be built, altered, moved or enlarged unless such structure will be enclosed with such incombustible materials as will satisfy the fire chief that the said structure will be reasonably fireproof. (Ref. Neb. Rev. Stat. §17-550)

SECTION 7-125: FIRE LIMITS; 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 the said person shall first submit an application with the city clerk to make such repairs, alterations or additions to any building and shall state on the application that the material used will be non-combustible and approved by the fire chief. Repairs in the form of patching and other minor repairs shall not require a permit. In the event that the repairs, alterations or additions cost or 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 non-combustible materials. (Ref. Neb. Rev. Stat. §17-550)

SECTION 7-126: FIRE LIMITS; REMOVAL REQUIRED

In the event that any wooden or combustible building or structure or any non-combustible building which stands within the fire limits is damaged to the extent of 50% or more of its value, exclusive of the foundation, it shall not be repaired or rebuilt but shall be taken down and removed within 60 days from the date of such fire or casualty.
(Ref. Neb. Rev. Stat. §17-550)

SECTION 7-127: FIRE LIMITS; REMOVAL OR 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 foundation, it shall be the duty of the owner, lessee or occupant to remove or repair the said building in accordance with the provisions of this article. It shall be unlawful for any person to allow a building to stand in such damaged and decayed condition. Any such building shall be removed or repaired within 30 days after receiving notice to do so by the City Council. (Ref. Neb. Rev. Stat. §17-550)

ARTICLE II – EXPLOSIVE MATERIALS

(Article amended 7/21/03, Ord. No. 531)

SECTION 7-201: SCOPE OF ARTICLE

The primary purpose of this article is to protect the citizens and residents of the City and its adjacent territory from unreasonable risk and danger to life, property and comfort arising from unlicensed, uncontrolled, indiscriminate or negligent use of explosives during the process of resource extraction or for other purposes including the manufacture, transportation, storage and detonation of such explosives during the process of blasting. A balance between the objectives of lawful and orderly business and industrial economic growth and the interest of the City in protecting the public is reached by restating and adopting by reference relevant federal and state licensure and safety codes, rules and regulations as minimum standards, and by the enactment of this ordinance imposing additional requirements and restrictions. (Ref. Neb. Rev. Stat. §17-1237)

SECTION 7-202: DEFINITIONS

As used herein the following definitions shall apply:

"Blasting" shall mean the detonation of explosives and is hereby declared to be an ultrahazardous activity.

"Explosives" shall have the same meaning as in Neb. Rev. Stat. §28-1213(3) through (7) and shall include cartridges, shells and percussion caps but shall not include common fireworks as defined in Neb. Rev. Stat. §28-1241(6).

"Land Development Ordinance" and "Zoning Chapter" whether used separately or together shall refer to the Zoning Chapter of Fort Calhoun Ordinance No. 459, passed and approved January 15, 1996, and amendments thereto.

"Person" shall mean and include natural persons and all associations, general or limited partnerships, corporations, limited liability companies, and all other forms of business organization,

"Resource extraction" shall mean and include all uses involving an on-site extraction of surface or subsurface mineral products or natural resources, (excluding only the simple process of grading and removal of dirt). Without limitation of the generality hereof, it shall include all mines and/or quarries, borrow pits, and sand and gravel dredging and similar operations.

"Revised municipal code" shall refer to General Codification Ordinance No. 529, passed and approved November 18, 2002.

SECTION 7-203: PERMITS AND LICENSES REQUIRED

It shall be unlawful for any person to engage in any aspect of resource extraction within the city limits, or outside such limits but within the jurisdiction of the City, or to engage in blasting within said described territory and area for any purpose, or to cause others to do so, without first having obtained all required and currently-valid federal and state licenses and permits. Additionally, it shall be unlawful for any person to engage in blast-

ing of any kind, for any purpose, within the foregoing described territory and area without first having applied for and been granted a permit authorized by the City Council for such purpose. The process and procedures required to obtain such permits, unless more specifically dealt with herein, shall follow all requirements as set forth in the Zoning Chapter of the Land Development Ordinance. Permits for such purposes, when granted and issued by the City, shall be valid only for the year in which issued and shall not be transferable nor assignable.

SECTION 7 -204: REQUIRED BLASTING PROCEDURES

1. It shall be unlawful for any person to do, or cause to be done, any blasting within the city limits, or outside such limits but within the jurisdiction of the City, without having first developed and obtained approval by the City of a comprehensive set of blasting procedures covering such matters as magazine storage, transportation of explosives, drilling, loading, firing, misfires, flyrock, vibration, concussion and airblast.

2. All blasting operations shall be performed in strict conformity with applicable rules and regulations promulgated and adopted by the Secretary of the Treasury of the United States, Department of Alcohol, Tobacco and Firearms (ATF), the United States Department of Labor-Mine Safety and Health Administration (MSHA), The Federal Bureau of Mines (FBM), the Nebraska State Patrol (NSP), the Nebraska Department of Environmental Quality (NDEQ), the Nebraska State Fire Marshal, and/or their respective functional successors, and all other regulatory agencies of federal, state or local government. A blasting log, with all relevant information, shall be maintained for each blast and be made available for review by any and all appropriate regulatory agencies.

3. The following shall constitute the minimum requirements of proposed blasting procedures:

A. Blasting shall be conducted such that the maximum peak particle velocity shall not exceed one inch per second at the location of any dwelling, public building, school, church or commercial or institutional building. Peak particle velocities shall be measured in three mutually perpendicular directions. The maximum peak particle velocity shall be the largest of any of the three measurements.

B. Blasting shall only be conducted between 7:00 a.m. and 5:00 p.m. No blasting shall be conducted on Sunday.

C. All property owners within a one-mile radius of the blast site shall be contacted by telephone at least one hour prior to each blast, if requested in writing.

SECTION 7-205: BLASTING; SPECIAL USE PERMITS; REQUIRED STANDARDS; PROCEDURES TO OBTAIN

1. The City Council may by special use permit, after referral to and the affirmative recommendation by the Planning Commission, authorize and permit blasting for the purpose of resource extraction or other proper purposes, within the affected use zone: in all cases expressly conditional upon full and continued compliance with all Supplemental Use Regulations set forth in Article 6-6 (a) of the Zoning Chapter of the Land Development Ordinance and as the same may, from time to time, be further amended. Procedures to obtain a special use permit, or for the modification, extension or cancellation thereof, shall be as set forth in said Zoning Chapter.

2. No special use permit for the purpose of resource extraction, nor any other purpose shall be granted, authorized, issued, extended or continued until and unless the City Council shall reasonably find, upon a balancing of interests, as follows:

A. That the establishment, maintenance or operation of the special use will not be detrimental to nor endanger the public health, safety, morals, comfort, or general welfare of the community.

B. That the special use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purpose already permitted, nor substantially diminish nor impair property values within the neighborhood.

C. That the establishment of the special use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.

D. That adequate utilities, access roads, drainage, and/or necessary facilities have been or are being provided.

E. The special use shall not include any activity involving the use or storage of flammable or explosive material unless protected by adequate fire-fighting suppression equipment and by such safety devices as are normally used in the handling of such material.

F. The special use shall not include noise which is objectionable due to volume, frequency or beat unless muffled or otherwise controlled.

G. The special use shall not include excessive vibration or concussion which are discernible without instruments on any adjoining lot or property.

H. The special use shall not involve any pollution of the air by fly-ash dust, vapors or other substances which are harmful to the health of humans, animals, vegetation, or other property, or which can cause soiling, discomfort or irritation.

I. The special use shall not involve any activity substantially increasing the burden on any public utilities or facilities unless provisions are made for any necessary adjustments.

SECTION 7-206: VIOLATIONS; PUBLIC NUISANCE; ABATEMENT PROCEDURES

Blasting by any person within the city limits or outside of such limits but within its zoning jurisdiction, in violation of any of the provisions of this article shall constitute a public nuisance, subject to suppression, abatement and removal as provided by law.

ARTICLE III – FIREWORKS

(Article amended by Ord. Nos. 647, 8/16/10; 656, 11/15/10)

SECTION 7-301: PERMISSIBLE FIREWORKS DESIGNATED

“Permissible fireworks” shall mean any fireworks approved under the laws of the State

of Nebraska. (Ref. Neb. Rev. Stat. §17-556, 28-1241, 28-1244, 28-1245)

SECTION 7-302: EXCEPTION

The provisions of this article shall not apply to the discharge of any fireworks for purposes or under the auspices of any governmental subdivision. (Ref. Rev. Neb. Stat. §28-1241)

SECTION 7-303: RESTRICTION

No person shall possess, sell, offer for sale, bring into the City or discharge any pyrotechnics, commonly known as fireworks, other than permissible fireworks.

SECTION 7-304: SALE; LICENSE, TYPE, HOURS

1. It shall be unlawful for any person to sell, hold for sale, or offer for sale as distributor, jobber, or retailer any fireworks in this city unless such person has first obtained a license as a distributor, jobber or retailer from the State of Nebraska. Application for each such license shall be made to the state fire marshal on forms and in the manner prescribed by him.

2. Only permissible fireworks may be offered for sale in this city. The state fire marshal's office maintains a list of permissible fireworks. Only items on such list may be sold at retail during the fireworks season. Said list is updated annually. The current list is available under "Lists/Publications" on the state fire marshal's website or by contacting that office.

3. Permissible fireworks may only be sold at retail between June 24 and July 5 and between December 28 and January 1 of each year. The hours for sale of fireworks shall be from 8:00 a.m. to 10:00 p.m.
(Ref. Neb. Rev. Stat. §28-1249) (Am. by Ord. No. 656, 11/15/10)

SECTION 7-305: GENERAL REQUIREMENTS

In addition to all other requirements and regulations of the City, all fireworks stands, booths or other places of sale of fireworks shall conform to all rules and regulations promulgated by the state fire marshal's office. Fireworks may only be sold from within:

1. A temporary building structure, utilizing a booth or stand allowing for walk-up sales.

2. A temporary building structure that allows patrons to enter the structure.

3. A tent; provided, however, no structure or tent used for the sale of fire-works shall exceed a maximum floor space for sale and storage area of 3,600 square feet and shall be flame retardant. (Ref. NFPA 102)

4. A building or structure that complies with the regulations of the state fire marshal's office guidelines. (Ref. NFPA 1124)

SECTION 7-306: PROXIMITY TO CERTAIN BUSINESSES

Each licensed location offering permissible fireworks for sale must meet the minimum requirements as set forth by the state fire marshal regarding the minimum setbacks from certain businesses with flammable materials, i.e. a gasoline service station or other establishment selling, storing or using gasoline, kerosene, or other flammable or explosive liquids, gases or other combustible materials. Such distance shall be measured from the closest point where combustible material is dispensed or stored above ground. These distances are dependent on and determined by the type of structure and the fire rating of the structure's building material. The distance for temporary structures is 300 feet; however, the distances in the state fire marshal's regulations govern, so those regulations should be reviewed each year to determine if the distance requirement for temporary structures will need to be greater than the 300 feet listed herein and the 20-foot separation distances from each other. (Ref. NFPA 1124 Table 7.7.2)

SECTION 7-307: FIRE EXTINGUISHERS

Each licensed location offering permissible fireworks for sale must meet the minimum requirements for fire extinguishers as set forth by the state fire marshal. The number, size and type of fire extinguishers required are dependent on the size and type of structure at the location.

SECTION 7-308: COMPLIANCE WITH STATE LAW

In addition to all requirements and regulations of the City, all sellers of fireworks shall comply with all laws, regulations and rules of the State of Nebraska dealing with the sale and distribution of fireworks. (Ref. Neb. Rev. Stat. §28-1241 to 28-1252)

SECTION 7-309: RETAIL LICENSE REQUIRED

1. No person shall sell, hold for sale, or offer for sale any fireworks in the City unless such person has first obtained a license as a retailer form the City. Such license is valid for one fireworks season only and the issuance of a license for any particular season or combination of seasons does not create any expectation of a proprietary interest in the issuance of a license for another season.

2. Each license granted shall be for one specific location identified by address or suitable area described on the application. A license shall not be assignable or transferable in any manner.

SECTION 7-310: APPLICATION FOR LICENSE

1. Application for a license required under the provisions of this article shall be made in the office of the city clerk only between January 2 and March 1 of each year in which the license, if issued, would be valid. The clerk will provide the application form. Upon submission of a fully completed application form, including any pertinent subsidiary information, the city clerk will provide notice of the date and time of the hearing for licenses. Applicants are expected to appear at the hearing either in person or by representative.

2. At the time of application, an applicant shall furnish to the City the name and address of the fireworks stand manager. The person designated as manager must be at

least 16 years of age. It shall be incumbent upon the applicant to keep the list current so that the names of the employees having management responsibilities will always be on file in the office of the city clerk.

3. Each applicant shall provide a plat plan showing the location of the stand, address, setback from the street right-of-way, access to the site, the area for and how parking will be handled, the distance to the surrounding building(s) or structure(s), occupancy of the surrounding building(s), plus any and all other information required to show that the location meets all the safety and setback requirements as promulgated by the state fire marshal for a site of such dimensions and the type of structure planned.

4. Requirements for issuance of a license:

A. Prior to issuance of part "A" of the license, which covers the sales period of June 25 through July 4: Every applicant who is approved to receive a license has until June 15 to (a) submit a copy of his/her state license, (b) submit a certificate of insurance meeting the requirements of Section 7-315, (c) pay the applicable fees and (d) submit the bond.

B. Prior to issuance of part "B" of the license, which covers the second sales period of December 29 through December 31: Applicants have until December 15 to certify no change in the original application (for part "A") or submit a supplement to the application detailing any changes in the original application and to re-submit (a) a certificate of insurance meeting the requirements of Section 7-315 and (b) the bond, if the original documents were not for the entire year.
(Am. by Ord. No. 656, 11/15/10)

SECTION 7-311: HEARING ON GRANT OF LICENSES

A. At the regular meeting in March, the City Council will hold a hearing on the applications for licenses. The Council shall take testimony regarding the reputation and experience of the applicants, receive and review reports, which may include back ground or criminal checks on the applicant and/or his manager, assessments from the mayor and/or his designee regarding site suitability and compliance with all city and state fireworks safety and sale regulations and comments from the local fire and law enforcement departments. If the City Council finds that an applicant has satisfactorily met all the established criteria for operating a fireworks stand, the license shall be granted, in two parts, when the applicant has submitted a copy of his/her state license, a certificate of insurance, paid the applicable fees and submitted the bond.

B. If, prior to the public hearing required by this section, the mayor deter-mines that an applicant has held a city fireworks license and no complaints have been received pertaining to the applicant, the mayor may waive the requirement that the applicant attend the public hearing.

C. With the modification of the ordinance in 2010 to add the second sales period of December 28 through January 1, current license holders will be granted part "B" of the new license if they meet the requirements of the new ordinance as set out in section 7-310(D).
(Am. by Ord. No. 656, 11/15/10)

SECTION 7-312: FEE

The license fee for each retail sales outlet shall be set by the City Council and shall be on file in the office of the city clerk, available for public inspection during office hours.

SECTION 7-313: BOND; CONSENT REQUIRED

Before the issuance of a fireworks license, the applicant shall execute a consent form agreeing to abide by any regulations imposed by the City pertaining to the sale of fireworks and shall furnish to the City a cash bond conditioned that the licensee shall abide by any and all regulations proposed by the City pertaining to the sale of fireworks and that the licensee shall clean the area in and around any stand where fireworks are sold. Such work shall be done within three days after the close of the sales period. Any portable stand or tent shall be removed from its temporary location within eight days after the close of the sales period. Said bond amount shall be set by the City Council and shall be on file in the office of the city clerk, available for public inspection during office hours. (Am. by Ord. No. 656, 11/15/10)

SECTION 7-314: BOND; FORFEITURE OR RETURN

The cash bond as provided in Section 7-313 shall be returned to the licensee when the mayor or his or her designated representative shall have certified that the conditions of the bond have been satisfied. In the event any portable stand is not removed from its temporary location within the allotted time or the sale area is not cleaned and the debris and trash not removed therefrom, then the cash bond shall be forfeited and the proceeds used by the City to clean the area and remove the stand.

SECTION 7-315: INSURANCE

Each applicant must attach to his or her application a copy of a certificate of public liability insurance with minimum amounts of $3,000,000.00 general aggregate and $500,000.00 per occurrence.

SECTION 7-316: PLACE OF BUSINESS

A license issued under the provisions of this article shall be conditioned upon the licensee providing an acceptable fireworks stand or place of business.

SECTION 7-317: INSPECTION REQUIRED

The license may be obtained at the office of the city clerk only after an inspection of the fireworks stand or place of sale by the mayor or his or her designated representative to determine (1) if the stand or place of sale conforms to all city standards, building codes, land use regulations and NFPA 1124 guidelines and (2) that the site and structure conform and comply with all the rules established by the state fire marshal for the retail sale of permissible fireworks.

SECTION 7-318: DUTY OF LICENSEE TO REQUEST INSPECTION

The applicant for a license required by the provisions of this article shall request the City to make such inspections not later than June 22 and/or December 26 each calendar year. Such inspection shall be made by the City within 48 hours after the request. In the

event of any violations, the license may not be picked up at the City Hall until the violation is corrected. (Am. by Ord. No. 656, 11/15/10)

SECTION 7-319: DISPLAY OF LICENSE

Every license issued under the provisions of this article shall be displayed at all times at the place of business of the licensee.

SECTION 7-320: DURATION OF LICENSE

Licenses issued under the provisions of this article shall be valid only for the year in which issued (January 2 through January 1). (Ref. Rev. Neb. Stat. §28-1246) (Am. by Ord. No. 656, 11/15/10)

SECTION 7-321: AGE OF MANAGER ON PREMISES

During all hours of operation of the fireworks stand, a manager shall be on premises who is at least 16 years of age.

SECTION 7-322: UNLAWFUL ACTS; THROWING

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.

SECTION 7-323: VIOLATIONS

Any person or licensee who violates any of the provisions of this article shall be subject to the provisions of Section 7-401 herein. In addition to any fine, any person who is licensed shall be subject to the revocation of such license. Upon complaint being filed with the city clerk, he or she shall notify the licensee in writing and shall order a hearing before the City Council to show cause why said license should not be revoked. The hearing shall be not less than seven days after the filing of the complaint. The City Council shall conduct a special hearing for purposes of determining whether such license shall be revoked. The licensee shall appear in person or by his or her attorney. Upon revocation of the license, no refund of any portion of the license fee shall be made to the licensee and he or she shall immediately close all businesses at all places under such license. (Ref. Neb. Rev. Stat. §28-1252)

ARTICLE IV – PENAL PROVISION

SECTION 7-401: VIOLATION; PENALTY

Any person who shall violate or refuse to comply with the enforcement of any of the provisions of this chapter, whether set forth at full length herein or incorporated by reference, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in a sum of not more than $500.00 for each offense. A new violation shall be deemed to have been committed every 24 hours of such failure to comply.

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CHAPTER VIII – BUILDING REGULATIONS

ARTICLE I – BUILDING REGULATIONS

SECTION 8-101: BUILDING INSPECTOR; POWERS AND AUTHORITY

The building inspector shall be the city official who shall have the duty of enforcing all building and housing regulations as herein prescribed. He/she shall inspect all buildings repaired, altered, built, moved or demolished in the City as often as necessary to ensure compliance with all city ordinances. He/she shall have the power and authority to order, at the direction of the Planning Commission, all work stopped on any construction, alteration or relocation which violates any provisions prescribed herein. He/she shall, at the direction of the Planning Commission, issue permission to continue any construction, alteration or relocation, when the Planning Commission is satisfied that no provision will be violated. If the stop order is an oral one, it shall be followed by a written stop order within one hour. Such written order may be served by any peace officer.

SECTION 8-102: BUILDING INSPECTOR; RIGHT OF ENTRY

It shall be unlawful for any person to refuse to allow the building inspector entry into any building or structure where the work of construction, alteration, repair or relocation is

taking place, for the purpose of making official inspections at any reasonable hour.

SECTION 8-103: BUILDING PERMITS REQUIRED; STRUCTURE DEFINED; EXAMINATION AND APPROVAL OF APPLICATIONS AND RELATED MATERIALS BY THE PLANNING COMMISSION OR ITS DESIGNATED MEMBER OR MEMBERS

1. Any person desiring to commence or proceed to erect, construct, repair, enlarge, remodel or rehabilitate any building, dwelling or other structure, as defined herein, such as to result in a structural alteration, or to demolish or relocate such building or dwelling, or cause the same to be done, shall first file with the city clerk, for consideration by the Planning Commission, an application for a building permit, and shall at all times fully comply with all the requirements of the Zoning and Subdivision Chapters of the Land Development Ordinance of this city and with all other applicable federal, state and local laws, rules and regulations. The application shall be in writing on a form to be furnished by the city 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.

2. As used herein, the term “structure” shall mean anything constructed or built, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner which requires location on the ground or is attached to something having a location on the ground, including swimming or wading pools and covered patios, excepting outdoor areas such as paved areas, walks, tennis courts and similar recreation areas.

3. The Planning Commission is hereby granted full license and authority, at its sole discretion, to designate and appoint by motion any one or more of its members for an individual case, or upon an annual, or other sustaining basis, to examine and pass upon pending applications for building permits; determining whether the same should be issued. The Commission is further empowered to appoint substituted designated members at any time. all such appointments may contain such limitations of authority as the Commission shall see fit to impose. For all such purposes, the delegated acts of such appointed and substituted members shall constitute acts of the Commission itself.

4. Should any application, plans and specifications so filed with the city clerk and examined by the Planning Commission or its designated members be found to be in conformity with the requirements of this chapter and all other federal, state and city ordinances, laws, rules and regulations applicable thereto, the Planning Commission shall authorize and direct the city clerk, as a ministerial act, to issue the said applicant a permit upon payment of the permit fee set by resolution of the City Council.
(Ref. Neb. Rev. Stat. §18-1743) (Am. 5/19/03, Ord. No. 533)

SECTION 8-104: BUILDING PERMIT; 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 $1,000.00 or more, a duplicate of such permit shall be issued to the county assessor. (Ref. Neb. Rev. Stat. §18-1743)

SECTION 8-105: BUILDING PERMIT; VARIANCE NOT PERMITTED

It shall be unlawful for any person to whom a permit to construct or repair a building within the corporate limits of the City is issued, as provided in this article, to vary in any manner from the plans and specifications submitted to the Planning Commission in the construction or repair authorized, so that such construction or repair shall not conform to the ordinances of the City.

SECTION 8-106: BUILDING PERMIT; TIME OF INSPECTION

1. The building inspector, upon notification from the permit holder or his/her agent, shall make the following inspections of the building or structure and shall either approve that portion of the construction as completed or shall notify the permit holder or his/her agent that the work fails to comply with the requirements of the municipal code:

A. Foundation inspection shall be made after trenches are excavated and the necessary forms erected;

B. Frame inspection shall be made after the roof, framing, fire-blocking and backing is in place and all pipes, chimneys and vents are complete; and

C. Final inspection shall be made after the building is completed and ready for occupancy.

2. It shall be unlawful for any person to do work or cause work to be done beyond the point indicated in each successive inspection without the written approval of the building inspector.

SECTION 8-107: BARRICADES AND LIGHTS

It shall be the duty of the owner, lessee or tenant causing the construction, demolition or moving of any building or improvement within the City to have during such work all excavations, open basements, building materials and debris protected by suitable guards or barricades by day and by warning lights at night. The failure, neglect or refusal of such persons to erect such guards shall constitute a violation of this section and the building inspector or any law enforcement authority which shall have police jurisdiction within the zoning and building jurisdiction of the City shall stop all work until guards are erected and maintained as required.

SECTION 8-108: BOND REQUIREMENT

It shall be the duty of the owner, lessee or tenant intending the destruction of any building or improvement to post a $1,000.00 cash bond with the city clerk prior to such destruction. This bond will be refunded upon payment of all damages to city property occasioned by such destruction and any cleanup work resulting from such destruction. In the event that a nuisance remains on the building permit site for more than six months after the issuance of the building permit, then the bond shall be forfeited and shall be applied to offset the cleanup by the City.

SECTION 8-109: BUILDING WITHOUT PERMIT; NUISANCE

Every building or other structure hereafter erected, remodeled or moved into or within

said city without a permit therefor, as herein required, or which is not constructed, remodeled or located in accordance with the permit granted and issued therefor, shall be deemed and considered to be a public nuisance and may be abated or removed by the City at the expense of the owner.

SECTION 8-110: UNIFORM CODES; ADOPTED BY REFERENCE

The official operative codes governing all building and construction activities within the City and its extraterritorial zoning and subdivision jurisdiction and authority shall be the International Building Code (IBC), the International Residential Code (IRC) the National Electrical Code (NEC), the International Plumbing Code (IPC), the International Mechanical Code (IMC) and the International Energy Conservation Code (IECC); all as published by the International Code Council, and as adopted, including amendments, and enforced by the Washington County Planning Department. Whenever a new edition of the above codes shall be published, the same shall, without further ordinance amendment required, replace previous editions and shall become the official building codes as adopted by this city. One copy of each such currently effective operative code shall be filed in the office of the city clerk and shall be available for public inspection at all reasonable times. (Am. 6/20/05, Ord. No. 546)

ARTICLE II – MOVING BUILDINGS

SECTION 8-201: TERMS DEFINED

"Building" is a structure designated, built or occupied as a shelter or roofed enclosure for persons, animals or property and used for residential, business, mercantile, storage, industrial, institutional, assembly, educational or recreational purposes. A structure with the following dimensions or less shall not fall within this definition: 10 feet wide, 20 feet long, and, when in a position to move, 15 feet high.

SECTION 8-202: PERMIT REQUIRED

No person shall move any building over, along or across any highway, street or alley in the City without first obtaining a permit from the city clerk.

SECTION 8-203: APPLICATION

Any person seeking issuance of a permit hereunder shall file an application for such permit with the city clerk. Upon approval of the Planning Commission, the city clerk shall then issue the said permit.

1. Form. The application shall be made in writing upon forms provided by the city clerk and shall be filed in the office of the city clerk.

2. Contents. The application shall set forth:

A. A description of the building proposed to be moved, giving street number, construction materials, dimensions, number of rooms and condition of exterior and interior;

B. A legal description of the lot from which the building is to be moved, giving

the lot, block and tract number, if located in the City.

C. A legal description of the lot to which the proposed such building be removed, giving lot, block and tract number, if located in the City.

D. The portion of the lot to be occupied by the building when moved;

E. The highways, streets and alleys over, along or across which the building is proposed to be moved;

F. Proposed moving date and hours;

G. Any additional information which the Planning Commission shall find necessary to a fair determination of whether a permit should be issued.

3. Accompanying Papers.

A. Tax Certificate. The owner of the building to be moved shall file with the application sufficient evidence that the building and lot from which it is to be removed are free of any entanglements and that all taxes and any city charge against the same are paid in full.

B. Certificate of Ownership or Entitlement. The applicant, if other than the owner, shall file with the application a written statement of bill of sale signed by the owner, or other sufficient evidence, that he/she is entitled to move the building.

C. Liability Policy. The applicant shall file with the application a certificate of insurance providing coverage for both personal injury or property damage which might occur during the moving of said building. The minimum amount of coverage allowable shall be $10,000.00 property damage coverage and $10,000.00 personal injury coverage. The Planning Commission may require coverage in greater amounts if they deem it to be necessary.

4. Fee. The application shall be accompanied by a permit fee in the amount of $25.00 which shall be paid over by the city clerk to the city treasurer, who shall credit it to the general fund.

SECTION 8-204: INTERFERENCE

Whenever it shall be necessary for any permittee in moving a building to interfere with any electric, telephone or telegraph poles or wires, the public service company or companies owning, using or operating such poles or wire shall, upon such notice as is provided in their respective franchises, or if no provisions for notice is made therein, then upon 48 hours notice, be present and assist, or, if necessary remove such poles and wires; and the expense of said removal, as estimated, shall be paid in advance by applicant, unless it is otherwise provided in said companies' franchises. Whenever the moving of any building necessitates interference with any water main or sewer main belonging to the City, notice in writing of the time and route of such building moving operations shall be given to the building inspector of the City, who shall proceed in behalf of the city marshal as the managing officers or public service companies are required to

proceed in the premises in behalf of the companies. The notice herein provided for shall be given to said city official or public service company or companies, as the case may be, by the licensed housemover.

SECTION 8-205: DUTIES OF PERMITTEE

Every permittee under this ordinance shall:

1. Use Designated Streets. Move a building only over streets designated for such use in the written permit.

2. Notify of Revised Moving Time. Notify the city clerk in writing of a desired change in moving date and hours as proposed in the application.

3. Notify of Damage. Notify the city clerk in writing of any and all damage done to property belonging to the City within 24 hours after the damage or injury has occurred.

4. Display Lights. Cause red lights to be displayed during the night time on every side of the building, while standing on the street, in such a manner as to warn the public of the obstruction, and shall at all times erect and maintain barricades across the streets in such a manner as to protect the public from damage or injury by reason of the removal of the building.

5. Street Occupancy Period. Remove the building from the city streets after four days of such occupancy, unless an extension is granted by the mayor and the City Council.

6. Comply with Governing Law. Comply with the building code, the fire zone, and any zoning ordinances now existing or hereinafter adopted and all other applicable ordinances and laws, if any upon relocating the building in the City.

7. Clear Old Premises. Within ten days from the removal of the building, the permittee shall remove all rubbish and materials and fill all excavations to existing grade at the original site so that the premises are left in a safe and sanitary condition.

8. Remove Services Connections. See that the sewer line is plugged with a concrete stopper, the water shut off, and the meter returned to the city water office. Permittee shall notify the gas and electric service companies to remove their services.

SECTION 8-206: NO GENERAL LICENSE

There shall be no license issued or general permit given to anyone to move buildings at will or generally within the City.

ARTICLE III – UNSAFE BUILDINGS

SECTION 8-301: DEFINITION

The term "unsafe building" as used in this article is hereby defined to mean and include any building, shed, fence or other man-made structure (1) which is dangerous to the

public health because of its condition, and which may cause or aid in the spread of disease or injury to the health of the occupants of it or neighboring structures; (2) which because of faulty construction, age, lack of proper repair, or any other cause is especially liable to fire and constitutes or creates a fire hazard; (3) which by reason of faulty construction or any other cause is liable to cause injury or damage by the collapse or fall of all or any part of such structure. Any such unsafe building in the City is hereby declared to be a nuisance. (Neb. Rev. Stat. §18-1720, 18-1722, 18-1722.01)

SECTION 8-302: PROHIBITION

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

SECTION 8-303: DETERMINATION AND NOTICE

1. Whenever the building inspector, City Council, Planning Commission, or any other federal, state or city official, or an official of any other political subdivision in this state whose authority, jurisdiction or duties include the enforcement of laws and regulations relating to fire, safety or health shall be of the opinion that any building or structure in the City is an unsafe building, he/she shall file a written statement to this effect with the city clerk. The clerk shall thereupon cause the property to be posted accordingly, and shall file a copy of such determination in the office of the county register of deeds, and shall serve written notice upon the owner thereof, and upon the occupant thereof, if any, by certified mail or by personal service. Such notice shall state that the building has been declared to be in an unsafe or dangerous condition; and that such condition must be removed or remedied by repairing or altering the building or by demolishing it; and that the condition must be remedied within 60 days from the date of receipt. Such notice may be in the following terms:

> "To: (owner-occupant of premises) of the premises known and described as _____:
>
> "You are hereby notified that (describe building) on the premises abovementioned has been determined to be an unsafe or dangerous building and a nuisance after inspection by _____. The causes for this decision are: (here insert the facts as to the dangerous condition). You must remedy this condition or demolish the building within 60 days from the date of receipt of this notice or the City shall proceed to do so. Appeal of this determination may be made to the Board of Adjustment of this city by filing with the city clerk within ten days from the date of receipt of this notice a request for hearing."

2. If the person receiving the notice has not complied therewith or taken an appeal from the determination of the officer or employee finding that an unsafe or dangerous building exists within ten days from the time when this notice is served upon such person by personal service or certified mail, the building inspector may, upon orders of the City Council, proceed to remedy the condition or demolish the unsafe or dangerous building.
(Neb. Rev. Stat. §18-1720, 18-1722, 18-1722.01)

SECTION 8-304: HEARING AND APPEAL

Upon receiving the notice to repair or demolish the building, the owner of the building, within the time stipulated, may in writing to the city clerk request a hearing before the Board of Adjustment to present reasons why the building should not be repaired or demolished. The Board of Adjustment shall grant such hearing within ten days from the date of receiving the request. A written notice of the decision by the Board of Adjustment following the hearing shall be sent to the property owner by certified mail. If the Board of Adjustment rejects the appeal, the owner shall have five days from the sending of the decision to begin repair or demolition and removal. If after the five day period the owner has not begun work, the City shall proceed to cause such work to be done; provided, the property owner may appeal such decision to the appropriate court for adjudication, during which proceedings the decision of the Board of Adjustment shall be stayed. Should building and other codes adopted by the City fail to specifically cover such matters, the statutes of Nebraska relating to bonded indebtedness and collection of delinquent taxes shall apply. (Neb. Rev. Stat. §18-1720, 18-1722, 18-1722.01)

SECTION 8-305: EMERGENCY

Where any unsafe building or structure poses an immediate danger to the health, safety or general welfare of any person, and the owner fails to remedy the situation in a reasonable time after notice by the building inspector to do so, the City may summarily repair or demolish and remove such building or structure.

SECTION 8-306: SPECIAL ASSESSMENTS

In case the owner of any building or structure shall fail, neglect or refuse to comply with notice by or on behalf of the City to repair, rehabilitate, or demolish and remove a building or structure which is unsafe and a public nuisance, the City may proceed with the work specified in the notice to the property owner. A statement of the cost of such work shall be transmitted to the City Council, which is authorized to levy the cost as a special assessment against the land. Such special assessment shall be a lien on the real estate and shall be collected in the manner provided for special assessments. (Neb. Rev. Stat. §18-1720, 18-1722, 18-1722.01, 77-1725)

ARTICLE IV – FENCES

SECTION 8-401: DEFINITIONS

"Fence" shall mean a fence or similar structure serving as an enclosure, barrier or boundary.

"Open fence" shall mean a fence, including gates, which has, for each one foot wide segment extending over the entire length and height of the fence, 50% or more of the surface area in open spaces which afford a direct view through the fence.

"Solid fence" shall mean a fence, including gates, which has insufficient surface area in open space affording a direct view there through to qualify as an open fence.

SECTION 8-402: PERMIT REQUIRED

No fence shall be erected, constructed or maintained within the city limits or zoning jurisdiction of the City unless a permit therefor is applied for, approved and issued by the city clerk, and such fence is erected, constructed and maintained in conformance with the requirements of this article.

SECTION 8-403: APPLICATION PROCEDURE

1. Written applicant for a fence permit shall be made upon forms prescribed by the city clerk and shall be signed by the property owner or his/her duly authorized agent or attorney.

2. Each application shall designate the address to which notices shall be sent and shall be accompanied by a plot plan survey showing the location of iron pins denoting the lot lines, such survey to be certified to by a registered land surveyor. The city clerk may also require structural drawings and specification of materials with any application for a fence permit.

3. Two property owners desiring to build one fence on the common lot line of adjacent side yards or back yards may file one application jointly signed by them as applicants.

SECTION 8-404: APPLICATION APPROVAL AND FEE

The city clerk is authorized to approve all applications for fence permits which appear to conform to the provisions of law and this article and to issue permits for the erection and construction thereof upon payment by the applicant of the sum of $10.00. All permits issued hereunder shall be valid for a period of one year from date of issuance, and if the fence authorized is not fully erected and constructed within said period, the permit shall be null and void.

SECTION 8-405: LOCATION AND PLACEMENT RESTRICTED

Except as may be otherwise specifically provided in this article, no fence shall be erected, constructed or maintained on any lot or tract of land outside the surveyed lot lines of the property to which it belongs.

SECTION 8-406: CREATION OR MAINTENANCE OF TRAFFIC HAZARDS PROHIBITED

1. No fence shall be erected, constructed or maintained in such a manner as to obstruct the view of drivers of vehicles approaching street intersections, or which otherwise creates a traffic safety hazard.

2. Any fence constructed within the front yard of a residential lot (area between the front yard setback line and the street) or in the street side yard of any residential corner lot (area between side yard setback line and the street) must be an open fence not more than three and one-half feet above the ground.

3. No foliage or shrubbery shall be planted or maintained in such areas which will obstruct the view of drivers approaching the street intersection.

SECTION 8-407: HEIGHT AND MATERIALS PERMITTED

No fence in any residential district shall be erected, constructed or maintained to a great height than three and one-half feet above the ground; provided, however, that open fences serving as partitions upon the rear or side lot lines between two lots may be erected to a height of not more than six feet above the ground. Closed fencing to provide privacy for a patio may be constructed to a height not exceeding eight feet above the ground, provided that no length along any side exceeds 25 feet and provided further, no part thereof is situated beyond the front yard setback line or beyond the street side setback line applicable to a corner lot. Materials used in fences on residential property shall be approved by the city clerk. Any person desiring a variance from the height and material requirements of this section shall be required to apply for a special use permit.

SECTION 8-408: CERTAIN MATERIALS AND FENCES PROHIBITED

It shall be unlawful for any person to erect, construct or maintain any barbed wire fence except for perimeter security fencing of buildings constructed in industrial districts (the plans and specifications for which require city approval before commencement of construction), and for farm fencing constructed for agricultural purposes in agricultural districts. Except as otherwise provided herein, it shall be unlawful for any person to erect, construct or maintain any fence with barbed selvage at its top. No electric fence shall be erected, constructed or maintained within the City or within its zoning jurisdiction. Any person desiring a variance from the prohibition against use of certain materials and types of fences may apply for a special use permit.

SECTION 8-409: MAINTENANCE REQUIRED

All fences existing at the adoption of this article and all fences hereafter erected or constructed shall be maintained in good repair and in such condition as to not create or impose a hazard or danger to the public.

SECTION 8-410: FENCES IN EXISTENCE AT DATE OF ADOPTION HEREOF

1. Any existing fence constructed pursuant to a permit issued by the City in conformity with the ordinances in force and effect, which fence is in place as of the date of adoption of this article, may remain without change in accordance with this section, notwithstanding the same may be in conflict or violation with one or more provisions of this or prior ordinances; provided, however, that replacement or change of any such existing fence or addition of new fence must meet all requirements of this article; and provided further that all such fences in place as of date of adoption of this article must be in compliance with the provisions of Sections 8-406 and 8-408 hereof.

2. Any such existing fence constructed pursuant to a permit issued by the City which through inadvertence was erected or constructed upon city property and which is in place as of the date of adoption of this article may remain at the pleasure of the City, as though pursuant to a limited license granted by the City and terminable at any time without notice.

SECTION 8-411: ENFORCEMENT

1. Any fence permit issued hereunder may be revoked or canceled by the city clerk for reasons as follows:

A. Fraud, misrepresentation, concealment, error or material omission in the application for a fence permit, or in the accompanying survey or related document.

B. That the fence authorized by the permit as issued has not been, or is not being, erected or constructed in conformity with the provisions of the application, its related survey and other documents; or is otherwise in violation of any part or section of this article.

2. The city clerk, upon determination that a violation has occurred or is occurring, as above set forth, shall forthwith send to the applicant by certified mail, at the address set forth upon the application, a written notice of the revocation or cancellation of such issued permit and the reasons therefor, and the applicant shall thereupon cease and desist from all further efforts to complete the erection and construction of the fence described in the permit, or as the case may require, shall cause the fence to be removed.

3. Should it be determined that any existing fence in place as of the date of adoption of this article has been or is being replaced or changed or added to, without the obtaining of a valid fence permit as herein provided, or that such existing fence poses a traffic safety hazard as described in Section 8-406(1), or is dangerous and prohibited under Section 8-408 hereof, the city clerk shall forthwith send to the property owner by certified mail a written notice of such violation or prohibited condition; and thereupon the owner shall without delay cause the removal of such fence.

4. The city attorney, upon direction of the mayor and City Council by resolution, is authorized and empowered to enforce any and all provisions of this article and to initiate or defend suits in courts of competent jurisdiction, as may be required to enforce the provisions of this article.

SECTION 8-412: APPEALS

Any person aggrieved by any order or decision of the city clerk or other official of the City concerning the granting, issuance or denial, revocation or cancellation of a permit controlled by this article may appeal to the Board of Adjustment.

ARTICLE V – MUNICIPAL PLANNING

SECTION 8-501: ZONING AND SUBDIVISION REGULATIONS; ADOPTED AND INCORPORATED BY REFERENCE

There is hereby adopted and incorporated by reference for the City of Fort Calhoun, Nebraska, a comprehensive code of Zoning and Subdivision Regulations, whose short title will be "The Land Development Ordinance for the City of Fort Calhoun, Nebraska – 1996," prepared and published in code form. No fewer than three copies of said zoning and subdivision regulations in code form with zoning district maps, marked or stamped "Official Copy as Adopted by Ordinance No. 459," and to which shall be attached a pub-

lished copy of that ordinance, shall be filed with the city clerk to be open to inspection and available to the public during office hours.

SECTION 8-502: OFFICIAL ZONING DISTRICT MAP

The location, size, shape and boundaries of the zones to which the provisions of the text of this article are applicable shall be indicated on a map or atlas of maps entitled "Official Zoning District Map," incorporated herein and by this reference made a part hereof and so certified by the city clerk together with the text, and shall be maintained by the city clerk and such map or atlas shall be the Official Zoning District Map. Such official zoning district map or atlas shall include the legal description of the land involved, including appropriate adjacent public rights-of-way on public property and such amendments shall be promptly and permanently noted on the face of the maps in the custody of the city clerk.

SECTION 8-503: PLANNING JURISDICTION

The areas of jurisdiction shall be all land within the corporate limits of the City of Fort Calhoun and all areas within the planning jurisdiction, defined as all land within one mile of the corporate limits of the City; or such other distance as may be provided by the Nebraska statutes.

SECTION 8-504: ZONING AND SUBDIVISION REGULATIONS; AMENDMENTS

The City Council may amend these regulations from time to time; provided, however, that such amendments shall not become effective until a public hearing and a recommendation from the Planning Commission is received and a public hearing by the City Council has been held, as provided by law.

SECTION 8-505: DOWNTOWN DESIGN GUIDELINES; ADOPTED AND INCORPORATED BY REFERENCE

The Downtown Design Guidelines, as prepared and published by the Fort Calhoun Land Use Committee, were adopted by the City Council on January 18, 2010 and are hereby incorporated by reference. One copy of said guidelines, marked or stamped "Official Copy as Adopted by Ordinance No. 631," and to which shall be attached a published copy of that ordinance, shall be filed with the city clerk to be open to inspection and available to the public during office hours. (Ord. No. 631, 1/18/10)

ARTICLE VI – COMPREHENSIVE DEVELOPMENT PLAN

SECTION 8-601: COMPREHENSIVE DEVELOPMENT PLAN; ADOPTED

The comprehensive development plan prepared and submitted by RDG Martin Shukert, Inc., dated March 1996, and referred to as "The Fort Calhoun Plan" hereby is adopted as the official comprehensive development plan of this city.

ARTICLE VII – SWIMMING POOLS

SECTION 8-701: DEFINITIONS

1. "Swimming pool" shall mean any above ground or below ground body of water in an artificial or semi-artificial receptacle or other container having the capability of being filled to a depth of over two feet at any point and having a surface area exceeding 100 square feet, used or intended to be used for swimming or bathing. The term includes all structures, equipment and fixtures, such as filters and pumps, which are appurtenant to and intended for the operation and maintenance of a swimming pool.

2. "Private swimming pool" shall mean a swimming pool maintained for use solely by the owner or lessee and his/her family, licensees, guests, permittees and invitees without payment of any fee, charge or other cost, and which is located as an accessory structure on the same property as his/her residence. A "private swimming pool," sometimes referred to herein as a "family pool," shall be taken to include all receptacles or containers which were designed or intended to be permanently installed upon the premises, as well as those which may have been designed or intended for occasional, temporary or seasonal use, and which have the capability of being readily removable and transportable.

3. "Non-commercial swimming pool" shall mean a swimming pool maintained by a private club or group, not operated for profit, limited to a specific number of members or residents of a block, subdivision, neighborhood or community, for the exclusive use of those members or residents and their guests.

4. "Commercial swimming pool" shall mean a swimming pool operated for profit.

SECTION 8-702: PURPOSE

The purpose of this article is to provide uniform standards of construction, installation, maintenance, operation and use of swimming pools within the City and its extraterritorial jurisdiction; to maintain a neat, pleasant appearing environment in order to assure compatibility of outdoor swimming pools with surrounding land and property usage; and generally to promote and maintain the health, safety, environment and general welfare of persons and their property in the vicinity of swimming pools, and of the public generally.

SECTION 8-703: PERMIT REQUIRED

No swimming pool shall hereafter be constructed, installed, maintained, operated or used unless and until plans, specifications and any additional information relative to such pool, as may be requested by the Planning Commission, shall have been submitted and after review found to comply with all zoning, building, health, sanitary and safety requirements, and a permit for the construction, installation, maintenance, operation and use is issued by the city clerk upon payment of reasonable fees established by resolution of the City Council.

SECTION 8-704: ENCLOSURE OF OUTDOOR POOLS

1. Walls of any outdoor swimming pool shall be located at least four feet from any lot line.

2. Every outdoor private, residential or family pool shall be completely surrounded by a fence or wall not less than six feet in height, which shall be so constructed as not to have openings, holes or gaps larger than four inches in any dimension, except for doors and gates. If a picket fence is erected or maintained, the horizontal dimension shall not exceed four inches. A dwelling or accessory building may be used as part of such enclosure.

3. All gates, doors and openings through such enclosures shall be equipped with self-closing and self-latching devices for keeping the gates or doors securely closed at all times. This requirement shall be applicable to all new outdoor swimming pools hereafter constructed, installed, maintained, operated or used, and shall apply to all existing pools which have the capability of being filled to a depth of over two feet at any one point and have a surface area exceeding 100 square feet. No person in possession of real property within the City or its extraterritorial jurisdiction, either as owner, purchaser, lessee, tenant or licensee, upon which is situated an outdoor swimming pool which has the capability of being filled to a depth exceeding two feet and shall have a surface area exceeding 100 square feet, shall fail to provide and maintain such fences, walls and self-closing and latching devices as provided in this article.

SECTION 8-705: LIGHTING OF PRIVATE SWIMMING POOLS

The occupier of land upon which a private swimming pool is located shall have the pool adequately lighted while it is being used at night; provided, however, floodlights or other lights used to illuminate a private swimming pool must be so arranged and shaded as to reflect light away from adjoining premises.

SECTION 8-706: DISINFECTING OF PRIVATE SWIMMING POOLS

A private swimming pool shall be disinfected on an as-needed basis. Those standards recommended by the pool manufacturer shall be followed. Chlorine, bromine or iodine shall be used to disinfect swimming pool water. The water in a private swimming pool shall show an alkaline reaction at all times when the swimming pool is in use.

SECTION 8-707: CLOSING OF PRIVATE SWIMMING POOLS

The building inspector is authorized to close any private swimming pool which, in his/her opinion, is in violation of the provisions of this article. No person shall use a pool during the time it is closed. The owner of any private pool that has been closed may appeal to the Board of Adjustment and have the Board determine the legality of such closing.

ARTICLE VIII – PENAL PROVISION

SECTION 8-801: VIOLATION; PENALTY

Any person who shall violate or refuse to comply with the enforcement of any of the provisions of this chapter, whether set forth at full length herein or incorporated by reference, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in a sum of not more than $500.00 for each offense. A new violation shall be deemed to have been committed every 24 hours of such failure to comply.