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CHAPTER 1 – CIVIL ADMINISTRATION

Article 1 – City Administration

SECTION 1-101: CORPORATE EXISTENCE

The City of Tekamah, 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. (Neb. Rev. Stat. §17-101)

SECTION 1-102: CORPORATE SEAL

The official corporate seal of the City shall be kept in the office of the city clerk, who shall affix an impression of the said official seal to all warrants, licenses, permits, ordinances, and all other official papers issued by order of the City Council and countersigned by the said clerk. (Neb. Rev. Stat. §17-502)

SECTION 1-103: BONDS; BLANKET BOND

A. Before entering upon their duties, the officers of the City shall give bonds for the faithful performance of their duties in an amount set by resolution of the City Council. Said bonds shall be executed with a corporate surety, approved by the City Council and filed in the office of the city clerk. Premiums on said bonds shall be paid out of the General Fund or other proper fund.

B. In the event that sureties on the official bond of any officer of the City become insufficient in the opinion of the City Council, such body 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 become vacant by such failure, refusal or neglect, and it shall be the duty of the City Council to appoint a competent and qualified person to fill the said office. Any official who is re-elected to office shall be required to file a new bond after each election.

C. All surety and other bonds required by city ordinances or by Nebraska law for city officials may be provided by the purchase of a blanket bond, undertaking or equivalent insurance. The City may pay the premium for the bond or insurance coverage. The bond or insurance coverage shall be, at a minimum, an aggregate of the amounts fixed by state law or by city ordinance requiring such bond or undertaking and on such terms and conditions as may be required.
(Neb. Rev. Stat. §11-74)

SECTION 1-104: OATH OF OFFICE; CITY OFFICIALS

A. All officers of the City, whether elected or appointed, shall declare and

subscribe the following oath or affirmation before entering upon the duties of their respective offices:

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

B. This oath or affirmation so subscribed shall be filed in the office of the city clerk.
(Neb. Rev. Stat. §11-71)

SECTION 1-105: RESERVE OFFICER'S BOND

No appointment of a law enforcement officer shall be valid until a bond in the amount of \$2,000.00, payable to the City, has been filed with the city clerk by the appointed person, or a blanket surety bond arranged and paid for by the City Council, bonding all such officers of the City, has been filed. Such bonds shall be subject to the provisions of Neb. Rev. Stat. Chapter 11, Article 1. (Neb. Rev. Stat. §81-1444)

SECTION 1-106: RESTRICTIONS ON OTHER EMPLOYMENT OR ELECTIVE OFFICE

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

B. For purposes of this section:

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

created by an act of the Legislature and

2. "High elective office" shall mean a member of the Legislature, an elective office described in Article IV, Section 1 or 20; or Article VII, Section 3 or 10, of the Constitution of Nebraska, or a county, city, or school district elective office.

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

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

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

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

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

H. Notwithstanding Subsections (E) through (G) of this section, any person holding more than one high elective office upon September 13, 1997, shall be entitled to serve the remainder of all terms for which he or she was elected or appointed. (Neb. Rev. Stat. §17-108.02, 32-109, 32-603, 32-604) (Ord. No. 902, 2/26/91; 1075, 8/11/98)

SECTION 1-107: COMPENSATION; AMOUNTS

A. All elected officers shall receive such compensation as the City Council

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

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

C. 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.

SECTION 1-108: COMPENSATION; CONFLICT OF INTEREST

A. For purposes of this section, "officer" shall mean:

1. Any member of any board or commission of the City;
2. 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
3. Any elected official; 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.

B. 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/her parent, spouse, or child:

1. Has a business with which the individual is associated or business association which shall mean a business:
 - a. In which the individual is a partner, director, or officer or
 - b. 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
2. Will receive a direct pecuniary fee or commission as a result of the contract; provided however, if such officer:
 - a. Is an employee of the business involved in the contract and
 - b. Has no ownership interest or will not receive a pecuniary fee such officer shall not be deemed to have an interest within the meaning of this section.

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

1. Makes a declaration on the record to the City Council responsible for approving the contract regarding the nature and extent of his/her interest, prior to official consideration of the contract;
2. Does not vote on the matter of granting the contract, except that if the number of members of the board declaring an interest in the contract would prevent the board, with all members present, from securing a quorum on the issue, then all members may vote on the matter; and
3. Does not act for the City as to inspection or performance under the contract in which he or she has an interest.

D. 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 or 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 or her parent, spouse, or child for special action. If an officer has the power to employ personnel and he or she hires his or her parent, spouse, or child, such officer shall disclose the hiring pursuant to subsections (E) (1) through (5) 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.

E. The city clerk shall maintain, separately from other records, a ledger containing the information listed in subsections (1) through (5) of this section about every contract entered into by the City in which an officer has an interest as specified above for which disclosure is made as provided in subsections (C) (1) through (3) 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:

1. Names of the contracting parties;
2. Nature of the interest of the officer in question;
3. Date that the contract was approved by the City involved;
4. Amount of the contract; and
5. Basic terms of the contract.

F. 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.

G. 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.

H. 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.

I. Any officer who knowingly violates the provisions of Neb. Rev. Stat. Sections 49-14,103.01 through 49-14,103.03 shall be guilty of a Class III misdemeanor. Any officer who negligently violates Neb. Rev. Stat. Sections 49-14,103.01 through 49-14,103.03 shall be guilty of a Class V misdemeanor.

J. The City may enact ordinances exempting from the provisions of this sec-

tion, contracts involving \$100.00 or less in which an officer of such City may have an interest.

(Neb. Rev. Stat. §17-611, 18-305 through 18-312, 49-14,103.01 through 49-14,103.03, 70-624.04)

SECTION 1-109: ELECTION OF CITY OFFICIALS

The term of office of the mayor and City Council is four years. Those members elected in 2004 shall continue to hold their office until December, 2008. 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. (Neb. Rev. Stat. §17-107)

SECTION 1-110: MAYOR; SELECTION AND DUTIES

A. The mayor of the City shall:

1. Have the general and immediate control over all property, affairs, and officials of the City and shall take care that the ordinances of the City and all laws governing the City are complied with.
2. 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 shall, for the purpose of such vote, be deemed to be a member of the Council.
3. Vote when his/her vote would provide the additional vote required to attain the number of votes equal to a majority of the number of members elected to the City Council on any pending matter, legislation, or transaction, and the mayor shall, for the purpose of such vote, be deemed to be a member of the Council.
4. Sign the city clerk's minutes of all meetings, all resolutions which have been passed, and warrants for the payment of money when ordered by the City Council.
5. Have the power to veto or sign any ordinance passed by the Council and to approve or veto any order, bylaw, resolution, award of or vote to enter into any contract, or the allowance of any claim. If the mayor approves the ordinance, order, bylaw, resolution, contract, or claim, he/she shall sign it and it shall become effective. If the mayor vetoes the ordinance, order, bylaw, resolution, contract, or any item or items of appropriations or claims, he/she shall return it to the City Council stating that the measure is vetoed. The mayor may issue the veto at the meeting at which the measure passed or within seven calendar days after the meeting. If the mayor issues the veto after the meeting, the mayor shall notify the city clerk of the veto in writing. The clerk shall notify the City Council in writing of the mayor's veto. Any ordinance, order, bylaw,

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

6. From time to time communicate to the Council such information and recommendations as, in his/her opinion, may tend to the improvement of the finances, the police, health, security, ornament, comfort, and general prosperity of the City.
 7. Recommend for Council consent and approval any personnel actions involving the hiring, promotion, demotion, reassignment, or termination of employees or the appointment or removal of appointed officials or officers.
 8. Have the power to remit fines and forfeitures and to grant reprieves and pardons for all offenses arising under the ordinances of the City.
 9. The mayor shall also have such other duties and powers as the City Council may by resolution confer upon him/her or as may be otherwise provided in state law or city ordinances.
- B. The mayor may require any city official to exhibit his/her accounts at reasonable intervals and make reports to the Council on any subject pertaining to his/her office.
- C. The mayor's territorial authority shall extend over all places within five miles of the corporate limits of the City for the enforcement of any health ordinance and one-half mile in all matters vested in him/her except taxation.
- D. Any candidate for mayor must have resided within the City for 40 days prior to filing for the office and must, in addition, be a registered voter prior to filing for said office. The mayor shall be elected in the manner provided in the Election Act for a term of four years. The mayor shall take office on the date of the first regular meeting of the City Council held in December following the statewide general election.

(Neb. Rev. Stat. §17-107, 17-110 through 17-114) (Am. by Ord. No. 1258, 11/20/14)

SECTION 1-111: MAYOR; VACANCY

Whenever a vacancy occurs in the office of mayor, or in case of his/her disability or absence, the president of the Council shall exercise the office of mayor until such vacancy is filled or such disability is removed, or in the case of temporary absence, until the mayor returns. When the successful candidate for mayor shall be unable to assume office for any reason, the incumbent mayor shall not be entitled to hold over the term; such office shall automatically become vacant and the president of the Council shall exercise the office of mayor until such vacancy is filled. If the president of the Council shall for any cause assume the office of mayor for the remainder of the unexpired term, there shall be a vacancy on the Council which shall be filled as provided herein. (Neb. Rev. Stat. §17-107, 32-568)

SECTION 1-112: CITY COUNCIL; SELECTION AND DUTIES

The City Council shall be legislative division of the City and shall perform such duties and have such powers as may be authorized by law. The City Council shall maintain the peace, regulate business, protect the public health and safety, and assess such taxes and fees as are necessary and appropriate in the exercise of these functions. (Neb. Rev. Stat. §17-103, 17-107)

SECTION 1-113: CITY COUNCIL; ACTING PRESIDENT

A. The City Council shall elect one of its own body each year who shall be styled the president of the Council, and who shall preside at all meetings of the City Council in the absence of the mayor. In the absence of the mayor and the president of the Council, the City Council shall elect one of its own body to occupy his/her place temporarily, who shall be styled acting president of the Council and who, when occupying the position of the mayor, shall have the same privileges as the other members of the City Council. All acts of the president of the Council or acting president of the Council, while so acting, shall be as binding upon the City Council and upon the City as if done by the elected mayor.

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

(Neb. Rev. Stat. §17-148)

SECTION 1-114: CITY COUNCIL; ORGANIZATION

City Council members shall take office and commence their duties on the first regular meeting in December following their election. The newly elected council members who have qualified as prescribed by law, together with the members of the City Council holding over, shall assemble in a regular meeting at the hour and place here-

inafter prescribed and perfect the reorganization of the City Council as herein provided. All appointive offices in which the terms of incumbents are expired shall then be filled by appointment. After the said meeting has been called to order, the city clerk shall report to the City Council the names of all council members-elect who have qualified for their respective offices, and this report shall be spread upon the minutes of the meeting preceding the roll call. Each ward of the City shall be represented by at least two council members. No person shall be eligible who is not at the time of election an actual resident of the ward for which he/she is qualified; and should any City Council member move from the ward from which elected, his/her office shall thereby become vacant. (Neb. Rev. Stat. §17-104)

SECTION 1-115: CITY COUNCIL; VACANCIES

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

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

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

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

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

F. The mayor shall cast his or her vote only in case of a tie vote of the City Council. All City Council members shall cast a ballot for or against each nominee.

G. The mayor and Council may, in lieu of filling a vacancy in a City office as provided above in this section, call a special election to fill such vacancy. If there are

vacancies in the offices of a majority of the members of the City Council, there shall be a special election conducted by the secretary of state to fill such vacancies.
(Neb. Rev. Stat. §17-212, 32-4, 152, 32-1, 406) (Ord. No. 903, 2/26/91)

Article 2 – Meetings

SECTION 1-201: DEFINED

“Meetings” as used in this article shall mean all regular, special, or called meetings, formal or informal, of a public body for the purposes of briefing, discussion of public business, formation of tentative policy, or the taking of any action. (Neb. Rev. Stat. §84-1409)

SECTION 1-202: PUBLIC BODY DEFINED

A. “Public body” as used in this article shall mean:

1. The City Council of the City;
2. All independent boards, commissions, bureaus, committees, councils, subunits, certificate of need appeal panels, or any other bodies, now or hereafter created by Constitution, statute, or otherwise pursuant to law, and advisory committees of the bodies listed above.

B. This article shall not apply to subcommittees of such bodies unless such subcommittees are holding hearings, making policy or taking formal action on behalf of their parent body.

(Neb. Rev. Stat. §84-1409) (Ord. No. 937, 3/9/93)

SECTION 1-203: OPEN MEETINGS INFORMATION

The City Council shall make available at least one current copy of the Open Meetings Act, to be posted in the meeting room at a location accessible to members of the public. At the beginning of each meeting, the public shall be informed about the location of the posted information. (Neb. Rev. Stat. §84-1412)

SECTION 1-204: PUBLIC PARTICIPATION

A. 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 1-215, 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. 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.

B. 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 him- or herself, but such member of the public shall not be required to have his/her name on the agenda in order to address the meeting. No public body shall, for the purpose of circumventing the provisions of this article, hold a meeting in a place known by the body to be too small to accommodate the anticipated audience. No public body shall be deemed in violation of this section if it holds its meeting in its traditional meeting place which is located in this state.

C. 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.

D. An agency which contracts with municipalities outside the State of Nebraska may hold meetings of any committee outside the State of Nebraska if such meetings are held only in such contracting municipalities. Final action on any agenda item shall only be taken by the agency at a meeting in the State of Nebraska, which meeting shall comply with Neb. Rev. Stat. §84-1408 to 84-1414. 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.
(Neb. Rev. Stat. §84-1412, 18-2438) (Ord. No. 866, 9/22/87)

SECTION 1-205: NOTICE TO NEWS MEDIA

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

SECTION 1-206: PUBLIC PLACE; NOTICE; AGENDA

A. All public meetings as defined by law shall be held in a public building which shall be open to attendance by the public. All meetings of the City Council shall be held in the public building in which it usually holds its 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 simultaneously transmitted to all members of the City Council and to the public by a method designated by the City Council or by the mayor if the City Council has not designated a method. Such notice shall contain the time and specific place for each meeting and either an enumeration of the agenda subjects known at the time of the notice, or a statement that such an agenda kept continually current shall be readily available for public inspection at the office of the city clerk.

B. Except for items of an emergency nature, the agenda shall not be altered later than 24 hours before the scheduled commencement of the meeting or 48 hours before the scheduled commencement of a meeting of the City Council scheduled outside the corporate limits of the City. The City Council shall have the right to modify

the agenda to include items of an emergency nature only at such public meetings. The minutes of the city clerk shall include the record of the manner and advance time by which the advance publicized notice was given, a statement of how the availability of an agenda of the then known subjects was communicated, the time and specific place of the meetings, and the names of each member of the City Council present or absent at each convened meeting. The minutes of the City Council shall be a public record open to inspection by the public upon request at any reasonable time at the office of the city clerk. 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. (Neb. Rev. Stat. §84-1408, 84-1409, 84-1411, 84-1413) (Ord. No. 865, 9/22/87)

SECTION 1-207: 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 the outgoing members of the Council shall present their reports, and upon the old Council having completed its business up to the said time, the outgoing members shall surrender their offices to the incoming members, and the outgoing officers shall thereupon each surrender to his/her successor in office all property, records, papers and moneys, belonging to the same.

SECTION 1-208: ORGANIZATIONAL MEETING

A. The newly elected Council shall convene at the regular place of meeting in the City on the first regular meeting in December of each year in which a 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 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.

B. 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 1-209: REGULAR MEETINGS; ORDER OF BUSINESS

A. The meetings of the City Council shall be held in the city auditorium. Regular meetings shall be held on the second and fourth Thursdays of each month at the hour of 7:00 P.M.

B. A majority of all the members elected to the City Council shall constitute a quorum for the transaction of any business, but a fewer number may adjourn from time to time and compel the attendance of absent members. Unless a greater vote is required by law, an affirmative vote of at least one-half of the elected members shall be required for the transaction of any business.

(Neb. Rev. Stat. §17-105) (Ord. No. 991, 2/27/96) (Am. by Ord. Nos. 1209, 4/14/09; 1246, 8/15/13)

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SECTION 1-210: PARLIAMENTARY PROCEDURE

A. 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/she shall be seated until the point is decided. When the mayor is putting the question, no person shall leave the meeting room. Before speaking, every person shall rise from his/her seat and address himself/herself to the presiding officer and, while speaking, shall confine himself/herself to the question. When two or more persons rise at once, the mayor shall recognize the one who spoke first. All resolutions or motions shall be reduced to writing before being acted upon, if requested by the city clerk or any member of the City Council. Every council member who is present when a question is voted upon shall cast his/her vote unless excused by a majority of the council members 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 council member making the motion or resolution shall be entered also. After each vote, the "yeas" and "nays" shall be taken and entered in the minutes upon the request of any member of the Council.

B. 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 council member seconding the said resolution, motion, or ordinance. When, in the consideration of an ordinance, different times or amounts are proposed, the question shall be put on the largest sum or the longest time. A question to reconsider shall be in order when made by a member voting with the majority, but such motion to reconsider must be made before the expiration of the third regular meeting after the initial consideration of the question. When any question is under debate, no motion shall be made, entertained, or seconded except the previous question, a motion

to table, and to adjourn. Each of the said motions shall be decided without debate. Any of the rules of rules of the City Council for meetings may be suspended by a two-thirds vote of the members present. In all cases in which provisions are not made by these rules, *Robert's Rules of Order* is the authority by which the Council shall decide all procedural disputes that may arise.

SECTION 1-211: MINUTES

Each public body shall keep minutes of all meetings showing the time, place, members present and absent, and the substance of all matters discussed. The minutes shall be public records and open to public inspection during normal business hours. Minutes shall be written and available for inspection within ten working days, or prior to the next convened meeting, whichever occurs earlier, except that the city clerk may have an additional ten working days if absent due to a serious illness or emergency. (Neb. Rev. Stat. §84-1412, 841413)

SECTION 1-212: VOTES

Any action taken on any question or motion duly moved and seconded shall be by roll call vote of the public body in open session, and the record shall state how each member voted, or if the member was absent or not voting. The requirements of a roll call or viva voce vote shall be satisfied by the City utilizing an electronic voting device which allows the "yeas" and "nays" of each member of the City Council to be readily seen by the public. The vote to elect leadership within a public body may be taken by secret ballot, but the total number of votes for each candidate shall be recorded in the minutes. (Neb. Rev. Stat. §17-616, 84-1413)

SECTION 1-213: SPECIAL MEETINGS

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

B. 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 City Council members shall elect a president pro tempore. All ordinances passed at any special meeting shall comply with procedures set forth in Chapter 1,

Article 3 herein.
(Neb. Rev. Stat. §17-106)

SECTION 1-214: EMERGENCY MEETINGS

When it is necessary to hold an emergency meeting without reasonable advance public notice, the nature of the emergency shall be stated in the minutes and any formal action taken in such meeting shall pertain only to the emergency. Such emergency meetings may be held by means of electronic or telecommunication equipment. The provisions of this article shall be complied with in conducting emergency meetings. Complete minutes of such emergency meetings specifying the nature of the emergency and any formal action taken at the meeting shall be made available to the public by no later than the end of the next regular business day. (Neb. Rev. Stat. §84-1411)

SECTION 1-215: CLOSED SESSIONS

A. Any public body may hold a closed session by the affirmative vote of a majority of its voting members if a closed session is clearly necessary for the protection of the public interest or for the prevention of needless injury to the reputation of an individual and if such individual has not requested a public meeting. Closed sessions may be held for, but shall not be limited to, such reasons as:

1. Strategy sessions with respect to collective bargaining, real estate purchases pending litigation or litigation which is imminent as evidence as evidenced by communication of a claim or threat of litigation to or by the public body.
2. Discussion regarding deployment of security personnel or devices;
3. Investigative proceedings regarding allegations of criminal misconduct;
or
4. Evaluation of the job performance of a person when necessary to prevent needless injury to the reputation of the job performance of a person and if such person has not requested a public meeting.

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

B. The vote to hold a closed session shall be taken in open session. The vote of each member on the question of holding a closed session, the reason for the closed session, and the time when the closed session commenced and concluded shall be recorded in the minutes. The public body holding such a closed session shall restrict its consideration to matters during the closed portions to only those purposes set forth in the minutes as the reason for the closed session. The meeting shall be reconvened in open session before any formal action may be taken. For purposes of

this section, formal action shall mean a collective decision or a collective commitment or promise to make a decision on any question, motion, proposal, or resolution, order, or ordinance or information or a position or policy but shall not include negotiating guidance given by members of the public body to legal counsel or other negotiators in closed sessions authorized under subsection (A) of this section.

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

D. Nothing in this section shall be construed to require that any meeting be closed to the public. No person or public body shall fail to invite a portion of its members to a meeting and no public body shall designate itself a subcommittee of the whole body for the purpose of circumventing the provisions of this article, no closed session, informal meeting, chance meeting, social gathering, or electronic communication shall be used for the purpose of circumventing the provisions of this article.

E. The provisions of this article shall not apply to chance meetings or to attendance at or travel to conventions or workshops of members of a public body at which there is no meeting of the body then intentionally convened and there is no vote or other action taken regarding any matter over which the public body has supervision, control, jurisdiction, or advisory power.

(Neb. Rev. Stat. §84-1410) (Ord. No. 961, 3/28/95)

SECTION 1-216: TELEPHONE CONFERENCE CALLS; WHEN ALLOWED

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

1. The territory represented by the member public agencies of the entity or pool covers more than one county;
2. Reasonable advance publicized notice is given which identifies each telephone conference location at which a member of the entity's or pool's governing body will be present;
3. All telephone conference meeting sites identified in the notice are located within public buildings used by members of the entity or pool or at a place which will accommodate the anticipated audience;
4. Reasonable arrangements are made to accommodate the public's right

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

5. At least one copy of all documents being considered is available to the public at each site of the telephone conference call,
6. At least one member of the governing body of the entity or pool is present at each site of the telephone conference call identified in the public notice;
7. The telephone conference call lasts no more than one hour; and
8. No more than one-half of the entity's or pool's meetings in a calendar year are held by telephone conference call.

B. Nothing in this section shall prevent the participation of consultants, members of the press, and other nonmembers of the governing body at sites not identified in the public notice. Telephone conference calls shall not be used to circumvent any of the public government purposes established in Neb. Rev. Stat. §84-1408 to 84-1414.

(Neb. Rev. Stat. §84-1411) (Ord. No. 1140, 3/14/00)

SECTION 1-217: VIDEOCONFERENCING; WHEN ALLOWED

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

1. Reasonable advance publicized notice is given;
2. Reasonable arrangements are made to accommodate the public's right to attend, hear, and speak at the meeting, including seating, recordation by audio or visual recording devices, and a reasonable opportunity for input such as public comment or questions to at least the same extent as would be provided if videoconferencing were not used;
3. At least one copy of all documents being considered is available to the public at each site of the videoconference;
4. At least one member of the governing body or advisory committee is present at each site of the videoconference; and
5. No more than one-half of the governing body's or advisory committee's

meetings in a calendar year are held by videoconference.

B. Videoconferencing shall not be used to circumvent any of the public government purposes established in this Neb. Rev. Stat. §84-1408 to 84-1414.

C. For the purpose of this section, the following definition shall apply unless the context clearly indicates or requires a different meaning: "videoconferencing" shall mean conducting a meeting involving participants at two or more locations through the use of audio-video equipment which allows participants at each location to hear and see each meeting participant at each other location, including public input. Interaction between meeting participants shall be possible at all meeting locations.

(Neb. Rev. Stat. §84-1409) (Ord. No. 1141, 3/14/00)

Article 3 – Ordinances, Resolutions, Motions and Bylaws

SECTION 1-301: GRANT OF POWER

The City Council may make all ordinances, bylaws, rules, regulations, and resolutions not inconsistent with the laws of the State of Nebraska, as may be expedient for maintaining the peace, good government, and welfare of the City and its trade, commerce, and manufactories. (Neb. Rev. Stat. §17-505) (Ord. No. 1034, 8/12/97)

SECTION 1-302: TITLE

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

SECTION 1-303: STYLE

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

SECTION 1-304: INTRODUCTION

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

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

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

(Neb. Rev. Stat. §14-137) (Ord. No. 1035, 8/12/97)

SECTION 1-305: PASSAGE

A. Ordinances of a general or permanent nature shall be read by title on three different days unless three-fourths of the City Council vote to suspend this requirement, except that such requirement shall not be suspended for any ordinance for the annexation of territory. In case such requirement is suspended, the ordinance shall be read by title and then moved for passage. Three-fourths of the City Council members may require a reading of any ordinance in full before enactment under either procedure set out in this section. All ordinances and resolutions or orders for the appropriation or payment of money shall require for their passage or adoption the con-

currence of a majority of all council members.

B. On the passage or adoption of every bylaw or ordinance, and every resolution or order to enter into a contract by the City Council, the “yeas” and “nays” shall be called and recorded. To pass or adopt any bylaw, ordinance, or any such resolution or order, a concurrence of a majority of the whole number of members elected to the City Council shall be required. All appointments of the officers by the City Council shall be made viva voce; and the concurrence of a like majority shall be required, and the names of those, and for whom they voted, on the vote resulting in an appointment, shall be recorded. The requirements of a roll call or viva voce vote shall be satisfied by a City which utilizes an electronic voting device which allows the “yeas” and “nays” of each member of the City Council to be readily seen by the public. (Neb. Rev. Stat. §17-614, 17-616 RS Neb.) (Ord. No. 1036, 8/12/97)

SECTION 1-306: EFFECTIVE DATE; EMERGENCY ORDINANCES

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

B. 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, an ordinance shall take effect upon the proclamation of the mayor and the posting thereof in at least three of the most public places in the City. Such emergency ordinance shall recite the emergency, be passed by a three-fourths vote of the City Council, and entered upon the city clerk's minutes. (Neb. Rev. Stat. §19-3701) (Ord. No. 1038, 8/12/97)

SECTION 1-307: PUBLICATION OR POSTING

All ordinances of a general nature shall be published one time within 15 days after they are passed (A) in some newspaper published in the City or, if no paper is published in the City, then by posting a written or printed copy in each of three public places in the City; or (B) in book or pamphlet form. (Neb. Rev. Stat. §17-613) (Ord.No. 1037, 8/12/97)

SECTION 1-308: CERTIFICATE OF PUBLICATION OR POSTING

The passage, approval, and publication or posting of all ordinances shall be sufficiently proven by a certificate under the seal of the City 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. (Neb. Rev. Stat. §17-613)

SECTION 1-309: 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, except that an ordinance revising all the ordinances of the City and modifications to zoning or building districts may be adopted as otherwise provided by law. (Neb. Rev. Stat. §17-614) (Ord. No. 1039, 8/12/97)

Article 4 – Appointed Officials

SECTION 1-401: APPOINTMENT; REMOVAL

The mayor, with the consent and approval of the City Council, may appoint such officers as shall be required by ordinance or otherwise required by law. The mayor, with the consent and approval of the Council, shall appoint such a number of regular police officers as may be necessary. The Council may establish and provide for the appointment of members of a law enforcement reserve force as provided by law. All police officers and other appointed officials may be removed by the mayor with the consent and approval of the City Council, except that if the City has a water commissioner, he/she may at any time for sufficient cause be removed from office by a two-thirds vote of the Council. (Neb. Rev. Stat. §17-107, 17-541, 81-7438) (Ord. Nos. 1033, 8/12/97; 1258, 11/20/14)

SECTION 1-402: MERGER OF OFFICES

A. The City Council may, at its discretion, by ordinance combine and merge any elective or appointive office or employment or any combination of duties of any such officers or employments, except mayor and council members, with any other elective or appointive office or employment so that one or more of such offices or employments or any combination of duties of any such offices or employments may be held by the same officer or employee at the same time. The city manager/administrator in a city under the city manager/administrator plan of government as provided by law may in his/her discretion combine and merge any elective or appointive office or employment of any combination of duties of any such offices or employments, except mayor and council member, with any other elective or appointive office or employment so that one or more of such offices or employments may be held by the same officer or employee at the same time.

B. The offices or employments so merged and combined shall always be construed to be separate and the effect of the combination or merger shall be limited to a consolidation of official duties only. The salary or compensation of the officer or employee holding the merged or combined offices or employments or offices and employments shall not be in excess of the maximum amount provided by law for the salary or compensation of the office, offices, employment or employments so merged and combined. For the purposes of this section, volunteer firefighters and ambulance drivers shall not be considered officers.

(Neb. Rev. Stat. §17-108.02) (Ord. No. 904, 2/26/91)

SECTION 1-403: CITY ADMINISTRATOR

A. In addition to the other appointed officials of the City as provided by Nebraska statutes and city ordinances, the mayor may appoint a city administrator with the consent of a majority of the City Council. When so appointed, such city administrator shall hold his/her office for such term as agreed upon and contracted for by the mayor and Council. Further, the city administrator shall serve as hereinafter provided

unless sooner removed by the mayor by and with the consent of a majority of the Council.

B. The mayor and the City Council shall, upon the appointment of a city administrator, negotiate and enter into a written contract of employment with such administrator, which contract shall provide for but not be limited to the following items:

1. Term of employment;
2. Compensation for services rendered including benefits;
3. Duties of the position;
4. Vacation time and personal leave.

When completed, such contract shall be approved by a majority of the City Council and may be revised by the mayor and Council with the consent of the city administrator at any time during his/her term if such revision is deemed necessary by the parties thereto.

C. The duties of the city administrator shall include but not be limited to the following:

1. Administer and manage the day-to-day operations of the City in accordance with the general policies, directives and recommendations for the operation of the City as promulgated by the mayor and City Council from time to time.
2. Make and keep up to date an inventory of all property, real and personal, owned or used by the City and act as purchasing agent for the purchase of all supplies, goods, wares, and merchandise, equipment and material as may be required for the City, subject to approval of the mayor and the City Council and subject to the requirements of Nebraska law.
3. Serve as public relations officer of the City and to field all complaints filed against any employee, department, division or service of the City; supervise all business transactions by the mayor and City Council as required by Nebraska law and which are necessary to insure that the business affairs of the City are conducted in accordance with Nebraska law and sound management principles.
4. Except as otherwise provided by law, select and hire all suitable and qualified personnel necessary for the proper operation of the City and to effect terminations of the employment of such personnel, subject to the approval of the mayor and the City Council and to supervise all persons so employed.
5. Supervise the maintenance and operation of all real and personal property owned or used by the City.

6. Analyze the functions, duties, and activities of the various departments, divisions and services of the City and all employees thereof and make recommendations with reference thereto from time to time to the mayor and the City Council and carry out their administrative functions.
7. Procure facts and submit recommendations for short- and long-range improvements in the operation of the City to the mayor and the City Council.
8. Be responsible for and prepare monthly and annual estimates for the city budget, including expenditures and revenues for the City and present same to the mayor, Finance Committee and the City Council.
9. Administer and manage the operations of the City in full compliance with all state and federal requirements.
10. Attend all meetings of the City Council with the duty of reporting any matters concerning the affairs of the City under his/her supervision or direction; attend the meetings of the city-appointed boards and committees as necessary.
11. Act as the agent of the mayor and the City Council in the discharge of his/her duties of administering and managing all agents, employees and affairs of the City as provided by Nebraska statute. The city administrator shall have no power to exercise any policy-making or legislative function whatsoever nor commit or bind the mayor or the City Council or any member thereof to any action, plan or program requiring official action by the mayor and Council unless authorized to do so in writing.
12. Carry out such other duties and functions as prescribed by the mayor and the City Council.

D. The city administrator shall devote his/her time, attention and energies to the affairs of the City and during the term of his/her office or employment and shall not be engaged in any other business activity, whether or not such business activity is pursued for gain, profit or other pecuniary advantage.

E. The City Council and its members shall deal with the administrative services of the City only through the city administrator, except for the purpose of inquiry, and neither the Council nor any of its members shall give orders to any subordinate of the city administrator.

F. The city administrator shall nominate a department head or other employee of the City to serve as acting city administrator during his/her temporary disability or absence from the City. Such nominee, when confirmed by the mayor and the City Council in writing, shall perform all the duties and exercise all the powers of the city

administrator during the period of disability or absence of the city administrator but shall receive no additional compensation therefor pursuant to Neb. Rev. Stat. §17-604.

(Ord. No. 1219, 7/22/10)

SECTION 1-404: 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. 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. 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.

SECTION 1-405: CITY CLERK

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. The city clerk shall have custody of all laws and ordinances and shall:

A. Attend the meetings of the City Council and keep minutes of the proceedings. Such minutes shall be prepared and available for inspection within ten working days or prior to the next convened meeting, whichever occurs earlier, except that an additional ten working days is allowed if the clerk is absent due to a serious illness or emergency.

B. 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.

C. Take possession of all books, papers and all other official records of the City and maintain said records in a safe place.

D. Have custody of the seal of the City and all written official papers.

E. Attest to the mayor's signature and attach the city seal to all official documents.

F. Maintain an account of all of the appropriations of the several funds of the City.

G. 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.

H. Whenever any claim presented by any person has been disallowed by the

City Council, notify said claimant of said disallowance by the Council within five days after such disallowance.

I. Account for all money received in the normal course of city business and keep a proper record of all monies received, issuing a proper receipt to those parties making payment to the account of the City.

J. Publish all notices required in the performance of his/her duties and keep a record of all such published notices; keep a record of the publisher's affidavit of said publications if said notices are published in a legal newspaper.

K. Maintain all books and public records of the City for public inspection for any resident of the City during normal business hours.

L. Make a notation on all correspondence received of the date of its receipt and convey said correspondence to the appropriate official of the City as soon as possible.

M. Keep and maintain all other legal papers required to be maintained by these ordinances or by Nebraska State law.

N. Maintain a proper minute book wherein shall be recorded all of the formal and informal actions of the mayor and City Council, and maintain an ordinance record which shall record the various ordinances and resolutions passed by the City Council. (Neb. Rev. Stat. §17-605, 19-1102, 19-1104, 84-1201 through 84-1220, 84-712, 84-1413) (Ord. No. 936, 3/9/93)

SECTION 1-406: CITY TREASURER

The duties of the city treasurer will be those set forth herein. The city treasurer shall:

A. Deposit and at all times keep on deposit all money collected, received or held as treasurer for safekeeping in banks or other institutions of approved and responsible standing. Such deposits shall be subject to all regulations imposed by law or adopted by the City for the receiving and holding thereof. A bond or pledged securities shall be required from all banks or financial institutions in which city funds are deposited in any amount exceeding that amount insured by the Federal Deposit Insurance Corporation.

B. Keep a separate account of each and every fund or appropriation and the debits and credits belonging to the City.

C. 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.

D. 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; and accompany such accounts with a statement of all receipts and disbursements, together with all warrants paid which, with any and all vouchers held, shall be filed with his/her accounts in the city clerk's office.

E. Keep a record of all warrants paid and from what fund paid.

F. 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, endorse "Registered for Payment" with the date of such registration and register number; and 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.

G. The city treasurer shall be custodian of all moneys belonging to the City and shall:

1. 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. Such accounts shall be accompanied with a statement of all receipts and disbursements, together with all warrants paid which, with any and all vouchers held, shall be filed with the accounts in his/her office.
2. Produce depository evidence that all city money is in a solvent financial institution 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 office shall be declared vacant and the mayor and City Council shall fill the vacancy by appointment until the next election of city officials.

H. 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 outstand-

ing, and the debit or credit balance of the City.
(Neb. Rev. Stat. §17-606 through 17-609, 19-1101, 84-712)

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SECTION 1-407: (RESERVED)

SECTION 1-408: CITY ATTORNEY

The city attorney is the City's legal advisor, and as such shall commence, prosecute, and defend all suits on behalf of the City. When requested by the City Council, he/she shall attend its meetings and shall advise any city official in all matters of law in which the interests of the City may be involved. He/she shall draft such ordinances, bonds, contracts, and other writings as may be required in the administration of the affairs of the City. He/she shall examine all bonds, contracts, and documents on

which the City Council will be required to act, and attach thereto a brief statement in writing to all such instruments and documents as to whether or not the document is in legal and proper form. He/she shall prepare complaints, and attend and prosecute violations of the city ordinances when direct to do so by the City Council. Without direction, he/she shall appear and prosecute all cases for violation of the city ordinances that have been appealed to and are pending in any higher court. When requested to do so by the City Council, he/she shall examine the ordinance records and advise and assist the city clerk as much as may be necessary to the end that each procedural step will be taken in the passage of each ordinance to insure that they will be valid, and subsisting local laws insofar as their passage and approval are concerned. The City Council shall have the right to compensate the city attorney for legal services on such terms as the Council and the city attorney may agree, and to employ any additional legal assistance as may be necessary out of the funds of the City. (Neb. Rev. Stat. §17-610)

SECTION 1-409: CITY PHYSICIAN

The city physician shall be a member of the Board of Health of the City and perform the duties devolving upon him/her as the medical advisor of the said board. In all injuries where a liability may be asserted against the City, the city physician shall immediately investigate the said injuries, the extent thereof, and the circumstances. He/she shall then report the results of the investigation with the name of the party injured and all other persons who may have personal knowledge of the matter. He/she shall make all physical examinations and necessary laboratory tests incident thereto and issue such health certificates as are required by ordinance. For the purpose of making examinations of the sanitary conditions of the property and the state of health of the inhabitants therein, he/she shall have the right at all reasonable hours to go upon and enter all premises, buildings, or other structures in the City. He/she shall perform such other duties as may be required by the laws of the State and the ordinances of the City. When ordered to do so by the City Council, he/she shall disinfect or fumigate the premises or persons in or about the premises when the premises are quarantined, and to call upon indigent sick persons, and perform other professional services at the direction of the City Council. The city physician shall receive as compensation for services such sum as the City Council may from time to time set. He/she shall receive no compensation for services as a member of the Board of Health. (Neb. Rev. Stat. §17-121)

SECTION 1-410: CITY POLICE CHIEF

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. The city police chief is hereby authorized and empowered to carry out the following duties, and he/she shall:

A. Have control and management of all matters relating to the Police Department, its officers and members, and shall have the custody and control of all property and books belonging to the Department.

B. Be devoted to the preservation of peace, order, safety, and cleanliness of the City.

C. Diligently inquire into any and all violations of the city ordinances and state statutes; in the event that he/she determines that a violation of city ordinance or state statute has occurred, issue a written complaint and cause the arrest of such person violating the ordinance or state law.

D. Have general control over motor vehicular traffic and, together with such special officers detailed to assist as traffic officers by the mayor and City Council, direct the movement of traffic at intersections and elsewhere. It shall be unlawful for any person to violate any order or signal of the city police or of any special traffic officer.

E. Bring all prisoners who are under arrest for the violation of any city ordinances or state laws before the County Court whenever required to do so by rule or order of the county judge and make or cause to be made the necessary written complaint against such person or persons when arrested.

F. Perform such other duties as may be required of him/her by resolution or by order of the mayor and City Council.

G. Become thoroughly conversant with the laws of the City and shall see that the same are strictly enforced, making sworn complaints against any person or persons for violation of the same.

(Neb. Rev. Stat. §17-107, 17-121, 17-124)

SECTION 1-411: CITY POLICE OFFICERS

A. The city police, whether regular or special, shall have the power to arrest all offenders against the laws of the state or the City, by day or by night, and keep the said offenders in the city jail or some other place to prevent their escape until a trial can be held before the proper official of the State or the City. Any city police officer who shall willfully fail, neglect, or refuse to make an arrest or who purposely and willfully fails to make a complaint after an arrest is made shall be deemed guilty of a misdemeanor, and upon conviction shall be fined. It shall be unlawful for the City Council to retain any city police officer in that position after he/she shall have been duly convicted of the willful violation of any federal or state law or any ordinance of the City, except minor traffic violations. It shall be duty of every city police officer making a lawful arrest to search all persons in the presence of some other person, whenever possible, and shall carefully keep and produce to the proper judicial official upon the trial everything found upon the person of such prisoners. All personal effects so taken from prisoners aforesaid shall be furnished to them upon their release.

B. The City Council may from time to time provide the city police with such uniforms, equipment, and transportation as may be essential in the performance of

their official duties. Any member who shall lose or destroy the same shall be required to pay the replacement costs, and in the event that any member shall leave the force, he/she shall immediately deliver his/her badge to the police chief.

C. The city police shall have full power and authority to call on any person whenever necessary to assist them in performing public duties, and failure, neglect, or refusal to render such assistance shall be deemed a misdemeanor punishable upon conviction by a fine.

D. No law enforcement official shall have any interest in any establishment having a liquor license.

E. The police officers and Police Department shall:

1. Execute and enforce all laws and also the orders of the mayor;
2. Protect the rights of persons and property;
3. Be present at all fires;
4. Take notice of all nuisances, impediments, obstructions, and defects in the streets, alleys, business places, and residences of the City;
5. Execute or cause to be executed the processes issued and shall cause all persons arrested to be brought before the proper court for trial as speedily as possible, and
6. Become thoroughly conversant with the laws of the City and shall see that the same are strictly enforced, making sworn complaints against any person or persons for violation of the same.

(Neb. Rev. Stat. §17-107, 17-118, 17-124)

SECTION 1-412: POLICE DEPARTMENT; ARREST AND ENFORCEMENT JURISDICTION

A. Every city law enforcement officer shall have the power and authority to enforce the laws of the State and the City or otherwise perform the functions of that office anywhere within their primary jurisdiction. "Primary jurisdiction" shall mean the geographic area within territorial limits of the City. (Ref. 17-118 RS Neb.)

B. Any city law enforcement officer who is within this state, but beyond the territorial limits of his/her primary jurisdiction, shall have the power and authority to enforce the laws of this state or any legal ordinance of any city or incorporated village or otherwise perform the functions of his/her office, including the authority to arrest and detain suspects, as if enforcing the laws or performing the functions within the territorial limits of his/her primary jurisdiction in the following cases:

1. Any City law enforcement officer, if in a fresh attempt to apprehend a person in another jurisdiction in this state and there arrest and detain such person and return such person to the officer's primary jurisdiction;
2. Any City law enforcement officer, if in a fresh attempt to apprehend a person suspected of committing a misdemeanor or a traffic infraction, may follow such person anywhere in an area within 25 miles of the boundaries of the officer's primary jurisdiction and there arrest and detain such person and return such person to the officer's primary jurisdiction;
3. Any City law enforcement officer shall have such enforcement and arrest and detention authority when responding to a call in which local, state, or federal law enforcement officer is in need of assistance. "A law enforcement officer in need of assistance" shall mean:
 - a. A law enforcement officer whose life is in danger or
 - b. A law enforcement officer who needs assistance in making an arrest and the suspect (i) will not be apprehended unless immediately arrested, (ii) may cause injury to himself or others or damage to property unless immediately arrested, or (iii) may destroy or conceal evidence of the commission of a crime; and
4. If the City, under the provisions of the Interlocal Cooperation Act, enters into a contract with any other municipality or county for law enforcement services or joint law enforcement services, law enforcement personnel may have such enforcement authority within the jurisdiction of each of the participating political subdivisions if provided for in the agreement. Unless otherwise provided in the agreement, the City shall provide liability insurance coverage for its own law enforcement personnel as provided in Neb. Rev. Stat. Section 13-1802.

C. If city law enforcement personnel are rendering aid in their law enforcement capacity outside the limits of the City in the event of disaster, emergency, or civil defense emergency or in connection with any program of practice or training for such disaster, emergency, or civil defense emergency when such a program is conducted or participated in by the Nebraska Emergency Management Agency or with any other related training program, the law enforcement personnel shall have the power and authority to enforce the laws of this state or any legal ordinances or resolutions of the local government where they are rendering aid or otherwise perform the functions of their office, including the authority to arrest and detain suspects, as if enforcing the laws or performing the functions within the territorial limits of their primary jurisdiction. The City shall self-insure or contract for insurance against any liability for personal injuries or property damage that may be incurred by it or by its personnel as the result of any movement of its personnel outside the limits of the City pursuant to this subsection.

(Neb. Rev. Stat. §29-215, 81-929.65) (Ord. No. 965, 3/28/95; 1092, 8/11/98)

SECTION 1-413: POLICE DEPARTMENT; DISCIPLINE OR REMOVAL FROM DUTY; NOTICE AND HEARING; DETERMINATION

A. No police officer, including the chief of police, shall be disciplined, suspended, demoted, removed or discharged except upon written notice stating the reasons for such disciplinary action, suspension, demotion, removal, or discharge. Such notice shall also contain a statement informing the police officer of his/her right to a hearing before the City Council.

B. Any police officer so disciplined, suspended, demoted, removed or discharged may, within ten days after being notified of such disciplinary action, suspension, demotion, removal or discharge, file with the city clerk a written demand for a hearing before the City Council. The Council shall set the matter for hearing not less than ten nor more than 20 days after the filing of the written demand for a hearing. The Council shall give the police officer written notice of the hearing not less than seven nor more than 14 days prior to the hearing.

C. At the hearing, the police officer shall have the right to:

1. Respond in person to the charges and to present witnesses and documentary evidence;
2. Confront and cross-examine available adverse witnesses; and
3. Be represented by counsel.

D. Not later than 30 days following the adjournment of the meeting at which the hearing was held, the City Council shall vote to uphold, reverse or modify the disciplinary action, suspension, demotion, removal or discharge. The failure of the Council to act within 30 days or the failure of a majority of council members to vote to reverse or modify the disciplinary action, suspension, demotion, removal or discharge shall be construed as a vote to uphold the disciplinary action, suspension, demotion, removal or discharge. The decision of the City Council shall be based upon its determination that, under the facts and evidence presented at the hearing, the challenged disciplinary action, suspension, demotion, removal or discharge was necessary for the proper management and the effective operation of the Police Department in the performance of its duties under the state statutes.

E. Nothing in this section shall be construed to prevent the preemptory suspension or immediate removal from duty of an officer in case of gross misconduct, neglect of duty, or disobedience of orders, pending the hearing authorized by this section.

(Neb. Rev. Stat. §17-107) (Ord. No. 999, 2/27/96)

SECTION 1-414: CITY ENGINEER

The city engineer shall make all surveys, estimates, and calculations necessary to be made for the establishment of any public utilities, and the cost of labor and materials

therefor. He/she shall accurately make all plats, sections, and maps as may be necessary under the direction of the City Council. Upon request, he/she shall make estimates of the cost of labor and material which may be done or furnished by contract with the City and make all surveys, estimates, and calculations necessary to be made for the establishment of grades, building of culverts, sewers, electric light system, waterworks, power plants, public heating system, bridges, curbing, and gutters and the improvement of streets and erection and repair of buildings, and shall perform such other duties as the City Council may require. (Neb. Rev. Stat. §17-150, 17-405, 17-568.01, 17-919, 81-739)

SECTION 1-415: 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 Council. He/she shall, upon request of the Council, make estimates of the costs of labor and material which may be done or furnished by contract with the City, and make all surveys, estimates, and calculations necessary for the establishment of grades, bridges, building of culverts, sewers, electric light system, waterworks, power plant, public heating system, curbing and gutters, and the improvement of streets and erection and repair of buildings, 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. (Neb. Rev. Stat. §17-405, 17-568, 27-568.01, 17-919)

SECTION 1-416: UTILITIES SUPERINTENDENT

A utilities superintendent shall have immediate control over the park, pool, auditorium and all city streets. The utilities superintendent may be removed at any time by the mayor. Any vacancy occurring in the said office by death, resignation or removal may be filled in the manner hereinbefore provided for the appointment of all city officials. The superintendent's duties over the following departments shall be as stated herein:

Street Department

The utilities superintendent shall, subject to the orders and directives of the City Council, have general charge, direction, and control of all work on the streets, sidewalks, culverts, and bridges of the City and shall perform such other duties as the 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 City Council, make a detailed report on the condition of the streets, sidewalks, culverts, alleys, and bridges of the City and shall direct its attention to such improvements, repairs, extensions, additions, and additional employees as he/she may believe are needed to maintain a satisfactory street system in the City, along with an estimate of the cost thereof. He/she shall issue such permits and as-

sume such other duties as the City Council may direct. (Neb. Rev. Stat. §17-107, 17-119, 17-541, 17-543)

Parks Department

The utilities superintendent shall, subject to the orders and directives of the City Council, plan, organize and direct the operation and maintenance of parks and recreational facilities.

Swimming Pool

The utilities superintendent shall, subject to the orders and directives of the City Council, plan, organize and direct the operation of the city swimming pool.

Auditorium

The utilities superintendent shall, subject to the orders and directives of the City Council, plan, organize and direct the operation of the city auditorium.

SECTION 1-417: WATER/SEWER SUPERINTENDENT

The water/sewer superintendent, who is also designated as the public works commissioner, shall plan and direct activities of the water distribution system and sanitary sewer systems, operation of the water wells, and storm sewer system. The water/sewer superintendent's duties over the following departments shall be as stated herein:

Water Department

He/she shall have general supervision and control over the city water system and shall be primarily responsible for its economic operation and prudent management. Included in the said water system shall be the water plant, the pump house, and all machinery and appliances used in connection with producing and distributing water to inhabitants of the City. All actions, decisions, and procedures of the water/sewer superintendent shall be subject to the general directives and control of the City Council. The water/sewer superintendent shall have the general control and supervisory authority over all employees of the water system which the City Council may from time to time hire to operate and maintain the said system. At least once every six months, he/she shall make a detailed report to the Council of the condition of the said water system, of all mains, pipes, hydrants, reservoirs, and machinery and such improvements, repairs, and extensions as he/she may think proper. The report shall show the amount of receipts and expenditures on account thereof for the preceding six months. No money shall be expended for improvements, repairs, or extensions of the said waterworks system except upon the recommendation of the superintendent. He/she shall provide a bond conditioned upon the faithful discharge of his/her duties, which shall amount to not less than the amount set by resolution of the City Council and on file in the office of the city clerk. He/she shall perform such additional duties as may be prescribed by the Council.

Sewer Department

The water/sewer superintendent shall have the immediate control and supervision over all the employees and property that make up the city sewer system, subject to the general control, and directives of the City Council. At least every six months, he/she shall make a detailed report to the City Council on the condition of the sewer system and shall direct its attention to such improvements, repairs, extensions, additions and additional employees as he/she may believe are needed, along with an estimate of the cost thereof. He/she shall issue permits for all connections to the city sewer system, and inspect and supervise all repairs made to the said system. He/she shall have such other duties as the City Council may delegate. (Neb. Rev. Stat. §17-541)

SECTION 1-418: SANITATION SUPERINTENDENT

The sanitation superintendent will perform a variety of skilled tasks involving the operation, repair, upgrading and maintenance of the city Sanitation Department, which includes the transfer station, compost and collection site, and the recycling center. Operation and maintenance shall be within the guidelines set by local, state and federal regulations. The sanitation superintendent shall become (A) a certified transfer station operator with training in hazardous waste disposal, and (B) a certified recycling manager. He/she shall keep the Public Works Department and Council informed of solid waste regulations that will affect the manner the City is operating its solid waste system. The sanitation superintendent is responsible for keeping all licenses required for operation of the solid waste current.

SECTION 1-419: CITY BUILDING INSPECTOR

The city 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 the city ordinances. He/she shall investigate all complaints, whether verbal, written, or in the form of a petition, alleging and charging that a violation of the city ordinances exists and that a building or structure is unfit or unsafe for human habitation. The building inspector is authorized upon properly identifying himself/herself to enter, inspect, survey, and investigate between the hours of 8:00 A.M., and 5:00 P.M., or any time if an emergency exists, or if requested by the owner, or occupant thereof. He/she shall keep records of all complaints received, inspection reports, orders, and complaints issued, and issue such permits as may be directed. 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 does not report to any employee within the City. Any questions arising from the performance of the building inspector's duties will be handled directly through the mayor. The City may terminate employ-

ment at will.

SECTION 1-420: CODE ENFORCEMENT OFFICER

The mayor, with the consent of the City Council, may appoint a code enforcement officer, who shall have the authority to investigate building code violations, nuisance ordinance violations and animal-related ordinance violations. Said code enforcement officer shall have the authority to contact any person who is in apparent violation of such building, nuisance and animal provisions of this code to inform such person of his/her apparent violation and propose solutions and remedies to correct the alleged violation. In the event that such person fails to take corrective action to remedy his/her apparent violation, the code enforcement officer shall report such violation to the mayor and Council for further action. The code enforcement officer shall work closely with the city Police Department and city attorney and shall follow the advice and recommendations of the police chief and city attorney in the performance of his/her duties.

Article 5 – Fiscal Management

SECTION 1-501: FISCAL YEAR

The fiscal year of the City and any public utility of the City commences on October 1 and extends through the following September 30 except as provided in the Municipal Proprietary Function Act. (Neb. Rev. Stat. §17-701) (Ord. No. 992, 2/27/96)

SECTION 1-502: PUBLIC FUNDS DEFINED

“Public funds” shall mean all money, including non-tax money, used in the operation and functions of governing bodies. For purposes of a city which has a lottery established under the Nebraska County and City Lottery Act, only those net proceeds which are actually received by the City from a licensed lottery operator shall be considered public funds, and public funds shall not include amounts awarded as prizes. (Neb. Rev. Stat. §13-503) (Ord. No. 963, 3/28/95)

SECTION 1-503: DEPOSIT OF FUNDS

A. The City Council, at its first meeting in each fiscal year, shall designate one or more banks or capital stock financial institutions of approved and responsible standing in which the city treasurer shall keep at all times, subject to payment on their demand, all money held by them as city treasurer. If there are one or more banks or capital stock financial institutions located in the City which apply for the privilege of keeping such money and give bond or give security for the repayment of deposits as provided in this section, such banks or capital stock financial institutions shall be selected as such depositories. The city treasurer shall not give a preference to any one or more of them.

B. The City Council shall require from all banks or capital stock financial institutions (1) a bond in such penal sum as may be the maximum amount on deposit at any time, less the amount insured by the Federal Deposit Insurance Corporation (FDIC) or, in lieu thereof, (2) security given as provided in the Public Funds Deposit Security Act to secure the payment of all such deposits and accretions. The Council shall approve such bond or giving of security. The city treasurer shall not be liable for any loss of any money sustained by reason of the failure of any such depository so designated and approved. The fact that a stockholder, director, or other officer of such bank or capital stock financial institution is also serving as mayor, as a member of the City Council, or as any other officer of the City shall not disqualify such bank or capital stock financial institution from acting as a depository for such municipal funds.

C. The insurance afforded to depositors in banks or capital stock financial Institutions through the FDIC shall be deemed and construed to be a surety bond to the extent that the deposits are insured by such corporation. For deposits so insured, no other surety bond or other security shall be required. The provisions of Neb. Rev. Stat. §77-2366 shall apply to deposits in capital stock financial institutions.

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

(Neb. Rev. Stat. §17-607, 21-7316.01, 77-2362 through 77-2364, 77-2386 through 77-2397) (Ord. No. 1086, 8/11/98)

SECTION 1-504: INVESTMENT OF FUNDS

Whenever the City has accumulated a surplus of any fund in excess of its current needs or has accumulated a sinking fund for the payment of its bonds and the money in such sinking fund exceeds the amount necessary to pay the principal and interest of any such bonds which become due during the current year, the City Council may invest any such surplus in certificates of deposit, in time deposits, and in any securities in which the state investment officer is authorized by law and as provided in the authorized investment guidelines of the Nebraska Investment Council in effect on the date the investment is made. (Neb. Rev. Stat. §17-608, 17-609, 21-7316.01, 77-2341) (Ord. No. 885, 1/09/90)

SECTION 1-505: CERTIFICATES OF DEPOSIT; TIME DEPOSITS; CONDITIONS

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

B. For the security of the fund so deposited, the city treasurer shall require each depository to give bond for the safekeeping and payment of such deposits and the accretions thereof, which bond shall run to the City and be approved by the mayor. The bond shall be conditioned that such a depository shall, at the end of every quarter, render to the treasurer a statement in duplicate, showing the several daily balances, the amount of money of the City held by it during the quarter, the amount of the accretion thereto, and how credited. The bond shall also be conditioned that the depository shall generally do and perform whatever may be required by the provisions of this section and all regulations imposed by law or adopted by the City Council for the receiving and holding thereof and shall faithfully discharge the trust re-

posed in the depository. The bond shall be as nearly as practicable in the form provided in Neb. Rev. Stat. §77-2304. No person in any way connected with any depository as an officer or stockholder shall be accepted as a surety on any bond given by the depository of which they are an officer or stockholder. The bond shall be deposited with the city clerk.

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

D. The treasurer shall not have on deposit in any bank or capital stock financial institution at any time more than the amount insured by the FDIC plus the maximum amount of the bond given by the bank or capital stock financial institution if the bank or capital stock financial institution gives a surety bond, nor in any bank or capital stock financial institution giving a personal bond, more than the amount insured by the FDIC plus one-half of the amount of the bond of such bank or capital stock financial institution, and the amount so on deposit any time with any such bank or capital stock financial institution shall not in either case exceed the amount insured by the FDIC plus paid-up capital stock and surplus of such bank or capital stock financial institution. The treasurer shall not be liable for any loss sustained by reason of the failure of any such bonded depository whose bond has been duly approved by the mayor as provided in subsection (B) of this section or which has, in lieu of a surety bond, given security as provided in subsection (C) of this section.
(Neb. Rev. Stat. §17-720, 16-714 through 16-716) (Ord. No. 1087, 8/11/98)

SECTION 1-506: MOTOR VEHICLE TAX

The City Council 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 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. (Neb. Rev. Stat. §18-1214) (Ord. No. 886, 1/09/90)

SECTION 1-507: 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 a non-liquidated claim which has not been presented to the 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, 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. (Neb. Rev. Stat. §17-714, 17-715)

SECTION 1-508: 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 in the adopted budget statement for the fund upon which it is drawn, and the amount already expended of such fund. (Neb. Rev. Stat. §17-711)

SECTION 1-509: 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. No expenditure for any improvement to be paid for out of the general fund of the City shall exceed in any one year the amount provided for that improvement in the adopted budget statement. (Neb. Rev. Stat. §17-708)

SECTION 1-510: BOND ISSUES

The City Council may, after meeting all the requirements of state law, issue bonds, fund bonds, and retire bonds for such purposes as may be permitted by state law. The Council shall have the authority to levy special assessments for the payment of interest and principal on such bonds, and may spread the payments up to the maximum number of years permitted by state law. (Neb. Rev. Stat. §10-201 through 10-411, 10-601 through 10-614, 12-1001, 17529.01, 17-529.08, 17-534, 17-905, 17-908, 17-911, 17-939, 17-958, 17-968, 18-1801 through 18-1805, 23-343.13, 39-836)

SECTION 1-511: 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 upon the assessed value of all taxable property within the City for a term not to exceed that prescribed by state law in addition to the amount of tax which may be annually levied for the purposes of the adopted budget statement of the City, for the purpose of establishing a sinking fund for the construction, purchase, improvement, extension, or repair of the approved uses as authorized by state law. To initiate the said sinking fund, the 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 sink-

ing 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 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. (Neb. Rev. Stat. §19-1301 through 19-1304, 77-2337, 77-2339)

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, and such money shall be used for no other purpose unless to reimburse the City for money expended for any such improvement. (Neb. Rev. Stat. §17-710)

SECTION 1-513: CONTRACTS

A. Except as provided in Neb. Rev. Stat. §18-412.01, for a contract with a public power district to operate, renew, replace or add to the electric distribution, transmission, or generation system of the City, no contract for enlargement or general improvements, such as water extensions, sewer, public heating system, bridges, work on streets, or any other work or improvement when the cost of such enlargement or improvement is assessed to the property, costing over \$30,000.00 shall be made unless it is first approved by the City Council.

B. Except as provided in Neb. Rev. Stat. §18-412.01, before the City Council makes any contract in excess of \$30,000.00 for enlargement or general improvements such as water extensions, sewers, public heating system, bridges, work on streets, or any other work or improvement when the cost of such enlargement or improvement is assessed to the property, an estimate of the cost shall be made by the city engineer and submitted to the City Council. In advertising for bids as provided in subsections (C) and (E) of this section, the Council may publish the amount of the estimate.

C. Advertisements for bids shall be required for any contract costing over \$30,000.00 entered into:

1. For enlargement or general improvements, such as water extensions, sewers, public heating system, bridges, work on streets, or any other work or improvement when the cost of such enlargement or improve-

ment is assessed to the property, or

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

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

1. \$30,000.00 or less;
2. \$60,000.00 or less and the city electric utility has gross annual revenue from retail sales in excess of \$1,000,000.00;
3. \$90,000.00 or less and the city electric utility has gross annual revenue from retail sales in excess of \$5,000,000.00; or
4. \$100,000.00 or less and the city electric utility has gross annual revenue from retail sales in excess of \$10,000,000.00.

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

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

G. If the materials are of such a nature that, in the opinion of the manufacturer and with the concurrence of the City Council, no cost can be estimated until the ma-

terials have been manufactured or assembled to the specific qualifications of the purchasing City, the Council may authorize the manufacture and assemblage of such materials and may thereafter approve the estimated cost expenditure when it is provided by the manufacturer.

H. Any city bidding procedure may be waived by the City Council:

1. When materials or equipment are purchased at the same price and from the same seller as materials or equipment which have formerly been obtained pursuant to the state bidding procedure in Neb. Rev. Stat. §81-745 to 81-762, or
2. When the contract is negotiated directly with a sheltered workshop pursuant to Neb. Rev. Stat. §48-1503.

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

1. "Personal property" includes, but is not limited to, supplies, materials, and equipment used by or furnished to any officer, office, department, institution, board, or other agency; and
2. "Purchasing" or "purchases" means the obtaining of personal property by sale, lease, or other contractual means.

(Neb. Rev. Stat. §17-568.01, 17-568.02, 18-1756) (Ord. No. 1088, 8/11/98)

SECTION 1-514: ANNUAL AUDIT; FINANCIAL STATEMENTS

A. The City Council shall cause an audit of the city accounts to be made by a qualified accountant as expeditiously as possible following the close of the fiscal year. Such audit shall be made on a cash or accrual method at the discretion of the Council. The said audit shall be completed and the annual audit report made not later than six months after the close of the fiscal year. The accountant making the audit shall submit not less than three copies of the audit report to the City Council. All public utilities or other enterprises which substantially generate their own revenue shall be audited separately, and the results of such audits shall appear separately in the annual audit report, and such audits shall be on an accrual basis and shall contain statements and materials which conform to generally accepted accounting principles.

B. The audit report shall set forth the financial position and results of financial operations for each fund or group of accounts of the City as well as an opinion by the accountant with respect to the financial statements. Two copies of the annual audit report shall be filed with the city clerk and shall become a part of the public records of

the city clerk's office, and will at all times thereafter be open for public inspection. One copy shall be filed with the auditor of public accounts. Every governing body that is required herein to submit to an audit of its accounts shall provide and file with the city clerk, not later than August 1 of each year, financial statements showing its actual and budgeted figures for the most recently completed fiscal year. (Neb. Rev. Stat. §19-2901 through 19-2909, 23-934)

SECTION 1-515: APPROPRIATIONS

The City Council shall adopt a budget statement pursuant to the Nebraska Budget Act, to be termed "The Annual Appropriation Bill," in which are appropriated such sums of money as may be deemed necessary to defray all necessary expenses and liabilities of the City. (Neb. Rev. Stat. §17-706) (Ord. No. 994, 2/27/96)

SECTION 1-516: 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.

SECTION 1-517: PROPOSED BUDGET STATEMENT; CONTENTS; FILING

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

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

adopted for such fund exclusive of capital outlay items;

3. For the immediately ensuing fiscal year, an estimate of revenue from all sources, including motor vehicle taxes, other than revenue to be received from taxation of personal and real property, separately stated as to each such source, to be allocated to each of the several funds, and for each fund: (a) The actual or estimated unencumbered cash balances, whichever is applicable, to be available at the beginning of the year; (b) the amounts proposed to be expended during the year; and (c) the amount of cash reserve, based on actual experience of prior years, which cash reserve shall not exceed 50% of the total budget adopted exclusive of capital outlay items;
4. A statement setting out separately the amount sought to be raised from the levy of a tax on the taxable value of real property (a) for the purpose of paying the principal or interest on bonds issued by the City Council and (b) for all other purposes;
5. A uniform summary of the proposed budget statement which shall include a separate total for each fund, including each proprietary function fund included in a separate proprietary budget statement prepared pursuant to the Municipal Proprietary Function Act, and a grand total of all funds maintained by the City Council; and
6. A list of the proprietary functions which are not included in the budget statement if a separate proprietary budget statement has been prepared for such proprietary functions pursuant to the Municipal Proprietary Function Act.

B. The actual or estimated unencumbered cash balance of each fund required to be included in the budget statement by this section shall include deposits and investments of the City as well as any funds held by the county treasurer for the City and shall be accurately stated on the proposed budget statement.

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

(Neb. Rev. Stat. §13-504, 13-505) (Ord. No. 1041, 8/12/97; 1078, 8/11/98)

**SECTION 1-518: PROPOSED BUDGET STATEMENT; HEARING; ADOPTION;
CERTIFICATION OF AMOUNT TO BE RECEIVED FROM
TAXATION**

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

B. After the hearing, the proposed budget statement shall be adopted, or amended and adopted as amended, and a written record shall be kept of such hearing. The amount to be received from personal and real property taxation shall be certified to the levying board after the proposed budget statement is adopted, or is amended and adopted as amended. The certification of the amount to be received from personal and real property taxation shall specify separately; the amount to be applied to the payment of principal or interest on bonds issued by the City Council and the amount to be received for all other purposes.

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

D. When a levy increase has been authorized by vote of the electors, the adopted budget statement shall indicate the amount of the levy increase.
(Neb. Rev. Stat. §13-506, 13-507) (Ord. No. 1079, 8/11/98)

SECTION 1-519: EXPENDITURES PRIOR TO ADOPTION OF BUDGET

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

B. The restriction on expenditures in subsection (A) of this section may be exceeded upon the express finding of the City Council that expenditures beyond and amount authorized are necessary to enable the City to meet its statutory duties and responsibilities. The finding and approval of the expenditures in excess of the statutory authorization shall be adopted by the Council in open, public session. Expenditures authorized by this section shall be charged against appropriations for each indi-

vidual fund or purpose as provided in the budget when adopted, and nothing in this section shall be construed to authorize expenditures by the City in excess of that authorized by any other statutory provision.

(Neb. Rev. Stat. §13-509.01, 14-509.02) (Ord. No. 964, 3/28/95)

SECTION 1-520: ADOPTED BUDGET STATEMENT; FILING; CERTIFICATION OF AMOUNT OF TAX

A. After publication and hearing on the proposed budget statement and within the time prescribed by law, the City Council shall file with and certify to the levying board on or before September 20 of each year and file with the auditor of public accounts a copy of the adopted budget statement, together with the amount of the tax required to fund the adopted budget, setting out separately the amount to be levied for the payment of principal or interest on bonds issued by the Council and the amount to be levied for all other purposes. Proof of publication shall be attached to the statements.

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

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

(Neb. Rev. Stat. §13-508) (Ord. No. 993, 2/27/96; 1042, 8/12/97; 1080, 8/11/98)

SECTION 1-521: REVISION OF BUDGET

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

1. There are circumstances which could not reasonably have been anticipated at the time the budget for the current year was adopted;
2. The budget adopted violated Neb. Rev. Stat. §13-518 to 13-522, such that the revenue of the current fiscal year for any fund thereof will be insufficient, additional expenses will be necessarily incurred, or there is a need to reduce the budget requirements to comply with Neb. Rev. Stat. §13-518 to 13-522; or

3. The City Council has been notified by the state auditor of a mathematical or accounting error or noncompliance with the Nebraska Budget Act.

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

1. The time and place of the hearing;
2. The amount in dollars of additional or reduced money required and for what purpose;
3. A statement setting forth the nature of the unanticipated circumstances and, if the budget requirements are to be increased, the reasons why the previously adopted budget of expenditures cannot be reduced during the remainder of the current year to meet the need for additional money in that manner; and
4. A copy of the summary of the originally adopted budget previously published.

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

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

E. Within 30 days after the adoption of the budget under Neb. Rev. Stat. §13-506, the City Council may, or within 30 days after notification of an error by the state auditor, the City Council shall, correct an adopted budget which contains a clerical, mathematical, or accounting error which does not affect the total amount budgeted by more than 1% or increase the amount required from property taxes. No public hearing shall be required for such a correction. After correction, the City Council shall file a copy of the corrected budget with the county clerk and the state auditor. The Council may then issue warrants in payment for expenditures authorized by the budget. (Neb. Rev. Stat. §13-511) (Ord. No. 1137, 3/14/00)

SECTION 1-522: PROPERTY TAX LEVY; AUTHORITY TO SET

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

B. The hearing notice shall contain the following information:

1. The dollar amount of the prior year's tax request and the property tax rate that was funding that tax request;
2. The property tax rate that would be necessary to fund last year's tax request if applied to the current year's valuation; and
3. The proposed dollar amount of the tax request for the current year and the property tax rate that will be necessary to fund that tax request.

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

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

(Neb. Rev. Stat. §77-1601.02) (Ord. No. 1043, 8/12/97; 1083, 8/11/98; 1135, 3/14/00)

SECTION 1-523: PROPERTY TAX LEVY; MAXIMUM; AUTHORITY TO EXCEED

A. Property tax levies for the support of the City for fiscal years beginning on or after July 1, 1998, shall be limited to the amounts set forth in this subsection (A), except as provided in subsection (C) of this section. The City may levy a maximum levy of \$0.45 per \$100 of taxable valuation of property subject to the levy plus an additional \$0.05 per \$100 of taxable valuation to provide financing for the City's share of revenue required under an agreement(s) executed pursuant to the Inter-local Cooperation Act or the Joint Public Agency Act. The maximum levy shall include amounts levied to pay for sums to support a library pursuant to Neb. Rev. Stat. §51-201, museum pursuant to Neb. Rev. Stat. §51-501, visiting community nurse, home health nurse, or home health agency pursuant to Neb. Rev. Stat. §71-1637, or statute, memorial, or monument pursuant to Neb. Rev. Stat. §80-202. Property tax levies for judgments obtained against the City which require or obligate the City to pay such judgment, to the extent such judgment is not paid by liability insurance coverage of the City, for pre-existing lease-purchase contracts approved prior to July 1, 1998, for bonded indebtedness approved according to law and secured by a levy on property,

and for payments by a public airport to retire interest-free loans from the Department of Aeronautics in lieu of bonded indebtedness at a lower cost to the public airport are not included in the levy limits established by this subsection (A). The limitations on tax levies provided in this subsection (A) are to include all other general or special levies provided by law. Notwithstanding other provisions of law, the only exceptions to the limits in this subsection (A) are those provided by or authorized by this section. Tax levies in excess of the limitations in this section shall be considered unauthorized levies under Neb. Rev. Stat. §77-1606 unless approved under subsection (C) of this section.

B. All city airport authorities established under the Cities Airport Authorities Act, community redevelopment authorities established under the Community Development Law, and off-street parking districts established under the Off-Street Parking District Act may be allocated property taxes as authorized by law which are authorized by the City and are counted in the City's levy limit provided by subsection (A) of this section, except that such limitation shall not apply to property tax levies for pre-existing lease-purchase contracts approved prior to July 1, 1998, for bonded indebtedness approved according to law and secured by a levy on property, and for payments by a public airport to retire interest-free loans from the Department of Aeronautics in lieu of bonded indebtedness at a lower cost to the public airport. The City Council shall review and approve or disapprove the levy request of the political subdivisions subject to this subsection (B). The Council may approve all or a portion of the levy request and may approve a levy request that would allow a levy greater than that permitted by law. The levy allocated by the City may be exceeded as provided in Neb. Rev. Stat. §77-3444. On or before August 1, all political subdivisions subject to city levy authority under this subsection (B) shall submit a preliminary request for levy allocation to the City Council. The preliminary request of the political subdivision shall be in the form of a resolution adopted by a majority vote of members present of the political subdivision's governing body. The failure of a political subdivision to make a preliminary request shall preclude such political subdivision from using procedures set forth in Neb. Rev. Stat. Neb. Rev. Stat. §77-3444 to exceed the final levy allocation as determined in this subsection (B).

1. The City Council shall (a) adopt a resolution by a majority vote of members present which determines a final allocation of levy authority to its political subdivisions; and (b) forward a copy of such resolution to the chairperson of the governing body of each of its political subdivisions.
2. No final levy allocation shall be changed after September 1 except by agreement between both the City Council and the governing body of the political subdivision whose final levy allocation is at issue.

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

prior to October 10 of the fiscal year which is to be the first to exceed the limits.

1. The City Council may call for the submission of the issue to the voters:
 - a. By passing a resolution calling for exceeding the limits by a vote of at least two-thirds of the council members and delivering a copy of the resolution to the county clerk or election commissioner; or
 - b. Upon receipt of a petition by the county clerk or election commissioner requesting an election, signed by at least 5% of the registered voters residing in the City.
2. The resolution or petition shall include the amount of levy which would be imposed in excess of the limits provided in subsection (A) of this section and the duration of the excess levy authority. The excess levy authority shall not have a duration greater than five years. Any resolution or petition calling for a special election shall be filed with the county clerk or election commissioner no later than 30 days prior to the date of the election, and the time of publication and providing a copy of the notice of election required in Neb. Rev. Stat. §32-802 shall be no later than 20 days prior to the election. The county clerk or election commissioner shall place the issue on the ballot at an election as called for in the resolution or petition which is at least 30 days after receipt of the resolution or petition. The election shall be held pursuant to the Election Act. For petitions filed with the county clerk or election commissioner on or after May 1, 1998, the petition shall be in the form as provided in Neb. Rev. Stat. §32-628 through 32-631. Any excess levy authority approved under this subsection (C) shall terminate pursuant to its terms, on a vote of the City Council to terminate the authority to levy more than the limits, at the end of the fourth fiscal year following the first year in which the levy exceeded the limit, or as provided in subsection (D) of this section, whichever is earliest. The Council may pass no more than one resolution calling for an election pursuant to this subsection (C) during any one calendar year. Only one election may be held in any one calendar year pursuant to a petition initiated under this subsection (C). The ballot question may include any terms and conditions set forth in the resolution or petition and shall include the language specified in Neb. Rev. Stat. §77-3444. If a majority of the votes cast upon the ballot question are in favor of such tax, the County Board shall authorize a tax in excess of the limits in subsection (A) of this section, but such tax shall not exceed the amount stated in the ballot question. If a majority of those voting on the ballot question are opposed to such tax, the City Council shall not impose such tax. The county clerk or election commissioner may set a uniform date for a special election to be held before October 10, 1998, to submit the issue of exceeding the limits provided in Neb. Rev. Stat. §77-3442 or the final levy allocation as provid-

ed in Neb. Rev. Stat. §77-3443 to the voters of political subdivisions in the county seeking additional levy authority. The City may individually or in conjunction with one or more other political subdivisions conduct a special election on a date different from that set by the county clerk or election commissioner, except that the City Council shall pass a resolution calling for a special election for this purpose and deliver a copy of the resolution to the county clerk or election commissioner no later than 30 days prior to the date of the election.

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

1. The City Council may call for the submission of the issue to the voters:
 - a. By passing a resolution calling for the rescission or modification by a vote of at least two-thirds of the council members and delivering a copy of the resolution to the county clerk or election commissioner; or
 - b. Upon request of a petition by the county clerk or election commissioner requesting an election, signed by at least 5% of the registered voters residing in the City.
2. The resolution or petition shall include the amount and the duration of the previously approved excess levy authority and a statement that either such excess levy authority will be rescinded or such excess levy authority will be modified. If the excess levy authority will be modified, the amount and duration of such modification shall be stated. The modification shall not have a duration greater than five years. The county clerk or election commissioner shall place the issue on the ballot at an election as called for in the resolution or petition which is at least 30 days after receipt of the resolution or petition, and the time of publication and providing a copy of the notice of election required in Neb. Rev. Stat. §32-802 shall be no later than 20 days prior to the election. The election shall be held pursuant to the Election Act.

(Neb. Rev. Stat. §77-3442 through 77-3444) (Ord. No. 1136, 3/14/00)

SECTION 1-524: GENERAL PROPERTY TAX; CERTIFICATION OF AMOUNT

The City Council shall, at the time and in the manner provided by law, cause to be certified to the county clerk the amount of tax to be levied upon the taxable value of all the taxable property of the City which the City requires for the purposes of the adopted budget statement for the ensuing year, including all special assessments and taxes assessed as otherwise provided. Subject to Neb. Rev. Stat. §77-3442, the

maximum amount of tax which may be so certified, assessed, and collected shall not require a tax levy in excess of the amounts specified in Neb. Rev. Stat. §17-702. (Neb. Rev. Stat. §17-702) (Ord. No. 1081, 8/11/98)

SECTION 1-525: SALES AND USE TAX; PROPERTY TAX RELIEF

A. All revenue collections from the imposition of a sales and use tax on affected transactions of a sales and use tax on affected transactions within the corporate limits of the City and any interest accruing on the same, shall be used only for property tax relief purposes.

B. To insure compliance with subsection (A) above, the mayor and City Council shall have a separate account entitled "Property Tax Relief Fund" set up and subject to annual review and audit by a certified public accountant. The findings of the audit of the use of the sales and use tax revenue collections will be reported to the newspaper in general circulation annually.

C. This section of the official city code shall not be amended or repealed except by a vote of the electors of the City or by subsequently enacted state statutes as long as there is a sales and use tax imposed on affected transactions within the corporate limits of the City.

(Ord. No. 1067, 2/24/98; 1073, 5/26/98)

SECTION 1-526: ALL-PURPOSE LEVY; ALLOCATION; ABANDONMENT; EXTRAORDINARY LEVIES

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

B. The amount of the all-purpose levy shall be certified as a single amount for general fund purposes. The City Council shall allocate the amount raised by the all-purpose levy to the several departments of the City in its annual budget and appropriation ordinance, or in other legal manner, as the Council deems wisest and best.

C. The City shall be bound by its election to follow the all-purpose levy method during the ensuing fiscal year but may abandon such method in succeeding fiscal years.

D. Otherwise authorized extraordinary levies to service and pay bonded indebtedness of the City may be made by the City in addition to the all-purpose levy.

(Neb. Rev. Stat. §19-309 through 19-1312) (Ord. No. 1084, 8/11/98)

Article 6 – Elections

SECTION 1-601: GENERALLY

A. 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.

B. Commencing with the statewide primary election in 1976, and every two years thereafter, those candidates for mayor and for positions on the City Council whose terms will be expiring shall be nominated at the statewide primary election and elected at the statewide general election.

(Neb. Rev. Stat. §17-107.02(1), (2), 32-4,146, 32-4,147)

SECTION 1-602: VOTER QUALIFICATIONS

“Electors” shall mean every 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. (Neb. Rev. Stat. §17-602, 32-102)

SECTION 1-603: CANDIDATE QUALIFICATIONS

Any person seeking elected office in the City shall be a registered voter prior to holding such office and in addition shall have reached the age of majority. The mayor and members of the Council shall be residents and qualified electors of the City. They shall not hold any other public elective public office, except for officers of public power districts, public power and irrigation districts, and public utility companies. (Neb. Rev. Stat. §17-108.02, 324,157)

SECTION 1-604: CITY COUNCIL TERMS

Council members of the City shall serve a term of four years and until their successors are elected and have qualified. Each nominee for Council shall be a resident and qualified elector of the ward for which he/she is a candidate, and only residents of that ward may sign the candidate's nomination petitions. (Neb. Rev. Stat. §5-108, 17-107.02)

SECTION 1-605: WARDS

The City shall redistrict as often as necessary using the most recent federal census to insure that each ward is substantially equal in population. The City shall stand divided into the following wards:

| | |
|--------------------|--|
| First Ward | All of that portion of the City lying west of the centerline of 13th Street, including the Railroad Addition and further, including the real estate annexed pursuant to Ord. No. 1229. |
| Second Ward | All of that portion of the City lying east of the centerline of 13th Street. |

(Neb. Rev. Stat. §17-102) (Am. by Ord. No. 1237, 1/5/12)

SECTION 1-606: 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. (Neb. Rev. Stat. §17-107.02)

SECTION 1-607: JOINT, GENERAL; NOTICE

A. The general election shall be held in accordance with the provisions of Neb. Rev. Stat. Chapter 32. The City Council has determined, by ordinance duly adopted, to hold the election in conjunction with the statewide primary election, held on the first Tuesday after the second Monday in May of each even-numbered year. Prior to February 1 of the year in which the first such joint election takes place, the City Council shall receive the consent in writing of the County Board to so hold the election and such authorization shall be prescribed according to state law. The county clerk shall have charge of the election and shall have the authority to deputize the city clerk for city election purposes. (Neb. Rev. Stat. §32-505, 32-4,147)

B. The county clerk shall publish in a newspaper designated by the County Board the notice of the election no less than 40 days prior to the primary or general election. This notice will serve the notice requirement for all city elections which are held in conjunction with the County. (Neb. Rev. Stat. §32-402.01)

SECTION 1-608: JOINT, SPECIAL

A. 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. In lieu of submitting the issue at a special election, the City may submit the issue at a statewide primary or general elec-

tion 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.

B. 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. Then 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.

C. Upon completion of the canvass of the vote by the County Canvassing Board, the election commissioner or county clerk shall certify the election results to the City Council. The canvass by the County Canvassing Board shall have the same force and effect as if made by the City Council.

(Neb. Rev. Stat. §32-559) (Ord. No. 1040, 8/12/97)

SECTION 1-609: BALLOT PREPARATION

A. When more than one person becomes a candidate by filing, petition, or write-in procedures for the same position in the primary, the county clerk, in preparing the official ballot for the general election shall place thereon the names of the persons who received the greatest number of votes in the primary, but in no event shall the names on the general election ballot be more than twice the number of vacancies to be filled at the general election.

B. The county clerk shall place the names of the candidates on the general election ballot in the direct order according to the number of votes received at the primary election. If no primary election was held, the name of the candidates shall be placed upon the general election ballot in the order of their filing.

(Neb. Rev. Stat. §17-107.02)

SECTION 1-610: BALLOT EXPENSE

The county clerk shall provide printed ballots for every general election and the expense of printing and delivering the ballots and cards of instruction shall be a charge upon the City. (Neb. Rev. Stat. §32-417, 32-418)

SECTION 1-611: 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 the payment of the filing fee, shall be presented to the election officer with whom the nomination papers are to be filed. (Neb. Rev. Stat. §32-513)

SECTION 1-612: 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. (Neb. Rev. Stat. §17-107.02)

SECTION 1-613: PETITION CANDIDATES

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

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

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

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

E. Petitions for nomination shall conform to the requirements of Neb. Rev. Stat. §32-628.

F. Petitions shall state the office to be filled and the name and address of the candidate.

G. Petitions for partisan office shall also indicate the party affiliation of the candidate.

H. Petitions shall be signed by registered voters residing in the City and shall be filed with the filing officer in the same manner as provided for candidate filing forms in Neb. Rev. Stat. §32-607. Petition signers and circulators shall conform to the requirements of Neb. Rev. Stat. §32-629 and 32-630. No petition for nomination shall be filed unless there is attached thereto a receipt showing payment of the required filing fee. The petitions shall be filed by September 1 in the year of the general election.

(Neb. Rev. Stat. §32-616 through 32-618) (Ord. No. 1076, 8/11/98)

SECTION 1-614: NOMINATION BY WRITE-IN

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 the City Council, 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 1-615: CERTIFICATE OF NOMINATION OR ELECTION

A. The county clerk shall, within 40 days after the election, prepare, sign, and deliver a certificate of nomination or a certificate of election to each person whom the canvassing board has declared to have received the highest vote for each city office. No person shall be issued a certificate of nomination as a candidate of a political party unless such person has received a number of votes at least equal to 5% of the total ballots cast at the primary election by registered voters affiliated with that political party in the district which the office for which he or she is a candidate serves.

B. 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 clerk.

(Neb. Rev. Stat. §19-3041, 32-558, 32-1033) (Ord. No. 1134)

SECTION 1-616: INABILITY TO ASSUME OFFICE

In any general election, where the person who received the highest number of votes is ineligible, disqualified, deceased, or for any other reason is unable to assume the office for which he/she was a candidate, and the electorate had reasonable notice of such disability at the time of the election, the candidate in such election who received the next highest number of votes shall be declared elected, and shall be entitled to the certificate of election, provided, 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. (Neb. Rev. Stat. §32-537 (7) & (8))

SECTION 1-617: EXIT POLLS

No person shall conduct any exit poll, public opinion poll, or any other interview with voters on Election Day seeking to determine voter preference within 20 feet of the entrance of any polling place room or, if inside the polling place building, within 100 feet of any voting booth. (Neb. Rev. Stat. §32-1221)

SECTION 1-618: RECALL PROCEDURE

A. 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.

B. 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 Neb. Rev. Stat. §32-1304. 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 or circulators 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 or circulators that the necessary signatures must be gathered within 30 days from the date of issuing the petitions.

C. The city clerk, upon issuing the initial petition papers or any subsequent petition papers, shall enter in a record, to be kept in his or her office, the name of the principal circulator or circulators to whom the papers were issued. The city clerk shall certify on the papers the name of the principal circulator or circulators 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 or circulators who check out petitions from the city clerk may distribute such petitions to registered voters residing in the City who may act as circulators of such petitions.

D. 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 or her place of residence to vote for the office in question on the date of the issuance of the initial petition.

E. A petition demanding that the question of removing an elected official 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 that office in the last general election, except that for an office for which more than one candidate is chosen, the petition shall be signed by registered voters equal in number to at least 35% of the number of votes cast for the person receiving the most votes for that office in the last general

election.

F. The principal circulator or circulators shall file, as one instrument, all petition papers comprising a recall petition for signature verification with the city clerk within 30 days after the clerk issues the initial petition papers to the principal circulator or circulators. 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 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 his/her office without prejudice to the filing of a new petition for the same purpose.

G. 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 Council shall provide for the holding of the removal election on the same day. After the 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.

H. 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 (J) 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.

I. 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 any other member of the same City Council during the remainder of his/her term of office.

J. 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.

(Neb. Rev. Stat. §32-1301 through 32-1309) (Ord. No. 1115, 4/27/99)

Article 7 – Initiative and Referendum

SECTION 1-701: DEFINITIONS

The powers of initiative and referendum are reserved to the qualified electors of the City by state law. This article shall govern the use of initiative to enact, and the use of referendum to amend or repeal, measures affecting the governance of the City. For purposes of this article, the definitions set out in this section shall apply unless the context otherwise requires.

“Circulator” shall mean any person who solicits signatures for an initiative or referendum petition.

“City” shall mean the city of Tekamah, Nebraska.

“Clerk” shall mean the city clerk or the municipal official in charge of elections.

“City Council” shall mean the legislative authority of the City.

“Measure” shall mean an ordinance, charter provision, or resolution which is within the legislative authority of the City Council to pass, and which is not excluded from the operation of referendum by the exceptions herein.

“Petition” shall mean a document authorized for circulation pursuant to Section 1-702, or any copy of such document.

“Place of residence” shall mean the street and number of the residence. If there is no street and number for the residence, place of residence shall mean the mailing address.

“Prospective petition” shall mean a sample document containing the information necessary for a completed petition, including a sample signature sheet, which has not yet been authorized for circulation.

“Qualified electors” shall mean all persons registered to vote, at the time the prospective petition is filed, in the jurisdiction governed or to be governed by any measure sought to be enacted by initiative, or altered or repealed by referendum.

“Residence” shall mean that place at which a person has established his/her home, where he/she is habitually present, and to which, when he or she departs, he/she intends to return.

“Signature sheet” shall mean a sheet of paper which is part of a petition and which is signed by persons wishing to support the petition effort.

(Neb. Rev. Stat. §18-2501 through 18-2511)

SECTION 1-702: PETITIONS; BALLOTS

A. Before circulating an initiative or referendum petition, the petitioner shall file with the clerk a prospective petition. The clerk shall date the prospective petition immediately upon its receipt. The clerk shall verify that the prospective petition is in proper form and shall provide a ballot title for the initiative or referendum proposal, as described below. If the prospective petition is in proper form, the clerk shall authorize the circulation of the petition and such authorization shall be given within three working days from the date the prospective petition was filed. If the form of the prospective petition is incorrect, the clerk shall, within three working days from the date the prospective petition was filed, inform the petitioner of necessary changes and request that those changes be made. When the requested changes have been made and the revised prospective petition has been submitted to the clerk in proper form, the clerk shall authorize the circulation of the petition and such authorization shall be given within two working days from the receipt of the properly revised petition. Verification by the clerk that the prospective petition is in proper form does not constitute an admission by the clerk, City Council, or City that the measure is subject to referendum or limited referendum or that the measure may be enacted by initiative.

B. The ballot title of any measure to be initiated or referred shall consist of:

1. A briefly-worded caption by which the measure is commonly known or which accurately summarizes the measure;
2. A briefly-worded question which plainly states the purpose of the measure, and is phrased so that an affirmative response to the question corresponds to an affirmative vote on the measure; and
3. A concise and impartial statement, of not more than 75 words, of the chief purpose of the measure.

C. The ballots used when voting on an initiative or referendum proposal shall contain the entire ballot title. Proposals for initiative and referendum shall be submitted on separate ballots and the ballots shall be printed in lower case ten point type, except that the caption shall be in bold face type. All initiative and referendum measures shall be submitted in a nonpartisan manner without indicating or suggesting on the ballot that they have or have not been approved or endorsed by any political party or organization.

(Neb. Rev. Stat. §18-2512, 18-2513)

SECTION 1-703: PETITIONS; FORM; DECLARATORY JUDGMENTS

A. The secretary of state shall design the form to be used for initiative and referendum petitions, including signature sheets. These forms shall be made available to the public by the clerk, and they shall serve as a guide for individuals preparing prospective petitions. Substantial compliance with initiative and referendum forms is required before authorization to circulate such petition shall be granted by the clerk pursuant to Section 1-702. Chief petitioners or circulators preparing prospective petitions shall be responsible for making copies of the petition for circulation, once au-

thorization for circulation has been granted, and each petition presented for signature must be identical to the petition authorized for circulation by the clerk pursuant to Section 1-702.

B. The City or any chief petitioner may seek a declaratory judgment regarding any questions arising under this article, as it may be from time to time amended, including, but not limited to, determining whether a measure is subject to referendum or limited referendum or whether a measure may be enacted by initiative. If a chief petitioner seeks a declaratory judgment, the City shall be served by personal, residence, or certified mail service upon the chief executive officer, or clerk. If the City seeks a declaratory judgment, only the chief petitioner or chief petitioners shall be required to be served. Any action brought for declaratory judgment for purposes of determining whether a measure is subject to limited referendum or referendum, or whether a measure may be enacted by initiative, may be filed in the District Court at any time after the filing of a referendum or initiative petition with the city clerk for signature verification until 40 days from the date the City Council received notification pursuant to Section 1-706. If the City does not bring an action for declaratory judgment to determine whether the measure is subject to limited referendum or referendum, or whether the measure may be enacted by initiative until after it has received notification, it shall be required to proceed with the initiative or referendum election in accordance with the provisions of this article. If the City does file such an action prior to receiving notification, it shall not be required to proceed to hold such election until a final decision has been rendered in the action. Any action for a declaratory judgment shall be governed generally by Neb. Rev. Stat. §25-21,149 to 25-21,164, except that only the City and each chief petitioner shall be required to be made parties. The City, city clerk, City Council, or any of the City's officers shall be entitled to rely on any order rendered by the court in any such proceeding. Any action brought for declaratory judgment pursuant to this section shall be given priority in scheduling, hearings and in disposition as determined by the court when an action is brought to determine whether the measure is subject to limited referendum or referendum, or whether a measure may be enacted by initiative, a decision shall be rendered by the court no later than five days prior to the election. The provisions of this section relating to declaratory judgments shall not be construed as limiting, but construed as supplemental and additional to other rights and remedies conferred by law.

C. Every petition shall contain the name and place of residence of not more than three persons as chief petitioners or sponsors of the measure. The chief petitioners or sponsors shall be qualified electors of the City potentially affected by the initiative or referendum proposal. Every petition shall contain the caption and ballot title required in Section 1-702, and only qualified electors shall circulate petitions. When a special election is being requested, such fact shall be stated on every petition.

(Neb. Rev. Stat. §25-510.02, 25-2514, 25-515)

SECTION 1-704: SIGNATURE SHEETS

A. Every signature sheet shall:

1. Contain the caption required in subsection (B)(1) of Section 1-702 of this article;
2. Be part of a complete and authorized petition when presented to potential signatories;
3. Provide space for signatories to write their names, places of residence, and the date of signing; and
4. Contain a statement that anyone falsifying information on a signature sheet shall be subject to penalties provided by law.

B. No more than 25 signatures on each signature sheet shall be counted. In order to be valid, a signature shall be that of an individual registered to vote, at the time of signing, in the jurisdiction governed or to be governed by the measure addressed in the petition. A signature shall include the signatory's full name, his or her place of residence, and the date of signing. No signatory shall use ditto marks as a means of affixing his/her place of residence or date on any petition. A wife shall not use her husband's Christian or given name when she signs a petition and she shall sign her own Christian or given name along with her surname.
(Neb. Rev. Stat. §18-2516)

SECTION 1-705: PETITIONS; AFFIDAVIT

Included in the contents of every petition shall be an affidavit, to be signed by the circulator in the presence of a notary, which states that the circulator is a qualified elector, that each person who signed the petition did so in the presence of the circulator on the date indicated, and that the circulator believes that each signatory was registered to vote in the affected jurisdiction at the time he/she signed the petition and that the circulator believes that each signatory has stated his/her name and place of residence correctly. (Neb. Rev. Stat. §18-2517)

SECTION 1-706: PETITIONS; NOTIFICATION; VERIFICATION

A. Signed petitions shall be filed with the clerk for signature verification. Upon the filing of a petition, and passage of a resolution by the City Council, the City and the county clerk or election commissioner of the county in which such City is located may by mutual agreement provide that the county clerk or election commissioner shall ascertain whether the petition is signed by the requisite number of voters. The City shall reimburse the county for any costs incurred by the county clerk or election commissioner.

B. When the verifying official has determined that 100% of the necessary signatures required by this article have been obtained, the official shall notify the City Council of that fact and shall immediately forward to the City Council a copy of the petition.

C. In order for an initiative or referendum proposal to be submitted to the City Council and the voters, the necessary signatures shall be on file with the clerk within

six months from the date the prospective petition was authorized for circulation. If the necessary signatures are not obtained by such date, the petition shall be void. (Neb. Rev. Stat. §18-2518)

SECTION 1-707: FREQUENCY OF OCCURRENCE

The same measure, either in form or in essential substance, may not be submitted to the people by initiative petition, affirmatively or negatively, more often than once every two years. No attempt to repeal or alter an existing measure or portion of such measure by referendum petition may be made within two years from the last attempt to do the same. Such prohibition shall apply only when the subsequent attempt to repeal or alter is designed to accomplish the same, or essentially the same purpose as the previous attempt. (Neb. Rev. Stat. §18-2519)

SECTION 1-708: DIRECT VOTE

The executive officer and City Council of the City may at any time, by resolution, provide for the submission to a direct vote of the electors of any measure pending before it, passed by it, including an override of any veto, if necessary, or enacted by the electors under this article and may provide in such resolution that such measure shall be submitted at a special election or the next regularly scheduled primary or general election. Immediately upon the passage of any such resolution for submission, the clerk shall cause such measure to be submitted to a direct vote of the electors, at the time specified in such resolution and in the manner provided in this article for submission of measures upon proposals and petitions filed by voters. Such matter shall become law if approved by a majority of the votes cast. (Neb. Rev. Stat. §18-2520)

SECTION 1-709: ELECTIONS

A. The clerk shall call elections under this article, either at a special election or regularly scheduled primary or general election. He/she shall cause notice of every such election to be (1) printed in one or more newspapers of general circulation in such City at least once not less than 30 days prior to such election, (2) posted in the office of the clerk and (3) posted in at least three conspicuous places in such City at least 30 days prior to such election. The notice shall be substantially as follows:

“Notice is hereby given that on Tuesday, the ____ day of _____, 20____, at (identify polling place or precinct) of the City of Tekamah, Nebraska, an election will be held at which there will be submitted to the electors of the City for their approval or rejection, the following measures, propositions, or issues (naming measures, propositions, or issues), which election will be open at 8:00 A.M. and will continue open until 8:00 P.M., of the same day.

Dated this day of _____, 20_____.

Clerk of the City of Tekamah, Nebraska.”

The clerk shall make available for photocopying a copy in pamphlet form of measures initiated or referred. Such notice provided in this section shall designate where such a copy in pamphlet form may be obtained. (Neb. Rev. Stat. §18-2521)

B. The following measures shall be subject to limited referendum:

1. Measures in furtherance of a policy of the City or relating to projects previously approved by a measure which was subject to referendum or which was enacted by initiative or has been approved by the voters at an election, except that such measures shall not be subject to referendum or limited referendum for a period of one year after any such policy or project was approved at a referendum election, enacted by initiative, or approved by the voters at an election; (Neb. Rev. Stat. §18-2528)
2. Measures relating to the acquisition, construction, installation, improvement, or enlargement, including the financing or refinancing of the costs of public ways, public property, utility systems, and other capital projects, and measures giving initial approval for industrial development projects; and
3. Measures setting utility system rates and charges, except for measures necessary to carry out contractual obligations provided for in previously issued bonds, notes, warrants, or other evidences of indebtedness, and pay rates and salaries for city employees other than the members of the City Council and the executive officer.

C. Measures subject to limited referendum shall ordinarily take effect 30 days after their passage by the City Council, including an override of any veto, if necessary. Referendum petitions directed at measures subject to limited referendum shall be filed for signature verification pursuant to Section 1-706 within 30 days after such measure's passage by the City Council, including an override of any veto, if necessary, or after notice is first published. If the necessary number of signatures as provided in Section 1-704 has been obtained within the time limitation, the effectiveness of the measure shall be suspended unless approved by the voters.

D. For any measure relating to the acquisition, construction, installation, improvement, or enlargement of public ways, public property, utility systems, or other capital projects, the City may exempt all subsequent measures relating to the same project from the referendum and limited referendum procedures provided for in this article by the following procedure:

1. By holding a public hearing on the project, the time and place of such hearing being published at least once not less than five days prior to the date set for hearing in a newspaper of general circulation within the City Council's jurisdiction;

2. By passage of a measure approving the project, including an override of a veto, if necessary, at a meeting held on any date subsequent to the date of hearing; and
3. After passage of such measure, including an override of a veto, if necessary, by giving notice as follows:

SECTION 1-710: REFERENDUM; PASSAGE

A. Whenever a referendum petition bearing signatures equal in number to at least 15% of the qualified electors of the City has been filed with the clerk and verified pursuant to Section 1-706, it shall be the duty of the City Council to reconsider the measure or portion of such measure which is the object of the referendum. If the Council fails to repeal or amend the measure or portion thereof in the manner proposed by the referendum, including an override of any veto, if necessary, within 30 days from the date the Council receives notification pursuant to Section 1-706, the clerk shall cause the measure to be submitted to a vote of the people at the next regularly scheduled primary or general election held within the City. If the City Council desires to submit the measure to a vote of the people at a special election prior to the next regularly scheduled primary or general election held within the City, the Council shall, by resolution, direct the clerk to cause the measure to be submitted at a special election. Such resolution shall not be subject to referendum or limited referendum.

B. Whenever a referendum petition bearing signatures equal in number to at least 20% of the qualified voters of the City which requests that a special election be called to submit the referendum measure to a vote of the people, has been filed with the clerk and verified, it shall be the duty of the City Council to reconsider the measure or portion of such measure which is the object of the referendum. If the Council fails to repeal or amend the measure or portion thereof, in the manner proposed by the referendum, including an override of any veto, if necessary, the clerk shall cause the measure to be submitted to a vote of the people at a special election called for such purpose within 30 days from the date the Council received notification. The date of such special election shall not be less than 30 nor more than 60 days from the date the City Council received notification.

C. If a majority of the electors voting on the referendum measure shall vote in favor of such measure, the law subject to the referendum shall be repealed or amended. A measure repealed or amended by referendum shall not be reenacted or returned to its original form except by a two-thirds majority of the members of the City Council. No such attempt to reenact or return the measure to its original form shall be made within one year of the repeal or amendment of the measure by the electors. If the referendum measure does not receive a majority vote, the ordinance shall immediately become effective or remain in effect.

(Neb. Rev. Stat. §18-2529 through 18-2531)

SECTION 1-711: VIOLATIONS; PENALTIES

A. Whoever knowingly or willfully makes a false affidavit or takes a false oath regarding the qualifications of any person to sign petitions under Neb. Rev. Stat. §18-2501 through 18-2531 shall be guilty of a Class I misdemeanor with a limit of \$300.00 on the fine.

B. Whoever falsely makes or willfully destroys a petition or any part thereof, or signs a false name thereto, or signs or files any petition knowing the same or any part thereof to be falsely made, or suppresses any petition, or any part thereof, which has been duly filed pursuant to Neb. Rev. Stat. §8-2501 through 18-2531 shall be guilty of a Class I misdemeanor with a limit of \$500.00 on the fine.

C. Whoever signs any petition under Neb. Rev. Stat. §18-2501 through 18-2531 knowing that he or she is not a registered voter in the place where such petition is made, aids or abets any other person in doing any of the acts mentioned in this section, bribes or gives or pays any money or thing of value to any person directly or indirectly to induce him or her to sign such petition, or engages in any deceptive practice intended to induce any person to sign a petition, shall be guilty of a Class I misdemeanor with a limit of \$300.00 on the fine.

D. Any clerk who willfully refuses to comply with the provisions of Neb. Rev. Stat. §18-2501 through 18-2531 or who willfully causes unreasonable delay in the execution of his or her duties under such sections shall be guilty of a Class I misdemeanor, but imprisonment shall not be included as part of the punishment.
(Neb. Rev. Stat. §18-2532 through 18-2535)

SECTION 1-712: APPLICABILITY

A. The provisions of state statutes relating to election officers, voting places, election apparatus and blanks, preparation and form of ballots, information to voters, delivery of ballots, calling of elections, conduct of elections, manner of voting, counting of votes, records and certificates of election, and recounts of votes, so far as applicable, shall apply to voting on ordinances by the electors pursuant to this article.

B. Nothing in this article shall apply to procedures for initiatives or referendums provided in Neb. Rev. Stat. §18-412 and 18-412.02 relating to city light and power plants, §70-504, 70-650.01 and 70-650.02; relating to public power districts, and §80-203 to 80-205 relating to soldiers' and sailors' monuments.
(Neb. Rev. Stat. §18-2536, 19-2537)

Article 8 – Penal Provision

SECTION 1-801: VIOLATION; PENALTY

Any person who shall violate or refuse to comply with the enforcement of any of the provisions of this chapter, set forth at full length herein or incorporated by reference, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined 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 2 – COMMISSIONS AND BOARDS

Article 1 – Public Library

SECTION 2-101: OPERATION AND FUNDING

The City owns and manages the public library through the Library Board. The City Council, for the purpose of defraying the cost of the management, purchases, improvements, and maintenance of the library may each year levy a tax not exceeding the maximum limit prescribed by state law on the actual valuation of all real estate and personal property within the City that is subject to taxation. The revenue from the said tax shall be known as the Library Fund and shall include all gifts, grants, deeds of conveyance, bequests, or other valuable income-producing personal property and real estate from any source for the purpose of endowing the public library. The Library Fund shall at all times be in the custody of the city treasurer. The Library Board shall have the power and authority to appoint the librarian and to hire such other employees as it may deem necessary and may pass such other rules and regulations for the operation of the library as may be proper for its efficient operation. All actions by the Board shall be under the supervision and control of the City Council. (Neb. Rev. Stat. §51-201, 51-202, 51-211)

SECTION 2-102: LIBRARY BOARD; TERMS

The Library Board shall consist of five appointed members who shall be residents of the City and who shall serve terms of four years. The City Council shall appoint the members of the Library Board by a majority vote. Neither the mayor nor any member of the City Council shall be a member of the Library Board. The terms of members serving on the effective date of a change in number of members shall not be shortened, and any successors to those members shall be appointed as the terms of those members expire. In case of any vacancy by resignation, removal, or otherwise, the City Council shall fill the vacancy for the non-expired term.

SECTION 2-103: LIBRARY BOARD; COMPENSATION, BOND

No member shall receive any pay or compensation for any services rendered as a member of the Library Board. The City Council may require the members of the Library Board to give a bond in a sum set by resolution and conditioned upon the faithful performance of their duties.

SECTION 2-104: LIBRARY BOARD; OFFICERS

At the time of the Board's first meeting in December of each year, the members shall organize by selecting from their number a chairperson and secretary. No member of the Library Board shall serve in the capacity of both chairperson and secretary of the Board. It shall be the duty of the secretary to keep the full and correct minutes and records of all meetings and to file the same with the city clerk, where they shall be

available for public inspection during office hours.

SECTION 2-105: LIBRARY BOARD; MEETINGS, QUORUM

The Library Board shall meet at such times as the City Council may designate. Special meetings may be held upon the call of the chairperson or a majority of the members of the Board. A majority of the Board members shall constitute a quorum for the transaction of business.

SECTION 2-106: LIBRARY BOARD; AUTHORITY; EMPLOYEES

The Library Board shall have the authority to appoint a librarian and all other employees. The Board shall have supervisory authority over all employees of the library, including the librarian.

SECTION 2-107: LIBRARY BOARD; ESTABLISHMENT OF REGULATIONS

The Library Board shall have general charge of the public library and shall establish appropriate rules and regulations for the efficient management, operation, and use of the library. The Board shall fix and impose penalties and forfeitures for injury to the library grounds, rooms, books, or other property, or for failure to return a book. All fees, penalties, and forfeitures may be collected in civil action in the event of failure, neglect, or refusal to pay the said assessments. (Neb. Rev. Stat. §51-205, 51-214)

SECTION 2-108: LIBRARY BOARD; DUTIES

G. The Board shall be responsible for making such other reports and performing such additional duties as the City Council may designate from time to time. All actions of the Board shall be subject to the review and supervision of the City Council. (Neb. Rev. Stat. §51-202, 51-213) (Ord. No. 1089, 8/11/98)

SECTION 2-109: LIBRARY BOARD; GROUNDS AND BUILDING

A. The Library Board may purchase or lease grounds, exercise the power of eminent domain, and condemn real estate for the purpose of securing a site for a library building. The procedure to condemn property shall be exercised in the manner set forth in Neb. Rev. Stat. §76-704 through 76-724.

B. The Board may erect, lease or occupy an appropriate building for the use of the library. (Neb. Rev. Stat. §51-210, 51-211)

SECTION 2-110: LIBRARY BOARD; SALE AND CONVEYANCE OF REAL ESTATE

The Library Board may, by resolution, direct the sale and conveyance of any real estate owned by it or by the city library which is not used for library purposes, or of any

real estate so donated or devised to the Board or to the library upon such terms as the Board may deem best and as otherwise provided in Neb. Rev. Stat. §51-216.

SECTION 2-111: LIBRARY BOARD; MORTGAGES; RELEASE OR RENEWAL

The president of the Board shall have the power to release, upon full payment, any mortgage constituting a credit to the Library Fund and standing in the name of the Library Board. The signature of the president on any such release shall be authenticated by the secretary of the Board. In like manner, the president and secretary may renew any such mortgage upon resolution duly passed and adopted by the Board. (Neb. Rev. Stat. §51-206)

SECTION 2-112: LIBRARY BOARD; ELIMINATION OF BOOKS

The Library Board may authorize the sale, exchange, or disposal of any surplus, damaged, defective, obsolete, or duplicate books in the Library. Records shall be kept of any such books so eliminated. (Neb. Rev. Stat. §51-207)

SECTION 2-113: LIBRARY BOARD; ANNUAL REPORT

On or before the second Monday in February in each year, the Board shall make a report to the City Council of the condition of its trust as of the last day of the prior fiscal year. The report shall show all money received and credited or expended; the number of materials held, including books, video and audio materials, software programs, and materials in other formats; the number of periodical subscriptions on record, including newspapers; the number of materials added and the number withdrawn from the collection during the year; the number of materials circulated during the year; and other statistics, information and suggestions as the Library Board may deem of general interest or as the City Council may require. The report shall be verified by affidavit of the president and secretary of the Library Board. (Ref. Neb. Rev. Stat. §51-213)

SECTION 2-114: BOOKS ISSUED

The librarian shall keep, or cause to be kept, a register of all books issued and returned at the time they shall so be issued and returned. None of the books shall be detained more than 14 days without being renewed. No book may be renewed more than two consecutive times by any person without the special permission of the librarian or an authorized employee of the public library. (Neb. Rev. Stat. § 51-211)

SECTION 2-115: DAMAGED AND LOST BOOKS

Any person who injures or fails to return any book taken from the library shall forfeit and pay to the library not less than the value of the book in addition to any replacement costs and penalty which the Library Board may assess. (Neb. Rev. Stat. §51-211)

SECTION 2-116: UNLAWFUL BOOK REMOVAL

It shall be unlawful for any person not authorized by the regulations made by the Library Board to take a book from the library, without the consent of the librarian, or an authorized employee of the library. Any person removing a book from the library without properly checking it out shall be deemed to be guilty of a misdemeanor. (Neb. Rev. Stat. §51-211)

SECTION 2-117: COST OF USE

The public library shall be free for the use of the inhabitants of the City. The librarian may exclude from the use of the library and reading rooms any person who shall willfully violate or refuse to comply with the rules and regulations established for the government thereof. (Neb. Rev. Stat. §51-201, 51-212)

SECTION 2-118: MONEY COLLECTED

Any money collected by the library shall be turned over monthly by the librarian to the city treasurer along with a report of the sources of the revenue. (Neb. Rev. Stat. §51-209)

SECTION 2-119: DONATIONS

Any person may make donation of money, lands or other property for the benefit of the library. The title to property so donated may be made to and shall vest in the Library Board and its successors in office, and the Board shall thereby become the owners thereof in trust to the uses of the library. (Neb. Rev. Stat. §51-215)

Article 2 – Planning Commission

SECTION 2-201: MEMBERS

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

B. All regular members of the Commission shall serve without compensation and shall hold no other city office except when appointed to serve on the Board of Adjustment as provided in Neb. Rev. Stat. §19-908. All members of the Commission may be required, at the discretion of the City Council, to give bond in a sum set by resolution and conditioned upon the faithful performance of their duties.
(Neb. Rev. Stat. §19-926)

SECTION 2-202: MEMBERS; TERMS

The term of each regular member shall be three years, except that three regular members of the first Commission shall serve for terms of one year, three for terms of two years, and three for terms of three years. All regular members shall hold office until their successors are appointed. Any member may be removed by the mayor, after a public hearing before the City Council, with the consent of a majority vote of the council members, 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 non-expired portion of the term by the mayor.

SECTION 2-203: OFFICERS; MEETINGS

The Commission shall elect its chairperson and a secretary from its members and create and fill such other of its offices as it may determine. The term of the chairperson and the secretary shall be one year, and they shall be eligible for re-election. No member of the Commission shall serve in the capacity of both chairperson and secretary of the Commission. It shall be the duty of the secretary to keep the full and correct minutes and records of all meetings and to file them with the city clerk, where they shall be available for public inspection during office hours. A number of Com-

missioners equal to a majority of the number of regular members appointed to the Commission shall constitute a quorum for the transaction of any business. The Commission shall hold at least one regular meeting in each calendar quarter, except the City Council may require the Commission to meet more frequently and the chairperson of the Commission may call for a meeting when necessary to deal with business pending before the Commission. Special meetings may also be held upon the call of any three members of the Commission. The Commission shall adopt rules and regulations for the transaction of business and shall keep a record of its resolutions, transactions, findings, and determinations, which shall be a public record. (Neb. Rev. Stat. §19-927)

SECTION 2-204: DUTIES

A. The Commission shall make and adopt plans for the physical development of the City, including any areas outside its boundaries which, in the Commission's judgment, bear relation to the planning of the City, and shall carry out the other duties and exercise the powers specified in Neb. Rev. Stat. §19-929. All actions by the Commission shall be subject to the review and supervision of the mayor and City Council. The Commission shall make its recommendations to the City Council so that they are received by the Council within 30 days after the Commission begins consideration of a matter relating to the comprehensive development plan, capital improvements, building codes, subdivision development, the annexation of territory, or zoning. The Commission shall be responsible for making such reports and performing such other duties as the City Council may, from time to time, designate.

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

SECTION 2-205: ALTERNATE MEMBER

The mayor, with the approval of a majority vote of the City Council, shall appoint one alternate member to the Commission. The alternate member shall serve without compensation and shall hold no other city office. The term of the alternate member shall be three years, and he/she shall hold office until a successor is appointed and approved. The alternate may be removed from office in the same manner as a regular member. If the alternate member position becomes vacant other than through the expiration of the term, the vacancy shall be filled for the non-expired portion of the term by the mayor with the approval of a majority vote of the City Council. The alternate member may attend any meeting and may serve as a voting and participating member of the Commission at any time when less than the full number of regular Commission members is present and capable of voting. (Neb. Rev. Stat. §19-924 through 19-929) (Ord. No. 997, 2/27/96; 1090, 8/11/98)

Article 3 – Board of Adjustment

SECTION 2-301: MEMBERS

A. The mayor shall appoint, with the consent of the City Council, a Board of Adjustment which shall consist of five regular members plus one additional member designated as an alternate who shall attend and serve only when one of the regular member is unable to attend for any reason. One member only of the Board of Adjustment shall be appointed from the membership of the Planning Commission, and the loss of membership on the Planning Commission by such member shall also result in immediate loss of membership on the Board of Adjustment and the appointment of another Planning Commissioner to the Board of Adjustment. No member of the City Council shall serve as a member of the Board of Adjustment.

B. The members of the Board shall serve without compensation and may be required, in the discretion of the City Council, to give a bond in a sum set by resolution and conditioned upon the faithful performance of their duties.
(Neb. Rev. Stat. §19-908)

SECTION 2-302: TERMS; VACANCIES

Each member of the Board shall serve a term of three years, unless reappointed, and shall be removable only for cause by the City Council upon written charges and after a public hearing. Vacancies shall be filled for the non-expired term of any member whose term becomes vacant. After the effective date of this section, the first vacancy occurring on the Board of Adjustment shall be filled by the appointment of a person who resides in the extraterritorial zoning jurisdiction of the City at such time as more than 200 persons reside within such area. Thereafter, at all times, at least one member of the Board of Adjustment shall reside outside the corporate boundaries of the City but within its extraterritorial zoning jurisdiction. (Neb. Rev. Stat. §19-908)

SECTION 2-303: OFFICERS; MEETINGS

The Board shall organize at its first meeting in June of each year and elect from its membership a chairperson and secretary. No member of the Board shall serve in the capacity of both chairperson and secretary. It shall be the duty of the secretary to keep complete and accurate minutes of all board meetings, showing the vote of each member upon each question, or, if absent or failing to vote, indication such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office the Board and shall be public record. All meetings of the Board shall be open to the public and shall be held at such times as the City Council may designate, or at such other times as the chairperson may, in his/her discretion, call a meeting. Special meetings may be also held upon the call of any three members of the Board. A majority of the Board shall constitute a quorum for the purpose of doing business. The Board shall adopt rules in accordance with the provisions of Neb. Rev. Stat. §19-901 to 19-914.

SECTION 2-304: POWERS AND DUTIES

A. It shall be the duty of the Board:

1. To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by a city official based on or made in the enforcement of any zoning regulation or any regulation relating to the location or soundness of structures.
2. To hear and decide, in accordance with the provisions of the zoning regulations, requests for interpretation of any map; and
3. Where by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of the enactment of the zoning regulations, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of such piece of property, the strict application of any zoning regulation would result in peculiar and exceptional practical difficulties to or exceptional and undue hardships upon the owner of such property, to authorize, upon and appeal relating to the property, a variance from such strict application so as to relieve such difficulties or hardship, if such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of any ordinance or resolution.

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

1. The strict application of the zoning regulation would produce undue hardship;
2. Such hardship is not shared generally by other properties in the same zoning district and the same vicinity;
3. The authorization of such variance will not be of substantial detriment to adjacent property and the character of the district will not be changed by the granting of the variance; and
4. The granting of such variance is based upon reason of demonstrable and exceptional hardship as distinguished from variations for purposes of convenience, profit, or caprice. No variance shall be authorized unless the Board finds that the condition or situation of the property concerned or intended use of the property is not of so general or recurring a nature as to make reasonably practicable for the formulation of a general regulation to be adopted as an amendment to the zoning regulations.

C. In exercising the above-mentioned powers, the Board may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination as ought to be made, and to that end shall have all powers of the officer from whom the appeal is taken. The concurring vote of four members of the Board shall be necessary to reverse any order, requirement, decision, or determination of any such city official, or to decide in favor of the applicant on any matter upon which it is required to pass under any such regulation or to effect any variation in such regulation. (Neb. Rev. Stat. §2-301 through 2-304, 19-907 through 19-910) (Ord. No. 998, 2/27/96)

SECTION 2-305: APPEALS

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

Article 4 – Board of Health

SECTION 2-401: MEMBERS; TERMS

The City Council shall appoint a Board of Health, which shall consist of four members. The members of the Board shall include the mayor, who shall serve as chairman; the president of City Council; and two other members. One member shall be a physician or health care provider, if one can be found who is willing to serve. Such physician or health care provider, if appointed, shall be the Board's medical advisor. If the mayor has appointed a chief of police, he/she shall serve on the Board as secretary and quarantine officer. The members of the Board shall serve a one-year term of office without compensation, unless reappointed, and shall reorganize at the first meeting in December of each year. No member of the Board of Health shall hold more than one Board of Health position. The Board of Health shall be funded by the City Council from time to time out of the General Fund. (Neb. Rev. Stat. §17-121)

SECTION 2-402: MEETINGS

A majority of the Board shall constitute a quorum for the purpose of doing business. The Board shall meet at such times as the City Council may designate. Special meetings may be held upon the call of the chairperson, or two members of the Board. The secretary shall keep full and correct minutes and records of all meetings and file the same with the city clerk, where they shall be available for public inspection during office hours. (Neb. Rev. Stat. §17-121)

SECTION 2-403: POWERS AND DUTIES

A. The Board shall enact rules and regulations which shall have the full force and effect of law to safeguard the health of the people of the City. The Board shall enforce the rules and regulations and provide fines and punishments for any violations thereof. It may regulate, suppress, and prevent the occurrence of nuisances and enforce all laws of the State and ordinances of the City relating to nuisances and to matters of sanitation which affect the health and safety of the people.

B. The Board shall regularly inspect such premises and businesses as the City Council may direct. All members of the Board shall be responsible for making such reports and performing such other duties as the Council may, from time to time, designate.

(Neb. Rev. Stat. §17-121) (Ord. No. 1044, 8/12/97)

SECTION 2-404: ENFORCEMENT OFFICIAL

The city police chief, as the quarantine officer, shall be the chief health officer of the City. It shall be his/her duty to notify the City Council and the Board of Health of health nuisances within the City and its zoning jurisdiction. (Neb. Rev. Stat. §17-121)

SECTION 2-405: STATE RULES

The *Rules and Regulations Relating to Public Health*, Nebraska Department of Health, are hereby incorporated by reference when the same are applicable to the City, in their present form and as they may hereafter be amended. One copy of each of the said pamphlets is filed at the office of the city clerk and shall be available for public inspection during office hours. (Neb. Rev. Stat. §18-132, 19-902)

SECTION 2-406: COUNTY HEALTH BOARD

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

SECTION 2-407: 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, any 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 the City. 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 5 – Tree Board

SECTION 2-501: CREATION AND ESTABLISHMENT

There is hereby created and established a City Tree Board which shall consist of five members who shall be citizens and residents of the City, appointed by the mayor with the approval of the City Council. (Ord. No. 874, 12/8/87; 915, 9/24/91)

SECTION 2-502: TERM OF OFFICE

The term of the five persons to be appointed by the mayor shall be three years, except that the term of two of the members appointed to the first Board shall be for only one year and the term of two members of the first Board shall be for two years. In the event that a vacancy shall occur during the term of any member, a successor shall be appointed for the unexpired portion of the term. (Ord. No. 874, 12/8/87; 915, 9/24/91)

SECTION 2-503: COMPENSATION

Members of the City Tree Board shall serve without compensation. (Ord. No. 874, 12/8/87)

SECTION 2-504: 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, replacement, maintenance, and 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 its acceptance and approval shall constitute the official comprehensive city tree plan. The Tree Board, when requested by the City Council, shall consider, investigate, make finding, report and recommend upon any special matter or question coming within the scope of its work. (Ord. No. 874, 12/8/87)

SECTION 2-505: OPERATION

The Tree Board shall choose its own officers, make its own rules and regulations and keep a journal of its proceedings. A majority of the members shall be a quorum for the transaction of business. (Ord. No. 874, 12/8/87)

SECTION 2-506: INTERFERENCE WITH THE TREE BOARD

It shall be unlawful for any person to prevent, delay or interfere with the Tree Board or any of its representatives or agents, while engaging in and about the planting, cultivation, mulching, pruning, spraying, or removing of any trees within the community forest, as authorized in this ordinance. (Ord. No. 874, 12/8/87)

SECTION 2-507: ACCESS

It shall be unlawful for any person to prevent, delay or interfere with access to private property by the City or its representative in the legal performance of any section of this article. (Ord. No. 874, 12/8/87)

SECTION 2-508: 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 from any ruling or order of the Tree Board to the City Council who may hear the matter and make the final decision. (Ord. No. 874, 12/8/87)

SECTION 2-509: PENALTY

Any person violating any provision of this article shall be deemed guilty of a Class III misdemeanor. (Ord. No. 874, 12/8/87)

SECTION 2-510: CONSTITUTIONALITY

If any part of this article is found to be unconstitutional, then only that portion shall be declared void and the remainder of this article shall stand and the part so stricken shall be severed from this article. (Ord. No. 874, 12/8/87)

SECTION 2-511: DEFINITIONS

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

"Park trees" are herein defined as trees, shrubs, bushes, and all other woody vegetation in public parks and all areas owned by the City, or to which the public has free access as a park.
(Ord. No. 874, 12/8/87)

SECTION 2-512: STREET TREE SPECIES TO BE PLANTED

The City shall maintain a list of recommended trees for planting in public areas. This list shall be available to residents of the City upon request to aid in the selection of trees for private properties. The list of recommended trees shall be updated periodically to reflect new developments or species that will affect the population of the community forest. The Tree Board shall have a community tree resource assessment completed every seven years with the initial assessment done in 1987. (Ord. No. 874, 12/8/87)

SECTION 2-513: DISTANCES AND CLEARANCES FOR PLANTING

A. Street trees may be planted no closer than 30 feet except in special plantings approved by the Tree Board.

B. Street trees may be planted in the tree lawn where there is more than six feet between the edge of the sidewalk and the curb of the street. Street trees shall be planted no closer than three feet from a sidewalk or a street.

C. No street tree shall be planted closer than 35 feet away from any street corner measured from the point of the nearest intersection of curbs or curb lines. No street tree shall be planted closer than ten feet from any fireplug. Special permission must be obtained from the Tree Board when planting street trees within ten feet of any point on a line on the ground immediately below any overhead utility wire, or within five lateral feet of any underground water line, sewer line, transmission line, or other utility.

(Ord. No. 874, 12/8/87)

SECTION 2-514: PUBLIC TREE CARE

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

B. The Tree Board may remove or cause or order to be removed any tree or part thereof which is in an unsafe condition or which by reason of its nature is injurious to sewers, electric power lines, gas lines, water lines, or other public improvements, or is seriously affected with any injurious insect or disease.

C. The abutting property owners shall have the responsibility to perform normal tree care on all street trees as per Ordinance No. 862.

(Ord. No. 874, 12/8/87)

SECTION 2-515: 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 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 section at the determination of the Tree Board. (Ord. No. 874, 12/8/87)

SECTION 2-516: ABUSE OR MUTILATION OF TREES

Unless specifically authorized by the Tree Board, no person shall intentionally dam-

age, cut, carve, transplant, or remove any street tree or park tree; attach any rope, wire, nails, advertising posters, or other contrivance to such trees; allow any gaseous, liquid, or solid substance which is harmful to such trees to come in contact with them; or set fire or permit any fire to burn when such fire or the heat thereof will injure any portion of such trees. The preceding restrictions do not apply to proper planting, staking and guying practices. (Ord. No. 874, 12/8/87)

SECTION 2-517: CLEARANCE OVER STREETS AND WALKWAYS

Clearance over streets and walkways shall be the responsibility of the abutting property owner. A clearance of eight feet must be maintained over walkways and a clearance of 12 feet must be maintained over streets. Property owners are responsible for trees on their own property as well as trees on the public way that abuts their property. (Ord. No. 874, 12/8/87)

SECTION 2-518: PLANTING; 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 2-519: REMOVAL OF DEAD OR DISEASED TREES

The City shall remove or cause to be removed any dead or diseased trees within the city limits. Diseased trees are defined as those trees that may constitute a hazard to life and property, or harbor insects or disease, which represent a potential threat to other trees within the City. The City's agent will notify in writing the owners of such trees. Removal is the responsibility of the owners of such trees and shall be accomplished within five days of notification. In the event of failure to remove by the owner, the City shall have the authority to remove such trees at the owner's expense. (Ord. No. 874, 12/8/87)

SECTION 2-520: REMOVAL OF TREE 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. (Ord. No. 874, 12/8/87)

Article 6 – Parks Department

SECTION 2-601: OPERATION AND FUNDING

The City owns and operates the city parks and other recreational areas through the utilities superintendent. The City Council, for the purpose of defraying the cost of the care, management, and maintenance of the city parks 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 superintendent 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 superintendent shall not enter into a contract of any nature which involves an expenditure of funds, except for ordinary operating expenses, unless the contract has been approved by resolution of the City Council prior to the contractual agreement. (Neb. Rev. Stat. §17-948 thru 17-952)

SECTION 2-602: 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 or to injure or destroy any grass or planted area, or injure or destroy any building, structure, equipment, fence, bench, table, or any other property of the city parks and recreational areas. No person shall commit any waste on or litter the city parks or other public grounds.

SECTION 2-603: USE OF ALCOHOL

The use of the city parks by the public is hereby encouraged, and the consumption of alcoholic liquors and beverages in said parks is hereby permitted except that such consumption is not permitted between the hours of 11:00 P.M. and 6:00 A.M. and except that such consumption must not create a nuisance, be done in a boisterous or offensive manner, cause drunkenness or disorderliness or create a disturbance or loud noise, any of which may disturb other persons using the park facilities or residents living adjacent to the park.

SECTION 2-604: CLOSING HOURS

A. *Hours.* The city parks shall be closed daily between the hours 12:00 midnight and 5:00 A.M. It shall be unlawful for any person to loiter in any city park during closed hours.

B. *Exception.* This ordinance shall not apply to the area located in the North Park designated for campers.

C. *Loitering.* A person is guilty of unlawful loitering if the person remains in an

area of any city park 30 minutes after the closing. "Loiter" shall be defined to mean remaining in an area for no obvious reason. Any person convicted of unlawful loitering shall be deemed guilty of a misdemeanor.

(Neb. Rev. Stat. §17-124, 28-106 et.seq.) (Ord. No. 1057, 8/26/97)

Article 7 – Swimming Pool Advisory Board

SECTION 2-701: MEMBERSHIP; TERMS

The mayor and City Council shall appoint the Tekamah Municipal Pool Advisory Board. The nominated members must receive a majority vote of the council members. The Board shall consist of five members who shall be residents of the Tekamah area, one of which must be a current member of the City Council. The council member shall serve one term unless re-appointed. The general members shall serve three-year terms unless reappointed. At the time of establishment of the Board, one member shall be appointed for a term of one year, two members shall be appointed for terms of two years, and two members shall be appointed for terms of three years. The board members shall serve without compensation. (Ord. No. 1234, 10/27/11)

SECTION 2-702: MEETINGS

At the time of the Board's first meeting in December of each year, the members shall organize by selecting from their number a chairman and secretary. No member of the Board shall serve in the capacity of both chairman and secretary. It shall be the duty of the secretary to keep the full and correct minutes and records of all meetings and to file the same with the city clerk, where they shall be available for public inspection during office hours. A majority of the board members shall constitute a quorum for the transaction of business. The Board shall meet at such times as the mayor and Council may designate. No meeting shall be held without proper notice as specified by Nebraska statute. Special meetings may be held upon the call of the chairman or any three members of the Board. (Ord. No. 1234, 10/27/11)

SECTION 2-703: POWERS AND DUTIES

The Pool Advisory Board has the authority to seek out public opinion pertaining to the expenditure of funds and the development of new funds. The Board shall act in conformity with the bylaws to be enacted by the mayor and City Council. The Board shall support and encourage activities for all ages in the community. All actions of the Pool Advisory Board shall be subject to review and approval of the mayor and Council. The Board shall be responsible for making such reports and performing such additional duties as the mayor and Council may designate from time to time. (Ord. No. 1234, 10/27/11)

SECTION 2-704: POOL; OPERATION AND FUNDING

The City owns and manages the city swimming pool. The City Council, for the purpose of defraying the cost of the management, maintenance, and improvements of the swimming pool may each year levy a tax not exceeding the maximum limit prescribed by state law on the actual valuation of all real estate and personal property within the City that is subject to taxation. The revenue from the said tax shall be known as the Swimming Pool Fund and shall include all gifts, grants, deeds of con-

veyance, bequests, or other valuable income-producing personal property and real estate from any source for the purpose of endowing the swimming pool. The Swimming Pool Fund shall at all times be in the custody of the city treasurer. The utilities superintendent shall manage the swimming pool. The superintendent shall have the power and authority to hire and supervise the swimming pool manager and such employees as may be deemed necessary and shall pass such rules and regulations for the operation of the swimming pool as may be proper for its efficient operation. All actions by the superintendent shall be under the supervision and control of the City Council. (Neb. Rev. Stat. §17-948, 17-951, 17-952)

SECTION 2-705: POOL; ADMISSION CHARGE

The City Council may, for the purpose of defraying the expenses involved in maintaining, improving, managing, and beautifying the swimming pool, make a reasonable admission charge for the use by any person of the swimming pool. The said charges shall be on file at the office of the city clerk and shall also be posted in a conspicuous place at the swimming pool for public inspection. Such rates may be structured for classes of persons in a reasonable manner; provided, nothing herein shall be construed to permit or allow discrimination on the basis of race, creed, color, or national origin in the classification of persons for admission charges. (Neb. Rev. Stat. §17-949)

SECTION 2-706: POOL; RENTALS

The utilities superintendent shall have the authority to rent the swimming pool to such organizations and other persons as he/she may see fit, subject to the review of the City Council. The superintendent shall prescribe rules and regulations for such rentals and shall require an appropriate number of qualified lifeguards to be in attendance during the rental period. Such fees and other costs shall be on file at the office of the city clerk and posted in a conspicuous place at the swimming pool. (Neb. Rev. Stat. §17-949)

SECTION 2-707: POOL; RULES AND REGULATIONS

The utilities superintendent shall have the power and authority to enact bylaws, rules, and regulations for the protection of those using the swimming pool and for the efficient management thereof. He/she may provide suitable penalties for the violation of such bylaws, rules, and regulations subject to the review and supervision of the City Council. (Neb. Rev. Stat. §17-949)

Article 8 – Auditorium

SECTION 2-801: OWNERSHIP

The City owns and manages the city auditorium through the utilities superintendent. The City Council, for the purpose of defraying the cost of the management, maintenance, and improvements on the auditorium 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 City that is subject to taxation. The revenue from the said tax shall be known as the Auditorium Fund and shall include all gifts, grants, deed of conveyance, bequests, or other valuable income-producing personal property and real estate from any source for the purpose of endowing the auditorium. The Auditorium Fund shall at all times be in the custody of the city treasurer. The utilities superintendent shall have the power to hire and supervise such employees as he/she may deem necessary and shall pass such rules and regulations for the operation of the auditorium as may be proper for its efficient management. All actions by the superintendent shall be under the supervision and control of the City Council. (Neb. Rev. Stat. §17-953 thru 17-955)

SECTION 2-802: RENTALS

The City Council may, for the purpose of defraying the expenses involved in maintaining, improving, managing, and beautifying the auditorium, make a reasonable rental charge for the use of the auditorium by any person or organization. The utilities superintendent shall prescribe rules and regulations for such rentals subject to the review of the City Council. Said rules and regulations may include but shall not be limited to the requirement of a damage deposit. Rental rates may be structured for classes of persons and organizations in a reasonable manner; provided, nothing herein shall be construed to permit or allow discrimination on the basis of race, creed, color, or national origin in the classification of persons and organizations for rental purposes. (Neb. Rev. Stat. §17-953)

Article 9 – Museum Board

SECTION 2-901: MEMBERS; TERMS

The City Council shall appoint the Museum Board, which shall consist of five members who shall be residents of the City. The members of the Board shall serve a one-year term of office unless reappointed and one member shall be appointed or reappointed each year. The board members shall serve without compensation and may be required, in the discretion of the City Council, to give a bond in a sum set by resolution of the City Council, and conditioned upon the faithful performance of their duties. (Neb. Rev. Stat. §51-502)

SECTION 2-902: MEETINGS; OFFICERS

At the time of the Board's first meeting in December of each year, the members shall organize by selecting a chairman and secretary. No member of the Museum Board shall serve in the capacity of both chairman and secretary. It shall be the duty of the secretary to keep the full and correct minutes and records of all meetings and to file the same with the city clerk, where they shall be available for public inspection during office hours. A majority of the board members shall constitute a quorum for the transaction of business. The Board shall meet at such times as the City Council may designate. Special meetings may be held upon the call of the chairman or any three members of the Board. (Neb. Rev. Stat. §51-503)

SECTION 2-903: DUTIES

It shall be the duty of the Board to have general charge of the city museum and establish appropriate rules and regulations for the management, operation, and use of the same. All actions of the Board shall be subject to the review and supervision of the City Council. The Board shall be responsible for making such reports and performing such additional duties as the City Council may from time to time designate. (Neb. Rev. Stat. §17-966)

Article 10 – Housing Authority Board

SECTION 2-1001: MEMBERS; TERMS

The City Council shall appoint six persons who shall constitute the Housing Authority and such persons shall be called the commissioners. One commissioner shall be appointed each year, except for the fifth year, where two commissioners will be appointed. Each commissioner shall serve a five-year term of office or until his/her successor is duly appointed; provided, all vacancies shall be filled for the unexpired terms. The City Council may appoint one of its members to serve as one of the six members of such Housing Authority for such term as the Council may determine. No person shall serve as a commissioner unless he or she resides within the area of operation of the Housing Authority. A certificate of the appointment or reappointment of any commissioner shall be filed with the city clerk and such certificate shall be conclusive evidence of the proper appointment of such commissioner. A commissioner shall receive no compensation for his/her services, but shall be entitled to the necessary expenses, including travel expenses, incurred in discharge of duties. (Neb. Rev. Stat. §71-1594 through 71-1596)

SECTION 2-1002: MEETINGS

A majority of commissioners shall constitute a quorum of the Authority for the purpose of conducting its business, exercising its powers, and for all other purposes. Action may be taken by the Authority upon the vote of the majority of the commissioners present unless in any case the bylaws of the Authority shall require a larger number. At the November meeting each year the commissioners shall elect a chairman and vice-chairman and shall have the power to employ an executive director, who shall serve as ex officio secretary of the Authority.

SECTION 2-1003: POWERS AND DUTIES

The Authority may also employ legal counsel or it may call upon the chief law officer of the City for such services as it may require. It may employ technical experts and such other officers, agents, and employees as it may require and shall determine their qualifications, duties, compensations, and terms of office. The Authority may delegate such other powers and duties to its agents or employees, as it may deem proper. The Housing Authority shall keep an accurate account of all its activities and of all its receipts and disbursements and make a report to the City Council on all such information.

SECTION 2-1004: CONFLICT OF INTEREST

A. During his/her tenure and for one year thereafter, no commissioner, officer, or employee of the City Housing Authority shall voluntarily acquire any interest, direct or indirect, in any project or in any property included or planned to be included in any project, or in any contract or proposed contract relating to any housing project. If any

such commissioner, officer, or employee involuntarily acquires any such interest, or voluntarily or involuntarily acquired any such interest prior to appointment or employment as commissioner, officer, or employee, he/she shall immediately disclose such interest in writing to the Authority. Such disclosure shall be entered upon the minutes of the Authority, and he/she shall not participate in any action by the Authority relating to the property or contract in which he/she has any such interest; provided, nothing herein shall apply to the acquisition of any interest in notes or bonds of the Authority issued in connection with any housing project, or to the execution of agreements by banking institutions for deposit or handling of funds in connection with a project or to act as trustee under any trust indenture, or to utility services, the rates for which are fixed or controlled by a governmental agency. The mayor may remove a commissioner for neglect of duty or misconduct in office in the manner prescribed hereinafter. The mayor shall send a notice of removal to such commissioner, which notice shall contain a statement containing the charges against him/her.

B. Unless such commissioner files with the clerk a request for a hearing before the City Council within ten days from the receipt of notice, the commissioner shall be deemed as removed from office. If a request for a hearing is filed with the clerk, the City Council shall hold a hearing at which the commissioner shall have the right to appear in person or by counsel and the City Council shall determine whether the removal shall be disapproved or upheld. If the removal is disapproved, the commissioner shall continue to hold his/her position.

(Neb. Rev. Stat. §71-1552) (Res. 2007-03)

SECTION 2-1005: CONTINUED EXISTENCE AS HOUSING AGENCY

A. The local Housing Authority established under prior state law and in existence on January 1, 2000, shall have continued existence as a housing agency under the Nebraska Housing Agency Act.

B. The local Housing Agency shall conduct its operations consistent with the Nebraska Housing Agency Act. All property, rights in land, buildings, records, and equipment and any funds, money, revenue, receipts, or assets of the Authority belong to the Agency as successor. All obligations, debts, commitments, and liabilities of the Authority are obligations, debts, commitments, and liabilities of the successor Agency.

C. Any resolution by the Authority and any action taken by the Authority prior to January 1, 2000, with regard to any project or program which is to be completed with or to be conducted for a 12-month period following January 1, 2000, and which resolution or action is lawful under state law as it existed prior to January 1, 2000, is a lawful resolution or action of the successor Agency and binding upon the successor Agency and enforceable by or against the Agency notwithstanding that such resolution or action is inconsistent with, not authorized by, or prohibited under the provisions of the Nebraska Housing Agency Act.

D. All commissioners of the local Housing Agency and all officers, legal coun-

sel, technical experts, directors, and other appointees or employees of the Agency holding office or employment by virtue of any such prior law on January 1, 2000, shall be deemed to have been appointed or employed under the Nebraska Housing Agency Act.

(Neb. Rev. Stat. §71-15,149 through 151) (Ord. No. 1139, 3/14/00)

Article 11 – Airport Authority Board

SECTION 2-1101: PURPOSE; POWERS AND DUTIES

The Airport Authority Board shall have the full and exclusive jurisdiction and control over all facilities owned or hereafter acquired by the City for the purpose of aviation operation, air navigation, and air safety operation. The Board is a body corporate and politic, constituting a public corporation, and an agency of the City. The Board shall have such other powers and duties as may be prescribed by state law. (Neb. Rev. Stat. §3-502)

SECTION 2-1102: MEMBERS; TERMS

The Board shall consist of five members. Members of the Board shall be nominated and elected in the manner provided by law for the election of other elected officials and shall take office on the first Tuesday in December of each election year. Members of the Board shall be residents of the City and shall serve a term of six years. Two members of the Board shall be elected in each election year; provided, in each third election year, one member only shall be elected to the Airport Authority Board. (Neb. Rev. Stat. §3-502)

SECTION 2-1103: VACANCY; REMOVAL OF MEMBER

Any vacancy on the Board resulting from any other cause than the expiration of a term of office, shall be filled by temporary appointment by the mayor until a successor can be elected at the next general election to serve the unexpired portion of the term. A member of the Board may be removed from office for incompetence, neglect of duty, or malfeasance in office. An action for the removal of such officer may be brought, upon resolution of the City Council, in the District Court of the County. (Neb. Rev. Stat. §3-501 through 3-514)

Article 12 – Civil Defense Committee

SECTION 2-1201: EMERGENCY SERVICES

A. The head of each city department which may be directly affected by any emergency or concerned with civilian defense or with the protection or promotion of public safety, health, or welfare during any emergency shall act as chief of emergency service of the department. In that capacity he/she shall have charge of providing for such service as may be required of the department in any emergency, and may call for and accept volunteers for the purpose of such service, and dismiss any volunteer at any time and require him/her to surrender all equipment and insignia or identification furnished by the City.

B. Every volunteer for any such emergency service shall take the same oath, if any, as is required of the members of the regular city forces performing corresponding service. Subject to the other provisions hereof, every such volunteer shall be under the direction and subject to the orders of the chief of the service to which he/she belongs and shall perform such duties as the chief may require within the scope of the functions of such service.

C. The several chiefs of the emergency services may make and enforce all necessary and proper rules or orders, conforming to the provisions hereof, to regulate the operation of their respective services, to define the duties of the regular or volunteer members thereof, and to secure efficiency and discipline therein. The chiefs shall provide suitable instruction and training for the members of their services.

D. Volunteers shall be called into active service only in case of an emergency for which the regular city forces are inadequate, or for necessary training and preparation for such emergencies. All volunteers shall serve without compensation. No volunteer in any such service shall carry any firearm while on duty except on written order of the mayor or chief of police.

Article 13 – Community Foundation Fund Advisory Committee

SECTION 2-1301: MEMBERS; TERMS

The City Council shall appoint the Community Foundation Fund Advisory Committee, and the nominated members must receive a majority vote of the City Council. The Committee shall consist of five members who shall be residents of the Tekamah area, two of which must be current members of the City Council. The members of the Council shall serve a one-year term unless re-appointed. The general members shall serve a five-year term unless re-appointed. At the time of the establishment of the Committee, one member shall be appointed for a term of three years, one member shall be appointed for a term of four years, and one for a term of five years. The members shall serve without compensation and may be required, in the discretion of the City Council, to give a bond in a sum set by resolution and conditioned upon the faithful performance of their duties.

SECTION 2-1302: OFFICERS

At the time of the Committee's first meeting in December of each year, the members shall organize by selecting from their number a chairman and secretary. No member of the Committee shall serve in the capacity of both chairman and secretary. It shall be the duty of the secretary to keep the full and correct minutes and record of all meetings and to file the same with the city clerk, where they shall be available for public inspection during office hours.

SECTION 2-1303: MEETINGS

A majority of the committee members shall constitute a quorum for the transaction of business. The committee shall meet at such times as the City Council may designate. No meeting shall be held without proper notice as specified by Nebraska statute. Special meetings may be held upon the call of the chairman or any three members of the Committee.

SECTION 2-1304: DUTIES

The Community Foundation Fund Advisory Committee has the authority to seek out public opinion and wants pertaining to the expenditure of funds and the development of new funds. The Committee shall act in conformity with the bylaws to be enacted by the City Council, supporting and encouraging activities for all ages in the community. All actions of the Committee shall be subject to the review and supervision of the Council. The Committee shall be responsible for making such reports and performing such additional duties as the City Council may designate from time to time.

(Neb. Rev. Stat. §17-501) (Ord. No. 1121, 9/14/99)

Article 14 – Community Redevelopment Authority

SECTION 2-1401: MEMBERS; TERMS

The Tekamah Community Redevelopment Authority (CRA) be and hereby is created and shall consist of five residents of the City of Tekamah who shall be appointed by the mayor. One member shall be member of the City Council. In the event that such council member ceases to be a member of the Council, then his/her term on the board shall also terminate. Terms are for five years except at creation, where the mayor shall designate the one-, two-, three-, four- and five-year appointments. Members may be re-appointed. Terms of office shall expire on December 31 of each year.

SECTION 2-1402: OPERATION

A. At the CRA's initial meeting, and annually thereafter on at the first meeting in January of each year, members shall select a chairperson and a vice-chairperson. A quorum shall be four. Issues shall be decided by majority vote. The CRA may establish bylaws which allow the chairperson or vice-chairperson to execute orders, requisitions, warrants, and other documents as specified in the bylaws.

B. The CRA shall keep minutes and records of its activities and expenditures, The CRA shall make an annual report of its activities to the City. The City Council may grant a loan of not more than \$10,000.00 to the CRA for the purpose of expenses in conducting the work of the Authority. Terms of repayment shall be specified in the resolution creating such loan.

SECTION 2-1403: CONFLICT OF INTEREST

Members shall not have an interest directly or indirectly in any contract services or project authorized by the Authority.

SECTION 2-1404: POWERS

As a public body corporation, the CRA is given the power to take all necessary and convenient steps to achieve the purposes of the Community Development Law including:

A. To purchase, lease, obtain options, exercise eminent domain or any other necessary or incidental actions in order to accomplish the redevelopment purpose set out in a plan.

B. To arrange a contract for street, road, public utilities or other facility improvements or repair in connection with a redevelopment project.

C. To repair or retain services to assist in the preparation of redevelopment plans and agreements.

D. To sue or be sued, execute contracts and amend or repeal bylaws and rules consistent with the Community Development Law.

E. To enter into redevelopment agreements with one or more developers and to establish such covenants, restrictions or conditions upon such redevelopment in order to achieve the purposes of the Community Development Law.

F. To certify in July of each year to the City Council the amount of tax to be levied (not to exceed \$0.026 on each \$100.00 of actual value of all taxable property except intangible property) to plan, undertake and carry out neighborhood development programs consistent with the overall redevelopment program of a community.
(Neb. Rev. Stat. §18-2101.01) (Ord. No. 990, 2/13/96)

Article 15 – Penal Provision

SECTION 2-1501: VIOLATION; PENALTY

Any person who shall violate or refuse to comply with the enforcement of any of the provisions of this chapter, set forth at full length herein or incorporated by reference, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined 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 3 – MISDEMEANORS

Article 1 – General Misdemeanors

SECTION 3-101: DISTURBING THE PEACE

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

SECTION 3-102: MALICIOUS DESTRUCTION OF PROPERTY

It shall be unlawful for any person to molest, injure or destroy any property of another in this city wantonly or maliciously in any manner. Any such offender shall be liable for all damages which arise from the commission of such unlawful act, in addition to a fine as permitted by law.

SECTION 3-103: PROHIBITED FENCES

It shall be unlawful for any person to erect, or cause to be erected, and maintain any barbed wire or electric fence within the corporate limits where such fence abuts a public sidewalk, street or alley. (Neb. Rev. Stat. §18-1720, 28-1321, 39-705)

SECTION 3-104: DISCHARGE OF FIREARMS

It shall be unlawful for any person, except an officer of the law in the discharge of his/her official duty, to fire or discharge any gun, pistol, or other fowling piece within the City; provided, nothing herein shall be construed to apply to officially sanctioned public celebrations if the persons so discharging firearms have written permission from the City Council. (Neb. Rev. Stat. §17-556)

SECTION 3-105: DISCHARGE OF SLINGSHOTS, AIR GUNS, BB GUNS

It shall be unlawful for any person to discharge a slingshot, air gun, BB gun, or the like loaded with rock or other dangerous missiles at any time or under any circumstances within the City. (Neb. Rev. Stat. §17-556)

SECTION 3-106: APPLIANCES IN YARD

It shall be unlawful for any person to permit a refrigerator, icebox, freezer, or any other dangerous appliance to be in the open and accessible to children whether on private or public property unless he/she shall first remove all doors and make the same reasonably safe. (Neb. Rev. Stat. §18-1720, 28-1321)

SECTION 3-107: INJURY TO TREES

It shall be unlawful for any person to purposely or carelessly, and without lawful au-

thority, cut down, carry away, injure, break down, or destroy any fruit, ornamental, shade or other tree or trees standing or growing on any land belonging to another person or persons or on any public land in the corporate limits. Any public service company desiring to trim or cut down any tree, except on property owned and controlled by it, shall make an application to the City Council to do so, and the written permit of the Council in accordance with its decision to allow such an action shall constitute the only lawful authority on the part of the company to do so. (Neb. Rev. Stat. §17-555, 18-806, 28-519)

SECTION 3-108: DEAD OR DISEASED TREES; NUISANCE

A. It is hereby declared a nuisance for a property owner to permit, allow, or maintain any dead or diseased trees within the right-of-way of streets within the corporate limits of the City.

B. It is hereby declared a nuisance for a property owner to permit, allow, or maintain any dead or diseased trees on private property within the corporate limits of the City. For the purpose of carrying out the provisions of this section, the city police shall have the authority to enter upon private property to inspect the trees thereon.

C. Notice to abate and remove such nuisance and notice of the right to a hearing and the manner in which it may be requested shall be given to each owner or owner's duly authorized agent and to the occupant, if any, by personal service or certified mail. Within 30 days after the receipt of such notice, if the owner or occupant of the lot of ground does not request a hearing or fails to comply with the order to abate and remove the nuisance, the City may have such work done and may levy and assess all or any portion of the costs and expenses of the work upon the lot or piece of ground so benefited in the same manner as other special taxes for improvement are levied or assessed.

(Neb. Rev. Stat. §17-555, 18-1720, 28-1321) (Ord. No. 966, 3/28/95)

SECTION 3-109: RADIO INTERFERENCE

Any person operating, or causing to be operated, any motor, sign, or other electrical apparatus that is connected with the light and power system shall equip the apparatus with proper filtering attachments to eliminate interference; provided, the provisions herein shall not apply to the use of necessary medical equipment or apparatus where electrical interference cannot be reasonably and safely eliminated. Any person who so operates or causes to be operated any such electrical apparatus that interferes habitually with radio and television reception shall be deemed to be guilty of a misdemeanor. (Neb. Rev. Stat. §18-1720, 28-1321)

SECTION 3-110: EXCESSIVE NOISE; NUISANCE

It shall be unlawful for any person within the City to operate any radio, tape player, compact disc player, stereophonic sound system or similar device which reproduces or amplifies radio broadcasts or musical recordings in or upon any street, alley, or

other public place in such a manner as to be audible to any person at any point or place more than 75 feet from the source. The prohibition set forth herein shall not apply to such activity:

A. When conducted in connection with an activity or event sponsored by a school, church, or governmental entity;

B. When conducted in connection with an activity open to the public such as a carnival, circus or athletic event; and

C. If a permit for same has been issued by the City Council, or its designee, which permit may include such conditions as the Council, or its designee, shall deem necessary and appropriate; provided, however, such conditions shall be reasonably related to preserving the public peace and shall not infringe upon the applicant's right to free speech.

(Neb. Rev. Stat. §18-1720) (Ord. No. 1118, 9/28/99)

SECTION 3-111: RAISING OR PRODUCING STAGNANT WATER

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

SECTION 3-112: LITTERING

A. Any person who deposits, throws, discards, or otherwise disposes of any litter on any public or private property, or in any waters, commits the offense of littering unless (1) such property is an area designated by law for the disposal of such material and such person is authorized by the proper public authority to so use such property; or (2) the litter is placed in a receptacle or container installed on such property for such purpose.

B. The word "litter" as used in this section means all waste material susceptible of being dropped, deposited, discarded or otherwise disposed of by any person upon any property but does not include wastes of primary processes of farming or manufacturing. "Waste material" as used in this section shall mean any material appearing in a place or in a context not associates with that material's function or origin.

C. Whenever litter is thrown, deposited, dropped or dumped from any motor vehicle or watercraft in violation of this section, the operator of such motor vehicle or water craft commits the offense of littering.

(Neb. Rev. Stat. §28-523) (Ord. No. 968, 3/28/95)

SECTION 3-113: 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. (Neb. Rev. Stat. §17-140)

SECTION 3-114: 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. (Neb. Rev. Stat. §17-142, 17-555, 17-557, 39-703, 39-704)

SECTION 3-115: 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. (Neb. Rev. Stat. §17-555, 17-970)

SECTION 3-116: UNLAWFUL ASSEMBLY

A person is guilty of unlawful assembly if he/she assembles with two or more persons for the purpose of engaging in conduct constituting the crime of riot or if, being present at any assembly that either has or develops such a purpose, he/she remains there with an intent to advance that purpose. Any person convicted of unlawful assembly shall be deemed guilty of a misdemeanor. (Neb. Rev. Stat. §17-124, 28-202 et seq.) (Ord. No. 900, 12/11/90)

SECTION 3-117: RIOTOUS ASSEMBLY

If three or more persons shall assemble together with intent to do any unlawful act, with force and violence, against the person or property of another, or to do any unlawful act against the peace or, being lawfully assembled, shall agree with each other to do any unlawful act as aforesaid, and shall make any movement or preparation therefor, the persons so offending shall be deemed guilty of a misdemeanor. (Neb. Rev. Stat. §17-124) (Ord. No. 900, 12/11/90)

SECTION 3-118: DISORDERLY CONDUCT

A. *Definitions.* For the purpose of this section, the following words and phrases shall have the following meanings:

“Public place” shall mean any public place to which the general public has access and a right to remain for business, entertainment or other lawful purposes, but is not limited to a place devoted solely to the uses of the public. It shall include any portion of the area of any store, shop, restaurant, tavern or other place of business which satisfies the definition set forth above. It shall also include property owned by the state, county or other political subdivision, or public streets, alleys, parking lots, public and private rights of way, public grounds, areas or parks.

“Riot” shall mean a public disturbance involving (1) an act or acts of violence

by one or more person, which act or acts shall constitute a clear and present danger or shall result in damage or injury to the property owner; or (2) a threat or threats of the commission of an act or acts of violence by one or more persons who are part of an assemblage or three or more persons having, individually or collectively, the ability of immediate execution of such threat or threats, where the performance of the threatened act or acts would constitute a clear and present danger of or would result in damage or injury to property of person of anyone.

“Incite a riot” shall mean, but is not limited to, urging or instigating other persons to riot, but shall not be deemed to mean the mere oral or written advocacy or ideas or the expression of beliefs, not involving advocacy or any act or acts of violence or assertion of the right to commit any such act or acts.

B. *Disorderly conduct prohibited.* A person shall be guilty of disorderly conduct if, with the purpose of causing public danger, alarm, disorder or nuisance, he/she willfully does any one of the following acts:

1. Commits an act in a violent or tumultuous manner toward another whereby the other is placed in danger of physical harm to life, limb or health.
2. Commits an act in a violent or tumultuous manner toward another whereby the property of any person is placed in danger of being destroyed or damaged.
3. Causes, provokes or engages in any fight, brawl or riotous conduct so as to endanger the life limb, health or property of another.
4. Obstructs, either singly or together with other person, the flow of vehicular or pedestrian traffic or refuses to clear such public way when ordered to do so by the city police or other lawful authority known to be such.
5. Incites or is directly involved in attempting to incite a riot.
6. Addresses abusive language or threats to any member of the Police Department, any authorized official of the City who is engaged in the lawful performance of his/her duties, or any other person when such language or threats would cause a reasonable person to believe that the person using such language or threats desires or intends to cause acts of violence, either toward the police officer or other authorized official or the other person. Words merely causing displeasure, annoyance or resentment are not prohibited.
7. Makes or causes to be made any loud, boisterous or unreasonable noise or disturbance nearby, or near to, in or upon any public highway,

road, street, lane, alley, park, square, common, or public place, whereby the public peace is broken or disturbed or the traveling public is annoyed.

8. Fails to obey a lawful order to disperse by a police officer, when known to be such official, where one or more persons are committing acts of disorderly conduct in the immediate vicinity or the public health and safety is imminently threatened.
9. Exposes his/her genitals in a public place or on private premises, and under circumstances in which he/she knows or reasonably should know that the exposed genital or genitals may readily be observed from either a public place or other private premises; provided, however, this prohibition shall not apply in a public or private restroom.
10. Urinates or defecates in a public place or on private premises open to or visible to the public; provided, this prohibition shall not apply to urinating or defecating in any restroom facility in a manner for which the facility was designed.
11. Shines or directs a laser light beam on any member of the Police Department, any authorized official of the City who is engaged in the lawful performance of his/her duties, or any other person.

C. *Exemptions.* This section shall not be construed to suppress the right to lawful assembly, picketing, public speaking or other lawful means of expressing public opinion not in contravention of other laws.
(Neb. Rev. Stat. §17-124, 17-129) (Ord. No. 900, 12/11/90; 1119, 10/12/99)

SECTION 3-119: 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 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 telephoning the person.
(Neb. Rev. Stat. §28-311.02, 28-311.03) (Ord. No. 943, 6/14/94)

SECTION 3-120: TRESPASSING AND LOITERING

It shall be unlawful for any person to trespass upon any private grounds within the

City; to break, cut or injure any tree, shrub, plant, flower or grass growing thereon; or without the consent of the owner or occupant to enter upon an improved lot or grounds occupied for residence purposes and to loiter about the same. (Neb. Rev. Stat. §28-520, 28-521)

SECTION 3-121: 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 3-122: AGGRESSIVE SOLICITATION

It shall be unlawful for any person on public property to make any physical contact or be verbally abusive with any person being solicited for the purchase of any product or for the purpose of persuading such person to sign any petition, paper or other document.

Article 2 – Dogs and Cats

SECTION 3-201: OWNER DEFINED

Any person who shall harbor or permit any dog to be present for ten days or more in or about his or her house, store, or enclosure, or to remain to be fed, shall be deemed the owner and possessor of such dog and shall be deemed to be liable for all penalties herein prescribed. (Neb. Rev. Stat. §54-606, 71-4401)

SECTION 3-202: LIABILITY OF OWNER

A. It shall be unlawful for any person to allow a dog owned, kept, or harbored by him/her, or under his/her charge or control, to injure or destroy any real or personal property of any description belonging to another person. The owner or possessor of any such dog, in addition to the usual judgment upon conviction, shall be liable to the persons so injured in an amount equal to the value of the damage so sustained. (Neb. Rev. Stat. §54-601, 54-602)

B. Excreta from any dog shall be declared a nuisance. The owner of a dog shall immediately remove from public or private property any excrement from such dog. If any part of a public street, public park, or private property of a person other than the owner of the animal shall be soiled by the excreta of that animal, whether such nuisance shall take place in the presence of the owner or not, the owner shall, upon becoming aware thereof, promptly remove such excreta and dispose of it in a sanitary manner. (Neb. Rev. Stat. §18-1720)

C. Any person who shall violate or refuse to comply with the enforcement of any of the provisions of this article, set forth at full length herein or incorporated by reference, shall be cited and fined as follows:

1. Dog at large – first offense, \$15.00
2. Dog at large – second offense, \$30.00
3. Dog at large – third and each subsequent offense, \$40.00 plus \$10.00 for each subsequent offense.
4. Maintaining a nuisance/dog excreta – first offense, \$15.00
5. Maintaining a nuisance/dog excreta – second offense, \$30.00
6. Maintaining a nuisance/dog excreta – third and each subsequent offense, \$40.00 plus \$10.00 for each subsequent offense.
7. Maintaining a nuisance/dog restraint – first offense, \$15.00
8. Maintaining a nuisance/dog restraint – second offense, \$30.00
9. Maintaining a nuisance/dog restraint – third and each subsequent offense, \$40.00 plus \$10.00 for each subsequent offense.

(Neb. Rev. Stat. §18-1720) (Ord. No. 1131, 3/28/00)

SECTION 3-203: LICENSE REQUIRED

Any person who shall own, keep, or harbor a dog over the age of six months within

the City shall, within 30 days after acquiring the said dog, obtain a license for each such dog annually by or before January 1 of each year. Licenses shall be issued by the city clerk and there shall be no fee for any such license. Said license shall not be transferable in case of death, sale, or other disposition of the licensed dog. The owner shall state at the time the application is made and upon printed forms provided for such purpose, his/her name and address and the name, breed, color, and sex of each dog owned and kept by him/her. A certificate that the dog has had a rabies shot, effective for the ensuing year of the license, shall be presented when the license is applied for and no license or tag shall be issued until such certificate is shown. (Neb. Rev. Stat. §17-526, 54-603, 71-4412) (Ord. No. 1069, 5/12/98)

SECTION 3-204: LICENSE TAGS

A. Upon receiving a completed license application, the city clerk shall issue to the dog owner a license certificate and a metallic tag for each dog so licensed. The metallic tag shall be properly attached to the collar or harness of any dog so licensed and shall entitle the owner to keep or harbor the said dog until December 31 following such licensing. In the event that a license tag is lost and upon satisfactory evidence that the original tag was issued in accordance with the provisions herein, the clerk shall issue a duplicate or new tag for the balance of the year for which the license has been issued. It shall be the duty of the clerk to issue tags of a suitable design that are different in appearance each year.

B. It shall be unlawful for any person to remove or cause to be removed the collar, harness, or metallic tag from any licensed dog without the consent of the owner, keeper, or possessor thereof.

(Neb. Rev. Stat. §17-526, 54-603) (Ord. No. 1069, 5/12/98)

SECTION 3-205: WRONGFUL LICENSING

It shall be unlawful for the owner, keeper, or harbinger of any dog to permit or allow such dog to wear any license, metallic tag or other identification than that issued by the city clerk for dogs, nor shall the owner, keeper, or harbinger wrongfully and knowingly license a non-spayed female dog with a license prescribed for a male or spayed female dog. (Neb. Rev. Stat. §17-526, 54-603)

SECTION 3-206: UNCOLLARED DOGS

All dogs found running at large upon the streets and public grounds of the City without a collar or harness are hereby declared a public nuisance. Uncollared dogs found running at large shall be killed or impounded in the dog shelter by the city police. The City shall acquire legal title to any uncollared dog impounded in the dog shelter for a period longer than the required waiting period after giving notice. All dogs shall be destroyed and buried in the summary and humane manner as prescribed by the City Council unless a suitable home can be found for such dog. (Neb. Rev. Stat. §54-605, 17-548, 71-4408) (Ord. No. 1069, 5/12/98)

SECTION 3-207: ANIMAL WASTE ON PUBLIC PROPERTY

It shall be unlawful for any person who owns or is in control of any domesticated animal to place or cause to be placed or to allow any such animal waste to remain or be deposited on any municipal property. If any such animal waste is deposited on any municipal property, it shall be the duty of the person who owns or is in control of said domesticated animal to remove said animal waste from the municipal property as soon as possible. Any person who violates this ordinance shall be subject to a fine not to exceed \$25.00 per occurrence. (Ord. No. 1218, 6/10/10)

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SECTION 3-208: RUNNING AT LARGE; FINE

A. It shall be unlawful for the owner of any dog to allow such dog to run at large at any time within the corporate limits of the City. It shall be unlawful to take any dog into or to keep any dog in or upon any public park unless such dog is continuously kept from running at large. It shall be the duty of the city police to cause any dog found to be running at large within the City to be taken up and impounded.

B. A dog found to be "running at large" shall mean any dog found off the premises of the owner and not under control of the owner or a responsible person, either by leash, cord, chain, wire, rope, cage or other suitable means of physical restraint. Any such dog not under physical restraint as specifically defined herein shall be declared a nuisance whether the dog is under the direct supervision of the owner or not. It shall be the duty of the city police to cause any dog found to be not under physical restraint off the premises of the owner to cite such owner, or the person in charge or control of said animal, for said nuisance.

(Neb. Rev. Stat. §18-1720 and 17-547) (Ord. No. 1131, 3/28/00)

SECTION 3-209: KILLING AND POISONING

It shall be unlawful to kill, or to administer or cause to be administered, poison of any sort to a dog or in any manner to injure, maim, destroy, or in any manner attempt to injure, maim, or destroy any dog that is the property of another person, or to place any poison or poisoned food where it is accessible to a dog. This section shall not apply to city police acting within their power and duty. (Neb. Rev. Stat. §28-1002)

SECTION 3-210: BARKING AND OFFENSIVE DOGS

It shall be unlawful for any person to own, keep, or harbor any dog which by loud, continued, or frequent barking, howling, or yelping shall annoy or disturb any neighborhood, or person, or which habitually barks at or chases pedestrians, drivers, or owners of horses or vehicles while they are on any public sidewalks, streets, or alleys in the City. Upon the written complaint of one or more affected persons from different households, filed with the city clerk, that any dog owned by the person named in the complaint is an annoyance or disturbance or otherwise violates the provisions of this section the city police shall investigate the complaint and, if in their opinion the situation warrants, shall notify the owner to silence and restrain such dog. Any subsequent offense shall be considered a violation of this municipal code, and the owner may be issued a citation to appear in court, and if found guilty, shall pay a \$25.00 fine for the first offense and an additional cumulative \$25 for each subsequent offense. The provisions of this section shall not be construed to apply to the dog shelter. (Neb. Rev. Stat. §17-526) (Ord. No. 1069, 5/12/98)

SECTION 3-211: FEMALE IN SEASON

It is hereby declared unlawful for the owner, keeper, or harbinger of a female dog to permit her to run at large within the City while in season. Any such female dog found running at large in violation of this section shall be declared to be a public nuisance and as such may be impounded or killed according to the provisions herein. (Neb. Rev. Stat. §17-526)

SECTION 3-212: CAPTURE IMPOSSIBLE

The city police shall have the authority to kill any animals showing vicious tendencies, or characteristics of rabies which make capture impossible because of the danger involved. (Neb. Rev. Stat. §54-605)

SECTION 3-213: VICIOUS DOGS

It shall be unlawful for any person to own, keep, or harbor any dog of a dangerous or ferocious disposition that habitually snaps or manifests a disposition to bite, without the said dog being securely held by a chain. If any vicious or dangerous dog is allowed to run at large, the city police shall have the authority to put the dog to death. Upon the written complaint of one or more affected persons from different households, filed with the city clerk's office or the city police, that any dog owned by the person named in the complaint is committing injury to persons or property, or is an annoyance, dangerous, offensive or unhealthy, the city police shall investigate the complaint and, if in their opinion the situation warrants, shall notify the owner to restrain such dog from running at large and to keep such dog upon the premises of the owner, even though the license has been issued. (Neb. Rev. Stat. §54-624) (Ord. No. 1069, 5/12/98)

SECTION 3-214: IMPOUNDING

A. It shall be the duty of the city police to capture, secure, and remove in a humane manner to the city animal shelter any dog violating any of the provisions of this article. The dogs so impounded shall be treated in a humane manner and shall be provided with a sufficient supply of food and fresh water each day. Each impounded dog shall be kept and maintained at the pound for a period of not less than five days after public notice has been given, unless reclaimed earlier by the owner. Notice of impoundment of all animals, including any significant marks or identifications, shall be posted at the office of the city clerk within 24 hours after impoundment as public notification of such impoundment.

B. Any dog may be reclaimed by its owner during the period of impoundment by payment of a general impoundment fee and daily board fee as set by resolution of the City Council and on file in the office of the city clerk. The impound fee and running at large fine shall be payable to the City, and the boarding fee shall be paid to the kennel, if it is not city-operated. The kennel operator is hereby authorized and liable to collect all fees and fines incurred for each dog impounded. The owner shall

then be required to comply with the licensing and rabies vaccination requirements before the dog is released. If the dog is not claimed at the end of required waiting period after public notice has been given, the city police may dispose of the dog in accordance with the applicable rules and regulations pertaining to the same; provided that, in the judgment of the city police, a suitable home cannot be found for any such dog. If a suitable home can be found, the said dog shall be turned over to that person and the new owner shall then be required to pay an "adoption" fee equal to the amount of boarding incurred in lieu of all fees incurred and meet all licensing and vaccinating requirements provided in this article. The City shall acquire legal title to an unlicensed dog impounded in the animal shelter for a period longer than the required waiting period after giving notice. All dogs shall be destroyed and buried in the summary and humane manner as prescribed by the Board of Health unless suitable homes can be found for them. The cost of disposal of a dog that is destroyed will be charged to the owner as defined in Section 3-201 herein and in Neb. Rev. Stat. §54-606, if known.

(Neb. Rev. Stat. §17-548, 71-4408) (Ord. No. 1069, 5/12/98)

SECTION 3-215: ANIMAL SHELTER

The animal shelter shall be safe, suitable, and conveniently located for the impounding, keeping, and destruction of dogs. The said shelter shall be sanitary, ventilated, and lighted. (Neb. Rev. Stat. §17-548)

SECTION 3-216: INTERFERENCE WITH POLICE

It shall be unlawful for any person to hinder, delay, or interfere with any city police officer who is performing any duty enjoined upon him/her by the provisions of this article, or to break open, or in any manner directly or indirectly aid, counsel, or advise the breaking open of the animal shelter, or any vehicle used for the collecting or conveying of dogs to the shelter. (Neb. Rev. Stat. §28-906) (Ord. No. 1069, 5/12/98)

SECTION 3-217: PIT BULL PROHIBITION AND REGULATION

A. Definitions.

1. "Owner," for purposes of this chapter, is defined as any person who owns, possesses, keeps, exercises control over, maintains, harbors, transports or sells a pit bull dog.
2. "Pit bull dog" shall mean:
 - a. The bull terrier breed of dogs;
 - b. The Staffordshire bull terrier breed of dogs;
 - c. The American pit bull terrier breed of dogs;
 - d. The American Staffordshire terrier breed of dogs;
 - e. Any dog which has the appearance and characteristics of being predominantly of the breeds of bull terrier, Staffordshire bull terrier,

American pit bull terrier, American Staffordshire terrier, or any other breed commonly known as pit bulls, pit bull dogs or pit bull terriers, or a combination of any of these breeds.

B. *Pit bull dog ownership prohibited.* Subject to the following provisions pertaining to present ownership rights, it is hereby determined to be a nuisance and unlawful for any person to acquire by any means and thereafter own, keep, harbor, or in any way possess a pit bull dog within the jurisdiction of the City.

C. *Restrictions on current ownership or possession of pit bull dogs.* Any person who shall have owned, kept, harbored, or in any way possessed a pit bull dog within the jurisdiction of the City prior to November 1, 2008, shall be required to properly register the said pit bull dog with the City, and such person shall be subject to and abide by the requirements of this article while such pit bull dog remains within the jurisdiction of the City. Any such owner, keeper, harbinger, or possessor of a pit bull dog within the City shall comply with the following standards and requirements:

1. *Leash and muzzle.* No person shall permit a registered pit bull dog to go outside its kennel or pen unless such dog is securely leashed with a leash no longer than six feet in length. No person shall permit a pit bull dog to be kept on a chain, rope, or other type of leash outside its kennel or pen unless a person is in physical control of the said chain, rope or leash. Such dog shall not be leashed to inanimate objects such as trees, posts buildings, etc. All pit bull dogs on a tether outside the animal's kennel must be muzzled by a muzzling device sufficient to prevent such dog from biting persons or other animals.
2. *Confinement.* Every registered pit bull dog shall be securely confined indoors or in a securely enclosed and locked pen or kennel, except when leashed and muzzled as provided herein. Such pen, kennel, or structure must have (a) secure sides and a secure top attached to the sides; (b) a secure bottom or floor attached to the sides of the pen, or the sides of the pen must be embedded in the ground no less than two feet. Each structure used to confine a registered pit bull dog must be locked with a key or a combination lock when such animal is inside. All structures that are erected to house pit bull dogs must comply with all zoning and building regulations of the City. All such structures must be adequately lighted and ventilated and kept in a clean and sanitary condition.
3. *Confinement indoors.* No pit bull dog may be kept on a porch, patio, or in any part of a house or structure that would allow the dog to exit such building of its own volition. In addition, no animal may be kept in a house or structure when the windows are open or when screen windows or screen doors are the only obstacle preventing the dog from exiting the structure.

4. *Signs.* All owners of registered pit bull dogs within the City shall display in a prominent place on their premises a sign easily readable by the public using the words "Beware of Dog – Pit Bull." In addition, a similar sign shall be posted on the kennel or pen of such animal.
5. *Insurance.* All owners of registered pit bull dogs shall provide proof to the City of possession of liability insurance in a single-incident amount of \$500,000.00 for bodily injury or death of any person or persons or for damage to property owned by any person which may result from the ownership of such animal. Such insurance policy shall provide that no cancellation of the written policy may be made unless ten days' written notice is first given to the City.
6. *Identification photograph.* Every owner of a registered pit bull dog shall provide to the City two color photographs of the registered animal in two different poses, showing its color and approximate size.
7. *Reporting and disposal requirements.* Every owner of a registered pit bull dog shall, within ten days of any of the following incidents, report in writing to the City as follows: removal of dog from the City; death of said dog; birth of offspring, and thereafter the offspring shall be disposed of or removed from the jurisdiction of the City within 45 days of their birth; new address if owner moves within the City.
8. *Sale or transfer of ownership prohibited.* No person shall sell, barter, or in any other way dispose of a pit bull dog registered with the City to any other person, provided that the owner of the registered pit bull dog may sell or otherwise dispose of it or its offspring to persons who do not reside within the City and do not permit such pit bull dog or offspring to be kept within the jurisdiction of the City.

SECTION 3-218: DANGEROUS DOGS; DEFINITIONS

"Animal control authority" shall mean the City Council of the City of Tekamah.

"Animal control officer" shall mean any individual employed, appointed, or authorized by an animal control authority 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 or other employee whose duties in whole or in part include assignments that involve the seizure and impoundment of any animal.

"Dangerous dog" shall mean any dog that:

- A. Has killed or inflicted injury on a human being on public or private property;

B. Has killed a domestic animal without provocation while the dog was off the owner's property; or

C. Has been previously determined to be a dangerous dog by the animal control officer or Tekamah police officer and the owner has received notice of such determination. A dog shall not be defined as a dangerous dog if the threat, any injury that does not result in medical attention, or the damage was sustained by a person who, at the time, was committing a willful trespass as defined in Neb. Rev. Stat. §20-203, 28-520, or 28-521 or any other tort upon the property of the owner of the dog, who was tormenting, abusing, or assaulting the dog, who has, in the past, been observed or reported to have tormented, abused, or assaulted the dog, or who was committing or attempting to commit a crime.

“Domestic animal” shall mean a cat, a dog, or livestock.

“Owner” shall mean any person, firm, corporation, organization, political subdivision, or department possessing, harboring, keeping, or having control or custody of a dog.

“Injury” shall mean any physical injury that results in broken or bruised skin, disfiguring lacerations requiring sutures or cosmetic surgery or one or more broken bones or that creates a potential danger to life or health or the victim.

(Neb. Rev. Stat. §54-617) (Ord. No. 890, 1/9/90)

SECTION 3-219: DANGEROUS DOGS; RESTRAINED

No owner of a dangerous dog shall permit the dog to go beyond the property of the owner unless the animal is restrained securely by a chain or leash. (Neb. Rev. Stat. §54-618) (Ord. No. 890, 1/9/90)

SECTION 3-220: DANGEROUS DOGS; CONFINED

While unattended on the owner's property, a dangerous dog shall be securely confined in a humane manner indoors or in a securely enclosed and locked pen or structure suitably designed to prevent the entry of young children and to prevent the dog from escaping. If the pen or structure has no bottom secured to the sides, then the sides shall be embedded into the ground. The pen or structure shall also protect the dog from the elements. The owner of a dangerous dog shall post a warning sign on the property where the dog is kept that is clearly visible and that informs persons that a dangerous dog is on the property. (Neb. Rev. Stat. §54-619) (Ord. No. 890, 1/9/90)

SECTION 3-221: DANGEROUS DOGS; FAILURE TO COMPLY

A. Any dangerous dog may be immediately confiscated by an animal control officer if the owner is in violation of this article. The owner shall be responsible for the reasonable costs incurred by the animal control authority for the care of a dangerous dog confiscated by an animal control officer or for the destruction of any dangerous

dog if the action by the animal control authority is pursuant to and if the owner violated this article.

B. In addition to any other penalty, a court may order the animal control authority to dispose of a dangerous dog in an expeditious and humane manner. (Neb. Rev. Stat. §54-620) (Ord. No. 890, 1/9/90)

SECTION 3-222: DANGEROUS DOGS; ADDITIONAL REGULATIONS

Nothing in this article shall be construed to restrict or prohibit the City Council from establishing and enforcing laws or ordinances at least as stringent as the provisions of this article. (Neb. Rev. Stat. §54-624) (Ord. No. 890, 1/9/90)

SECTION 3-223: DOGS AND CATS; RABIES VACCINATION

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

SECTION 3-224: RABIES; PROCLAMATION

It shall be the duty of the City Council, whenever in its opinion the danger to the public safety from rabid dogs is great or imminent, to issue a proclamation ordering all persons owning, keeping, or harboring any dog to muzzle the same, or to confine it for a period of not less than 30 days or more than 90 days from the date of such proclamation, or until such danger is passed. The dog 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 issuing the proclamation it shall be the duty of all persons owning, keeping, or harboring any dog to confine the same as herein provided. (Neb. Rev. Stat. §17-526)

SECTION 3-225: RABIES SUSPECTED

Any dog suspected of being afflicted with rabies or any dog not vaccinated in accordance with the provisions of this article which has bitten any person and caused an abrasion of the skin shall be seized and impounded under the supervision of the Board of Health for a period of not less than ten days. If upon examination by a veterinarian the dog has no clinical signs of rabies at the end of such impoundment, it may be released to the owner or, in the case of an unlicensed dog, it shall be disposed of in accordance with the provisions herein. If the owner of the said dog has proof of

vaccination, it shall be confined by the owner or some other responsible person for a period of at least ten days, at which time the dog shall be examined by a licensed veterinarian. If no signs of rabies are observed, the dog may be released from confinement. (Neb. Rev. Stat. §71-4406)

Article 3 – Kennels

SECTION 3-301: LICENSE REQUIRED

Any person who shall own, keep, or harbor three or more dogs over the age of six months within the City shall within 30 days after acquisition of the said dogs acquire a license for kenneling such dogs annually by or before the first day of January of each year. Kennel licenses shall be issued by the city clerk. There shall be a \$25.00 fee for such license. Said kennel license shall not be transferable. Each dog harbored within the kennel shall be individually licensed. 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, sex, and city tag number of each dog owned and kept by him/her. A certificate that the dog has had a rabies shot, effective for the ensuing year of the license, shall be presented when the license is applied for and no license or tag shall be issued until the certificate is shown. The owner of such kennel shall have available upon request the name, breed, color, sex, and city tag number of each dog owned and kept by him/her at any given time. No kennel license shall be issued in a residential district. (Neb. Rev. Stat. §17-526, 54-603, 71-4412) (Ord. No. 1069, 5/12/98)

SECTION 3-302: UNLICENSED; NUISANCE

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 therefor.

SECTION 3-303: 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.

SECTION 3-304: PENALTY

Any person who shall violate the terms of this chapter shall be guilty of a misdemeanor and shall be fined in the sum of not more than \$500.00 per violation. A new violation shall be deemed to have been committed every 24 hours of such failure to comply. (Neb. Rev. Stat. §17-526, 54-603, 71-4412) (Ord. No. 1069, 5/12/98)

Article 4 – Animals Generally

SECTION 3-401: RUNNING AT LARGE

It shall be unlawful for the owner, keeper, or harbinger of any animal, or any person having the charge, custody, or control thereof, to permit a horse, mule, cow, sheep, goat, swine, or other animal to be driven or run at large on any of the public ways and property, or upon the property of another, or to be tethered or staked out in such a manner so as to allow such animal to reach or pass into any public way. The fine for an animal running at large shall hereby be set at \$25.00 for each animal for the first offense and an additional and cumulative \$25.00 for each subsequent offense for each animal. (Neb. Rev. Stat. §17-526, 17-547) (Ord. No. 1069, 5/12/98)

SECTION 3-402: BANNED FROM CITY

It shall be unlawful for any person to keep or maintain within the corporate limits any horse, mule, sheep, cow, goat, swine or other livestock or poultry. (Neb. Rev. Stat. §17-123, 17-526) (Ord. No. 1069, 5/12/98)

SECTION 3-403: WILD ANIMALS

No wild animals may be kept within the corporate limits except such animals kept for exhibition purposes by circuses and educational institutions. (Neb. Rev. Stat. §17-123)

SECTION 3-404: ABANDONMENT, NEGLIGENCE, AND CRUELTY; DEFINITIONS

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

“Animal” shall mean any vertebrate member of the animal kingdom except man. The term shall not include a non-captured wild creature.

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

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

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

“Law enforcement officer” shall mean any member of the Nebraska State Patrol, any county or deputy sheriff, any police officer of any city, or any other public official authorized to enforce state or local animal control laws, rules, or regulations. (Neb. Rev. Stat. §28-1008) (Title Changed by Ord. No. 906, 2/26/91)

SECTION 3-405: ABANDONMENT, NEGLECT, AND CRUELTY; LAW ENFORCEMENT OFFICER; POWERS; IMMUNITY

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

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

C. Any law enforcement officer acting under this section shall not be liable for damage to property if such damage is not the result of the officer's negligence. (Neb. Rev. Stat. §28-1012) (Title Changed by Ord. No. 906, 2/26/91)

SECTION 3-406: ABANDONMENT, NEGLECT, AND CRUELTY; PENALTY

A person commits cruelty to animals if he/she abandons, cruelly mistreats, or cruelly neglects an animal. The fine for animal abandonment, neglect and or cruelty shall be \$25.00 for the first offense for each animal and an additional and cumulative \$25.00 for each subsequent offense for each animal. A new violation shall be deemed to have been committed every 24 hours of such failure to comply with this article. (Neb. Rev. Stat. §28-1009) (Ord. No. 906, 2/26/91; 1069, 5/12/98)

SECTION 3-407: PITTING; DEFINITIONS

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

“Cockfighting” shall mean the pitting of a fowl against another fowl.

“Dog fighting” shall mean the pitting of a dog against another dog.

“Pitting” shall mean bringing animals together in combat. (Neb. Rev. Stat. §28-1004) (Ord. No. 907, 2/26/91)

SECTION 3-408: PITTING; PROHIBITED

A. No person shall knowingly promote, engage in, or be employed at dog-fighting, cockfighting, bearbaiting, or pitting an animal against another; nor shall any person (1) knowingly receive money for the admission of another person to a place kept for such purpose; (2) knowingly own, use, train, sell, or possess an animal for the purpose of animal pitting; nor (3) knowingly permit any act as described in this section to occur on any premises owned or controlled by him/her.

B. The fine for pitting an animal shall be \$25.00 for the first offense for each

animal and an additional and cumulative \$25.00 for each subsequent offense for each animal. A new violation shall be deemed to have been committed every 24 hours of such failure to comply with this article. (Neb. Rev. Stat. §28-1005) (Ord. No. 907, 2/26/91; 1069, 5/12/98)

SECTION 3-409: PITTING; SPECTATORS PROHIBITED

No person shall knowingly and willingly be present at and witness as a spectator dog-fighting, cockfighting, bearbaiting, or the pitting of an animal against another as prohibited in Section 3-408. (Neb. Rev. Stat. §28-1005) (Ord. No. 907, 2/26/91)

Article 5 – Feral Cat Regulations

SECTION 3-501: PROHIBITIONS

It is unlawful for any person to maintain a feral cat colony unless first registered with the City as a feral cat colony caregiver and the feral cat colony is a managed colony in which food, water, and shelter are provided in conjunction with the implementation of the Trap-Neuter-Return Program (TRN) as set forth below.

SECTION 3-502: TRAP-NEUTER-RETURN PROGRAM

The City of Tekamah, in order to encourage the stabilization of the feral cat population in the City, may implement the Trap-Neuter-Return (TNR) Program as follows:

- A. Live-trap any free-roaming cat in a humane manner
- B. Have the cat surgically altered, ear-notched (if feral), and vaccinated against rabies, and
- C. Return the cat to the colony caretaker, who will maintain the cat as part of the managed feral cat colony.

SECTION 3-503: FERAL CAT COLONY CAREGIVER

Any citizen may register with the City to become a licensed feral cat colony caregiver by:

- A. Providing the City with personal information concerning the applicant.
- B. Providing the City with information concerning the feral cat colony of which he/she is a caregiver.
- C. Agreeing to comply with the rules and regulations promulgated by the City for the care and regulation of such feral cat colony.
- D. Agreeing to comply with the Trap-Neuter-Return Program instituted by the City.
- E. In January of each year, providing to the City Council or designated official information concerning the feral cat colony for which the applicant is caring concerning the number, condition and location of such feral cat colony.

Article 6 – Nuisances

SECTION 3-601: DEFINITIONS

"Weeds, grasses or worthless vegetation" shall mean any weed or grass growth of more than 8 inches in height. Weeds shall include, but not be limited to, bindweed (*Convolvulus arvensis*), puncture vine (*Tribulus terrestris*), leafy spurge (*Euphorbia esula*), Canada thistle (*Cirsium arvense*), perennial peppergrass (*Lepidium draba*), Russian knapweed (*Centaurea picris*), Johnson grass (*Sorghum halepense*), nodding or musk thistle (*Carduus nutans*), quack grass (*Agropyron repens*), perennial sow thistle (*Sonchus arvensis*), horse nettle (*Solanum carolinense*), bull thistle (*Cirsium lanceolatum*), buckthorn (*Rhamnus* sp.) (Tourn), hemp plant (*Cannabis sativa*), and ragweed (*Ambrosiaceae*).

"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 except when used as ground mulch or in compost pile;
- D. Offal and dead animals;
- E. Any machine or machines, vehicle or vehicles, or parts of a machine or vehicle which have lost their identity, character, utility, or serviceability as such through deterioration, dismantling, or the ravages of time, are inoperative or unable to perform their intended functions, or are cast off, discarded, or thrown away or left as waste, wreckage, or junk.
- F. Any motor vehicle not housed in a storage or other building and not being currently licensed.
- G. Any wood not cut in lengths of less than 18 inches and not stacked in order on an area of less than 6 feet by 10 feet.
(Neb. Rev. Stat. §17-563) (Am. by Ord. No. 1266, 10/8/15)

SECTION 3-602: PUBLIC NUISANCE; LITTER, WEEDS, GRASSES, WORTHLESS VEGETATION;

It is hereby declared to be a public nuisance to permit the accumulation of litter or to permit weeds, grasses, or worthless vegetation to grow in excess of 8 inches on any property within the corporate limits of the City. (Neb. Rev. Stat. §17-563) (Am. by Ord. No. 1266, 10/8/15)

SECTION 3-603: NOTICE AND HEARING

The code enforcement officer shall give notice to abate and remove such nuisances to each owner or owner's duly authorized agent and to the occupant, if any. Such notice shall be given by certified mail or personal service and shall inform the owner and occupant that if such work is done by the City, the cost and expense of such work shall be charged to the owner of the property or that an action will be brought against such owner for collection of the cost of such abatement work. Within five days after receipt of such notice, the owner or occupant of the lot or piece of ground may request a hearing with the City Council to appeal the decision to abate or remove the nuisance by filing a written appeal with the office of the city clerk. A hearing on the appeal shall be held within 14 days after the filing of the appeal and shall be heard before the City Council. Upon conclusion of the hearing, the mayor shall issue a formal order setting forth the council's decision. If the appeal fails, the City may proceed to abate the nuisance. (Am. by Ord. No. 1266, 10/8/15)

SECTION 3-604: ABATEMENT

If no request for hearing is received as set forth above, the City may have such work done to abate the nuisance. The cost of such abatement shall be billed to the property owner and if the cost of such work is 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 3-605: FAILURE TO CORRECT; NOTICE

Whenever the code enforcement officer determines that any weeds, grasses, or worthless vegetation in excess of 8 inches are growing on property within the City, or litter is found on any property, then he or she shall cause written notice to be served upon the owner of the property on which such nuisance is located, and further, upon the occupant thereof, by certified mail or personal service. Such notice shall state that the premises have thereon litter or weeds, grasses, or worthless vegetation in excess of 8 inches, and that the same must be removed or remedied within five days after receipt of such notice. Such notice shall specify the corrective action to be taken. (Neb. Rev. Stat. §17-555) (Am. by Ord. No. 1266, 10/8/15)

SECTION 3-606: FAILURE TO CORRECT; FINE

In the event that the owner or occupant of said premises fails to correct and eliminate said nuisance pursuant to the notice to correct, he/she/they 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 five days' notice shall be a separate offense. In the event that the court determines a nuisance exists, the judge may order the nuisance abated or removed pursuant to law. (Neb. Rev. Stat. §17-123) (Am. by Ord. No. 1266, 10/8/15)

Article 7 – Curfew

SECTION 3-701: HOURS

It shall be unlawful for any minor under the age of 18 years to ride in or operate any vehicle in or upon any street, alley, or other public place, or to loiter, wander, stroll, loaf, or play in or upon any of the streets, alleys, or other public places between the hours of 11:00 P.M. of any day and 6:00 A.M. of the following day unless accompanied by a parent, guardian or other adult person having the care, custody or control of said minor, or the minor is engaged in lawful employment or is on an emergency errand; provided, when an activity of the kind normally attended by minors under 18 years terminates after, or less than one hour prior to 11:00 P.M., the curfew shall commence one hour after the termination of such activity. On Friday night the curfew hours shall commence at 12:30 A.M. Saturday morning and on Saturday night the curfew hours shall commence at 12:30 A.M. Sunday morning. (Neb. Rev. Stat. §17-505)

SECTION 3-702: 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 18 years to allow or permit said minor persons to do any of the acts or things prohibited by Section 3-701.

SECTION 3-703: ENFORCEMENT; POLICE AUTHORIZATION

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

SECTION 3-704: PENALTIES

Any violation of the foregoing provisions in reference to a curfew shall constitute a misdemeanor and shall be punishable by a warning for the first offense; a fine of \$50.00 for the second offense; and a third and any subsequent violation shall constitute a violation of Section 3-702 and a complaint shall be filed against the parents of said child for violation of such section.

Article 8 – Sex Offenders

(This article was adopted by Ord. No. 1188)

SECTION 3-801: DEFINITIONS

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

“Sex offender” shall be anyone defined in the Sex Offender Registration Act (Neb. Rev. Stat. §29-4001 to 29-4019, inclusive) or any amendments thereto, as of the effective date of this ordinance, or any person convicted under the law of another state, if at the time of the conviction under the law of such other state, the offense for which the person was convicted would have required registration under the Nebraska Sex Offender Registration Act, if the conviction occurred in Nebraska.

“Residence” shall mean a place where the person regularly sleeps, where the person has established his/her home, where he/she is habitually present, and to which when he/she departs he/she intends to return. A residence may include more than one location and may be mobile or transitory. Residency may be shown by, among other evidence, receipt of mail at the premises or identification of the premises as a residence on a driver's license, vehicle registration, or other document.

“Child care facility” means a place with a license issued under the Nebraska Child Care Licensing Act, Neb. Rev. Stat. §71-1908 to 71-1923, as currently existing or hereafter amended. It shall include licensed child care facilities both inside and outside of the corporate limits of the City.

SECTION 3-802: RESIDENCY PROHIBITIONS; PENALTIES; EXCEPTIONS

A. It is unlawful for any person who is subject to the Nebraska Sex Offender Registration Act, classified as Risk Level 3 and convicted of any offense subject to the Nebraska Sex Offender Registration Act in which the offender was an adult (at time of conviction) and the victim was a minor or child, or a Sex Offender Registration Act or similar requirement of any other state, to reside within 500 feet of the real property comprising of a public or nonpublic elementary or secondary school or child care facility.

B. For purposes of determining the minimum distance separation, the requirement shall be measured by following a straight line from the outer property line of the permanent residence or temporary residence to the nearest outer boundary line of a public or nonpublic elementary or secondary school or child care facility.

C. A person who violates this section shall be punished as provided generally in this code.

D. A person residing within 500 feet of any real property comprising of a public or nonpublic elementary or secondary school or licensed child care facility does not commit a violation of this section if any of the following apply:

1. The person's residence results from a requirement to serve a sentence at a jail, prison, juvenile facility, or resides in any other correctional institution or facility including a correctional or treatment facility operated by the state or any political subdivision.
2. The person is a minor or ward under a guardianship and resides with the guardian.
3. The person established such residence prior to the effective date of this ordinance.
4. The person's place of residence becomes a violation of this ordinance solely because of annexation into the City.
5. The public or nonpublic elementary or secondary school or child care facility within 500 feet of the person's permanent residence was established after the person's initial date of residence at that location.

(Neb. Rev. Stat. §29-4017)

SECTION 3-803: SEVERABILITY

If any provision of this ordinance or its application to any person or circumstances, shall be held invalid, the remainder of the ordinance, or the application of the provisions to other persons or circumstances, shall not be affected.

Article 9 – Penal Provision

SECTION 3-901: VIOLATION; PENALTY

A. Any person who shall violate or refuse to comply with the enforcement of any of the provisions of this chapter, shall be deemed guilty of an offense and upon conviction thereof shall be fined not more than \$500.00. A new violation shall be deemed to have been committed every 24 hours of such failure to comply.

B. Whenever it is established that a nuisance exists, the court shall order, in addition to the fine imposed, the defendant to take such action as necessary to abate the nuisance.

(Neb. Rev. Stat. §17-505, 18-1720, 18-1722)

CHAPTER 4 – VEHICLES AND TRAFFIC

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CHAPTER 4 – VEHICLES AND TRAFFIC
Article 1 – Definitions

SECTION 4-101: DEFINITIONS

The words and phrases used in this chapter pertaining to motor vehicles and traffic regulations shall be construed as defined in Neb. Rev. Stat. Chapter 39, as now existing or hereafter amended. If not defined in the designated statute, the word or phrase shall have its common meaning.

Article 2 – Traffic Regulations

SECTION 4-201: POLICE ENFORCEMENT

The city police are hereby authorized, empowered, and ordered to exercise all powers, and duties, with relation to the management of street traffic and to direct, control, stop, restrict, regulate, and, 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. (Neb. Rev. Stat. §60-683)

SECTION 4-202: 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 a police officer. (Neb. Rev. Stat. §60-680)

SECTION 4-203: TRAFFIC LANES; DESIGNATION

The City Council may, by resolution, mark lanes for traffic on street pavements at such places as it may deem advisable. (Neb. Rev. Stat. §60-680)

SECTION 4-204: ARTERIAL STREETS; DESIGNATION

The City Council may, by resolution, designate any street or portion thereof as an arterial street and shall provide for appropriate signs or markings when such street has been so designated. (Neb. Rev. Stat. §60-680)

SECTION 4-205: ARTERIAL STREETS; PREVIOUSLY DESIGNATED

The following portions of public streets within the City are hereby declared arterial streets:

- A. All that part of M Street east of its intersection with 13th Street.
- B. That part of P Street east of 13th Street to and including its intersection with 10th Street.
- C. That part of O Street west of its intersection with 13th Street to and including its intersection with 16th Street; the public street extending diagonally across Block 66 from the intersection of 16th Street and O Street to the intersection of 17th and P Streets; that part of P Street commencing with its intersection with 17th Street westward to the city limits.
- D. It shall be unlawful for the operator of a motor vehicle to drive his/her vehicle onto P Street from 14th Street without first bringing his/her vehicle to a complete stop as near the right-of-way line as possible before doing so.

SECTION 4-206: CROSSWALKS

The City Council may, by resolution, establish and maintain crosswalks, by appropriate devices, markers, or lines upon the street, at intersections where there is particular danger to pedestrians crossing the street and at such other places as may be deemed necessary. (Neb. Rev. Stat. §60-680)

SECTION 4-207: SIGNS; SIGNALS

The City Council may, by resolution, provide for the placing of stop signs or other signs, signals, standards, or mechanical devices in any street or alley under the City's jurisdiction for the purpose of regulating or prohibiting traffic thereon. Such resolution shall describe the portion of the street or alley wherein traffic is to be regulated or prohibited; the regulation or prohibition; the location where such sign, signal, standard or mechanical device shall be placed; and the hours when such regulation or prohibition shall be effective. It shall be unlawful for any person to fail, neglect, or refuse to comply with such regulation or prohibition. (Neb. Rev. Stat. §60-6,119 through 60-6,121, 60-680)

SECTION 4-208: STOP SIGNS

Every person operating any vehicle shall, upon approaching any stop sign erected in accordance with the resolution prescribed heretofore, cause such vehicle to come to a complete stop before entering or crossing any street, highway, or railroad crossing. The vehicle operator shall stop at a marked stop line, or, if there is no stop line, before entering the crosswalk; but if neither is indicated, then as near the right-of-way line of the intersecting roadway as possible. (Neb. Rev. Stat. §60-6,119 through 60-6,121, 60-680)

SECTION 4-209: SIGNS, TRAFFIC CONTROL DEVICES, TRAFFIC SURVEILLANCE DEVICES; DEFACING OR INTERFERING WITH

It shall be unlawful for any person to willfully or maliciously deface, injure, remove, obstruct, knock down or interfere with any official traffic sign or signal, traffic control device, or traffic control surveillance device. (Neb. Rev. Stat. §60-6,129, 60-6,130)

SECTION 4-210: 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. (Neb. Rev. Stat. §60-6,127)

SECTION 4-211: SPEED LIMITS

A. No person shall operate a motor vehicle on any street, alley, or other place at a rate of speed greater than 25 miles per hour within the residential district, and 20 miles per hour within the business district, unless a different rate of speed is specifically permitted by ordinance. In no instance shall a person drive a vehicle on a highway at a speed greater than is reasonable and prudent under the conditions. Where a different maximum speed is set by ordinance, appropriate signs shall be posted.

B. Speed limits on the following streets shall be as follows:

1. Posted by the State of Nebraska, that part of Highway No. 32 from the west city limits to the intersection with L Street.
2. Posted by the State of Nebraska, that part of 13th Street South of H Street and north of O Street.
3. Posted by the State of Nebraska, that part of Highway No. 32 on L Street to the intersection with 13th Street.
4. Posted by the State of Nebraska, that part of 13th Street between H Street and O Street, and that part of M Street east of 13th Street.
5. 15 miles per hour, that part of P, 9th and 10th Streets in or abutting the city park and swimming pool area.
6. 15 miles per hour on the north and south sides of Tekamah-Herman School.
7. 15 miles per hour on M Street from the center line of 13th Street and continuing west to a point one-half the distance between 15th Street and 16th Street.

(Neb. Rev. Stat. §60-6,186, 60-6.190) (Ord. No. 922, 5/7/92; 924, 7/14/92)

SECTION 4-212: TRUCK ROUTES

The City Council may, by resolution, designate certain streets in the City that trucks shall travel upon, and it shall be unlawful for persons operating such trucks to travel on other streets than those designated for trucks, unless to pick up or deliver goods, wares, or merchandise. In that event, the operator of such truck shall return to such truck routes as soon as possible in traveling through or about the City. The Council shall cause notices to be posted or shall erect signs indicating the streets so designated as truck routes. (Neb. Rev. Stat. §60-681)

SECTION 4-213: ONE-WAY TRAFFIC

The City Council may, by resolution, provide for one-way travel in any street, or alley

located in the City and shall provide for appropriate signs and markings when said streets have been so designated by resolution. (Neb. Rev. Stat. §60-680)

SECTION 4-214: SCHOOL CROSSING ZONES; DESIGNATION

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

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

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

(Neb. Rev. Stat. §60-658.01) (Ord. 1093, 8/11/98)

SECTION 4-215: SCHOOL CROSSING ZONES; OVERTAKING AND PASSING

A person operating a motor vehicle may not overtake and pass another vehicle in any school crossing zone designated by the City Council in which the roadway has only one lane of traffic in each direction. (Neb. Rev. Stat. §60-6,134.01) (Ord. No. 1094, 8/11/98)

SECTION 4-216: 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 the center line of the highway and in turning shall pass as near as possible to the center of the intersection, passing as closely as practicable to the right thereof before turning such vehicle to the left. For the purposes of this section, the center of the intersection shall mean the meeting point of the medial lines of the highways intersecting one another. (Neb. Rev. Stat. §60-6,159)

SECTION 4-217: 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/she shall give some other unmistakable signal to the driver of all other vehicles of his/her intention to make such movement. (Neb. Rev. Stat. §60-6,161)

SECTION 4-218: TURNING; U TURNS

No vehicle shall be turned so as to proceed in the opposite direction, except at a street intersection. No vehicle shall be turned so as to proceed in the opposite direction at any intersection where an automatic signal is in operation, or where a sign is posted indicating that U turns are prohibited. (Neb. Rev. Stat. §60-6,160, 60-680)

SECTION 4-219: RIGHT OF WAY; GENERALLY

A. When two vehicles approach or enter an intersection at approximately the same time, the driver of the vehicle on the left shall yield the right of way to the vehicle on the right when the paths of such vehicles intersect and there is danger of a collision, unless otherwise directed by a 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 entering a city street from a private road or drive shall yield the right of way to all vehicles approaching on such streets.

B. 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.

(Neb. Rev. Stat. §60-6,147)

SECTION 4-220: 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 unless 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 that said vehicles are operated on official business and the drivers thereof sound audible signal by bell, siren or whistle. (Neb. Rev. Stat. §60-655, 60-6,151)

SECTION 4-221: ENGINE BRAKING

The practice of engine braking within the corporate limits of the City or within one mile thereof is hereby prohibited unless the motor vehicle upon which said engine braking is being performed has an adequate muffler system to muffle the noise emitted from the motor vehicle when engine braking. (Neb. Rev. Stat. §18-1720) (Ord. No. 1011, 3/12/96; 1154, 3/27/01)

SECTION 4-222: CARELESS DRIVING

A. Any person who operates a vehicle within the city limits must, operate the vehicle in a safe and proper manner. No person shall operate said vehicle in violation of any city code or any state law.

B. Any person who operates any motor vehicle upon any public street, alley, or public right of way shall, maintain control of the vehicle at all times.

C. No person who operates any motor vehicle upon any public street, alley, or public right of way shall be allowed to spin its tires due to use of acceleration, causing a squealing or causing dust or objects to be propelled into the air.

D. A violation of any of the above prohibitions shall constitute the offense of careless driving.

(Neb. Rev. Stat. §60-6,212) (Ord. No. 959, 11/22/94)

SECTION 4-223: 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. (Neb. Rev. Stat. §60-6,178)

SECTION 4-224: STOPS; MANDATORY

All vehicles, before crossing a sidewalk or emerging from a garage, alley, gas 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, gas 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. (Neb. Rev. Stat. §60-6,166)

SECTION 4-225: FUNERAL PROCESSIONS

No vehicle, except Police 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 procession or cortege except with the permission of a police officer.

SECTION 4-226: 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. (Neb. Rev. Stat. §60-6,139, 60-6,308)

SECTION 4-227: 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. (Neb. Rev. Stat. §60-6,286)

SECTION 4-228: LITTERING

It shall be unlawful for any person to drop, or cause to be left, upon any city highway, street, or alley, except at places designated by the City Council, any rubbish, debris, or waste, and any person so doing shall be guilty of littering. (Neb. Rev. Stat. §39-311)

SECTION 4-229: 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. (Neb. Rev. Stat. §39-311)

SECTION 4-230: LOADS; PROJECTING

When any vehicle shall be loaded in such a manner that any portion of the load extends more than four feet beyond the rear of the bed or the body of such vehicle, a red flag shall be attached by day and an illuminated red light after sunset on such load. (Neb. Rev. Stat. §60-6,243)

SECTION 4-231: LOADS; SPILLING

All vehicles used for carrying coal, earth, sand, gravel, rock, asphalt, tar or any similar substance shall be so constructed as to prevent the sifting or spilling of any of the contents. (Neb. Rev. Stat. §60-6,304)

SECTION 4-232: EQUIPMENT AND MAINTENANCE

Every motor vehicle, when in use on the streets, alleys, or highways of the City shall be equipped with efficient brakes adequate to control movement of, to stop, and to hold such vehicle, including two separate means of applying the brakes, and shall be

further equipped with a good and sufficient horn in good working order or other efficient signal devices, and shall have from sunset to sunrise, and at any other time when there is not sufficient light to render clearly discernible persons or vehicles upon the street, alley, or highway at a distance of 500 feet, lighted front and rear lamps as required by Neb. Rev. Stat. §60-6,2119. No person shall operate any vehicle which is equipped with an electric light or lights that confuse travelers or pedestrians on streets or crosswalks with the City. Every motor vehicle having a width of 80 inches or more shall display clearance lights as required by state law. All vehicle brakes shall be maintained in good working order. All horns on motor vehicles shall be capable of emitting sound audible under normal conditions from a distance of not less than 200 feet; provided, no vehicle except herein provided, shall be equipped with, nor shall any person use upon a vehicle, any siren, or horn otherwise than as a reasonable warning; nor shall any person use any horn or warning device upon a vehicle to make any unnecessary, loud, or harsh sound; and provided further, that every Police and Fire Department vehicle, ambulance, or other authorized emergency vehicle use for emergency call shall be equipped with a bell, siren, or whistle of the type approved by the City Council. (Neb. Rev. Stat. §60-6,219, 60-6,220, 60-6,224, 60-6,235, 60-6,244, 60-6,285) (Ord. No. 951, 6/14/94)

Article 3 – Parking

SECTION 4-301: PARKING GENERALLY

No person shall park any vehicle, or approach the curb with a vehicle, except when headed in the direction of the traffic. Vehicles, when parked, shall stand parallel with and adjacent to the curb or edge of the roadway, in such a manner as to have both right wheels within 12 inches of the curb or edge of the roadway, and so as to leave a least four feet between the vehicle so parked and any other parked vehicles, except where the City Council designates that vehicles shall be parked at an angle so as to have the front right wheel at the curb or edge of the roadway. Where stalls are designated either on the curb or pavement, vehicles shall be parked within such stalls. No vehicle shall be parked upon a roadway when there is a shoulder adjacent to the roadway which is available for parking. (Neb. Rev. Stat. §60-680, 60-6,167) (Ord. No. 944, 6/14/94)

SECTION 4-302: DESIGNATION OF PARKING AREAS; PROHIBITION OF PARKING

The City Council may, by resolution, (A) designate any street, or portion thereof, where vehicles shall be parked parallel with and adjacent to the curb or at an angle so as to have the right front wheel at the curb or (B) set aside any street, alley, public way, or portion thereof where the parking of a particular kind or class of vehicle shall be prohibited or where the parking of any vehicle shall be prohibited. No vehicle prohibited from parking thereon shall stand or be parked adjacent to the curb of said street, alley, public way, or portion thereof, longer than a period of time necessary to load and unload freight or passengers. (Neb. Rev. Stat. §60-6,167, 60-680)

SECTION 4-303: CURBS; CURB INTERSECTIONS

A. 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. A vehicle must not be parked at any curb in such a position as to prevent another vehicle already parked at the curb from moving away. (Neb. Rev. Stat. §60-680)

B. 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 or where said curb lines are painted yellow or red to indicate such prohibition. (Neb. Rev. Stat. §60-6,166)

SECTION 4-304: CURBS; PAINTED

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

ing 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. (Neb. Rev. Stat. §60-680)

SECTION 4-305: OBSTRUCTING TRAFFIC

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

SECTION 4-306: OBSTRUCTING ALLEY

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

SECTION 4-307: DISPLAY OR REPAIR OF VEHICLES

A. It shall be unlawful for any person to park any vehicle displayed for sale upon any street, alley or public place within the City.

B. No person shall adjust or repair any automobile or motorcycle, or race the motor of the same, while on the public streets or alleys of the City except in case of breakdown or other emergency.

C. No person or employee connected with a motor vehicle sales 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.

D. No person or employee connected with a motor vehicle sales or repair shop shall park any motor vehicle, trailer or any other equipment upon any public street, alley, right of way or any public parking area adjacent to property classified by the zoning regulations as the Central Business District for the purpose of temporary storage.

(Neb. Rev. Stat. §60-680)

SECTION 4-308: MAINTENANCE

The city police may order any street or alley or portion thereof vacated for street maintenance. Notice shall be given by personally notifying the owner or operator of a vehicle parked on such street or alley or by posting appropriate signs along such streets or alleys. Such signs shall be posted not less than four hours prior to the time that the vacation order is to be effective. Any person parking a vehicle in violation of this section shall be subject to the penalties provided in this chapter, and such vehicle may be removed and parked under the supervision of the city police to a suitable

nearby location without further notice to the owner or operator of such vehicle.

SECTION 4-309: REGISTRATION; TRAILERS

No trailer, semi-trailer, or cabin trailer shall be operated or parked on any street, alley, or public highway within the City without having first registered the same in accordance with Neb. Rev. Stat. Chapter 60, Article 3, except as provided in this section. A person may pull such trailer, semi-trailer, or cabin trailer without registration for a period not to exceed 30 days from the date of purchase. Upon registration, such trailer, semi-trailer, or cabin trailer shall have the required number plate displayed upon said trailer as provided for by Neb. Rev. Stat. §60-311. If a citation is issued to an owner of a vehicle for a violation of this section and the owner, within ten days of issuance of the citation, properly register and licenses the vehicle not in compliance, pays all taxes and fees due, and provides proof of such registration to the prosecuting attorney, no prosecution for the offense cited shall occur. (Neb. Rev. Stat. §60-302 through 60-320) (Ord. No. 952, 6/14/94)

SECTION 4-310: UNLAWFULLY PARKED VEHICLE; DEFINED

It shall be unlawful for a person to park a vehicle continuously in one place in the same block for a period of more than 48 hours on any street, and any vehicle parked in violation of this ordinance is hereby declared a public nuisance and may be removed. "Park" or "parked" shall mean the standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading merchandise or passengers. (Neb. Rev. Stat. §18-1720, 60-645) (Ord. No. 1152, 1/23/01)

SECTION 4-311: UNLAWFULLY PARKED VEHICLES; NUISANCE

The parking of a vehicle in violation of any applicable provision of this ordinance of the City, state law or other rule or regulation is hereby declared to constitute the offense of obstruction of the street, a misdemeanor and a public nuisance. (Neb. Rev. Stat. §18-1720, 60-6,165, 60-680) (Ord. No. 1152, 1/23/01)

SECTION 4-312: REMOVAL OF ILLEGALLY PARKED VEHICLES

Whenever any police officer shall find a vehicle standing upon a street or alley in violation of any of the provisions of the article, such individual may remove or have such vehicle removed or require the driver or other person in charge of the vehicle to move such vehicle to a position off the roadway of such street or alley or from such street or alley. 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. This fee shall be in addition to any other fees or penalties owed the City for such vehicle. (Neb. Rev. Stat. §60-6,165, 60-680)

SECTION 4-313: REMOVAL AUTHORIZED

Authorized city personnel are hereby empowered to determine if a vehicle is parked in violation of the applicable provisions of this ordinance, state law, or other rule or regulation and is endangering the public health and/or safety. If such vehicle is found to endanger the public health and/or safety, or if such vehicle is found to have overdue tickets or warrants pending or if such vehicle is declared to be a public nuisance pursuant to this ordinance proscribing the parking of vehicles the city employee shall order such vehicle removed. (Neb. Rev. Stat. §17-567, 18-1720) (Ord. No. 1152, 1/23/01)

SECTION 4-314: COMPLAINT AND NOTICE

A. If any vehicle found in any applicable provision of this article, state law or other rule or regulation is found to be endangering the public health and/or safety, or to have overdue tickets or warrants pending, the members of the Police Department shall affix thereto a complaint, notice of a nuisance and misdemeanor, and order of abatement. Such complaint and notice shall order the abatement of such nuisance with 24 hours.

B. The person in possession of or owning a vehicle coming under the provisions of this ordinance shall, within the 24-hour time period provided in the notice, abate such nuisance.

(Neb. Rev. Stat. §18-1720) (Ord. No. 1152, 1/23/01)

SECTION 4-315: ABATEMENT OF OBSTRUCTION ON STREET; DEFINED

“Abatement” shall mean the complete removal, of the vehicle found to be in violation of this ordinance, from the street for a period of 24 hours. The vehicle shall not be considered abated if measures taken to abate the same causes the vehicle to be in violation of any other ordinance, state law or other rule or regulation. Abatement does not include activities or other measures and activities designed only to temporarily remove the nuisance. (Neb. Rev. Stat. §18-1720) (Ord. No. 1152, 1/23/01)

SECTION 4-316: TOWING OF VEHICLES AUTHORIZED

Whenever any vehicle is found in violation of this ordinance, and proper complaint and notice has been placed on the vehicle, the same shall be removable by a police officer when the 24-hour time period for abatement expires. The vehicle shall be taken by him/her, or others acting under his/her supervision and direction, to a garage or lot designated by the chief of police for such purpose. (Ord. No. 1152, 1/23/01)

SECTION 4-317: PAYMENT OF COSTS OF REMOVAL; PROOF OF LICENSING; REGISTRATION

A. A vehicle towed into a garage or lot under the provisions of this ordinance shall not be released therefrom except upon payment by the owner to the person in charge of such garage or lot the cost of towing and daily storage and any other ad-

ministrative costs incurred by the City. A receipt for such fee shall be issued to the owner of such vehicle. To insure that the vehicle is released to the proper owner, a vehicle towed into a garage or lot without current license plates and current registration shall not be released therefrom except upon proof of proper licensing and registration of the vehicle as required by state statute.

B. In addition to any other remedy available at law, any persons who believes that an impounded vehicle should be released without proper licensing and registration may petition the City Council for a hearing to determine if the vehicle would not require licensing and registration under state statute. If it is determined that the vehicle would not require licensing and registration, only towing costs and daily storage fees shall be required for the impounded period.
(Ord. No. 1152, 1/23/01)

SECTION 4-318: STORAGE FACILITIES; RECORDS; REPORTS

It shall be the duty of the person in charge of the garage or lot to which a vehicle is towed under the provisions of this ordinance to keep a record of the names of the owners of all vehicles received by him/her, together with the registration number of each vehicle, the nature and circumstances of each violation and the amount of fees collected under the provisions of this ordinance. Such person shall deliver a report of each vehicle's transactions along with the city's portion of the fees collected to the city clerk not later than five days following the day on which the vehicle was removed from impound. (Ord. No. 1152, 1/23/01)

SECTION 4-319: STORAGE FACILITIES; PAYMENT OF FEES UNDER PROTEST

When the owner of any towed-in vehicle protests to the person in charge of the garage or lot against the payment of the fees provided for by this article, the person in charge shall, upon payment of the fees, issue a receipt therefor marked "Paid Under Protest." Thereupon it shall be the duty of the owner or operator of the garage or lot to submit such fees and report such fact to the chief of police, who shall forthwith cause a complaint to be filed against the owner of such vehicle, charging him/her with causing or contributing to the creation of, or maintenance of, a public nuisance. If, upon trial thereof, such person shall be found not guilty of this offense, it shall be the duty of the City to refund to the person the fees so paid by him/her under protest and to refund the towing charge to the garage. (Ord. No. 1152, 1/23/01)

SECTION 4-320: REMOVAL OF VEHICLES BY PUBLIC WORKS DEPARTMENT

A. Notwithstanding the provisions of this ordinance, the public works commissioner is authorized to require the driver or other person in charge of the vehicle to move, immediately move, or cause to be moved any vehicle parked in violation of this article to an available nearby location when such vehicle is directly interfering with operations or activities under such section as the vehicle may be violating. A vehicle may be deemed to be directly interfering with operations or activities if it is parked in the street when the Public Works Department is maintaining or repairing the street or

utilities in the area, cleaning the street, or removing snow, etc. The Department shall notify the driver or other person in charge of the vehicle or the last known owner of the removed vehicle and advise him/her of the process to follow to claim the vehicle. The owner shall pay to the city clerk the towing charge, daily storage, and any other administrative cost incurred by the City.

B. When the owner of any towed-in vehicle protests to the City against removal of the vehicle or the payment of the fees provided for by this article, the city clerk shall, upon payment of the fees, issue a receipt therefor marked "Paid Under Protest." The public works commissioner shall forthwith cause the chief of police to file a complaint against the owner of such vehicle, charging him/her with causing or contributing to the creation of or maintenance of a public nuisance. If, upon trial thereof, such person shall be found not guilty of this offense, it shall be the duty of the City to refund to the person the fees paid by him/her under protest and to refund the towing charge and any other applicable fees to the garage or storage lot, if applicable. (Neb. Rev. Stat. §17-555, 17-557 and 17-567) (Ord. No. 1152, 1/23/01)

SECTION 4-321: 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 in any 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. (Neb. Rev. Stat. §60-680)

SECTION 4-322: TIME LIMITATIONS ON CERTAIN STREETS AND ALLEYS

A. It shall be unlawful for any person to park any wheeled vehicle, including trailers with a one-ton GVW rating or greater, anywhere upon 13th Street for a longer period of time than 15 minutes at one time, or more than 60 minutes in any 24 hours.

B. It shall be unlawful for any person to park any wheeled vehicle, including trailers of all types, except motorcycles, passenger automobiles and pickup trucks, which do not exceed 10,000 GVW rating, on any street in the City, except 13th Street, for more than one hour at any one time or for more than four hours in any 24-hour period, except that the Police Department may issue a written permit for special exceptions to this regulation, but said special permit shall not allow parking for periods longer than 48 hours in the discretion of said Police Department.

C. It shall be unlawful for any person to park any wheeled vehicle, including trailers or all types of passenger automobiles and pickup trucks, in any alley for more than 15 minutes at any one time or for more than 60 minutes in any 24 hours, except when in the actual process of loading or unloading said vehicle and except in emergency.

D. The registered owner, operator or person having control of any vehicle shall not park or allow such vehicle to remain parked on public streets marked by sol-

id lines on curb or other spaces or areas marked by official signs forbidding parking of vehicles or restricts or forbids parking of vehicles in such street area during certain times specified by such official signs.

(Res. No. 07-90, 12/18/90)

SECTION 4-323: RESTRICTED ON CERTAIN STREETS AND ALLEYS

A. No vehicle shall be parked or allowed to remain parked on 13th Street in said City between alley line and midway between I Street and H Street and M Street and on the east side of said 13th Street between M Street and N Street for longer than two consecutive hours at any one time between hours of 8:00 A.M. and 6:00 P.M. on any day, except Sunday and legal holidays under federal and state laws.

B. The registered owner, operator or person having control of any vehicle shall not park or allow such vehicle to remain parked on public streets marked by solid lines on curb or other spaces or areas marked by official signs forbidding parking of vehicles or restricts or forbids parking of vehicles in such street area during certain times specified by such official signs.

C. It shall be unlawful for the registered owner, operator or person having control of a vehicle to park or allow a vehicle to be parked in violation of subsection (B) hereof, and upon conviction, the violator shall be subject to the penalties provided under general provisions of this code.

D. The first two parking areas on the south side of J Street immediately west of 13th Street shall be designated as limited parking zone and said parking shall be permitted in said zone for a period of 20 minutes for the parking and stopping of vehicles in said two parking areas. Parking will only be restricted between the hours of 8:00 A.M. and 5:00 P.M. Monday through Saturday.

E. It shall be unlawful for any person to park a motor vehicle of any description upon the street or right-of-way of 13th Street, also known as Highway 75, south of the center line of H Street in the City.

(Res. No. 03-90, 5/22/90; 11-91, 10/31/91)

SECTION 4-324: FINES; RECORDS

A. It shall be unlawful for any person to park or allow to remain parked any vehicle operated, controlled or registered to him/her as owner in violation of Section 4-323 above. The police, upon finding any vehicle parked in violation of said section, shall attach a notice of such violation directed to registered owner and to operator, if his/her identity is then known to police, to appear at the city office in the auditorium building during business hours within 72 hours after time of said violation notice. The violator may within said 72-hour period remit to the city clerk in person or by mail a sum which shall be on file at the clerk's office for such offense. Failure of such owner or operator to make such payment within the 72-hour period shall subject him or her to prosecution and penalties under the general provisions of this code.

B. It shall be the duty of the city police to keep accurate records of all notices or summons issued for violations of this chapter and to promptly furnish such information to city clerk, who shall keep record of all payments received and account for the same to the proper authorities.

SECTION 4-325: VIOLATION; PENALTY

A. Any person who shall violate or refuse to comply with the enforcement of any of the provisions Section 4-323 shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be fined 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. Whenever, in any action, it is established that a nuisance exists, the court may together with the fine or penalty imposed, enter an order of abatement as part of the judgment in the case.

B. Fine schedule for obstruction of the street:

| | |
|-------------------------------|---|
| First offense | \$ 50.00 plus towing, storage and applicable fees |
| Second offense | \$100.00 plus towing, storage and applicable fees |
| Third and subsequent offenses | \$200.00 plus towing, storage and applicable fees |

(Neb. Rev. Stat. §17-508, 28-106, 18-1720, 18-1722) (Ord. No. 1152, 1/23/01)

Article 4 – Handicapped or Disabled Persons

SECTION 4-401: DEFINITIONS

For the purposes of this article:

“Handicapped or disabled person” shall mean any individual with a severe visual or physical impairment which limits personal mobility and results in an inability to travel unassisted more than 200 feet without the use of a wheelchair, crutch, walker, or prosthetic, orthotic, or other assistant device; any individual whose personal mobility is limited as result of respiratory problems; any individual who has a cardiac condition to the extent that his/her functional limitations are classified in severity as being Class III or Class IV according to standards set by the American Heart Association; and any individual who has permanently lost all or substantially all the use of one or more limbs;

“Temporarily handicapped or disabled person” shall mean any handicapped or disabled person whose personal mobility is expected to be limited in such manner for no longer than one year; and

“Handicapped parking infraction” shall mean the violation of any section of this section of this article regulating:

- A. The use of parking spaces designated for use by handicapped or
- B. The obstruction of any wheelchair ramps constructed or created in accordance and in conformity with the federal Americans with Disabilities Act of 1990. (Neb. Rev. Stat. §18-1738, 18-1741.01) (Ord. No. 1048, 8/12/97)

SECTION 4-402: DESIGNATION OF ON-STREET PARKING SPACES; DISPLAY OF PERMITS

- A. The City Council may designate parking spaces for the exclusive use of:
 1. Handicapped or disabled persons whose motor vehicles display the distinguishing license plates issued to handicapped or disabled persons pursuant to Neb. Rev. Stat. §60-311.14,
 2. Handicapped or disabled persons whose motor vehicles display a distinguishing license plate issued to a handicapped or disabled person by another state,
 3. Such other handicapped or disabled persons or temporarily handicapped or disabled persons, as certified by the City, whose motor vehicles display the permit specified in Neb. Rev. Stat. §18-1739, and
 4. Such other motor vehicles, as certified by the City, which display such

permit. All such permit shall be displayed by hanging the permit from the motor vehicle's rearview mirror so as to be clearly visible through the front windshield. The permit shall be displayed on the dashboard only when there is no rearview mirror.

B. If the City Council so designates a parking space, it shall be indicated by posting aboveground and immediately adjacent to and visible from each space a sign which is in conformance with the *Manual on Uniform Traffic Control Devices*. In addition to such sign, the space may also be indicated by blue paint on the curb or edge of the paved portion of the street adjacent to the space. The City of Tekamah hereby designates the following handicap parking spaces:

1. One stall in front of VFW Hall
2. One stall on the north side of Burt County State Bank
3. One stall on the south side of Savemore Market
4. One stall on the north side of the public library
5. One stall on the north side of the Burt County Museum
6. One stall on the south side of the Dusty Rose
7. One stall south of Tiger Bowl

(Neb. Rev. Stat. §18-1736, 18-1737) (Res. No. 1993-07; 1994-06; 1997-17) (Ord. No. 1002, 2/27/96; 1046, 8/12/97; 1109, 4/27/99)

SECTION 4-403: DESIGNATION OF OFF-STREET PARKING STALLS OR SPACES

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

A. Handicapped or disabled persons whose motor vehicles display the distinguishing license plates issued to handicapped or disabled persons pursuant to Neb. Rev. Stat. §60-311.14;

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

C. Such other motor vehicles, as certified by the City, which display such permit. Such designation shall be made by posting aboveground and immediately adjacent to and visible from each stall or space a sign which is in conformance with the *Manual on Uniform Traffic Control Devices*.

(Neb. Rev. Stat. §18-1737) (Ord. No. 1047, 8/12/97)

SECTION 4-404: PERMIT ISSUANCE

A. The city clerk shall take an application from a handicapped or disabled person or temporarily handicapped or disabled person, his/her parent, legal guardian, or foster parent for a permit which will entitle the holder thereof or a person driving a

motor vehicle for the purpose of transporting such holder to park in those spaces provided for by this article when the holder of the permit will enter or exit the motor vehicle while it is parked in such spaces. For purposes of this section, the handicapped or disabled person or temporarily handicapped or disabled person shall be considered the holder of the permit.

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

C. A person applying for a permit or for the renewal of a permit shall complete an application, shall provide proof of identity, and shall submit a completed medical form signed by a physician, physician assistant, or nurse practitioner certifying that the person who will be the older meets the definition of handicapped or disabled person or temporarily handicapped or disabled person. In the case of a temporarily handicapped or disabled person, the certifying physician, physician assistant, or nurse practitioner shall indicate the estimated date of recovery or that the temporary handicap or disability will continue for a period of six months, whichever is less.

D. A person may hold only one permit under this section and may hold either a permit under this section or a permit under Section 4-405, but not both.

E. The city clerk shall submit to the Department of Motor Vehicles the name, address, and license number of all persons applying for a permit pursuant to this section.

(Neb. Rev. Stat. §18-1738, 18-1738.02) (Ord. No. 1004, 2/27/96; 1049, 8/12/97)

SECTION 4-405: MOTOR VEHICLE PERMIT ISSUANCE

A. The city clerk shall take an application from any person for a motor vehicle permit which will entitle the holder thereof or a person driving the motor vehicle for the purpose of transporting handicapped or disabled persons or temporarily handicapped or disabled persons to park in those spaces provided for by this article if the motor vehicle is used primarily for the transportation of handicapped or disabled persons or temporarily handicapped or disabled person and such person will enter or exit the motor vehicle while it is parked in such designated spaces.

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

C. A person may hold only one permit under this section and may hold either a permit under this section or a permit under Section 4-404, but not both.

D. The city clerk shall submit to the Department of Motor Vehicles the name, address, and license number of all persons applying for a permit pursuant to this section.

(Neb. Rev. Stat. §18-1738, 18-1738.02) (Ord. No. 1005, 2/27/96; 1050, 8/12/97)

SECTION 4-406: PERMIT CONTENT; PROHIBITED ISSUANCE; DUPLICATE PERMITS

A. The permit issued for handicapped or disabled parking shall be constructed of a durable plastic design to resist normal wear or fading for the term of the permit's issuance and printed so as to minimize the possibility of alteration following issuance. The permit shall be of a design, size, configuration, color, and construction and contain such information as specified in the rules and regulations adopted and promulgated by the United States Department of Transportation in the *Uniform System for Handicapped Parking*, 23 C.F.R. part 1235.

B. In addition to the requirements of subsection (A) of this section, the permit shall show such identifying information with regard to the handicapped or disabled person or temporarily handicapped or disabled person to whom it is issued as is necessary to the enforcement of this article.

C. No permit shall be issued to any person or for any motor vehicle if any parking permit has been issued to such person or for such motor vehicle and such permit has been suspended pursuant to Section 4-408. At the expiration of such suspension, a permit may be renewed upon the payment of the permit fee.

D. A duplicate permit may be provided without cost if the original permit is destroyed, lost, or stolen. Such duplicate permit shall be issued in the same manner as the original permit, except that a newly completed medical form need not be provided if a completed medical form submitted at the time of the most recent application for a permit or its renewal is on file with the city clerk. A duplicate permit shall be valid for the remainder of the period for which the original permit was issued.

(Neb. Rev. Stat. §18-1739) (Ord. No. 1006, 2/27/96; 1051, 8/12/97)

SECTION 4-407: PERMITS; PERIOD VALID; RENEWAL FEE

A. *Temporary Permits.* All permits authorized under this article after September 9, 1995, for temporarily handicapped or disabled parking shall be issued for a period ending not more than six months after the date of issuance but may be renewed for a one-time period not to exceed six months. For the renewal period, there shall be submitted an additional application with proof of a handicap or disability.

(Neb. Rev. Stat. §18-1738.01) (Ord. No. 1007, 2/27/96; 1052, 8/12/97)

B. *Permanent Permits.* 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. (Neb. Rev. Stat. §18-1740)

SECTION 4-408: PERMITS NONTRANSFERABLE; VIOLATIONS; SUSPENSION

Permits issued under this article shall not be transferable and shall be used only by the party to whom issued or for the motor vehicle for which issued and only for the purpose for which it is issued. No person shall alter or reproduce in any manner a permit issued pursuant to this article. No person shall knowingly hold more than one permit or knowingly provide false information on an application for a permit. Any violation of this section shall be cause for suspension of such permit for a period of six months. At the expiration of such period, a suspended permit may be renewed. (Neb. Rev. Stat. §18-1741) (Ord. No. 1008, 2/27/96; 1053, 8/12/97)

SECTION 4-409: REMOVAL OF UNAUTHORIZED VEHICLE; PENALTY

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

B. Anyone who parks a vehicle in any on-street parking space which has been designated exclusively for handicapped or disabled persons or temporarily handicapped or disabled persons or motor vehicles for the transportation of such person, or in any so exclusively designated parking space in any off-street parking facility, without properly displaying the proper permit or when the handicapped or disabled person to whom or from whom the license plate or permit is issued will not enter or exit the vehicle while it is parked in the designated space shall be guilty of a handicapped parking infraction and shall be subject to the procedures and penalty set forth in this chapter. The display on a motor vehicle of a distinguishing license plate or permit issued to a handicapped or disabled person by and under the duly constituted authority or another state shall constitute a full and complete defense in any action for a handicapped parking infraction. If the identity of the person who parked the vehicle in violation of the section cannot be readily determined, the owner or person in whose name the vehicle is registered shall be held prima facie responsible for such violation and shall be guilty and subject to the penalty provided for in this chapter.

C. In the case of a privately owned off-street parking facility, the owner or person in lawful possession of such facility shall not be required to inform the City of a violation of this section prior to the City issuing the violator a handicapped parking infraction citation.

(Neb. Rev. Stat. §18-1737) (Ord. No. 1009, 2/27/96; 1055, 8/12/97)

SECTION 4-410: CITATION, ISSUANCE; COMPLAINT; TRIAL; DISMISSAL

A. For any offense classified as a handicapped parking infraction, a handicapped parking citation may be issued by any peace officer or by any person designated by ordinance by the City Council to exercise the authority to issue a citation for any handicapped parking infraction.

B. When a handicapped parking citation is issued for a handicapped parking infraction, the person issuing the handicapped parking citation shall enter thereon all required information, including the name and address of the cited person or, if not known, the license number and description of the offending motor vehicle, the offense charged, and the time and place the person cited is to appear in court. Unless the person cited requests an earlier date, the time of appearance shall be at least three days after the issuance of the handicapped parking citation. One copy of the handicapped parking citation shall be delivered to the person cited or attached to the offending motor vehicle.

C. At least 24 hours before the time set for the appearance of the cited person, either the city attorney or other person authorized by law to issue a complaint for the particular offense shall issue and file a complaint charging such person with a handicapped parking infraction or such person shall be released from the obligation to appear as specified.

D. The trial of any person for a handicapped parking infraction shall be by the court without a jury. A person cited for a handicapped parking violation may waive his or her right to trial.

E. For any handicapped parking citation issued for a handicapped parking infraction by reason of the failure of a vehicle to display a handicapped parking permit issued pursuant to Neb. Rev. Stat. §18-1738 or 18-1739.01, the complaint shall be dismissed if, within seven business days after the date of the issuance of the citation, the person cited files with the court the affidavit included on the citation, signed by a peace officer certifying that the recipient is the lawful possessor in his or her own right of a handicapped parking permit issued under Neb. Rev. Stat. §18-1738.01, provided that the peace officer has personally viewed the permit.
(Neb. Rev. Stat. §18-1741.01, 18-1741.04, 18-1741.06) (Ord. No. 1054, 8/12/97)

Article 5 – Bicycles and Other Non-Motorized Conveyances

SECTION 4-501: BICYCLES; OPERATION

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

B. Bicycles shall be operated with reasonable regard to the safety of the operator and any other persons upon the streets and highways.

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

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

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

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

1. Overtaking and passing another bicycle or vehicle proceeding in the same direction;
2. Preparing for a left turn onto a private road or driveway or at an intersection ;
3. Reasonably necessary to avoid conditions that make it unsafe to continue along the right-hand curb or right-hand edge of the roadway, including fixed or moving objects, stopped or moving vehicles, bicycles, pedestrians, animals, or surface hazards;
4. Riding upon a lane of substandard width which is too narrow for a bicycle and a vehicle to travel safely by side within the lane, or
5. Lawfully operating a bicycle on the paved shoulders of a highway included in the state highway system as provided in Neb. Rev. Stat. §60-6,142. Any person who operates a bicycle upon a roadway with a post-

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

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

H. No person shall operate a bicycle on the sidewalks within the business district.

(Neb. Rev. Stat. §60-6,315, 60-6,317, 60-6,318) (Ord. No. 950, 6/14/94)

SECTION 4-502: ROLLER SKATES, SKATEBOARDS, SCOOTERS

A. It shall be unlawful for any person to roller skate or to ride, use, operate, race or propel a skateboard or motorized scooters on any public area from the west side of 12th Street to the east side of 14th Street and from the north of H Street to the south of N Street, and museum grounds.

B. "Roller skating" shall be defined to include use of either inline skates or skates with wheels attached in a parallel configuration.

C. "Scooter" shall be defined to include motorized or non-motorized scooters.

D. An exemption is granted from the provisions of this article while any of the said conveyances are being used in parades by regularly organized units of any recognized charitable, social, educational or community service organization.

E. Penal provision: (1) First cited offense: \$10.00; (2) any subsequent cited offense: \$50.00 each.

SECTION 4-503: CLINGING TO MOTOR VEHICLES

No person riding upon any bicycle coaster, roller skates, sled, skis, or toy vehicle shall attach himself/herself or the bicycle, coaster, roller skates, sled, skis, or toy vehicle to any vehicle upon a roadway, and it shall be unlawful for the driver of any vehicle to suffer or permit any person riding upon any bicycle, coaster, roller skates, sled, skis, or toy vehicle to cling or attach himself/herself or the bicycle to such vehicle driven and operated by him/her. (Neb. Rev. Stat. §60-6,316, 60-6,354) (Ord. No. 953, 6/14/94)

Article 6 – Motorcycles, Mini-Bikes, Mopeds, and Snowmobiles

SECTION 4-601: MOTORCYCLES; 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 state statutes. (Neb. Rev. Stat. §60-6,219)

SECTION 4-602: MOTORCYCLES; RIDING TANDEM

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

SECTION 4-603: MINI-BIKES; UNLAWFUL OPERATION

It shall be unlawful for any person to operate a mini-bike upon any street or highway within the corporate limits of the City. For purposes of this article:

"Mini-bike" shall mean a two-wheel motor vehicle which has a total wheel and tire diameter of less than 14 inches or an engine rated capacity of less than 45 cubic centimeters displacement or any other two-wheel motor vehicle primarily designed by the manufacturer for off-road use only. (Neb. Rev. Stat. §60-6,347, 60-6,352)

SECTION 4-604: MINI-BIKES; EMERGENCIES AND PARADES

Mini-bikes shall be exempt from the provisions of this article during any public emergency or while being used in parades by regularly organized units of any recognized charitable, social, educational or community service organization. (Neb. Rev. Stat. §60-6,348)

SECTION 4-605: MINI-BIKES; PUBLIC LANDS

Mini-bikes shall be prohibited upon the public lands owned by the City except where allowed by resolution of the City Council. (Neb. Rev. Stat. §60-678)

SECTION 4-606: MINI-BIKES; TRAFFIC LAWS INAPPLICABLE

The provisions of Neb. Rev. Stat. Chapter 60, Articles 1, 3, 4, 5, and 17 shall not be applicable to the owners and operators of any mini-bike. (Neb. Rev. Stat. §60-6,347)

SECTION 4-607: MOPEDS; DEFINED

For the purposes of this article, "moped" shall mean a bicycle with fully operative pedals for propulsion by human power, an automatic transmission, and a motor with a cylinder capacity not exceeding 50 cubic centimeters, which produces no more than two brake horsepower and is capable of propelling the bicycle at a maximum design speed of no more than 30 miles per hour on level ground. mopeds, their owners, and their operators shall be subject to Neb. Rev. Stat. Chapter 60, Article 4 and amendments thereto, but shall be exempt from the requirements of Neb. Rev. Stat. Chapter 60, Articles 1, 3, 5, and 17 and amendments thereto. (Neb. Rev. Stat. §60-6,309)

SECTION 4-608: MOPEDS; OPERATOR'S LICENSE REQUIRED

No person shall operate a moped upon the streets, alleys, or highways of the City unless such person has a valid Class O operator's license or a valid school or learner's permit. (Neb. Rev. Stat. §60-6, 310) (Ord. No. 949, 6/14/94)

SECTION 4-609: MOPEDS; TRAFFIC REGULATIONS APPLICABLE

Any person who rides a moped upon a roadway shall have all of the rights and shall be subject to all of the duties applicable to the driver of a motor vehicle under the Nebraska rules of the road except for special moped regulations in the rules and except for those provisions of the rules which by their nature can have no application. Such regulations applicable to mopeds shall apply whenever a moped is operated upon any street, alley, or highway within the City or upon the path set aside by the Department of Roads or the City for the use of mopeds. Notwithstanding any established maximum speed limits in excess of 25 miles per hour, no person shall operate any moped at a speed in excess of 30 miles per hour. (Neb. Rev. Stat. §60-6,311, 60-6,313) (Ord. No. 948, 6/14/94)

SECTION 4-610: MOPEDS; OPERATION

A. Any person who operates a moped shall ride only upon a regular, permanent seat attached to the moped.

B. A person operating a moped shall not carry any other person, nor shall any other person ride on a moped unless it is designed by the manufacturer to carry more than one person.

C. A person shall ride upon the moped only while sitting astride the seat, facing forward.

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

E. No operator shall carry any person, nor shall any person ride in a position

that interferes with the operation or control of the moped or the view of the operator.

F. Any moped which carries a passenger shall be equipped with footrests for such passenger.

(Neb. Rev. Stat. §60-6,312) (Ord. No. 947, 6/14/94)

SECTION 4-611: MOPEDS; USE OF TRAFFIC LANES

A. A moped shall be entitled to full use of a traffic lane of the highway with an authorized speed limit of 45 miles per hour or less and no vehicle shall be operated in such a manner as to deprive any moped of the full use of such lane, except that mopeds and motorcycles may be operated two abreast in a single lane.

B. No person shall operate a moped between lanes of traffic or between adjacent lines or rows of vehicles.

C. Mopeds shall not be operated more than two abreast in a single lane.

D. Any person who operates a moped on a roadway with an authorized speed limit of more than 45 miles per hour shall ride as near to the right side of the roadway as practicable and shall not ride more than single file.

E. No person who rides upon a moped shall attach himself/herself or the moped to any other vehicle on a roadway.

F. Mopeds shall not be operated on the sidewalks.

(Neb. Rev. Stat. §60-6,313) (Ord. No. 946, 6/14/94)

SECTION 4-612: SNOWMOBILES; EQUIPMENT

A. Every snowmobile operated within the City shall be registered with the State of Nebraska, as required by law. No snowmobile shall be operated upon a public street or highway unless it is equipped with at least one 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 Director of Motor Vehicles.

B. All laws applying to the operation of other motor vehicles shall apply to snowmobiles, except those relating to required equipment and those which, by their nature, have no application.

(Neb. Rev. Stat. §60-6,321, 60-6,335)

SECTION 4-613: 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:

A. Within the congested area of the City unless weather conditions are such that it provides the only practicable method of safe vehicular travel, or said snowmobile is engaged in responding to an emergency.

B. At a rate of speed greater than reasonable or proper under the surrounding circumstances.

C. In a careless, reckless or negligent manner so as to endanger person or property.

D. Without a lighted headlight and taillight when such would be required by conditions.

E. In any tree nursery or planting in a manner which damages or destroys growing stock.

F. Upon any private lands without first having obtained permission of the owner, lessee or operator of such lands.
(Neb. Rev. Stat. §60-6,335, 60-6,337)

SECTION 4-614: SNOWMOBILES; PUBLIC LANDS

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

SECTION 4-615: SNOWMOBILES; ENFORCEMENT; PENALTY

Any peace officer, including a conservation officer, may enforce the provisions relating to snowmobiles. Any person convicted of violating any rule or regulation dealing with snowmobiles shall be punished by a fine of not more than \$100.00. (Neb. Rev. Stat. §60-6,343)

Article 7 – All-Terrain Vehicles and Golf Carts

SECTION 4-701: ALL-TERRAIN VEHICLES; DEFINED

A. As used in this article, unless the context otherwise requires, “all-terrain vehicle” shall mean any motorized off-highway vehicle which:

1. Is 50 inches or less in width,
2. Has a dry weight of 600 pounds or less,
3. Travels on three or more low pressure tires,
4. Is designed for operator use only with no passengers,
5. Has a seat or saddle designed to be straddled by the operator, and
6. Has handlebars or any other steering assembly for steering control.

B. All-terrain vehicles which have been modified to include additional equipment not required by Sections 4-703 and 4-704 of this article shall not be registered under Neb. Rev. Stat. Chapter 60, Article 3.
(Neb. Rev. Stat. §60-6,355) (Ord. No. 868, 9/22/87)

SECTION 4-702: ALL-TERRAIN VEHICLES; OPERATION

A. Except as provided in subsections (B) through (D) 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.

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

1. The crossing is made at an angle of approximately 90° to the direction of the street, road, or highway and at a place where no obstruction prevents a quick and safe crossing;
2. The vehicle is brought to a complete stop before crossing the shoulder or roadway of the street, road or highway;
3. The operator yields the right-of-way to all oncoming traffic that constitutes an immediate potential hazard;
4. 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
5. Both the headlight and taillight of the vehicle are on when the crossing is made.

C. 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 opera-

tion 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-Glo in color.

D. All-terrain vehicles may be operated on streets, roads, and highways in parades which have been authorized by the State or the City.
(Neb. Rev. Stat. §60-6,356) (Ord. No. 868, 9/22/87) (Am. by Ord. No. 945, 6/6/94)

SECTION 4-703: ALL-TERRAIN VEHICLES; EQUIPMENT; REQUIREMENT

Every all-terrain vehicle shall be equipped with (A) a brake system maintained in good operating condition; (B) an adequate muffler system in good working condition; and (C) a United States Forest Service-qualified spark arrester. (Neb. Rev. Stat. §60-6,358) (Ord. No. 868, 9/22/87)

SECTION 4-704: ALL-TERRAIN VEHICLES; MODIFICATIONS PROHIBITED

No person shall (A) equip the exhaust system of an all-terrain vehicle with a cutout, bypass, or similar device; (B) operate an all-terrain vehicle with an exhaust system so modified; or (C) operate an all-terrain vehicle with the spark arrester removed or modified except for use in closed-course competition events. (Neb. Rev. Stat. §60-6,359) (Ord. No. 868, 9/22/87)

SECTION 4-705: ALL-TERRAIN VEHICLES; COMPETITION

All-terrain vehicles participating in competitive events may be exempted from Sections 4-703 and 4-704 of this article at the discretion of the Director of Motor Vehicles. (Neb. Rev. Stat. §60-6,360) (Ord. No. 868, 9/22/87)

SECTION 4-706: 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. §60-506.01. (Neb. Rev. Stat. §60-6,361) (Ord. No. 868, 9/22/87)

SECTION 4-707: ALL-TERRAIN VEHICLES; PENALTY

Any violations of Sections 4-702 to 4-706 of this article which is also a violation under Neb. Rev. Stat. Chapter 60 may be punished under the penalty provisions of such

chapter. (Neb. Rev. Stat. §60-6,362) (Ord. No. 868, 9/22/87)

SECTION 4-708: 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 this article. (Ord. No. 868, 9/22/87)

SECTION 4-709: GOLF CARTS

Except as provided in subsections (A) through (C) of this section, no golf carts shall be operated on any street, road, highway, or alley within the City.

A. The operation of a golf cart on a street or road within the City shall be permitted only if:

1. The street or road directly joins a public golf course which is currently operating as a public golf course; and
2. The operation of the golf cart on such a street or road is in conjunction with the operator's and/or passengers' participation in the sport of golfing at the directly adjoining public golf course; and
3. The operation of the golf cart on such a street or road is limited to the minimal distance required to exit from one portion of the public golf course and gain access to another portion of the public golf course; and
4. The operation of the golf cart on such a street or road is only between the hours of sunrise and sunset; and
5. The operator of the golf cart on such a street or road has a valid Class O operator's license; and
6. The operation of the golf cart on such a street or road does not exceed 25 mph or the posted or applicable speed limit, whichever is less; and
7. The operation of the golf cart on such a street or road is in compliance with the Nebraska Rules of the Road, and only the number of persons the golf cart is designed to seat are riding in the golf cart; and
8. The operation of the golf cart on such a street or road is in accordance with all other applicable state and local laws and ordinances.

B. Golf carts may be operated on streets, roads, and highways in parades which have been authorized by the State or City.

C. "Golf cart" means a motorized vehicle which (1) is commonly referred to as a golf cart, (2) has a minimum of four wheels and an attainable top speed of not more than 25 mph on a paved level surface, (3) is manufactured primarily for transporting persons on a golf course and (4) is in compliance with federal motor vehicle safety standards for low-speed vehicles. Excluded from this definition are motorized vehicles and conveyances commonly referred to as all-terrain vehicles, utility-type vehicles, off-road vehicles, four-wheelers, Gators, go-karts, miniature vehicles, other low-speed vehicles, and any design-altered golf carts which have been altered to allow them to travel at a speed greater than 25 mph.

D. Any peace officer, including a conservation officer, may enforce the provisions of this section. Any person convicted of violating any provision of this section shall be punished by a fine of not more than \$100.00.
(Ord. No. 1239, 8/22/12)

Article 8 – Abandoned Vehicles

SECTION 4-801: ABANDONED VEHICLES

A. No person shall cause any vehicle to be an abandoned vehicle as described in subsection (B) (1), (2), (3), or (4) of this section. No person other than one authorized by the City or appropriate state agency shall destroy, deface, or remove any part of a vehicle which is left unattended on a highway or other public place without license plates affixed or which is abandoned.

B. A motor vehicle is an abandoned vehicle:

1. If left unattended, with no license plates or valid “In Transit” signs issued pursuant to Neb. Rev. Stat. §60-320 affixed thereto, for more than six hours on any public property;
2. If left unattended for more than 24 hours on any public property, except a portion thereof on which parking is legally permitted;
3. If left unattended for more than 48 hours after the parking of such vehicle has become illegal, if left on a portion of any public property on which parking is legally permitted;
4. If left unattended for more than seven days on private property if left initially without permission of the owner, or after permission of the owner is terminated; or
5. If left for more than 30 days in the custody of a law enforcement agency after the agency has sent a letter to the last-registered owner under subsection (E) of this section.

No motor vehicle subject to forfeiture under Neb. Rev. Stat. §28-431 shall be an abandoned vehicle under this section.

C. If an abandoned vehicle, at the time of abandonment, has no license plates of the current year or valid “In Transit” signs issued pursuant to Neb. Rev. Stat. §60-320 affixed and is of a wholesale value, taking into consideration the condition of the vehicle, of \$250 or less, title shall immediately vest in the City.

D. Except for vehicles governed by subsection (C) of this section, the City shall make an inquiry concerning the last-registered owner of an abandoned vehicle as follows:

1. Abandoned vehicle with no license plates affixed, to the jurisdiction which issued such license plates; or
2. Abandoned vehicle with no license plates affixed, to the Department of

Motor Vehicles.

E. The City shall notify the last registered owner, if any, that the vehicle in question has been determined to be an abandoned vehicle and that, if unclaimed, either:

1. It will be sold or will be offered at public auction after five days from the date such notice was mailed; or
2. Title will vest in the City 30 days after the date such notice was mailed.

F. If the City is notified that a lien or mortgage exists, the notice described in subsection (E) of this section shall also be sent to the lien holder or mortgagee. Any person claiming such vehicle shall be required to pay the cost of removal and storage of such vehicle.

G. Title to an abandoned vehicle, if unclaimed, shall vest in the City:

1. Five days after the date the notice is mailed if the vehicle will be sold or offered at public auction under subsection (E) (1) of this section;
2. 30 days after the date the notice is mailed if the City will retain the vehicle; or
3. If the last-registered owner cannot be ascertained, when notice of such fact is received.

H. After title to the abandoned vehicle vests pursuant to subsection (G) of this section, the City may retain for use, sell, or auction the abandoned vehicle. If the City has determined that the vehicle should be retained for use, the City shall, at the same time that the notice, if any, is mailed, publish in a newspaper of general circulation in the jurisdiction an announcement that the City intends to retain the abandoned vehicle for its use and that title will vest in the City 30 days after publication.

I. If the city law enforcement agency has custody of a motor vehicle for investigative purposes and has no further need to keep it in custody, it shall send a certified letter to each of the last-registered owners stating that the vehicle is in the custody of the agency, that the vehicle is no longer needed for law enforcement purposes, and that after 30 days the agency will dispose of the vehicle.

J. This division shall not apply to motor vehicles subject to forfeiture under Neb. Rev. Stat. §28-431.

K. No storage fees shall be assessed against the registered owner of a motor vehicle held in custody for investigative purposes under this division unless the registered owner or the person in possession of the vehicle when it is taken into custody is charged with a felony or misdemeanor related to the offense for which the law en-

forcement agency took the vehicle into custody. If a registered owner or the person in possession of the vehicle when it is taken into custody is charged with a felony or misdemeanor but is not convicted, the registered owner shall be entitled to a refund of the storage fees.

L. 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 or lien holders of such vehicle for a period of two years. If not claimed within such two-year period, the proceeds shall be paid into the general fund of the City.

M. Neither the owner, lessee, nor occupant of the premises from which any abandoned vehicle is removed, nor the City, shall be liable for any loss or damage to such vehicle which occurs during its removal or while in the possession of the City or its contractual agent or as a result of any subsequent disposition.

N. The last-registered owner of an abandoned vehicle shall be liable to the City for the costs of removal and storage of such vehicle.

O. For purposes of this section:

1. "Public property" shall mean any public right-of-way, street, highway, alley or park or other state-, county-, or city-owned property;
2. "Private property" shall mean any privately owned property which is not included within the definition of public property.

P. Any person who violates the provisions of this section is guilty of an offense.

(Neb. Rev. Stat. §60-1901 through 60-1911)

SECTION 4-802: STORAGE OF UNLICENSED AND INOPERABLE MOTOR VEHICLES

A. No person shall store, retain, or keep on or permit to be stored, retained or kept on, any private premises any inoperable motor vehicle for more than 30 days, otherwise such vehicle shall be presumed to be junked, inoperative, or abandoned within the terms of this article; provided, this article shall not apply to such motor vehicle, motor vehicle body, or motor chassis or parts therefrom if kept in a completely enclosed building.

B. For purposes of this article, "inoperable motor vehicle" shall mean any motor vehicle which:

1. Does not have a current state license plate or
2. Which may or may not have a current state license plate, but is disassembled or wrecked in part or in whole, or is unable to move under its own power, or is not equipped as required by Nebraska law for opera-

tion upon streets or highways.
(Ord. No. 923, 6/23/92)

SECTION 4-803: STORAGE OF UNLICENSED AND INOPERABLE MOTOR VEHICLES; NOTICE TO REMOVE

The police chief or designated agent may give notice of removal to the owner or occupant of the private property upon which a motor vehicle meeting the criteria defined in Section 4-801 (B) is located. Such notice shall request that said vehicle be removed from said property within seven days of the date of said notice and notice shall advise that upon failure to comply with the notice to remove, the City or its designated agent shall undertake such removal with the cost of removal to be levied against the owner or occupant of the property. (Ord. No. 923, 6/23/92)

SECTION 4-804: STORAGE OF UNLICENSED AND INOPERABLE MOTOR VEHICLES; REMOVAL AFTER NOTICE

A. Within 48 hours of the removal of such vehicle, the chief of police shall give notice by certified United States mail to the owner of the vehicle and to the owner or occupant of the private property from which the vehicle was removed, that said vehicle has been impounded and stored for violation of this article. The notice shall give the location of where the vehicle is stored.

B. A vehicle removed from private property pursuant to this section shall be disposed of as an abandoned vehicle pursuant to the provisions of this article.
(Ord. No. 923, 6/23/92)

Article 9 – Penal Provision

SECTION 4-901: VIOLATION; PENALTY

Any person who shall violate or refuse to comply with the enforcement of any of the provisions of this chapter, set forth at full length herein or incorporated by reference, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined 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 5 – BUSINESS REGULATIONS

Article 1 – Alcoholic Beverages

SECTION 5-101: DEFINITIONS

All words and phrases herein used are to have the definitions applied thereto as defined in the Liquor Control Act of the State of Nebraska. (Neb. Rev. Stat. §53-103)

SECTION 5-102: CITY POWERS AND DUTIES

A. The City Council is authorized to regulate by ordinance, not inconsistent with the Nebraska Liquor Control Act, the business of all retail, bottle club, or craft brewery licenses carried on within the corporate limits of the City. (Ref. 53-134 RS Neb.)

B. During the period of 45 days after the date of receiving from the Nebraska Liquor Control Commission an application for a new license to sell alcoholic liquor at retail, a bottle club license, or a craft brewery license, the City Council may make and submit to the Commission recommendations relative to the granting or refusal to grant such license to the applicant. (Neb. Rev. Stat. §53-131(2))

C. The City Council, with respect to licenses within the corporate limits of the City, has the following powers, functions, duties with respect to retail, bottle club, and craft brewery licenses:

1. To cancel or revoke for cause retail, bottle club, or craft brewery licenses to sell dispense alcoholic liquor issued to persons for premises within its jurisdiction, subject to the right of appeal to the Nebraska Liquor Control Commission;
2. To enter or to authorize any law enforcement officer to enter at any time upon any premises licensed under the Nebraska Liquor Control Act to determine whether any provision of the Act, any rule or regulation adopted and promulgated pursuant to the Act, or any ordinance, resolution, rule, or regulation adopted by the City Council has been or is being violated and at such time examine the premises of such licensee in connection with such determination;
3. To receive a signed complaint from any citizen within its jurisdiction that any provision of the Act, any rule or regulation adopted and promulgated pursuant to the Act, or any ordinance, resolution, rule, or regulation relating to alcoholic liquor has been or is being violated and to act upon such complaints in the manner provided in the Act;
4. To receive retail license fees, bottle club license fees, and craft brewery

license fees as provided in Neb. Rev. Stat. §53-124 and pay the same, after the license has been delivered to the applicant, to the city treasurer;

5. To examine or cause to be examined any applicant or any retail licensee, bottle club licensee, or craft brewery licensee upon whom notice of cancellation or revocation has been served as provided in the Act, to examine or cause to be examined the books and records of any applicant or licensee, and to hear testimony and to take proof for its information in the performance of its duties. For purposes of obtaining any of the information desired, the City Council may authorize its agent or attorney to act on its behalf;
6. To cancel or revoke on its own motion any license if, upon the same notice and hearing as provided in Section 5-123 (Citizen Complaints), it determines that the licensee has violated any of the provisions of the Nebraska Liquor Control Act or any valid and subsisting ordinance or regulation duly enacted, adopted, and promulgated relating to alcoholic liquor. Such order of cancellation or revocation may be appealed to the Commission within 30 days after the date of the order by filing a notice of appeal with the Commission, which shall handle the appeal in the manner provided for hearing in Neb. Rev. Stat. §53-133;
7. Upon receipt from the Commission of the notice and copy of application as provided in Neb. Rev. Stat. §53-131, to fix a time and place for a hearing at which the City Council shall receive evidence, either orally or by affidavit from the applicant and any other person, bearing upon the propriety of the issuance of a license. Notice of the time and place of such hearing shall be published in a legal newspaper in or of general circulation in the City, one time not less than seven and not more than 14 days before the time of the hearing. Such notice shall include, but not be limited to, a statement that all persons desiring to give evidence before the City Council in support of or in protest against the issuance of such license may do so at the time of the hearing.
8. The hearing shall be held not more than 45 days after the date of receipt of the notice from the Commission, and after such hearing the City Council shall cause to be recorded in the minute record of their proceedings a resolution recommending either issuance or refusal of such license. The city clerk shall mail to the Commission by first-class mail, postage prepaid, a copy of the resolution which shall state the cost of the published notice, except that failure to comply with this provision shall not void any license issued by the Commission. If the Commission refuses to issue such a license, the cost of publication of notice shall be paid by the Commission from the security for costs.

(Neb. Rev. Stat. §53-134)

D. When the Nebraska Liquor Control Commission mails or delivers to the city clerk a license issued or renewed by the commission, the clerk shall deliver the license to the licensee upon proof of payment of:

1. The license fee if by the terms of Neb. Rev. Stat. §53-124(5) the fee is payable to the city treasurer; application for the license; §53-135.01; and
2. Any fee for publication of notice of hearing before the City Council upon the application for the license;
3. The fee for publication of notice of renewal, if applicable, as provided in Neb. Rev. Stat. §53-135.01; and
4. Occupation taxes, if any, imposed by the City.

E. Notwithstanding any ordinance or charter power to the contrary, the City shall not impose an occupation tax on the business of any person, firm, or corporation licensed under the Nebraska Liquor Control Act and doing business within the corporate limits of the City in any sum which exceeds two times the amount of the license fee required to be paid under the Act to obtain such license.

(Neb. Rev. Stat. §53-132(4)) (Ord. No. 1133, 3/14/00)

SECTION 5-103: LICENSE REQUIRED

It shall be unlawful for any person to manufacture for sale, sell, keep for sale, or to barter any alcoholic liquors within the City unless said person shall have in full force and effect a license as provided by the Nebraska Liquor Control Act. (Neb. Rev. Stat. §53-102)

SECTION 5-104: LOCATION

It shall be unlawful for any person or persons to own, maintain, manage, or hold open to the public any establishment for the purpose of selling at retail any alcoholic liquor within 150 feet of any church, school, hospital, or home for aged or indigent persons or veterans, their wives or children; provided, this prohibition shall not apply to any location within such distance when the said establishment has been licensed by the Nebraska Liquor Control Commission at least two years, and to hotels offering restaurant service, regularly organized clubs, or to restaurants where the selling of alcoholic liquors is not the principal business carried on, if the said hotel, club, or restaurant were licensed and in operation prior to May 24, 1935. No alcoholic liquor, other than beer, shall be sold for consumption on the premises within 300 feet from the campus of any college within the City. (Neb. Rev. Stat. §53-177)

SECTION 5-105: LICENSEE REQUIREMENTS

It shall be unlawful for any person or persons to own an establishment that sells at retail any alcoholic beverages unless said person is a resident of the county in which

the premises is located; a person of good character and reputation; a citizen of the United States; a person who has never been convicted of a felony or any Class I misdemeanor pursuant to Neb. Rev. Stat. Chapter 28, Article 3, 4, 7, 8, 10, 11, or 12, or any similar offense under a prior criminal statute or in another state; a person who has never had a liquor license revoked for cause; a person whose premises for which a license is sought meets standards for fire safety as established by the state fire marshal; or a person who has not acquired a beneficial interest in more than two alcoholic beverage retail establishments since March 4, 1963; provided, the beneficial interest requirement in this section shall not apply to a person applying for an additional license for use in connection with the operation of a hotel containing at least 25 sleeping rooms, or where the request is limited to on-premises sale of beer only in a restaurant. (Neb. Rev. Stat. §53-124.03, 53-125)

SECTION 5-106: LICENSE DISPLAYED

Every licensee under the Nebraska Liquor Control Act shall cause the license to be framed and hung in plain public view in a conspicuous place on the licensed premises. (Neb. Rev. Stat. §53-148)

SECTION 5-107: CATERING LICENSE

A. The holder of a Class C, Class D, or Class I license issued under Neb. Rev. Stat. 53-124(5) or a craft brewery license may obtain an annual catering license by filing an application and license fee with the Nebraska Liquor Control Commission. (Neb. Rev. Stat. §53-124.12(1))

B. Upon receipt from the Commission of the notice and copy of the application as provided in Neb. Rev. Stat. §53-124.12, the City Council shall process the application in the same manner as provided in Section 5-102 (City Powers and Duties). (Neb. Rev. Stat. §53-124.12(3))

C. The City Council, with respect to catering licensees within the City's corporate limits, may cancel a catering license for cause for the remainder of the period for which the license is issued. Any person whose catering license is canceled may appeal to the District Court. (Neb. Rev. Stat. §53-124.12(4))

D. The City may impose an occupation tax on the business of any person, firm, or corporation receiving a catering license and doing business within the City. The tax may not exceed double the license fee for a catering license. (Neb. Rev. Stat. §53-124.12(6), 53-124.12) (Ord. No. 1131, 3/14/00)

SECTION 5-108: SANITARY CONDITIONS

It shall be unlawful to open for public use any retail liquor establishment that is not in a clean and sanitary condition. Toilet facilities shall be adequate and convenient for customers and patrons and said licensed premises shall be subject to any health inspections the City Council or the city police may make, or cause to be made. All ap-

plications for liquor licenses shall be viewed in part from the standpoint of the sanitary conditions, and a report concerning the said sanitary conditions shall be made at all hearings concerning the application for, or renewal of, a liquor license. (Neb. Rev. Stat. §53-118)

SECTION 5-109: INSPECTIONS

It shall be the duty of the City Council to cause frequent inspections to be made on the premises of all retail and bottle club licensees. If it is found that any such licensee is violating any provision of the Nebraska Liquor Control Act or regulations of the Nebraska Liquor Control Commission, or is failing to observe in good faith the purposes of said Act, the license may be suspended, canceled, or revoked after the licensee has been given an opportunity to be heard by the City Council. (Neb. Rev. Stat. §53-146) (Ord. No. 893, 1/09/90)

SECTION 5-110: HOURS OF SALE

A. For the purposes of this section, "on sale" shall be defined as alcoholic beverages sold at retail by the drink for consumption on the premises of the licensed establishment. "Off sale" shall be defined as alcoholic beverages sold at retail in the original container for consumption off the premises of the licensed establishment.

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

| | |
|--|-------------------------|
| <i>Alcoholic Liquors (except Beer and Wine)</i> | |
| Monday through Saturday | |
| Off Sale | 6:00 A.M. to 1:00 A.M. |
| On Sale | 6:00 A.M. to 1:00 A.M. |
| Sunday | |
| Off Sale | 12:00 Noon to 1:00 A.M. |
| On Sale | 12:00 Noon to 1:00 A.M. |
| <i>Beer and Wine</i> | |
| Monday through Saturday | |
| Off Sale | 6:00 A.M. to 1:00 A.M. |
| On Sale | 6:00 A.M. to 1:00 A.M. |
| Sunday | |
| Off Sale | 6:00 A.M. to 1:00 A.M. |
| On Sale | 6:00 A.M. to 1:00 A.M. |

C. Such limitations shall not apply after 12:00 Noon on Sunday to a licensee which is a nonprofit corporation holding a license pursuant to Neb. Rev. Stat. §53-124(5) (C) & (H).

D. No person or persons shall consume any alcoholic beverages on licensed premises for a period of time longer than 15 minutes after the time fixed herein for stopping the sale of alcoholic beverages on the said premises.

E. Nothing in this section shall be construed to prohibit licensed premises from being open for business on days and hours during which the sale or dispensing of alcoholic beverages is prohibited by this section.

(Neb. Rev. Stat. §53-179) (Amended by Ord. No. 916, 11/26/91; 1175, 5/11/04)

SECTION 5-111: DWELLINGS

Except in the case of hotels and clubs, no alcoholic liquor shall be sold at retail upon any premises which has any access leading from such premises to any other portion of the same building used for dwelling or lodging purposes and which is permitted to be used by the public. Nothing herein shall prevent any connection with such premises and such other portion of the building which is used only by the licensee, his/her family, or personal guests. (Neb. Rev. Stat. §53-178)

SECTION 5-112: OWNER OF PREMISES

The owner of any premises used for the sale at retail of alcoholic beverages shall be deemed guilty of a violation of these laws to the same extent as the said licensee if the owner shall knowingly permit the licensee to use the said licensed premises in violation of any municipal code section or Nebraska statute. (Neb. Rev. Stat. §53-1,101)

SECTION 5-113: EMPLOYER

The employer of any officer, director, manager, or employees working in a retail liquor establishment shall be held to be liable and guilty of any act or omission or violation of any law or ordinance if such act is committed or omission made with the authorization, knowledge or approval of the employer or licensee, and each such act or omission shall be deemed and held to be the act of the employer and will be punishable in the same manner as if the said act or omission had been committed by him/her personally. (Neb. Rev. Stat. §53-1,102)

SECTION 5-114: HIRING MINORS

It shall be unlawful for any person to hire a minor regardless of sex under the age of 19 years to serve or dispense alcoholic liquors, including beer, to said licensee's customers. (Neb. Rev. Stat. §53-102)

SECTION 5-115: MINOR'S PRESENCE

It shall be unlawful for any person or persons who own, manage, or lease an establishment selling alcoholic beverages at retail to allow any minor under the age of 18 years to frequent or otherwise remain in the said establishment unless the said minor is accompanied by his/her parent or legal guardian, and unless said minor remains seated with and under the immediate control of the said parent or legal guardian. (Neb. Rev. Stat. §53-147)

SECTION 5-116: MINORS AND INCOMPETENTS

It shall be unlawful for any person or persons to sell, give away, dispose of, exchange, permit the sale of or make a gift of, any alcoholic liquor, or to procure any such alcoholic liquor to or for any minor or to any person who is mentally incompetent. (Neb. Rev. Stat. §53-180)

SECTION 5-117: CREDIT SALES

No person shall sell or furnish alcoholic liquor at retail to any person or persons for credit of any kind, barter, or services rendered; provided, nothing herein contained shall be construed to prevent any club holding a Class C license from permitting checks or statements for alcoholic liquor to be signed by members or guests of members and charged to the accounts of the said members or guests in accordance with the bylaws of any such club; and provided further, nothing herein shall be construed to prevent any hotel or restaurant holding a retail alcoholic beverage license from permitting checks or statements for liquor to be signed by regular guests residing in the said hotel, and charged to the accounts of such guests. (Neb. Rev. Stat. §53-183)

SECTION 5-118: NO DELIVERY AFTER CLOSING HOURS

No retail licensee in this city operating premises open to the public shall act as retailer 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. (Neb. Rev. Stat. §53-179)

SECTION 5-119: SPIKING BEER

It shall be unlawful for any person who owns, manages, or leases 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 or persons to add alcohol to any beer on the licensed premises of such licensee. (Neb. Rev. Stat. §53-174)

SECTION 5-120: ORIGINAL PACKAGE

It shall be unlawful for any person who owns, manages, or leases any premises in which the sale of alcoholic beverages is licensed, to have in their possession for sale at retail any alcoholic liquor contained in bottles, casks, or other containers except in the original package. (Neb. Rev. Stat. §53-184)

SECTION 5-121: KEG SALES

A. When any person licensed to sell alcoholic liquor at retail sells beer for consumption off the premises in a container with a liquid capacity of five or more gal-

lons or 18.92 or more liters, the seller shall record the date of sale, the keg identification number, the purchaser's name and address, and the number of the purchaser's motor vehicle operator's license, state identification card, or military identification, if such military ID contains a picture of the purchaser, together with the purchaser's signature. Such record shall be on a form prescribed by the Liquor Control Commission and shall be kept by the licensee at the retail establishment where the purchase was made for not less than six months. Such records kept pursuant to this section shall be available for inspection by any law enforcement officer during normal business hours or at any other reasonable time. Any person violating this section shall be guilty of an offense.

B. Licensees shall place a label bearing a keg identification number on each keg at the time of retail sale. Any person who unlawfully tampers with, alters, or removes the keg identification number from a beer container after such container has been taken from the licensed premises pursuant to a retail sale and before its return to such licensed premises or other place where returned kegs are accepted shall be guilty of an offense.

(Neb. Rev. Stat. §53-167.02, 53-167.03)

SECTION 5-122: LICENSE RENEWAL

A. Retail or bottle club licenses issued by the Commission and outstanding may be automatically renewed in the absence of a request by the City Council to require the said licensee to issue an application for renewal. Any licensed retail or bottle club establishment located in an area which is annexed to the City shall file a formal application for a license, and while such application is pending, the licensee shall be authorized to continue all license privileges pursuant to this Article until the original license expires, is canceled, or revoked. If such license expires within 60 days following the annexation date of such area, the license may be renewed by order of the Commission for not more than one year.

B. The city clerk, upon notice from the Commission, between January 10 and January 30 of each year shall cause to be published one time in a legal newspaper in or of general circulation in the City, a notice in the form prescribed by law of the right of automatic renewal of each retail liquor and beer license within the City; provided, Class C license renewal notices shall be published between July 10 and July 30 of each year. The city clerk shall then file with the Commission proof of publication of said notice on or before February 10 of each year or August 10 of each year for Class C licenses. Upon the conclusion of any hearing required by this section, the City Council may request a licensee to submit an application. (Neb. Rev. Stat. §53-135, 53-135.01)

SECTION 5-123: CITIZEN COMPLAINTS

Any five residents of the City shall have the right to file a complaint with the City Council stating that any retail or bottle club licensee subject to the jurisdiction of the

City Council has been or is violating any provision of the Nebraska Liquor Control Act or the rules or regulations issued pursuant thereto. Such complaint shall be in writing in the form prescribed by the City Council and shall be signed and sworn by the parties complaining. The complaint shall state the particular provision, rule, or regulation believed to have been violated and the facts in detail upon which belief is based. If the City Council is satisfied that the complaint substantially charges a violation and that from the fact alleged there is reasonable cause for such belief, it shall set the matter for hearing within ten days from the date of the filing of the complaint and shall serve notice upon the licensee of the time and place of such hearing and of the particular charge in the complaint; provided, the complaint must in all cases be disposed of by the City Council within 30 days from the date the complaint was filed by resolution thereof. Said resolution shall be deemed the final order for purposes of appeal to the Nebraska Liquor Control Commission as provided by law. (Neb. Rev. Stat. §53-1,114)

SECTION 5-124: 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 Tekamah, Nebraska. The undersigned respectfully state:

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

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

(Name)

(Name)

(Name)

(Name)

(Name)

STATE OF NEBRASKA)
) ss.
COUNTY OF BURT)

Subscribed in my presence and sworn to before me by _____,
_____, _____, _____,
and _____, this _____ day of _____, 20____.

My commission expires _____.

Notary Public"

(Neb. Rev. Stat. §53-134.04)

SECTION 5-125: FORMS, CONTINUED; PROCEDURE

A. 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. 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 City Council are satisfied that the complaint substantially charges a violation and there is a reasonable cause for such belief based upon the facts alleged, they shall, by resolution, set the matter for hearing within ten days from the filing of the complaint.

B. Said resolution shall state the time and place of said hearing and shall direct the city police chief 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 municipal 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. Such resolution shall be deemed the final order for purposes of appeal to the Liquor Control Commission.

(Neb. Rev. Stat. §53-134.04)

SECTION 5-126: COMPLAINT INITIATED BY CITY COUNCIL

The mayor and City Council may, 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 men-

tioned in Section 5-125 of this code, and insofar as possible the procedure shall be the same as is provided in that section.

SECTION 5-127: ACQUISITION OF ALCOHOLIC BEVERAGES

It shall be unlawful for any person to have possession of any alcoholic liquors which shall have been acquired otherwise than from a licensee duly licensed to sell same to such person under the provisions of the Nebraska Liquor Control Act, provided:

A. Nothing herein shall prevent the possession of alcoholic liquor for the personal use of the possessor, his/her family and guests, as long as the quantity of alcoholic liquor transported, imported, brought, shipped or caused to be transported, imported, brought, or shipped into the State for personal use does not exceed one gallon at any one time or in excess of two gallons in any one calendar month, nor prevent the making of wine, cider or other alcoholic liquor by a person from fruits, vegetables or grains, or the product thereof, by simple fermentation and without distillation, if it is made solely for the use of the maker, his/her family and his/her guests;

B. Nothing herein shall prevent any duly licensed practicing physician or dentist from possessing or using alcoholic liquor in the strict practice of his/her profession, or any hospital or institution caring for the sick and diseased persons, from possessing any alcoholic liquor for the treatment of bona fide patients of such hospital or other institution;

C. Any drug store employing a licensed pharmacist may possess and use alcoholic liquors in the compounding of prescriptions of duly licensed physicians; and

D. The possession and dispensation of wine by an authorized representative of any church for the purpose of conducting any bona fide rite or religious ceremony conducted by such church shall not be prohibited by this section;

E. Persons who are 16 years old or older may carry beer from grocery stores when they are accompanied by a person not a minor, persons who are 16 years old or older may handle beer containers and beer in the course of their employment in grocery stores, and persons who are 16 years old or older may remove and dispose of alcoholic liquor containers for the convenience of their employer and customers in the course of their employment as waiters, waitresses, or busboys, by any restaurant, club, hotel, or similar organization; and

F. Persons who are 19 years old or older may serve or sell alcoholic liquor in the course of their employment.

(Neb. Rev. Stat. §53-102, 53-164.01, 53-175)

SECTION 5-128: CONSUMPTION IN PUBLIC PLACES OR PLACES OPEN TO THE PUBLIC; RESTRICTIONS

A. Except when the Nebraska Liquor Control Commission has issued a license as provided in Neb. Rev. Stat. §53-186(2), it is unlawful for any person to consume alcoholic liquor upon property owned or controlled by the state or any governmental subdivision thereof unless authorized by the governing bodies having jurisdiction over such property. (Neb. Rev. Stat. §53-186(1))

B. It is unlawful for any person owning, operating, managing, or conducting any dance hall, restaurant, café, or club or any place open to the general public to permit or allow any person to consume alcoholic liquor upon the premises except as permitted by a license issued for such premises pursuant to the Nebraska Liquor Control Act. It is unlawful for any person to consume alcoholic liquor in any dance hall, restaurant, café, or club or any place open to the general public except as permitted by a license issued for such premises pursuant to the Act. This division does not apply to a retail licensee while lawfully engaged in the catering of alcoholic beverages.

(Neb. Rev. Stat. §53-186, 53-186.01) (Ord. No. 1132, 3/14/00)

SECTION 5-129: REMOVAL OF INTOXICATED PERSONS FROM PUBLIC OR QUASI-PUBLIC PROPERTY

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

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

C. For purposes of this section, “public property” shall mean any public right-of-way, street, highway, alley, park, or other state-, county-, or city-owned property.

D. For the purposes of this section, “quasi-public property” shall mean and include private or publicly-owned property utilized for proprietary or business uses which invites patronage by the public or which invites public ingress and egress.
(Neb. Rev. Stat. §53-1,121)

Article 2 – Peddlers, Hawkers and Transient Merchants

SECTION 5-201: REGULATION

To prevent the sale of fraudulent, dangerous, and unhealthful goods and services, and to protect the public by maintaining records of the products sold and the persons and companies responsible for such sales, all peddlers and hawkers shall, before doing business within the City, make application for, and be issued a license. Application for said permit shall be made to the city clerk and shall contain all the necessary information and documents required for the protection of the residents of the City. Any person or persons granted a peddler's and hawker's 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 permit so granted shall be subject to revocation for good and sufficient cause by the city police. (Neb. Rev. Stat. §17-134, 17-525)

SECTION 5-202: HOURS OF SOLICITATION

It shall be unlawful for any solicitor, salesman, or peddler to solicit any individual between the hours of 3:00 P.M., and 10:00 A.M., unless they have a previous appointment with the resident(s) of the premises solicited. It shall be unlawful at any hour for a solicitor, salesman, or peddler to solicit without a proper license on his/her person at all times. (Neb. Rev. Stat. §17-134)

SECTION 5-203: EXCEPTIONS

Nothing herein shall be construed to apply to any person selling produce raised within the state, or to wholesale salesmen soliciting merchants directly, or to a representative of a nonprofit or charity organization soliciting on behalf of that organization. This article shall also not pertain to nor apply to persons canvassing residents within the City for religious, political or other noncommercial purposes.

SECTION 5-204: TRANSIENT MERCHANTS; DEFINITION

A "transient merchant," "itinerant merchant," or "itinerant vendor" is defined as any person, firm, or corporation, whether as owner, agent, consignee, or employee, whether a resident of the City or not, who engages in the business of selling and delivering goods, wares, and merchandise or taking orders for goods or merchandise, to or at homes, apartments, or other residential premises in the City. (Neb. Rev. Stat. §17-134, 75-323)

SECTION 5-205: LICENSE REQUIRED

It shall be unlawful for an itinerant vendor to engage in such business within the City without first obtaining a license therefor. It shall be unlawful for any farmer, truck

grower, or others who produce, hawk or peddle products of the farm, fruit or other staples of food, or who peddle, sell, or offer to sell any commodity or article of commerce or trade to park their conveyances or erect a place of business for the purpose of selling said products upon any street within the Business District. (Neb. Rev. Stat. §17-134, 75-323 through 75-335)

SECTION 5-206: APPLICATION

Applicants for a license shall file a written sworn application signed by the applicant, if an individual; by all partners, if a partnership; and by the president, if a corporation, with the city clerk, showing:

A. The name(s) of the person(s) having the management or supervision of the applicant's business during the time that it is proposed to be carried on in the City; the local address(es) of such person(s) while engaged in such business; the permanent address(es) of such person(s); the capacity in which such person(s) will act (that is, whether as proprietor, agent, or otherwise); the name and address of the person, firm, or corporation for whose account the business will be carried on, if any; and if a corporation, under the laws of what state the same is incorporated.

B. The place or places in the City where it is proposed to carry on applicant's business, and the length of time during which it is proposed that such business shall be conducted.

C. A statement of the nature of merchandise to be sold or offered for sale by the applicant.

D. A brief statement of the nature of the advertising done or proposed to be done in order to attract customers.

E. Credentials from the person for whom the applicant proposes to do business, authorizing the applicant to act as such representative.

F. Such other reasonable information as to the identity or character of the person or persons having the management or supervision of the applicant's business or method or plan of doing such business, as the city clerk may deem proper.
(Neb. Rev. Stat. §17-134)

SECTION 5-207: FEE

The applicant shall pay a license fee set by the City Council and on file at the city clerk's office to cover the cost of processing the application and issuing the license.
(Neb. Rev. Stat. §17-134, 17-525)

SECTION 5-208: LICENSE EXPIRATION

All licenses issued shall expire one year after the date of issuance thereof unless a prior date is fixed therein. (Neb. Rev. Stat. §17-134)

SECTION 5-209: LICENSE REVOCATION

Any license issued may be revoked by the City Council after notice and a hearing, for any of the following causes:

A. Any fraud, misrepresentation, or false statement contained in the application for a license.

B. Any fraud, misrepresentation, or false statement made in connection with the selling of goods, wares, or merchandise.

C. Any violation of this article.

D. Conviction of the licensee of any felony or of a misdemeanor involving moral turpitude.

Article 3 – Bingo Regulations

SECTION 5-301: REGULATION

Games of bingo shall be conducted within the City in accordance with all laws of the City and the State of Nebraska if the said game of bingo is played for or involves profit or gain. Any association duly licensed by the State to conduct the game of bingo shall obtain a written permit from the City Council before commencing operation of said game. Application shall be made to the city clerk for such permit. Said application form shall contain such information and documents or copies thereof as the Council deems necessary to determine whether to grant or reject the application. Upon the determination that granting the application would be proper, the City Council shall immediately direct the city clerk to issue the said license to the applicant upon the payment of an annual permit fee of \$10.00. Said license shall be subject to revocation at any time for good cause. Any person or persons so licensed shall be subject to any other fees, rules, and regulations which the City Council may designate. Any permit so issued will automatically expire on September 30 following its issuance or renewal. The fee for each renewal unless otherwise prescribed shall be in the sum of \$10.00. Said fee shall be credited to the General Fund. The permit shall be on display at any place where a game of bingo is conducted. (Neb. Rev. Stat. §9-236)

SECTION 5-302: INCORPORATED REGULATIONS

All applicable state statutes as they now exist or may hereafter be amended shall be, and will constitute, a part of this article as if repeated verbatim herein, and violation of any state statute will be a distinct and separate offense against the City as well as against the State. Violators thereof shall be separately prosecuted by the City for each of such offenses, and if convicted, shall be deemed to be guilty of a misdemeanor. (Neb. Rev. Stat. §9-202 through 9-265, 9-308, 9-313, 9-316, 9-317, 9-320, 9-329, 9-332 through 9-335, 9-341, 9-346)

Article 4 – Occupation Taxes

SECTION 5-401: LIQUOR LICENSE FEES

For the purpose of raising revenue an occupation tax is hereby levied on the following businesses selling alcoholic liquor within the City:

| <i>Retail Sellers of Alcoholic Beverages</i> | <i>Per Year</i> |
|---|-----------------|
| Beer only, regardless of alcoholic content, for consumption on or off the seller's premises | \$25.00 |
| Alcoholic liquors, including beer, regardless of alcoholic content, in original containers, for consumption off seller's premises | \$150.00 |
| Alcoholic liquors, including beer, regardless of alcoholic content for consumption on or off premises of seller | \$500.00 |

(Neb. Rev. Stat. §17-525) (Amended by Ord. No. 897, 5/22/90)

SECTION 5-402: LIQUOR OCCUPATION TAX; COLLECTION DATE

All liquor occupation taxes, other than Class C, shall be due and payable on May 1 of each year. Occupation taxes collected from Class C liquor licensees shall be due and payable on November 1 of each year. Upon the payment thereof, the clerk shall give a receipt, properly dated and specifying the person paying the said tax and the amount paid. The revenue collected shall then be immediately deposited into the General Fund by the city treasurer, who shall keep an accurate account of all revenue collected. All forms and receipts herein mentioned shall be issued in duplicate. One copy shall then be kept by each party in the transaction. (Neb. Rev. Stat. §17-525, 53-124)

SECTION 5-403: CELLULAR PHONE OCCUPATION TAX

Commencing January 1, 2009, there is hereby levied upon every person, firm, partnership, corporation, or association engaged in the business of offering or providing telecommunication services to the public for hire in the City of Tekamah an occupation tax as follows:

A. Three percent on the gross receipts resulting from any toll services and charges on basic local exchange services, inter-exchange services, mobile services, and other telecommunication services as follows:

1. "Basic local exchange services" shall include the access and transmission of two-way switched communications within the City, including local telephone and telecommunication services.

2. "Inter-exchange services" shall mean the access and transmission of communications between two or more local exchange areas, provided that such inter-exchange service either (a) originates from an end user within the city or (b) terminates with an end user within the City and is charged to a service address within the City, regardless of where the charges are actually paid.
3. "Mobile services" shall include any radio or similar communication services provided pursuant to license or authority granted by the Federal Communications Commission, charged to a service address within the City regardless of where the charges are actually paid, including cellular, radio paging, and mobile radio services.
4. Any other similar telecommunication services involving any electronic or electromagnetic transmission of messages originating and terminating in the State of Nebraska and charged to a service address in the City, regardless of where the charges are actually paid.

B. Gross receipts shall not include any toll services and charges as follows:

1. For interstate telecommunications between persons in this city and persons outside of this state;
2. For local carrier access charges, transmission facilities and switching services provided to telecommunications companies;
3. From accounts charged to the U. S. government or any of its departments, or the State of Nebraska, or any of its agencies, subdivisions or departments.

C. No part or portion of the tax provided for in this chapter shall be levied upon or assessed against or taken from any such gross receipts so excepted from the provisions hereof.

SECTION 5-404: CELLULAR PHONE OCCUPATION TAX PAYMENTS; PENALTIES FOR LATE PAYMENT

A. The payment of the occupation tax herein levied shall be in quarterly payments, using the calendar quarter year as a basis for determining and computing the amount of tax payable. Each quarterly payment shall be due 45 days after the termination of each calendar quarter year. All payments of tax made after the due date shall draw interest at the rate of 1% per month, and after payment has been in default for six months, a penalty of 14% shall be added thereto in addition to the interest charges and shall be paid by the company or companies subject to this occupation tax. Each succeeding payment may make such adjustment to be shown on the report hereinafter provided for as may be necessary for uncollectables or any other

matters which may have resulted in either an excess or deficiency in the amount of tax paid in any previous quarter.

B. The occupation tax herein levied shall be paid the treasurer at the time provided in this division, and he/she shall issue and deliver his/her receipt therefor on the payment thereon. The amount of payment shall be credited by the treasurer to the general fund or as otherwise directed by resolution

SECTION 5-405: CELLULAR PHONE OCCUPATION TAX REPORTS AND INSPECTIONS

A. All telephone companies, at the same time as they make such quarterly payments of tax herein required, shall file with the clerk a full, complete and detailed statement of the gross receipts subject to the occupation tax provided for in this article. Said statement shall be duly verified and sworn to by the manager in charge of the business of the particular company in the City or by a higher managerial employee of such company, and the City shall have the right at any time to inspect, through its officers, agents or representatives, the books and records of such company for the purpose of verifying such reports.

B. If the telephone company shall refuse, fail or neglect to furnish or file such reports at the time required by this section or shall fail or refuse to permit the City to inspect the books and records of such company for the purpose of verifying such report or reports, then the occupation tax for the preceding quarter shall be \$25,000.00; said amount shall be paid within 45 days following the end of the calendar quarter as required herein, and said amount shall draw 14% interest and penalties as further provided herein.

SECTION 5-406: CERTIFICATES

The receipt issued after the 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 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. (Neb. Rev. Stat. §17-525)

SECTION 5-407: LAWSUITS FOR COLLECTION OF TAX

In case persons or companies shall fail to make payment of the occupation tax as herein provided at the times herein specified, the City shall have the right and may sue any such person or company in any court of competent jurisdiction for the amount of the occupation tax due and payable under the terms and provisions of this division and may recover judgment against any such company or companies for the amount so due, together with 14% interest penalties, and may have execution thereon.

Article 5 – Tobacco License

SECTION 5-501: LICENSE; APPLICATION; FEE

Every person, partnership, limited liability company, or corporation desiring a license to sell tobacco at retail shall file with the city clerk a written application, on forms provided by the City, stating the name of the person, partnership, limited liability company, or corporation for whom the license is desired and the exact location of the place of business and shall deposit with the application a license fee in the amount of \$10.00. If the applicant is an individual, the application shall include the applicant's social security number. (Neb. Rev. Stat. §28-1422, 28-1423) (Ord. No. 1099, 8/11/98)

Article 6 – Penal Provision

SECTION 5-601: VIOLATION; PENALTY

Any person who shall violate or refuse to comply with the enforcement of any of the provisions of this chapter, set forth at full length herein or incorporated by reference, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined 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.

CHAPTER 6 – PUBLIC WAYS AND PROPERTY

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CHAPTER 6 – PUBLIC WAYS AND PROPERTY

Article 1 – Municipal Property

SECTION 6-101: 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. (Neb. Rev. Stat. §17-567)

SECTION 6-102: OBSTRUCTIONS

A. Trees and shrubs, growing upon, or near, the lot line, or upon public ground and interfering with the use, or construction of any public improvements shall be deemed an obstruction under this article. Said roots may be removed by the City at the expense of the owner of the property upon which the tree is located should the owner fail, or neglect, after notice, to do so. It shall be unlawful for any person, persons, firm, or corporation to obstruct, or encumber, by fences, gates, buildings, structures, or otherwise, any of the streets, alleys, or sidewalks. The public ways and property shall be considered to be obstructed when the owner or occupant of the adjacent property shall permit or suffer to remain on any premises owned or controlled by him/her any hedge, shrubbery, bush or similar growth within two feet adjacent to the lot line whether there is a sidewalk abutting or adjoining such premises or not. It shall be the duty of owners and occupants to at all times keep trimmed and pruned all such similar growth. Whenever any such growth is allowed to grow within two feet of the lot line contrary to the provisions of this article, the City Council may pass a resolution ordering the owner or occupant to remove such obstructions within five days after having been served with a copy of said resolution by the City, stating that the City will do so and will charge the costs thereof to the owner or occupant as a special assessment for improvements as herein provided, or shall collect the same by civil suit brought in the name of the City against the said owner or occupant.

B. Trees and shrubs growing upon the lot line partially on public ground and partially upon the abutting property, or wholly upon the abutting property, but so close to the lot line as to interfere with the making of any public improvement or so that the roots thereof interfere with any utility wires or pipe, shall be deemed an obstruction and such trees, shrubs, and roots may be removed by the City pursuant to the procedure prescribed above. In the event the property owner is a nonresident of the county in which the property lies, the City shall, before levying any special assessment against the 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 listed of the nonresident property owner. The last known address shall be that address listed on the current tax rolls at the time such required notice was first published.

C. It shall be the duty of an owner or occupant engaged in construction of any

building or improvement upon or near the public ways and property to have all excavations or exposures of any kind protected and guarded by suitable guards or barricades by day and by warning lights at night. In the event of failure, neglect, or refusal to comply with the provisions of this article, it shall be the duty of the City to stop all work upon said buildings and improvements until suitable guards are erected and kept in the manner aforesaid.

(Neb. Rev. Stat. §17-557.01)

SECTION 6-103: OBSTRUCTION OF STREETS; WORK ON SIDEWALKS

Persons engaged in the erection, construction, reconstruction, wrecking, or repairing of any building, or the construction, or repair, of a sidewalk along any street, may occupy the public street space with such building material and equipment as long as is necessary if such persons shall make application to and receive a permit in writing from the city police to do so; provided, no permit for the occupancy of the sidewalk space and more than one-third of the roadway of the public space adjacent to the real estate on which said building is to be constructed, erected, reconstructed, wrecked, or repaired shall be granted; and provided further, a suitable passageway for pedestrians shall be maintained within the public space included in the permit which shall be protected and lighted in the manner required by the official issuing the permit. (Neb. Rev. Stat. §17-119, 17-555)

SECTION 6-104: BARRICADES AND LIGHTS

It shall be the duty of the owner, tenant, or lessee causing the construction, demolition, or moving of any building or improvement within the City to have during such work all excavations, open basements, building materials, and debris protected by suitable guards or barricades by day, and by warning lights at night. The failure, neglect, or refusal of said persons to erect such guards shall constitute a violation of this section and the city police or the code enforcement officer shall stop all work until guards are erected and maintained as required. (Neb. Rev. Stat. §17-505)

SECTION 6-105: 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 6-106: HEAVY EQUIPMENT

A. It shall be unlawful for any person or person 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. 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 cutting edges; with wheels having lugs, any protruding parts, or bolts thereon that extend beyond a plain tire so as to cut, mark, mar, indent, or otherwise injure or damage any pavement, gutter, or curb;

B. Where heavy vehicles, structures, and machines move along paved or unpaved streets, the city police are hereby authorized and empowered to choose the route over which the moving of such vehicles, structures, or machines will be permitted and allowed.

C. Nothing in this section shall be construed to apply to pneumatic tires with metal or metal-type studs not exceeding five-sixteenths of an inch in diameter inclusive of the stud-casting with an average protrusion beyond the tread surface of not more than seven sixty-fourths of an inch between November 1 and March 15.

D. School buses and emergency vehicles shall be permitted to use metal or metal-type studs all year, and it shall be permissible to use farm machinery with tires having protuberances which will not injure the streets. It shall be permissible to use a rubber-tired crane with a fixed load when:

1. Such vehicle will be transported on a state highway or on any road within the corporate limits,
2. The City has authorized a one-day permit for the transportation of the crane and specified the route to be used and the hours during which the crane can be transported,
3. Such vehicle is escorted by another vehicle(s) assigned by the City, and
4. Such vehicle's gross weight does not exceed the limits set out in Neb. Rev. Stat. §60-6,294. 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.

(Neb. Rev. Stat. §39-6,131)

SECTION 6-107: TREES OUTSIDE THE PROPERTY LINES

Owners or occupants of real property adjoining platted right-of-ways in the City shall be responsible for control over all trees which are outside the property line of privately owned property which is contiguous and adjacent to their property, including responsibility for trimming and removal. (Neb. Rev. Stat. §17-555)

SECTION 6-108: OVERHANGING BRANCHES

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

B. In the event the property owner is a nonresident of the county in which the property lies, the City shall, before levying any special assessment against that property, send a copy of any notice required by law to be published by means of certified mail, return receipt requested, to the last known address of the nonresident property owner. The last known address shall be that address listed on the current tax rolls at the time such required notice was first published. (Neb. Rev. Stat. §17-557.01)

SECTION 6-109: WEEDS

A. It is hereby the duty of the utilities superintendent or duly authorized agent to view and inspect the sidewalk space within the corporate limits for growing weeds during the growing season, and if rank and noxious weeds are found growing thereon, he/she shall notify the owner or occupant thereof, to cut down such weeds as close to the ground as can be practicably done and keep the weeds cut thereon in like manner during the growing season for weeds; provided, any weeds growing in excess of 18 inches on any sidewalk space shall be considered a violation of this section. In the event that the owner of the lot or parcel of land abutting said sidewalk space within the City is a nonresident of the City or cannot be found therein the notice may be given to any person having the care, custody, or control of such lot or parcel of land.

B. In the event that there can be found no one within the City to whom notice can be given, it shall be the duty of the utilities superintendent or agent to post a copy of the notice on the premises and then to cut or cause the weeds thereon to be cut as therein provided and report the cost thereof in writing to the City Council. The cost shall then be audited and paid by the City and the amount thereof shall be assessed against the lot or parcel of land as a special tax thereon and shall be collected as are other taxes of the City or may be recovered by civil suit brought by the City against the owner of the parcel of land. In the event the property owner is a nonresident of the county in which the property lies, the City shall, before levying any special as-

assessment against that property, send a copy of any notice required by law to be published by means of certified mail, return receipt requested, to the last known address of the nonresident property owner. The last known address shall be that address listed on the current tax rolls at the time such required notice was first published. (Neb. Rev. Stat. §17-563)

SECTION 6-110: WEEDS, OVERHANGING BRANCHES; COST OF REMOVAL

In the event that the City shall cut or remove any weeds or overhanging branches pursuant to Sections 6-107 and 6-108 above, the cost assessed to the property owner shall be \$50.00 per lot, plus \$10.00 per hour.

SECTION 6-111: REAL PROPERTY; ACQUISITION; CONSTRUCTION, ELECTIONS, WHEN REQUIRED

A. The City is authorized and empowered to (1) purchase, (2) accept by gift or devise, (3) purchase real estate upon which to erect, and (4) erect a building or buildings for an auditorium, fire station, city building, or community house for housing city enterprises and social and recreation purposes, and other public buildings, and maintain, manage, and operate the same for the benefit of the inhabitants of the City.

B. Except as provided in subsection (C) of this section, before any such purchase can be made or building erected, the question shall be submitted to the electors of the City at a general 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.

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

1. Notice of the proposed purchase or construction shall be published in a newspaper of general circulation in the City and no election shall be required to approve the purchase or construction unless within 30 days after the publication of the notice, a remonstrance against the purchase or construction is signed by registered voters of the City equal in number to 15% of the registered voters of the City voting at the last regular election held therein and is filed with the City Council. If the date for filing the remonstrance falls upon a Saturday, Sunday, or legal holiday, the signatures shall be considered timely if filed or postmarked on or before the next business day. If a remonstrance with the necessary number of qualified signatures is timely filed, the question shall be submitted to the voters of the City at a general election or a special election duly called for that purpose. If the purchase or construction is not approved, the property involved shall not then, nor within one year following the election, be purchased or constructed; or
2. The City Council may proceed without providing the notice and right of

remonstrance required in subsection (1) of this subsection if the property can be purchased below the fair market value as determined by an appraisal, there is a willing seller, and the purchase price is less than \$25,000.00. The purchase shall be approved by the Council after notice and public hearing as provided in Neb. Rev. Stat. §16-1755.

(Neb. Rev. Stat. §17-953, 17-953.01) (Ord. No. 1001, 2/27/96)

SECTION 6-112: REAL PROPERTY; ACQUISITION; AUTHORIZATION

When acquiring an interest in real property by purchase or eminent domain, the City shall do so only after the City Council has authorized the acquisition by action taken in a public meeting after notice and public hearing. (Neb. Rev. Stat. §16-1755) (Ord. No. 970, 3/28/95)

SECTION 6-113: REAL PROPERTY; ACQUISITION; APPRAISAL

The City shall not purchase, lease-purchase, or acquire for consideration real property having an estimated value of \$100,000.00 or more unless an appraisal of such property has been performed by a certified real estate appraiser. (Neb. Rev. Stat. §13-403) (Ord. No. 971 3/28/95)

SECTION 6-114: REAL PROPERTY; SALE AND CONVEYANCE

A. Except as provided in subsection (I) 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:

1. Such property is being sold in compliance with the requirements of federal or state grants or programs;
2. Such property is being conveyed to another public agency; or
3. Such property consists of streets and alleys.

B. The City Council may establish a minimum price for such real property at which bidding shall begin or shall serve as a minimum for a sealed bid.

C. After the passage of the resolution directing the sale, notice of all proposed sales of real property described in subsection (A) of this section and the terms thereof shall be published once each week for three consecutive weeks in a legal newspaper published in or of general circulation in the City.

D. If within 30 days after the third publication of the notice a remonstrance against such sale is signed by registered voters of the City equal in number to 30% of the registered voters of the City voting at the last regular election held therein and is filed with the City Council, such property shall not then, nor within one year thereaf-

ter, be sold. If the date for filing the remonstrance falls upon a Saturday, Sunday, or legal holiday, the signatures shall be collected within the 30-day period, but the filing shall be considered timely if filed or postmarked on or before the next business day.

E. Upon the receipt of the remonstrance, the City Council, with the aid and assistance of the election commissioner or county clerk, shall determine the validity and sufficiency of signatures on the remonstrance. The City Council shall deliver the remonstrance to the election commissioner or county clerk by hand carrier, by use of law enforcement officials, or by certified mail, return receipt requested. Upon receipt of the remonstrance, the election commissioner or county clerk shall issue to the City Council a written receipt that the remonstrance is in the custody of the election commissioner or county clerk. The election commissioner or county clerk shall compare the signature of each person signing the remonstrance with the voter registration records to determine if each signer was a registered voter on or before the date on which the remonstrance was filed with the City Council. The election commissioner or county clerk shall also compare the signer's printed name, street and number or voting precinct, and city or post office address with the voter registration records to determine whether the signer was a registered voter. The signature and address shall be presumed to be valid only if the election commissioner or county clerk determines that the printed name, street and number or voting precinct and city or post office address matches the registration records and that the registration was received on or before the date on which the remonstrance was filed with the Council. The determinations of the election commissioner or county clerk may be rebutted by any credible evidence which the Council finds sufficient. The express purpose of the comparison of names and addresses with the voter registration records, in addition to helping to determine the validity of the remonstrance, the sufficiency of the remonstrance, and the qualifications of the signer, shall be to prevent fraud, deception, and misrepresentation in the remonstrance process. Upon completion of the comparison of names and addresses with the voter registration records, the election commissioner or county clerk shall prepare in writing a certification under seal setting forth the name and address of each signer found not to be a registered voter and the signature page number and line number where the name is found, and if the reason for the invalidity of the signature or address is other than the non-registration of the signer, the election commissioner or county clerk shall set forth the reason for the invalidity of the signature. If the election commissioner or county clerk determines that a signer has affixed his or her signature more than once to the remonstrance and that only one person is registered by that name, the election commissioner or county clerk shall prepare in writing a certification under seal setting forth the name of the duplicate signature and shall count only the earliest dated signature. The election commissioner or county clerk shall certify to the City Council the number of valid signatures necessary to constitute a valid remonstrance. The election commissioner or county clerk shall deliver the remonstrance and the certifications to the Council within 40 days after the receipt of the remonstrance from the Council. The delivery shall be by hand carrier, by use of law enforcement officials, or by certified mail, return receipt requested. Not more than 20 signatures on one signature page shall be counted.

F. The City Council shall, within 30 days after the receipt of the remonstrance and certifications from the election commissioner or county clerk, hold a public hearing to review the remonstrance and certifications and receive testimony regarding them. The Council shall, following the hearing, vote on whether or not the remonstrance is valid and shall uphold the remonstrance if sufficient valid signatures have been received.

G. Real estate now owned or hereafter owned by the City may be conveyed without consideration to the State for state armory sites or, if acquired for state armory sites, such property shall be conveyed strictly in accordance with the conditions of Neb. Rev. Stat. §16-1001 to 16-1006.

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

I. Subsections (A) to (H) of 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 property having a total fair market value of 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. The notice shall give a general description of the property offered for sale and state the terms and conditions of sale. Confirmation of the sale by passage of an ordinance may be required.

(Neb. Rev. Stat. §17-503, 17-503.01) (Ord. No. 1000, 2/27/96) (Am. Ord. No. 1095, 8/11/98)

SECTION 6-115: PERSONAL PROPERTY; SALE AND CONVEYANCE

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 the sale. When such personal property is being sold in compliance with the requirements of federal or state grants or programs or conveyed to another public agency, the notice procedure set forth above may be dispensed with. (Neb. Rev. Stat. §17-503.02)

SECTION 6-116: SPECIAL IMPROVEMENT DISTRICT; ASSESSMENT AND CREATION PROCEDURE

The City Council may, by ordinance, create a special improvement district for the purpose of replacing, reconstructing, or repairing an existing water line, sewer line, or any other such improvement. Except as provided in Neb. Rev. Stat. §19-2428 to 19-2431, the City Council shall have power to assess, to the extent of such benefits, the costs of such improvements upon the properties found especially benefited thereby, whether or not such properties were previously assessed for the same general purpose. In creating such special improvement district, the Council shall follow procedures applicable to the creation and assessment of the same type of improvement district as otherwise provided by law. (Neb. Rev. Stat. §16-1751) (Ord. No. 869, 9/22/87)

SECTION 6-117: IMPROVEMENT DISTRICT; LAND ADJACENT

Supplemental to any existing law on the subject, a City may include land adjacent to such City when creating an improvement as a sewer, water, water extension, or sanitary sewer extension district. The City Council shall have power to assess, to the extent of special benefits, the costs of such improvements upon the properties found especially benefited thereby. (Neb. Rev. Stat. §19-2427) (Ord. No. 870, 9/22/87)

SECTION 6-118: DEFERRAL FROM SPECIAL ASSESSMENTS

A. Whenever the City Council creates an improvement district as specified in Section 6-116 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.

B. Any owner of record title eligible for the deferral granted by this section shall, to secure such assessment, make application to the City Council within 90 days after creation of an improvement district. Any owner of record title who makes application for the deferral provided by this section shall notify the county register of deeds of such application in writing prior to any owner of record title upon determination that the property (1) is within an agricultural use zone and is used exclusively for agricultural use, and (2) the owner has met the requirements of this section.

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

1. Notification by the owner of record title to the City Council to remove such deferral;
2. Sale or transfer to a new owner who does not make a new application will in 60 days of the sale or transfer, except as provided in subsection

(3) below.

3. Transfer by reason of death of a former owner to a new owner who does not make application within 125 days of the transfer;
4. The land is no longer being used as agricultural land; or
5. Change of zoning to other than an agricultural zone.

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

1. 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
2. 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.

E. In cases where the deferral provided by this section is terminated as a result of a sale or transfer described in subsection (C)(2) or (3) of this section, the lien for assessments and interest shall attach as of the day preceding such sale or transfer.

(Neb. Rev. Stat. §19-2428 thru 19-2431) (Amended by Ord. No. 871, 9/22/87)

SECTION 6-119: PUBLIC WORKS INVOLVING ARCHITECTURE OR ENGINEERING; REQUIREMENTS

A. Except as provided in subsection (B) of this section, the City shall not engage in the construction of any public works involving architecture or engineering unless the plans, specifications, and estimates have been prepared and the construction has been observed by an architect, a professional engineer, or a person under the direct supervision of an architect, professional engineer, or those under the direct supervision of an architect or professional engineer.

B. Subsection (A) of this section shall not apply to the following activities:

1. Any public works project with contemplated expenditures for the completed project that do not exceed \$40,000.00
2. Any alteration, renovation, or remodeling of a building if the alteration, renovation, or remodeling does not affect architectural or engineering safety features of the building;
3. Performance of professional services for itself if the City appoints a city

engineer or employs a full time person licensed under the Engineers and Architects Regulation Act who is in responsible charge of architectural or engineering work;

4. The practice of any other certified trade or legally recognized profession;
5. Earthmoving and related work associated with soil and water conservation practices performed on any land owned by the City that is not subject to a permit from the Department of Natural Resources;
6. The work of employees and agents of the City performing, in accordance with other requirements of law, their customary duties in the administration and enforcement of codes, permits, programs, and land-use regulations and their customary duties in utility and public works construction, operation, and maintenance;
7. Those services ordinarily performed by subordinates under direct supervision of a professional engineer or those commonly designated as locomotive, stationary, marine operating engineers, power plant operating engineers, or manufacturers who supervise the operation of or operate machinery or equipment or who supervise construction within their own plant;
8. The construction of city water wells as defined in Neb. Rev. Stat. §46-1212, the installation of pumps and pumping equipment into city water wells, and the decommissioning of city water wells, unless such construction, installation, or decommissioning is required by the City to be designed or supervised by an engineer or unless legal requirements are imposed upon the City as a part of a public water supply; and

9. Any other activities described in Neb. Rev. Stat. §81-3449 to 81-3453. (Neb. Rev. Stat. §81-3423, 81-3445, 81-3449 through 81-3453) (Ord. No. 1142, 3/14/00)

SECTION 6-120: PLANS, PLATS, AND THE LIKE; CITY OFFICIALS; DUTY

A. A city official charged with the duty or responsibility of accepting or approving plans, specifications, plats, and reports shall not accept or approve plans, specifications, plats, or reports which have not been prepared in accordance with the Engineers and Architects Regulation Act. (Neb. Rev. Stat. §81-3447)

B. A city official charged with the duty or responsibility of accepting or approving plans, specifications, geological maps, or reports which have not been prepared in accordance with the Geologists Regulation Act. (Neb. Rev. Stat. §81-3538) (Ord. No. 1097, 8/11/98; 1110, 4/27/99)

Article 2 – Streets

SECTION 6-201: NAMES AND NUMBERS

The City Council may at any time, by resolution, rename any street or provide a name for any new street. Buildings used for residence or business purposes and located along such streets shall retain such numbers as the City Council may require. It shall be the duty of the county surveyor upon the erecting of any new building or buildings to assign the proper numbers to said building(s) and give notice to the owner(s) and occupant(s) of the same. (Neb. Rev. Stat. §19-916)

SECTION 6-202: CROSSINGS

The City Council may order and cause to be constructed, under the supervision of the utilities superintendent such street, avenue, and alley crossings as the City 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 utilities superintendent, who shall investigate and make his/her recommendation to the City Council. Action by the Council on such application, whether the application is approved or rejected, shall be considered final.

SECTION 6-203: WIDENING OR OPENING

The City Council shall have the power to open or widen any street, alley, or lane within the limits of the City; 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 ordinance. (Neb. Rev. Stat. §17-558, 17-559, 76-704 thru 76-724)

SECTION 6-204: EXCAVATION

It shall be unlawful for any person to make an excavation in any street or streets for any purpose whatsoever unless a written permit is issued by the utilities superintendent authorizing such excavations. (Neb. Rev. Stat. §17-142)

SECTION 6-205: DRIVING STAKES

It shall be unlawful for any person to drive any peg or stake of any kind into the pavement in any street or alley without first procuring the written consent of the utilities superintendent.

SECTION 6-206: 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.

SECTION 6-207: HARMFUL LIQUIDS

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

SECTION 6-208: PIPELINES AND WIRES

Poles, wires, gas mains, pipelines, and other appurtenances of public service companies shall be located, or erected over, upon, or under the streets, alleys, and common grounds of the City. Application for location of the above shall be made to the City Council in writing. Approval by the Council shall be issued in writing. Any public service company granted a right-of-way for the erection and maintenance of poles, conduits, gas mains, pipelines, and wires shall at all times erect and locate its poles, wires, gas mains, pipelines, and other appurtenances at such places and in such manner as shall be designed by the City Council. Such poles, wires, gas mains, pipelines, and other appurtenances, shall be removed or relocated by said companies at their own expense when requested to do so by the City Council. Any such relocation shall be ordered by resolution of the City Council and the city clerk shall notify any and all companies affected. Said companies shall, within 24 hours after receiving notice, at their own expense, cause the poles, wires, gas mains, pipelines, or other appurtenances to be removed. The City Council shall designate another location as closely as possible where said poles, wires, gas mains, pipelines or other appurtenances, may be reset or placed. All poles, wires, gas mains, pipelines, or other appurtenances, shall be reset, placed, or erected in such a manner that they will not interfere with the water system; sewerage system; poles, wires, and mains of any public utility; adjacent buildings; or with travel on the public ways and property. Whenever possible, all pole lines, wires, gas mains, pipelines, or appurtenances shall be confined to the alleys of the City.

SECTION 6-209: SNOW AND ICE CONTROL POLICY AND PROCEDURES; INCORPORATED BY REFERENCE

To define and outline snow and ice control objectives and procedures as established by the City Council and Public Works Department, including the Street Department, Snow and Ice Control Policy and Procedures are hereby incorporated by reference herein as if set out in full. One copy shall be kept on file with the city clerk and available for public inspection during regular office hours. (Ord. No. 1198, 11/27/07)

SECTION 6-210: PARKING AND REMOVAL OF VEHICLES DURING SNOW EMERGENCY

A. Whenever two or more inches of snow, ice and/or sleet have fallen on the streets of the City and when the mayor declares a snow emergency, with notice to the news media, it shall be unlawful for any vehicle to be parked on any public street within the City for a period of 120 hours after the snowfall ends or until the accumu-

lated snow has been removed by the City, whichever occurs first. Any vehicle left parked in violation of this section may be removed by the city police or city street supervisor or his designee. If such unlawfully parked vehicle is not removed and by reason of its presence any part of the streets of the City are unable to be plowed, the owner of the vehicle will be in violation of this section and subject to a fine as indicated in Section 6-601 and may be liable to the City for any added plowing expense necessarily incurred as a result of such unlawful parking.

B. The city street supervisor or his designee and every city law enforcement officer are authorized to remove and impound any automobile or vehicle illegally parked or stalled on any street two hours after a snow emergency has been declared. The city street supervisor or his designee shall notify the owner of any such vehicle that it has been removed and impounded. Notification shall be made by hand delivery or by mailing written notice to the owner at the address shown on the registration records of the county treasurer.

C. No person shall recover any vehicle removed unless he/she shall present evidence of his/her identity and right to possession of the vehicle, shall sign a receipt of its return, shall pay the cost of towing, and shall pay any costs of storage accrued. Until paid, these charges constitute a lien on the vehicle, which may be enforced in the same manner as a storage lien.

D. For purposes of this section, the term "vehicle" shall be defined to include, in addition to the definition of vehicle by state statute, any mobile home, travel trailer, boat, boat trailer, pontoon, pontoon trailer, car trailer, utility trailer, pickup camper, horse trailer, stock trailer or machinery of any kind not in immediate use.

E. This section shall be supplemental to any of the provisions contained in the City of Tekamah Snow and Ice Control Policy and Procedures.
(Neb. Rev. Stat. §17-557) (Ord. No. 1200, 11/27/07)

SECTION 6-211: CONSTRUCTION NOTICE

The utilities superintendent shall notify the owners in fee simple of real estate abutting a street, alley, or a part thereof which is to be put under contract for paving or repaving. Notice shall also be given to all gas, electric service, and telephone companies. Notice shall also be given to all consumers of gas, water, and sewer services which will be discontinued during such construction. Said notice shall be published one time in a legal newspaper at least 20 days prior to the beginning of such construction by the party undertaking such construction and said notice shall state at what date connections must be made and excavation completed. All gas, water, sewer and underground connections must be made prior to the paving or repaving of the street under construction. After expiration of such time, permits for excavation will not be issued, nor will excavation be allowed, until after the completion of the pavement in said street or alley, and the formal final acceptance thereof by the proper officials of the City.

SECTION 6-212: CONSTRUCTION ASSESSMENT

A. To defray the costs and expenses of street improvements, as may be authorized by law, the City Council shall have power and authority to levy and collect special taxes and assessments upon the lots and pieces of ground adjacent to, abutting upon, or especially benefiting from, the street, avenue, alley, or sidewalk in whole or in part opened, widened, curbed, and guttered, graded, paved, repaired, graveled, macadamized, parked, extended, constructed, or otherwise improved or repaired. The City Council sitting as the Board of Equalization shall review all such improvements in accordance with the procedure provided by law.

B. All special assessments shall be made by the City Council at a regular or special meeting by resolution, taking into account the benefits derived or injuries sustained in consequence of such improvements and the amount charged against same. The vote shall be recorded in the minutes. Notice of the time of holding such meeting and the purpose for which it is to be held shall be published in some legal newspaper published or of general circulation in the City at least four weeks before the same shall be held. In lieu of such aforementioned notice, personal service may be had upon the persons owning or occupying the property to be assessed. Such assessments shall be known as "special assessments for improvements" and with the cost of notice shall be levied and collected as a special tax in addition to the taxes for general revenue purposes, subject to the same penalties and collected in like manner as other City taxes and shall be certified to the county clerk by the city clerk forthwith after the date of levy, for collection by the treasurer of said County unless otherwise specified. After it shall have become delinquent, said assessment shall draw interest at the legal interest rate per annum. In the event the property owner is a nonresident of the county in which the property lies, the City shall, before levying any special assessment against that property, send a copy of any notice required by law to be published by means of certified mail, return receipt requested, to the last known address of the nonresident property owner, which shall be that address listed on the current tax rolls at the time such required notice was first published. (Neb. Rev. Stat. §17-511, 17-524)

SECTION 6-213: IMPROVEMENT DISTRICTS; OBJECTIONS

Whenever the City Council deems it necessary to make any improvements allowed by statute which are to be funded by a levy of special assessment on the property especially benefited, the Council shall by ordinance create a paving, graveling, or other improvement district and after the passage, approval, and publication of such ordinance, shall publish notice of the creation of any such district for two consecutive weeks in the legal newspaper of general circulation in the City. If the owners of the record title representing more than 50% of the front footage of the property directly abutting on the street or alley to be improved file with the city clerk within 20 days after the first publication of such notice written objections to the creation of such district, such improvement shall not be made as provided in such ordinance, but such ordinance shall be repealed. If objections are not filed against the district in the time and manner prescribed in this section, the City Council shall immediately cause such

work to be done or such improvement to be made, shall contract for the work or improvement, and shall levy assessments on the lots and parcels of land abutting on or adjacent to such street or alley especially benefited in such district in proportion to such benefits to pay the cost of such improvement. (Neb. Rev. Stat. §17-511) (Ord. No. 996, 2/27/96)

SECTION 6-214: 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(s), and shall cause such work to be done or such improvement to be made. The Council shall contract therefor and shall levy assessments on the lots and parcels of land abutting on or adjacent to such street(s) or alley(s) especially benefited thereby in such district in proportion to such benefits to pay the cost of such improvement. The City Council shall have the discretion to deny the formation of the proposed district when the area has not previously been improved with a water system, sewer system, and grading of streets. If the City Council should deny a requested improvement district formation, it shall state the grounds for such denial in a written letter to interested parties. (Neb. Rev. Stat. §17-510)

SECTION 6-215: DRIVEWAY APPROACHES

The street commissioner may require the owner of property served by a driveway approach constructed or maintained upon the street right-of-way to repair or replace any such driveway approach which is cracked, broken, or otherwise deteriorated to the extent that it is causing or is likely to cause damage to or interfere with any street structure, including pavement or sidewalks. The city clerk shall give the property owner notice by registered letter or certified mail, directed to the last known address of such owner or the agent of such owner, directing the repair or replacement of such driveway approach. If within 30 days of mailing such notice the property owner fails or neglects to cause such repair or replacements to be made, the street commissioner may cause such work to be done and assess the cost upon the property served by such approach. (Neb. Rev. Stat. §18-1748)

SECTION 6-216: VACATING PUBLIC WAYS; DEFINITIONS AND ASCERTAINING DAMAGES

A. The City shall have power to open, widen, or otherwise improve or vacate any street, avenue, alley, or lane within the limits of the City and also to create, open, and improve any new street, avenue, alley, or lane. All damages sustained by the citizens of the City or by the owners of the property therein shall be ascertained in such manner as shall be provided by ordinance.

B. Whenever any street, avenue, alley, or lane is vacated, the same shall revert to the owners of the abutting real estate, one-half on each side thereof, and be-

come a part of such property unless the City reserves title in the ordinance vacating such street or alley. If title is retained by the City, such property may be sold, conveyed, exchanged, or leased upon such terms and conditions as shall be deemed in the best interests of the City.

C. When a portion of a street, avenue, alley, or lane is vacated only on one side of the center thereof, the title to such land shall vest in the owner of the abutting property and become a part of such property unless the City reserves title in the ordinance vacating a portion of such street or alley. If title is retained by the City, such property may be sold, conveyed, exchanged, or leased upon such terms and conditions as shall be deemed in the best interests of the City.

D. When the City vacates all or any portion of a street, avenue, alley, or lane, the City shall, within 30 days after the effective date of the vacation, file a certified copy of the vacating ordinance or resolution with the register of deeds for the county in which the vacated property is located to be indexed against all affected lots.

E. The title to property vacated pursuant to this section shall be subject to the following:

1. There is reserved to the City the right to maintain, operate, repair, and renew public utilities existing at the time title to the property is vacated there; and
2. There is reserved to the City any public utilities and any cable television systems the right to maintain, repair, renew, and operate water mains, gas mains, pole lines, conduits, electrical transmission lines, sound and signal transmission lines, and other similar services and equipment and appurtenances, including lateral connections or branch lines, above, on, or below the surface of the ground that are existing as valid easements at the time title to the property is vacated for the purposes of serving the general public or the abutting properties and to enter upon the premises to accomplish such purposes at any and all reasonable times.

(Neb. Rev. Stat. §17-558)

Article 3 – Sidewalks

SECTION 6-301: DEFINITION

The following definition shall be applied throughout this chapter. When no definition is specified, the normal dictionary usage of the word shall apply.

"Sidewalk space," as used herein, shall mean that portion of a street between curb lines and adjacent property lines.

SECTION 6-302: KEPT CLEAN

It shall be unlawful for the occupant of any lot or lots or the owner of any vacant lot or lots within the corporate limits to allow snow, sleet, mud, ice, or other substance to accumulate on the sidewalks or to permit any snow, sleet, ice, mud or other substance to remain upon said sidewalk. All sidewalks within the business district shall be cleaned within five hours after the cessation of a storm, unless the storm or fall of snow shall have taken place during the night, in which case the sidewalk shall be cleaned before 10:00 A.M. the following day; provided, sidewalks within the residential areas of the City shall be cleaned within 24 hours after the cessation of the storm. (Neb. Rev. Stat. §17-557)

SECTION 6-303: MAINTENANCE

Every owner of any lot, lots, or piece of land within the corporate limits shall at all times keep and maintain the sidewalk along and contiguous to said lot, lots, or pieces of land, as the case may be, in good and proper repair, and in a condition reasonably safe for travel for all travelers thereon. In the event that the owner or owners of any lot, lots, or lands, abutting on any street, avenue, or part thereof shall fail to construct or repair any sidewalk in front of their lot, lots, or lands, within the time and in the manner as directed and required herein after having received due notice to do so, they shall be liable for all damages or injury occasioned by reason of the defective or dangerous condition of any sidewalk, and the City Council shall have power to cause any such sidewalks to be constructed or repaired and assess the costs thereof against such property. In the event the property owner is a nonresident of the county in which the property lies, the City shall, before levying any special assessment against that property, send a copy of any notice required by law to be published by means of certified mail, return receipt requested to the last known address of the nonresident property owner. The last known address shall be that address listed on the current tax rolls at the time such required notice was first published. (Neb. Rev. Stat. §17-557.01)

SECTION 6-304: REPAIR

The utilities superintendent may require sidewalks of the City to be repaired. Notice to the owners of property upon which such sidewalks in disrepair are located shall

require within 48 hours from issuance of notice said owners to make arrangements to have the sidewalk repaired. Said repairs shall be completed within 21 days after issuance of said notice. No special assessment shall be levied against the property unless said owner shall neglect or refuse to repair within the time prescribed and in the event that such owner fails to repair, the City shall cause the repairs to be made and assess the property owner the expense of such repairs. In the event the property owner is a nonresident of the county in which the property lies, the City shall, before levying any special assessment against that property, send a copy of any notice required by law to be published by means of certified mail, return receipt requested to the last known address of the nonresident property owner. The last known address shall be that address listed on the current tax rolls at the time such required notice was first published. (Neb. Rev. Stat. §19-2419)

SECTION 6-305: CONSTRUCTION BY OWNER; PERMIT

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 utilities superintendent 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 utilities superintendent shall submit the application to the City Council, which shall determine whether the permit should be granted or denied. It shall be unlawful for any person to construct, or cause to be constructed 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 utilities superintendent.

SECTION 6-306: CONSTRUCTION BY CITY

A. The City Council may, by resolution, order the construction of a sidewalk on any lot or piece of ground within the City. Notice of the City Council's intention to construct said sidewalk shall be given by the city clerk by publication of notice one time in a legal newspaper of general circulation in the City.

B. A copy of said notice shall be personally served upon the occupant in possession of such property or, when personal service is not possible, said notice shall be sent by first-class mail to such premises ten days prior to the commencement of construction. The notice required in this section shall be prepared by the city attorney in accordance with the provisions of this section. Such service shall include a form of return evidencing personal service as herein required.

C. Said notice shall notify the owner of the premises of the passage of the

resolution ordering him/her to construct or cause to be constructed a sidewalk within 30 days after the date of publication and further, that if he/she fails to construct the sidewalk or cause the same to be constructed, the cost thereof shall be levied and assessed as a special tax against the premises; provided, the notice shall contain the official estimate of the cost of said construction and no special assessment in excess of this estimate shall be assessed against the property. In the event the property owner is a nonresident of the county in which the property lies, the City shall, before levying any special assessment against that property, send a copy of any notice required by law to be published by means of certified mail, return receipt requested, to the last known address of the nonresident property owner, which shall be that address listed on the current tax rolls at the time such required notice was first published.

(Neb. Rev. Stat. §17-522, 17-523)

SECTION 6-307: CONSTRUCTION BIDS

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. Upon approval of the work, the Council may require the contractor to accept payment in certificates issued to the contractor by the city clerk, entitling it 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, lots, 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 certificate or certificates all assessments or special taxes against such real estate, together with the interest and penalty thereon, at any time upon presentation of such certificate or certificates after said assessments or special taxes against such real estate together with interest or penalty thereon shall have been collected. (Neb. Rev. Stat. §18-2443)

SECTION 6-308: CONSTRUCTION BY PETITION

If the owners of the record title representing more than 60% of the front footage of the directly abutting property, subject to assessment for sidewalk improvements, petition the City Council to make the same, the Council shall proceed in all things as though such construction had been ordered by it. Upon the petition of any freeholder who is an abutting owner in fee simple of property subject to assessment for sidewalk improvements, the City Council may order permanent sidewalks built in accordance with this article upon the freeholder making, executing, and delivering to the City an agreement to the effect that the petitioning freeholder will pay the engineering service

fee and all other incidental construction costs until paid shall be a perpetual lien upon the real estate along which the freeholder desires such sidewalk to be constructed and that the petitioner gives and grants to the City the right to assess and levy the costs of such construction against the freeholder's real estate abutting the sidewalk improvement and promises to pay such costs with interest. The total cost of such improvement shall be levied, allocated, financed, and specially assessed as provided by law. In the event the property owner is a nonresident of the county in which the property lies, the City shall, before levying any special assessment against that property, send a copy of any notice required by law to be published by means of certified mail, return receipt requested, to the last known address of the nonresident property owner, which shall be that address listed on the current tax rolls at the time such required notice was first published.

Article 4 – Construction of Private Drives

SECTION 6-401: APPLICATION

Before any person, firm or corporation shall construct a private drive onto any public street or alley, an application shall first be made to the City Council for a permit for such construction on a form available at city hall. Such application shall be accompanied by a fee of \$25.00 and shall be acted upon by the Council at a regular or special meeting.

SECTION 6-402: APPLICATION REQUIREMENTS

All driveway applications shall contain the following information:

- A. The addition, block and lot which the driveway is to serve;
- B. The location of the proposed driveway with reference to adjacent lot lines;
- C. The width of the driveway and type of street surface to which the driveway will connect.

SECTION 6-403: ISSUANCE OF PERMIT

In the event that the City Council determines that such application is in due and proper form and that the same complies with this article, a permit for construction of such requested driveway shall be issued.

Article 5 – Curb and Gutter

SECTION 6-501: CUTTING CURB; PERMIT, BOND

A. It shall be unlawful for any person to cut into any paving, curb, or sidewalk for the purpose of constructing a driveway or any other purpose whatsoever without first having obtained a written permit from the City Council. Before any permit is issued, the applicant for such permit shall deposit with the city treasurer a sum set by resolution for all paving, curb, or sidewalk to be cut. Such sum shall be set on a per square foot cost of construction basis. The deposit shall be retained by the City for the purpose of replacing the paving, curb, or sidewalk, in the event the work is done by the City. In the event the City elects to require the applicant to replace the paving, curb, or sidewalk, the deposit shall be retained by the City until the work is completed to the satisfaction of the utilities superintendent or the committee of the City Council on streets and alleys. In addition to making the deposit above set forth, the applicant shall, before any permit is issued, execute a bond to the City with a good and sufficient surety or sureties to be approved by the City Council in a sum set by resolution.

B. Before any person shall obtain a permit, he/she shall inform the city clerk of the place where such cutting is to be done, and it shall be the utilities superintendent's duty to inspect the place of entry into the paving, sidewalk, or curb, before the same is cut.

SECTION 6-502: CUTTING CURB; PROCEDURE

When cutting into any paving, it shall be the duty of the party to cut the paving under such rules and regulations as may be prescribed by the City Council or the city engineer. Such rules and regulations may include but not be limited to the requirement that an employee of the City actually make the curb cut. When the applicant is ready to close the opening made, he/she shall inform the utilities superintendent, who shall supervise and inspect the materials used and the work done in closing and opening. It shall be discretionary with the City Council to order the utilities superintendent, under the supervision and inspection of the city engineer or the committee of the City Council on the streets and alleys, to do work of cutting and closing the paving and charge the costs thereof to the party who obtained such permit. The Council may consent to the work of cutting and closing the paving to be done by the party holding such permit. (Neb. Rev. Stat. §17-567)

Article 6 – Penal Provision

SECTION 6-601: VIOLATION; PENALTY

Any person who shall violate or refuse to comply with the enforcement of any of the provisions of this chapter, set forth at full length herein or incorporated by reference, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined 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.

CHAPTER 7 – PUBLIC UTILITIES

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CHAPTER 7 – PUBLIC UTILITIES

Article 1 – Utilities Generally

SECTION 7-101: BILLING

A. Utility bills shall be a joint bill for all utilities and shall be due and payable at the office of the city clerk. Customers of city utilities shall be assigned a billing quarter, and shall be billed accordingly.

B. Utility bills shall be deemed delinquent if said bills are not paid on or before the 15th day of the customer's respective billing period. In the event that any bill shall become delinquent, it shall become discretionary with the utilities superintendent to pursue any legal remedies against the customer.

SECTION 7-102: DISCONTINUANCE OF SERVICE; NOTICE; PROCEDURE

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

B. The notice shall contain the following information:

1. The reason for the proposed disconnection;
2. A statement of the intention to disconnect unless the domestic subscriber either pays the bill or reaches an agreement with the City regarding payment of the bill;
3. The date upon which service will be disconnected if the domestic subscriber does not take appropriate action;
4. The name, address, and telephone number of the employee or department to whom the domestic subscriber may address an inquiry or complaint;
5. The domestic subscriber's right, prior to the disconnection date, to request a conference regarding any dispute over such proposed disconnection.

6. A statement that the City may not disconnect service pending the conclusion of the conference;
7. A statement to the effect that disconnection may be postponed or prevented upon presentation of a duly licensed physician's certificate which shall certify that the domestic subscriber or a resident within such subscriber's household has an existing illness or handicap which would cause such subscriber or resident to suffer an immediate and serious health hazard by the disconnection of the City's service to that household. Such certificate shall be filed with the City within five days of receiving notice under this section and will prevent the disconnection of service for a period of 30 days from such filing. Only one postponement of disconnection shall be allowed under this subsection for each incidence of nonpayment of any past-due account;
8. The cost that will be borne by the domestic subscriber;
9. A statement that the domestic subscriber may arrange with the City for an installment payment plan;
10. A statement to the effect that those domestic subscribers who are welfare recipients may qualify for assistance in payment of their utility bill and that they should contact their caseworker in that regard; and
11. Any additional information not inconsistent with the section which has received prior approval from the City Council.

C. A domestic subscriber may dispute the proposed discontinuance of service by notifying the City with a written statement that sets forth the reasons of the dispute and the relief requested. If a statement has been made by the subscriber, a conference shall be held before the City may discontinue services.

D. The procedures adopted by the City Council for resolving utility bills, three copies of which are on file in the office of the city clerk, are hereby incorporated by reference in addition to any amendments thereto and are made a part of this section as though set out in full.

E. This section shall not apply to any disconnection or interruption of services made necessary by the City for reasons of repair or maintenance or that protect the health and safety of the domestic subscriber or of the general public.
(Neb. Rev. Stat. §70-1602 et seq.) (Ord. No. 1045, 8/12/97)

SECTION 7-103: DIVERSION OF SERVICES; PENALTY

A. The City may bring a civil action for damages against any person who commits, authorizes, solicits, aids, abets, or attempts bypassing, tampering, or unau-

thorized metering, when such act results in damages to a city utility.

B. 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. In any civil action brought pursuant to this section, the City shall be entitled, upon proof of willful or intentional bypassing, tampering, or unauthorized metering to recover as damages:

1. The amount of actual damage or loss if the amount of the damage or loss is susceptible of reasonable calculation; or
2. Liquidated damages of \$750.00 if the amount of actual damage or loss is not susceptible of reasonable calculation.

C. In addition to damage or loss under subsection (A) or (B) 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.

D. There shall be a rebuttal presumption that a tenant or occupant at any premises where bypassing, tampering or unauthorized metering is proven to exist caused or had knowledge of such bypassing, tampering, or unauthorized metering if the tenant or occupant:

1. Had access to the part of the utility supply system on the premises where the bypassing, tampering, or unauthorized metering is proven to exist and
2. Was responsible or partially responsible for payment, either directly or indirectly, to the utility or to any other person for utility services to the premises.

E. There shall be a rebuttal 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.

F. The remedies provided by this section shall be deemed to be supplemental and additional to powers conferred by existing laws and the remedies provided in this section are in addition to and not in limitation of any other civil or criminal statutory or common law remedies.

(Neb. Rev. Stat. §86-331.01 thru 86-331.04)

SECTION 7-104: LIEN

In addition to all other remedies, if a customer shall for any reason remain indebted to the City for utilities service furnished, such amount due, together with any rents and charges in arrears shall be considered a delinquent utility rent which is hereby declared to be a lien upon the real estate for which the same was furnished. The city clerk shall notify in writing or cause to be notified in writing, all owners of premises or their agents whenever their tenants or lessees are 60 days or more delinquent in the payment of the utilities rent. It shall be the duty of the utilities superintendent on the first day of June of each year to report to the City Council a list of all unpaid accounts due for utilities service, together with a description of the premises served. 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. (Neb. Rev. Stat. §17-538, 17-925.01, 18-503)

SECTION 7-105: DENIAL OF UTILITY SERVICE; WHEN PROHIBITED

No applicant for the services of a public or private utility company furnishing water, natural gas, or electricity at retail in this City shall be denied service because of unpaid bills for similar service which are not collectible at law because of statutes of limitations or discharge in bankruptcy proceedings. (Neb. Rev. Stat. §70-1601) (Ord. No. 1114, 4/27/99)

Article 2 – Water Department

SECTION 7-201: OPERATION AND FUNDING

The City owns and operates the Water Department through the utilities superintendent. The City Council, for the purpose of defraying the cost of the care, management, and maintenance of the Water Department may each year levy a tax not exceeding the maximum limit prescribed by state law on the 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 office. The utilities superintendent shall have the authority to adopt 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. (Neb. Rev. Stat. §17-531, 17-534, 19-1305)

SECTION 7-202: DEFINITIONS

The following definitions shall be applied throughout this article. Where no definition is specified, the normal dictionary usage of the word shall apply.

"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 dispersing the same in the City.

"Separate premises" is hereby defined to be more than one consumer procuring water from the same service or supply pipe. The second premises may be a separate dwelling, apartment, building, or structure used for a separate business.

"Service pipe" is hereby defined to be any pipe extending from the shut-off, stop box, or curb cock at or near the lot line to and beyond the property line of the consumer to the location on the premises where the water is to be dispersed.

"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.

SECTION 7-203: MANDATORY HOOKUP

All persons within 300 feet of a water main shall be required, upon notice by the City Council, to hook up with the water system. (Neb. Rev. Stat. §17-539)

SECTION 7-204: CONSUMER'S APPLICATION

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

SECTION 7-205: SERVICE TO NONRESIDENTS

The Department shall not supply water service to any person outside the corporate limits without special permission from the City Council; provided, the entire cost of laying mains, service pipe, and supply pipe shall be paid by the consumer. Nothing herein shall be construed to obligate the City to provide water service to nonresidents. (Neb. Rev. Stat. §19-2701)

SECTION 7-206: WATER CONTRACT; NOT TRANSFERABLE

A. The City through its Water Department, shall furnish water to persons within its corporate limits whose premises abut a street or alley in which a commercial main now is or may hereafter be laid. The City may furnish water to persons within its corporate limits whose premises do not abut a street or alley in which a city commercial main is now or may hereafter be laid and may also furnish water to persons whose premises are situated outside the corporate limits of the City, as and when, according to law, the City Council may see fit to do so. 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 or consumption of water service by present consumers thereof and the furnishing of water service to said consumer shall constitute a contract between the consumer and the City, to which said contract both parties are bound. 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 agent may cut off or disconnect the water service from the building or premises or place of such violation. No further connection for water service to said building, premises or place shall again be made save or except by order of said superintendent or agent.

B. Contracts for water service are not transferable. Any person wishing to change from one location to another shall make a new application and sign a new contract. If any consumer shall move from the premises where service is furnished, or if the said premises 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 at 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. (Neb. Rev. Stat. §17-537)

SECTION 7-207: INSTALLATION PROCEDURE

A. In making excavations in streets, alleys, or sidewalks for the purpose of installing pipe, or making repairs, the paving, stones, and earth must be removed and deposited in a manner that will occasion the least inconvenience to the public and provide for adequate drainage. No person shall leave an excavation made in the street, alley, or sidewalk open at any time without a barricade, and during the night, warning lights.

B. After service pipes are laid, the streets, alleys, and sidewalks shall be restored to good condition. If the excavation in any street, alley, or sidewalk is left open or unfinished for a period of 24 hours or more, the utilities superintendent shall have the duty to finish or correct the work, and all expenses so incurred shall be charged to the consumer. All installations or repairs of pipes require two inspections by the utilities superintendent. The first inspection shall be made when connections or repairs are completed and before the pipes are covered. The second inspection shall be made after the dirt work is completed and the service is restored. It is the customer's responsibility to notify the superintendent at the time the work is ready for each inspection. All installation shall be done under the supervision and strictly in accordance with the rules, regulations, and specifications prescribed for such installation by the utilities superintendent; provided, the said rules, regulations, and specifications have been reviewed and approved by the City Council.

(Neb. Rev. Stat. §17-537)

SECTION 7-208: FEES AND COLLECTIONS

A. 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, who shall bill the consumers and collect all money received by the City on the account of the Water Department. The clerk shall faithfully account for and pay to the city treasurer all revenue collected, making a receipt therefor in duplicate, filing one with the city clerk and keeping the other on file in the official records of the Water Department. (Ref. 17-540 RS Neb.)

B. No water service shall be furnished to any customer at a rate that is different from other customers of the same class or type. Persons, firms, or corporations desiring to use water temporarily shall pay such rates as the utilities superintendent, with the approval of the City Council, shall set. Without respect to schedule of rates for other customers, the Council may enter into special contracts with large consumers of water, but never at a rate less than the cost of production; provided, the contract shall always provide that the said large consumer shall always pay the minimum rate for other customers and the contract shall be made on the basis of water consumed in excess of said minimum. A meter shall always be attached to the water service of such contract consumer and read monthly as in the case of other classes of water consumers. Water service furnished to the other departments of the City and

to other governmental subdivisions of the State shall be measured and billed for at such rates as the City Council shall set from time to time without respect to the schedule of rates on file at the office of the city clerk, but never at rates that do not cover the cost of providing water.

C. Whenever water service is supplied to more than one customer through the same supply pipe, each customer shall pay the minimum water service charge each month. In the event that two or more customers are supplied through the same meter, the owner of the premises shall pay for all water consumed thereon plus separate minimums. One bill only shall be computed for each meter. (Neb. Rev. Stat. §17-540)

SECTION 7-209: INSTALLATION EXPENSE

A. When improvements are made to the water supply system or the wastewater system within the City, such cost associated to the improvement will generally be assessed to those properties gaining benefit from such improvement. When a new or existing water or sewer customer wishes to receive a new connection, the City will pay the cost of tapping the main, installing the meter and providing the fixtures and labor from the main up to the stop box at the lot line of the customer. All cost associated with the new service line will be included in the installation charge. The installation charge will include the cost of all the materials needed for the connection, including the stop box, and the labor. The city shall bill the installation charges along with the tap fees set herein.

B. The base tap fees are hereby set in the following amounts:

1. The minimum residential water line shall be a one-inch pipe with a minimum tap fee of \$175.00.
2. The minimum residential sewer line shall be six-inch pipe with a flat fee of \$50.00.
3. Tap fees for commercial lines shall be set on a case by case basis. The utility superintendent shall require in each case the plumbing plans for the new commercial site and the determination of the size of line required will be based on the site plans and proposed use. The fee will be set in accordance with size and cost.
4. Regardless of the type of service, the customer shall at his own expense bring water service from the stop box or sewer service from the closest main and upon his own premises. The customer shall hire a plumber to make the connection to the point of city service and the point of dispersing. All water service will be metered. The city owns, pays for, and maintains one meter for each customer within city limits. Additional meters can be purchased from the City at its cost.

C. Any existing property owner within the city's service area that is currently connected to a city service line and any future property owner wishing to connect to a city service shall be subject to the installation and connection fees. The connection fee shall only include the right to connect to the line. The property owner has the option of paying the connection fee up front or as a reoccurring charge on his/her monthly utility statement for up to 60 months interest free. No property shall have the right to be connected to city service without prior city approval.
(Ord. No. 1074, 8/25/98)

SECTION 7-210: SERVICE DEPOSIT; CHARGE FOR READING METER

Whenever application is made by any person for a permit to connect with the city water system or whenever any person requests service as a new customer on an existing service connection, then such person will pay to the City a service deposit, in such amount as set by the City Council and on file at the clerk's office, before such permit shall be granted or before water service shall be furnished. The City shall be entitled to retain the service deposit in the Water Fund, and in the event of failure of the consumer to pay any water bill properly assessed against him/her, the City may apply the deposit against such consumer's current water bill. Additionally, there will be a charge for the initial meter reading and turn-on and a service charge for the final meter reading and disconnect. Said fees will be set by the City Council and will be on file at the clerk's office. Said fees must be paid prior to any work being performed. The deposit may also be applied by the City against any damage or injury caused by the consumer as set forth in Section 7-222 (Destruction of Property) of this code. If the consumer shall pay all water bills when due during the 12 months following commencement of the service, then the Water Department shall either refund the service deposit or may credit the same against the current water bill of the consumer.

SECTION 7-211: RATES

Rates for water service shall be on file at the office of the city clerk, and shall be due and payable pursuant to Article 1 of this chapter (Utilities Generally).

SECTION 7-212: MINIMUM RATES; CONSUMER LIABLE

Every water consumer shall be liable for the minimum rate provided by ordinance unless and until he/she shall, by written order, direct the utilities superintendent to shut off the water at the stop box, in which case said consumer shall not be liable thereafter for water rental until the water is turned on again. (Neb. Rev. Stat. §17-542)

SECTION 7-213: SINGLE PREMISES

No consumer shall supply water to other families or allow them to take water from his/her premises, nor after water is supplied into a building shall any person make or employ a plumber or other person to make a tap or connection with the pipe upon the premises for alteration, extension, or attachment without the written permission of the utilities superintendent. (Neb. Rev. Stat. §17-537)

SECTION 7-214: REPAIRS AND MAINTENANCE

A. The City shall repair or replace, as the case may be, all supply pipe between the commercial main and the stop box. The customer at his own expense shall replace and keep in repair all service pipe from the stop box to the place of dispersing. When leaks occur in service pipes, the utilities superintendent shall shut off water service until the leak is repaired at the expense of the customer to the satisfaction of the utilities superintendent. All water meters shall be kept in repair by the City at its expense. When meters are worn out, they shall be replaced and reset by the City at its expense; provided, if the customer permits or allows a water meter to be damaged, injured, or destroyed through his/her own recklessness, carelessness, or neglect so that the meter must be repaired or replaced, the utilities superintendent shall bill and collect from the customer the cost of such meter repair or replacement in the same manner as water rent is collected. Permitting a water meter to be damaged or destroyed by freezing shall always be considered negligence on the part of the customer. All meters shall be tested at the customer's request at the expense of the customer any reasonable number of times; provided, if the test shows the water meter to be running 2% or more fast, the expense of such test shall be borne by the City. The City reserves the right to test any water service meter at any time, and if said meter is found to be beyond repair, the City shall always have the right to place a new meter on the customer's water service fixtures at city expense.

B. Should a consumer's meter fail to register properly, the customer shall be charged for water during the time the meter is out of repair on the basis of the quarterly consumption during the same quarter of the preceding year; provided, if no such basis for comparison exists, the customer shall be charged such amount as may be reasonably fixed by the utilities superintendent.

(Neb. Rev. Stat. §17-537)

SECTION 7-215: DIVERSION OF SERVICES; METER TAMPERING; UNAUTHORIZED RECONNECTION, PROHIBITED; EVIDENCE

A. Any person who connects any pipe or conduit supplying water without the knowledge and consent of the City in such a manner that any portion thereof may be supplied to any instrument by or at which water may be consumed without passing through the meter provided for measuring or registering the amount or quantity passing through it, and any person knowingly uses or knowingly permits the use of water obtained in the above mentioned unauthorized ways, shall be deemed guilty of an offense.

B. Any person who willfully injures, alter, or by any instrument, device, or contrivance in any manner interferes with or obstructs the action or operation of any meter made or provided for measuring or registering the amount or quantity of water passing through it, without the knowledge and consent of the City shall be deemed guilty of an offense.

C. When water service has been disconnected pursuant to Neb. Rev. Stat. §70-1601 to 70-1615 or Section 7-102 of this code, any person who reconnects such service without the knowledge and consent of the City shall be deemed guilty of an offense.

D. Proof of the existence of any pipe or conduit connection or reconnection or of any injury, alteration, or obstruction of a meter shall be taken as prima facie evidence of the guilt of the person in possession of the premises where such connection, reconnection, injury, alteration, or obstruction is proved to exist. (Neb. Rev. Stat. §86-329 through 86-331) (Ord. No. 995, 2/27/96)

SECTION 7-216: 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. (Neb. Rev. Stat. §17-537)

SECTION 7-217: FIRE HYDRANTS

All hydrants for the purpose of extinguishing fires are hereby declared to be public hydrants, and it shall be unlawful for any person other than members of the Fire Department under the orders of the fire chief or the assistant chief or employees of the Water Department to open or attempt to open any of the hydrants and draw water from the same, or in any manner to interfere with the hydrants. (Neb. Rev. Stat. §17-537)

SECTION 7-218: POLLUTION

It shall be unlawful for any person to pollute or attempt to pollute any stream or source of water for the supply of the Water Department. (Neb. Rev. Stat. §17-536)

SECTION 7-219: INSPECTION

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

SECTION 7-220: 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 7-221: 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. (Neb. Rev. Stat. §17-537)

SECTION 7-222: PROHIBITION OF LEAD PIPES, SOLDER AND FLUX

Any pipe, solders or flux used in the installation or repair of any residential or nonresidential facility which is connected to the public water supply system shall be lead-free. For purposes of this section, "lead-free" shall mean:

- A. Solders and flux - not more than .2% lead, and
- B. Pipe and pipe fittings - not more than 8% lead.

(Neb. Rev. Stat. §17-537)

SECTION 7-223: LICENSED PLUMBER

It shall be unlawful for any plumber or pipefitter to do any work upon any of the pipes or appurtenances of the system of waterworks or to make any connection with or extension of the supply pipes of any consumer taking water from the 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 the 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. (Neb. Rev. Stat. §17-537)

SECTION 7-224: DRILLING AND OPERATION OF WELLS AND OTHER UNDERGROUND FACILITIES OR CONTAMINATING FACILITIES WITHOUT PERMIT; UNLAWFUL

From and after the effective date of this ordinance, it shall be unlawful for 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:

- A. Potable water well;
- B. Any other well;
- C. Sewage lagoon;
- D. Absorption or disposal field for water;
- E. Cesspool;
- F. Dumping grounds;
- G. Feedlot;

- H. Livestock corral;
- I. Chemical product storage facility;
- J. Petroleum product storage facility;
- K. Pit toilet;
- L. Sanitary landfill;
- M. Septic tank;
- N. Sewage treatment plant;
- O. Sewage wet well.

(Neb. Rev. Stat. §46-1504) (Ord. No. 984, 10/24/95)

SECTION 7-225: PROCEDURE TO OBTAIN PERMIT

In order to obtain a permit to drill and/or operate any of the facilities listed in Section 7-224, 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 Council at any regular meeting or special meeting. After reviewing the application of any person desiring to drill or operate any of the above-described facilities, then the Council must approve or deny said permit. (Ord. No. 984, 10/24/95)

SECTION 7-226: DRILLING OR INSTALLATION OF OTHER FACILITIES WITHIN DESIGNATED DISTANCE FROM CITY WATER SOURCES; PROHIBITED

Under no circumstances shall the City Council approve any permit to drill or operate any of the below-described facilities within the indicated number of feet from the City of Tekamah water wells:

| | |
|--|------------|
| Non-potable water well | 1,000 feet |
| Any other well | 1,000 feet |
| Sewage lagoon | 1,000 feet |
| Absorption or disposal field for water | 500 feet |
| Cesspool | 500 feet |
| Dumping grounds | 500 feet |
| Feedlot or feedlot runoff | 500 feet |
| Livestock corral | 500 feet |
| Chemical product storage facility | 500 feet |
| Petroleum product storage facility | 500 feet |
| Pit toilet | 500 feet |
| Sanitary landfill | 500 feet |
| Septic tank | 500 feet |
| Sewage treatment plant | 500 feet |
| Sewage wet well | 500 feet |

(Neb. Rev. Stat. §46-1506) (Ord. No. 984, 10/24/95)

SECTION 7-227: PENALTIES AND ABATEMENT PROCEDURE

In the event of any of the above-described facilities are installed or operated (A) without first having obtained a permit from the City and/or (B) within a designated number of feet from the city water supply, then such facilities shall be deemed a nuisance and the City Council shall abated such facility as a public nuisance. (Neb. Rev. Stat. §46-1506) (Ord. No. 984, 10/24/95)

SECTION 7-228: BACKFLOW PROTECTION; DEFINITIONS

The following definitions shall apply in the interpretation and enforcement of these regulations.

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

"Antisiphon vacuum breaker" is a device which restricts the backflow of water into a potable water system by a simple check valve. The vacuum is broken by allowing air to enter upstream of the check valve.

"Approved" shall mean that a backflow prevention device or method has been accepted by the water operator as being suitable for the intended use.

"Auxiliary water system" shall mean any water supply system available to the premises other than the public water supply system and includes the water supplied by such system. These auxiliary water systems may include water from another owner's public water supply system; polluted or contaminated water, process fluids; used water; or other sources of water which the owner of the public water supply system does not have sanitary control.

"Backflow" or "backsiphonage" shall mean the flow of water or other liquids, mixtures, or substances into the water distribution system from any other source than the intended source of the potable water supply.

"Backflow prevention device", shall mean any device, method or type of construction intended to prevent backflow into a potable water system. Devices such as an "approved air gap," "check valve assembly," "antisiphon vacuum breaker" or a "reduced pressure principle device" can be used which have been approved by the water operator.

"Consumer" shall mean the owner or person in control of any premises supplied by or in any manner connected to a public water supply system.

"Consumer's water supply system" shall mean any water supply system located on the consumer's premises, supplied by or in any manner connected to a public water supply system. A household plumbing system is considered to be a consumer's water supply system.

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

"Cross-connection" shall mean any arrangement whereby contamination due to backflow or backsiphonage can occur.

"Degree of hazard" is a term derived from an evaluation of the potential risk to health and the adverse effects upon the potable water system.

"Double check valve assembly" shall mean an assembly composed of two single, independently acting, check valves including 100% closing shutoff ball valves located at each end of the assembly and suitable connections for testing the water tightness of each check valve.

"Health hazard" shall mean any condition, device, or practice in a water system or its operation that creates a real or potential danger to the health and well-being of the consumer.

"Interchangeable connection" shall mean an arrangement or device that will allow alternate but no simultaneous uses of two sources of water.

"Licensed plumber" shall mean a person who has obtained the appropriate license to perform plumbing related work within the zoning limits of the City.

"Non-potable water" shall mean water not safe for drinking, personal, or culinary use, or which does not meet the requirements of the state Department of Health.

"Owner" shall mean the entity delivering water through a public water supply system. The owner is the City of Tekamah.

"Person" shall mean the state, any political subdivision, public or private corporation, individual, partnership, or other legal entity. When the term "he/she" or "his/her" is used, it shall mean any male or female person.

"Plumbing hazard" shall mean a plumbing-type cross-connection in a consumer's potable water system that has not been properly protected by air gap separation or backflow prevention devices.

"Pollution" shall mean the presence in water of any foreign substances (organic, inorganic, or biological) that degrades the quality of water to a degree which does not

necessarily cause an actual hazard to the public health but which does adversely and unreasonably affect such waters for any desired use.

"Pollution hazard" shall mean a condition through which an aesthetically objectionable or degrading material not dangerous to health may enter the public water supply system or the consumer's water supply system.

"Potable water" shall mean water which is satisfactory for drinking, culinary, and cosmetic purposes and meets the requirements of the state Department of Health.

"Public water supply system" shall mean a water supply system designed and intended to provide potable water to a designated consumer. The water supply shall include the water supply source and distribution piping network. "The water supply source" is defined as any artificial or natural accumulation of water used to supply the potable water system. The distribution piping network includes all piping, pumping and treatment devices used to convey an adequate quality and quantity of potable water to the consumer.

"Reduced pressure zone backflow prevention device" shall mean a device containing a minimum of two independently acting check valves, together with an automatically operated pressure differential relief valve located between two check valves. During normal flow and at the cessation of normal flow, the pressure between these two checks shall be less than the supply pressure. In case of leakage of either check valve, the differential relief valve, by discharging to the atmosphere, shall operate to maintain the pressure between the check valves at less than the supply pressure. The unit must include a 100% closing shutoff ball valve located at each end of the device, and each device shall be fitted with properly located test cocks.

"Service connection" shall mean the terminal end of a service line from the public water system. If a meter is installed at the end of the service, then the service connection means the downstream end of the meter.

"System hazard" shall mean a condition posing an actual or potential threat of damage to the physical properties of the public's or the consumer's water supply system.

"Used water" shall mean any water supplied by the public water supply system to a consumer's water supply system after it has passed through the service connection and is no longer under the sanitary control of the water supplier.

"Water operator" for the purposes of this article shall mean a duly trained and certified individual with at least a Grade VI water operator certificate and successful completion of a backflow prevention and cross-connection control training course approved by the State. The water operator is an authorized representative of the public works director.

(Neb. Rev. Stat. §17-537)

SECTION 7-229: BACKFLOW PROTECTION; CONTACT WITH WATER OPERATOR

The consumer, as defined in these regulations, if requested by the water operator, shall designate an individual who shall be responsible for contact and communications with the water operator in matters relating to system alteration and construction, monitoring and sampling, maintenance, operation, record keeping, and reporting, as required by law and these regulations. Any change in assigned responsibilities or designated individual shall be promptly reported to the water operator. (Neb. Rev. Stat. §17-537)

SECTION 7-230: BACKFLOW PROTECTION; POLICY AND PURPOSE

A. The purpose of this ordinance is to protect the public water supply system of the City from the possibility of contamination by isolation real or potential sources of contamination or pollution which may backflow into the public water supply system. These regulations provide for the maintenance of the continuing program of cross-connection controls which will systematically and effectively prevent the contamination or pollution of the potable water supply systems.

B. The water operator shall be responsible for the implementation of the backflow prevention program as outlined within this article. If in the judgment of the water operator, an approved backflow prevention device is required for the safety of the public water supply system, then the water operator shall give notice in writing to the consumer to install said device at each recommended location. The water operator shall inspect and approve all installations of the required backflow prevention devices. The cost of purchasing, installing, and maintaining a backflow prevention device shall be the responsibility and sole expense of the consumer. The installation of backflow prevention devices, except for outlet fixture vacuum breakers (i.e. hose bibs, outdoor hydrants), shall be by a licensed plumber that is a certified backflow technician and the devices shall be tested before service is reinstated to the water connection. The water operator shall perform annual testing of all backflow devices and reduced pressure zone devices.

C. If deemed necessary by the water operator testing can be required on a time schedule other than annually. If deemed necessary by the water operator that maintenance or repairs are necessary, the owner shall be contacted and issued an order to make all necessary repairs or maintenance. The owner shall complete all maintenance or repairs within 30 days; if not, the owner shall be considered in violation of the backflow ordinance and will be subject to disconnection of the service as provided in Section 7-241 (Violations).

D. No person shall install or maintain a water service connection containing cross-connections to a public water supply system or a consumer's potable water supply system unless such cross-connections are abated or controlled in accordance with this rule, and as required by the laws and regulations of the Department of Health.

E. For the purpose of these backflow prevention regulations, whenever the water operator is to make any decision or interpretation or whenever reference is made to the fact that the water operator is to exercise judgment, such decision, interpretation or judgment shall be in accordance with the provisions of these backflow prevention regulations and any other application provisions of the city code and state and federal law. (Neb. Rev. Stat. §17-537)

SECTION 7-231: BACKFLOW PROTECTION; SURVEYS AND INVESTIGATIONS

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

B. On request by the water operator, the consumer shall furnish information on water use practices within the consumer's premises. If the consumer refuses to submit the proper information or to cooperate in obtaining the proper information, the water operator shall treat the premises as if no appropriate cross-connection survey has been completed, and in such event the consumer shall be required to install an approved backflow prevention device as required by Section 7-232 below (Where Protection is Required).

C. The water operator shall have the right to enter a premises served by the public water supply system at all reasonable times for the purpose of making surveys and investigations of water use practices within the premises. In order to inspect any premises, the water operator shall give notice setting forth a proposed date and time to the consumer at least ten days in advance. If the consumer cannot make the premises available for inspection at the proposed date and time, the consumer shall contact the water operator and arrange for another reasonable date and time for the inspection.

D. If the water operator and the consumer cannot agree on a date and time, the water operator shall treat the premises as if no appropriate cross-connection survey has been completed, and in such event the consumer shall be required to install an approved backflow prevention device as required by Section 7-234 (Devices).

E. The City Council is hereby appointed as a hearing board to hear differences between the water operator and the consumer on matters concerning interpretation and execution of the provisions of this ordinance by the water operator. Any

consumer aggrieved by being required to pay the expense of installing, furnishing, and or maintaining a backflow prevention device may, within 14 days of the act or event causing the grievance, request a hearing in writing to present those grievances, to the Hearing Board. The said Board shall schedule the matter for hearing within 30 days and provide written notice of the meeting by first class mail to the consumer. The notice shall be mailed to the consumer at least seven and not more than 21 days before the hearing. At the hearing the consumer shall first state the nature of the grievance and the water operator shall be entitled to respond thereto, whereupon the Hearing Board shall render its decision, which will be binding upon the consumer and the water operator.

(Neb. Rev. Stat. §17-537)

SECTION 7-232: BACKFLOW PROTECTION; WHERE PROTECTION IS REQUIRED

A. 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 judgment of the water operator a health, plumbing, pollution or system hazard exists.

B. An approved backflow prevention device shall be installed when the following conditions are found by the water operator to exist:

1. Premises on which any substance is handled in such a fashion as to create an actual or potential hazard to public water supply system. This shall include premises having sources or systems containing process fluids or waters originating from a public water supply system which are no longer under the sanitary control of the owner;
2. Premises having internal cross-connections that, in the judgment of the water operator, are not correctable, or there exist intricate plumbing arrangements which make it impracticable to determine whether or not a cross-connection exists;
3. Premises where, because of security requirements or other prohibitions or restrictions, it is impossible or impractical to make a complete cross-connection survey;
4. Premises having a repeated history of cross-connections being established or re-established;
5. Premises having more than one customer service connection which could constitute a potential cross-connection.

C. An approved backflow prevention device shall be installed on each service line to a customer's water supply system serving the following types of facilities unless the water operator determines that no health, pollution, or system hazard to the

public water supply system exists:

1. Hospitals, mortuaries, dental clinics, nursing and convalescent homes, medical buildings;
2. Testing laboratories, film laboratories, film development facilities;
3. Sewage treatment plants, sewage pumping stations, or storm water pumping stations;
4. Food or beverage processing plants;
5. Chemical plants;
6. Metal de-greasing, plating industries, machine tool plants, dye and metal processing or productions;
7. Chemical and petroleum processing or storage plants;
8. Car washes, automobile servicing facilities;
9. Lawn irrigation systems and swimming pools;
10. Laundries and dry cleaners;
11. Packing houses;
12. Power plants;
13. Premises having radioactive materials such as laboratories, industries, hospitals;
14. Rendering plants;
15. Premises having water re-circulation system as used for boilers and cooling systems;
16. Veterinary establishments, kennels, feed yards, stables, rodeo grounds, stockyards, pet grooming salons;
17. Beauty salons, barbershops, massage parlors, health clubs;
18. Fire suppression systems;
19. Multi-storied buildings greater than three stories in height;
20. Schools, universities, colleges;
21. Other commercial or industrial facilities which may constitute potential cross-connection.

(Neb. Rev. Stat. §17-537)

SECTION 7-233: BACKFLOW PROTECTION; TYPE REQUIRED

A. The type of protection required under Section 7-231 (Surveys and Investigations) above shall depend on the degree of hazard that exists as follows:

1. An approved air gap separation or an approved reduced pressure principle backflow prevention device shall be installed where a public water supply system may be contaminated with any substance that could cause a system hazard or health hazard;
2. An approved double check valve assembly shall be installed where a public water supply system may be contaminated with any substance that could cause a pollution hazard;
3. An approved reduced pressure principle backflow prevention device

shall be installed at the service connection where there exists a plumbing hazard;

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

B. An approved antisiphon vacuum breaker may be used as a backflow prevention device where it is not subjected to back pressures. This device shall not be used for applications where water flow is expected to be continuous for 12 or more hours. The device shall be installed ahead of the potential source of contamination or the discharge side of the last control valve. It shall be placed at least 12 inches above the highest point reach by any water passing through the potential source of contamination. Typically this type of device is used for such equipment as lawn sprinklers, water-cooled compressors, or other water cooled equipment.

(Neb. Rev. Stat. §17-537)

SECTION 7-234: BACKFLOW PROTECTION; DEVICES

A. Any approved backflow prevention device required by Section 7-231 (Surveys and Investigations) shall be installed at the location and in a manner approved by the water operator. The consumer, at his/her sole expense, shall obtain and install said approved backflow prevention device(s) within 90 days of notice and as directed by the water operator.

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

(Neb. Rev. Stat. §17-537) (Ord. No. 931, 11/24/92)

SECTION 7-235: BACKFLOW PROTECTION; BOOSTER PUMPS

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

(Neb. Rev. Stat. §17-537)

SECTION 7-236: BACKFLOW PROTECTION; HYDRANTS

A. The installation of yard hydrants where water is available or accessible for drinking or culinary purposes and which have drip opening below ground surface, is prohibited unless such hydrants are equipped with an approved device to prevent entrance of ground water into chambers connected with the water supply.

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

C. All underground lawn and garden sprinkler systems shall be equipped with an approved backflow prevention device.

D. No direct connection can be made to fire hydrants, except by the Fire Department or city employees in the performance of their job.

(Neb. Rev. Stat. §17-537)

SECTION 7-237: BACKFLOW PROTECTION; FIRE SUPPRESSION SYSTEM

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

B. All proposed fire suppression systems requiring an antifreeze solution shall use pharmaceutical-grade antifreeze. The consumer shall provide to the water operator a certification identifying the type of pharmaceutical-grade antifreeze which shall be used. A double check valve backflow prevention device shall be installed in an approved manner.

C. A double check valve of an approved type shall be installed on all proposed fire suppression systems not utilizing antifreeze, but this may be done only when there are no other cross-connections.

D. All existing fire suppression systems shall meet the requirements of subsections (B) and (C) above, whichever applies. An inspection by a certified fire suppression specialist shall be done to determine whether pharmaceutical grade antifreeze(s) have been utilized. This shall be done at the expense of the consumer. If it cannot be certified that only pharmaceutical-grade antifreezes have been used, then a reduced pressure principle backflow prevention device shall be installed as approved by the water operator. This also shall be done at the expense of the consumer.

E. In the event cross-connections, such as those found in using auxiliary water supply systems or in providing other water additives such as foaming agents, are necessary for the proper operation of the fire suppression system, then a reduced

pressure zone backflow prevention device shall be installed in an approved manner.
(Neb. Rev. Stat. §17-537)

SECTION 7-238: BACKFLOW PROTECTION; APPROVAL STANDARDS

A. Any backflow prevention device required herein shall be of a model and size approved by the water operator. "Approved backflow prevention device" shall mean a device that has been manufactured in full conformance with the standards established by the American Water Works Association (AWWA) entitled: *AWWA C506-69 Standards for Reduced Pressure Principle and Double Check Valve Backflow Prevention Devices* and by the American Society of Sanitary Engineers (ASSE) entitled:

1. No. 1001 *Pipe Applied Atmospheric Type Vacuum Breakers* – ANSI Approved 1982 Revised, 1988
2. No. 1011 *Hose Connection Vacuum Breaker* – ANSI Approved 1982
3. No. 1012 *Backflow Preventer/Intermediate Atmospheric Vent* – 1978
4. No. 1013 *Reduced Pressure Principle Backflow Preventer* – Revised 1988
5. No. 1015 *Double Check Backflow Prevention Assembly* – Revised 1988
6. No. 1019 *Wall Hydrants, Freezeless, Automatic Draining, Anti-Backflow Types* – ANSI Approved 1978
7. No. 1020 *Vacuum Breakers, Antisiphon, Pressure Type, Page 11, ANSI Approved 1982*
8. No. 1024 *Dual Check Valve Type Backflow Preventers* – ANSI Approved 1984, Revised 1988
9. No. 1032 *Dual Check Valve Type Backflow Preventer for Carbonated Beverage Dispensers* – 1980
10. No. 1035 *Laboratory Faucet Vacuum Breakers* – ANSI Approved 1984
11. No. 1048 *Double Check Detector Assembly Backflow Preventer* – 1989

B. Said standards and specifications have been adopted by the water operator. Final approval shall be a Certificate of Approval issued by an approved testing laboratory, certifying full compliance with said standard and specifications.

C. The water operator shall keep a current list of all certified suppliers and their appropriate list of makes and models of backflow prevention devices which the water operator has deemed approved.

D. The water operator may require a strainer of approved type and size to be installed in conjunction with required backflow prevention devices. The installation of strainers shall preclude the fouling of backflow device(s) due to foreseen and unforeseen circumstances occurring to the water supply system such as water main repairs, water main breaks, fires, periodic cleaning and flushing of mains. These occurrences may cause debris such as scale deposits and sand to flush through the mains, causing fouling of backflow devices.

(Neb. Rev. Stat. §17-537)

SECTION 7-239: BACKFLOW PROTECTION; LIABILITY CLAIMS

The water operator shall be relieved from personal liability. The City shall hold harmless the water operator when acting in good faith and without malice, from all personal liability for any damage that may occur to any person or property as a result of any act required or authorized by this title, or by reason of any act or omission of the water operator in the discharge of his/her duties hereunder. Any suit brought carrying out the provisions of the title shall be defended by the City, or the City's insurance carrier, if any, through final determination of such proceeding. (Neb. Rev. Stat. §17-537)

SECTION 7-240: BACKFLOW PROTECTION; STATE REGULATIONS ADOPTED BY REFERENCE

State regulations can be found in the Nebraska Department of Health Title 179 – *Regulations Governing Public Water Supply Systems Pertaining to Cross-Connection Control and Backflow Prevention*, hereby incorporated into this ordinance by reference.

SECTION 7-241: BACKFLOW PROTECTION; VIOLATIONS

A. The water operator, after notice to the consumer thereof, shall deny or discontinue the water service to any premises wherein:

1. Any backflow prevention device required by these regulations is not installed or maintained in a manner acceptable to the water operator;
2. It is found that the backflow prevention device has been removed or by passed;
3. An unprotected cross-connection exists on the premises;
4. A low pressure cut-off as required herein is not installed and maintained in working order;
5. The water operator is denied entry to determine compliance with these regulations.

B. The water operator, without notice to the consumer thereof, shall immediately deny or discontinue the water service to any premises wherein a severe cross-connection exists constituting an immediate threat to the safety of the public water system. The water operator shall notify the consumer within 24 hours and said denial or discontinuance of service.

C. Water service to such premises shall not be restored until the consumer has corrected or eliminated such conditions or defects in conformance with these regulations, and to the satisfaction of the water operator.

(Neb. Rev. Stat. §17-537)

Article 3 – Sewer Department

SECTION 7-301: OPERATION AND FUNDING

A. The City owns and operates the sewer system through the Public Works Department. For the purpose of defraying the cost of the maintenance and repairing of any sewer or water utilities in the City, the City Council may each year levy a tax not exceeding the maximum limit prescribed by state law on the taxable value of all the taxable property in the City. The revenue from the tax shall be known as the Water and Sewer Maintenance Fund and shall be used exclusively for the purpose of maintenance and repairs of the water and sewer system. The utility superintendent shall have the direct management and control of the Sewer Department, shall faithfully carry out the duties of the office, and shall have the authority to adopt rules and regulations for the sanitary and efficient management of the Department, subject to the supervision and review of the City Council. (Neb. Rev. Stat. §17-149, 17-925.01) (Ord. No. 1091, 8/11/98)

SECTION 7-302: DEFINITIONS

Unless the context specifically indicates otherwise, the meaning of terms used in this article shall be as follows:

"Biochemical Oxygen Demand" (BOD) 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 drain" and "house drain" shall mean and include that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, or other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five feet outside the inner face of the building wall.

"Building sewer" and "house sewer" shall mean and include that part of a house or building drainage system extending from the house or 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 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.

"City" shall mean the City of Tekamah.

"Combined sewer" shall mean a sewer receiving both surface runoff and sewage.

"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.

"Industrial wastes" shall mean the liquid wastes from industrial manufacturing processes, trade, or business as distinct from sanitary sewage.

"Local ventilating pipe" shall mean and include any pipe through which foul air is removed from a room or fixture.

"May" is permissive; "shall" is mandatory.

"Natural outlet" shall mean any outlet into a watercourse, pond, ditch, lake, or other body of surface or groundwater.

"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.

"Parts per million" shall mean a weight-to-weight ratio; the parts-per million value multiplied by the factor 8.345 shall be equivalent to pounds per million gallons of water.

"Person" shall mean any individual, firm, company, association, society, corporation, or group.

"pH" shall mean and include the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

"Properly shredded" shall mean and include 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.

"Sanitary sewer" shall mean and include a sewer which carries sewage and to which storm, surface, and ground waters are not intentionally admitted.

"Sewage" shall mean and include 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.

"Sewer" shall mean a pipe or conduit for carrying sewage.

"Sewer system" shall mean and include 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.

"Shall" is mandatory; "may" is permissive.

"Slug" shall mean any discharge of water, sewage, or industrial waste which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than 15 minutes more than five times the average 27-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 or 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 sewer" shall mean a sewer which carries storm and surface waters and drainage, but excludes sewage and industrial wastes, other than unpolluted cooling water.

"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 filtering.

"Trap" shall mean and include 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 and include the vertical distance between the crown weir and the dip of the trap.

"Vent pipe" shall mean and include any pipe provided to ventilate a house or building drainage system and to prevent trap siphonage and back pressure.

"Waste pipe" shall mean and include 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 storm water 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 structure for treating wastewater, industrial wastes, and sludge, sometimes used synonymously with "waste treatment plant" or "water pollution control plant."

"Watercourse" shall mean a natural or artificial channel for the passage of water either continuously or intermittently.

SECTION 7-303: CITY POWERS

The City has the legal authority to enforce its system of user charges, industrial cost recovery charge, and sewer use regulations on all existing or future users of the system, whether located inside or outside the city limits. (Neb. Rev. Stat. §17-149)

SECTION 7-304: APPLICATION; DEPOSIT

Any person wishing to connect with the sewer system shall make an application therefor to the utilities superintendent. The superintendent may require any applicant to make a service deposit in such amount as has been set by the City Council and placed on file at the office of the city clerk. Sewer service may not be supplied to any house or building except upon the order of the superintendent. The Department shall not supply sewer service to any person outside the corporate limits without special permission from the City Council; provided, the entire cost of pipe and other installation charges shall be paid by such consumers. Nothing herein shall be construed to obligate the City to provide sewer service to nonresidents. (Neb. Rev. Stat. §17-149, 19-2701)

SECTION 7-305: SEWER CONTRACT; NOT TRANSFERABLE

A. The City through the Sewer Department shall furnish sewer services to persons within its corporate limits whose premises abut a street or alley in which a commercial main is now or may 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 for 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. (Neb. Rev. Stat. §17-901, 17-902)

B. Contracts for sewer service are not transferable. Any person wishing to change from one location to another shall make a new application and sign a new contract. If any customer shall move from the premises where service is furnished, or if the said premises are destroyed by fire or other casualty, he/she shall at once inform the sewer commissioner, who shall cause the sewer service to be shut off from the said premises. If the customer should fail to give notice, he/she shall be charged for that period of time until the official in charge of sewers is otherwise advised of such circumstances. (Neb. Rev. Stat. §17-901, 17-902, 18-503)

SECTION 7-306: RATE SETTING

Customers of the Sewer Department shall be charged a rate based on water usage for the use of sewer service. Rates shall be set by the City Council and shall be on file at the office of the city clerk, available for public inspection during office hours. (Neb. Rev. Stat. §18-509)

SECTION 7-307: USER CHARGE REVIEW

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

A. Maintain the proportional distribution of operation, maintenance and replacement (OM&R) costs among users and user classes;

B. Generate adequate revenues to pay the costs of OM&R;

C. Apply excess revenues collected from a class of users to the costs of OM&R attributable to that class for the next year and adjust the rates accordingly.

SECTION 7-308: USER NOTIFICATION

Each user will be notified, at least annually, with a regular bill, of the rate and that

portion of the user charges ad valorem taxes which are attributable to wastewater treatment.

SECTION 7-309: SEWER MAINTENANCE FUND

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

A. An O&M account with provision for carryover of the fiscal year end balance to meet the overall O&M costs in the subsequent fiscal year;

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

(Neb. Rev. Stat. Sec. 17-924.02)

SECTION 7-310: CLASSIFICATION OF CONSUMERS

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

SECTION 7-311: COLLECTION OF SEWER USE FEES

Sewer rental bills shall be due and payable pursuant to Article 1 of this chapter (Utilities Generally).

SECTION 7-312: 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.

(Neb. Rev. Stat. §17-149)

SECTION 7-313: PUBLIC SEWERS REQUIRED; UNLAWFUL DISCHARGE OF UNTREATED SEWAGE

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. (Neb. Rev. Stat. §17-149)

SECTION 7-314: 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. (Neb. Rev. Stat. §17-149)

SECTION 7-315: PUBLIC SEWERS REQUIRED; MANDATORY HOOKUP

The owner of any house, building, or property used for human employment, recreation, or other purposes, situated within the City and abutting on any street, alley, or right-of-way in which there is now located or may in the future be located a public sanitary or combined sewer of the City, is hereby required at 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; provided, said public sewer is within 100 feet of the property line. (Neb. Rev. Stat. §17-149)

SECTION 7-316: 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. (Neb. Rev. Stat. §17-149)

SECTION 7-317: BUILDING SEWER INSTALLATION; PERMIT; CLASSES; APPLICATION

There shall be two classes of building sewer permits: (A) for residential and commercial service, and (B) for service to establishments producing industrial wastes. In either case, the owner or his agent shall make application on a special form furnished by the City. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the superintendent. (Neb. Rev. Stat. §17-149)

SECTION 7-318: OWNER'S EXPENSE

All costs and expenses incidental to the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify the City from any loss

or damage that may directly or indirectly be occasioned by the installation of the building sewer. (Neb. Rev. Stat. §17-149)

SECTION 7-319: TAP FEE; PLUMBER MAY BE REQUIRED

The customer, upon approval of his/her application for sewer service, shall pay to the utilities superintendent a tap fee which shall compensate the City for the expense of processing the application and tapping the sewer main. The utilities superintendent, in his discretion, may direct the customer to hire a licensed plumber to tap the main. The customer shall then be required to pay the expense of procuring the materials required as well as the services of a licensed plumber and shall pay all other costs of installation. (Neb. Rev. Stat. §17-149)

SECTION 7-320: INSTALLATION PROCEDURE

A. In making excavations in streets, alleys, or sidewalks for the purpose of installing pipe, or making repairs, the paving, stones, and earth must be removed and deposited in a manner that will occasion the least inconvenience to the public and provide for adequate drainage. No person shall leave an excavation made in the street, alley, or sidewalk open at any time without a barricade, and during the night, warning lights. After the house sewer is laid, the public ways and property shall be restored to good condition. If the excavation in the public ways and property is left open or unfinished for a period of 24 hours or more, the utilities superintendent shall have the duty to finish or correct the work, and all expenses so incurred shall be charged to the owner, occupant, or lessee of the property.

B. All installations or repairs of pipes require two inspections by the utilities superintendent. The first inspection shall be made when connections or repairs are complete and before the pipe is covered. The second inspection shall be made after the dirt work is completed and the service restored. It is the customer's responsibility to notify the utilities superintendent at the time the work is ready for each inspection. All installation shall be done under the supervision and strictly in accordance with the rules, regulations, and specifications for such installation prescribed by the utilities superintendent; provided, the said rules, regulations, and specifications have been reviewed and approved by the City Council.

SECTION 7-321: INSTALLATION EXPENSE; FEES

A. When improvements are made to the water supply system or the wastewater system within the City, such cost associated with the improvement will generally be assessed to those properties gaining benefit from such improvement. When a new or existing water or sewer customer wishes to receive a new connection, the City will pay the cost of tapping the main, installing the meter and providing the fixtures and labor from the main up to the stop box at the lot line of the customer. All cost associated with the new service line will be included in the installation charge. The installation charge will include the cost of the all materials needed for the con-

nection, including the stop box, and the labor. The City shall bill the installation charges along with tap fees set herein.

B. The base tap fees are hereby set in the following amounts:

1. The minimum residential water line shall be a one-inch pipe with a minimum tap fee of \$175.00.
2. The minimum residential sewer line shall be a six-inch pipe with a flat fee of \$50.00.
3. Tap fees for commercial lines shall be set on a case by case basis. The utility superintendent shall require in each case the plumbing plans for the new commercial site and the determination of the size of line required will be based on the site plans and proposed use. The fee will be set in accordance with size and cost.
4. Regardless of the type of service, the customer shall at his own expense bring water service from the stop box or sewer service from the closet main and upon his own premises. The customer shall hire a plumber to make the connection to the point of city service and the point of dispersement. All water service will be metered. The City owns, pays for, and maintains one meter for each customer within city limits. Additional meters can be purchased from the City at its cost.

C. Any existing property owner within the City's service area that is currently connected to a city service line and any future property owner wishing to connect to a city service shall be subject to the installation and connection fees. The connection fee shall only include the right to connect to the line. The property owner has the option of paying the connection fee up front or as a reoccurring charge on his/her monthly utility statement for up to 60 months interest-free. No property shall have the right to be connected to city service without prior city approval.

(Neb. Rev. Stat. §17-149) (Ord. No. 1074, 8/25/98)

SECTION 7-322: REPAIRS AND REPLACEMENT

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

B. The city clerk shall give the property owner notice by registered letter or certified mail, sent to the last-known address of such owner or the agent of such owner, directing the repair or replacement of such connection line. If within 30 days of

mailing such notice the property owner fails or neglects to cause such repairs or replacements to be made, the utilities superintendent may cause such work to be done and assess the cost upon the property served by such connection.

(Neb. Rev. Stat. §18-1748)

SECTION 7-323: 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 aforementioned. (Neb. Rev. Stat. §17-149)

SECTION 7-324: 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. (Neb. Rev. Stat. §17-149)

SECTION 7-325: CONSTRUCTION CODES

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

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

C. The connection of the building sewer into the public sewer shall conform to the requirements of the building and plumbing code or other applicable rules and regulations of the 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.

(Neb. Rev. Stat. §17-149)

SECTION 7-326: PLUMBING REGULATIONS

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 that nothing herein shall be construed to apply to persons, firms or corporations under special contract with the City for the construction, extension or repair of the city sewer system. (Neb. Rev. Stat. §17-149)

SECTION 7-327: PLUMBER'S LIABILITY

The licensed plumber or drainlayer who connects with the public sewer shall be held responsible for any damage he/she may cause to the sewers or the public ways and property. He/she shall restore all streets that he/she has excavated to the complete satisfaction of the utilities superintendent and make good any settlement of the ground or pavement caused by such excavation. (Neb. Rev. Stat. §17-149)

SECTION 7-328: UNLAWFUL CONNECTION

No person shall make connection of roof downspouts, interior and exterior foundation drains, areaway drains, or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer unless such connection is approved by the superintendent for purposes of disposal of polluted surface drainage; provided, if responsibility can be determined, the party responsible for disposal of polluted surface drainage into the public sanitary sewer shall pay a user charge equivalent to the cost of treating the polluted drainage. (Neb. Rev. Stat. §17-149)

SECTION 7-329: 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 representative. (Neb. Rev. Stat. §17-149)

SECTION 7-330: 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 7-331: INDUSTRIAL USERS; SEWER SERVICE CHARGE

A. Industrial users of the wastewater treatment plant shall be defined as any

person or entity discharging an industrial waste to the treatment plant. All present and future industrial users of the wastewater treatment plant shall be assessed a sewer service charge directly related to their proportionate share of waste loadings discharged by the industry as compared to the total waste loading discharged by the entire city.

B. The loadings for which sewer service charges are to be assessed shall be based on, but not necessarily limited to, organic, solids, and hydraulic loadings. The loadings from each industrial user shall be determined by the City or its authorized representative. Loadings shall be determined by the use of a sampling program, which shall be conducted on the waste discharge of the industrial user for a minimum duration of three days, not necessarily consecutive.

C. When the average loadings of the particular industrial user have been determined from the sampling program, the average loading in mg/l will be compared to the corresponding total average loadings received at the city waste treatment plant. The average strength of the industrial waste (mg/l) shall be less than the average waste strength from the City (mg/l). The total average loadings received at the waste treatment plant shall be those determined from the year prior to which the sampling program is performed at the industry.

D. At least once each year or more frequently as determined by the City, the industrial user shall be resampled to determine possible new average loadings reflecting modification in production or processing. These new loadings shall then be compared to the total average loadings received at the city treatment plant the prior year to determine the need for the change in the industrial user sewer service charge.

(Neb. Rev. Stat. §17-149)

SECTION 7-332: INDUSTRIAL USERS; SEWER CHARGES; DETERMINATION

Industrial user sewer service charges shall be set by resolution of the City Council and determined as follows:

- A. Establish industrial users' average loadings as described above.
- B. Establish the total average loadings received at the waste treatment plant as described above.
- C. Develop ratios comparing the industrial users' average loadings to the corresponding total average loadings received at the waste treatment plant.
- D. Annual total costs of the treatment plant shall be included in the sewer service charge determination as described below:
 1. Annual capital cost debt retirement for the waste treatment plant.
 2. Annual operation and maintenance cost for the waste treatment plant.

E. During the sampling of the industrial user, production figures or quantities of raw product used shall be recorded for sewer service charge development.

F. Correlating the loading ratios and the corresponding raw products or production figures with the annual total costs of the waste treatment plant, a uniform sewer service charge will be developed on the basis of production or raw material used.

(Neb. Rev. Stat. §17-149)

SECTION 7-333: MANHOLES

Entrance into a manhole or street opening for any purpose except by authorized persons is hereby prohibited. It shall be unlawful to deposit or cause to be deposited in any manhole or outlet connected with the sewer system any substance which is not the usual and natural waste carried by the sewer system. (Neb. Rev. Stat. §17-149)

SECTION 7-334: PRIVATE SEWAGE DISPOSAL; WHEN APPLICABLE

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

B. At such time as a public sewer becomes available to a property served by a private wastewater disposal system, a direct connection shall be made to the public sewer 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.

(Neb. Rev. Stat. §17-149)

SECTION 7-335: 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 are deemed necessary by the superintendent. A permit and inspection fee of \$5.00 shall be paid to the City at the time the application is filed. (Neb. Rev. Stat. §17-149)

SECTION 7-336: 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 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. (Neb. Rev. Stat. §17-149)

SECTION 7-337: PRIVATE SEWAGE DISPOSAL SYSTEM; SPECIFICATIONS

The type, capacities, location, and layout of a private sewage disposal system shall comply with all recommendations of the Nebraska Department of Health. 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. (Neb. Rev. Stat. §17-149)

SECTION 7-338: 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. (Neb. Rev. Stat. §17-149)

SECTION 7-339: PROHIBITED DISCHARGES; STORMWATER, SURFACE WATER, GROUNDWATER, COOLING WATER AND PROCESS WATER

A. 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 cooling water, or unpolluted industrial waters to any sanitary sewer.

B. Storm water and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as combined sewers or storm sewers, or to a natural outlet approved by the superintendent. Industrial cooling water or unpolluted process water may be discharged, on approval of the superintendent, to a storm sewer, combined sewer, or natural outlet. The contributor of any identifiable discharge of polluted water to the sanitary sewer system shall be held responsible for reimbursing the City for such costs. The costs shall be determined by the superintendent with the approval of the City Council.
(Neb. Rev. Stat. §17-149)

SECTION 7-340: HAZARDOUS AND PROHIBITED DISCHARGES; FLAMMABLE, TOXIC, CORROSIVE AND OBSTRUCTIVE SUBSTANCES

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

1. Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid, or gas.
2. Any waters or wastes containing toxic or poisonous solids, liquids, or gases in sufficient quantity, either singly or by interaction with other

wastes, to injure or interfere with any waste treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the wastewater treatment plant.

3. Any waters or wastes having a pH lower than 5.5, or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the sewage works.
4. Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the sewage facilities such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.
5. Any waters or wastes:
 - a. Having 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; or
 - c. Having an average daily flow greater than 2% of the average sewage flow of the City; or
 - d. Having 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.

B. Where necessary in the opinion of the superintendent, the owner shall provide, at his expense, such preliminary treatment as may be necessary to:

1. Reduce the biochemical oxygen demand to 300 parts per million by weight, or
2. Reduce the suspended solids to 350 parts per million by weight, or
3. Control the quantities and rates of discharge of such waters or wastes, or
4. Reduce the chlorine requirement to conform to normal sewage.

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

(Neb. Rev. Stat. §17-149)

SECTION 7-341: HAZARDOUS AND PROHIBITED DISCHARGES; SPECIFIC PROHIBITIONS AS DETERMINED BY SUPERINTENDENT

A. No person shall discharge or cause to be discharged the following de-

scribed 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 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°. 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.
2. Any garbage that has not been properly shredded. The installation and operation of any garbage grinder equipped with a motor three-fourths horsepower or greater shall be subject to the review and approval of the superintendent.
3. Any waters or wastes containing strong acid iron pickling wastes, or concentrated plating solutions whether neutralized or not.
4. Any waters 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.
5. 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.
6. 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.
7. Any waters of wastes having a pH in excess of [9.5].
8. 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 dis-

solved 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 here in.

B. 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.

(Neb. Rev. Stat. §17-149)

SECTION 7-342: DISCHARGE OF HAZARDOUS AND PROHIBITED SUBSTANCES; REJECTION, PRETREATMENT; CONTROL OF DISCHARGE RATE OR USE FEE SURCHARGE

A. If any waters or wastes are discharged, or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in Section 7-341, and which in the judgment of the superintendent may have a deleterious effect upon the sewage works, processes, equipment, or receiving waters, or which otherwise create a hazard to life to constitute a public nuisance, the superintendent may:

- 1. Reject the wastes,
- 2. Require pretreatment to an acceptable condition for discharge to the public sewers,
- 3. Require control over the quantities and rates of discharge, and/or
- 4. Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges under the provisions of Section 7-348 (Special Exceptions; Use Fee Surcharge).

B. If the superintendent permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the superintendent and subject to the requirements of all applicable codes, ordinances and laws.

(Neb. Rev. Stat. §17-149)

SECTION 7-343: 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 personnel of the owner(s) must be performed by currently licensed waste disposal firms. (Neb. Rev. Stat. §17-149)

SECTION 7-344: 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 expense.

SECTION 7-345: 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 the owner so as to be safe and accessible at all times. (Neb. Rev. Stat. §17-149)

SECTION 7-346: 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 anal-

yses involved will determine whether a 27-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 27-hour composites of all outfalls whereas pH's are determined from periodic grab samples.) (Neb. Rev. Stat. §17-149)

SECTION 7-347: SANITARY SUPPLY SYSTEM; 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. (Neb. Rev. Stat. §17-149)

SECTION 7-348: 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. (Neb. Rev. Stat. §17-149)

SECTION 7-349: COMPLIANCE WITH ARTICLE; INSPECTIONS GENERALLY

The superintendent and other duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling, and testing system in accordance with the provisions of this article. The superintendent or his representative 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. (Neb. Rev. Stat. §17-149)

SECTION 7-350: COMPLIANCE WITH ARTICLE; INSPECTIONS; INJURY LIABILITY

While performing the necessary work on private properties referred to in Section 7-349 above, the superintendent or duly authorized employees of the City shall observe all safety rules applicable to the premises established by the company. 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 7-345 (Control Manholes/Sampling Stations; When Required; Installation And Maintenance).

SECTION 7-351: 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 7-352: VIOLATION; NOTICE AND LIABILITY

Any person found to be violating any provision of this article except Section 7-349 (Compliance with Article; Inspections Generally) shall be served by the City with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations. Any person violating any of the provisions of this article shall become liable to the City for any expense, loss, or damage occasioned the City by reason of such violation. (Neb. Rev. Stat. §17-149)

SECTION 7-353: SEVERABILITY CLAUSE

The invalidity of any section, clause, sentence, or provision of this article shall not affect the validity of any other part of this article which can be given effect without such invalid part or parts.

SECTION 7-354: PENAL PROVISION; VIOLATION

Any person who shall continue any violation beyond the time limit provided in Section 7-352 shall be guilty of a misdemeanor, and on conviction thereof shall be fined in the amount not exceeding \$500.00 for each violation. Each 24-hour period in which any such violation shall continue shall be deemed a separate offense.

Article 4 – Solid Waste

SECTION 7-401: DEFINITIONS

“C/D waste” (construction/demolition waste) shall mean waste from construction, remodeling and repair operations on houses, commercial buildings and other structures, including but not limited to excavated earth, stones, brick, plastic, lumber, concrete and waste parts occasioned by installations, repair and demolition.

“Garbage” shall mean the organic waste and residue of animal, fruit or vegetable matter arising from or attending the household preparation of meats, fish, fowl, fruits and vegetables and shall include the organic waste of animal, fruit or vegetable matter attending the preparation of food from any home, hotel, hospital, church, restaurant or commercial establishment or which may become offensive or injurious to the public health.

“Trash” shall mean all nonputrescible wastes such as paper, plastic, tin cans, crockery, bottles and glass containers, rags, ashes, waste from minor household repairs, papers, boxes, packing materials from dwellings and all business, commercial and industrial establishments except sewage, manure and dirt.

“Yard waste” shall mean lawn trimmings, leaves, tree trimmings and fallen branches, trees, bushes and shrubs.
(Ord. Nos. 967, 3/28/95; 1241, 8/22/12)

SECTION 7-402: RESIDENTIAL CUSTOMERS

It shall be unlawful for any person to keep in, on or about any dwelling, building, premises or any other place in the City garbage, decayed vegetable or animal substances of any kind that may be injurious to the public health or offensive to residents of the City unless the same is kept in receptacles and as nearly airtight as practical. Any person having garbage or any kind of waste subject to fermentation shall be required to place the same into a garbage can with a tight lid, plastic container with a tight lid or a tied plastic bag. No person may permit garbage or trash to collect and all persons shall remove the same from their property within 24 hours after being notified to do so by the police chief, who shall represent the Board of Health. All persons shall have the contents of their garbage containers removed at least once a week.
(Neb. Rev. Stat. §17-563) (Ord. Nos. 967, 3/28/95; 1241, 8/22/12)

SECTION 7-403: BUSINESSES, CHURCHES AND COMMERCIAL CUSTOMERS

All businesses, churches and commercial enterprises are subject to Section 7-402.
(Ord. No. 1241, 8/22/12)

SECTION 7-404: COMMERCIAL HAULERS/COLLECTORS

A. All commercial haulers and collectors hauling and/or collecting C/D waste, garbage and or trash within the City shall keep all vehicles and containers used for such maintained in a well-repaired and sanitary condition. Any noxious odor from vehicles or containers must be taken care of immediately and will be the responsibility of the owner to do so.

B. No alleys may be used for the regular collection of garbage or trash. No vehicle or container used for hauling of or collection of C/D waste, garbage, trash, or yard waste shall be so overloaded that waste spills therefrom. Any waste that is spilled during this process shall be immediately cleaned up. Containers and vehicles which contain C/D waste, garbage, trash and/or yard waste may not be kept on the hauler's or collector's property for longer than a 48-hour period. If there are extenuating circumstances that require a longer period of time to remove the vehicle or container, it must be approved by the city office before the 48-hour period expires.

C. Haulers and collectors will provide the City a summary on an annual basis of the volume of all waste collected, disposed of or recycled from within the city limits. The summary must be provided to the city clerk by January 1 of each calendar year and shall include the type and weight of the waste collected for the calendar year. (Neb. Rev. Stat. §17-563) (Ord. No. 1241, 8/22/12)

SECTION 7-405: COMPACTOR; LITTER PREVENTION

Any and all loads transported to the city compactor shall be contained in a covered container or tied bag or shall be covered with a tarp to prevent littering. The compactor attendant shall inspect all loads to ensure waste or recycling materials are contained. Said attendant's determination shall be the final ruling on whether a violation of this ordinance has occurred. Any violator shall be assessed a fee of \$5.00, which will be added to the final total of waste charges for said patron and shall be due immediately. (Ord. No. 1244, 1/17/13)

Article 5 – City Compactor/Dumping Grounds

SECTION 7-501: OPERATION AND FUNDING

The City owns and operates the city compactor/dumping grounds through the utilities superintendent. The City Council, for the purpose of defraying the cost of the care, management, and maintenance of the compactor/dumping grounds may each year levy a tax not to exceed 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 Dump Fund and shall remain in the custody of the city treasurer. The utilities superintendent shall have the direct management and control of the compactor/dumping grounds and shall faithfully carry out the duties of his position. The utilities superintendent shall have the authority to adopt rules and regulations for the sanitary and efficient management of the compactor/dumping grounds subject to the supervision and review of the City Council. The Council shall provide by ordinance for the management and operation of the compactor/dumping grounds and shall set the rates to be charged for services rendered by ordinance and file the same in the office of the city clerk for public inspection during office hours. (Neb. Rev. Stat. §19-2101 thru 19-2106)

SECTION 7-502: STATE REGULATIONS

The City shall apply for a license to operate the compactor/dumping grounds. Application shall be made to the Department of Environmental Quality on forms provided by the Department. No fee shall be charged for such licensing. Each license so issued shall expire five years following the date of issuance, but may be renewed if the City has complied with the provisions of Neb. Rev. Stat. §81-1501 to 81-1533 and the rules and regulations adopted thereunder. It shall be the duty of the utilities superintendent to comply with the rules and regulations prescribed by the DEQ for the use and operation of the compactor/dumping grounds. (Neb. Rev. Stat. §81-1517, 81-1519)

Article 6 – Penal Provision

SECTION 7-601: VIOLATION; PENALTY

Any person who shall violate or refuse to comply with the enforcement of any of the provisions of this chapter, set forth at full length herein or incorporated by reference, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined 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.

CHAPTER 8 – FIRE REGULATIONS

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CHAPTER 8 – FIRE REGULATIONS

Article 1 – Fires

SECTION 8-101: PRESERVATION OF PROPERTY

The fire chief, or any officer in charge of the Tekamah Rural Fire Department, shall have the authority and power to cause the removal of property whenever it shall become necessary for the preservation of more valuable property, the protection of human life, or to prevent the spreading of fire to adjoining property. The fire chief may direct the firefighters to remove any building, structure, or fence for the purpose of checking the progress of any fire. The fire chief shall have the authority to blow up, or cause to be blown up, with explosives any building or structure during the progress of a fire for the purpose of checking the progress of the same.

SECTION 8-102: DISORDERLY SPECTATOR

It shall be unlawful for any person during the time of a fire and for a period of 36 hours after its extinguishment to hinder, resist or refuse to obey the fire chief or to act in a noisy or disorderly manner. The fire chief and assistant fire chief shall have the power and authority during such time to arrest or command any such person to assist them in the performance of their official duties. (Neb. Rev. Stat. §28-908)

SECTION 8-103: EQUIPMENT

It shall be unlawful for any person except the fire chief and the members of the Rural 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 Department. (Neb. Rev. Stat. §28-519)

SECTION 8-104: INTERFERENCE

It shall be unlawful for any person or persons to hinder or obstruct the fire chief or the members of the Rural Fire Department in the performance of their duty. (Neb. Rev. Stat. §28-908)

SECTION 8-105: OBSTRUCTION

It shall be unlawful for any person to obstruct the use of a fire hydrant, or have or place any material within 15 feet of the said hydrant. Any vehicle or material found as an obstruction may be immediately removed by the fire chief or any member of the Rural Fire Department, at the risk, cost, and expense of the owner or claimant. (Neb. Rev. Stat. §39-6,166)

SECTION 8-106: ASSISTANCE

It shall be unlawful for any person to refuse, after the command of the fire chief or assistant fire chief, to aid in extinguishing a fire or to assist in the removal and protection of property. (Neb. Rev. Stat. §28-908)

SECTION 8-107: DRIVING OVER HOSE

It shall be unlawful for any person, without the consent of the fire chief or assistant fire chief, to drive any vehicle over unprotected hose of the Rural Fire Department. (Neb. Rev. Stat. §60-6,184)

SECTION 8-108: TRAFFIC

Every vehicle already stationary when the fire alarm shall have been sounded must remain so for a period of five minutes after the sounding of the fire alarm. No vehicle, except by the specific direction of the fire chief or assistant chief, shall follow, approach or park closer than 500 feet to any fire vehicle, or to any fire hydrant to which a hose is connected. Nothing herein shall be construed to apply to emergency vehicles or those carrying doctors or members of the Rural Fire Department. (Neb. Rev. Stat. §60-6,183)

SECTION 8-109: FALSE ALARM

It shall be unlawful for any person to intentionally and without good and reasonable cause raise any false alarm of fire. (Neb. Rev. Stat. §28-907, 35-520)

SECTION 8-110: 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 have completely passed. (Neb. Rev. Stat. §28-908)

Article 2 – Fire Prevention

SECTION 8-201: LIFE SAFETY CODE

Incorporated by reference into this code are the standards recommended by the National Fire Protection Association, known as the Life Safety Code, 1985 Edition, and all subsequent amendments. This code shall have the same force and effect as if set out verbatim herein. One copy of the Life Safety Code is on file with the city clerk and shall be available for public inspection during office hours. (Neb. Rev. Stat. §18-132, 19-902, 19-922, 81-502)

SECTION 8-202: FIRE PREVENTION CODE

The rules and regulations promulgated by the office of the state fire marshal of the 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. One copy of the Fire Prevention Code shall be on file with the city clerk and shall be available for public inspection during office hours. (Neb. Rev. Stat. §18-132, 19-902, 19-922, 81-502)

SECTION 8-203: FIRE CODE ENFORCEMENT

It shall be the duty of all city officials to enforce the incorporated Fire Code provisions and all infractions shall be immediately brought to the attention of the fire chief.

SECTION 8-204: LAWFUL ENTRY

It shall be the duty of the owner, lessee, or occupant of any building or structure, except the interiors of private dwellings, to allow the fire chief to inspect or cause to be inspected the said structure as often as necessary for the purpose of ascertaining and enumerating all conditions therein that are likely to cause fire, or any other violations of the provisions of the city ordinances affecting the hazard of fire. (Neb. Rev. Stat. §81-512)

SECTION 8-205: FIRE LIMITS DESIGNATED

There is hereby established a Fire Limit District as follows:

The East one-half of Blocks 106, 119, and 134, the Northwest Quarter of Block 134, the East one-half of Block 147, West one-half of Blocks 107, 118, 135, 146, and the North one-half of Block 163; also all that part or parcel of land East of the main track of the Chicago, St. Paul, Minneapolis & Omaha Railway Company, the same being what was formerly known as Blocks 162, 175 and 190, together with the streets and land between said Blocks 162, 175 and 190 and the main track of the Railway Company, all in the City of Tekamah.

(Neb. Rev. Stat. §17-550)

SECTION 8-206: VIOLATION NOTICE

It shall be the duty of the owner, lessee, or occupant of any building or structure that was lawfully inspected as hereinbefore prescribed, and who receives written or verbal notice of a violation of any of the provisions of the city ordinances to correct the condition that violates the said ordinance(s) within five days from the date of receipt of such notice.

SECTION 8-207: OPEN BURNING BAN, WAIVER

A. There shall be a statewide open burning ban on all bonfires, outdoor rubbish fires, and fires for the purpose of clearing land. The city shall regulate all fires built and maintained to burn any garbage, rubbish or waste. It shall be unlawful for any person to set fire to, burn, or cause to be burned any garbage, rubbish or waste in the open air or in any container. Definitions of garbage, rubbish and waste are set forth in Chapter 7, Article 4.

B. The fire chief or his designee may waive an open burning ban under subsection (A) of this section for an area under his jurisdiction by issuing an open burning permit to a person requesting permission to conduct open burning. Such application shall be in writing on a form provided by the state fire marshal and signed by the fire chief or his designee.

C. The fire chief or his designee may waive the open burning ban in his jurisdiction when conditions are acceptable him. Anyone burning in such jurisdiction when the open burning ban has been waived shall notify the chief of his/her intention to burn.

D. The fire chief may adopt and promulgate rules regulations listing the conditions acceptable for issuing a permit to conduct open burning under subsection (B) of this section.

E. The Rural Fire Department may charge a fee for each such permit issued, not to exceed \$10.00. This fee shall be remitted to the City Council for inclusion in the general funds allocated to the Fire Department. Such funds shall not reduce the tax requirements for the Fire Department. No such fee shall be collected from any state or political subdivision to which such a permit is issued to conduct open burning under subsection (B) of this section in the course of such state's or political subdivision's official duties.

(Neb. Rev. Stat. §81-520.01) (Ord. No. 969, 3/28/95; 1116, 6/8/99)

Article 3 – Residential and Recreational Fires

SECTION 8-301: DEFINITIONS

“Barbecue grill” shall mean a metal appliance with a grate and cover used for cooking in an outdoor environment fueled by wood, charcoal, propane or similar LP gas.

“Bonfire” shall mean a large open-air fire associated with a planned event such as a pep rally or celebration.

“Chimenea” shall mean a freestanding front-loading fireplace with a bulbous body and usually a vertical smoke vent resembling a small chimney with an opening to view a small fire. Approved chimeneas shall be equipped with a grated door to close off the fireplace opening and a spark arrestor atop the stack.

“Fire pit” shall mean a prefabricated portable device which totally contains the fire, having legs, a bottom container, screen, and lid, or a permanent custom designed fire pit.

“Fire ring” shall mean a device used on the ground to contain campfires and prevent them from spreading and turning into wildfires.

“Open fire” shall mean any fire from which the products of combustion are emitted directly into the open air.

“Outdoor fireplace” shall be similar to an indoor fireplace consisting of a noncombustible base, firebox, chimney and screen; to burn wood, propane and similar gases.

“Prohibited fire” shall mean the open burning of paper, garbage, refuse, waste, leaves, clippings, wood or other offensive materials.

“Recreational fire” shall mean a general term to describe outdoor burning of wood, propane and similar gases, where the fuel being burned is contained in a non-cooking device; and is used for pleasure, religious, ceremonial, warmth or similar purposes.

(Neb. Rev. Stat. §17-549)

SECTION 8-302: REGULATION OF PARTICULAR ACTIVITIES

Fires, smoke and particulate matter:

A. *Open fires.* The open burning of any paper, garbage, refuse, waste, leaves, clippings, wood, or other combustible or offensive material is prohibited with the exception of the following:

1. Fires set by a public official in the performance of an official duty.

2. Fires used for private or public recreational purposes. Recreational fires may be burned in a chimenea, outdoor fireplace, or fire pit that is both prefabricated and portable, or city approved and permitted, and permanently built as defined in this herein. All parts, including but not limited to screen, lid, and grate shall be used according to manufacturer's direction.
3. Fires in outdoor fireplaces or barbecue grills designed for cooking food.

B. *Nuisances created.* No such fire referred to above shall be used as an incinerator, or be permitted to become a nuisance or a source of annoyance or discomfort to any person by reason of the emission of smoke, fumes, fly ash, dust or soot. Extinguishment of the recreational fire is required when the creation of a public nuisance occurs.

C. *Location.* Recreational fires shall be located on a non-combustible, hard, level surface when in use, such as concrete, paver bricks, or asphalt.

D. *Distances from structures and combustibles.* Structures and combustibles include, but are not limited to homes, garages, sheds, play houses, wood decks, wood fences, trees, bushes, and other items that are combustible. The following distances from structures and combustibles shall be maintained for all open burning:

4. A minimum clearance of 50 feet from all structures and combustibles shall be maintained for large open fires, such as bonfires, where the total fuel area is 36 inches or more in diameter 24 inches or more in height.
5. A minimum clearance of 25 feet from all structures and combustibles shall be maintained for fire pits or other than prefabricated portable units where the total fuel area is 36 inches or less in diameter and 24 inches or less in height.
6. A minimum clearance of 15 feet from all structures and combustibles shall be maintained for prefabricated portable fire pits, chimeras or similar, where the total fuel area is 30 inches or less in diameter and 12 inches or less in height.

E. *Approved Fuel.* Wood burning recreational fires shall be limited to burning untreated, unpainted, clean, dry wood; manufactured fire logs. Propane and other similar gases may also be burned.

F. *Supervision.* Open burning, bonfire or recreational fire shall be constantly attended until the fire is extinguished.

G. *Extinguishment.* On-site fire extinguishing equipment, such as dirt, sand, water barrel, garden hose, or fire extinguisher shall be available when open burning, bonfire or recreational fire device is in use. (Neb. Rev. Stat. §17-549)

Article 4 – Fireworks

SECTION 8-401: PERMITTED FIREWORKS

A. It shall be unlawful for any person to ignite or cause to be exploded fireworks or firecrackers of any description whatsoever, except sparklers, Vesuvius fountains, spray fountains, torches, color fire cones, star- and comet-type color aerial shells without explosive charges for the purpose of making a noise, color wheels, lady fingers, not exceeding seven-eighths inch in length or one-eighth inch in diameter, and which do not contain more than one-half grain each in weight of explosive material.

B. The provision of this section shall not apply to any fireworks to be used for purpose of public exhibitions or display under authorization of the City Council or to fireworks furnished for agricultural purpose pursuant to written authorization from the state fire marshal.

(Neb. Rev. Stat. §17-556, 28-1241, 28-1244, 28-1245)

SECTION 8-402: THROWING FIRECRACKERS

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. (Neb. Rev. Stat. §17-556, 28-1242)

SECTION 8-403: SALE OF FIREWORKS; ADOPTION OF STATE STATUTES

A. For the purpose of establishing minimum standards of fireworks within the City and the procedure for handling the same, Neb. Rev. Stat. §28-1241 through 28-1252 are hereby adopted.

B. It shall be unlawful for any person to sell, hold for sale, or offer for sale as a distributor, jobber, or retailer any fireworks without first obtaining a license from the state fire marshal. Licensees shall only sell fireworks which have been approved by the said fire marshal, and permissible fireworks may be sold at retail only between June 24 and July 5 of each year.

(Neb. Rev. Stat. §28-1246 through 28-1250) (Ord. No. 1127, 12/14/99)

SECTION 8-404: EXPLOSIVES; BLASTING PERMITS

Any person wishing to discharge high explosives within the City must secure a permit from the City Council and shall discharge such explosives in conformance with their direction and under their supervision, and in no case shall any person perform blasting operations unless operating under the direct supervision of a person in possession of a valid user's permit issued by the Nebraska State Patrol. (Neb. Rev. Stat. §17-556, 28-1229) (Ord. No. 891, 1/09/90)

Article 5 – Poisonous and Flammable Gases

SECTION 8-501: ANHYDROUS AMMONIA; PERMIT

Any person, firm, or corporation desiring to store or keep in the City for any period of time any form of anhydrous ammonia or add to, enlarge, or replace any facility used for the storage of such anhydrous ammonia must first get a permit from the City Council. The City Council shall require the location of where the anhydrous ammonia is stored and the quantity of anhydrous ammonia stored in that location. If a permit is granted, the Council shall prescribe such rules, regulations, and precautionary actions as they may deem necessary. Permit requirements for the initial construction or location of storage facilities shall not apply to those facilities in existence on the effective date of this ordinance; provided any such present use that is discontinued for a period of 60 days shall not be revived without a permit. The provisions of this section shall be controlling throughout the City and throughout its zoning jurisdiction. (Neb. Rev. Stat. §17-549)

Article 6 – Penal Provision

SECTION 8-601: VIOLATION; PENALTY

Any person who shall violate or refuse to comply with the enforcement of any of the provisions of this chapter, set forth at full length herein or incorporated by reference, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined 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.

CHAPTER 9 – BUILDING REGULATIONS

ARTICLE 1 – CODE ENFORCEMENT OFFICER; BUILDING PERMITS

- 9-101 CODE ENFORCEMENT OFFICER; POWER AND AUTHORITY**
- 9-102 CODE ENFORCEMENT OFFICER; RIGHT OF ENTRY**
- 9-103 BUILDING WITHOUT PERMIT; NUISANCE**
- 9-104 PERMIT CARD**
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- 9-106 FEES**
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- 9-201 PERMIT AND BOND REQUIRED**
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9-601 VIOLATION; PENALTY

CHAPTER 9 – BUILDING REGULATIONS

Article 1 – Code Enforcement Officer; Building Permits

SECTION 9-101: CODE ENFORCEMENT OFFICER; POWER AND AUTHORITY

The code enforcement officer 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, or moved in the City as often as necessary to insure compliance with all city ordinances. He/she shall have the power and authority at the direction of the City Council to order all work stopped on any construction, alteration, or relocation which violates any provisions prescribed herein. He/she shall, at the direction of the Council, issue permission to continue any construction, alteration, or relocation when the Council is satisfied that no provision will be violated. If the stop order is an oral one, it shall be followed by a written stop order within one hour. Such written order may be served by any city police officer. In the event that the City Council fails to appoint a code enforcement officer, the chief of police shall be the code enforcement officer ex officio. (Neb. Rev. Stat. §17-505)

SECTION 9-102: CODE ENFORCEMENT OFFICER; RIGHT OF ENTRY

It shall be unlawful for any person to refuse to allow the code enforcement officer 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. (Neb. Rev. Stat. §17-505)

SECTION 9-103: 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. (Neb. Rev. Stat. §18-1720)

SECTION 9-104: PERMIT CARD

Upon the issuance of a building permit, the code enforcement officer shall furnish to the applicant a permit card which shall be a distinctive color and shall contain the nature of the work, the location of the building, the number of the permit, and the date of issuance. The said card shall be prominently displayed on the principal frontage of the building site close to or upon the building or structure and shall so remain until the final inspection has been made. (Neb. Rev. Stat. §17-505)

SECTION 9-105: BUILDING PERMIT; VARIANCE NOT PERMITTED

It shall be unlawful for any person to whom a permit has been issued to construct or

repair a building to vary in any manner from the plans and specifications submitted to the zoning administrator in the construction or repair authorized so that such construction or repair does not conform to the ordinances of the City. (Neb. Rev. Stat. §19-901, et. seq.)

SECTION 9-106: FEES

The fee for each permit shall be 50% of the rates set forth in the Uniform Building Code, most recent published edition. Plan review fees are included in the permit fees except for when submittal documents are incomplete or changes so as to require additional plan review or when the projects requires a special review of an outside party. Special review fees will be equal to actual cost. Whenever any work for which a permit is required by this code has been commenced without first obtaining said permit, a special investigation shall be made before a permit may be issued for such work. An investigation fee, in addition to the permit fee, shall be collected whether or not a permit is then or subsequently issued. The investigation fee shall be equal to the amount of the permit fee required by this code. (Ord. No. 1025, 12/10/96)

SECTION 9-107: TIME OF INSPECTION

A. The code enforcement officer, upon notification from the permit holder or 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 agent that the work fails to comply with the requirements of the municipal code:

1. Foundation inspection shall be made after trenches are excavated and the necessary forms erected;
2. 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
3. Final inspection shall be made after the building is completed and ready for occupancy.

B. 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 code enforcement officer. (Neb. Rev. Stat. §17-505)

SECTION 9-108: APPEAL FROM DECISION

In the event it is claimed that the true intent and meaning of this chapter has been wrongly interpreted by the code enforcement officer; that the time allowed for compliance with any order of the code enforcement officer is too short; or that conditions peculiar to a particular building make it unreasonably difficult to meet the literal requirements prescribed by this chapter and the code enforcement officer, the owner,

agent, or the occupant may file a notice of appeal within 30 days after the decision or order of the code enforcement officer has been made, provided, this 30-day time limit shall apply only to decisions or orders of the code enforcement officer concerning existing structures or buildings. The City Council shall hear all appeals and shall have the power and authority, when appealed to, to modify the decision or order of the code enforcement officer. Such a decision shall be final, subject only to any remedy which the aggrieved person may have at law or equity. Applications for review shall be in writing and shall state the reasons why the variance should be made. A variance shall be granted only where it is evident that reasonable safety and sanitation is assured and may include conditions not generally specified by this code to achieve that end. A copy of any variance so granted shall be sent to both the code enforcement officer and the applicant. (Neb. Rev. Stat. §17-505)

Article 2 – Building Moving

SECTION 9-201: PERMIT AND BOND REQUIRED

It shall be unlawful for any person, firm, or corporation to move any building or structure within the City without a written permit to do so. Application may be made to the city clerk and shall include the present and future location of the building to be moved, the proposed route, the equipment to be used, and such other information as the City Council may require. The application shall be accompanied by a certificate issued by the county treasurer to the effect that all the provisions regulating the moving of buildings have been complied with on the part of the owner of the real estate upon which the said building is presently located. The city clerk shall refer the said application to the city police for approval of the proposed route over which the said building is to be moved. Upon approval of the Council, the city clerk shall then issue the said permit; provided, a good and sufficient corporate surety bond, check, or cash in an amount set by resolution and conditioned upon moving said building without doing damage to any private or city property is filed with the city clerk prior to the granting of any permit. (Neb. Rev. Stat. §17-142)

SECTION 9-202: UTILITIES; GAS AND TELEPHONE

In the event it will be necessary for any licensed building mover to interfere with the telephone poles and wires or a gas line, the company or companies owning, using, or operating the said poles, wires or line shall, upon proper notice of at least 24 hours, be present and assist by disconnecting the said poles, wires, or lines relative to the building moving operation. All expense of the said disconnection, removal, or related work shall be paid in advance by the licensee unless such disconnection or work is furnished on different terms as provided in the said company's franchise. (Neb. Rev. Stat. §17-142)

SECTION 9-203: CITY UTILITIES

Whenever the moving of any building necessitates interference with a water main, sewer main, pipes, or wires belonging to the City, notice in writing of the time and route of the said building moving operation shall be given to the various city officials in charge of the city utility departments, who shall proceed on behalf of the City and at the expense of the mover to make such disconnections and do such work as is necessary. (Neb. Rev. Stat. §17-142)

SECTION 9-204: COMPLETION OF MOVE

At such time as the building moving has been completed, the code enforcement officer shall inspect the premises and report to the city clerk in writing as to the extent of damages, if any, resulting from the said relocation and whether any city laws have been violated during the said operation. Upon a satisfactory written report from the code enforcement officer, the city clerk shall return the corporate surety bond, cash,

or check deposited by the applicant. In the event the basement, foundation, or portion thereof is not properly filled, covered, or in a clean and sanitary condition, the City Council may apply the money deposited for the purpose of defraying the expense of correcting the said conditions. If the expense of correcting the hazardous condition is greater than the amount of the deposit set by resolution of the City Council, as required herein, the Council may recover such excess expense by civil suit or otherwise as prescribed by law. (Neb. Rev. Stat. §17-142)

SECTION 9-205: WHEN PERMIT NOT REQUIRED

No moving permit shall be required to move a building that is 15 feet wide or less, and 15 feet long or less, and when in a position to move, 15 feet high or less.

Article 3 – Unsafe Buildings

SECTION 9-301: DEFINITION

"Unsafe building" as used in this article is hereby defined to mean and include any building, shed, fence, or other manmade structure which (A) 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) 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) 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; or (D) is classified as a nonstandard property, building, or structure, a substandard property, building, or structure, a derelict building or structure, or dangerous building or structure, as determined by other sections of this chapter. (Neb. Rev. Stat. §18-1720, 18-1722, 18-1722.01, 77-1725) (Am. by Ord. Nos. 908, 2/26/91; 1267, 11/12/15)

SECTION 9-302: 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.

SECTION 9-303: DETERMINATION AND NOTICE

A. Whenever the code enforcement officer, the fire official, the health official, or the City Council shall be of the opinion that any building or structure in the City is an unsafe building, a written statement to this effect shall be filed with the city clerk. The clerk shall thereupon cause the property to be posted accordingly, shall file a copy of such determination in the office of the County Register of Deeds, and shall 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 condition, that such dangerous condition must be removed or remedied by repairing or altering the building or by demolishing it, and that the condition must be remedied within 60 days from the date of receipt.

B. Such notice may be in the following terms:

"To: (Owner-occupant) of the premises known and described as (give description):

"You are hereby notified that (describe building) on the premises above mentioned has been determined to be an unsafe building and a nuisance after inspection by the code enforcement officer. The causes for this decision are: (here insert the facts as to the danger-

ous condition).

"You must remedy this condition or demolish the building within 60 days from the date of receipt of this notice or the City will proceed to do so. Appeal of this determination may be made to the City Council, acting as the Board of Appeals, by filing with the city clerk within 30 days from the date of receipt of this notice a request for a hearing."

B. If the person receiving the notice has not complied therewith or taken an appeal from the determination of the officer or employee finding that a dangerous building exists within 30 days from the time when this notice is served upon such person by personal service or certified mail, the code enforcement officer may, upon orders of the City Council, proceed to remedy the condition or demolish the unsafe building.

(Neb. Rev. Stat. §18-1722, 18-1722.01)

SECTION 9-304: PROCESS OF DETERMINING AND CLASSIFYING UNSAFE BUILDINGS; DETERMINING AND CLASSIFYING SEVERITY OF VIOLATIONS; DETERMINING COURSE OF ACTION TO MITIGATE VIOLATIONS

A. Inspection and Evaluation of Buildings and Property. Upon the filing of the written statement with the city clerk as provided in Section 9-303 of this chapter, the code enforcement officer shall inspect the building and property. Based on the inspection, the code enforcement officer shall then determine whether the building or property is in violation of this chapter and the degree of violation. All properties where an evaluation inspection is performed shall be evaluated against the standards of Substandard Property listed in Table (B), Fire and Life Safety Hazards listed in Table (C), Derelict Buildings or Structures listed in Table (D), and Dangerous Buildings or Structures listed in Table (E). Substandard Properties shall be assigned violation points, in accordance with Tables (B) and (C), and the provision of subsection (B) of this section, Violation Tables.

B. Violation Tables.

1. During the evaluation inspection, and any subsequent inspections of the building and property, the code enforcement officer shall note each violation and evaluate the property in accordance with Tables (B), (C), (D), and (E). Once all violations are listed, and if it is determined that the property is substandard, the points as listed in Tables (B) and (C) shall be totaled to determine the degree of violation. The course of action shall be in accordance with Table (A) and subsection (C), Substandard Buildings and Structures.
2. Where a building or structure contains violations listed in Table (D), Derelict Buildings or Structures, the building or structure shall be declared a Derelict Building or Structure and processed according to the proce-

dures set forth in Subsection (D), Derelict Buildings or Structures Procedures.

3. Where a building or structure contains violations listed in Table (E), Dangerous Buildings or Structures, that building or structure shall be declared a dangerous building or structure and processed according to the procedures set for in Subsection (E), Dangerous Buildings or Structures Procedures.
4. Groups of buildings on the same property may be processed under a single complaint and evaluation.

| TABLE A POINT LIMITS | |
|---------------------------------|-------------------------------|
| Number of Points | Abatement Category/Process |
| 24 or less | Standard Property |
| 25 to 49 | Non-Standard Property Warning |
| 50 or more | Substandard Property |

| TABLE B SUBSTANDARD PROPERTY | | |
|---|---|-----------------------|
| EXTERIOR PROPERTY VIOLATIONS | | |
| Item No. | Violation | Maximum Points |
| 1 | Unsightly or overgrown ground cover, trees or shrubbery | 15 |
| 2 | Garbage/junk/debris in yard | 15 |
| 3 | Abandoned or inoperable vehicles in yard | 15 |
| 4 | Graffiti on buildings, fences, or other structures | 25 |
| 5 | Missing or unreadable address numbers or apartment numbers | 10 |
| 6 | Exterior stairways (in yards) need repair or replacement | 15 |
| 7 | Exterior stairways (in yards) need handrails/guardrails | 10 |
| 8 | Exterior sidewalks or other paved areas broken, buckled or deteriorated | 15 |
| 9 | Retaining wall needs repairing or replacing | 10 |
| 10 | Broken or plugged sewer | 25 |

| EXTERIOR BUILDING VIOLATIONS | | |
|-------------------------------------|--|-----------------------|
| Item No. | Violation | Maximum Points |
| 11 | Accessory structure needs to be repaired or demolished | 25 |
| 12 | Accessory structure needs to be painted | 5 |
| 13 | Chimney(s) need(s) to be repaired or removed | 15 |
| 14 | Roofing needs repair | 10 |
| 15 | Roofing needs replacing | 15 |
| 16 | Gutters need to be repaired or replaced | 5 |

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| 17 | Exterior walls need to be repaired | 15 |
| 18 | Exterior walls need siding repaired | 10 |
| 19 | Foundations need repair | 10 |
| 20 | Foundations need replacing | 15 |
| 21 | Porch, deck, or balcony needs to be repaired, replaced or removed | 15 |
| 22 | Porch, deck, or balcony needs guardrail | 15 |
| 23 | Porch, deck, or balcony needs guardrail repaired/replaced | 10 |
| 24 | Overhangs or cornices need repainting or replacing | 15 |
| 25 | Window glass needs replacement | 10 |
| 26 | Window frames need repair or replacement | 15 |
| 27 | Exterior doors and/or door framework needs to be repaired or replaced | 10 |
| 28 | Peeling or absence of paint or weather protection on exterior walls, decks, stairs, porches, and other exterior surfaces | 5 |
| 29 | Improper use of recreational vehicles | 50 |
| 30 | Improper placement or use of cargo containers | 50 |
| 31 | Use of semi-trailers for storage | 50 |
| 32 | Exterior unpermitted or non-compliant work | 50 |

| INTERIOR BUILDING VIOLATIONS | | |
|-------------------------------------|---|-----------------------|
| Item No. | Violation | Maximum Points |
| 33 | Inadequate number of electrical convenience outlets | 10 |
| 34 | Electrical convenience outlets or switches do not have device plates | 5 |
| 35 | Improper water closets, lavatories, bathtubs, showers or other plumbing fixtures | 15 |
| 36 | Insufficient number of water closets, lavatories, bathtubs, showers or other plumbing fixtures as required by the size or occupant load of the building | 10 |
| 37 | All lavatories, sinks, bathtubs or similar fixtures where the spigot outlet is below the level of the basin rim, and any other fixtures where cross-connection or backsiphonage is possible | 25 |
| 38 | Substandard kitchen | 15 |
| 39 | Substandard laundry | 15 |
| 40 | Plumbing piping or fixtures of non-approved materials | 10 |
| 41 | Leaking plumbing piping (supply and/or waste) | 15 |
| 42 | Sagging or improperly supported piping | 5 |
| 43 | Clogged or inoperative plumbing piping | 15 |
| 44 | Appliances, including solid-fuel-burning appliances, which have been installed without proper clearances to combustible materials | 25 |
| 45 | Unlisted appliances which have been illegally installed | 25 |
| 46 | Improper gas piping | 15 |
| 47 | Missing temperature/pressure relief valve on water heater | 25 |

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| 48 | Inadequate, inoperable, or deteriorated heating, mechanical or elevator equipment | 50 |
| 49 | Inadequate supply of combustion air for fuel-fired equipment | 15 |
| 50 | Window locks missing or inoperative | 15 |
| 51 | Door locks missing, inoperative or illegal | 15 |
| 52 | Interior doors need repair | 5 |
| 53 | Weather stripping of doors and/or windows missing or needs repair | 5 |
| 54 | Deteriorated brick, concrete, or stone masonry, or detached veneer | 15 |
| 55 | Deteriorated wood building materials due to inadequate wood to earth clearance | 10 |
| 56 | Deteriorated or crumbling plaster or gypsum board | 10 |
| 57 | Flaking, scaling, or peeling of wallpaper, paint, or other interior wall coverings | 10 |
| 58 | Infestations of vermin | 25 |
| 59 | No windows or inadequate window area to provide natural light | 15 |
| 60 | Inadequate or no ventilation (either natural or mechanical) | 15 |
| 61 | Room and space dimensions less than required | 15 |
| 62 | Dampness, mold and/or mildew within the building | 10 |
| 63 | Lack of or inadequate garbage and rubbish storage and disposal | 10 |
| 64 | Exit signs are not provided with two sources of power | 25 |
| 65 | Exit path lighting is not provided with two sources of power | 25 |
| 66 | Exit stairs have incorrect rise and run | 25 |
| 67 | Access to electrical panels is inadequate | 15 |
| 68 | Floor surfacing needs repair | 25 |
| 69 | Floor framing needs repair | 25 |
| 70 | Wall surfacing needs repair | 15 |
| 71 | Wall framing needs repair | 15 |
| 72 | Ceiling surfacing needs repair | 15 |
| 73 | Ceiling and/or roof framing needs repair | 15 |
| 74 | Overcrowding: Any building or portion thereof where the exiting is insufficient in number, width, or access for the occupant load served, or where the number of occupants in sleeping rooms exceeds the number permitted by the area of the sleeping room | 25 |
| 75 | Interior unpermitted or non-compliant work | 50 |

| UNOCCUPIED OR VACANT BUILDING STANDARDS VIOLATIONS | | |
|---|---|-----------------------|
| Item No. | Violation | Maximum Points |
| 76 | Exterior openings are not properly secured | 50 |
| 77 | Weather protection is not adequate to prevent deterioration of the building | 50 |
| 78 | There is debris within the building or on the premises, which creates a fire hazard or nuisance | 50 |
| 79 | Fire alarms or fire sprinkler systems are inoperable | 50 |

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| 80 | Adequate heat is not provided to protect the sprinkler system from freezing | 50 |
| 81 | Sewer lines are not capped | 50 |
| 82 | Owner does not Inspect the property and keep it from looking uncared for | 50 |
| 83 | Owner does not repair door(s), window(s), exterior wall(s), or other areas of the building which have been damaged, thereby exposing the building to unauthorized third-party entry or inclement weather | 50 |

| TABLE C | | |
|-------------------------------------|---|-----------------------|
| FIRE AND LIFE SAFETY HAZARDS | | |
| Item No. | Violation | Maximum Points |
| 1 | Exit doors have improper hardware | 15 |
| 2 | Required corridors are not of one-hour construction | 50 |
| 3 | Corridor doors are not properly rated (or equivalent) | 50 |
| 4 | Corridor doors don't have closers | 50 |
| 5 | Corridor doors have improper hold-open devices | 25 |
| 6 | Corridor doors don't have gasketing | 25 |
| 7 | Corridor door frames need to be repaired or replaced | 50 |
| 8 | Transoms above corridor doors are not sealed or fire-rated | 50 |
| 9 | Exit paths are not properly illuminated | 50 |
| 10 | Required exit signs are missing | 50 |
| 11 | Required exit signs are not illuminated | 50 |
| 12 | Exit stairs need to be repaired or replaced | 50 |
| 13 | Exit stairs need to be provided with handrails/guardrails, or handrails/ guardrails need repair or replacement | 50 |
| 14 | Exit stairs are missing or have improper landings | 50 |
| 15 | Stair width is too narrow | 25 |
| 16 | Stairs need to be enclosed in a fire-rated shaft | 50 |
| 17 | Stair enclosures are not of the proper fire rating | 50 |
| 18 | Doors to stair enclosures do not meet required fire assembly | 50 |
| 19 | Doors to stair enclosures do not meet required fire assembly requirements, or fire assembly needs replacement or repair | 50 |
| 20 | Exit windows from sleeping rooms not provided | 50 |
| 21 | Exit windows from sleeping room too small in area or dimension | 50 |
| 22 | Exit windows from sleeping room have too high a sill height | 50 |
| 23 | Improper or hazardous wiring | 50 |
| 24 | Missing or inoperative unit smoke detectors or carbon monoxide alarms | 50 |
| 25 | Missing or inoperative fire extinguishers | 50 |
| 26 | Improper storage, building clutter, or other fire hazards | 25 |
| 27 | Required fire sprinkler system or fire alarm system are inoperative or missing | 50 |

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| 28 | Fire resistive occupancy separation or area separation walls need to be repaired or replaced | 25 |
| 29 | Fire resistive construction needs repair or replacement | 25 |
| 30 | Lack of, inoperable, or inadequate fire alarm system | 50 |

| TABLE D | |
|---|--|
| DERELICT BUILDINGS OR STRUCTURES | |
| Item No. | Violation |
| 1 | <p>Interior environment violations, which shall include but not be limited to the following, if required specifically by the occupancy classification for the use of the building:</p> <ul style="list-style-type: none"> a. Lack of or inadequate ventilation b. Infestation by insects, vermin, or rodents |
| 2 | <p>Structural hazards which constitute a danger to life and limb but are of limited extent and are repairable. These shall include but not be limited to the following:</p> <ul style="list-style-type: none"> a. Cracked or crumbling concrete or masonry foundation walls, footings, or posts, or deteriorated or rotting wood foundations or wood posts b. Flooring or floor supports which are defective, deteriorated, or of insufficient size to carry imposed loads with safety c. Members of walls, partitions, or other vertical supports that split, lean, list, or buckle due to defective materials or deterioration or are of insufficient size to carry imposed loads with safety d. Members or supports of ceilings and roofs or other horizontal members which sag, split, or buckle due to defective material or deterioration or are of insufficient size to carry imposed loads with safety e. Fireplaces or chimneys which list, bulge, or settle due to defective materials or are of insufficient size or strength to carry imposed loads with safety f. Exterior cantilever walls or parapets, appendages attached to or supported on the exterior of a building located adjacent to a public way or other space used by pedestrians which are not constructed, anchored, and braced to be able to withstand earthquake forces g. Exterior walls located adjacent to a public way or other space used by pedestrians, which are not constructed, anchored, and braced to be able to withstand earthquake forces |
| 3 | <p>Hazardous or inadequate wiring which presents an immediate danger to life or limb:</p> <ul style="list-style-type: none"> a. Wiring which is inadequately sized for the presently imposed electrical loads b. Wiring where, due to improper ground, lack of insulation, or other conditions, short circuits can occur c. Damaged, missing, or insufficient electrical convenience outlets, electrical components, or equipment |
| 4 | <p>Hazardous or inadequate plumbing which presents a hazard to health or does not provide minimum acceptable amenities for occupancy:</p> <ul style="list-style-type: none"> a. Lack of or inoperable water closets, lavatories, bathtubs, showers, or other plumbing fixtures as required for occupancy b. Lack of hot and/or cold running water to plumbing fixtures c. Lack of or inadequate water heating facilities d. Plumbing piping and fixtures improperly installed |

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| | <p>e. Plumbing piping and connections which leak, are plugged or otherwise inoperative</p> <p>f. Plumbing fixtures which are not properly connected to the waste and vent system or which are cracked, inoperative or leak</p> <p>g. Lack of or inadequate sewage disposal or connection of plumbing fixtures thereto</p> |
| 5 | <p>Hazardous mechanical equipment which presents a hazard to health, life or limb, or does not provide minimum acceptable amenities for occupancy:</p> <p>a. Lack of or inadequate heating facilities</p> <p>b. Mechanical equipment with undersized vents or chimneys</p> <p>c. Fuel-fired equipment with insufficient combustion air</p> <p>d. Mechanical equipment which, because of lack of maintenance or improper installation, constitutes a fire hazard</p> |
| 6 | <p>Faulty weather protection, indications of which shall include but not be limited to the following:</p> <p>a. Holes, including broken windows or doors; breaks; cracked, loose or rotted boards or timbers; and any other conditions in exterior walls and weather-exposed exterior surfaces or attachments which might admit rain or dampness to the interior portions of the walls or occupied spaces of the building.</p> <p>b. Deteriorated or missing roof covering material and flashing</p> <p>c. Standing water in crawl spaces or basements</p> <p>d. Deteriorated or rotted stairs, porches, balconies, or decks</p> |
| 7 | <p>Fire hazard: Any conditions which, in the opinion of the fire chief, constitute a distinct hazard to life or property</p> |
| 8 | <p>Faulty materials or construction: Faulty materials are defined as all materials not specifically allowed or approved. Faulty construction is defined as materials assembled using improper or substandard workmanship.</p> |
| 9 | <p>Hazardous or unsanitary premises: Those premises on which exist an accumulation of weeds, vegetation, junk, dead organic matter, debris, garbage, offal, rat harborages, stagnant water, combustible materials, and similar materials or conditions which constitute fire, health or safety hazards</p> |
| 10 | <p>Inadequate exits: All buildings or portions thereof not provided with exit facilities as required, except those buildings or portions thereof whose exit facilities are safe and conformed with all applicable laws at the time of their construction</p> |
| 11 | <p>Inadequate fire protection or firefighting equipment: All buildings or portions thereof which are not provided with fire construction, fire extinguishing systems, or smoke detection equipment as required by the Tekamah City Code</p> |
| 12 | <p>Improper Occupancy: Buildings or portions thereof where the use or character of their occupancy has changed from the original approved design or intended use, without a recorded action reviewed by the code enforcement officer or City Council</p> |

TABLE E

DANGEROUS BUILDINGS OR STRUCTURES

| Item No. | Violation |
|-----------------|---|
| 1 | Whenever any door, aisle, passageway, stairway, or other means of exit is not of sufficient width or size or is not arranged so as to provide safe and adequate means of exit in case of fire or panic. |

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| 2 | Whenever the walking surface of any aisle, passageway, stairway or other means of exit is wracked, warped, buckled, settled, worn, loose, torn, or otherwise is in such condition as not to provide safe and adequate means of exit in case of fire or panic. |
| 3 | Whenever any portion thereof has been damaged by fire, earthquake, wind, flood or by any other cause to such an extent that the structural strength or stability thereof is materially less than it was before such catastrophe and is less than the minimum requirements. |
| 4 | Whenever any portion, member, or appurtenance thereof is likely to fail, become detached, dislodged, or collapse and thereby injure persons or damage property. |
| 5 | Whenever any portion of a building, any member, appurtenance or ornamentation on the exterior thereof has deteriorated or been damaged so as to be no longer capable of withstanding wind pressures or seismic forces specified in the Building Code in effect at the time the building was constructed. |
| 6 | Whenever any portion thereof has wracked, warped, buckled, or settled to such an extent that walls or other structural portions have materially less resistance to winds or earthquakes than is required in the case of similar new construction. |
| 7 | Whenever the building or structure or any portion thereof is likely to partially or completely collapse because of: (a) dilapidation, deterioration, or decay; (b) faulty construction; (c) removal, movement or instability of any portion of the ground necessary for the purpose of supporting such building; (d) deterioration, decay or inadequacy of its foundation; or (e) any other cause. |
| 8 | Whenever, for any reason, the building or structure or any portion thereof is unsafe for the purpose for which it is being used. |
| 9 | Whenever the exterior walls or other vertical structural members list, lean or buckle to an extent that a plumb line passing through the center of gravity does not fall inside the middle one-third of the base. |
| 10 | Whenever the building or structure, exclusive of the foundation, shows 33 percent or more damage or deterioration of a supporting member or members or 50 percent damage or deterioration of non-supporting members, including wall coverings. |
| 11 | Whenever the building or structure has been so damaged by fire, wind, earthquake, flood, or other causes or has become so dilapidated or deteriorated as to become (a) an attractive nuisance to children; (b) a harbor from transients or vandals; or (c) a place for performing criminal or unlawful activities. |
| 12 | Whenever any building or structure has been constructed, exists or is maintained in violation of any specific requirement or prohibition applicable to such building or structure provided by the building regulations of this jurisdiction, as specified in the Building Code of this chapter or of any law or ordinance of this state or jurisdiction relating to the condition, location, or structure of buildings. |
| 13 | Whenever any building or structure which, whether or not erected in accordance with all applicable laws and ordinances, has in any non-supporting part, member, or portion less than 50 percent (or in any supporting part, member, or portion less than 66 percent) of the (a) strength, (b) fire-resisting qualities or characteristics, or (c) weather-resisting qualities or characteristics required by law in the case of a newly constructed building of like area, height, and occupancy in the same location. |

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|----|---|
| 14 | Whenever a building or structure, used or intended to be used for dwelling purposes, because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangement, inadequate light, air, or sanitation facilities, or otherwise, is determined to be unsanitary, unfit for human habitation, or in such a condition that is likely to cause sickness or disease. |
| 15 | Whenever any building or structure, because of dilapidated condition, deterioration, damage, inadequate exits, lack of sufficient fire-resistive construction, faulty electric wiring, gas connections or heating apparatus, or other cause, is determined to be a fire hazard. |
| 16 | Whenever any building or structure is in such a condition as to constitute a public nuisance known to the common law or in equity jurisprudence. |

C. Substandard Building and Structures.

1. Non-Standard Property Warning. The owner, occupant, or custodian of property which by an external inspection is evaluated as being maintained in a substandard condition and receives 25 to 49 violation points may be considered non-standard property and sent a letter describing the substandard conditions and the appropriate actions for mitigating these conditions within the timeframe provided in this chapter or otherwise extended by the code enforcement officer or City Council. The owner, occupant, or custodian of the property may be advised, in writing, that the property is in a declining state and that if conditions worsen, more formal actions may be undertaken.
2. Substandard Property Violation. When any property has been inspected and receives 50 or more points as set forth in Table (A), the owner, occupant, or custodian of the property shall be notified by letter that the property is "substandard," and the letter shall describe the violations and the appropriate actions for mitigating these violations within the timeframe provided in this chapter or otherwise extended by the code enforcement officer or City Council.
3. All notifications to the owner, occupant, or custodian of the property pursuant to this subsection shall be done pursuant to and in the form set forth in Section 9-303 of this chapter.
4. Appeal rights of the owner, occupant, or custodian of the property shall be governed by Section 9-305 of this chapter.

D. Derelict Buildings or Structures.

1. General. This section shall apply to all buildings, structures, and properties, residential or commercial, which have been evaluated as being derelict buildings or structures, in that the building or structure contains one of more violations listed in Table (D), Derelict Buildings or Structures. By definition, derelict buildings or structures are unfit for human

occupancy,

2. Posting and Placement of Utility Restraint. In addition to any posting required by Section 9-303 of this chapter, derelict buildings or structures shall be posted "MUST NOT BE OCCUPIED." See subsection (F, Posting of Buildings. Simultaneously, utility restraints may be placed on such buildings or structures. See Subsection (G), Utility Restraints. EXCEPTION: If the derelict building is occupied, the code enforcement officer may grant an extension as to when the building will be vacated and whether a posting or utility restraint is required,
3. Buildings or structures which are posted shall not be occupied for any purpose until repaired to eliminate the violations listed in the Notice of Violation issued pursuant to Section 9-303 of this chapter, to the satisfaction of the code enforcement officer. In addition, the building or structure shall be authorized to be entered only for preparing any repair plan and schedule to be submitted to the code enforcement officer for approval. Upon approval of the repair plan and schedule, the owner or his or her representatives will be authorized to enter the building to effect repairs. No other entry or occupancy of the building shall be permitted unless approved by the code enforcement officer.
4. All notifications to the owner, occupant, or custodian of the property pursuant to this subsection shall be done pursuant to and in the form set forth in Section 9-303 of this chapter.
5. Appeal rights of the owner, occupant, or custodian of the property are governed by Section 9-305 of this chapter.
6. Since derelict buildings or structures are by their nature and definition unfit for human occupancy, they are subject to total demolition by the City in the event the owner, occupant, or custody of the property does not mitigate the problem(s) identified within the timeframe as provided in this chapter or otherwise extended by the code enforcement officer or City Council.

E. Dangerous Buildings or Structures Procedures.

1. General. This section shall apply to all buildings, structures, and properties, residential or commercial, which have been evaluated as being dangerous buildings and structures in that the building or structure contains one or more violations listed in Table (E), Dangerous Buildings or Structures.
2. Posting and Placement of Utility Restraint. In addition to any posting required by Section 9-303 of this chapter, dangerous buildings or struc-

tures shall be posted "MUST NOT BE OCCUPIED." See Subsection (F), Posting of Buildings. Simultaneously, utility restraints shall be placed on such buildings or structures. See Subsection (G), Utility Restraints.

3. Buildings which are posted shall not be occupied for any purpose until repaired to eliminate the violations listed in the Notice of Violation issued pursuant to Section 9-303 of this chapter, to the satisfaction of the code enforcement officer. In addition, the building shall be authorized to be entered only for preparing any repair plan and schedule to be submitted to the code enforcement officer for approval. Upon approval of the repair plan and schedule, the owner or his or her representatives will be authorized to enter the building to effect repairs. No other entry or occupancy of the building shall be permitted until the repairs are completed and approved by the code enforcement officer.
4. All notifications to the owner, occupant, or custodian of the property pursuant to this subsection shall be done pursuant to and in the form set forth in Section 9-303 of this chapter.
5. Appeal rights of the owner, occupant, or custodian of the property are governed by Section 9-305 of this chapter.
6. Since dangerous buildings or structures are by their nature and definition unfit for human occupancy, they are subject to total demolition by the City in the event the owner, occupant, or custody of the property does not mitigate the problem(s) identified within the timeframe as provided in this chapter or otherwise extended by the code enforcement officer or City Council.

F. Posting of Buildings.

1. In addition to any posting required by Section 9-303 of this chapter, if a building is determined to be in violation of this chapter to an extent that it fails to provide the amenities which are essential to decent living or the building is unsafe, unsanitary, or structurally unsound, the building shall be posted for non-occupancy.
2. The notice posted on the building shall state that the building "MUST NOT BE OCCUPIED" and shall be affixed to the main door facing the address street or any other accessible doors, if needed. The "MUST NOT BE OCCUPIED" portion of the notice shall be of letters of sufficient size to be read from the public way.

G. Utility Restraints. When a building is determined to be in violation of this chapter and is unfit for human occupancy, a utility restraint may be placed against the property by the code enforcement officer, restraining the utility providers from provid-

ing utilities to the building. Dangerous buildings or structures and derelict buildings or structures posted "MUST NOT BE OCCUPIED" may have utility restraints placed on them. The utility restraint shall be recorded with the Tekamah Utilities Department or other utility providers. The utility restraint shall not be released until the building is repaired or demolished. Once the building has been repaired or demolished, the code enforcement officer shall record with the Tekamah Utilities Department or other utility providers a written release granting utility service to the building or property. The utility restraint shall not interfere with any enforcement action taken by the Tekamah Utilities Department or other utility providers. EXCEPTION: Limited utilities may be permitted to be supplied to the property for facilitating the repairs, at the discretion of the code enforcement officer.

(Ord. No. 1267, 11/12/15)

SECTION 9-305: HEARING AND APPEAL

A. 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 City Council, sitting as the Board of Appeals, to present reasons why the building should not be repaired or demolished. The Council shall grant such hearing within 30 days from the date of receiving the request. A written notice of the Council's decision following the hearing shall be sent to the property owner by certified mail.

B. If the City Council 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 Council shall proceed to cause such work to be done, provided, the property owner may appeal such decision to the appropriate court for adjudication during which proceedings the decision of the City Council shall be stayed.

(Neb. Rev. Stat. §18-1722)

SECTION 9-306: EMERGENCY

Where any unsafe building or structure poses an immediate danger to the health, safety, or general welfare of any person or persons, and the owner fails to remedy the situation in a reasonable time after notice by the code enforcement officer to do so, the City may summarily repair or demolish and remove such building or structure.

SECTION 9-307: SPECIAL ASSESSMENTS

If any owner of any building or structure fails, neglects, or refuses to comply with notice by or on behalf of the City to repair, rehabilitate, or demolish and remove a building or structure which is unsafe and a public nuisance, the City may proceed with the work specified in the notice to the property owner. A statement of the cost of such work shall be transmitted to the City Council. The Council may:

A. Levy the cost as a special assessment against the lot or real estate upon

which the building or structure is located. Such special assessment shall be a lien on the real estate and shall be collected in the manner provided for special assessments; or

B. Collect the cost from the owner of the building or structure and enforce the collection by civil action in any court of competent jurisdiction.
(Neb. Rev. Stat. §18-1720, 18-1722, 18-1722.01, 77-1725) (Am. by Ord. No. 908, 2/26/91)

Article 4 – Building Codes

SECTION 9-401: BUILDING CODE; ADOPTED BY REFERENCE

A. The 2006 edition of the International Building Code, as published by the International Code Council, has been adopted and incorporated by reference, in addition to all amendments, as though printed in full herein insofar as said code does not conflict with state statutes. Said code shall govern the erection, construction, enlargement, alteration, repair, moving, removal, demolition, conversion, occupancy, equipment, use, height, area, and maintenance of all buildings or structures within the Tekamah zoning jurisdiction providing for issuance of permits and collection of fees therefor. One copy of the code shall be on file at the office of the city clerk, available for public inspection during office hours. The provisions of the Building Code shall be controlling throughout the City and throughout its zoning jurisdiction.

B. Any person who shall violate or fail to comply with the enforcement of any of the provisions of the code as identified above shall be deemed guilty of a Class IV misdemeanor and upon conviction thereof shall be fined not more than \$100.00 for each offense. A new violation shall be deemed to have been committed every 24 hours of such failure to comply with said ordinance.

(Neb. Rev. Stat. §17-1001, 18-132, 18-502, 18-522) (Ord. Nos. 1025, 12/10/96; 1215, 12/10/09)

SECTION 9-402: RESIDENTIAL CODE; ADOPTED BY REFERENCE

A. The 2006 Edition of the International Residential Code, as published by the International Code Council, has been adopted and incorporated by reference, in addition to all amendments, as though printed in full herein insofar as said code does not conflict with state statutes. Said code shall govern site preparation and construction, alteration, movement, enlargement, replacement, repair, use and occupancy, location and maintenance of detached one- and two-family dwellings and multiple single-family dwellings (townhouses) not more than three stories in height with a separate means of egress and their accessory structures. One copy of the code shall be on file at the office of the city clerk, available for public inspection during office hours. The provisions of the Residential Code shall be controlling throughout the city and throughout its zoning jurisdiction.

B. Any person who shall violate or fail to comply with the enforcement of any of the provisions of the code as identified above shall be deemed guilty of a Class IV misdemeanor and upon conviction thereof shall be fined not more than \$100.00 for each offense. A new violation shall be deemed to have been committed every 24 hours of such failure to comply with said ordinance.

(Neb. Rev. Stat. §18-132) (Ord. No. 1215, 12/10/09)

SECTION 9-403: HOUSING CODE; ADOPTED BY REFERENCE

A. The purpose of the Uniform Housing Code is to provide minimum standards to safeguard life or limb, health, property and public welfare by regulating and

controlling the use and occupancy, location and maintenance of all residential buildings and structures within this jurisdiction. The purpose of the Housing Code is not to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefited by its terms. The provisions of said code shall apply to all buildings or portions thereof used, or designed or intended to be used, for human habitation. Such occupancies in existing buildings may be continued as provided the Building Code, except such structures as are found to be substandard as defined by said code.

B. The Housing Code will be used to insure conformance with the housing and building codes of the City. To secure equitable handling of all housing concerns by providing uniform procedures and standards for observance by property owners and the Planning Commission and City Council, the Uniform Housing Code for the City of Tekamah, as prepared by the City and adopted by Ord. No. 987, February 27, 1996, including any amendments thereto as may be made therein from time to time, are hereby incorporated by reference herein as if set out in full. One copy of the Uniform Housing Code shall be kept on file with the city clerk and available for public inspection during regular office hours.

(Neb. Rev. Stat. §18-132, 18-522) (Ord. No. 987, 2/27/96)

SECTION 9-404: PLUMBING CODE AND PRIVATE SEWAGE DISPOSAL CODE; ADOPTED BY REFERENCE

The International Plumbing Code and the International Private Sewage Disposal Code, most recent published edition, published by the Building Officials and Code Administrators International and the International Conference of Building Officials, be and the same is adopted as the code of the City of Tekamah for regulating the design, construction, quality of materials, erection, installation, alteration, repair location, relocation, replacement, addition to, use or maintenance of plumbing systems within the zoning jurisdiction of the City of Tekamah; and each and all of the regulations, provisions, conditions and terms of such International Plumbing Code and International Private Sewage Disposal Code, most recent published edition, are hereby adopted by reference and made a part hereof as if fully set out herein. One copy of the International Plumbing Code and the International Private Sewage Disposal Code is on file with the city clerk and is available for public inspection during regular office hours. (Neb. Rev. Stat. §18-132)

SECTION 9-405: ELECTRICAL CODE; ADOPTED BY REFERENCE

To provide certain minimum standards, provisions, and requirements for safe and fire proof installation, methods of connection, and uses of materials in the installation of electrical wiring and appliances, the Uniform Electrical Code, most recent published edition, as recommended and published by the National Fire Protection Association, and printed in book or pamphlet form, is hereby incorporated by reference in addition to all amended editions as though printed in full herein insofar as said code does not conflict with state statutes. The provisions of the Electrical Code shall be controlling throughout the City and throughout its zoning jurisdiction. One copy of the Electrical

Code is on file at the office of the city clerk and is available for public inspection during office hours. (Neb. Rev. Stat. §17-1001, 18-132, 18-502, 18-522) (Am. by Res. No. 08-51, 6/25/91)

SECTION 9-406: MECHANICAL CODE; ADOPTED BY REFERENCE

To provide certain minimum standards, provisions, and requirements for safe and stable design, methods of construction, and uses of materials in houses hereafter erected, constructed, enlarged, altered, repaired, relocated, and converted, the Uniform Mechanical Code, most recent published edition, published by the International Conference of Building Conferences, Whittier, California and printed in book or pamphlet form, is hereby incorporated by reference in addition to all amended editions as though printed in full herein insofar as said code does not conflict with state statutes. The provisions of the Mechanical Code shall be controlling throughout the City and throughout its zoning jurisdiction. One copy of the Mechanical Code is on file at the office of the city clerk and is available for public inspection during office hours. (Neb. Rev. Stat. §17-1001, 18-132, 18-501, 18-522)

SECTION 9-407: CODE FOR ABATEMENT OF DANGEROUS BUILDINGS; ADOPTED BY REFERENCE

It is the purpose of Uniform Code for Abatement of Dangerous Buildings to provide a just, equitable and practical method to be cumulative with and in addition to any other remedy provided by the Building Code, Housing Code or otherwise available by law, whereby buildings or structures which from any cause endanger the life, limb, health, morals, property, safety or welfare of their occupants or the general public may be required to be repaired, vacated or demolished. The purpose of said code is not to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefited by the terms of such code. The provisions of the Uniform Code for Abatement of Dangerous Buildings shall apply to all dangerous buildings, as defined in the said code, which are now in existence or which may hereafter become dangerous in this jurisdiction. Such code will be used to insure conformance of the building and housing codes of the City; and to secure equitable handling of all abatements of dangerous buildings by providing uniform procedures and standards for observance by citizens and the Planning Commission and City Council, the Uniform Code for Abatement of Dangerous Buildings for the City of Tekamah, as prepared by the City and adopted by Ord. No. 988, February 27, 1996, including any amendments hereto as may be made therein from time to time, are hereby incorporated by reference herein as if set out in full. One copy of the Uniform Code for Abatement of Dangerous Buildings is on file with the city clerk and is available for public inspection during office hours. (Ord. No. 988, 2/27/96)

Article 5 – Lighting & Thermal Efficiency Standards

SECTION 9-501: NEED

This article shall be known as the Minimum Lighting and Thermal Efficiency Standards for Buildings. The City finds that there is a present and continuing need to provide for the development and implementation of minimum lighting and thermal efficiency standards for buildings to insure coordination with federal policy under the Energy Conservation Standards for New Buildings Act of 1976, to promote the conservation of dwindling energy resources, and to provide for the public health, safety, and welfare. (Neb. Rev. Stat. §81-1608 et. seq.)

SECTION 9-502: DEFINITIONS

As used in this article, unless the context otherwise requires, the following definitions shall apply:

“Addition” shall mean any construction added to an existing building which will increase the floor area of that building by 5% or more.

“Prime contractor” shall mean the person, persons, entity or entities who has a contract with the owner and is the one responsible for the overall construction of any building or the installation of any component which affects the energy efficiency of the building. Prime contractor shall also mean a property owner who performs the work of a prime contractor.

“Architect or engineer” shall mean any person registered pursuant to Neb. Rev. Stat. §81-847.

“Building” shall mean any structure which utilizes or will utilize a heating system, cooling system, or domestic hot water system, including new buildings, renovated buildings, and additions, but not including any structure which has a consumption of traditional energy sources for all purposes not exceeding the energy equivalent of one watt per square foot.

“Floor area” shall mean the total area of a building, expressed in square feet, which is within the exterior face of the shell of the structure which is heated or cooled.

“Residential building” shall mean a building three stories or less that is used primarily as one or more dwelling units.

“Renovation” shall mean alterations on an existing building which will cost more than 50% of the replacement cost of such building at the time work is commenced or which was not previously heated or cooled, for which a heating or cooling system is now proposed, except that the restoration of historical buildings shall not be included.

“Standard” shall mean Standard 90-75 of the American Society of Heating, Refrigeration, and Air-Conditioning Engineers, Inc., as it existed on April 23, 1980.

“Traditional energy sources” shall mean electricity, petroleum based fuels, uranium, coal, and all nonrenewable forms of energy. (Neb. Rev. Stat. §81-1608 et. seq.)

SECTION 9-503: STANDARD; APPLICABILITY

The standard shall apply to all new buildings, or renovations of or additions to any existing buildings, on which construction is initiated on or after the effective date of this section.

SECTION 9-504: EXEMPTIONS

The following shall be exempt from this act:

A. Any building which has a peak design rate of energy usage for all purposes of less than one watt, or three and four-tenths BTU per hour, per square foot of floor area.

B. Any building which is neither heated nor cooled.

C. Any building or portion thereof which is owned by the federal government.

D. Any manufactured home as defined by Neb. Rev. Stat. §71-4603.

E. Any modular housing unit as defined by subsection (1) of Neb. Rev. Stat. §71-1557.

F. Any building:

1. Listed on the National Register of Historic Places,
2. Determined to be eligible for the National Register of Historic Places by the state historic preservation officer, or
3. Designated as an individual landmark or heritage preservation site by a City or located within a designated landmark or heritage preservation district.

G. Any building to be renovated that is located within an area that has been designated blighted by a City.

H. All residential buildings shall be exempt from lighting efficiency standards.

(Neb. Rev. Stat. §81-1608 et. seq.)

SECTION 9-505: COMPLIANCE; REQUEST FOR DETERMINATION OF COMPLIANCE; APPEAL

A. For purposes of insuring compliance with the standard, the code enforcement officer may conduct such inspections and investigations as are necessary to make a determination of compliance and may issue an order containing and resulting from the findings of such inspections and investigations. The code enforcement officer may charge an amount sufficient to recover the costs of providing such determinations.

B. A building owner may request that the office undertake a determination pursuant to this section. Such request shall include a list of reasons why the building owner believes such a determination is necessary. A building owner aggrieved by the code enforcement officer's determination, or refusal to make such determination, may appeal such determination or refusal to the City Council.

C. Buildings constructed after the adoption of the standard shall be exempt from the provisions of this section. (Neb. Rev. Stat. §81-1608 et. seq.)

SECTION 9-506: INSPECTION; INVESTIGATIONS

The code enforcement officer or his agent shall conduct inspections and investigations necessary to enforce the standard and may, at reasonable hours, enter into any building and upon any premises within his jurisdiction for the purpose of examination to determine compliance with this article. Inspection shall be conducted only after permission has been granted by the owner or occupant or after a warrant has been issued pursuant to Neb. Rev. Stat. §29-830 to 29-835. During construction, the code enforcement officer or agent shall make periodic inspections to assure compliance with this article. (Neb. Rev. Stat. §81-1608 et. seq.)

SECTION 9-507: BUILDING PLANS; SUBMISSION FOR APPROVAL

A. Prior to the construction of, renovation of, or addition to any building covered by this article, the prime contractor shall file sufficient plans and specifications with the code enforcement officer to enable him to make a determination whether such building will comply with the standard. The code enforcement officer shall within 30 days of the filing approve or disapprove the plans and specifications. If disapproved, the reasons shall be set forth in writing to the prime contractor.

B. If the code enforcement officer determines that such construction, renovation or addition will comply with the standard, he or she shall issue a written permit which the prime contractor shall display in a conspicuous place on the premises where the construction work is to be done. No construction, renovation or addition shall commence until a permit is issued and displayed as required by this section.

(Neb. Rev. Stat. §81-1608 et. seq.)

SECTION 9-508: WHEN ARCHITECT OR ENGINEER IS RETAINED

If an architect or engineer is retained, the architect or engineer shall place his/her state registration seal on all construction drawings which shall indicate that the design meets the standard. The prime contractor shall build or cause to be built in accordance with the construction documents prepared by the architect or engineer.

Article 6 – Penal Provision

SECTION 9-601: VIOLATION; PENALTY

Any person who shall violate or refuse to comply with the enforcement of any of the provisions of this chapter, set forth at full length herein or incorporated by reference, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined 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.

CHAPTER 10 – MUNICIPAL PLANNING

ARTICLE 1 – COMPREHENSIVE PLAN

10-101 INCORPORATED BY REFERENCE

ARTICLE 2 – ZONING REGULATIONS

10-201 INCORPORATED BY REFERENCE

ARTICLE 3 – SUBDIVISION REGULATIONS;

10-301 INCORPORATED BY REFERENCE

ARTICLE 4 – FLOODPLAIN REGULATIONS

10-401 INCORPORATED BY REFERENCE

ARTICLE 5 – PENAL PROVISION

10-501 VIOLATION; PENALTY

CHAPTER 10 – MUNICIPAL PLANNING

Article 1 – Comprehensive Plan

SECTION 10-101: INCORPORATED BY REFERENCE

A. In order to accommodate anticipated long-range future growth, the 2009-2019 Comprehensive Development Plan for the City of Tekamah, as prepared by the City and adopted by Ord. No. 1213, including any amendments thereto as may be made from time to time, is hereby incorporated by reference herein as if set out in full.

B. The 2009-2019 Comprehensive Development Plan was amended by Ord. No. 1261 to include the "2015 Energy Element," incorporated by reference herein as if fully set forth.

(Neb. Rev. Stat. §18-132, 19-922) (Ord. No. 975, 1/9/96) (Am. by Ord. Nos. 1213, 10/22/09; 1261, 6/25/15)

Article 2 – Zoning Regulations

SECTION 10-201: INCORPORATED BY REFERENCE

For the purpose of setting minimum standards to promote the public health, safety, morals, convenience, order, prosperity, and general welfare of the community, and to lessen congestion in the streets; to secure safety from fire, panic, and other dangers; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; and to facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public improvements, the Zoning Regulations for the City of Tekamah, as prepared by JEO Consulting Group, Inc. and adopted by Ord. No. 1170, December 9, 2003, including any amendments thereto as may be made therein from time to time, are hereby incorporated by reference herein as if set out in full. One copy of the Zoning Regulations shall be kept with the city clerk and available for public inspection during regular office hours. (Neb. Rev. Stat. §18-132, 19-922) (Am. by Ord. No. 1170, 12/9/03)

Article 3 – Subdivision Regulations

SECTION 10-301: INCORPORATED BY REFERENCE

To provide for harmonious development of the City and its environs; for the integration of new subdivision streets with other existing or planned streets or with other features of the Comprehensive Plan; for adequate open spaces for traffic, recreation, light, air; for the distribution of population and traffic in a manner which will tend to create conditions favorable to health, safety, convenience, or prosperity; to insure conformance of subdivision plans with capital improvement programs of the City; and to secure equitable handling of all subdivision plans by providing uniform procedures and standards for observance by subdividers and the Planning Commission and City Council, the Subdivision Regulations for the City of Tekamah, as prepared by the City and adopted by Ord. No. 974, January 9, 1996, including any amendments thereto as may be made therein from time to time, are hereby incorporated by reference herein as if set out in full. One copy of the Subdivision Regulations shall be kept on file with the city clerk and available for public inspection during regular office hours. (Neb. Rev. Stat. §18-132, 19-922) (Ord. No. 974, 1/9/96)

Article 4 – Floodplain Regulations

SECTION 10-401: INCORPORATED BY REFERENCE

The floodplain ordinance, No. 882 passed on May 9, 1989, including any amendments thereto as may be made therein from time to time, is hereby adopted and incorporated by reference herein as if set out in full, along with the Comprehensive Plan and Zoning Regulations. (Ord. No. 882, 5/9/89)

Article 5 – Penal Provision

SECTION 10-501: VIOLATION; PENALTY

Any person who shall violate or refuse to comply with the enforcement of any of the provisions of this chapter, set forth at full length herein or incorporated by reference, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined 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.