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Minatare

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CHAPTER I

CIVIL ADMINISTRATION

ARTICLE I - MAYOR AND CITY COUNCIL

SECTION 1-101: CORPORATE EXISTENCE

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

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

The elected officials of the City shall consist of a mayor and four council members. Each ward of the City shall have two councilmembers who shall be at the time of the election actual residents of the ward for which they are elected and qualified, registered electors under the Constitution and laws of the State of Nebraska; provided, a council member's term shall expire and the office become vacant upon removal or change of residence from the City. The council members shall qualify and meet on the first regular meeting in December following their election.

(Ref. Neb. Rev. Stat. §17-103)

SECTION 1-103: ELECTION OF CITY OFFICIALS

The term of office of the mayor and City Council is four years. The members elected in the general election in 1997 shall continue to hold their office until December, 2002. Those members elected in 1999 shall continue to hold their office until December, 2004. Thereafter, two council members' terms shall expire every two years. The election of the council members shall be held on the date of the statewide general election.

SECTION 1-104: MAYOR; DUTIES AND POWERS

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

communicate to the council such information and recommendations as, in his/her opinion, may improve the City.

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

Any candidate for mayor must be a registered voter and resident of the City prior to filing for the said office.

(Ref. Neb. Rev. Stat. §17-107, 17-110 through 17-117)

SECTION 1-105: MAYOR; VACANCY

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

If the president of the Council shall for any cause assume the office of mayor for the remainder of the unexpired term, there shall be a vacancy on the Council which shall be filled as provided herein.

(Ref. Neb. Rev. Stat. §17-107)

SECTION 1-106: PRESIDENT OF COUNCIL; ACTING PRESIDENT

In case of any vacancy in the office of mayor, or in case of his/her disability or absence, the president of the Council shall exercise the office of mayor until such vacancy is filled or such disability is removed, or in case of temporary absence, until the mayor returns. In the absence of the president, the Council shall elect one of its own body to occupy his/her place temporarily, who shall be styled "acting president of the Council." The president and acting president, when occupying the place of the mayor, shall have the same privileges as other members of the Council; and all acts of the president or acting president, while so acting, shall be as binding upon the Council and upon the City as if done by the mayor.

(Ref. Neb. Rev. Stat. §17-148)

SECTION 1-107: SUCCESSION OF CONTROL

In order to designate the succession of control of the City and to declare and control a disaster or emergency when the mayor is not present or is unable to act as the principal executive officer of the City, then the following is the procedure used to determine who is next in line to fulfill those duties and responsibilities:

If the mayor is not present or is incapable of performing his/her duties in order to declare a disaster or emergency and/or act as principal executive officer in a disaster or emergency situation, then the president of the City Council shall perform those functions and duties. Should the president of the Council not be present or is unable to perform those functions and duties, then the next most senior elected official shall perform those duties and functions. The line of succession for the remaining elected officials shall follow by seniority from the date originally elected. If more than one council member has the same date of seniority, then the most senior in age shall assume control.

SECTION 1-108: VACANCIES IN CITY OFFICES

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

If the vote on the nominee at such meeting fails to carry by a majority vote, the mayor shall continue at such meeting to submit the names of qualified electors of the City in nomination and the Council shall continue to vote until the vacancy is filled. The mayor shall vote for or against the nominee in case of a tie vote of the Council. All council members present shall cast a ballot for or against the nominee. (Amended October 21, 2003, Ord. No. 458)
(Ref. Neb. Rev. Stat. §17-212, 32-568, 32-569)

SECTION 1-109: RESIGNATIONS

All resignations of the mayor and Council members shall be in writing and submitted to the City Council for acceptance. Resignations shall not be effective until accepted by formal action of the City Council. No resignations shall be

accepted unless a quorum for conducting business will remain after such acceptance of such resignation.

SECTION 1-110: CITY COUNCIL; POWERS

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

SECTION 1-111: OFFICERS' SALARIES

All elected officers shall receive such compensation as the Council shall fix by resolution. The emoluments of appointive and elective officers 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. The officers' salaries shall be set by ordinance of the City Council and will be available for public inspection at the office of the city clerk.

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 therefor 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 by him/her credited to the appropriate fund.

(Ref. Neb. Rev. Stat. §17-108.02, 17-612)

SECTION 1-112: COMPENSATION; CONFLICT OF INTEREST

For purposes of this section, "officer" shall mean any member of any board or commission of the City; or any appointed official if such official (a) serves on a

board or commission which spends and administers its own funds and (b) is dealing with a contract made by such board or commission; or any elected city official.

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.

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

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

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

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

B. Does not vote on the matter of granting the contract, except that if the number of members of the Council declaring an interest in the contract would

prevent the Council, with all members present, from securing a quorum on the issue, then all members may vote on the matter; and

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

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 Subsection 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/her parent, spouse or child for special action. If an officer has the power to employ personnel and he/she hires his/her parent, spouse or child, such officer shall disclose the hiring pursuant to subsections 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.

The city clerk shall maintain, separately from other records, a ledger containing the information listed in subsection 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 subsection A through C above. Such information shall be kept in the ledger for five years from the date of the officer's last day in office and shall include the:

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.

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.

An open account established for the benefit of any city or entity thereof, with a business in which an officer has an interest, shall be deemed a contract subject to the provisions of this section. The statement required to be filed pursuant to this section shall be filed within ten days after such account is opened. Thereafter, the clerk shall maintain a running account of all amounts purchased on the

open account. Purchases made from petty cash or a petty cash fund shall not be subject to the provisions of this section.

Any officer who knowingly violates this section shall be guilty of a Class III misdemeanor, which carries the possible penalties of 0 to 3 months of imprisonment, a \$500.00 fine or a combination of both. Upon conviction, the officer will be responsible for court costs as determined by the presiding judge.

Any officer who negligently violates this section shall be guilty of a Class V misdemeanor, which carries the possible penalty of a fine of \$0 to \$100.00. Upon conviction, such officer will also be required to pay court costs as determined by the presiding judge.

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

No officer, including volunteer firefighters and ambulance drivers, shall receive any pay or perquisites from the City other than his/her salary. The City Council shall not pay or appropriate any money or other valuable thing to pay a person who is not an officer for the performance of any act, service or duty, which shall come within the proper scope of the duties of any officer of the City.

(Ref. Neb. Rev. Stat. §17-611, 18-305 through 18-312, 49-14,103.01 through 49-14,103.03, 70-624.04) (Am. 2/15/11, Ord. No. 500)

SECTION 1-113: ELECTED OFFICIALS; QUALIFICATIONS; RESTRICTIONS ON OTHER EMPLOYMENT OR ELECTIVE OFFICE

Elected officials shall be residents and registered voters of the City.

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

2. For purposes of this section, (A) "elective office" means any office which has candidates nominated or elected at the time of a statewide primary election; any office which has candidates nominated at the time of a statewide primary election and elected at the time of a statewide general election; any office which has candidates elected at the time of a statewide general election; any office which has candidates nominated or elected at a city 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 (B) "high elective office" means a member of the Legislature, an elective office described in Article IV, Sections 1 or 20, or Article VII, Sections 3 or 10, of the Constitution of Nebraska, or a county, city or school district elective office.

3. No candidate for member of the Legislature or an elective office described in Article IV, Sections 1 or 20, or Article VII, Sections 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 nomination by a political party or by party convention, caucus or committee to file a vacancy or to be declared a 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 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 write-in candidate for more than one elective office to be filled at the same election.

4. Except as provided in subsection (5) or (7) of this section, no person shall be precluded from being elected or appointed to or holding an elected office for the reason that he/she has been elected or appointed to or holds another elected office.

5. No person serving as a member of the Legislature or in an elective office described in Article IV, Sections 1 or 20 or Article VII, Sections 3 or 10, of the Constitution of Nebraska shall simultaneously serve in another elective office which is filled at an election held in conjunction with the annual meeting of a public body.

6. Whenever an incumbent serving as a member of the Legislature or in an elective office described in Article IV, Sections 1 or 20 or Article VII, Sections 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.

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

8. Notwithstanding subsections (5) through (7) of this section, any person holding more than one high elective office on September 13, 1997, shall be entitled to continue to serve the remainder of all terms for which he/she was elected or appointed.

(Ref. Neb. Rev. Stat. §17-108.02, 32-109, 32-603, 32-604)

ARTICLE II - APPOINTIVE OFFICERS

SECTION 1-201: APPOINTIVE OFFICERS

The mayor, at the first regular meeting of the City Council held after he/she takes office or as soon after as he/she can reasonable do so, may appoint, with the advice and consent of the Council, a city clerk, city treasurer, city engineer, city attorney, city police chief, city fire chief, sewer commissioner, water commissioner and street commissioner. He/she shall also appoint whatever other officials of the City which he/she deems necessary, which officers shall serve at the pleasure of the City Council.

(Ref. Neb. Rev. Stat. §17-107, 17-541)

SECTION 1-202: MERGER OF OFFICES

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

SECTION 1-203: CLERK-TREASURER POSITION CREATED

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

SECTION 1-204: CITY CLERK; DUTIES

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

The city clerk shall maintain an account of all of the appropriations of the several funds of the City. He/she shall draw, sign and attest all warrants ordered for the payment of money on a particular fund from which the same is payable, and at the end of each month make a report of the amount appropriated to each fund and the amount of warrants drawn thereon.

The city clerk shall further attest to the mayor's signature to be attested and shall attach the city seal to all official documents. Whenever any claim presented by any person has been disallowed by the City Council, the city clerk shall notify said claimant of said disallowance by the Council within five days after such disallowance.

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

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

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

The duties of the city clerk will be those set forth herein and as set forth specifically in the job description separately adopted by the mayor and City Council.

(Ref. Neb. Rev. Stat. §17-605, 19-1102, 19-1104, 84-1201 through 84-1220, 84-712)

SECTION 1-205: CITY TREASURER; DUTIES

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

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

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

If the city treasurer neglects or fails, for a period of ten days from the end of each and every month, to render his/her account, his/her office shall be declared vacant pursuant to Section 17-606, R.R.S. Neb. 1943, and the mayor and City Council shall fill the vacancy by appointment until the next election of city officials.

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

The duties of the city treasurer will be those set forth herein and as set forth specifically in the job description separately adopted by the mayor and City Council.

(Ref. Neb. Rev. Stat. §17-606 through 17-609, 84-712)

SECTION 1-206: CITY TREASURER; MONTHLY REPORT

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

(Ref. Neb. Rev. Stat. §17-606)

SECTION 1-207: CITY TREASURER; ANNUAL REPORT

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

(Ref. Neb. Rev. Stat. §19-1101)

SECTION 1-208: CITY ATTORNEY; DUTIES

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

performed by him/her for it on such terms as the City Council and attorney may agree, and to employ additional legal assistance and to pay for such legal assistance out of the funds of the City. (Ref. Neb. Rev. Stat. §17-610)

SECTION 1-209: CITY POLICE CHIEF; DUTIES

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

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

The police chief shall 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 he/she shall make or cause to be made the necessary written complaint against such person or persons when arrested.

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. He/she shall perform such other duties as may be required of him/her by resolution or by order of the mayor and City Council.
(Ref. Neb. Rev. Stat. §17-107, 17-121)

SECTION 1-210: WATER COMMISSIONER

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

SECTION 1-211: SEWER COMMISSIONER

The City Council shall have the power to appoint a sewer commissioner to maintain immediate control and supervision over all employees and property that

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

SECTION 1-212: PUBLIC WORKS COMMISSIONER

The mayor shall nominate and by and with the advice and consent of the City Council shall appoint a competent person as public works commissioner, who shall be liable upon his/her official bond for the faithful performance of his/her duties. It shall be the duty of the public works commissioner to have the general management and control of the water and sewer works of the City, except for billing for water consumption and collections of money therefor. The salary of the public works commissioner shall be fixed and determined annually at the beginning of the fiscal year by the City Council. The Council shall employ such laborers as deemed necessary upon the written recommendation of the commissioner. The public works commissioner shall make detailed reports to the Council, when requested, concerning the condition of the water and sewer systems. The commissioner shall not purchase any material or supplies for the use of the departments nor employ any help except upon the authority of the City Council, unless it be for repairs in cases of emergency. The public works commissioner may be removed at any time by a two-thirds vote of the City Council and shall perform such additional duties as may be prescribed by the Council. (Ref. Neb. Rev. Stat. §17-107, 17-541, 17-543)

SECTION 1-213: STREET COMMISSIONER

The City Council shall have the power to appoint a city street commissioner, who shall have general charge, direction and control of all work on the streets, sidewalks, culverts and bridges of the City and shall perform such other duties as the Council may require. It shall be his/her responsibility to see that gutters and drains therein function properly and that the same are kept in good repair. He/she shall, at the request of the Council, make detailed reports on the condition of the streets, sidewalks, culverts, alleys and bridges of the City and direct its attention to such improvements, repairs, extensions, additions and additional employees as he/she may believe or need to maintain a satisfactory street system in the City, along with an estimate of the cost thereof. It shall be the special duty of the street commissioner to supervise and direct the snow and tree removal work in the City. The duties of the commissioner will be those set forth herein and as set forth specifically in the job description separately adopted by the mayor and City Council. (Ref. Neb. Rev. Stat. §17-107, 17-119)

SECTION 1-214: CITY ENGINEER

The city engineer shall make a record of the minutes of his/her surveys and all other work done for the City. He/she shall, when directed by the City Council, accurately make all plats, sections, profiles and maps as may be necessary in the judgment of the City Council. He/she shall, upon request of the 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. (Ref. Neb. Rev. Stat. §16-320, 16-321)

SECTION 1-215: 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 systems, waterworks, power plants, public heating system, curbing and gutters, and the improvement of streets and erection and repair of buildings, and shall perform such other duties as the City Council may require. All records of the special engineer shall be public records which shall belong to the City and shall be turned over to his/her successor. (Ref. Neb. Rev. Stat. §17-405, 17-568, 17-568.01, 17-919)

SECTION 1-216: CODE ENFORCEMENT OFFICER

When necessary, the City Council shall appoint a code enforcement officer, who shall be charged with investigating municipal code violations and assisting the city attorney in the prosecution of such violations. He or she shall verify and document such violations and issue code violation notices to offenders. The code enforcement officer shall not have authority to issue citations for such code violations but shall only provide such information to the city attorney, who shall use such information in prosecution of the offenses. (Ref. Neb. Rev. Stat. §17-208) (Ord. No. 554, 9/20/22)

ARTICLE III - ADMINISTRATION

SECTION 1-301: CORPORATE SEAL

There shall be owned by the City, in the office of the city clerk, a common seal of the corporation, having engraved thereon the words "City of Minatare, Nebraska, Seal."

The city clerk shall affix an impression of said seal on all papers or documents executed by him/her in his/her official capacity.
(Ref. Neb. Rev. Stat. §17-502)

SECTION 1-302: OFFICERS, BONDS

The officers of the City, before entering upon their duties, shall give bonds for the faithful performances of their duties in an amount set by resolution of the City Council, which said bonds shall be executed with a corporate surety and approved by the City Council. Said bonds shall be filed in the office of the city clerk. Premiums on said bonds shall be paid out of the general funds or other proper funds of said city.

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

SECTION 1-303: OATH OF OFFICE

All officers of the City, whether elected or appointed, shall before entering upon the duties of their respective offices declare and subscribe the following oath or affirmation: "I, _____, do solemnly swear that I will support the Constitution of the United States and the Constitution of the State of Nebraska, against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely and without mental reservation or for the purpose of evasion; and that I will faithfully and impartially perform the duties of the office of _____ according to law and to the best of my ability. And I do further swear that I do not advocate, nor am I a member of any political party or organization that advocates the overthrow of the government of the United States or of this state by force or violence; and that during such time as I am in this position I will not advocate nor become a member of any political party or organization that advocates the overthrow of the

government of the United States or of this state by force or violence. So help me God." This oath or affirmation so subscribed shall be filed in the office of the city clerk.

(Ref. Neb. Rev. Stat. §11-101)

SECTION 1-304: MEETINGS; PUBLIC

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 shall be held in the public building in which the City Council usually holds such meetings, unless the publicized notice hereinafter required shall designate some other public building or other specified place. The advance publicized notice of all public convened meetings shall be 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 notice or a statement that such an agenda kept continually current shall be available for public inspection at the office of the city clerk. The City Council shall have the right to modify the agenda at the public meeting when convened. The minutes of the city clerk shall include the records 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.

Formal actions taken at any public meeting not in conformity with the provisions of this section shall be deemed to be void. Any official who shall violate the provisions of this section shall be deemed to be guilty of a misdemeanor. Nothing herein shall be construed to apply to any preliminary interview or recruitment of prospective officials or employees.

(Ref. Neb. Rev. Stat. §84-1408, 84-1409, 84-1411, 84-1413)

SECTION 1-305: SPECIAL MEETINGS

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 councilmembers of the special meeting, stating the time and its purpose. Notice of a special meeting need not be given to a council member known to be

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

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 councilmembers shall elect a president pro tempore. All ordinances passed at any special meeting shall comply with procedures set forth in Chapter I, Article IV.

(Ref. Neb. Rev. Stat. §17-106)

SECTION 1-306: MEETINGS; CLOSED SESSIONS

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

A. Strategy sessions with respect to collective bargaining, real estate purchases, pending litigation or litigation which is imminent as evidenced by communication of a claim or threat of litigation to or by the public body;

B. Discussion regarding deployment of security personnel or devices;

C. Investigative proceedings regarding allegations of criminal misconduct;
or

D. Evaluation of the job performance of a person when necessary to prevent needless injury to the reputation of a person and if such person has not requested a public meeting.

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

2. 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 portion 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 questions, motion, proposal, resolution, order or ordinance or formation of a position or policy but shall not include negotiating guidance given by members of the public body to legal counsel or other negotiators in closed sessions authorized under subdivision (1) of this section.

3. Any member of the 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 (A) the protection of the public interest or (B) 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.

4. 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 section. No closed session, informal meeting, chance meeting, social gathering or electronic communication shall be used for the purpose of circumventing the provisions of this section.

5. The provisions of this section 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.

(Ref. Neb. Rev. Stat. §84-1410)

SECTION 1-307: MEETINGS; NOTICE TO NEWS MEDIA

The city clerk, secretary or designee of each public body shall maintain a list of the news media requesting notification of meetings and shall make reasonable efforts to provide advance notification to them of the time and place of each meeting and the subjects to be discussed at that meeting.

(Ref. Neb. Rev. Stat. §84-1411)

SECTION 1-308: MEETINGS; PUBLIC PARTICIPATION

Subject to the provisions of this article, the public shall have the right to attend and the right to speak at meetings of public bodies and all or any part of a meeting of a public body, except for closed meetings called pursuant to Section 1-305, may be videotaped, televised, photographed, broadcast or recorded by

any person in attendance by means of a tape recorded, 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. A body may not be required to allow citizens to speak at each meeting, but it may not forbid public participation at all meetings. No public body shall require members of the public to identify themselves as a condition for admission to the meeting. The body may require any member of the public desiring to address the body to identify himself/herself. No public body shall for the purpose of circumventing the provisions of this article hold a meeting in place known by the body to be too small to accommodate the anticipated audience. No public body shall be deemed in violation of this section if it holds its meetings in its traditional meeting place which is located in this state. An agency which contracts with cities outside the State of Nebraska may hold meetings of any committee outside the State of Nebraska if such meetings are held only in such contracting cities. Final action on any agenda items shall only be taken by the agency at a meeting in the State of Nebraska, which meeting shall comply with Neb. Rev. Stat. §84-1408 to 84-1414. The public body shall, upon request, make a reasonable effort to accommodate the public's right to hear the discussion and testimony presented at the meeting. Public bodies shall make available at the meeting, for examination and copying by members of the public, at least one copy of all reproducible written material to be discussed at an open meeting. (Ref. Neb. Rev. Stat. §84-1412, 18-2438)

SECTION 1-309: MEETINGS; CITY COUNCIL

The meetings of the City Council shall be held at the council chambers or other location set by the Council by resolution. Regular meetings shall be held on the third Tuesday of each month at the hour of 7:30 P.M. Special meetings may be called by the mayor or by a majority of the City Council for those purposes of which shall be submitted in writing to the council members prior to said meeting. The call and object of said meeting shall be entered upon the journal by the city clerk as well as the disposition of said meeting.

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

SECTION 1-310: MEETINGS; ABSENCE OF MEMBERS; HEARING; VACANCY

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

In the event that the seat is determined vacant, the vacancy shall be filled pursuant to Section 1-108 of this municipal code.

SECTION 1-311: MEETINGS; ORDER OF BUSINESS

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

- Roll Call
- Reading and Approval of the Minutes of the Previous Meeting
- Consideration of Petitions and other Communications
- Reports of Officers, Boards and Committees
- Unfinished Business of the Preceding Meeting
- Introduction of Ordinances and Resolutions; First Reading
- Second Reading of Ordinances
- Third Reading of Ordinances
- Final Passage of Ordinances
- New Business
- Miscellaneous Business
- Appropriations and Consideration of Claims
- Adjournment

SECTION 1-312: MEETINGS; PARLIAMENTARY PROCEDURE

The mayor shall preserve order during meetings of the City Council and shall decide all questions of order, subject to an appeal to the City Council. When any person is called to order, he shall be seated until the point is decided. When the mayor is putting the questions, no person shall leave the meeting room. Every person present, previous to speaking, shall rise from his/her seat and address

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

SECTION 1-313: MEETINGS; CHANGE IN OFFICE

The change in office shall be made as follows: The mayor and Council shall meet on the first regular meeting date in December of each year in which a city election is held and the outgoing officers and 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 of the Council shall surrender their offices to the incoming members, and the outgoing officers shall thereupon each surrender to his/he successor in office all property, records, papers and monies belonging to the same.

SECTION 1-314: MEETINGS; ORGANIZATIONAL

The newly elected Council shall convene in the council chambers on the first regular meeting in December of each year in which a city election is held immediately after the prior Council adjourns and proceed to organize themselves for the ensuing year. The mayor elected for the new municipal year shall call the meeting to order. The Council shall then proceed to examine the credentials of its members and other elective officers of the City to see that each has been duly and properly elected, and to see that such oaths and bonds have been given as are required. After ascertaining that all members are duly qualified, the Council shall then elect one of its own body who shall be styled as "President of the Council." The mayor shall then nominate his/her candidates for appointive offices. He/she shall then proceed with the regular order of business. It is hereby made the duty of each and every member of the Council or his/her

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

SECTION 1-315: MEETINGS; VIDEOCONFERENCING, WHEN ALLOWED

A meeting of an organization created under the Interlocal Cooperation Act or the Municipal Cooperative Financing Act or of the governing body of a risk management pool or advisory committee organized in accordance with the Intergovernmental Risk Management Act may be held by means of videoconferencing if:

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

Videoconferencing shall not be used to circumvent any of the public government purposes established in this article.

For purposes of this section, "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. (Ref. Neb. Rev. Stat. §84-1409, 84-1411)

SECTION 1-316: APPOINTMENT OF COMMITTEES

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

SECTION 1-317: MEETINGS; MINUTES

The minutes of any meeting of the City Council shall be written and available for public inspection within ten working days of the meeting or prior to the next convened meeting, whichever occurs earliest, except that an additional ten days shall be allowed the city clerk in writing and making available for inspection such minutes in the event of the clerk's serious illness or an emergency which prevents him/her from writing such minutes and making them available to the general public within ten working days as set forth herein.

(Added January 24, 2006, Ord. No. 471)

ARTICLE IV - ORDINANCES

SECTION 1-401: GRANT OF POWER

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

SECTION 1-402: INTRODUCTION

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

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

SECTION 1-403: RESOLUTIONS AND MOTIONS

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

SECTION 1-404: PASSAGE

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

SECTION 1-405: SUSPENSION OF RULES

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

SECTION 1-406: STYLE

The style of all city ordinances shall be:

"Be it ordained by the Mayor and City Council of the City of Minatare, Nebraska:"

(Ref. Neb. Rev. Stat. §17-613)

SECTION 1-407: EFFECTIVE DATE

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

(Ref. Neb. Rev. Stat. §17-613)

SECTION 1-408: TITLE

No ordinance shall contain a subject not clearly expressed in its title.

(Ref. Neb. Rev. Stat. §17-614)

SECTION 1-409: EMERGENCY ORDINANCES

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

(Ref. Neb. Rev. Stat. §17-613, 19-3701)

SECTION 1-410: CERTIFICATE OF PUBLICATION OR POSTING

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

(Ref. Neb. Rev. Stat. §17-613)

SECTION 1-411: AMENDMENTS AND REVISIONS

No ordinance or section thereof shall be revised or amended unless the new ordinance contains the entire ordinance or section as revised or amended, and the ordinance or section so amended shall be repealed.

(Ref. Neb. Rev. Stat. §17-614)

ARTICLE V - FISCAL MANAGEMENT

SECTION 1-501: FISCAL YEAR

The fiscal year of the City shall commence on October 1 and extend through the following September 30.

(Ref. Neb. Rev. Stat. §17-701)

SECTION 1-502: BUDGET PROCEDURE

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

SECTION 1-503: BUDGET STATEMENT; FILING

The City Council shall adopt a budget statement pursuant to the Nebraska Budget Act, to be termed "The Annual Appropriation Bill," in which the Council shall appropriate such sums of money as may be deemed necessary to defray all necessary expenses and liabilities of the City. Such budget statement shall be prepared on forms prescribed and furnished by the Nebraska Auditor of Public Accounts and shall contain that information required by the *Manual of Instructions for City/Village: Budgets*, prepared by the state auditor.

The annual appropriation bill shall not be amended without a majority vote of the City Council after a public hearing. Notice of the time and place of the hearing shall be published at least five days prior to the date set for hearing in a newspaper of general circulation within the City. The income arising from the operation of proprietary functions shall be deemed especially appropriated to the payment of the current expenses of and to the cost of improvements, extensions and additions to such functions and shall not be included in the annual appropriation bill.

(Ref. Neb. Rev. Stat. §13-504)

SECTION 1-504: BUDGET HEARING

Subsequent to the filing of the proposed budget statement, the City Council shall publish a proposed budget and conduct a public hearing on the proposed budget statement. Notice of the place and time of the said hearing, as well as a copy of the proposed budget, shall be published at least five days prior to the date set for the hearing in a newspaper of general circulation in the City. The city clerk shall make available to the public the proposed budget statement prior to publication of the notice of the hearing on such proposed budget statement. After such hearing, the statement shall be adopted or amended, and adopted as amended, and a written record shall be made of such hearing. If the adopted budget

statement reflects a change from that shown in the published proposed budget statement, a summary of such changes shall be published within 20 days after its adoption.

(Ref. Neb. Rev. Stat. §13-506)

SECTION 1-505: BUDGET FILING

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

(Ref. Neb. Rev. Stat. §13-508)

SECTION 1-506: ANNUAL AUDIT

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

(Ref. Neb. Rev. Stat. §19-2901 through 19-2909)

SECTION 1-507: ALL-PURPOSE LEVY

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

(Ref. Neb. Rev. Stat. §17-702)

SECTION 1-508: CONTRACTS

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

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

SECTION 1-509: CLAIMS

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

(Ref. Neb. Rev. Stat. §17-714, 17-715)

SECTION 1-510: WARRANTS

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

(Ref. Neb. Rev. Stat. §17-711)

SECTION 1-511: TRANSFER OF FUNDS

Whenever during the current fiscal year it becomes apparent due to unforeseen emergencies that there is temporarily insufficient money in a particular fund to meet the requirements of the adopted budget of expenditures for that fund, the City Council may by a majority vote transfer money from other funds to such fund. No expenditure during any fiscal year shall be made in excess of the amounts indicated in the adopted budget statement except as authorized herein. If, as the result of unforeseen circumstances, the revenue of the current fiscal year shall be insufficient, the City Council may propose to supplement the previously adopted budget statement and shall conduct a public hearing at which time any taxpayer may appear or file a written statement protesting the application for additional money. A written record shall be kept of all such hearings. Notice of a place and time for the said hearing shall be published at

least five days prior to the date set for the hearing in a newspaper of general circulation in the City. The published notice shall set forth the time and place of the proposed hearing, the amount of additional money required, the purpose of the required money, a statement setting forth the reasons why the adopted budget of expenditures cannot be reduced to meet the need for additional money, and a copy of the summary of the originally adopted budget previously published. Upon the conclusion of the public hearing on the proposed supplemental budget and approval by the City Council, said council shall file with the county clerk and the state auditor a copy of the supplemental budget and shall certify the amount of additional tax to be levied. The City Council may then issue warrants in payment for expenditures authorized by the adopted supplemental budget. The said warrants shall be referred to as "registered warrants" and shall be repaid during the next fiscal year from funds derived from taxes levied therefor.

SECTION 1-512: SPECIAL ASSESSMENT FUND

All money received on special tax assessments shall be held by the city treasurer as a special fund to be applied to the payment of the improvement for which the assessment was made.

(Ref. Neb. Rev. Stat. §17-710)

SECTION 1-513: SINKING FUNDS

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

Council is authorized to do so by 60% of the qualified electors of the City voting at a general election favoring such a change in the use of the sinking fund.
(Ref. Neb. Rev. Stat. §19-1301 through 19-1304, 77-2337, 77-2339)

SECTION 1-514: DEPOSIT OF FUNDS

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

(Ref. Neb. Rev. Stat. §17-607, 77-2362 through 77-2364)

SECTION 1-515: INVESTMENT OF FUNDS

The City Council may, by resolution, direct and authorize the city treasurer to invest surplus funds in the outstanding bonds or registered warrants of the City, and other approved bonds and obligations as provided by law. The interest on such bonds or warrants shall be credited to the fund out of which the said bonds or warrants were purchased.

(Ref. Neb. Rev. Stat. §17-608, 17-609, 72-1259, 77-2341)

SECTION 1-516: EXPENDITURES

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

SECTION 1-517: BOND ISSUES

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

(Ref. Neb. Rev. Stat. §10-201 through 10-411, 10-606 through 10-612, 12-1001, 17-529.08, 17-534, 17-905, 17-908, 17-911, 17-939, 17-958, 17-968, 18-1801 through 18-1805, 23-3513, 39-836)

ARTICLE VI - ELECTIONS

SECTION 1-601: ELECTION OF OFFICERS; CERTIFICATION

All city elections involving the election of officers shall be held in accordance with the Election Act and in conjunction with the statewide general election. No later than July 1 of each even-numbered year, the City Council shall certify to the Secretary of State, the election commissioner or the county clerk, the name of the City, the number of officers to be elected, the length of the terms of office, the vacancies to be filled by election and length of remaining term, and the number of votes to be cast by a registered voter for each office.

(Ref. Neb. Rev. Stat. §16-302.01, 32-401, 32-404, 32-532, 32-556)

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

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

SECTION 1-603: TIE VOTES

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

(Ref. Neb. Rev. Stat. §32-1122)

SECTION 1-604: FILING FEE

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

(Ref. Neb. Rev. Stat. §32-608)

SECTION 1-605: VOTER QUALIFICATIONS

"Elector" shall mean a person of the constitutionally prescribed age or upwards, who shall have the right to vote for all officers to be elected to public office, and upon all questions and proposals, lawfully submitted to the voters at any and all

elections authorized or provided for by the Constitution or the laws of the State of Nebraska, except school elections; provided, no person shall be qualified to vote at any election unless such person shall be a resident of the State and shall have been properly registered with the election official of the county.
(Ref. Neb. Rev. Stat. §17-602, 32-110)

SECTION 1-606: PETITION CANDIDATES

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

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

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

The number of signatures of registered voters needed to place the name of a candidate upon the partisan ballot for the general election shall be at least 20% of the total vote for Governor or President of the United States at the immediately preceding general election within the City, not to exceed 2000.

Petitions for nomination shall conform to the requirements of Neb. Rev. Stat. §32-628. Petitions shall state the office to be filled and the name and address of the candidate. Petitions for partisan office shall also indicate the party affiliation of the candidate. Petitions shall be signed by registered voters residing in the City and shall be filed with the filing officer in the same manner as provided for candidate filing forms in Neb. Rev. Stat. §32-607. Petition signers and circulators shall conform to the requirements of Neb. Rev. Stat. §32-629 and 32-630. No petition for nomination shall be filed unless there is attached thereto a receipt showing payment of the required filing fee. The petitions shall be filed by September 1 in the year of the general election.
(Ref. Neb. Rev. Stat. §32-616 through 32-618)

SECTION 1-607: NOMINATION BY WRITE-IN VOTES

Candidates for elected office may be nominated by write-in; however, when the name of a candidate who did not file or become a petition candidate for nomination is written in and voted for as a candidate for a councilmember, such

person shall not be entitled to a certificate of nomination at a statewide primary election or have his/her name placed on the general election ballot unless he/she shall have received not less than 20% of the total vote cast for the candidate receiving the greatest number of votes in the precinct or ward at the preceding election in which candidates were elected to serve the precinct or ward.

SECTION 1-608: SPECIAL JOINT ELECTIONS

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 election or at any scheduled county election, except that no such issue shall be submitted at a statewide election or scheduled county election unless the issue to be submitted has been certified by the city clerk to the election commissioner or county clerk by March 1 for the primary election and by September 1 for the general election.

After the election commissioner or county clerk has received the certification of the issue to be submitted, he/she shall be responsible for all matters relating to the submission of the issue to the registered voters, except that the city clerk shall be responsible for the publication or posting of any required special notice of the submission of such issue other than the notice required to be given of the statewide election issues. The election commissioner or county clerk shall prepare the ballots and issue absentee ballots and shall also conduct the submission of the issue, including the receiving and counting of the ballots on the issue. The election returns shall be made to the election commissioner or county clerk. The ballots, including absentee ballots, shall be counted and canvassed at the same time and in the same manner as the other ballots. Upon completion of the canvass of the vote by the county canvassing board, the election commissioner or county clerk shall certify the election results to the City Council. The canvass by the county canvassing board shall have the same force and effect as if made by the City Council.
(Ref. Neb. Rev. Stat. §32-559)

SECTION 1-609: CERTIFICATE OF NOMINATION OR ELECTION

The city clerk shall, within 40 days after the election, prepare, sign and deliver a certificate of nomination or certificate of election to each person whom the canvassing board has declared to have received the highest vote for each

municipal office. A certificate of election prepared by the city clerk shall be in the form as nearly as possible prescribed in Neb. Rev. Stat. §32-1033 and shall be signed by the mayor under the seal of the City, and countersigned by the city clerk.

(Ref. Neb. Rev. Stat §19-3041, 32-558, 32-1033)

SECTION 1-610: INABILITY TO ASSUME OFFICE

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

SECTION 1-611: RECALL PROCEDURE

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

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

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

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

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

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

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

8. If a majority of the votes cast at a recall election are against the removal of the official named on the ballot or the election results in a tie, the official shall continue in office for the remainder of his/her term but may be subject to further recall attempts as provided in subsection 10 of this section. If a majority of the votes cast at a recall election are for the removal of the official named on the ballot, he/she shall, regardless of any technical defects in the recall petition, be deemed removed from office unless a recount is ordered. If the official is deemed removed, the removal shall result in a vacancy in the office which shall be filled as otherwise provided in this code and state law. If the election results show a margin of votes equal to 1% or less between the removal or retention of

the official in question, the Secretary of State, election commissioner or county clerk shall order a recount of the votes cast unless the official named on the ballot files a written statement with the city clerk that he/she does not want a recount. If there are vacancies in the offices of a majority or more of the members of the City Council at one time due to the recall of such members, a special election to fill such vacancies shall be conducted as expeditiously as possible by the Secretary of State, election commissioner or county clerk.

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

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

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

SECTION 1-612: BALLOTS

The county clerk shall provide printed ballots for every general municipal election and the expense of printing and delivering the ballots and cards of instruction shall be a charge upon the City.

(Ref. Neb. Rev. Stat. §32-1202)

SECTION 1-613: WARDS

The City shall be divided into two wards. The boundaries of each shall be as follows:

All that portion of the City of Minatare, Nebraska, lying and being west of a line commencing at the south city limits and center line of Second Avenue; thence proceeding north along the center line of Second Avenue from the south city limits to the center line of Fourth Street; thence west on Fourth Street to the center line of Main Street; thence north along the center line of Main Street to the north city limits.

All of that portion of the City lying and being east of a line commencing at the south city limits and center line of Second Avenue; thence proceeding north along the center line of Second Avenue from the south city limits to the center line of Fourth Street; thence west on Fourth Street to the center line of Main Street; thence north along the center line of Main Street to the north city limits.

All that portion of the City of Minatare lying and being west of the dividing line described above shall constitute and is hereby declared to be the first ward

of the City of Minatare. All that portion of the City lying and being east of the dividing line described above shall constitute and is hereby declared to be the second ward of the City of Minatare, Nebraska.

SECTION 1-614: EXIT POLLS

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

(Ref. Neb. Rev. Stat. §32-1525)

ARTICLE VII - POLICE DEPARTMENT

SECTION 1-701: POWER, DUTIES, RESPONSIBILITIES

The city police, whether regular or special, shall have the power to arrest all offenders against the laws of the State of Nebraska 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 trial can be held before the proper official of the State or the City. They shall have full power and authority to call on any person whenever necessary to assist them in performing public duties, and failure, neglect or refusal to render such assistance shall be deemed a misdemeanor punishable upon conviction by a fine. Every city police officer shall be expected to be conversant and knowledgeable of the city and state laws. No law enforcement official shall have any interest in any establishment having a liquor license. City police shall have the duty to file such complaints and reports as may be required by the city ordinances and state laws. City police who shall willfully fail, neglect or refuse to make an arrest, or purposely and willfully fail to make an arrest, or purposely and willfully fail to make a complaint after an arrest is made shall be charged with the misdemeanor and upon conviction of said misdemeanor shall be fined. It shall be unlawful for the City Council to retain any city police officer in such position upon conviction of any Class I misdemeanor, Class W misdemeanor, or any felony violation of the United States, the State of Nebraska, or any other comparable offenses of any other jurisdiction. It shall be the 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 restored to them upon their release. Suitable uniforms and badges shall be furnished to the city police by the City. 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 badge to the city police chief. 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.

SECTION 1-702: ARREST JURISDICTION

1. The city police chief or any other city police 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 his/her primary jurisdiction. "Primary jurisdiction" shall mean the geographic area within territorial limits of the City.

2. The city police chief and any other city police 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 the City 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. The city police chief or any other city police officer, if in a fresh attempt to apprehend a person suspected of committing a felony, may follow such person into any other jurisdiction in this state and there arrest and detain such person and return such person to the officer's primary jurisdiction;

2. The city police chief or any other city police 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. The city police chief or any other city police officer shall have such enforcement and arrest and detention authority when responding to a call in which a local, state or federal law enforcement officer is in need of assistance. A "law enforcement officer in need of assistance" shall mean (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/herself 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. §13-1802.
(Ref. Neb. Rev. Stat. §29-215)

SECTION 1-703: DISCHARGE OR DISCIPLINE OF POLICE CHIEF/POLICE OFFICERS

The mayor, by and with the consent of the City Council, shall appoint such a number of regular police officers as may be necessary, including the police chief (see §1-201). All police officers and police chief appointed by the mayor and council may be removed, demoted or suspended at any time by the mayor. A police officer, including the chief of police, may appeal to the City Council such removal, demotion or suspension with or without pay. After a hearing, the council may uphold, reverse or modify the action.
(Ref. Neb. Rev. Stat. §17-107) (Am. by Ord. No. 525, 8/16/16)

SECTION 1-704: PROCEDURE FOR REMOVAL, DEMOTION OR
SUSPENSION OF POLICE OFFICERS AND POLICE CHIEF

1. The following rules and regulations governing the removal, demotion or suspension with or without pay of any police officer, including the police chief, are adopted. Removal, demotion or suspension action may be taken against any police officer, including the chief of police, upon the written accusation of the mayor, any citizen or taxpayer, or the police chief. The police officer or police chief shall be given notice of the written accusation within 10 days of its receipt. The police chief or police officer shall have the right to have an attorney or representative retained by the police officer or police chief present with him or her at all hearings or proceedings regarding the written accusation. The police chief, police officer and any individual imposing the action or their respective attorneys or representatives shall have the right to record all the hearings of the proceeding regarding the written accusation. The hearing shall be conducted informally.

2. After any action taken to remove, demote or suspend a police chief or police officer following a written accusation, the police officer or police chief may appeal the action by written appeal filed within 10 days from the date the action is taken. The written appeal shall be delivered to the city clerk within that time limit.

3. In the event a written appeal is received by the city clerk within 10 days from the date the action is taken, such written appeal shall be made to the city clerk. If such appeal is made, the clerk shall immediately notify the mayor of the receipt of such appeal. Upon notice of the filing of such appeal, the mayor shall call a special meeting of the City Council within 20 days of receipt of the written appeal to consider such appeal. The police officer, police chief, and the individual imposing the action or their respective attorneys or representatives shall have the right at the hearing to be heard and to present evidence to the City Council for its consideration. Not later than 30 days following the adjournment of the meeting at which the hearing was held, the council shall vote to uphold, reverse or modify the action. Failure of the council to act within 30 days or failure of a majority of the elected council members to vote to reverse or modify the action shall be construed to be a vote to uphold the action. The decision of the City Council shall be based upon its determination that, under the facts and evidence presented at the hearing, the action was necessary for the proper management and the effective operation of the Police Department in the performance of its duties under the statutes of the State of Nebraska.

4. Nothing in this section shall be construed to prevent the preemptory suspension or immediate removal from duty of a police officer or police chief by the appropriate authority pending the hearing authorized by this section in cases of gross misconduct, neglect of duty, or of disobedience of orders.

5. This section does not apply to a police officer or a police chief during his

or her probationary period.

(Ref. Neb. Rev. Stat. §17-107) (Am. by Ord. No. 525, 8/16/16)

ARTICLE VIII - PLANNING COMMISSION

SECTION 1-801: CREATION

There shall hereby be created and established a Planning Commission for the City.

SECTION 1-802: MEMBERS; APPOINTMENTS; QUORUM; TERM; REMOVAL; RESIGNATION; VACANCIES

The Planning Commission shall consist of seven members, who shall represent insofar as is possible different professions or occupations in the City and who shall be appointed by the mayor, by and with the approval of a majority vote of the regular members elected to the Council. Two of the regular members may be residents of the area over which the City is authorized to exercise extra-territorial zoning and subdivision regulations. A number of commissioners equal to a majority of the number of regular members appointed to the Commission shall constitute a quorum for the transaction of any business. All regular members of the commission shall serve as such without compensation and shall hold no other municipal office, except when appointed to serve on the Board of Adjustment. The term of each regular member shall be three years, except that three regular members of the first Commission to be so appointed shall serve for terms of one year, three for terms of two years, and three for terms of three years. All regular members shall hold office until their successors are appointed.

Any member may, after a public hearing before the City Council, be removed by the mayor, by and with the consent of a majority vote of the members elected to the City Council for inefficiency, neglect of duty or malfeasance in office or other good and sufficient cause. Vacancies occurring otherwise than through the expiration of term shall be filled for the unexpired term by the mayor. Three successive unexcused absences shall be deemed a resignation by such member and upon such occurrence, the office shall be deemed vacant. The Planning Commission may have either five, seven, or nine regular members as the City Council establishes by ordinance. If the City has either five or seven regular members, approximately one-third of the regular members of the first Commission shall serve for terms of one year, one-third for terms of two years, and one-third for terms of three years.

The City may, by ordinance, provide for the appointment of one alternate member to the Planning Commission who shall be chosen by the mayor with the approval of the majority vote of the elected members of the Council. 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 or she shall hold office until his/her successor is appointed and approved. The alternate member 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 unexpired portion of the term by the mayor with the approval of a majority vote of the elected members 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.

(Ref. Neb. Rev. Stat. §19-924 through 19-929)

SECTION 1-803: ORGANIZATION; MEETINGS; RULES AND REGULATIONS; RECORDS

The Commission shall elect from its membership a chairperson and shall create and fill such other of its offices as it may determine. The term of the chairperson shall be one year and he/she shall be eligible for re-election. 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. 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.

SECTION 1-804: ACTION; NOTICE OF MEETINGS; AGENDA

Notice of meetings of the Commission, public notice of the Planning Commission shall be published once in a newspaper of general circulation, and at least ten days shall elapse between the date of publication and the date set for such hearing. Such notice shall state the date, time and place of the hearing and contain a statement regarding the agenda of issues to be discussed. The Planning Commission shall take action on all items on the date and time of the Planning Commission meeting as provided in the published notice.

SECTION 1-805: PURPOSE

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

SECTION 1-806: DUTIES

The Commission shall, from time to time, recommend to the appropriate public officials, programs for public structures and improvements and for the financing thereof. It shall be part of its duties to consult and advise with public officials and agencies, public utility companies, civic, educational, professional and other organizations and with citizens with relation to the projection or implementation of said plans.

SECTION 1-807: FUNDS; EQUIPMENT AND ACCOMMODATIONS; LIMIT
UPON EXPENDITURES

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

SECTION 1-808: ZONING REGULATIONS

To the extent that the Planning Commission action affects zoning regulations, reference should be made to Chapter IX, Article X, Section 9-1001 through 9-1005. To the extent there is a conflict between those sections and this article, provisions of this article shall govern.

(Article amended in its entirety February 18, 2003, Ord. No. 453)

ARTICLE IX - BOARD OF HEALTH

SECTION 1-901: MEMBERS

The City Council shall appoint a Board of Health which shall consist of four members: the mayor, the President of the 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, the chief of police shall serve on the Board as secretary and quarantine officer. The mayor shall act as chairman of the Health Board. The members of the Board shall serve a one-year term of office, unless reappointed, and shall reorganize at the first meeting in December of each year.

SECTION 1-902: POWERS AND DUTIES

1. A majority of the board shall constitute a quorum and shall enact rules and regulations to safeguard the health of the people of the City and shall provide fines and punishments for the violations thereof. The Board is authorized and directed to make all necessary rules and regulations relating to matters of sanitation, including the removal of dead animals, and sanitary conditions of the streets and alleys, and vacant grounds, and of private and public stock yards, and all other buildings and places where filth, nuisances or offensive matter is kept or is liable to and does accumulate. It shall suppress and prevent the occurrence of nuisances and enforce all laws of the state and ordinances of the City relating to the matters of sanitation of the City. The Board shall also have control of hospitals, dispensaries, places for treatment of the sick, and matters relating to the same under such restrictions, and provisions as maybe provided by actions taken by it, which records shall be filed with the city clerk and be part of the public records of the City.

2. The jurisdiction of the Board of Health shall be coextensive with the corporate limits of the City and its jurisdiction (one mile radius of city limits).

3. It shall be the duty of the Board of Health from time to time to examine the sanitary conditions of the City, and whenever the Board shall ascertain that any accumulations of filth, vegetable or animal substance exists, or non-licensed animals at any place within the City or its jurisdiction (one mile radius), which on account of its decomposition or foulness the Board shall find tends to produce disease, or facilitates the multiplication of germs of any disease, or in anywise infects or contaminates any cistern or water supply, the Board shall issue its order commanding the owner of the premises on which the filth or substance may be found, to immediately remove the same and make a complete disposal of the same; and if such owner fails forthwith to obey such order, such removal and disposal shall be made by the Board and the expense thereof paid by such owner. If any structure or building by the accumulation of filth and decay of its

substance be found by the Board within the City to be the source or center of infection or spreading of the germs of any infections or contagious disease, or be found by the Board to constitute a public health nuisance, the Board of Health shall order its immediate removal and destruction, such order to be addressed to the owner of the premises, whereupon such building or structure shall be found, and on his or her refusal or neglect to forthwith remove the same from the jurisdiction of the City, the same shall be destroyed and removed by the Board and such owner shall pay the cost of such removal and destruction. It is hereby made the duty of every person who may have knowledge of the existence any such accumulation of filth, vegetable or animal matter or any structure or building, as specified in this section, immediately upon obtaining such knowledge, to notify the Board of Health thereof.
(Ref. Neb. Rev. Stat. §17-121) (Amended by Ord. No. 488, 6/17/08)

**SECTION 1-903: DEPOSITING OR PERMITTING DEPOSIT OR
ACCUMULATION OF ANY SUBSTANCE DETRIMENTAL
TO HEALTH OR OFFENSIVE TO SMELL; PENALTY**

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

ARTICLE X - CITY TREE BOARD

SECTION 1-1001: CREATION AND ESTABLISHMENT OF A CITY TREE BOARD

There is hereby created and established a Tree Board for the City, which shall consist of five members. The members shall be citizens and residents of this City. Such members shall be appointed by the mayor with the approval of the City Council. In the event that a vacancy shall occur during the term of any member, his/her successor shall be appointed by the mayor with the approval of the City Council for the unexpired term.

SECTION 1-1002: DEFINITIONS

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

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

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

SECTION 1-1003: TERM OF OFFICE

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

SECTION 1-1004: COMPENSATION

Members of the Tree Board shall serve without compensation.

SECTION 1-1005: DUTIES AND RESPONSIBILITIES

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

shall constitute the official comprehensive City Tree Plan for the City. The Tree Board, when requested by the Council, shall consider, investigate, make finding, report and recommend upon any special matter of question coming within the scope of its work.

SECTION 1-1006: OPERATION

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

SECTION 1-1007: STREET TREE SPECIES TO BE PLANTED

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

SECTION 1-1008: SPACING

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

SECTION 1-1009: DISTANCE FROM CURB AND SIDEWALK

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

SECTION 1-1010: DISTANCE FROM STREET CORNERS AND FIREPLUGS

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

SECTION 1-1011: UTILITIES

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

SECTION 1-1012: PUBLIC TREE CARE

The City shall have the right to plant, subject to Section 1-1013 herein, prune, maintain and remove trees, plants and shrubs within the lines of all streets, alleys, avenues, lanes, squares and public grounds, as may be necessary to insure public safety or to preserve or enhance the symmetry and beauty of such public grounds. This section does not prohibit the planting of street trees by adjacent property owners, providing that the selection and location of said trees is in accordance with this article.

SECTION 1-1013: CONSENT OF PROPERTY OWNER

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

SECTION 1-1014: TREE TOPPING

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

SECTION 1-1015: PRUNING, CORNER CLEARANCE

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

SECTION 1-1016: DEAD OR DISEASED TREE REMOVAL ON PRIVATE PROPERTY

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

if the name and address is known. The person charged with the removal may enter into an agreement with the City that such work be accomplished by the City, and the expense shall be declared to be a lien upon such property from the time the same becomes due until paid. If the owner fails, neglects or refuses to enter into such an agreement, or to remove the trees, the City Tree Board may enter upon the property and proceed to direct the removal of the trees and the cost thereof shall be chargeable to the property owner. If the owner fails to reimburse the City after being properly billed, the costs shall be assessed against the property and certified by the city clerk to the county treasurer to be collected in the manner prescribed by law. In the event the property owner is a non-resident of the county in which the property lies, the City shall, before levying any special assessment against that property, send a copy of any notice required by law to be published by means of certified mail, return receipt requested, to the last known address of the non-resident property owner. The last known address shall be that address listed on the current tax rolls at the time such required notice was first published.

SECTION 1-1017: REMOVAL OF STUMPS

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

SECTION 1-1018: INTERFERENCE WITH CITY TREE BOARD

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

SECTION 1-1019: REVIEW BY CITY COUNCIL

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

ARTICLE XI - LIBRARY BOARD

SECTION 1-1101: LIBRARY BOARD

The Library Board shall be appointed by the mayor with the consent of the City Council. The Library Board shall consist of five members who shall be residents of the City. The members of the Board shall serve a four-year term of office as specified by Nebraska Statutes. The Board shall serve without compensation and may be required, in the discretion of the City Council, to give a bond in a sum set by resolution of the City Council and conditioned upon the faithful performance of their duties. No member of the City Council shall serve as a member of the Library Board while serving a term of office as a member of the City Council.

At the time of the Board's first meeting in July 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 the 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 at any reasonable time. 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.

The Library Board shall have the authority to appoint a librarian and all other employees. It shall be the duty of the Board to have general charge of the city library and to establish appropriate rules and regulations for the management, operation and use of the same. The Board shall have supervisory authority over all employees of the library including the librarian. 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 designate from time to time. No member of the City Council shall serve as a member of the Library Board while serving a term of office as a member of the City Council. No member of the Library Board shall serve in the capacity of both the chairman and the secretary of the Board.

SECTION 1-1102: OPERATION AND FUNDING

The City owns and manages the 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 library. Such 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.

SECTION 1-1103: 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 surplus, damaged, defective, obsolete or duplicate books so disposed of.

SECTION 1-1104: RULES AND REGULATIONS

The Library Board shall establish rules and regulations for the governing of the library for the preservation and efficient management thereof. They shall fix and impose by general rules, 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.

SECTION 1-1105: COST OF USE

The 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.

SECTION 1-1106: 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 cost and penalty which the Library Board may assess.

SECTION 1-1107: BOOK REMOVAL

It shall be unlawful for any person not authorized by the regulation 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.

SECTION 1-1108: 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.

SECTION 1-1109: BOOK LABELING

It shall be the duty of the librarian to label, or cause to be labeled, with a printed and stamped label, proof of city ownership on each book, and also to write the said proof on the 30th page of each volume.

ARTICLE XII – COMMUNITY DEVELOPMENT AGENCY

(Ord. No. 534, 12/18/18)

SECTION 1-1201: CREATED

There is hereby created a community development agency which shall be known as the Community Development Agency.

SECTION 1-1202: PURPOSE

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

SECTION 1-1203: MEMBERSHIP; CONFLICT OF INTEREST

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

ARTICLE XIII - PENAL PROVISION

SECTION 1-1301: VIOLATION; PENALTY

Anyone violating any of the terms and conditions of any of the foregoing chapter and articles shall be deemed guilty of a misdemeanor and shall be fined in a sum of not more than \$500.00 for each offense, and each day's maintenance of the same shall constitute a separate offense.

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CHAPTER II

MISDEMEANORS

ARTICLE I - MISDEMEANORS

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

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

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

(Ref. Neb. Rev. Stat. §53-186, 53-1,100)

SECTION 2-102: DISTURBING THE PEACE

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

SECTION 2-103: EXCESSIVE NOISE CONTROL

It shall be unlawful for any person to make, continue or cause to be made or continue any excessive, unnecessary or unusually loud noise or any noise which either annoys, disturbs or injures or endangers the comfort, repose, health, peace or safety of others within the corporate limits of the City.

The following acts, among others, are declared to be loud, disturbing and unnecessary noises in violation of this section, but such enumeration shall not be deemed to be exclusive:

1. Animals, bird, miscellaneous pets. The keeping of any animal or bird which by causing frequent or long continued noise, including barking, shall disturb the comfort or repose of any person in the vicinity;

2. Defect in vehicles, load. The operation of any motor vehicle, motorcycle or other vehicle so out of repair, so loaded or in such manner as to create loud and unnecessary grating, grinding, rattling or other noise;
3. Horns, signaling, other devices. The sounding of any horn or signaling device on any motor vehicle, motorcycle, or other vehicle on any street or public place of the City, except as a danger warning; the creation by means of any such signaling device of any unreasonably loud or harsh sound and the sounding of any such device for an unnecessary and unreasonable period of time; the use of any horn, whistle or other device operated by engine exhaust; or the use of any such signaling device by which traffic is for any reason held up;
4. Pile drivers, hammers, equipment. The operation between the hours of 7:00 P.M. and 7:00 A.M. of any pile driver, steam shovel, pneumatic hammer, derrick, steam or electric hoist or other appliance, the use of which is attended by loud or unusual noise;
5. Quiet zones. The creation of an excessive noise within any quiet zone established by the City Council which unreasonably interferes with the use of the premises for the benefit of whom the quiet zone has been established;
6. Shouting, hollering. Shouting or loud hollering which unreasonably interferes with the quiet and repose of any person in the vicinity; and
7. Sound reproduction. The use or operation of any radio or other mechanical or electrical devices or instruments amplifying and reproducing the human voice, or any sound or noise, in any public or private place, or from any moving vehicle in such manner that the peace and good order of the neighborhood are disturbed, or that persons owning, using or occupying property in the neighborhood are disturbed or annoyed; provided, the City Council may grant permission for the erection and use of temporary radio speakers, and other mechanical or electrical devices or instruments amplifying and reproducing the human voice, or any sound or noise at a fixed location, or on moving vehicles, as a part of a celebration or commemoration of a patriotic or historic event, or national or state holiday, or local celebration, or at gatherings of a public nature, and at such other times as the City Council may see fit; provided further, the City Council, in granting such permission, shall expressly designate the time such permission shall continue.

The following noises shall be exempt from the provisions of this section:

Noises of safety signals, warning devices, and emergency pressure relief valves; or

Noises caused by any police or fire department vehicle or any authorized emergency vehicle when responding to an emergency or acting in the time of an emergency.

SECTION 2-104: DISORDERLY CONDUCT

It shall be unlawful for any person to engage in conduct or behavior which disturbs the peace and good order of the City by clamor or noise, intoxication, drunkenness, fighting, using of obscene or profane language in the streets or other public places, or by otherwise indecent or disorderly conduct or lascivious behavior. (Ref. Neb. Rev. Stat. §17-129, 17-556)

SECTION 2-105: MALICIOUS DESTRUCTION OF PROPERTY

It shall be unlawful for any person, wantonly or maliciously, in any manner to molest, injure or destroy any property of another in this city. 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 2-106: TRESPASSING

It shall be unlawful for any person to trespass upon any private grounds within the City, or 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.

(Ref. Neb. Rev. Stat. §28-520, 28-521)

SECTION 2-107: DISTURBING AN ASSEMBLY

It shall be unlawful for any person to disturb, interrupt or interfere with any lawful assembly of people, whether religious or otherwise, by loud and unnecessary noise, threatening behavior, or indecent and shocking behavior. Any person or persons so disturbing an assembly shall be deemed to be guilty of a misdemeanor and fined in accord with state statute.

SECTION 2-108: DISCHARGE OF SLINGSHOTS, PAINTBALL GUNS, BLOW GUNS, AIR RIFLES OR SIMILAR INSTRUMENTS

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

SECTION 2-109: WINDOW PEEPING

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

SECTION 2-110: STALKING

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

SECTION 2-111: GAMBLING PROHIBITED

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

SECTION 2-112: HOUSE OF PROSTITUTION; DISORDERLY HOUSE; PROHIBITED

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

SECTION 2-113: INDECENT EXPOSURE OF PERSON; PUBLIC URINATION; INDECENT BOOK, PICTURE, PLAY DESIGN

It shall be unlawful for any person within this city to make an indecent exposure of his or her person (in the case of a male, such indecent exposure would consist of public exhibit of his genitals, and in the case of a female, indecent exposure

would be public exposure of her nipples and/or genitals); to urinate or defecate in public view; to commit any indecent or lewd act; or to sell or offer for sale, or to dispense of in any manner any obscene, lewd or indecent book, picture or other publication or thing; to exhibit or perform any indecent, immoral, lewd or obscene play or other representation; or in any public place to write, draw, or make any profane, obscene, indecent or lewd work, sentence, figure or design.

**SECTION 2-114: CARRYING CONCEALED WEAPONS;
DISCHARGING FIREARMS, ETC., PROHIBITED**

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

**SECTION 2-115: RESISTING OR FAILING TO ASSIST
AN OFFICER PROHIBITED**

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

SECTION 2-116: IMPERSONATING OFFICER PROHIBITED

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

SECTION 2-117: OBSTRUCTING OFFICER PROHIBITED

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

SECTION 2-118: LITTERING

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

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

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

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

SECTION 2-119: TRASH

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

SECTION 2-120: APPLIANCES IN YARD

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

SECTION 2-121: POSTING

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

SECTION 2-122: OBSTRUCTION OF PUBLIC WAYS

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

SECTION 2-123: OBSTRUCTING WATER FLOW

It shall be unlawful for any person to stop or obstruct the passage of water in a street gutter, culvert, water pipe or hydrant.

SECTION 2-124: INJURY TO TREES

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

ARTICLE II - CURFEW

SECTION 2-201: CURFEW HOURS

1. It shall be unlawful for any person under the age of 16 years to loiter, idle, wander, stroll, play or be in or upon the public streets, public places and public buildings, places of amusement and entertainment, vacant buildings, vacant lots or otherwise operate any bicycle or other vehicle, in, upon, over or through the streets of other public places of the City between the hours of 10:00 P.M. of any day until the hour of 6:00 A.M. of the following day, unless such person is accompanied by a parent, guardian or other adult person having the legal care and custody of said minor person or unless the minor person is upon an emergency errand or legitimate business, directed by his/her parents, guardian or legal custodian, except as hereinafter provided.

2. It shall be unlawful for any person 16 or 17 years of age to loiter, idle, wander, stroll, play or be in or upon the public streets, public places and public buildings, places of amusement and entertainment, vacant buildings, vacant lots or otherwise operate any bicycle or other vehicle, in, upon, over or through the streets of other public places of the City between the hours of 12:00 A.M. of any day until the hour of 6:00 A.M. of the same day, unless such person is accompanied by a parent, guardian or other adult person having the legal care and custody of said minor person or unless the minor person is upon an emergency errand or legitimate business, directed by his/her parents, guardian or legal custodian, except as hereinafter provided.

SECTION 2-202: CURFEW HOURS EXTENDED

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

SECTION 2-203: VIOLATION; PARENTAL LIABILITY

It shall be unlawful for the parent, guardian or other adult person having the care and custody of minors under the age of 19 years to allow or permit said minor person to do any of the acts or things prohibited by Section 2-201 or 2-202.

SECTION 2-204: ENFORCEMENT; POLICE AUTHORIZATION

Every member of the police force while on duty shall be authorized to detain any such minor willfully violating the provisions of this ordinance, and upon apprehension of said minor shall forthwith notify by telephone or other

appropriate means the parents or legal guardians or person in custody of said minor child.

SECTION 2-205: PENALTIES

Any violation of the foregoing provisions of this article shall constitute a misdemeanor and shall be punishable as follows:

1. First offense, a warning;
2. Second offense, a fine of \$10.00; and

3. Third and any subsequent offense shall constitute a violation of Section 2-203 and a complaint shall be filed in the County Court of Scotts Bluff County against the parents of said child for violation of such section. If the county judge finds the parents to be in violation of said provision, they shall also be responsible for court costs.

(Am. by Ord. No. 505, 4/19/11)

ARTICLE III – DOGS AND CATS

SECTION 2-301: OWNER DEFINED

Any person who shall harbor or permit any dog and/or cat to be present for ten days or more in or about his/her house, store or enclosure, or allow it to remain to be fed, shall be deemed liable for all penalties herein described.

(Ref. Neb. Rev. Stat. §54-606, 71-4401) (Am. by Ord. No. 489, 6/17/08)

SECTION 2-302: LICENSING

1. Any person who shall own, keep or harbor a dog or cat over the age of four months within the City and its jurisdiction shall, within ten days after acquisition of the said dog and/or cat, acquire a license for each such dog and/or cat. Such license can be renewed annually beginning January 1 of each calendar year. The said tax shall be delinquent from and after June 1 of the same calendar year. Any person who has failed to initially license or who has allowed said license to become delinquent shall be subject to a \$25.00 fine per animal, plus any involved court costs.

2. Licenses shall be issued by the city clerk upon the payment of a license fee. For licensing a dog, 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. With proper proof of certificate of rabies shot, such license fee for a dog is \$1.00. When issued, such license shall not be transferable and no refund will be allowed in case of death, sale or other disposition of the licensed dog. The owner shall state, at the time the application is made and upon printed forms provided for such purposes, his/her name and address, the name, breed, color and sex of each dog owned and kept by him/her.

3. For licensing a cat, if a certificate or proof of said cat having been neutered is presented when the license is applied for, said license fee shall be \$1.00; if no certificate or proof of said cat having been neutered is presented when the license is applied for, said license fee shall be \$15.00. When issued, such license shall not be transferable and no refund will be allowed in case of death, sale or other disposition of the licensed cat. The owner shall state, at the time the application is made and upon printed forms provided for such purposes, his/her name and address, the name, breed, color and sex of each cat owned and kept by him/her.

4. Upon payment of the license fee, the city clerk shall issue to the owner of a dog and/or cat a license certificate and a metallic tag for each dog and/or cat so licensed. The metallic tag shall be properly attached to the collar or harness of any dog and/or cat so licensed and shall entitle the owner to keep or harbor the said dog and/or cat until December 31 of that same calendar year following licensing. All license fees and collections shall be immediately credited to the

General Fund. It shall be the duty of the city clerk to issue tags of a suitable design that are different in appearances each year.

5. In the event that a license tag is lost and upon satisfactory evidence that the original plate or tag was issued in accordance with the provisions herein, the city clerk shall issue a duplicate or new tag for the balance of the year and may charge and collect a fee of \$0.25 for each such duplicate or new tag issued. (Ref. Neb. Rev. Stat. §17-526, 54-603, 71-4412) (Am. by Ord. Nos. 490, 6/17/08; 527, 7/18/17)

SECTION 2-303: REMOVAL OF TAGS

It shall be unlawful for any person to remove or cause to be removed the collar, harness or metallic tag from any licensed dog without the consent of the owner, keeper or possessor thereof.
(Ref. Neb. Rev. Stat. §17-526)

SECTION 2-304: UNLICENSED DOGS

All dogs found running at large upon the streets and public grounds of the City without a license tag affixed as required in this article is hereby declared a public nuisance and shall be impounded by the city police as provided herein.

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SECTION 2-305: BARKING AND OFFENSIVE DOGS PROHIBITED

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 or chases pedestrians, bicycles, motor vehicles, or riders of horses while they are on any public sidewalks, streets or alleys in the City; provided, the provisions of this section shall not be constructed to apply to any city dog shelter.

SECTION 2-306: RUNNING AT LARGE

1. "Running at large" shall mean any dog found off the land of the owner and not under the control of the owner or a responsible person either by leash, cord, chain, wire, rope, cage or other suitable means of physical restraint. It shall be unlawful for a person to suffer or permit any dog to run at large within the city limits. Every dog found running at large in violation hereof is declared to be a public nuisance and may be picked up by the animal control officer and/or the city police. Any person permits his/her dog to run at large within the confines of the City is hereby deemed guilty of a misdemeanor and upon conviction thereof, shall be fined in the following manner:

- A. First offense, \$50.00 plus court costs;
- B. Second offense, \$150.00 plus court costs;
- C. Third and subsequent offenses thereafter, \$500.00 plus court costs.

2. Any person convicted of an offense as provided herein shall also pay the costs of the prosecution, including attorney's fees. This penalty shall be in addition to any other penalties prescribed by this article, either against the owner or the particular dog.

3. Anyone convicted of violating the terms or conditions of this article and who has been deemed guilty of a third subsequent offense shall be deemed to have a dangerous animal; and such owner or responsible party shall be required to comply with the ordinances concerning dangerous animals.
(Am. by Ord. No. 499, 2/15/11)

SECTION 2-307: DANGEROUS DOGS; DEFINITIONS; NUISANCE

"Animal Control Authority" shall mean the City Council of Minatare.

"Animal control officer" shall mean any individual employed, appointed or authorized by the Animal Control Authority for the purpose of aiding in the enforcement of this act or any other law or ordinance relating to the licensing, control, or seizure and impoundment of animals, and shall include any state or local law enforcement personnel or other employees 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:

1. has a known propensity or disposition to attack unprovoked, to cause injury to or to otherwise endanger the safety of humans or other domestic animals; or
2. has killed or inflicted severe injury on a human being on public or private property; or
3. has killed a domestic animal while the dog was off the owner's property; or
4. is also known as a "prohibited dog."

A dog shall not be defined as a dangerous dog if any threat or any damage was sustained by a person who, at the time, was committing a willful trespass or any other tort upon the property owner of the dog; nor shall a dog be considered a dangerous dog if the dog was provoked or abused by the party complaining.

"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.

"Severe injury" shall mean any physical injury that results in lacerations requiring multiple sutures or cosmetic surgery, or one or more broken bones, or that creates a potential danger to the life or health of the victim.
(Ref. Neb. Rev. Stat. §54-617)

A. The following animals are determined dangerous per se: Bull Terrier, American Pit Bull Terrier, Staffordshire Bull Terrier, American Staffordshire Terrier, Doberman Pinscher, and Rottweiler (all hereinafter referred to as "prohibited dog"). Such dogs are declared to be a nuisance and it shall be unlawful for any person to own, possess, keep, exercise control over, maintain, harbor, transport, or sell within the city limits and zoning jurisdiction of the City.

B. 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 an animal.
2. A "prohibited dog" for purposes of this chapter is defined as any dog that is an American Pit Bull Terrier, Staffordshire Bull Terrier, American

Staffordshire Terrier, Doberman Pinscher, Rottweiler or any dog displaying the majority of physical traits of any one or more of the above breeds, or any dog exhibiting those distinguishing characteristics which substantially conform to the standards established by the American Kennel Club or the United Kennel Club for any of the above breeds. The A.K.C. and U.K.C. standards for the above breeds are on file in the office of the clerk.

3. A "secure temporary enclosure" for purposes of this chapter, is a secure enclosure used for purposes of transporting a prohibited dog and which includes a top and bottom permanently attached to the sides except for a "door" for removal of the prohibited dog. Such enclosure must be of such material, and such door closed and secured in such a manner, that the prohibited dog cannot exit the enclosure on its own.

C. Exceptions. The prohibition in subsection A of this section shall not apply in the following enumerated circumstances. Failure by the owner to comply and remain in compliance with all of the terms of any applicable exception shall subject the prohibited dog to immediate impoundment and disposal pursuant to subsection E of this section, and shall operate to prevent the owner from asserting such exception as a defense in any prosecution under subsection A.

1. The City's municipal animal shelter may temporarily harbor and transport any prohibited dog for purposes of enforcing the provisions of this chapter.
2. Any humane society operating an animal shelter which is registered and licensed by the City may temporarily hold any prohibited dog that it has received or is otherwise recovered, but only for so long as it takes to contact the City's municipal animal shelter and either turn the prohibited dog over to the municipal animal shelter employees or receive permission to destroy or have destroyed the prohibited dog pursuant to the provisions of subsection E.
3. A person may temporarily transport into and hold in the City a prohibited dog only for the purpose of showing such prohibited dog in a place of public exhibition, contest or show sponsored by a dog club association or similar organization. However, the sponsor of the exhibition, contest or show must receive written permission from the city clerk or mayor, must obtain any other permits or licenses required by city ordinance, and must provide protective measures adequate to prevent prohibited dogs from escaping or injuring the public. The person who transports and holds a prohibited dog for showing shall, at all times when the prohibited dog is being transported within the City to and from the place of exhibition, contest or show, keep the

prohibited dog confined in a “secure temporary enclosure” as defined in subsection B(3).

4. Except as provided in subsection C(3) above, the owner of a prohibited dog may temporarily transport through the City a prohibited dog only if such owner has obtained a valid transport permit from the city clerk or mayor. Upon request, the mayor shall issue such permits only upon a showing by the owner that the prohibited dog is being transported either from a point outside the City to a destination outside the City, or from a point outside the City to an airport, train station or bus station within the City. In the latter case, such owner must provide evidence of an intent to send or take the prohibited dog outside of the City by producing an airline, train or bus ticket, or other equivalent document, showing a departure time within six hours of the time of the transport. At all times when the prohibited dog is being transported within the City, it must be kept confined in a “secure temporary enclosure” as defined in subsection B(3) of this section. In all cases before issuing a transport permit, the mayor must find that the transport would not constitute an unnecessary or undue danger to the public health, welfare or safety, and shall not issue the permit where the city clerk or mayor cannot so find. All transport permits issued shall only be valid for the time, date and prohibited dog specified on the permit, and shall not be construed to permit any activity otherwise prohibited.

D. The owner of any prohibited or dangerous dog which had been licensed on or before the date of publication of the ordinance enacting this section shall be allowed to keep such prohibited dog within the city limits or zoning jurisdiction upon compliance with the terms of the exception contained in subsection C(1) of this section only if the owner applies for and receives an annual prohibited dog license on or before May 1, 2004. As a condition of issuance of a prohibited dog license, the owner shall at the time of application comply with or otherwise provide sufficient evidence that the owner is in compliance with *all* of the following regulations:

1. The owner of the prohibited dog shall provide proof of rabies vaccination and shall pay the annual prohibited dog license fee of \$50.00.
2. The owner of the prohibited dog shall keep current the license for such prohibited dog through annual renewal. Such license is not transfer-able and shall be renewable only by the holder of the license or by a member of the immediate family of such licensee. A prohibited dog license tag will be issued to the owner at the time of issuance of the license. Such license tag shall be attached to the prohibited dog by means of a collar or harness and shall not be

attached to any prohibited dog other than the prohibited dog for which the license was issued. If the prohibited dog tag is lost or destroyed, a duplicate tag may be issued upon the payment of \$2.00 fee.

3. The owner must be at least 21 years of age as of May 1, 2004.
4. The owner shall present to the city clerk or mayor proof that the owner has procured liability insurance in the amount of \$100,000.00, covering any damage or injury which may be caused by a prohibited dog during the 12-month period covered by the prohibited dog license. The policy shall contain a provision requiring the insurance company to provide written notice to the city clerk or mayor not less than 15 days prior to any cancellation, termination or expiration of the policy. This policy shall include the City of Minatare as an additional insured, with minimum limits of coverage of \$100,000.00, and shall have the effect of saving harmless and defending the City and its officers, agents and employees from all suits, claims, demands or actions at law or equity arising directly or indirectly as a result of injury to persons or damage to property occasioned by the maintenance of the pit bull by the owner. The policy shall contain a provision requiring the insurance company to provide written notice to the city clerk not less than 15 days prior to any cancellation, termination or expiration of the policy.
5. The owner shall, at the owner's own expense, have the prohibited dog spayed or neutered and shall present to the city clerk or mayor documentary proof from a licensed veterinarian that this sterilization has been performed.
6. The owner shall bring the prohibited dog to the Minatare Police Department where a person authorized by the city clerk or mayor shall cause a registration number assigned by the department to be tattooed or otherwise marked on the prohibited dog. The city clerk or mayor shall maintain a file containing the registration numbers and names of the prohibited dogs and the names and addresses of the owners. The owner shall notify the city clerk or mayor of any change of address.
7. At all times when a prohibited dog is at the property of the owner, the owner shall keep the prohibited dogs "confined," as that term is defined in city ordinances. At all times when a prohibited dog is away from the property of the owner, the owner shall keep the prohibited dog either securely leashed and muzzled or in a secure temporary enclosure.

8. The owner shall not sell or otherwise transfer the prohibited dog to any person except a member of the owner's immediate family who will then become the owner and will be subject to all of the provisions of this section. The owner shall notify the city clerk or mayor within five days in the event that the prohibited dog is lost, stolen, dies or has a litter. In the event of a litter, the owner must deliver the puppies to the Minatare Police Department for destruction or permanently remove the puppies from Minatare and provide sufficient evidence of such removal by the time the puppies are weaned, but in no event shall the owner be allowed to keep in Minatare a prohibited dog puppy that is more than eight weeks old, born after the date of publication of this ordinance. Any prohibited dog puppies kept contrary to the provisions of this subsection are subject to immediate impoundment and disposal pursuant to subsection E of this section.
9. The owner shall have posted at each possible entrance to the owner's property where the prohibited dog is kept a conspicuous and clearly legible prohibited dog sign. Such prohibited dog sign must be at least eight inches by ten inches in rectangular dimensions and shall contain only the words "PROHIBITED DOG" or "DANGEROUS DOG" in lettering not less than two inches in height.

E. Impoundment. Notwithstanding the provisions of Article VIII** of this chapter, the mayor or police department (police officers) are authorized to immediately impound any prohibited dog found in the City which does not fall within the exceptions listed in subsection C above, and the mayor shall decide whether or house or dispose of such prohibited dog in such manner as the mayor or police department may deem appropriate, except as the procedures in subsection F, below, otherwise require.

F. Petitions. When the mayor has impounded any prohibited dog pursuant to this section, and the owner of such dog disputes the classification of such dog as a prohibited dog, the owner of such dog may file a written petition with the city clerk or mayor for a hearing concerning such classification no later than seven days after impoundment. Such petition shall include the name and address, including mailing address, of the petitioner. The city clerk or mayor will then issue a notice of hearing date by mailing a copy to the petitioner's address no later than ten days prior to the date of hearing. Where no written request from the owner for a hearing is received by the city clerk or mayor within seven days of impoundment, the prohibited dog shall be destroyed.

The hearing, if any, will be held before the mayor or a hearing officer designated by the city clerk or mayor. Any facts which the petitioners wish to be considered shall be submitted under oath or affirmation either in writing or orally at the hearing. The mayor or hearing officer shall make a final determination whether the dog is a prohibited dog as defined in this section. Such final determination

shall be considered a final order of the mayor. The owner may appeal this decision to the District Court of Scotts Bluff County, Nebraska, within 15 days of the mayor's decision in the event of a ruling against the owner.

If the dog is found to be a prohibited or dangerous dog, it shall be destroyed, unless the owner produces evidence deemed sufficient by the city clerk or mayor that the prohibited dog is to be permanently taken out of Minatare and the owner pays the cost of impoundment. If the dog is found not to be a prohibited dog, the dog shall be released to the owner. If the procedures in this subsection shall not apply and the owner is not entitled to such a hearing with respect to any dog which was impounded as the immediate result of an attack or bite as defined in this section. (Amended April 20, 2004, Ord. No. 460)

SECTION 2-308: DANGEROUS DOGS ON OWNER'S PROPERTY; 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.

The pen or structure shall have secure sides and a secure top. If the pen or structure has no bottom secured to the sides, the sides shall be embedded into the ground. The pen or structure shall also protect the dog from the elements.

The owner of a dangerous dog shall post a warning sign on the property where the dog is kept that is clearly visible and that informs persons that a dangerous dog is on the property.

SECTION 2-309: DANGEROUS DOGS; FAILURE TO COMPLY

Any dangerous dog may be immediately confiscated by an animal control officer if the owner is in violation of this article, and said officer may enter upon private property in order to confiscate the animal. In lieu of confiscation, the animal control officer may immediately destroy the dangerous dog if it poses a threat of harm to said officer or any other person or property. The owner shall be responsible for the costs incurred by the Animal Control Authority for the care and boarding of a dangerous dog confiscated by an animal control officer or for the destruction of any dangerous dog if the owner violated this article. (Ref. Neb. Rev. Stat. §54-620)

SECTION 2-310: RABIES VACCINATION

Every dog three months of age and older shall be vaccinated against rabies pursuant to Nebraska law. Puppies shall be vaccinated within 30 days after having reached three months of age. Unvaccinated dogs acquired or moved 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 owned by a person temporarily residing within this city for less than 30 days, any dog 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 shall be kept under the strict supervision of the owner.

SECTION 2-311: RABIES SUSPECTED; IMPOUNDMENT

Any dog or other animal suspected of being afflicted with rabies or any dog not vaccinated in accordance with the provisions set forth above which has bitten any person or has caused an abrasion of the skin of any person shall be seized by a police officer or animal control officer of this city and shall be impounded under the supervision of a licensed veterinarian or public health authority for not less than ten days. If, upon examination by a veterinarian, the dog or other animal has no clinical signs of rabies at the end of such impoundment, it shall be released to the owner upon said owner paying the costs of said impoundment, or, in the case of a stray, shall be disposed of in whatever manner deemed best by the city police officer.

(Ref. Neb. Rev. Stat. §71-4406)

SECTION 2-312: RABID DOGS; CAPTURE IMPOSSIBLE

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

SECTION 2-313: RABID DOGS; PROCLAMATION

It shall be the duty of the City Council or mayor whenever, in their 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 past. The dogs may be harbored by any good and sufficient means in a house, garage or yard on the premises wherein the said owner may reside. Upon issuance of the proclamation, it shall be the duty of all persons owning, keeping or harboring any dog to confine the same as herein provided.

SECTION 2-314: FIGHTING DOGS

It shall be unlawful for any person, by agreement or otherwise, to set dogs to fighting, or by any gesture or word to encourage the same to fight. Any person

convicted of violating this section shall be fined in any sum not exceeding that permitted by Nebraska law.
(Ref. Neb. Rev. Stat. §17-526)

SECTION 2-315: KILLING AND POISONING

It shall be unlawful to kill, administer or cause to be administered poison of any sort to any domestic animal within the City, or in any manner to injure, maim, destroy, or in any manner attempt to injure, maim or destroy any domestic animal within the City, or to place any poison or poisoned food where the same is accessible to any domesticated animal; provided, this section shall not apply to the lawful performance of euthanasia administered by a duly licensed veterinarian.

SECTION 2-316: INTERFERENCE WITH POLICE

It shall be unlawful for any person to hinder, delay or interfere with any animal control 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.

SECTION 2-317: DAMAGES; LIABILITY OF OWNER

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.

SECTION 2-318: IMPOUNDING; FEES

It shall be the duty of the animal control officer to capture, secure and remove in a humane manner to the designated city animal shelter any animal violating any of the provisions of this article. The animals 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 animal shall be kept and maintained at the pound for a period of not less than three days, unless reclaimed earlier by the owner. No later than 48 hours after the impoundment of any animal, notice of impoundment of all animals, including any significant marks or identification, shall be posted at the office of the city clerk as public notification of such impoundment. The City's fee for impoundment services shall be the responsibility of the owner at a cost of \$25.00 per animal per impoundment. Any animal may be reclaimed by its owner during the period of impoundment by payment of a general impoundment fee and daily board fee as set by resolution of the City Council and on file at the office of the city clerk. The owner shall then be required to comply with the rabies vaccination requirements within 72 hours after release. If the animal is not claimed at the end of three days after public

notice has been given, the animal control officer may dispose of the animal in accordance with the applicable rules and regulations pertaining to the same; provided, if the animal control officer can find a suitable home for the impounded animal, he/she may turn the it over to any person willing to provide the animal with a home. In this event the new owner shall be required to pay all fees and meet all licensing and vaccinating requirements provided in this article. The City shall acquire legal title to any unlicensed animal impounded in the animal shelter after three days. All animals not placed for adoption shall be destroyed and buried in a humane manner as prescribed by the Board of Health. (Ref. Neb. Rev. Stat. §17-548, 71-4408) (Amended February 15, 2005, Ord. No. 468)

SECTION 2-319: ANIMAL SHELTER

The animal shelter shall be safe, suitable and conveniently located for the impounding, keeping and destruction of animals. The said shelter shall be sanitary, ventilated and lighted.

SECTION 2-320: VIOLATIONS; PENALTY

Any owner who fails to comply with any of the requirements of Sections 2-307, 2-308 and 2-309 shall be punished by a fine of not less than \$200 nor more than \$500 for the first offense, and not less than \$500 nor more than \$1,000 for the second offense. Any subsequent offenses shall be punished as a misdemeanor by incarceration for a term not to exceed six months. In addition to the penalties set forth above, the court may order an owner who violates Section 2-307, 2-308 and 2-309 to attend with his/her animal a course of animal obedience training approved by the City at the owner's cost.

A violation of any of the remaining sections of this article shall be punished by a fine not to exceed \$500.00 and each day's violation shall be deemed a separate offense. (Amended April 20, 2004, Ord. No. 460)

ARTICLE IV - KENNELS

SECTION 2-401: KENNELS; DEFINED

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

SECTION 2-402: UNLICENSED KENNELS; NUISANCE

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

SECTION 2-403: KENNELS; LICENSE REQUIRED

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

SECTION 2-404: KENNEL LICENSE; APPLICATION FOR

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

SECTION 2-405: KENNEL REGULATIONS

Every place used as a kennel shall be kept in a clean and sanitary condition and no refuse or waste material shall be allowed to remain thereon for more than 24

hours. All animals shall be humanely treated and any animal having any disease shall be properly isolated and treated.

ARTICLE V - ANIMALS GENERALLY

SECTION 2-501: 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 an uncaptured wild animal.

"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, county or deputy sheriff, any member of the city police force, or any other public official authorized by the City to enforce state or local animal control laws, rules, regulations and/or ordinances.

(Neb. Rev. Stat. §28-1008)

SECTION 2-502: CRUELTY TO ANIMALS

A person commits cruelty to animals if, except as otherwise authorized by law, he/she intentionally or recklessly:

1. Subjects any animal to cruel mistreatment; or
2. Subjects any animal in his/her custody to cruel neglect; or
3. Abandons any animal; or
4. Kills or injures any animal belonging to another.

(Neb. Rev. Stat. §28-1009)

SECTION 2-503: CRUELTY TO ANIMALS; LAW ENFORCEMENT OFFICER; POWERS, IMMUNITY

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

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

3. Any law enforcement officer acting under this section shall not be liable for damage to property if such damage is not the result of the officer's negligence.
(Neb. Rev. Stat. §28-1012)

SECTION 2-504: ENCLOSURES

All pens, cages, sheds, yards or any other area or enclosure for the confinement of animals not specifically barred within the corporate limits shall be kept in a clean and orderly manner so as not to become a menace or nuisance to the neighborhood in which the said enclosure is located.

SECTION 2-505: RUNNING AT LARGE

No person owning or having in charge any horse, goat, mule, ass, cattle, sheep, swine, chickens, ducks, geese, turkeys, guinea fowls or other domestic fowl shall permit the same to run at large within the City. No person owning or having in charge any horse, goat, mule, ass, cattle, sheep, or swine shall picket, herd or pasture or leave the same unattended anywhere within the City. Any animal or fowl found running at large within the City or otherwise found in violation of this section is hereby declared a nuisance and may be impounded. (Am. Ord. No. 537, 6/18/19)

SECTION 2-506: HORSES

Horses may be ridden on the public ways as long as the person riding such horse is at least 12 years old or shall be accompanied by a person at least 21 years old, and such horse shall be ridden by such person during the hours between sunrise and sunset. Such permitted use of the public ways by horses shall include the operation of a horse-drawn vehicle subject to the time and age limits herein expressed. The person in charge of the horse being ridden or driven upon public streets, or person having control thereof, shall comply with all traffic regulations in effect concerning the use of city streets and shall at all times ride or drive said animal single file next to the curb on the traveled portion of the street in the permitted direction of traffic. (Neb. Rev. Stat. §16-235)

SECTION 2-507: KEEPING OF FOWL AND POULTRY GENERALLY

It is unlawful to own, keep or harbor any fowl as specified in 2-506(2) in the city limits, excluding the ownership, keeping or harboring of chickens according to the following requirements:

A. Any person owning chickens may own, keep or harbor them in the backyard, provided that the principal use relates only to property comprising a

single-family dwelling.

B. Owning, keeping or harboring more than eight chickens is prohibited.

C. Owning, keeping or harboring roosters is prohibited.

D. Slaughtering chickens is prohibited.

E. Chickens must be kept in a covered enclosure of no greater than 100 square feet at all times. The covered enclosure must be kept within a fenced backyard of a single-family dwelling.

F. Commercial sale of eggs is prohibited.

(Ord. No. 537, 6/18/19)

SECTION 2-508: WILD ANIMALS

No person shall keep or permit to be kept on his/her property any wild animals except such animals kept for exhibition purposes by circuses and educational institutions. (Ord. No. 537, 6/18/19)

ARTICLE VI - NUISANCES

(Am. by Ord. Nos. 523, 3/16/16; 331, 1/16/18; 554, 9/20/22)

SECTION 2-601: PUBLIC NUISANCES PROHIBITED

It shall be the duty of every owner, occupant, lessee, or mortgagee of real estate in the City to keep such real estate free of public nuisances. (Neb. Rev. Stat. §§17-207, 18-1720)

SECTION 2-602: GENERALLY DEFINED

A nuisance consists in doing any unlawful act, or omitting to perform a duty, or suffering or permitting any condition or thing to be or exist, which act, omission, condition or thing either:

A. Injures or endangers the comfort, repose, health or safety of others,

B. Offends decency,

C. Is offensive to the senses,

D. Unlawfully interferes with, obstructs, tends to obstruct or renders dangerous for passage any stream, public park, parkway, square, street or highway in the City,

E. In any way renders other persons insecure in life or the use of property,
or

F. Essentially interferes with the comfortable enjoyment of life and property or tends to depreciate the value of the property of others.
(Neb. Rev. Stat. §18-1720)

SECTION 2-603: SPECIFICALLY DEFINED

The maintaining, using, placing, depositing, leaving or permitting of any of the following specific acts, omissions, places, conditions and things are hereby declared to be nuisances. These sections shall not apply to businesses licensed or zoned for business operations that include the accumulation of material described in these sections, such as auto salvage yard, recycling operations, and similar businesses.

A. Any odorous, putrid, unsound, or unwholesome grain, meat, hides, skins, feathers, vegetable matter or the whole or any part of any dead animal, fish or fowl.

B. Privies, vaults, cesspools, dumps, pits or like places which are not

securely protected from flies or rats or which are foul or malodorous.

C. Filthy, littered or trash-covered cellars, house yards, barnyards, stable-yards, factory yards, mill yards, vacant areas in rear of stores, granaries, vacant lots, houses, buildings or premises.

D. Animal manure in any quantity which is not securely protected from flies and the elements or which is kept or handled in violation of any ordinance of the City.

E. Liquid household waste, human excreta, garbage, butcher's trimmings and offal, parts of fish or any waste vegetable or animal matter in any quantity; provided, nothing herein contained shall prevent the temporary retention of waste in receptacles in a manner provided by the health officer of the City nor the dumping of non-putrefying waste in a place and manner approved by the health officer.

F. Tin cans, bottles, glass, cans, ashes, small pieces of scrap iron, wire metal articles, bric-a-brac, broken stone or cement, broken crockery, broken glass, broken plaster and all trash or abandoned material, unless the same is kept in covered bins or galvanized iron receptacles.

G. Trash, litter, rags, accumulations of barrels, boxes, crates, packing crates, mattresses, bedding, excelsior, packing hay, straw or other packing material, lumber not neatly piled, appliances, scrap iron, tin, or other metal not neatly piled, old automobiles or parts thereof, or any other waste materials when any of said articles or materials create a condition in which flies or rats may breed or multiply or which may be a fire danger or which are so unsightly as to depreciate property values in the vicinity thereof.

H. Any buildings or structures which have any or all of the defects defined at Chapter 8, Article III (Unsafe Buildings).

I. All places used or maintained (1) as junkyards or dumping grounds; (2) for the wrecking and disassembling of automobiles, trucks, tractors, or machinery of any kind; (3) for the storing or leaving of worn-out, wrecked, or abandoned automobiles, trucks, tractors, or machinery of any kind or of any of the parts thereof; or (4) for the storing or leaving of any machinery or equipment used by contractors or builders or by other persons in any residential designated area of the City.

J. Stagnant water permitted or maintained on any lot or piece of ground.

K. Any machine, vehicle, or parts of a machine or vehicle which have lost their identity, character, utility, or serviceability as such through deterioration, dismantling, or the ravages of time, are inoperative or unable to perform their intended functions, or are cast off, discarded, or thrown away or left as waste,

wreckage, or junk.

L. Any motor vehicle without a current license and not housed in a storage or other building, except as provided herein:

1. It shall be unlawful for any person in charge or control of any property within the City, whether as owner, tenant, occupant, lessee, or otherwise, to allow any non-operating, wrecked, junked, or partially dismantled vehicle to remain on such property longer than 30 days. It shall be unlawful for any person in charge or control of any property within the City, whether as owner, tenant, occupant, lessee, or otherwise, to allow any vehicle which has been unregistered for more than 30 days to remain on such property. This section shall not apply to a vehicle in an enclosed building, a vehicle on the premises of a business enterprise operated in a lawful place and manner when necessary to the lawful operation of such business enterprise, a vehicle in an appropriate storage place or depository maintained in a lawful place and manner, or a vehicle on the premises of a person who has obtained a hobbyist permit which is then in effect for the restoration of said vehicle, as provided in subsection (2) below.
2. A hobbyist permit for the restoration or repair of up to two non-operating, wrecked, junked, or partially dismantled vehicles on any premises used for residential purposes may be granted to the resident of such premises as follows:
 - a. Application for a hobbyist permit shall be filed in writing with the city clerk on a form provided by the City and shall contain the name and address of the applicant and the make, model, year, and vehicle identification number on each vehicle to be restored or repaired. The vehicle(s) to be restored or repaired shall be owned by the applicant.
 - b. The fee for such hobbyist permit shall be as set by the City Council by resolution and placed on file in the office of the city clerk. All such permits shall expire one year following the date of issuance thereof.

M. Any wood or tree limbs not cut and stacked in neat rows on an area not exceeding 10 feet by 16 feet.

N. Debris from burned or damaged buildings, whether created by consensual burning or demolition or whether occurring due to fire or age.

O. Stockyards, granaries, mills, pig pens, cattle pens, chicken pens, or any other place, building, or enclosure in which animals or fowl of any kind are confined or on which are stored tankage or any other animal or vegetable matter

or on which any animal or vegetable matter, including grain, is being processed, when said places in which said animals are confined or said premises on which said vegetable or animal matter is located are maintained and kept in such a manner that foul and noxious odors are permitted to emanate therefrom to the annoyance of inhabitants of the City or are maintained and kept in such a manner as to be injurious to the public health.

P. Maintenance of weeds, grasses or worthless vegetation of 12 inches or more in height.

Q. Regardless of height, no noxious weeds shall be allowed. Any and all noxious weeds are to be eradicated. bindweed (*Convolvulus arvensis*), puncture vine (*Tribulus terrestris*), leafy spurge (*Euphorbia esula*), Canada thistle (*Cirsium arvense*), perennial peppergrass (*Lepidium draba*), Russian knapweed (*Centaurea picris*), Johnson grass (*Sorghum halepense*), nodding or musk thistle, quack grass (*Agropyron repens*), perennial sow thistle (*Sonchus arvensis*), horse nettle (*Solanum carolinense*), bull thistle (*Cirsium lanceolatum*), buckthorn (*Rhamnus* sp.), hemp plant (*Cannabis sativa*), and ragweed (*Ambrosiaceae*).

R. All other things specifically designated as nuisances elsewhere in this code.

(Neb. Rev. Stat. §18-1720)

SECTION 2-604: NOTICE PROCEDURE; ABATEMENT

A. Whenever the chief of police or the code enforcement officer appointed by the mayor determines that any weeds or grasses in excess of 12 inches are growing on property within the City or any other nuisance, as defined herein, is found on any property, the following abatement procedure shall be followed:

1. The Police Department shall document the weeds or nuisance by photographing the same. Once the weeds or nuisance has been documented, the city clerk shall give notice to mow, abate, and remove such weeds or nuisance to each owner or owner's duly authorized agent and to the occupant of the premises, if any, by personal service or certified mail with return receipt requested. If mailed, such notice shall be conspicuously marked as to its importance. Personal service shall be made by an officer of the Police Department. Such notice shall contain a copy of the photograph of the weeds or nuisance, a copy of this ordinance, instructions on abatement of the weeds or nuisance, time in which such abatement shall take place and possible penalties for failure to abate.
2. Within ten (10) business days after receipt of such notice, the owner, agent, or occupant of the lot or piece of ground may request a hearing with the City to appeal the order to mow, abate, or remove

the weeds or 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 conducted by the mayor as hearing officer, or as soon thereafter in the discretion of the mayor. The mayor in his/her discretion may conduct the hearing before the City Council and allow the council to render the decision. The mayor or council shall render a decision on the appeal within ten (10) business days after the conclusion of the hearing. The hearing shall be conducted informally and the formal rules of evidence shall not apply but either party may appear with an attorney and may request that the hearing be recorded for appeal purposes. Any decision rendered by the mayor or council may be appealed to the County Court. If no appeal is taken within ten days of the mayor's or City Council's decision, the owner, agent, or occupant shall promptly comply with the notice to abate. If abatement is not completed within 20 days of the mayor's or council's decision and no appeal is taken, the Police Department shall proceed pursuant to subsections (3) and (4) below or to subsections (B)(1) and (2) as set forth below.

3. Within ten days after receipt of such original notice to abate, if the owner or occupant of the lot or piece of ground does not request a hearing with the City or fails to appeal the decision of the mayor or City Council and fails to comply with the order to mow or abate and remove the weeds or nuisance, the City shall again photograph the weeds or nuisance to document that abatement has not occurred.
4. If abatement has not occurred within the time prescribed, the Police Department may deliver the original photographs, a copy of the delivered notice to abate, the certificate of delivery or acknowledged return receipt of the notice, and the photographs taken subsequent to the time to abate has elapsed to the prosecuting attorney for the City and request that charges be filed against the owner or occupant of the premises for maintenance of a nuisance.

B. In the alternative, the City may cause the weeds to be mowed or the nuisance to be corrected or removed. The costs and expenses of any such work shall be paid by the owner. If unpaid for two months after such work is done, the City may either:

1. Levy and assess the costs and expenses of the work upon the lot or piece of ground so benefited in the same manner as other special taxes for improvements are levied and assessed, or
2. Recover in a civil action the costs and expenses of the work upon the lot or piece of ground and the adjoining streets and alleys.

SECTION 2-605: JURISDICTION

The mayor and city police are directed to enforce this city code against all nuisances. The jurisdiction of the mayor, city police, and court shall extend to, and the territorial application of this chapter shall include, all territory adjacent to the limits of the City within one mile thereof and all territory within the corporate limits. (Neb. Rev. Stat. §18-1720)

SECTION 2-606: ADJOINING LAND OWNERS; INTERVENTION BEFORE TRIAL

In cases of appeal from an action of the City Council condemning real property as a nuisance or as dangerous under the police powers of the City, the owners of the adjoining property may intervene in the action at any time before trial. (Neb. Rev. Stat. §18-1720)

SECTION 2-607: FAILURE TO CORRECT

In the event that the owner or occupant of said premises fails to correct and eliminate said nuisance pursuant to the notice to correct delivered by the chief of police or designated officer, he/she shall be guilty of a misdemeanor and fined in a sum of no less than \$75.00 and not more than \$500.00. Each day's violation after the expiration of the 15 days' notice shall be a separate offense.

ARTICLE VII – SEXUAL PREDATORS

(Article adopted July 18, 2006, Ord. Nos. 475, 476 and 478)
(Am. 2/15/11, Ord. No. 504)

SECTION 2-701: DEFINITIONS

For purposes of the Sexual Predator Residency Restriction Act:

1. "Child care facility" means a facility licensed pursuant to the Child Care Licensing Act;

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

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

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

5. "Sexual predator" means an individual who is required to register under the Sex Offender Registration Act, who has committed an aggravated offense as defined in Neb. Rev. Stat. §29-4001.01, and who has victimized a person 18 years of age or younger.
(Neb. Rev. Stat. §29-4016)

SECTION 2-702: RESIDENCY RESTRICTIONS

It is hereby determined unlawful for any sexual predator to reside within 500 feet of a school or child care facility. For the purpose of determining the minimum distance separation, the distance shall be measured at a straight line from the closest point of the sexual predator's place of residence property line to the property line of the school or child care facility. (Neb. Rev. Stat. §29-4017)

SECTION 2-703: EXCEPTIONS

These restrictions shall not apply to any sexual predator who (1) resides in a prison or correctional or treatment facility operated by the state or a political subdivision; (2) established a residence within such minimum distance before July 1, 2006, and has not moved from that residence; or (3) established a residence after July 1, 2006, but a school or child care facility triggering the restriction was established after the initial date of the sexual predator's residence at that location. (Neb. Rev. Stat. §29-4017)

ARTICLE VIII – PENAL PROVISION

SECTION 2-801: VIOLATION; PENALTY

Anyone violating any of the terms and conditions of the foregoing chapter and articles shall be deemed guilty of a misdemeanor and shall be fined in the following manner:

1. First offense, \$150.00 plus court costs;
2. Second offense, \$250.00 plus court costs;
3. Third and subsequent offenses thereafter, \$500.00 plus court costs.

(Am. 2/15/11, Ord. No. 501)

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CHAPTER III

MOTOR VEHICLES AND BICYCLES

ARTICLE I - TRAFFIC REGULATIONS

SECTION 3-101: TERMS DEFINED

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

SECTION 3-102: TRUCK ROUTES

The City Council may, by resolution, designate certain streets in the City restricting traffic for vehicles weighing in excess of 10 tons or that have an overall length of more than 20 feet, and it shall be unlawful for persons operating said vehicles to travel on streets other than those designated for such vehicles, except to travel to and from their personal residences, for the purpose of loading or unloading for a period of time not to exceed what is reasonably necessary to load or unload, not to exceed two hours, and/or to pick up or deliver goods, wares, or merchandise. In these events, the operators of such vehicles shall return to such truck routes as soon as possible in traveling through or about the City. The City Council shall cause notices to be posted or shall erect signs indicating the streets so designated as restricted routes. (Am. by Ord. No. 515, 8/25/14)

SECTION 3-103: ENGINE BRAKING

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

SECTION 3-104: TURNING; "U" TURNS

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

SECTION 3-105: TURNING; SIGNALS

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

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

SECTION 3-106: TURNING; GENERALLY

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

SECTION 3-107: TURNING; CAUTIOUS

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

SECTION 3-108: RIGHT OF WAY; GENERALLY

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

SECTION 3-109: RIGHT OF WAY; EMERGENCY VEHICLES

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

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

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

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

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

SECTION 3-112: BACKING

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

SECTION 3-113: DRIVING IN SIDEWALK SPACE

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

SECTION 3-114: STOPS; MANDATORY

All vehicles, before crossing a sidewalk, emerging from a garage, alley, filling station or other place, shall come to a complete stop, and after giving sufficient

warning shall proceed slowly and with extreme caution while crossing such sidewalk or leaving such garage, alley, filling station or other place.

The term "slowly" shall be construed to mean such rate of speed as is reasonable and proper under the circumstances and the condition of the street and traffic thereon.

SECTION 3-115: SIGNS, SIGNALS

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

SECTION 3-116: STOP SIGNS

Every person operating any vehicle shall, upon approaching any stop sign erected in accordance with ordinances prescribed heretofore, cause such vehicle to come to a complete stop with the front wheels of said vehicle parallel with said stop sign.

SECTION 3-117: UNNECESSARY STOPPING

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

SECTION 3-118: SPEED ZONES

No person shall operate a motor vehicle within the city limits at a speed greater than is reasonable and proper, having regard for the traffic, use and condition of the streets or at such speeds as to endanger the life, limb or property of any person. Such speed limits shall be indicated by appropriate posted signs.

SECTION 3-119: FUNERAL PROCESSIONS

No vehicle, except police vehicles or fire department vehicles when responding to emergency calls or orders in their several departments, ambulances responding to emergency calls, or vehicles carrying United States mails shall be

driven through a funeral possession or cortege except with the permission of a police officer.

SECTION 3-120: FOLLOWING DISTANCE; GENERALLY

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

SECTION 3-121: FOLLOWING DISTANCE; FIRE APPARATUS

The driver of any vehicle shall not follow any fire apparatus traveling in response to a fire alarm closer than 500 feet, or drive into or park such vehicle within the block where said fire apparatus has stopped in answer to a fire alarm.
(Ref. Neb. Rev. Stat. §60-6,183 (Reissue 1998))

SECTION 3-122: GLASS; POINTED OBJECTS

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

SECTION 3-123: SIGNS; DEFACING OR INTERFERING WITH

It shall be unlawful for any person to willfully deface, injure, remove, obstruct or interfere with any official traffic sign or signal.
(Ref. Neb. Rev. Stat. §60-6,129, 60-6,129.01)

SECTION 3-124: SIGNS; UNAUTHORIZED DISPLAY

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

SECTION 3-125: SPEED; ELECTRONIC DETECTOR

The speed of any motor vehicle within the City may be determined by the use of radio microwaves or other electronic device. The results of such determinations shall be accepted as prima facie evidence of the speed of such motor vehicle in any court or legal proceedings where the speed of the motor vehicle is at issue.

The driver of any such motor vehicle may be arrested without a warrant under the authority herein granted if the arresting officer is in uniform or displays his/her badge of authority; provided that such officer shall have observed the recording of the speed of such motor vehicle by the radio microwaves or other electronic device, or had received a radio message from the officer who observed the speed of the motor vehicle recorded by the radio microwaves or other electronic device.

In the event of an arrest based on such a message, such radio message must have been dispatched immediately after the speed of the motor vehicle had been recorded, and must include a description of the vehicle and the recorded speed. (Ref. Neb. Rev. Stat. §60-6,192)

SECTION 3-126: NEGLIGENT DRIVING

Any person who operates a motor vehicle in such a manner as to indicate a want of ordinary care and caution that a person of ordinary prudence would use under like circumstances shall be deemed guilty of negligent driving. (Ref. 60-4,182 RS Neb.)

SECTION 3-127: CARELESS DRIVING

No person shall operate a vehicle on any highway, street or alley within the City in such a manner as to endanger the safety of others, disregard the property of others, and/or cause immoderate wear and damage to any street or alley in the City.

Any person so operating a motor vehicle within the city limits of the City shall be deemed guilty of careless driving. It shall be prima facie evidence that a person has operated a motor vehicle in such a careless manner if he/she has operated such vehicle in a manner contrary to the duly published rules and regulations of the Department of Roads of the State of Nebraska governing the use of state highways.

SECTION 3-128: RECKLESS DRIVING

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

SECTION 3-129: RECKLESS DRIVING; WILLFUL

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

SECTION 3-130: DRIVING UNDER THE INFLUENCE OF ALCOHOLIC LIQUOR OR DRUGS

It shall be unlawful for any person to operate or be in actual physical control of any motor vehicle while under the influence of alcoholic liquor or of any drugs or when said person has 10/100ths of 1% or more by weight of alcohol in his/her body fluid as shown by chemical analysis of his/her blood, breath or urine.

SECTION 3-131: EXHIBITION DRIVING

Any person who operates a motor vehicle, meaning any self-propelled vehicle, upon streets or alleys within the city limits or upon property owned by the City in such a manner as to cause or create unnecessary engine noise, squealing of tires, rear skidding, sliding or swaying of such motor vehicle or possible acceleration of speed of said motor vehicle shall be guilty of exhibition driving.

SECTION 3-132: EMERGENCY; REGULATIONS

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

SECTION 3-133: POLICE; TRAFFIC POWERS

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

SECTION 3-134: POLICE; REFUSAL TO OBEY

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

SECTION 3-135: POLICE; TRAFFIC OFFICERS

The city police may at any time detail officers, to be known as "traffic officers," at street intersections. All traffic officers shall be vested with the authority to regulate and control traffic at the intersections to which they are assigned. It

shall be their duty to direct the movement of traffic and prevent congestion and accidents.

It shall be unlawful for any person to violate any order or signal of any such traffic officer, notwithstanding the directive of a stop sign or signal device which may have been placed at any such intersection.

SECTION 3-136: LITTERING

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

SECTION 3-137: DRIVING ABREAST

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

SECTION 3-138: RIDING OUTSIDE VEHICLE

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

SECTION 3-139: CROWDING FRONT SEAT OR OBSTRUCTING DRIVER'S VIEW OR DRIVING MECHANISM; PROHIBITED

No person shall drive a motor vehicle when it is so loaded, or when there is in the front such a number of persons, exceeding three, as to obstruct the view of the driver to the front or sides of the vehicle or to interfere with the driver's control over such vehicle. No passenger in a vehicle shall ride in such a position as to interfere with the driver's control over such vehicle.

SECTION 3-140: MUFFLER

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

SECTION 3-141: LOADS; PROJECTING

When any vehicle shall be loaded in such a manner that any portion of the load extends more than four feet beyond the rear of the bed or the body of such

vehicles, a red flag shall be carried by day and red light after sunset on such load.

SECTION 3-142: 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.

ARTICLE II - ABANDONED VEHICLES

SECTION 3-201: TERMS DEFINED

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

1. With no number plates affixed thereto, for more than six hours on any public property;
2. For more than 24 hours on any public property, except a portion thereof on which parking is legally permitted;
3. For more than 48 hours, after the parking of such vehicle shall have become illegal if left on a portion of public property on which parking is legally permitted;
4. For more than seven days on private property if left initially without the permission of the owner, or after permission of the owner shall be terminated.

No person in charge or control of any private property, whether as owner, tenant, occupant, lessee or otherwise, shall allow any partially dismantled, non-operating, wrecked, junked or discarded vehicle to remain on such property longer than seven continuous days. Any vehicle described in this paragraph shall be deemed to be an abandoned vehicle for purposes of this article.

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

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

SECTION 3-202: ENFORCEMENT

The city police shall remove or cause to be removed any abandoned vehicle. Such vehicle shall be impounded until lawfully claimed or disposed of, as provided in Section 3-204 hereafter; provided, any such abandoned vehicle

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

SECTION 3-203: NOTICE

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

1. Abandoned vehicles with numbered plates affixed---to the jurisdiction which issued said plates; or
2. Abandoned vehicles with no numbered plates affixed---to the Department of Motor Vehicles.

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

SECTION 3-204: DISPOSITION

The city police shall sell said abandoned vehicle at public auction to the highest bidder within 60 days from the date that title to an abandoned vehicle is vested in the city as provided for in Section 3-205 hereafter. Such sale and the time and place thereof shall be advertised for one week in a newspaper of general circulation in the City. Any proceeds from the sale of an abandoned vehicle, less any expenses incurred by the City, shall be held by the City without interest for the benefit of the owner of such abandoned vehicle for a period of two years. If

not claimed within such two-year period, such proceeds shall be paid into the general fund of the City.

SECTION 3-205: TRANSFER OF TITLE

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

SECTION 3-206: PENAL PROVISIONS

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

(Ref. Neb. Rev. Stat. §60-1901 through 60-1911)

ARTICLE III - PARKING

SECTION 3-301: VEHICLES; UNATTENDED

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

SECTION 3-302: PARKING; GENERALLY

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 in such manner as to have both right wheels within 12 inches of the curb and so as to leave at least 4 feet between the vehicle so parked and any other parked vehicle. 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. No person shall park a vehicle so as to obstruct a private driveway or drive for any period of time. No person shall park a vehicle or permit it to stand within 20 feet in either direction from the entrance of any fire station. Vehicles in excess of 10 tons or that have an overall length of more than 20 feet shall not be parked in any residential districts, subject to the exceptions of Section 3-102 and Section 3-306. (Ref. Neb. Rev. Stat. §60-6,167, 60-680) (Am. by Ord. No. 515, 8/25/14)

SECTION 3-303: PARKING; AREAS

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

SECTION 3-304: OBSTRUCTING ALLEY

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

SECTION 3-305: ALLEYS; LOADING AND UNLOADING

No vehicle shall be parked in any alley except for the purpose of loading or unloading during the time necessary to load or unload, which shall not exceed the maximum limit of one-half hour. Every vehicle while loading or unloading in any alley shall be parked in such manner as will cause the least obstruction possible to traffic in such alley. (Ref. Neb. Rev. Stat. §60-680)

SECTION 3-306: TRUCKS

It shall be unlawful for the operator of any truck with an overall length of more than 20 feet or which vehicle exceeds 10 tons in weight to stop or park any such vehicle on a street which the City Council has designated to be within the "residential district," except to load or unload, and then only when loading or unloading in an alley is impossible. Vehicles may stop or stand for a period of time not to exceed what is reasonably necessary to load or unload but not to exceed two hours. It shall be unlawful for the operator of any truck, regardless of length, to park said vehicle within a street intersection, on a crosswalk, in front of a private driveway, or on a sidewalk. The City Council may, by resolution, provide truck parking areas within the City and when such parking areas are provided, it shall be the duty of all truck operators to use such parking areas for all parking purposes. (Am. by Ord. No. 515, 8/25/14)

SECTION 3-307: UNLOADING; FREIGHT VEHICLES

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

SECTION 3-308: FIRE HYDRANTS AND STATIONS

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

SECTION 3-309: SCHOOLS, THEATERS

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

With respect to the Minatare Grade School, no parking will be allowed while school is in session, Monday through Friday, between the hours of 7:00 A.M. and

4:00 P.M. No parking will be allowed on the north or south side of 8th Street between Avenue A and Avenue B in the City, except for school product deliveries and handicap-designated parking. Passage of this ordinance will authorize signage generally as follows:

No parking while school in session Mon-Fri. 7:00 a.m. – 4:00 p.m.

Except for school product delivery and handicap parking.

(Am. 1/18/05, Ord. No. 465)

SECTION 3-310: CURB INTERSECTIONS

Except in compliance with traffic control devices, no vehicle shall be parked or left standing for any purpose, except momentarily to load or discharge passengers, within 25 feet of the intersection of curb lines or, if none, then within 15 feet of the intersection of property lines nor where said curb lines are painted yellow or red to indicate such prohibition.

(Ref. Neb. Rev. Stat. §60-6,166)

SECTION 3-311: CURBS

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

(Ref. Neb. Rev. Stat. §60-680)

SECTION 3-312: OBSTRUCTING TRAFFIC

No vehicle shall, except in case of an accident or emergency, stop within any street intersection, alley entrance or any such location as to obstruct any street, crosswalk or alley entrance.

(Ref. Neb. Rev. Stat. §60-680)

SECTION 3-313: CURBS, PAINTED

It shall be the duty of the City Council to cause the curb space to be painted and keep the same painted as 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 parking of vehicles in any street or part thereof, except at such places where the parking of vehicles is prohibited by the provisions of this article. The marking or designating of portions of streets or alleys where the parking of vehicles is prohibited or limited shall be done only by the City through its proper officers, at the direction of the City Council.

(Ref. Neb. Rev. Stat. §60-680)

SECTION 3-314: DISPLAY OR REPAIR OF VEHICLES

It shall be unlawful for any person to park upon any street, alley or public place within this city any vehicle displayed for sale. No person shall adjust or repair any automobile or motorcycle or race the motor of same while it stands on the public streets or alleys of this city, except in case of breakdown or other emergency requiring same. No person or employee connected with a garage or repair shop shall use sidewalks, streets or alleys in the vicinity of such garage or shop for the purpose of working on automobiles or vehicles of any description.

(Ref. Neb. Rev. Stat. §60-680)

SECTION 3-315: TIME LIMIT

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

SECTION 3-316: MAXIMUM TIME LIMIT

1. It shall be unlawful for any person to park or leave unattended any motor vehicle, recreational vehicle, boat, camper, personal watercraft, mobile home, trailer or utility trailer upon a public street of the City for more than ten consecutive days, except where a different maximum time limit is posted. The fine for exceeding the ten-day limit shall be \$10.00, with each additional 24-hour period constituting a new offense. If the fine is not paid within 30 days from the date of issue, the fine shall also reflect and include court costs.

2. Violators of this provision shall be responsible for all removal fees, payable to the City within 30 days from the date of removal.

(Ref. Neb. Rev. Stat. §60-680) (Am. 2/16/16, Ord. No. 522)

SECTION 3-317: EMERGENCY VEHICLES

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

SECTION 3-318: SNOW REMOVAL AND MAINTENANCE

1. It shall be unlawful to park or stand any vehicle on any street or alley in the City at any time within 12 hours after a snowfall of 3 inches or more has occurred within a 24-hour period unless the snow has been removed within that time.

2. The streets from which snow will be first removed shall be primary routes as shown in red on the map on file in the office of the city clerk and incorporated by reference herein. After snow removal has taken place on said primary routes, the next streets on which snow will be removed shall be secondary routes as shown in blue, then those shown in green.

3. The city police may order any street or alley or portion thereof vacated for weather emergencies or street maintenance. Notice shall be given by personally notifying the owner or operator of a vehicle parked on 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 in a suitable nearby location without further notice to the owner or operator of such vehicle.

SECTION 3-319: HANDICAPPED OR DISABLED PERSONS; DESIGNATION OF ONSTREET PARKING SPACES; DISPLAY OF PERMITS

1. The City Council may designate parking spaces for the exclusive use of (a) handicapped or disabled persons whose vehicles display the distinguishing license plates issued to handicapped or disabled persons pursuant to Section 60-311.14, R.S. Neb., (b) handicapped or disabled persons whose vehicles display a distinguishing license plate issued to a handicapped or disabled person by another state, (c) such other handicapped or disabled persons or temporarily handicapped or disabled persons, as certified by the City Council, whose vehicles display the identification specified in Section 3-324, and (d) such other motor vehicles, as certified by the council, which display such identification. All such permits shall be displayed in the operator's area in a conspicuous location upon the vehicle's dashboard or its equivalent so as to be clearly visible through the front windshield.

2. Whenever the City Council so designates a parking space, it shall be indicated by a sign which is in conformance with the 19th edition of the *Manual on Uniform Traffic Control Devices for Streets and Highways* issued by the Federal Highway Administration. 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.

SECTION 3-320: HANDICAPPED OR DISABLED PERSONS; DESIGNATION OF OFFSTREET PARKING SPACES

The City Council and any person in lawful possession of any offstreet parking facility may designate stalls or spaces in such facility for the exclusive use of (a) handicapped or disabled persons whose vehicles display the distinguishing license plates issued to such individuals pursuant to Section 60-311.14, R.S.

Neb., (b) such other handicapped or disabled persons or temporarily handicapped or disabled persons, as certified by the City Council, whose vehicles display the identification specified in Section 3-324, and (c) such other motor vehicles, as certified by the council, which display such identification. Such designation shall be made by posting immediately adjacent to and visible from each stall or space a sign which is in conformance with the 19th edition of the *Manual on Uniform Traffic Control Devices for Streets and Highways* issued by the Federal Highway Administration.

SECTION 3-321: HANDICAPPED OR DISABLED PERSONS, HANDICAPPED PARKING INFRACTION; DEFINED

For the purposes of Sections 3-319 through 3-324, the following terms shall be defined as follows:

"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, prosthetic, orthotic, or other assistant device, any individual whose personal mobility is limited as a result of respiratory problems, 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 a manner for no longer than one year.

"Handicapped parking infraction" shall mean the violation of any section of this article regulating the use of parking spaces designated for use by handicapped or disabled persons.

SECTION 3-322: HANDICAPPED OR DISABLED PERSONS; PERMIT ISSUANCE

1. The city clerk shall take an application from a handicapped or disabled or temporarily handicapped or disabled person or his or her parent, legal guardian or foster parent for a permit which will entitle the holder thereof or a person driving a motor vehicle for the purpose of transporting such holder to park in those spaces provided in these Sections 3-319 through 3-324. A person applying for a permit shall complete such forms as are provided to the city clerk by the Department of Motor Vehicles and shall demonstrate to the satisfaction of the city clerk that he or she is handicapped or disabled. The city clerk may require medical certificates and proof of a handicap or disability.

2. The city clerk shall submit to the DMV the name, address and license number of all persons applying for permits pursuant to this section. The DMV, upon receipt from the city clerk of a completed application form and completed medical

form from an applicant for a handicapped parking permit under this section, shall verify that the applicant qualifies for such permit and, if so, shall issue the same by delivering the permit to the applicant in person or by first-class U.S. mail, postage prepaid, as circumstances permit. Upon issuing such permit, the department shall provide the basic issuing data to the city clerk.

SECTION 3-323: HANDICAPPED OR DISABLED PERSONS; MOTOR VEHICLE PERMIT ISSUANCE

1. 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 person to park in those spaces provided by this section, if the motor vehicle is used primarily for the transportation of such persons. Such parking permit shall be used only when the motor vehicle for which it was issued is being used for the transportation of handicapped or disabled persons or temporarily handicapped or disabled persons.

2. A person applying for a permit pursuant to this section shall apply for a permit for each motor vehicle used for the transportation of handicapped or disabled persons or temporarily handicapped or disabled persons, shall complete such forms as are provided by the DMV, and shall demonstrate to the city clerk that each such motor vehicle is used primarily for the transportation of handicapped or disabled persons or temporarily handicapped or disabled persons.

3. The city clerk shall submit to the DMV the name, address and license number of each person applying for a permit pursuant to this section. The DMV, upon receipt from the city clerk of a completed application form and completed medical form from an applicant for a handicapped parking permit under this section, shall verify that the applicant qualifies for such permit and, if so, shall issue the same by delivering the permit to the applicant in person or by first-class U.S. mail, postage prepaid, as circumstances permit. Upon issuing such permit, the department shall provide the basic issuing data to the city clerk.

SECTION 3-324: HANDICAPPED OR DISABLED PERSONS; REMOVAL OF UNAUTHORIZED VEHICLE; PENALTY

1. The owner or person in lawful possession of an offstreet parking facility, after notifying the police or sheriff's department, and the city providing onstreet parking or owning, operating or providing an offstreet parking facility, may cause the removal from a stall or space designated exclusively for handicapped or disabled persons or temporarily handicapped or disabled persons of any vehicles not displaying proper identification or the distinguishing license plates specified in this article if there is posted immediately adjacent to and visible from such stall or other space a sign which clearly and conspicuously states the area so designated as a tow-in zone.

2. Anyone parking in any onstreet 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 persons, or in any so exclusively designated parking space in any offstreet parking facility, without properly displaying the proper identification or when the handicapped or disabled person to whom or for whom the license plate or permit is issued is not being transported shall be guilty of a handicapped parking infraction as defined in Section 3-321 and shall be subject to the penalties and procedures set forth in this article. If the identity of the person who parked the vehicle in violation of this section cannot be readily determined, the owner or person in whose name the vehicle is registered shall be held *prima facie* responsible for such violation and shall be guilty and subject to the penalty provided for in this chapter.

3. In the case of a privately owned offstreet parking facility, the owner or person in lawful possession of such facility shall inform the City of a violation of this section prior to taking any action pursuant to this section.

SECTION 3-325: HANDICAPPED OR DISABLED PERSONS; EXPIRATION OF 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.
(1/24/06, Ord. No. 472)

SECTION 3-326: REMOVAL OF ILLEGALLY PARKED VEHICLES

1. Whenever any police officer shall find a vehicle, recreational vehicle, boat, camper, personal watercraft, mobile home, trailer or utility trailer standing upon a street or alley in violation of any of the provisions of this article, said officer 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. Said officer shall affix a notice to the vehicle or trailer noting the time at which the vehicle may be towed or otherwise removed as an abandoned vehicle in accordance with Neb. Rev. Stat. §60-1901. The officer will also make a reasonable attempt to contact the owner to have the vehicle moved prior to towing or other removal.

2. Vehicles moved less than 30 feet while remaining on the public street or alley from the time of the notice provided by the City shall still be deemed in violation and subject to removal.

3. Violators of this provision shall be responsible for all removal fees, payable to the City within 30 days from the date of removal.
(Am. 2/16/16, Ord. No. 522)

SECTION 3-327: LIABILITY OF VEHICLE OWNER OR OPERATOR

Nothing in this article shall be construed or pleaded as justifying, absolving or rendering blameless, either directly or indirectly, any person in charge of or owning any motor vehicle, recreational vehicle, boat, camper, personal watercraft, mobile home, trailer or utility trailer for any injury or damage to persons or property due to recklessness, incompetence or negligence in the operation of said motor vehicle, recreational vehicle, boat, camper, personal watercraft, mobile home, trailer or utility trailer.
(Am. 2/16/16, Ord. No. 522)

SECTION 3-328: VEHICLES OR TRAILER TYPES; RESTRICTIONS

1. All vehicles or trailers licensed as mobile home, trailer, farm trailer, dealer trailer or dealer boat trailer, as well as any other vehicles or trailers that cannot move under their own power, shall be prohibited from parking on the public streets and alleys from November 1 to February 28 of each year. These vehicles shall be subject to all other parking regulations when not restricted by this section.

2. Violators of this provision shall be responsible for all removal fees, payable to the City within 30 days from the date of removal.
(Am. 2/16/16, Ord. No. 522)

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

SECTION 3-401: BICYCLES; OPERATION

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

2. No bicycle shall be operated faster than is reasonable and proper, but every bicycle shall be operated with reasonable regard to the safety of the operator and any other persons upon the streets and public highways.

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

4. Any person who operates a bicycle upon a street or highway shall not ride more than single file, except on parts of streets or highways set aside for the exclusive use of bicycles.

5. Any person who operates a bicycle upon a roadway at less than the normal speed of traffic at the time and place and under conditions then existing shall ride as near to the righthand curb or righthand edge of the roadway as practicable except when:

A. Overtaking and passing another bicycle or vehicle proceeding in the same direction;

B. Preparing for a left turn onto a private road or driveway or at an intersection;

C. Reasonably necessary to avoid conditions that make it unsafe to continue along the righthand curb or righthand edge of the roadway, including fixed or moving objects, stopped or moving vehicles, bicycles, pedestrians, animals or surface hazards;

D. Riding upon a lane of substandard width which is too narrow for a bicycle and vehicle to travel safely by side within the lane; or

E. Lawfully operating a bicycle on the paved shoulders of a highway included in the state highway system as provided in Section 60-6,142 R.S. Neb.

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

person operating a bicycle leaves the roadway to ride on the paved shoulder or leaves the paved shoulder to enter the roadway, the person shall clearly signal his or her intention and yield the right of way to all other vehicles.

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

7. No person shall operate a bicycle on the sidewalks within the business district.

(Ref. Neb. Rev. Stat. §60-6,315, 60-6,317, 60-6,318)

SECTION 3-402: CLINGING TO MOTOR VEHICLE

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

(Ref. Neb. Rev. Stat. §60-6,316)

SECTION 3-403: MOTORCYCLE OPERATION

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

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

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

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

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

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

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

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

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

10. Subsections 7 and 8 of this section shall not apply to police officers in the performance of their official duties.

(Ref. Neb. Rev. Stat. §60-6,306 through 60-6,308)

SECTION 3-404: MOTORCYCLE; LIGHTS

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

SECTION 3-405: SNOWMOBILES; EQUIPMENT

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

2. All laws applying to the operation of other motor vehicles shall apply to snowmobiles, except those relating to required equipment and those which, by their nature, have no application.

(Ref. Neb. Rev. Stat. §60-6,335)

SECTION 3-406: SNOWMOBILES; UNLAWFUL OPERATION

It shall be unlawful for any person to operate a snowmobile upon any street or highway within the corporate limits of the City; provided, snowmobiles may be

operated within the City when, due to severe weather conditions, they provide the only practical method of safe vehicular travel. When such conditions do exist, the snowmobile shall be operated only in a manner and at a speed that is reasonable or proper under the surrounding circumstances.

SECTION 3-407: SNOWMOBILES; UNLAWFUL ACTS

It shall be deemed a misdemeanor for any person to allow a snowmobile, either owned or operated by him/her, to be operated:

1. Within the congested area of the City unless said snowmobile is engaged in responding to an emergency.
2. At a rate of speed greater than reasonable or proper under the surrounding circumstances.
3. In a careless, reckless or negligent manner so as to endanger person or property.
4. Without a lighted headlight and taillight when such would be required by conditions.
5. In any tree nursery or planting in a manner which damages or destroys growing stock.
6. Upon any private lands without first having obtained permission of the owner, lessee or operator of such lands.
(Ref. Neb. Rev. Stat. §60-6,337)

SECTION 3-408: SNOWMOBILES; ON PUBLIC LANDS

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

SECTION 3-409: SNOWMOBILES; ENFORCEMENT; PENALTY

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

SECTION 3-410: ALL-TERRAIN AND UTILITY-TYPE VEHICLES; DEFINED

1. "All-terrain vehicle (ATV)" means any motorized off-highway vehicle which (a) is fifty inches or less in width, (b) has a dry weight of 1,200 pounds or less, (c) travels on three or more nonhighway tires, and (d) is designed for

operator use only with no passengers or is specifically designed by the original manufacturer for the operator and one passenger.

2. "Utility-type vehicle (UTV)" means any motorized off-highway vehicle which (a) is 74 inches in width or less, (b) is not more than 180 inches in length, including the bumper, (c) has a dry weight of 2,000 pounds or less, (d) travels on four or more nonhighway tires. "Utility-type vehicle" does not include all-terrain vehicles, golf car vehicles, or low-speed vehicles.

3. All-terrain vehicles and utility-type vehicles which have been modified or retrofitted with after-market parts to include additional equipment not required by Neb. Rev. Stat. §§60-6,357 and 60-6,358 shall not be registered under the Motor Vehicle Registration Act nor shall such modified or retrofitted vehicles be eligible for registration in any other category of vehicle defined in the act and these city ordinances.

(Ref. Neb. Rev. Stat. §60-6,355) (Am. by Ord. No. 524, 8/16/16)

SECTION 3-411: ALL-TERRAIN AND UTILITY-TYPE VEHICLES; OPERATION; RESTRICTIONS

1. An ATV or a UTV shall not be operated on any controlled-access highway with more than two marked traffic lanes. The crossing of any controlled-access highway with more than two marked traffic lanes shall not be permitted except as provided in subsection (9) of this section. Subsections (2), (3), and (5) through (8) of this section authorize and apply to operation of an ATV or a UTV only on a highway other than a controlled-access highway with more than two marked traffic lanes.

2. An ATV or a UTV may be operated in accordance with the operating requirements of subsection (3) of this section:

- a. Outside the corporate limits of the City if incidental to the vehicle's use for agricultural purposes only between the hours of sunrise to sunset;
- b. Within the corporate limits the City if authorized by the City by ordinance adopted in accordance with this section only between the hours of sunrise to sunset;
- c. Within an unincorporated village if authorized by the County Board of the county in which the unincorporated village is located by resolution in accordance with this section.

3. An ATV or a UTV may be operated as authorized in subsection (2) of this section when such operation occurs only between the hours of sunrise and sunset. Any person operating an ATV or a UTV as authorized in subsection (2) of

this section shall have a valid Class O operator's license or a farm permit as provided in Neb. Rev. Stat. §60-4,126, shall have liability insurance coverage for the vehicle while operating it on a highway, and shall not operate such vehicle at a speed in excess of 30 miles per hour. The person operating the ATV or UTV shall provide proof of such insurance coverage to any peace officer requesting such proof within five days of such a request. When in operation as authorized in subsection (2) of this section, the headlight and taillight of the ATV or UTV shall be on and the vehicle shall be equipped with a bicycle safety flag which extends not less than 5 feet above ground attached to the rear of such vehicle. The bicycle safety flag shall be triangular in shape with an area of not less than 30 square inches and shall be day-glow in color.

4. ATVs and UTVs may be operated without complying with subsection (3) of this section on highways in parades which have been authorized by the State of Nebraska or any department, board, commission, or political subdivision of the state.

5. The crossing of a highway other than a controlled-access highway with more than two marked traffic lanes shall be permitted by an ATV or a UTV without complying with subsection (3) of this section only if:

- a. The crossing is made at an angle of approximately 90° to the direction of the highway and at a place where no obstruction prevents a quick and safe crossing;
- b. The vehicle is brought to a complete stop before crossing the shoulder or roadway of the highway;
- c. The operator yields the right-of-way to all oncoming traffic that constitutes an immediate potential hazard;
- d. In crossing a divided highway, the crossing is made only at an intersection of such highway with another highway; and
- e. Both the headlight and taillight of the vehicle are on when the crossing is made.

6. ATVs and UTVs may be operated outside the corporate limits of any municipality by electric utility personnel within the course of their employment in accordance with the operation requirements of subsection (3) of this section, except that the operation of the vehicle pursuant to this subsection need not be limited to the hours between sunrise and sunset.

7. The crossing of a controlled-access highway with more than two marked traffic lanes shall be permitted by a UTV if the operation is in accordance with the operation requirements of subsection (3) of this section and if the

following requirements are met:

- a. The crossing is made (i) at an intersection that is controlled by a traffic control signal; or (ii) at any intersection located outside the corporate limits of the City which is controlled by stop signs;
- b. The crossing at such intersection is made in compliance with the traffic control signal or stop signs.

(Ref. Neb. Rev. Stat. §60-6,356)

SECTION 3-412: ALL-TERRAIN VEHICLES; HEADLIGHTS

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

SECTION 3-413: ALL-TERRAIN AND UTILITY-TYPE VEHICLES; EQUIPMENT REQUIRED

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

SECTION 3-414: ALL-TERRAIN AND UTILITY-TYPE VEHICLES; MODIFICATIONS PROHIBITED

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

SECTION 3-415: ALL-TERRAIN AND UTILITY-TYPE VEHICLES; COMPETITIVE EVENTS; EXEMPTIONS

All-terrain vehicles and utility-type vehicles participating in competitive events may be exempted from Neb. Rev. Stat. §60-6,357 to 60-6,359 at the discretion of the director of motor vehicles. (Ref. Neb. Rev. Stat. §60-6,360)

SECTION 3-416: ALL-TERRAIN AND UTILITY-TYPE VEHICLES; ACCIDENT; REPORT REQUIRED

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 or utility-type vehicle involved in the accident shall give notice of the accident in the same manner as provided in Neb. Rev. Stat. §60-699. (Ref. Neb. Rev. Stat. §60-6,361)

SECTION 3-417: ALL-TERRAIN AND UTILITY-TYPE VEHICLES;
VIOLATIONS; PENALTY

1. Any person who violates Sections 3-410 to 3-416 shall be guilty of a Class III misdemeanor, except that if such person is convicted of a second or subsequent offense within any period of one year, he or she shall be guilty of a Class II misdemeanor. (See also Neb. Rev. Stat. §60-6,356 to 60-6,364)

2. Any violation of such sections which is also a violation under any other provision of Chapter VI, Article VI may be punished under the penalty provisions of such chapter.

(Ref. Neb. Rev. Stat. §60-6,362) (Am. by Ord. Nos. 495, 1/19/10; 524, 8/16/16)

SECTION 3-418: ALL-TERRAIN AND UTILITY-TYPE VEHICLES;
ENFORCEMENT

Any peace officer of the State or of any political subdivision, including conservation officers of the Game and Parks Commission, shall be charged with the enforcement of the provisions of Sections 3-411 to 3-416 of this article.

SECTION 3-419: MINI-BIKES; UNLAWFUL OPERATION

It is unlawful for any mini-bike or similar two-, three- or four-wheeled miniature vehicles whose visibility, power and equipment are inadequate for mixing with normal vehicular traffic upon the streets and highways to be operated on any such street or highway. 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 a seat height less than 25 inches from the ground or any other two-wheel motor vehicle primarily designed by the manufacturer for off-road use only. (Ref. Neb. Rev. Stat. §60-2101.01, 60-2107)

SECTION 3-420: 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-bikes.

SECTION 3-421: 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. (Ref. Neb. Rev. Stat. §60-2102)

SECTION 3-422: 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. (Ref. Neb. Rev. Stat. §60-2106)

ARTICLE V - PENAL PROVISION

SECTION 3-501: VIOLATION; PENALTY

Any person, firm, association or corporation violating any of the provisions of Chapter III hereof for which no other penalty is imposed shall, upon conviction, be deemed guilty of a misdemeanor, and be fined in a sum of not more than \$500.00 for each offense, and each day's maintenance of the same shall constitute a separate offense.

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ARTICLE IV - OCCUPATION TAX

SECTION 4-101: PURPOSE

For the purpose of raising revenue, there is hereby levied an occupational tax upon such occupations and businesses carried on within the corporate limits of this city and in such amounts as set forth below and on file with the city clerk:

Non-resident salesmen, per permit duration, per day \$ 5.00

Non-resident salesmen, per permit duration, per season 25.00

and every person, firm, association or corporation carrying on the occupation or business specified within the limits of said city shall pay to the city treasury the sum named as a tax upon such occupation or business. All money so collected shall be credited to the General Fund of said city; the said money shall be and remain under the control of the City Council for such use and purpose as other monies belonging to the General Fund.

SECTION 4-102: FIRE INSURANCE COMPANIES

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

SECTION 4-103: INTERSTATE OR GOVERNMENT BUSINESS

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

SECTION 4-104: COLLECTION DATE

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

SECTION 4-105: CERTIFICATES

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

SECTION 4-106: DUTIES OF PARTIES LIABLE

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

SECTION 4-107: PAID TO TREASURER; NOT ASSIGNABLE

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

SECTION 4-108: NO REFUND

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

SECTION 4-109: VIOLATION; PENALTY

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

ARTICLE II - LIQUOR REGULATIONS

SECTION 4-201: TERMS, DEFINED

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

SECTION 4-202: LICENSE REQUIRED

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

SECTION 4-203: LIQUOR APPLICATION; RETAIL LICENSING STANDARDS

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

1. The adequacy of existing law enforcement resources and services in the area.
2. Existing motor vehicle and pedestrian traffic flow in the vicinity of the proposed licensed premises, potential traffic and parking problems, and the proximity and availability of on- street and off-street parking.
3. Zoning restrictions.
4. Sanitation or sanitary conditions on or about the proposed licensed premises.
5. The existing population and projected growth, both city- wide and within the area to be served.
6. Existing liquor licenses, the class of such license and the distance and time of travel to such licenses.

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

8. Whether the type of business or activity proposed to be operated in conjunction with the proposed license is and will be consistent with the public interest.

(Ref. Neb. Rev. Stat. §53-134)

SECTION 4-204: SALE TO MINORS AND INCOMPETENTS PROHIBITED

1. No person shall within this city sell, give away, dispose of, exchange or deliver, or permit the sale, gift or procuring of any alcoholic liquors, to or for any person who is physically or mentally incapacitated by the consumption of such liquors.

2. No minor shall have in his/her possession alcoholic liquor in any tavern, public place, street or alley in this city or inside a vehicle while upon any street, alley or public place in this city.

3. No minor shall obtain or attempt to obtain alcoholic liquor, by misrepresentation of age or any other method, in any tavern or other public place where liquor is sold in this city.

(Ref. Neb. Rev. Stat. §53-180)

SECTION 4-205: HOURS OF SALE

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

Alcoholic Liquors (except beer and wine)

Secular Days

Off Sale 6:00 A.M. to 1:00 A.M.

On Sale 6:00 A.M. to 1:00 A.M.

Sundays

Off Sale 12:00 Noon to 1:00 A.M.

On Sale 12:00 Noon to 1:00 A.M.

Beer and Wine

Secular Days

Off Sale 6:00 A.M. to 1:00 A.M.

On Sale 6:00 A.M. to 1:00 A.M.

Sundays

Off Sale 6:00 A.M. to 1:00 A.M.

On Sale 6:00 A.M. to 1:00 A.M.

Provided, that 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) and (H), Reissue 1943.

No person or persons shall consume any alcoholic beverages on licensed premises for a period of time longer than 15 minutes after the time fixed herein for stopping the sale of alcoholic beverages on said premises. For the purposes of this section, "on sale" shall be defined as alcoholic beverages sold by the drink for consumption on the premises of the licensed establishment; "off sale" shall be defined as alcoholic beverages sold at retail in the original container for consumption off the premises of the licensed establishment.

Nothing in this section shall be construed to prohibit licensed premises from being open for other business on days and hours during which the sale or dispensing of alcoholic beverages is prohibited by this section.
(Ref. Neb. Rev. Stat. §53-179)

SECTION 4-206: RESTRICTIONS ON PLACE OF CONSUMPTION

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

SECTION 4-207: OCCUPATION TAX

Occupation taxes for these and similar retail establishments shall be:

Retailer of beer only, for consumption on the premises, Class A)	\$ 50.00 per year
Retailer of beer only, for consumption off the premises (sale in original package only) (Class B)	50.00 per year
Retailer of alcoholic liquors, including beer, for consumption on and off the premises (sale in original package only) (Class C)	500.00 per year
Retailer of alcoholic liquors, including beer, for consumption off the premises (sale in original package only) (Class D)	300.00 per year
Retailer of alcoholic liquors, including beer, for consumption on the premises (Class I License)	400.00 per year
Retailer of beer and wine only, for consumption on the premises of restaurants only, (Class J)	150.00 per year

Retailer of alcoholic liquors pursuant to the special designated permit issued to said retailer by the Nebraska Liquor Control Commission under Neb. Rev. Stat. §53-124.11

50.00 per year

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

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

(Ref. Neb. Rev. Stat. §17-525)

SECTION 4-208: ENTRY OF PREMISES FOR INSPECTION

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

SECTION 4-209: FORM FOR CITIZEN COMPLAINT

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

To the mayor and City Council of the City of Minatare, Nebraska.

The undersigned respectfully state:

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

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

STATE OF NEBRASKA)
) ss
COUNTY OF _____)

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

Notary Public

(Ref. Neb. Rev. Stat. §53-134.04)

SECTION 4-210: FORMS, CONTINUED; PROCEDURE

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

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

employed by him/her. The complainants shall be present and may be represented by counsel employed by them. The mayor and the City Council shall, within 30 days from the date the complaint is filed, by resolution, dispose of the complaint, which resolution shall be deemed the final order for purposes of appeal to the Nebraska Liquor Control Commission.
(Ref. Neb. Rev. Stat. §53-134.04)

SECTION 4-211: COMPLAINT INITIATED BY CITY COUNCIL

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

SECTION 4-212: PREREQUISITES TO DELIVERY OF LICENSE

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

SECTION 4-213: ACTION ON APPLICATION FOR LICENSE

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

Notice of the time and place of such hearing shall be published in a legal newspaper in this city one time, not less than three nor more than seven days before the time of hearing. The hearing shall be held not more than 21 days after the date of receipt of the notice and copy of the application by the city clerk. After said hearing, the mayor and City Council shall, by resolution, spread at large in the minute record of their proceedings, recommend either the issuance or the refusal of said license. The city clerk shall thereupon mail to the Nebraska

Liquor Control Commission by first class mail, postage prepaid, a copy of the resolution which shall state the cost of the published notice.
(Ref. Neb. Rev. Stat. §53-131, 53-132, 53-134)

SECTION 4-214: RENEWAL OF LICENSE

The city clerk shall cause to be published in a legal newspaper in this city one time between January 10th and January 30th of each year, individual notice of the right of automatic renewal of each retail liquor and beer license for which provisions are made in Neb. Rev. Stat. §53-124(5), R.R.S. Neb. 1943 in the following form:

NOTICE OF RENEWAL OF RETAIL LIQUOR LICENSE

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

(Name of Licensee) (Address of licensed premises)

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

(NAME)
(CITY CLERK)

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

SECTION 4-215: PROTESTS AGAINST RENEWAL

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

SECTION 4-216: SPIKING BEER

It shall be unlawful for any person or persons who own, manage or lease any premise in which the sale of alcoholic beverages is licensed, to serve or offer for sale any beer to which there has been added any alcohol, or permit any person to add alcohol to any beer on the licensed premise of such licensee.

(Ref. Neb. Rev. Stat. §53-174)

SECTION 4-217: CHANGE OF PREMISES

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

SECTION 4-218: GAMBLING

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

SECTION 4-219: SALE FOR RESALE

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

SECTION 4-220: TRANSPORTATION OF LIQUOR OF RETAIL LICENSEES

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

SECTION 4-221: NO DELIVERY AFTER CLOSING HOURS

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

SECTION 4-222: RESTRICTIONS ON CONDUCT OF OTHER BUSINESS

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

SECTION 4-223: CONDUCT PROHIBITED ON LICENSED PREMISES

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

SECTION 4-224: ADVERTISEMENTS AND SALES

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

SECTION 4-225: SANITATION

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

SECTION 4-226: SALES FOR CASH ONLY

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

SECTION 4-227: DISPLAY OF LICENSE

Every licensee in this city shall cause his/her license to be framed and hung in plain view in a conspicuous place on the licensed premises.

(Ref. Neb. Rev. Stat. §53-148)

SECTION 4-228: REMOVAL OF INTOXICATED PERSONS FROM PUBLIC OR QUASI-PUBLIC PROPERTY

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

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

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

(Ref. Neb. Rev. Stat. §53-1,121)

SECTION 4-229: CATERING LICENSE

1. The holder of a Class C, Class D, or Class I license issued under subdivision (5) of Section 53-124 RS Neb., or a brewpub license, may obtain an annual catering license as prescribed in this section. Any such licensee desiring to

obtain a catering license shall file an application with the Liquor Control Commission.

2. Upon receipt from the Commission of the notice and copy of the application as provided in Section 53-124.12 RS Neb., the City Council shall fix a time and place at which a hearing will be held and at which time the City Council shall receive evidence, under oath, either orally or in writing, from the applicant and any other person concerning the propriety of the issuance of such license. Such hearing shall be held not more than 45 days after the receipt of the notice from the Commission. The City Council may examine, or cause to be examined, under oath, any applicant; examine, or cause to be examined, the books and records of any such applicant, to hear testimony, and to take proof for its information in the performance of its duties. For purposes of obtaining any of the information desired, the City Council may authorize its agent, the city clerk or the city attorney, to act on its behalf.

3. 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 nor more than 14 days before the time of the hearing. Such notice shall include, but not be limited to, a statement that all persons desiring to give evidence before the City Council in support of or in protest against the issuance of such license may do so at the time of the hearing.

4. The City Council shall, after the hearing provided in subsection (2), approve or deny the application within 45 days of receipt of such application from the Commission, and shall cause to be spread at large in the minute record of its proceedings a resolution approving or denying such application. The city clerk shall thereupon mail or deliver to the Commission a copy of the decision to approve or deny the application.

5. Any resolution denying an application rendered by the City Council shall be in writing or stated in the record and shall be accompanied by findings. The findings shall consist of concise statements of the conclusions upon each contested issue. The applicant shall be notified of the decision in person or by mail.

6. The City Council, with respect to catering licensees within its corporate limits, may cancel a catering license for cause for the remainder of the period for which such license is issued. Any person whose catering license is canceled may appeal to the District Court.

(Ref. Neb. Rev. Stat. §53-124.12)

ARTICLE III - NONRESIDENT SALESMEN

SECTION 4-301: REGULATION

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

SECTION 4-302: HOURS OF SOLICITATION

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

SECTION 4-303: EXCEPTIONS

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

ARTICLE IV - PLUMBERS

SECTION 4-401: LICENSED PLUMBER DEFINED

The term "licensed plumber" as used in the ordinances of this city is hereby defined to denote any person to whom a plumber's license has been duly issued or renewed, as hereinafter provided, which has not been revoked or terminated by lapse of time.

SECTION 4-402: PROCEDURE TO OBTAIN LICENSE

Any person wishing to obtain a license as a plumber shall file in the office of the city clerk a written application asking to become a licensed plumber and stating his/her willingness to be governed in all respects by the ordinances of said city and all rules and regulations now in effect or hereafter to be adopted by said city concerning its utility systems. Such application shall be presented by the city clerk to the City Council at its next meeting thereafter held, and upon the City Council being satisfied of the business capacity, qualifications and good reputation of the applicant and of his/her worthiness to receive a license, and upon his/her payment to the city clerk of a license fee of \$5.00 and his/her filing with the city clerk of a bond with corporate surety to be approved by the City Council in the penal sum of \$2,000.00, conditioned upon his/her indemnifying and keeping harmless the City from all liability for any damage arising from any negligence or unskilled act in doing or protecting his/her work, or from any unfaithful or inadequate work done in pursuance of his/her license, and conditioned upon his/her restoring the streets, alleys, sidewalks and pavements over the pipes he/she may lay, and filling all excavations made by him/her so as to leave said streets, alleys, sidewalks and pavements in as good condition as he/she found them, and keeping and maintaining the same in good order to the satisfaction of the City Council for the period of one year next thereafter and that he/she will pay all fines that may be imposed upon him/her for a violation of any of the ordinances, rules and regulations adopted by this city and in force during the term of his/her license, said council may grant to such applicant a license to be issued by the city clerk, authorizing the applicant to engage in business as a licensed plumber in said city for and during the then current municipal year. Said license and bond shall cover all employees of the applicant.

SECTION 4-403: RENEWAL OF LICENSES

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

SECTION 4-404: TERM OF LICENSE

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

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

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

ARTICLE V - TRAILER REGULATIONS

SECTION 4-501: TERMS DEFINED

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

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

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

SECTION 4-502: TRAILER COURTS; PERMIT REQUIRED

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

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

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

In the event that all of the terms and conditions of this ordinance have been complied with and the City Council votes to permit such trailer court to exist, then

the city clerk shall issue a permit to such applicant, which permit shall be for a one-year period, to be renewed annually.

SECTION 4-503: PERMIT RENEWAL

The annual fee for such permit shall be set by resolution of the City Council and shall be on file at the office of the city clerk. The same procedure shall apply for the renewal of a permit as was heretofore prescribed for the issuance of a permit. No permit shall be issued for any period longer than one year.

SECTION 4-504: ASSIGNING PERMIT PROHIBITED

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

SECTION 4-505: PERMIT REVOCATION

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

SECTION 4-506: UNIT SPACES

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

SECTION 4-507: DRAINAGE

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

SECTION 4-508: PLUMBING FACILITIES

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

SECTION 4-509: WASTE DISPOSAL

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

SECTION 4-510: ELECTRICAL SUPPLY

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

SECTION 4-511: UNLAWFUL PARKING

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

SECTION 4-512: CONVERSION

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

SECTION 4-513: EXCEPTIONS

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

different location, all the provisions of this article shall become immediately applicable thereto.

SECTION 4-514: LIABILITY

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

SECTION 4-515: INSPECTIONS

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

ARTICLE VI – JUNK YARDS

SECTION 4-601: PROHIBITION

The use of any lot, piece or parcel of real estate within the corporate limits of the City of Minatare for the depository of metal scraps, bottles, rags, junked automobiles, or salvage building materials be and the same hereby is strictly prohibited.

SECTION 4-602: PENALTY

Any owner or occupant of real property within the corporate limits of the City who permits such property to be used as a depository of metal scraps, bottles, rags, junked automobiles or salvage building materials contrary to Section 4-601 above shall be guilty of a misdemeanor and fined in a sum of not more than \$500.00. Each day's maintenance of such prohibited items on such property shall constitute a separate offense.

ARTICLE VI – LOTTERY

SECTION 4-701: SALES OUTLET LOCATIONS; APPROVAL REQUIRED; QUALIFICATION STANDARDS

1. The lottery operator whom the City Council contracts to conduct its lottery shall not operate the lottery at a sales outlet location other than the location of the lottery operator without prior approval of the sales outlet location by the City Council. The City Council shall approve or disapprove each sales outlet location and individual, sole proprietorship, partnership or corporation which desires to conduct the lottery at its sales outlet location solely on the basis of the qualification standards prescribed in subsection (2).

2. Any individual, sole proprietorship, partnership or corporation which seeks to have its location approved as an authorized sales outlet location shall (a) first obtain a retail license for consumption on the premises pursuant to Chapter 53, Article 1, RS Neb.; (b) not have been convicted of, forfeited bond upon a charge of, or pleaded guilty to forgery, larceny, extortion, conspiracy to defraud, willful failure to make required payments or reports to a governmental agency at any level, filing false reports with any such agency, of any similar offense or offenses or any crime, whether felony or misdemeanor, involving gambling activity or moral turpitude; (c) not have had a gaming license revoked or cancelled under the Nebraska Bingo Act, the Nebraska Pickle Card Lottery Act, the Nebraska Lottery and Raffle Act, or the Nebraska County and City Lottery Act; and (d) be fit, willing, and able to properly provide the service proposed in conformance with all provisions and requirements of the Nebraska County and City Lottery Act and the rules and regulations adopted and promulgated pursuant to the act.

3. If the person seeking to have its location approved as an authorized sales outlet location is the partnership or corporation, the qualification standards shall apply to every partner of such partnership, every officer of such corporation, and stockholder owning more than 10% of the stock of such corporation.

4. The City Council shall notify the Department of Revenue of all approved lottery locations within 30 days of approval.
(Ref. Neb. Rev. Stat. §9-642.01)

SECTION 4-702: PARTICIPATION; RESTRICTIONS

1. No person under 19 years of age shall play or participate in any way in the lottery established and conducted by the City.

2. No owner or officer of a lottery operation with whom the City contracts to conduct its lottery shall play the lottery conducted by the City. No owner or officer of an authorized sales outlet location for the City shall play the lottery conducted by the City.

3. Nothing shall prohibit any member of the City Council, a municipal official, or the immediate family of such member or official, from playing in the lottery established and conducted by the City Council; provided that such person is 19 years of age or older.

4. For purposes of this section, "immediate family of a member of the City Council or a municipal official" shall mean (a) a person who is related to a member or official by blood, marriage or adoption and resides in the same household, or (b) a person who is claimed by the member or official, or the spouse of the member or official, as a dependent for federal income tax purposes.

(Ref. Neb. Rev. Stat. §9-646)

ARTICLE VIII - PENAL PROVISION

SECTION 4-801: VIOLATION; PENALTY

Any and all persons violating any of the provisions of the several articles of this chapter for which penalty is not therein provided shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in a sum of not more than \$500.00 for each offense. Each day's maintenance of the same shall constitute a separate offense.

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CHAPTER VI

PUBLIC UTILITIES

ARTICLE I - UTILITIES GENERALLY

SECTION 6-101: BILLING

Utility bills shall be a joint bill for all utilities and shall be due and payable monthly at the office of the city clerk. It shall be the duty of the city clerk to compute or cause to be computed a joint utility bill by the end of each month according to the appropriate provisions of this Code. It shall be the duty of all utility customers to present themselves monthly at the office of the city clerk and pay their bill for all utility charges. Bills shall be deemed delinquent if not paid by the 25th day of the month. A late penalty charge of 10% of the charges will be added to each delinquent bill.

(Ref. Neb. Rev. Stat. §17-537, 18-503, 19-1404)

SECTION 6-102: DISCONTINUANCE OF SERVICE, NOTICE PROCEDURE

The City shall have the right to discontinue services and remove its properties if the charges for such services are not paid within 20 days after the date the same become delinquent. Before any termination, the utilities superintendent shall first give notice by first class mail or in person to any domestic subscriber whose service is proposed to be terminated. If notice is given by first class mail, such mail shall be conspicuously marked as to its importance. Service shall not be discontinued for at least seven days, weekends and holidays excluded. As to any subscriber who has previously been identified as a welfare recipient to the City by the Department of Social Services, such notice shall be by certified mail and notice of such proposed termination shall be given to the Department of Social Services.

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 Department 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 Department 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 resident within such subscriber's household has an existing illness or handicap which would cause such subscriber or resident to suffer an immediate and serious health hazard by the disconnection of the utility's service to that household. Such certificate shall be filed with the city clerk within five days of receiving notice under this section and will prevent the disconnection of the utility services for a period of 30 days from such filing. Only one postponement of disconnection shall be allowed under this subsection for each incidence of non-payment of any due account;

8. The cost that will be born by the domestic subscriber for a restoration of service;
9. A statement that the domestic subscriber may arrange with the City for an installment payment plan.
10. A statement to the effect that those domestic subscribers who are welfare recipients may qualify for assistance in payment of their utility bill and that they should contact their caseworker in that regard; and
11. Any additional information not inconsistent with this section which has received prior approval from the City Council.

A domestic subscriber may dispute the proposed discontinuance of service by notifying the utilities superintendent with a written statement that sets forth the reasons for the dispute and the relief requested. If a statement has been made by the subscriber, a conference shall be held before the utility may discontinue services.

The procedures adopted by the City Council for resolving utility bills, copies of which are on file in the office of the city clerk, are hereby incorporated by reference in addition to any amendments thereto and are made a part hereof as though set out in full.

This section shall not apply to any disconnection or interruptions of service made necessary by the utility for reasons of repair or maintenance or to protect the health or safety of the domestic subscriber or of the general public.
(Ref. Neb. Rev. Stat. §7-1605 et seq.)

SECTION 6-103: LIEN

In addition to all other remedies, if a consumer shall for any reason remain indebted to the City for utility service furnished, such amount due, together with any rents and charges in arrears, shall be considered a delinquent utility rent which is hereby declared to be a lien upon the real estate for which the same was used. The city clerk shall notify in writing, or cause to be notified in writing, all owners or premises of their agents whenever their tenants or lessees are 60 days or more delinquent in the payment of utility rent. It shall be the duty of the city clerk on June 1 of each year to report to the City Council a list of all unpaid accounts due for utilities together with a description of the premises upon which

the same was used. The report shall be examined, and if approved by the City Council, shall be certified by the city clerk to the county clerk to be collected as a special tax in the manner provided by law.

SECTION 6-104: DIVERSION OF SERVICES, METER TAMPERING,
UNAUTHORIZED RECONNECTION, PROHIBITED;
EVIDENCE

1. Any person who connects any pipe or conduit supplying water, without the knowledge and consent of the City, in such manner that any portion thereof may be supplied to any instrument by or at which water may be consumed without passing through the meter provided for measuring or registering the amount or quantity passing through it, and any person who knowingly uses or knowingly permits the use of water obtained in the above mentioned unauthorized ways, shall be deemed guilty of an offense.

2. Any person who willfully injures, alters, or by any instrument, device or contrivance in any manner interferes with or obstructs the action or operation of any meter made or provided for measuring or registering the amount or quantity of water passing through it without the knowledge and consent of the City, shall be deemed guilty of an offense.

3. When water service has been disconnected pursuant to Neb. Rev. Stat. §70-1601 to 70-1615, or Section 6-102 of this Code, any person who reconnects such service without the knowledge and consent of the City shall be deemed guilty of an offense.

4. Proof of the existence of any pipe or conduit connection or reconnection or of any injury, alteration or obstruction of a meter, as provided in this section, shall be taken as prima facie evidence of the guilt of the person in possession of the premises where such connection, reconnection, injury, alteration, or obstruction is proved to exist.

(Ref. Neb. Rev. Stat. §86-329 through 86-331)

SECTION 6-105: DIVERSION OF SERVICES; PENALTY

The City may bring a civil action for damages against any person who commits, authorizes, solicits, aids, abets or attempts (a) bypassing, (b) tampering, or (c) unauthorized metering when such act results in damages to a city utility. The City may bring a civil action for damages pursuant to this section against any person receiving the benefit of utility service through means of bypassing, tampering or unauthorized metering.

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 to reasonable calculation; or
2. Liquidated damages or \$750.00 if the amount of actual damage or loss is not susceptible to reasonable calculation.

In addition to damage or loss under subdivision 1 or 2 of this section, the City may recover all reasonable expenses and costs incurred on account of the bypassing, tampering or unauthorized metering including, but not limited to, disconnection, reconnection, service calls, equipment, costs of the suit, and reasonable attorney fees in cases within the scope of Neb. Rev. Stat. §25-1801.

There shall be a rebuttable presumption that a tenant or occupant at any premises where bypassing, tampering or unauthorized metering is proven to exist caused or had knowledge of such bypassing, tampering or unauthorized metering if the tenant or occupant (a) had access to the part of the utility supply system on the premises where the bypassing, tampering or unauthorized metering is proven to exist and (b) was responsible or partially responsible for payment, either directly or indirectly, to the utility or to any other person for utility services to the premises.

There shall be a rebuttable presumption that a customer at any premises where bypassing, tampering or unauthorized metering is proven to exist caused or had knowledge of such bypassing, tampering or unauthorized metering if the customer controlled access to the part of the utility supply system on the premises where the bypassing, tampering or unauthorized metering was proven to exist.

The remedies provided by this section shall be deemed to be supplemental and additional to powers conferred by existing laws and the remedies provided in this section are in addition to and not in limitation of any other civil or criminal statutory or common law remedies.

(Ref. Neb. Rev. Stat. §86-331.01 through 86-331.04)

ARTICLE II – WATER DEPARTMENT

SECTION 6-201: OPERATION AND FUNDING

The City owns and operates the city water department through the utilities superintendent. The City Council, for the purpose of defraying the cost, management and maintenance of the city 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 city water department and shall faithfully carry out the duties of his/her office. The utilities superintendent shall have the authority to make rules and regulations for the sanitary and efficient management of the water department, subject to the supervision and review of the City Council. The City Council shall set the rates to be charged for services rendered by ordinance and shall file a copy of the rates in the office of the city clerk for public inspection at any reasonable time. (Ref. Neb. Rev. Stat. §17-531, 17-534, 19-1305)

SECTION 6-202: TERMS DEFINED

The following definitions shall be applied throughout this article. Where no definition is specified, the normal dictionary usage of the word shall apply.

"Consumer" and "customer" shall have the same meaning and are equivalent terms.

"City" shall mean the City of Minatare, Nebraska, and the term "municipal" shall refer to the same.

"Main" is hereby defined to be any pipe, other than a supply or service pipe, that is used for the purpose of carrying water to, and disbursing the same, in the City.

"Plumbing code" shall refer to the most recent edition of the Uniform Plumbing Code, published by the International Association of Plumbing and Mechanical Officials.

"Separate premises" is hereby defined to mean that only one consumer shall procure water from the same service or supply pipe. Any other property using the same service or supply pipe is to be considered a separate premises for billing and installation of a separate water meter.

"Service pipes" shall mean any pipe extending from the shut-off, stop box, or curb cock at or near the lot line to and beyond the property line of the consumer to the location on the premises where the water is to be disbursed.

"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.

"Utilities superintendent" shall mean that official appointed by the City Council to have the direct management and control of its water department. Such official may, additionally, coincidentally or alternatively, perform the functions of, bear the title of, and be vested with the authority of, its building inspector, electrical inspector, plumbing inspector or zoning inspector.

SECTION 6-203: CONSUMER'S APPLICATION; TAP FEE

Every person or persons desiring a supply of water must make application therefor to the city clerk upon the blanks to be furnished by him/her for that purpose. The applicant shall be required to accompany his/her application with a tap fee, said fee to be set from time to time by resolution of the City Council. Water may not be supplied to any house or private service pipe except upon the order of the utilities superintendent. The department shall not supply water service to any person outside the corporate limits without special permission from the City Council; provided, the entire cost of laying mains, service pipe and supply pipe shall be paid by the consumer. Nothing herein shall be construed to obligate the City to provide water service to non-residents.

SECTION 6-204: WATER CONTRACT

The City through its water system shall furnish water to persons within its corporate limits whose premises abut a street or alley in which a commercial main now is or may hereafter be laid. The City may furnish water to persons within its corporate limits whose premises do not abut a street or alley in which a city commercial main is now or may hereafter be laid, and may also furnish water to persons whose premises are situated outside the corporate limits of the City, as and when, according to law, the City Council may see fit to do so. The rules, regulations and water rates hereinafter named in this article shall be considered a part of every application hereafter made for water service and shall be considered a part of the contract between every consumer now or hereafter served. Without further formality, the making of application on the part of any applicant or the use of consumption of water service by present consumers thereof and the furnishing of water service to said consumer shall constitute a contract between the consumer and the City, to which said contract both parties are bound. If the consumer shall violate any of the provisions of said contract or any reasonable rules and regulations that the City Council may hereafter adopt, the utilities superintendent or his/her agent may cut off or disconnect the water service 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 utilities superintendent or his/her agent.

(Ref. Neb. Rev. Stat. §17-537)

SECTION 6-205: WATER SERVICE CONTRACTS; NOT TRANSFERABLE

Contracts for water service are not transferable. Any person wishing to change from one location to another shall make a new application and sign a new contract. If any consumer shall sell or 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 from the said premises. If the consumer should fail to give such notice, he/she shall be charged for all water used on the said premises until the superintendent is otherwise advised of such circumstances.

SECTION 6-206: INSTALLATION EXPENSE

1. The expense of providing water service to the curb stop at or near the lot line and the cost of the installation of the stop box and meter shall be paid by the City. The customer shall be required to pay the expense of procuring the services of a licensed plumber and of furnishing and installing pipe, trenching and the necessary labor to bring water service from said lot line to the place of dispersement.

2. If any new resident desires a tap, meter and meter pit installed, said resident shall be responsible for the cost and fees associated with the meter itself and the cost and fees of the installation. Said costs for installation for the tap, meter and meter pit on the same side of the street for the residence shall be \$1,500.00 and the cost for the installation of the tap, meter and meter pit on the opposite side of the street for the residence shall be \$2,800.00. Any resident who desires an increase from any residential meter to a larger meter must pay the difference between the cost of installation of a current meter and the larger meter, which said cost shall be valued at the market value of the meter and the meter pit at the time of the request.

(Am. Ord. No. 517, 7/21/15)

SECTION 6-207: INSTALLATION PROCEDURE

1. In making excavations in streets, alleys or sidewalks for the purpose of installing pipe or making repairs, the paving, stones and earth must be removed and deposited in a manner that will occasion the least inconvenience to the public and provide for adequate drainage. No person shall leave an excavation made in the street, alley or sidewalk open at any time without a barricade. After service pipes are laid, the streets, alleys and sidewalks shall be restored to good condition. If the excavation in any street, alley or sidewalk is left open or unfinished for a period of 24 hours or more, the utilities superintendent shall have the duty to finish or correct the work and all expenses so incurred shall be charged to the consumer.

2. All installations or repairs of pipes require two inspections by the utilities superintendent: (A) when connections or repairs are completed and before the pipes are covered; and (B) after the dirt work is completed and the service is restored. It is the consumer's responsibility to notify the utilities superintendent at the time the work is ready for each inspection.

3. All installation shall be done under the supervision and strictly in accordance with the rules, regulations and specifications prescribed by the utilities superintendent, provided that said rules, regulations and specifications have been reviewed and approved by the City Council.
(Ref. Neb. Rev. Stat. §17-537)

SECTION 6-208: PROHIBITION OF LEAD PIPES, SOLDER AND FLUX

Any pipe, solders or flux used in the installation or repair of any residential or non-residential facility which is connected to the public water supply system shall be lead free. For purposes of this section, "lead free" shall mean: (1) solders and flux, not more than .2% lead, and (2) pipe and pipe fittings, not more than 8% lead. (Ref. Neb. Rev. Stat. §71-5301.01)

SECTION 6-209: INSTALLATION REQUIREMENTS

1. Upon approval of the customer's application for water service, the City shall be responsible for tapping the main at a location chosen by the City, which shall install all city mains. The City shall be responsible for installation of the stop cock, corporation cock meter, and supply pipe and service pipe to the curb stop. All supply pipe and service pipe from the curb stop to the premises to be served shall be the responsibility of the customer.

2. All new lines shall have check valves installed and such installation shall be inspected and approved by the utilities superintendent. He shall have the authority to refuse to turn on the city water on any premises until the plumbing has been made to comply with all statutory sections.

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SECTION 6-210: MAINTENANCE AND REPAIRS

1. Repairs to service and supply pipe from the curb stop to the premises shall be made by and at the expense of the customer. Repairs to the service and supply pipe to the curb stop and all other repairs to the property of the water department shall be the City's responsibility. 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 utilities superintendent at the expense of the City; 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 it must be repaired or replaced, the 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 meter to be damaged or destroyed by freezing shall always be considered negligence on the part of the customer.

2. All meters shall be tested at the customer's request at his/her expense 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.

3. Should a consumer's meter fail to register properly, he/she 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.

(Ref. Neb. Rev. Stat. §17-542)

SECTION 6-211: WATER RATES; CLASSIFICATION; BILLING AND COLLECTIONS

1. The City Council has the power and authority to fix the rates to be paid by water consumers for the use of water from the water department. All such fees shall be on file for public inspection at the office of the city clerk. The City Council may, in its discretion, set different rates for such reasonable classifications of users as it may deem equitable and proper. In the incidence of multiple dwellings, trailer courts or similar housing arrangements, a separate charge shall be made for each distinct living unit.

2. The utilities superintendent shall bill the consumers and collect all money received by the City on the account of the water department. He/she shall faithfully account for and pay to the city treasurer all revenue collected, making his/her receipt therefor in duplicate, keeping one and filing the other in the water department's official records.

(Ref. Neb. Rev. Stat. §17-540)

SECTION 6-212: WATER SYSTEM IMPROVEMENTS; USER CHARGES

1. The City is constructing an improved water system (2011) and must pay certain expenses associated with the improvements. Users of said improved water system shall be charged accordingly. The proceeds of such charges for the water system improvement/water meter installation project will be used for the purpose of operating, maintaining and retiring the debt for such water system improvement project water meters.

2. Definitions:

A. "Operation and maintenance" shall mean all expenditures during the useful life of the improved water system water meters for materials, labor, utilities, and other items which are necessary for managing and maintaining, including replacements for the said meters to achieve the capacity and performance for which such system was designed and constructed.

B. "Residential" shall mean any landowner whose lot, parcel of real

estate or building is used for domestic dwelling purposes only.

- C. "Industrial or commercial" shall mean any landowner whose lot, parcel of real estate or building is used for industrial, commercial purposes and not for domestic dwelling purposes.
- D. "Shall" is mandatory; "may" is permissive.
- E. "Water meter user charge" shall mean the total water meter service charge which is levied in proportional and adequate manner for the cost, operation, maintenance, replacement and debt retirement of bonded capital in connection with such water meter installation and improved water system.
- F. "Water meters" shall mean the devices that are attached to the improved water system, allowing residential and industrial/commercial users access to the improved water system of the City.

3. The water meter user charge system shall generate sufficient annual revenues to pay all costs of annual operation and maintenance including replacement and costs associated with debt retirement of bonded capital for financing the improved water meter system for a period of three (3) years, which the City shall designate to be paid by the user charge system and shall be recorded in the Water Fund.

4. Six different sizes of water meters shall be installed by the City in and for residential and industrial/commercial users. The size of each meter shall be determined on a case-by-case basis, with the goal of providing the appropriate size of meter to effectuate the optimal use of the improved water system.

<i>Meter Size</i>	<i>Cost</i>
¾"	\$ 42.50
1"	95.00
1½"	182.50
2"	280.00
3"	525.00
4"	875.00

5. Each residential user shall pay for water meter access to the services of the improved water system, regardless of actual use or consumption of water from the improved water system. Residential users shall pay a monthly user charge of thirty-five dollars (\$35.00) regardless of use or consumption of the water of the improved water system for a period of three (3) years. After said time has expired, residential users shall only pay a monthly user charge if such user desires access and consumes water from the improved water system. If such user is using or consuming water from the improved water system, said user

shall only be obligated to pay for the usage charges currently associated with the use and consumption of the water provided by the City; the flat fee of \$35.00 will be waived during the three-year charge period if the consumer is using the water but will be subject to water rates as established by the City for base fees and consumption in Ordinance 502. If at any time the user discontinues service for the consumption of water, said user will be charged the water meter access charge of \$35.00 per month for the remainder of the three-year charge period.

6. Industrial/commercial users shall pay a monthly user charge of \$280.00 regardless of use or consumption of the water of the improved water system for a period of three years. After said time has expired, industrial/commercial users shall only pay a monthly water meter user charge if such user desires access and consumes water from the improved water system. If such user is using or consuming water from the improved water system, said user shall only be obligated to pay for the usage charges currently associated with the use and consumption of the water provided by the City; the flat fee of \$280.00 will be waived during the three-year charge period if the consumer is using the water, subject to the base rate and user rates fees as adopted and enacted by the City in Ordinance 502. If at any time the user discontinues service for the consumption of water, said user will be charged the water meter access charge of \$280.00 for the remainder of the three-year charge period.

7. All water meter user charges provided for by this ordinance shall be billed and collected at the same time, in the same manner and by the same employees as water consumption charges are currently billed and collected by the City.

8. All water meter use charges prescribed herein shall be a lien upon the premises and real estate for which the water meter is supplied and used and if not paid when due, such charge shall be certified to the city clerk and may be recovered by the City in an action at law from the owner, person, firm or corporation requesting the water meter and service; or it may be certified to the tax assessor and assessed against the premises served and collected or returned in the same manner as other city taxes are certified, assessed, collected and returned. Bills for the water meter user charges made by this ordinance shall be rendered at the same time that bills are rendered for water consumption service of the City and all water meter use charges levied by this ordinance which are not paid at or before the usual water service charges are required to be paid shall be deemed to be delinquent and the water service of such consumer may be discontinued.

9. The mayor and City Council hereby find and determine that the monthly water meter charges established by this ordinance are just and equitable rates and charges to be paid to the City for the installation and maintenance of such water meters for such residential and industrial/commercial users.

10. All other provisions of this ordinance regarding water service and/or water meters not modified will remain in force and effect.
(Ord. No. 503, 3/15/11)

SECTION 6-213: WATER BILLS

Water bills shall be due and payable monthly upon receipt of the water bill. Said bills shall be payable at the office of the city clerk. (Ref. Neb. Rev. Stat. §17-542, 18-416)

SECTION 6-214: 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.

SECTION 6-215: RESTRICTED USE

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

SECTION 6-216: 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 or employees of the water department to open or attempt to open any public or private hydrant and draw water from the same or in any manner to interfere with the hydrants.

SECTION 6-217: INSPECTION

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

SECTION 6-218: 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 city water department. No person may deposit anything in a stop box or commit any act tending to obstruct or impair the intended use of any of the above-mentioned property without the written permission of the utilities superintendent.

SECTION 6-219: 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 city water department.

SECTION 6-220: MANDATORY HOOKUP

All persons whose property abuts a water main that is now or hereafter may be laid shall be required, upon notice of the City Council, to hook up with the city water system.

SECTION 6-221: WELLS AND OTHER UNDERGROUND FACILITIES OR CONTAMINATING FACILITIES; PERMIT REQUIRED

1. It shall be unlawful for any person, corporation or other legal entity to drill and/or operate any of the following facilities within the corporate limits of the City or within one half mile thereof without first having obtained the proper permit from the City Council: potable water well, any other well; cesspool; dumping grounds; feedlot; livestock pasture or corral; chemical product storage facility; petroleum product storage facility; pit toilet; sanitary landfill; septic tank; sewage treatment plant; sewage wet well.

2. In order to obtain a permit to drill and/or operate any of the facilities listed in Subsection (1) above, the owner of property on which the proposed facility is to be located must make application on the proper form provided by the City Council. Such application must be presented to the City Council at any regular or special meeting. After reviewing the application of any person desiring to drill or operate any of the above-described facilities, then the City Council must approve or deny said permit. Such approval or denial shall be in conformity with the rules and regulations of the state Department of Environmental Quality and Department of Health and Human Services and all other state and federal rules, regulations, standards, or statutes as those relate to the protection of the municipal water supply from surface water contamination and from seepage from sources of contamination and pollution.

SECTION 6-222: WELLS OR OTHER FACILITIES WITHIN DESIGNATED DISTANCE FROM MUNICIPAL WATER SOURCES; PROHIBITED

Under no circumstances shall the City Council approve any permit to drill or operate any of the below-described facilities within the indicated number of feet from the city water wells:

Potable water well	1,000 feet
Any other well	1,000 feet
Sewage lagoon	1,000 feet
Absorption or disposal field for waste	500 feet
Cesspool	500 feet
Dumping grounds	500 feet
Feedlot or feedlot runoff	500 feet
Livestock pasture or corral	500 feet
Chemical product storage facility	500 feet
Petroleum product storage facility	500 feet
Pit toilet	500 feet
Sanitary landfill	500 feet
Septic tank	500 feet
Sewage treatment plant	500 feet
Sewage wet well	500 feet

SECTION 6-223: WELLS AND OTHER UNDERGROUND FACILITIES OR CONTAMINATING FACILITIES; PENALTIES AND ABATEMENT PROCEDURE

In the event any of the above-described facilities are installed or operated without first having obtained a permit from the City and/or within a designated number of feet from the city water supply, then such facility shall be deemed a nuisance and the City Council shall abate the same as a public nuisance pursuant to Section 2-602.

SECTION 6-224: WELLS PROHIBITED IN SKINNER DEVELOPMENT

1. The City Council finds that an aquifer in certain areas of the City has been contaminated or otherwise adversely impacted by potentially hazardous substances and that identified public health, safety and welfare risks may affect drinking water drawn from certain areas of such impacted aquifers. The City Council has determined that is necessary and appropriate to prohibit and/or otherwise restrict the use of wells to supply water in and from the affected areas in order to protect city residents by minimizing the health, safety and welfare risks and minimizing the potential for migration of contaminated groundwater into presently unaffected groundwater.

2. This ordinance involves the following area: Tracts 8, 9, 10, 11, 12 and 13, acre tracts, situated in the Southwest Quarter of Section 5, Township 21 North, Range 53 West of the 6th P.M., Scotts Bluff County, Nebraska, more particularly described as follows:

Commencing at the Southwest corner of Section 5, thence easterly on the South line of the Southwest Quarter of Section 5 on an assumed bearing of S89°08'06"E, a distance of 1456.20 feet, thence bearing N00°11'13"W, a distance of 33.00 feet to the point of intersection with the Southwest corner of Tract 8, acre tracts and the North 33.00 foot right of way line of U.S. Highway 26, said point being monumented by a nail, said point also being the point of beginning, thence continuing northerly, bearing N00°11'13"W, a distance of 175.71 feet to the Northwest corner of Tract 8, acre tracts, thence easterly on the North line of Tracts 8, 9, 10, 11, 12 and 13, acre tracts, bearing S89°07'48"E, a distance of 1218.68 feet to the Northeast corner of Tract 13, thence southerly on the east line of Tract 13, acre tracts, bearing S01°09'41"E, a distance of 175.68 feet to the point of intersection with the Southeast corner of Tract 13, acre tracts and the North 33.00 foot right of way line of U.S. Highway 26, said point being monumented by a 5/8" rebar, thence westerly on said North right of way line and the South lines of Tracts 8, 9, 10, 11, 12 and 13, acre tracts, bearing N89°08'06"W, a distance of 1221.66 feet to the point of beginning, said tracts containing an area of 4.91 acres, more or less.

3. Due to said underground contamination (gasoline leakage), no person shall install, utilize, allow, permit, or provide for the installation or utilization of a well on any portion of the property as described, except as provided in Subsection 4 below. Any existing well at the time of the enactment of a restricted zone on the described property shall be plugged/abandoned at the expense of the applicant for that particular restricted zone. Water shall be provided by the city municipal water system. Except as provided in Subsection 4, no person shall use any groundwater from the described area.

4. A person may install or utilize, or allow, permit, or provide for the installation or utilization of a well in the described area if any of the following exceptions applies and the requirements of the exception are complied with. The party proposing an exception to the well prohibition shall conduct all appropriate inquiry and prepare a due care analysis acceptable to the city engineer.

A. *Proof of No Influence.* Until the property receives a "No Further Action" by NDEQ, the City and NDEQ will determine, based on information provided to them by the person seeking this exception, that the use of a well in the described property will not exacerbate existing groundwater contamination and that water from the proposed well will not be affected by contaminated groundwater. Following site closure by NDEQ, the city engineer must approve any exception based on proof of no influence provided by the property owner.

- B. *Groundwater Monitoring/Remediation.* A well may be used for groundwater monitoring and/or remediation as part of a response activity approved by the NDEQ or the federal Environmental Protection Agency.
- C. *Construction Dewatering.* A well may be used for construction dewatering if the following conditions are satisfied: (a) the use of the dewatering well will not result in unacceptable exposure to contaminated groundwater, possible cross-contaminated between saturated zones, or exacerbation of contaminated groundwater; and (b) the water generated by that activity is properly handled and disposed of in compliance with all applicable laws, rules, regulations, permit and license requirements, orders and directives of any exacerbation caused by the use of the well under this exception shall be the responsibility of the person operating the dewatering well.
- D. *Processing Activities.* If the City determines that the use of a well for non-contact heating, cooling, production, or processing involved in industrial or commercial activities will not cause migration or exacerbation of contaminated groundwater, and proof of that determination is delivered to the City, such use of the well under terms and conditions specified by the City will be allowed. All information necessary for the City's determination described in this subsection shall be provided by the person seeking this exception.
- E. *Public Emergencies.* A well may be used in the event of a public emergency. Notice of such use shall be provided to the City within a reasonable time thereafter.

5. Sources of water supplied for domestic use and irrigation use.

- A. Property owners of the restricted zone shall be responsible for the costs to connect to the city water system. Furthermore, the owner(s) of a property that has a well on the day of enactment of a restricted zone shall, at their own cost, abandon such wells.
- B. This section shall not be deemed as affecting the rights and remedies of an owner or any other person or entity and/or of any federal, state, or local government and or/remedial action plan addressing ground-water within the City.
- C. In no event shall the City be required to incur any expense or cost under this ordinance, except as may otherwise be approved by the City Council for a public works project or by a separate agreement with the applicant, owner, other person or entity, or a governmental

body or agency.

6. Said prohibition shall remain in force and effect for a period of forty (40) years or whenever it is deemed contamination is no longer a threat to the life/safety of the environment, with NDEQ's written concurrence.
(Ord. No. 536, 4/16/19)

SECTION 6-225: ABANDONED WELLS

All water wells which have been abandoned shall be filled and capped pursuant to the rules and regulations of the state Department of Water Resources or other Nebraska governmental agency in charge of abandoned wells.

(Continued)

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SECTION 6-226: BACKFLOW REGULATIONS; PURPOSE

1. To protect the public potable water supply served by the Minatare Water Department from the possibility of contamination or pollution by isolation, within its customers internal distribution system, such contaminants or pollutants which should backflow or back-siphon into the public water system.
2. To promote the elimination or control of existing cross-connections, actual or potential, between its customers in-plant potable water system, and non-potable system.
3. To provide for the maintenance of a continuing program of cross-connections control which will effectively prevent the contamination or pollution of all potable water systems by cross-connection.

SECTION 6-227: BACKFLOW REGULATIONS; AUTHORITY

1. The Federal Safe Drinking Water Act of 1974 and the statutes of the State of Nebraska Chapter 71 provide that the water purveyor has primary responsibility for preventing water from unapproved sources, or any other substances, from entering the public potable water system.

2. Minatare Water Department, Rules and Regulations, adopted.

SECTION 6-228: BACKFLOW REGULATIONS; RESPONSIBILITY

The utilities superintendent shall be responsible for the protection of public potable water distribution system from contamination or pollution due to the backflow or back-siphonage of contaminants or pollutants through the water service connection. If, in the judgment of the utilities superintendent, an approved backflow device is required at the City's water service connection to any premises, the utilities superintendent or his/her delegated agent shall give notice in writing to the owner thereof to install an approved backflow prevention device at each service connection to his/her premises. The owner shall within 90 days install such approved device or devices at his/her own expense, and failure or refusal, or inability on the part of the owner to install such device or devices within 90 days shall constitute a ground for discontinuing water service to the premises until such device or devices have been properly installed.

SECTION 6-229: BACKFLOW REGULATIONS; DEFINITIONS

A. Approved. Accepted by the utilities superintendent as meeting an applicable specification stated or cited in the regulation, or as suitable for the proposed use.

B. Auxiliary Water Supply. Any water supply, on or available, to the premises other than the purveyor's approved public potable water supply.

C. Backflow. The flow of water or other liquids, mixtures or substances, under positive or reduced pressure in the distribution pipes of a potable water systems from any source other than its intended source.

D. Backflow Preventer. A device or means designed to prevent backflow or back-siphonage. Most commonly categorized as air gap, reduced pressure vacuum breaker, atmospheric vacuum breaker, hose bibb vacuum breaker, double check with intermediate atmospheric vent, and barometric loop.

D.1 Air Gap. A physical separation sufficient to prevent backflow between the free-flowing discharge end of the potable water system any other system. Physically defined as a distance equal to twice the diameter of the supply side pipe diameter but never less than one inch (1").

D.2 Atmospheric Vacuum Breaker. A device which prevents back-siphonage by creating an atmospheric vent when there is either a negative pressure or sub-atmospheric pressure in a water system, to be used only if equipped with downstream valves.

D.3 Barometric Loop. A fabricated piping arrangement rising at least 35 feet at its topmost point above the highest fixture it supplies. It is utilized in water supply systems to protect against back-siphonage.

D.4 Double Check Valve Assemble. An assembly of two independently operating spring loaded check valves with tightly closing shut off valves on each side of the check valves, plus properly located test cocks for the testing of each check valve. A strainer must be placed immediately upstream of this device.

D.5 Double Check Valve with Intermediate Atmospheric Vent. A device having two spring loaded check valves separated by an atmospheric vent chamber. A strainer must be placed immediately upstream of the device.

D.6 Hose Bibb Vacuum Breaker. A device which is permanently attached to a hose bibb and which acts as an atmospheric vacuum breaker. A strainer must be placed immediately upstream of the service.

D.7 Pressure Vacuum Breaker. A device containing one or two independently operated spring loaded check valves and an independently operated spring-loaded air inlet valve located on the discharge side of the check or checks. Device includes tightly closing shut-off valves on each side of the check valves and properly located test cocks for the testing of the check valve(s). A strainer must be placed immediately upstream the device.

D.8 Reduced Pressure Principle Backflow Preventer. An assembly consisting of two independently operating approved check valves and an automatically operating differential relief valve located between the two check valves, tightly closing shut-off valves on each side on the check valves plus properly located test cocks for the testing of the check valves and the relief valve. A strainer must be placed immediately upstream of the device.

E. Backpressure. A condition in which the owner's system pressure is greater than the supplier's system pressure.

F. Backsiphonage. The flow of water or other liquids, mixtures or substances into the distribution pipes of a potable water supply system from any source other than its intended source caused by the sudden reduction of pressure in the potable water supply system.

G. Commission. The State of Nebraska Water Supply and Pollution Control Commission.

H. Containment. A method of backflow prevention which requires a backflow prevention preventer at the water service entrance.

I. Contaminant. A substance that will impair the quality of the water to a degree that it creates a serious health hazard to the public leading to poisoning or the spread of disease.

J. Cross-connection. Any actual or potential connection between the public water supply and a source of contamination or pollution.

K. Department. City of Minatare Water Department.

L. Fixture Isolation. A method of backflow prevention in which a backflow preventer is located to correct a cross-connection at an inplant location rather than at a water service entrance.

M. Owner. Any person who has legal title to a property upon which a cross-connection is present.

N. Person. Any individual, partnership, company, public or private corporation, political subdivision or agency of the State Department, agency or instrumentality or the United States or any legal entity.

O. Permit. A document issued by the department which allows the use of a backflow preventer.

P. Pollutant. A foreign substance that, if permitted to get into the public water system, will degrade its quality so as to constitute a moderate hazard, or impair the usefulness or quality of the water to a degree which does adversely and unreasonably affect such water for domestic use.

Q. Water Service Entrance. That point in the owner's water system beyond the sanitary control of the District; generally considered to be outlet end of the water meter and always before any unprotected branch.

R. Utilities Superintendent. The superintendent, or his/her elected representative in charge of the Minatare Water Department, is invested with the authority and responsibility for the implementation of a cross-connection control program and for the enforcement of the provisions of the ordinance.

SECTION 6-230: BACKFLOW REGULATIONS; ADMINISTRATION

A. The department will operate a cross-connection control program, to include the keeping of necessary records, which fulfills the requirements of the

Commission's Cross-connection Regulations and is approved by the Commission.

B. The owner shall allow his/her property to be inspected for possible cross-connections and shall allow the provisions of the department's program and the Commission's Regulations if a cross-connection is permitted.

C. If the department requires that the public supply be protected by containment, the owner shall be responsible for water quality beyond the outlet end of the containment device and should utilize fixture outlet protection for that purpose.

He/she may utilize public health officials, or personnel from the department or their delegated representatives, to assist him/her in the survey of his/her facilities and to assist him/her in the selection of proper fixture outlet devices, and the proper installation of these devices.

SECTION 6-231: BACKFLOW REGULATIONS; REQUIREMENTS

A. Department

1. On new installations, the department will provide on-site evaluation and/or inspection of plans in order to determine the type of backflow preventer, if any, that will be required, will issue permit, and perform inspection and testing.

2. For premises existing prior to the start of this program, the department will:

a. Provide owner with an evaluation form of the present installation.

b. Inform the owner of its intentions of the evaluation and inspection in advance of the inspection and will work with the owner in setting up a convenient time. The department will perform evaluations and inspections of plans and/or premises and inform the owner by letter of any corrective action deemed necessary, the method of achieving the correction, and time allowed for the correction to be made. Ordinarily, 90 days will be allowed; however, this time period may be shortened depending upon the degree of hazard involved and the history of the device(s) in question.

3. The department will not allow any cross-connection to remain unless it is protected by an approved backflow preventer for which a permit has been issued and which will be regularly tested to insure satisfactory operation and is approved by and in compliance with the American Water Works Association.

4. The department shall inform the owner by letter of any failure to comply by the time of the first re-inspection. The department will allow an additional 15 days for the correction. In the event that the owner fails to comply with the necessary correction by the time of the second re-inspection, the department will inform the owner by letter that the water service to the owner's premises will be terminated in a period not to exceed five days. In the event that the owner informs the department of extenuating circumstances as to why the correction has not been made, a time extension may be granted by the department but in no case will exceed an additional 30 days.

5. If the department determines at any time that a serious threat to the public health exists, the water service will be terminated immediately.

6. The department shall have on file a list of private contractors who are certified backflow device testers. All charges for these tests will be paid by the owner of the building or property.

7. The department will begin initial premises inspections to determine the nature of existing or potential hazards, following the approval of this program by the Commission, during the calendar year 1990. Initial focus will be on high hazard industries and commercial premises.

B. Owner

1. The evaluation shall be completed by the record owner of the real estate and returned to the City within 10 days of the receipt by owner. If a form is not satisfactorily completed and returned as set forth, the installation shall be deemed a high hazard/serious threat and subject to disconnection.

2. The owner shall be responsible for the elimination or protection of all cross-connection on his/her premises.

3. The owner, after having been informed by a letter from the department, shall at his/her expense, install, maintain, and test, or have tested, any and all backflow preventers on his/her premises.

4. The owner shall correct any malfunction of the backflow preventer which is revealed by periodic testing.

5. The owner shall inform the department of any proposed or modified cross-connection and also any existing cross-connections or which the owner is aware but has not been found by the department.

6. The owner shall not install a bypass around any backflow preventer unless there is a backflow preventer of the same type on the bypass. Owners

who cannot shut down operation for testing of the device(s) must supply additional devices necessary to allow testing to take place.

7. The owner shall install backflow preventers in a manner approved by the department.

8. The owner shall install only backflow preventers approved by the department.

9. Any owner having a private well or other water source must have a permit if the well or source is cross-connected to the department's system. Permission to cross connect may be denied by the department. The owner may be required to install a backflow preventer at the service entrance if a private water source is maintained, even if it is not cross connected to the department's system.

10. In the event owner installs plumbing to provide potable water for domestic purposes which is on the department's side of the backflow preventer, such plumbing must have its own backflow preventer installed.

11. The owner shall be responsible for the payment of all fees for permits, annual or semiannual device testing, re-testing in the case that the device fails to operate correctly, and second re-inspections for noncompliance with department or Commission requirements.

SECTION 6-232: BACKFLOW REGULATIONS; DEGREE OF HAZARD

The department recognizes the threat to the public water system arising from cross-connections. All threats will be classified by degree of hazard and will require the installation of approved reduced pressure principle backflow prevention devices or double check valves.

SECTION 6-233: BACKFLOW REGULATIONS; PERMITS

The department shall not permit cross-connection within the public water supply system unless it is considered necessary and it cannot be eliminated.

A. Cross-connection permits that are required for each backflow prevention device are obtained from the department. A fee of \$10.00 will be charged for the initial permit and \$5.00 for the renewal of each permit.

B. Permits shall be renewed every five years and are nontransferable. Permits are subject to revocation and become immediately revoked if the owner should so change the type of cross-connection or degree of hazard associated with the service.

C. A permit is not required when fixture isolation is achieved with the utilization of a non-testable backflow preventer.

SECTION 6-234: BACKFLOW REGULATIONS; EXISTING IN-USE BACKFLOW PREVENTION DEVICES

Any existing backflow preventer shall be allowed by the department to continue in service unless the degree of hazard is such as to supersede the effectiveness of the present backflow preventer or result in an unreasonable risk to public health. Where the degree of hazard has increased, as in the case of a residential installation converting to a business establishment, any existing backflow preventer must be upgraded to a reduced pressure principle device, or a reduced pressure principle device must be installed in the event that no backflow device was present.

SECTION 6-235: BACKFLOW REGULATIONS; PERIODIC TESTING

A. Reduced pressure principle backflow devices shall be tested and inspected at least semiannually.

B. Periodic testing shall be performed by the department's certified tester or his/her delegated representative. This testing will be done at the owner's expense.

C. The testing shall be conducted during the department's regular business hours. Exceptions to this, when at the request of the owner, may require additional charges to cover the increased costs to the department.

D. Any backflow preventer which fails during a periodic test will be repaired or replaced. When repairs are necessary, upon completion of the repair, device will be re-tested at owner's expense to insure correct operation. High hazard situations will not be allowed to continue unprotected if the backflow preventer fails the test and cannot be repaired immediately. In other situations, a compliance date of not more than 30 days after the test date will be established. The owner is responsible for spare parts, repair tools, or a replacement device. Parallel installation of two devices is an effective means of the owner ensuring that uninterrupted water service during testing or repair of devices and is strongly recommended when the owner desires such continuity.

E. Backflow prevention devices will be tested more frequently than specified in "A" above in cases where there is a history of test failure and the department feels that due to the degree of hazard involved, additional testing is warranted. Cost of the additional tests will be born by the owner.

SECTION 6-236: BACKFLOW REGULATIONS; RECORDS AND REPORTS

- A. Records. The department will initiate and maintain the following:
1. Master files on customer cross-connection tests and/or inspections.
 2. Master files on cross-connection permits.
 3. Copies of permits and permit applications.
 4. Copies of lists and summaries supplies to the Commission.
- B. Reports. The department will submit the following to the Commission:
1. Initial listing of low hazard cross-connections to the State.
 2. Initial listing of high hazard cross-connections to the State.
 3. Annual update lists of items 1 and 2 above.
 4. Annual summary of cross-connection inspections to the State.

SECTION 6-237: BACKFLOW REGULATIONS; FEES AND CHARGES

The department will publish a list of fees and charges for the following services or permits:

1. Testing fees.
2. Repairs, parts and labor.
3. Re-testing fees.
4. Fee for re-inspection.
5. Copies of lists and summaries supplies to the Commission.

SECTION 6-238: BACKFLOW REGULATIONS; BACKFLOW PREVENTER

Effective the date of the original acceptance of this Cross-connection Control Program for the City of Minatare all new residential buildings will be required to install a residential backflow prevention device immediately downstream of the water meter. Installation of this device on a retrofit basis on existing service line will be instituted at a time and at a potential cost to the homeowner as deemed necessary by the department. The department recommends all existing residential buildings install a backflow prevention device. In order to increase the installation of the devices in existing residences, the installation will be required at the time of transfer of ownership of any residential property that does not have such check devices at the time of transfer.

The City is not liable for any failure that occurs in the existing system after a backflow prevention device has been installed.

SECTION 6-239: BACKFLOW REGULATIONS; STRAINERS

All new retrofit installations of reduced pressure principle devices and double check valve backflow preventers must include the installation of strainers located immediately upstream of the backflow device. The installation of strainers will

preclude the fouling of backflow devices due to both 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, etc. These occurrences may "stir up" debris within the water main that will cause fouling of backflow devices installed without the benefit of strainers.

SECTION 6-240: 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 owned by the City, or to make any connection with or extension of the supply pipes of any consumer taking water from said system until such plumber or pipefitter shall have first procured a license from the State of Nebraska. All plumbing shall be done in the manner required by utilities superintendent. The said licensed plumber shall be at all times subject to the inspection and approval of the utilities superintendent and it shall be further unlawful to cover or conceal willfully any defective or unsatisfactory plumbing work.

ARTICLE III - SEWER DEPARTMENT

SECTION 6-301: TERMS DEFINED

"Biological oxygen demand" shall mean and include the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days at 20 degrees C., expressed in parts per million by weight.

"Building or house drain" shall mean that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five feet outside the inner face of the building wall.

"Building or house sewer" shall mean the extension from the building drain to its connection with the main sewer.

"Easement" shall mean an acquired legal right for the specific use of land owned by others.

"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.

"Natural outlet" shall mean any outlet into a watercourse, pond, ditch, lake or other body of surface or groundwater.

"pH" shall mean and include the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

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

"Sewer system" shall mean all facilities for collecting, pumping, treating and disposing of sewage.

"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 laboratory filtering.

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

"Trap seal" shall mean the vertical distance between the crown weir and the dip of the trap.

"Watercourse" shall mean a natural or artificial channel in which a flow of water occurs, either continuously or intermittently.

SECTION 6-302: OPERATION AND FUNDING

The City owns the sewer system and operates the same through the utilities superintendent. The City Council, for the purpose of defraying the cost of the management and maintenance of the sewer system, may each year levy a tax not exceeding the maximum limit prescribed by state law on the actual valuation of all real estate and personal property within the corporate limits that is subject to taxation. The revenue from the said tax shall be known as the Sewer Maintenance Fund. The utilities superintendent shall have the direct management and control of the sewer department and shall faithfully carry out the duties of his/her office. He/she shall have the authority to adopt rules and regulations for the sanitary and efficient management of the department subject to the supervision and review of the City Council.

SECTION 6-303: SEWER CONTRACT

The City through the sewer department shall furnish sewer services to persons within its corporate limits whose premises abut a street or alley in which a commercial main is now or may hereafter be laid. The City may also furnish sewer service to persons whose premises are situated outside the corporate limits of the City, as and when, according to law, the City Council may see fit to do so. The rules, regulations and sewer rental rates hereinafter named in this article shall be considered a part of every application hereafter made for sewer service and shall be considered a part of the contract between every customer

now or hereafter served. Without further formality, the making of the application on the part of any applicant or the use of sewer service by present customers thereof shall constitute a contract between the customer and the City to which said contract both parties are bound. If the customer shall violate any of the provisions of said contract or any reasonable rules and regulations that the City Council may hereafter adopt, the utilities superintendent or his/her 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 utilities superintendent or his/her agent.

SECTION 6-304: SEWER USE RATES; COLLECTION

Customers of the city sewer department shall be charged an amount set from time to time by resolution or ordinance of the City Council for the use of sewer service. Rates shall be on file and available for public inspection at the office of the city clerk at any reasonable time.

Sewer bills shall be due and payable as set forth in Section 6-101. All penalties and procedures concerning delinquent accounts are set forth in Sections 6-102 and 6-103.

SECTION 6-305: SERVICE CONTRACTS

Contracts for sewer service are not transferable. Any person wishing to change from one location to another shall make a new application and sign a new contract. If any customer shall sell, dispose or remove 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 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 utilities superintendent is otherwise advised of such circumstances.

SECTION 6-306: UNLAWFUL DISCHARGE OF WASTES

It shall be unlawful to discharge to any natural outlet within the City or within one mile of the corporate limits thereof, or in any area under the jurisdiction of said city, any sewage or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this article.

SECTION 6-307: CESSPOOLS, PRIVIES AND SEPTIC TANKS PROHIBITED

Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool or other facility intended or used for the disposal of sewage.

SECTION 6-308: MANDATORY HOOKUP

The owner of all houses, buildings or properties used for human employment, recreation or other purposes, situated within the City and abutting on any street, alley or right-of-way in which there is now located or may be located a public sanitary or combined sewer of the City, is hereby required at his/her expense to install suitable toilet facilities therein and to connect such facilities directly with the proper public sewer in accordance with the provisions of this article within 10 days after date of official notice to do so.

SECTION 6-309: PRIVATE SEWAGE DISPOSAL; WHEN APPLICABLE

Where a public sanitary or combined sewer is not available under the provisions of Section 6-309, the building sewer shall be connected to a private sewage disposal system complying with the provisions of this article.

At such time as a public sewer becomes available to a property served by a private wastewater disposal system, as provided in Section 6-308, a direct connection shall be made to the public sewer within 60 days in compliance with this article, and any septic tanks, cesspools and similar private wastewater disposal facilities shall be cleaned of sludge and filled with suitable material.

SECTION 6-310: 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 utilities superintendent. The application for such permit shall be made on a form furnished by the City, which the applicant shall supplement by any plans, specifications and other information as is deemed necessary by the utilities superintendent. A permit and inspection fee is on file in the city clerk's office and shall be paid to the City at the time the application is filed.

SECTION 6-311: 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 utilities superintendent. He/she shall be allowed to inspect the work at any stage of construction and, in any event, the applicant for the permit shall notify the utilities 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 utilities superintendent. The City shall be entitled to establish, charge and collect a reasonable fee for the permit and inspection required herein. The fee shall be set from time to time by resolution of the City Council.

SECTION 6-312: 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 and Human Services, Regulation and Licensing Division of the State of Nebraska, and the Nebraska Department of Environmental Quality Title 124, Rules and Regulations for Design, Operation and Maintenance of Septic Tanks. 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. Private sewage disposal systems are required to

SECTION 6-313: PRIVATE SEWAGE DISPOSAL SYSTEM; MAINTENANCE

The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to the City.

SECTION 6-314: PRIVATE SEWAGE DISPOSAL SYSTEM; ADDITIONAL REQUIREMENTS

No statement contained in Section 6-309 through 6-313 shall be construed to interfere with any additional requirements that may be imposed by the health officer.

SECTION 6-315: INSTALLATION PROCEDURE

Upon approval of the application, the City shall be responsible for tapping into the municipal main at a location chosen by the City. The customer shall be responsible for the installation of the sewer line from the municipal main to the premises to be served. The City shall install all municipal mains.

In making excavations in streets, alleys or sidewalks for the purpose of installing pipe or making repairs, the paving, stones and earth must be removed and deposited in a manner that will occasion the least inconvenience to the public and provide for adequate drainage. No person shall leave an excavation made in the street, alley or sidewalk open at any time without a barricade. After service pipes are laid, the streets, alleys and sidewalks shall be restored to good condition. If the excavation in any street, alley or sidewalk is left open or unfinished for a period of 24 hours or more, the utilities superintendent shall have the duty to finish or correct the work, and all expenses so incurred shall be charged to the consumer. All installations or repairs of pipes require 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 consumer's responsibility to notify the utilities

superintendent at the time the work is ready for each inspection. All installation shall be done under the supervision and strictly in accordance with the rules, regulations and specifications prescribed by the utilities superintendent; provided that said rules, regulations and specifications have been reviewed and approved by the City Council.

SECTION 6-316: INSTALLATION EXPENSE

The expense of providing sewer service lines to the property line shall be the City's. The cost of installation shall be included in the tap fee required to be paid by the customer before connecting to the city sewer service. The customer shall be required to pay the expense of procuring the services of a licensed plumber and shall pay the expense of furnishing and installing pipe, trenching, and the necessary labor to bring sewer service from said lot line.

SECTION 6-317: INSTALLATION; PERMIT REQUIRED

Any person wishing to connect with the sewer system shall make an application in writing therefor to the city clerk. The clerk shall require every applicant to pay a sewer tap fee in an amount set from time to time by resolution of the City Council and 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. The clerk shall then forward the application to the utilities superintendent. Sewer service may not be supplied to any house or building except upon the order of the superintendent and upon application and acceptance of city water service.

SECTION 6-318: SINGLE PREMISES

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

SECTION 6-319: 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 utilities superintendent, to meet all requirements of this article.

SECTION 6-320: CONSTRUCTION CODES

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.

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.

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 utilities superintendent before installation.

SECTION 6-321: PROHIBITED DISCHARGES: STORM WATER, SURFACE WATER, GROUNDWATER, COOLING WATER AND PROCESS WATER

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

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

SECTION 6-322: HAZARDOUS AND PROHIBITED DISCHARGES; FLAMMABLE, TOXIC, CORROSIVE AND OBSTRUCTIVE SUBSTANCES; PRELIMINARY TREATMENT

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

1. Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid or gas.
2. Any waters or wastes containing toxic or poisonous solids, liquids or gases in sufficient quantity, either singly or by interaction with other wastes to injure or interfere with any waste treatment process, constitute a hazard to humans or animals, create a public nuisance or create any hazard in the receiving waters of the wastewater treatment plant, including but not limited to cyanides in excess of two mg/l as CN in the wastes as discharged to the public sewer.
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.

SECTION 6-323: HAZARDOUS AND PROHIBITED DISCHARGES; SPECIFIC PROHIBITIONS AS DETERMINED BY SUPERINTENDENT

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

1. Any liquid or vapor having a temperature higher than 150 degrees Fahrenheit (65 degrees C).
2. Any water or waste containing fats, wax, grease or oils, whether emulsified or not, in excess of 100 mg/l or containing substances which may solidify or become viscous at temperatures between 32 degrees and 150 degrees Fahrenheit (0 and 65 degrees C).
3. Any garbage that has not been properly shredded. The installation and operation of any garbage grinder equipped with a motor 3/4 horsepower or greater shall be subject to the review and approval of the superintendent.

4. Any waters or wastes containing strong acid iron pickling wastes, or concentrated plating solutions whether neutralized or not.
5. Any 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.
6. Any waters or wastes containing phenols or other taste- or odor-producing substances in such concentrations exceeding limits which may be established by the superintendent as necessary, after treatment of the composite sewage, to meet the requirements of state, federal or other public agencies of jurisdiction for such discharge to the receiving waters.
7. Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the superintendent in compliance with applicable state or federal regulations.
8. Any waters or wastes having a pH in excess of 9.5.
9. Materials which exert or cause:
 - a. Unusual concentrations of inert suspended solids (such as, but not limited to, Fuller's earth, lime slurries, and lime residues) or of dissolved solids (such as, but not limited to, sodium chloride or sodium sulfate).
 - b. Excessive discoloration (such as, but not limited to, dye wastes and vegetable tanning solutions).
 - c. Unusual BOD, chemical oxygen demand, or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment works.
 - d. Unusual volume of flow or concentration of wastes constituting "slugs" as defined herein.
10. Waters or wastes containing substances which are not amenable to treatment or reduction by the sewage treatment processes employed, or are amenable to treatment only to such degree that the sewage treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.

SECTION 6-324: HAZARDOUS AND PROHIBITED DISCHARGES;
SUPERINTENDENT'S DISCRETION WITH RESPECT TO

If any waters or wastes are discharged or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in Section 6-323, 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 6-333.

If the superintendent permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the superintendent and subject to the requirements of all applicable codes, ordinances and laws.

SECTION 6-325: GREASE, OIL AND SAND INTERCEPTORS; WHEN REQUIRED

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

SECTION 6-326: PRELIMINARY TREATMENT OR FLOW EQUALIZING FACILITIES; MAINTENANCE BY OWNER

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

SECTION 6-327: CONTROL MANHOLES/ SAMPLING STATIONS; WHEN REQUIRED; INSTALLATION AND MAINTENANCE

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

SECTION 6-328: 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 "Standards Methods for the Examination of Water and Wastewater," published by the American Public Health Association, and shall be determined at the control manhole provided, or upon suitable samples taken at said control manhole. In the event no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence of hazards to life, limb and property. (The particular analyses involved will determine whether a 24-hour composite of all outfalls of a premises is appropriate or whether a grab sample or samples should be taken. Normally, but not always, BOD and suspended solids analyses are obtained from 24-hour composites of all outfalls, whereas pH's are determined from periodic grab samples.)

SECTION 6-329: HAZARDOUS AND PROHIBITED SUBSTANCES; SPECIAL EXCEPTIONS PERMITTED; USE FEE SURCHARGE

No statement contained in this article shall be construed as preventing any special agreement or arrangement between the City and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the City for treatment, subject to payment therefor, by the industrial concern.

SECTION 6-330: INSPECTIONS

The applicant for the building sewer permit shall notify the utilities 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 utilities superintendent or his/her representative.

SECTION 6-331: CLASSIFICATION

The City Council may classify, for the purpose of rental fees, the customers of the city sewer department; provided that such classifications are reasonable and do not discriminate unlawfully against any consumer or group of consumers.

SECTION 6-332: MANHOLES

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

SECTION 6-333: 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.

SECTION 6-334: COMPLIANCE WITH ARTICLE; INSPECTIONS

The utilities 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 utilities superintendent or his/her representatives shall have no authority to inquire into any processes including metallurgical, chemical, oil, refining, ceramic, paper or other industries beyond that point having a direct bearing on the kind and source of discharge to the sewers or waterways or facilities for waste treatment.

SECTION 6-335: COMPLIANCE WITH ARTICLE; INSPECTIONS; INJURY LIABILITY

While performing the necessary work on private properties referred to in Section 6-334 above, the utilities superintendent or duly authorized employees of the City shall observe all safety rules applicable to the premises established by the company and the company shall be held harmless for injury or death to the city employees and the City shall indemnify the company against loss or damage to its property by city employees and against liability claims and demands for personal injury or property damage asserted against the company and growing out of the gauging and sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions.

SECTION 6-336: COMPLIANCE WITH ARTICLE; INSPECTIONS; EASEMENTS

The utilities superintendent and other duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all private properties through which the City holds a duly negotiated easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair and maintenance of any portion of the sewage works lying within said easement. All entry and subsequent work, if any, on said easement shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

SECTION 6-337: SERVICE TO NON-RESIDENTS

Any person whose premises are located outside the corporate limits of the City and who desires to install a house or building sewer that will be connected with the city sewer system, shall file a written application with the city clerk for a permit for such connection and setting forth the name of the owner, occupant or lessee of the premises, the use to which the premises are devoted and such other information as the City Council may require. The City Council may approve or deny such application in their absolute discretion. If they approve the application, they may do so by attaching whatever conditions to such approval as they determine necessary.

SECTION 6-338: REPAIR AND REPLACEMENT

The city 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.

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 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.

SECTION 6-339: LICENSED PLUMBER

It shall be unlawful for any person, firm or corporation to engage in or conduct the business of sewer connection and house drainage, excavate any trenches for sewer pipe, open, uncover or in any manner make connection with or lay any sewer drain, or attach to, modify or repair any appurtenances without complying

with the rules and regulations of the utilities superintendent; provided that nothing herein shall be construed to apply to persons, firm or corporation under special contract with the City for the construction, extension or repair of the city sewer system.

SECTION 6-340: 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 to the complete satisfaction of the utilities superintendent all streets that he/she has excavated and make good any settlement of the ground or pavement caused by his/her excavation.

ARTICLE IV - GARBAGE COLLECTION AND DISPOSAL

SECTION 6-401: REGULATIONS

The City will by contract provide weekly curbside collection of the normal household trash, refuse, garbage, etc., from all residences within the City, as follows:

1. These collections are to be made on a specific day, unless the weather or other adverse conditions make it impossible for the collector to perform its task on that specific day, in which case it will be collected on the following day or as soon thereafter as conditions permit. Collections will be made during normal working hours or from sunrise to sunset, whichever is the greater length of time.
2. Residents shall have the refuse ready for collection at the street curbside in approval metal or plastic containers with lids secured or properly tied plastic containers. Any lawn clippings or trimmings shall be put in properly secured plastic bags by the resident and placed at the curbside location for pick up by the collector; provided, however, that the lawn clippings and trimmings shall be limited to six plastic bags per residence. Additional pick up at any one residence shall be contracted for directly with the collector on an individual basis at established rates.
3. Residents will be responsible for litter or spillage prior to collection. The collection contractor shall be responsible for litter or spillage after collection, and all refuse collected by the contractor shall be delivered to and deposited in a state licensed landfill or approved recycling plant site.

SECTION 6-402: FEES

Each residential user and each commercial user will be charged the monthly fee for refuse collection as may be contractually agreed upon from time to time by the City and its refuse collector, plus the additional amount of \$0.25 per user service fee for city billing, operation and maintenance of refuse collection. A "user" shall be defined as any subscriber of any type of utility service in the City. That charge will be included on the water and sewer bill and will be collected in the same manner. Delinquent fees shall cause discontinuance of service under the procedures set forth in Section 6-102. Any person whose service has been discontinued and allows garbage to collect can be prosecuted under the city nuisance ordinances.

SECTION 6-403: LIABILITY FOR CHARGES; PROOF OF PROPER DISPOSAL

The City Council has separately established charges to be paid to it by each person whose premises are served by the city solid waste collection system. For

purposes of such charges, a person's premises are deemed to be served by the city solid waste collection system and the owner and occupant of the premises shall be deemed served and therefore liable for the charges unless the owner or occupant proves to the City Council that (a) the premises are unoccupied; or (b) the solid waste generated at the premises during the applicable billing period was lawfully collected and hauled to a permitted facility or was otherwise disposed of in conformance with all applicable laws, regulations and ordinances.

Proof of proper disposal during the applicable billing period may be provided by means of any of the following:

1. A billing receipt or other statement from a duly permitted solid waste hauling service for collection of solid waste at the premises during the applicable billing period;
2. A billing receipt or register tab from a duly permitted transfer station or disposal facility or landfill for solid waste received during the applicable billing period; or
3. Such other documentation of proper disposal as may be acceptable to the City Council.

ARTICLE V - NATURAL GAS RATE REGULATION

SECTION 6-501: ADOPTION OF NATURAL GAS REGULATION ACT

The provisions of Article 46, Chapter 19 of the Municipal Natural Gas Regulation Act as set forth in R.R.S. Neb. 1943, 1987 Supplement thereto and any amendments made thereto, except as otherwise provided for in this ordinance, are hereby adopted by this reference thereto and made a part hereof as fully as if set forth at length herein, except as otherwise hereinafter provided.

SECTION 6-502: GAS RATE COLLECTION FEE

A fee of \$300.00 be and hereby is imposed for each rate filing by the city gas supplier.

ARTICLE VI - PENAL PROVISION

SECTION 6-601: VIOLATION; PENALTY

Anyone violating any of the terms and conditions of any of the foregoing chapter and articles shall be deemed guilty of a misdemeanor and shall be fined in a sum of not more than \$500.00 for each offense. Each day's maintenance of the same shall constitute a separate offense.

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CHAPTER V PUBLIC WAYS AND PROPERTY

ARTICLE I - PUBLIC PROPERTY REGULATIONS

SECTION 5-101: MAINTENANCE AND CONTROL

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

SECTION 5-102: OBSTRUCTIONS

Trees and shrubs growing upon or near the lot line or upon public ground and interfering with the use or construction of any public improvements shall be deemed an obstruction under this article. Shrubbery located near a traffic intersection or pedestrian crosswalk must be trimmed and not exceed 3 1/2 feet in height as well as be located 20 feet back from said intersection or crosswalk. Said trees, shrubs and their roots may be removed by the street commissioner at the expense of the owner of the property upon which the tree or shrub is located, should the owner fail or neglect, after notice, to do so. It shall be unlawful for any person, firm or corporation to obstruct or encumber by fences, gates, buildings, structures or otherwise, any of the streets, alleys or sidewalks. (Ref. Neb. Rev. Stat. §17-557.01)

SECTION 5-103: PERMITTED OBSTRUCTIONS

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

SECTION 5-104: MUNICIPAL PROPERTY; SALE AND CONVEYANCE

1. Except as provided in subsection 4 of this section, the power of the City to convey any real and personal 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 and personal property and the manner and terms thereof,

except that such real and personal property shall not be sold at public auction or by sealed bid when:

- A. Such property is being sold in compliance with the requirements of federal or state grants or programs;
- B. Such property is being conveyed to another public agency; or
- C. Such property consists of streets and alleys.

The City Council may establish a minimum price for such real and personal property at which bidding shall begin or shall serve as a minimum for a sealed bid.

2. After the passage of the resolution directing the sale, notice of all proposed sales of real and personal property described in subsection 1 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; provided, if a remonstrance against such sale, signed by registered voters thereof equal in number to 30% of the registered voters of the City voting at the last regular municipal election held therein, be filed with the City Council within 30 days after the third publication of the notice, such property shall not then, nor within one year thereafter, be sold. If the date for filing the remonstrance falls upon a Saturday, Sunday, or legal holiday, the signatures shall be collected within the next 30 day period, but the filing shall be considered timely if filed or postmarked on or before the next business day. Real estate now owned or hereafter owned by the City may be conveyed without consideration to the State of Nebraska for state armory sites or, if acquired for state armory sites, such property shall be conveyed strictly in accordance with the conditions of Neb. Rev. Stat. §18-1001 to 18-1006.

3. Following (a) passage of the resolution directing a sale, (b) publishing of the notice of the proposed sale, and (c) 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. The city clerk shall upon passage of such ordinance certify the name of the purchaser to the county register of deeds in which the county is located.

4. This section shall not apply to the sale of real and personal property if the authorizing resolution directs the sale of an item or items of real and personal property the total fair market value of which is less than \$5,000.00. Following passage of the resolution directing the sale of the property, notice of the sale shall be posted in three prominent places within the City for a period of not less than seven days prior to the sale of the property. Confirmation of the sale by passage of an ordinance may be required.
(Ref. Neb. Rev. Stat. §17-503, 17-503.01)

SECTION 5-105: ACQUISITION OF PROPERTY; CONSTRUCTION;
ELECTIONS, WHEN REQUIRED

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

2. Except as provided below, before any such purchase can be made or building erected, the question shall be submitted to the electors of the City at a general municipal election or at an election duly called for that purpose, or as set forth in Neb. Rev. Stat. §17-954, and be adopted by a majority of the electors voting on such question.

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

- A. Notice of the proposed purchase or construction shall be published in a newspaper of general circulation in the City and no election shall be required to approve the purchase or construction unless within 30 days after the publication of the notice a remonstrance against the purchase or construction is signed by registered voters of the City equal in number to 15% of the registered voters of the City voting at the last regular municipal election held therein and is filed with the City Council. If the date for filing the remonstrance falls upon a Saturday, Sunday or legal holiday, the signatures shall be collected within the 30-day period, but the filing shall be considered timely if filed or postmarked on or before the next business day. If a remonstrance with the necessary number of qualified signatures is timely filed, the question shall be submitted to the voters of the City at a general municipal election or a special election duly called for that purpose. If the purchase or construction is not approved, the property involved shall not then, nor within one year following the election, be purchased or constructed; or
- B. The City Council may proceed without providing the notice and right of remonstrance required in subdivision 1 of this section if the property can be purchased below the fair market value as determined by an appraisal, and there is a willing seller, and the purchase price is less than \$25,000.00. The purchase shall be approved by the City Council

after notice and public hearing as provided in Neb. Rev. Stat. §18-1755.

(Ref. Neb. Rev. Stat. §17-953 and 17-953.01)

SECTION 5-106: SPECIAL IMPROVEMENT DISTRICT; ASSESSMENT AND CREATION PROCESS

1. The City Council may, by ordinance, create a special improvement district for the purpose of replacing, reconstructing or repairing an existing street, alley, water line, sewer line, or any other such improvement.

2. Except as provided in Neb. Rev. Stat. §19-2428 to 19-2431, the City Council shall have the 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 districts, the City Council shall follow procedures applicable to the creation and assessment of the same type of improvement district as otherwise provided by law.

SECTION 5-107: 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 district, such as a sewer, paving, water, water extension, or sanitary sewer extension district. The City Council shall have the power to assess, to the extent of special benefits, the costs of such improvements upon the properties found especially benefited thereby, except as provided in Neb. Rev. Stat. §19-2428 to 19-2431.

SECTION 5-108: ACQUISITION OF REAL PROPERTY

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.

(Ref. Neb. Rev. Stat. §18-1755)

SECTION 5-109: ADVERTISING MATTER; REGULATIONS

1. It shall be unlawful for any person, firm or corporation to post, print, paint, or in any other manner to place, throw, cast or put into, drop or leave any placards, signs, advertisements, display bills, letters, banners, posters, garage sale signs or kindred matter of any kind or description in any street, alley, sidewalk, parking or public place within the City for more than three days prior to the commencement of the advertised event; and it shall be unlawful to leave said placards, signs, advertisements, display bills, letters, banners, posters, garage sale signs or kindred matter of any kind or description in any street, alley,

sidewalk, parking or public place within the City for more than one day after the expiration of the event so advertised.

2. Any violation of any provision of this ordinance is punishable by a \$25.00 fine. (10/16/07, Ord. No. 484)

ARTICLE II - STREETS

SECTION 5-201: NAMES AND NUMBERS

The City Council may at any time, by ordinance, rename any street or provide a name for a new street. It shall be the duty of the street commissioner, upon the erection of any new building or buildings, to assign the proper numbers to said building or buildings, and give notice to the owner, owners, occupant or occupants, of the same.

SECTION 5-202: CROSSINGS

The City Council may order and cause to be constructed, under the supervision of the street commissioner, such street, avenue and alley crossing, and the same shall be constructed of such materials 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 city clerk shall refer such application to the street commissioner, who shall investigate and recommend to the City Council allowance or rejection as final action by the City Council on such application.

SECTION 5-203: EXCAVATION

It shall be unlawful for any person to make an excavation in any street or streets for any purpose whatsoever unless a written permit is issued by the street commissioner authorizing such excavation. Excavation in streets and alleys shall be made in such a manner as to impede travel as little as possible. Warning lights shall be maintained on all unfinished work, at night from dark until sunrise, and sufficient barricades shall be in place at all times until the work is completed, to prevent any persons from injury in coming upon or crossing such work. After completion of any job or work, all surplus material must be removed at once from the streets and alleys.

SECTION 5-204: DRIVING STAKES

It shall be unlawful for any person to drive any peg or stake of any kind into the pavement in any street or alley without first procuring the written consent of the street commissioner.

SECTION 5-205: MIXING CONCRETE

It shall be unlawful for any person to mix any concrete or plastering material directly on the street pavement for any reason whatsoever and using said pavement as a mixing board for said material.

SECTION 5-206: HARMFUL LIQUIDS

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

SECTION 5-207: EAVES AND GUTTER SPOUTS

It is hereby declared unlawful for any person to erect or maintain any dwelling house or business building within the limits of the City where the said dwelling or building abuts on any sidewalk or street, without providing proper guttering and eave spouts to receive the waste waters that collect on the said sidewalks and streets. All eave spouts erected on any dwelling house or business building shall be constructed to drain into the alleys, or shall be buried beneath the sidewalks and drain into the streets where it is found to be impossible to drain said eave spouts into the alley.

SECTION 5-208: HEAVY EQUIPMENT

It shall hereafter be unlawful for any person or persons to move or operate heavy equipment across any curb, gutter, bridge, culvert, sidewalk, crosswalk or crossing on any unpaved street without first having protected such curb, gutter, bridge, culvert, sidewalks, crosswalk or crossing, with heavy plank sufficient in strength to warrant against the breaking or damaging of such curb, gutter, bridge, culvert, sidewalk, crosswalk or crossing. Hereafter, it shall be unlawful to run, drive, move, operate or convey over or across, any paved street a vehicle, machine or implement, with sharp discs or sharp wheels, that bear upon said pavement; with wheels having cuttings edges; with wheels having lugs, or any protruding parts, or bolts thereon that extend beyond a plain tire so as to cut, mark, mar, indent or otherwise injure or damage any pavement, gutter or curb; provided, where heavy vehicles, structures, and machines move along paved or unpaved streets, the City Council is hereby authorized and empowered to choose the route over which the moving of such vehicles, structures or machines will be permitted and allowed. Provided, school buses and emergency vehicles shall be permitted to use metal or metal-type studs all year; it shall be permissible to use farm machinery with tires having protuberances which will not injure the streets; and it shall be permissible to use tire chains of reasonable proportions upon any vehicle when required for safety because of snow, ice, or other condition tending to cause a vehicle to slide or skid.

SECTION 5-209: WIDENING, OPENING, VACATING

The City Council shall have the power to open, widen or vacate any street, alley or lane within the limits of the City and to create, open and improve any new street, alley or lane. In the event of such action, the damages sustained by the

affected property owner shall be determined by the City Council. To ascertain such damages, the City Council shall notify, by certified mail, the affected parties of such anticipated action and the parties' right to file claims for damages. Such notice shall set a date for filing claims for such damage and notify the affected parties of a hearing date when such claims filed will be considered by the Council. If any claims are filed, the Council shall hold a special meeting to consider such claims and determine the damages, if any. Any party may appeal the decision of the City Council to the District Court of Scotts Bluff County, Nebraska, for further consideration. Such appeal must be filed within 30 days of the Council's determination. In the event that no claims are filed, it will be determined that no damages will result from the action of the City Council and no damages will be paid.

(Ref. Neb. Rev. Stat. §17-558, 17-559, 76-704 through 76-724)

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

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 after a proper application shall have been made to the city clerk in writing, and permission in writing shall have been given by the City Council. Public service companies heretofore or hereafter granted right of way for the erection and maintenance of poles, conduits, gas mains, pipe lines and wires for the purpose of transacting their business upon, under or over the streets, alleys and public grounds shall at all times, when requested by the City Council, erect, locate or relocate their poles, wires, gas mains, pipe lines and other appurtenances, to such places and in such manner as shall be designated by the City Council. Such poles, wires, gas mains, 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. Whenever it becomes necessary for the City Council to request such relocation for the public safety and convenience, the City Council shall order said relocation by resolution, and the city clerk shall notify any company or companies affected. Said companies shall, within 24 hours after receiving notice, at their own expense, cause the poles, wires, gas mains, pipelines or other appurtenances to be removed. The City Council shall designate another location, as close 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 manner that they will not interfere with the water system, sewer system, or poles, wires, and mains of any public utility located on the same street or alley, or with travel, buildings constructed, or hereafter to be constructed. Whenever possible, all pole lines, wires, gas mains, pipelines or appurtenances shall be confined to the alleys of the City. No water pipe, underground electric line or telephone conduit shall be laid in the same trench with sewer pipe in any street, alley or public grounds in the City, or nearer than three feet to any sewer pipe. No underground electric line shall be laid in the

same trench with any water pipe, sewer pipe or telephone conduit in any street, alley or public grounds or nearer than three feet to any such pipes or conduit.

SECTION 5-211: CONSTRUCTION ASSESSMENT

To defray the costs and expenses of street improvements as may be authorized by law, the City Council shall have power and authority to levy and collect special taxes and assessments upon the lots and pieces of ground adjacent to, abutting upon, or especially benefiting from, the street, avenue, alley or sidewalk in whole or in part opened, widened, curbed, curbed and guttered, graded, paved, repaired, graveled, macadamized, parked, extended, constructed, or otherwise improved or repaired. The City Council sitting as the Board of Equalization shall review all such improvements in accordance with the procedure provided by law. All special assessments shall be made by the City Council at a regular or special meeting, by resolution, taking into account the benefits derived or injuries sustained in consequence of such improvements and the amount charged against the same. The vote shall be recorded in the minutes. Notice of the time of holding such meeting and the purpose for which it is to be held shall be published in a legal newspaper published or of general circulation in the City at least four weeks before the same shall be held. In lieu of such aforementioned notice, personal service may be had upon the persons owning or occupying the property to be assessed. Such assessments shall be known as "special assessments for improvements" and with the cost of notice shall be levied and collected as a special tax in addition to the taxes for general revenue purposes, subject to the same penalties and collected in like manner as other municipal taxes and shall be certified to the county clerk by the city clerk forthwith after the date of levy for collection by the county treasurer unless otherwise specified. After it shall become delinquent, said assessment shall draw interest at the legal interest rate per annum. In the event the property owner is a non-resident of the county in which the property lies, the City shall, before levying any special assessment against that property, send a copy of any notice required by law to be published by means of certified mail, return receipt requested, to the last known address of the non-resident property owner. The last known address shall be that address listed on the current tax rolls at the time such required notice was first published.

(Ref. Neb. Rev. Stat. §17-511, 17-524, 19-2428 through 19-2431, 45-104.01)

SECTION 5-212: IMPROVEMENT DISTRICTS, OBJECTIONS

Whenever the City Council shall deem it necessary to make any improvements allowed by statute, the City Council shall by ordinance create a paving, graveling or other improvement district or districts, and after the passage, approval and publication or posting of such ordinance, shall publish notice of the creation of any such district for six days in a legal newspaper of the City, if a daily newspaper, or for two consecutive weeks if the same be a weekly newspaper. If the owners of record title representing more than 50% of the front footage of the

property directly abutting on the street(s) or alley(s) to be improved shall file with the city clerk within 20 days after the first publication of said notice, written objections to the creation of such district(s), said improvements shall not be made as provided in said ordinance; but said ordinance shall be repealed. If said objections are not filed against the district in the time and manner aforesaid, the City Council shall forthwith cause such work to be done or such improvement to be made, and shall contract therefor and shall levy assessments on the lots and parcels of land abutting on or adjacent to such street(s) and alley(s) especially benefited thereby in such district in proportion to such benefits to pay the cost of such improvement.

(Ref. Neb. Rev. Stat. §17-511)

SECTION 5-213: IMPROVEMENT OF STREETS ON CORPORATE LIMITS

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

(Ref. Neb. Rev. Stat. §17-509)

SECTION 5-214: IMPROVEMENT OF MAIN THOROUGHFARES

The mayor and City Council shall have the power by a 3/4 vote of the City Council to create by ordinance a paving, graveling or other improvement district and to order such work done upon any federal or state highway in the City or upon a street or route designated by the mayor and City Council as a main thoroughfare that connects on both ends to either a federal or state highway or a county road. The City Council shall contract therefor and shall have the power to assess, to the extent of special benefits, the costs of such improvements upon the properties found especially benefited thereby.

(Ref. Neb. Rev. Stat. §17-512)

SECTION 5-215: PETITION FOR IMPROVEMENTS

Whenever a petition signed by the owners of record title representing more than 60% of the front footage of the property directly abutting upon the street(s), alley(s), public way or the public grounds proposed to be improved shall be presented and filed with the city clerk, petitioning therefor, the City Council shall by ordinance create a paving, graveling, or other improvement district and shall cause such work to be done or such improvement to be made, and shall contract therefor and shall levy assessments on the lots and parcels of land abutting on or adjacent to such street or alley especially benefited thereby in such district in proportion to such benefits, to pay the cost of such improvement. The 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.

(Ref. Neb. Rev. Stat. §17-510)

SECTION 5-216: DEFERRAL FROM SPECIAL ASSESSMENTS

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

Any owner of record title eligible for the deferral granted by this section shall, to secure such assessment, make application to the City Council within 90 days after creation of an improvement district. Any owner of record title who makes application for the deferral provided by this section shall notify the county register or deeds of such application in writing prior to approval by the City Council. The City Council shall approve the application of any owner of record title upon determination that the property (a) is within an agricultural use zone and is used exclusively for agricultural use, and (b) the owner has met the requirements of this section.

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

1. Notification by the owner of record title to the City Council to remove such deferral;
2. Sale or transfer to a new owner who does not make a new application within 60 days of the sale or transfer, except as provided in subdivision 3 of this section;
3. Transfer by reason of death of a former owner to a new owner who does not make application within 125 days of the transfer;
4. The land is no longer being used as agricultural land; or
5. Change of zoning to other than an agricultural zone.

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

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

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

In cases where the deferral provided by this section is terminated as a result of a sale or transfer described in subdivision 2 or 3 of this section, the lien for assessments and interest shall attach as of the day preceding such sale or transfer.

(Ref. Neb. Rev. Stat. §19-2428 through 19-2431)

SECTION 5-217: CUTTING CURB; PERMIT REQUIRED

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 obtaining a written permit from the City Council. Before any person shall obtain a permit, the applicant shall inform the city clerk of the place and time such cutting shall be done and it shall be the duty of the street superintendent to inspect the place of entry into the paving, sidewalk or curb before the same is cut. When cutting into any paving, it shall be the duty of the party to cut the paving under such rules and regulations as may be prescribed by the City Council or the street superintendent. When the applicant is ready to close the opening made, the applicant shall inform the street superintendent, who shall supervise and inspect the work done enclosing the opening. Unless specifically authorized by the street superintendent, all closing shall be done in concrete. It shall be the discretion of the City Council to order the street superintendent to do the work of cutting and closing the paving and charge the costs thereof to the party who obtained such permit. The City Council may consent to cutting and closing the pavement, the paving to be done by the party holding such permit. Before any permit is issued by the City Council, the applicant for such permit shall deposit with the city treasurer a sum set by resolution of the City Council for paving, curb or sidewalk to be cut. The deposit shall be retained by the City for the purpose of replacing the paving, curb or sidewalk until the work is completed to the satisfaction of the street superintendent. In the event of a disagreement of proper closing between the applicant and the street superintendent, the City Council shall be the final authority on all matters under this ordinance. In addition to making the deposit set forth above, 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 of the City Council.

SECTION 5-218: VACATION OF STREETS OR ALLEYS; RESERVATION OF TITLE

1. Upon the vacation of any street or alley or any part thereof by the City, the title of such property shall vest in the owner of the abutting property and become part of such property, one-half on each side thereof, except that the City may reserve title to such property 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 interest of the City.

2. In the event the City does not elect to reserve title in the vacated portion of such street or alley, the title to said property nonetheless shall be subject to the following:

(a) There is reserved to the City the right to maintain, operate, repair, and renew public utilities existing at the time title to the property is vacated there; and

(b) There is reserved to the City, any public utilities, and any cable television systems the right to maintain, repair, renew, and operate water mains, gas mains, pole lines, conduits, electrical transmission lines, sound and signal transmission lines, and other similar services and equipment and appurtenances, including lateral connections or branch lines, 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.

(Added January 24, 2006, Ord. No. 473)

ARTICLE III – SIDEWALKS

SECTION 5-301: DUTY OF PROPERTY OWNERS; LIABILITY

Every owner of any lot, lots or piece of land within the limits of this city shall at all times keep and maintain the sidewalks 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 all travelers thereon; in case the owner or owners of any lot, lots or land abutting on any street or avenue or part thereof shall fail to construct or repair any sidewalk in front of his/her or their lot, lots or land within the time and in the manner as directed and required by this article after having received due notice to do so, they shall be liable for all damages and injury occasioned by reason of the defective or dangerous condition of any sidewalk, and the mayor and City Council shall have power to cause such sidewalks to be constructed or repaired and assess the cost thereof against such property.

(Ref. Neb. Rev. Stat. §17-557.01)

SECTION 5-302: NEW SIDEWALK; NOTICE

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. 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 premise 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 or mailing as herein required. Said notice shall notify the owner of the premise 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 done within the time allowed, the City will cause the sidewalk to be constructed and the cost thereof shall be levied and assessed as a special tax against the premise; 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 non-resident of the county in which the property lies, the City shall, before levying any special assessment against that property, send a copy of any notice required by law to be published by means of certified mail, return receipt requested, to the last known address of the non-resident property owner. The last known address shall be that address listed on the current tax rolls at the time such required notice was first published.

(Ref. Neb. Rev. Stat. §17-552, 17-523)

SECTION 5-303: REPAIRING SIDEWALK; NOTICE

Whenever the street commissioner shall deem it necessary that any sidewalk shall be repaired, or it shall be required by the City Council or committee on streets and walks, or the street commissioner, he/she or they shall notify the owner of the lot or piece of land along and contiguous to which such sidewalk is situated to repair the same within two weeks from and after the giving of such notice. Oral notice to the owner shall be deemed sufficient. If the owner is not found by the street commissioner, then a written notice left in the house situated on such lot or piece of ground, or posted upon said premises, shall be sufficient, and the two weeks shall begin to run from the leaving or posting up of such notice as the case may be.

SECTION 5-304: RECONSTRUCTING SIDEWALKS; NOTICE

Whenever the City Council shall deem it necessary that an old sidewalk shall be replaced or reconstructed, it shall order the same to be done and the street commissioner shall give notice in the manner and form provided in Section 5-303 of this article, to replace or reconstruct the same within 30 days from and after such notice.

SECTION 5-305: FAILURE TO CONSTRUCT, RECONSTRUCT OR REPAIR

If any such owner shall neglect or refuse, or shall have failed, after notice has been given as provided in this article, to construct, repair, replace or reconstruct any sidewalk within the time limited in the notice given in such case and whose duty it is made by this article to construct, repair or rebuild such walks, the street commissioner or other officer empowered herein to act shall proceed at once without further notice to such owner or person to have such sidewalks constructed, repaired, rebuilt or reconstructed, as the case may be, and the expense of such work shall be assessed to such lot or piece of land, and collected as provided by law.

SECTION 5-306: 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 City 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 non-resident of the county in which the property lies, the City shall, before levying any special assessment against that property, send a copy of any notice required by law to be published by means of certified mail, return receipt requested, to the last known address of the non-resident property owner. The last known address shall be that address listed on the current tax rolls at the time such required notice was first published.

SECTION 5-307: CONSTRUCTION BY OWNER

Any person desiring to construct, or cause to be constructed, any sidewalk shall do so only as herein provided. It shall be unlawful for any person to construct any sidewalk without first having obtained a permit. Said owner shall make application in writing for a permit and file such application in the office of the city clerk. The permit shall give a description of the lot or piece of land along which the sidewalk is to be constructed. The official in charge of sidewalks shall issue the desired permit unless good cause shall appear why said permit should be denied; provided, if it is desired to construct the sidewalk at any other than the regularly prescribed location, grade or elevation, the city official in charge of sidewalks 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 city official in charge of sidewalks.

SECTION 5-308: DUTY TO REMOVE SNOW, SLEET AND ICE; PENALTY

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. In the event that the mayor or his/her representative declares that emergency conditions exist and prohibits parking along snow emergency routes, property owners or occupants of lots abutting such snow emergency routes or within the business district may scoop the snow from the sidewalks under their control into the street. All sidewalks within the business district shall be cleaned within five hours after the cessation of a storm, unless the storm or fall of snow shall have taken place during the night, in which case the sidewalk shall be cleaned before 8:30 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.

(Ref. Neb. Rev. Stat. §17-557)

SECTION 5-309: DUTY TO REMOVE BRANCHES AND
SHRUBBERY ENCROACHING THEREON; PENALTY

It shall be the duty of the occupant of each lot or parcel of ground in said city to keep the sidewalk adjacent thereto free from overhanging branches and free from limbs to a height of 14 feet, and to keep such sidewalk free from encroaching hedges or shrubbery; and no tree, shrubbery or hedge shall be permitted closer than 18 inches to the sidewalk. It shall be the duty of the occupant of each lot or parcel of ground abutting on any intersection to trim and or remove any shrubbery, sign or other obstacle which obstructs the view for a distance of ten feet from such intersection. Any such occupant or owner who fails to remove the overhanging branches and limbs or other encroachments within five days after receiving written notice to do so, upon conviction shall be fined in any sum not exceeding \$500.00 and shall pay the costs of prosecution and the costs of the removal of such encroachments.

(Ref. Neb. Rev. Stat. §17-557.01)

ARTICLE IV - CONSTRUCTION OF PRIVATE DRIVES

SECTION 5-401: APPLICATION FOR CONSTRUCTION OF PRIVATE DRIVE

Before any person, firm or corporation constructs 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. Such application shall be accompanied by a fee of \$25.00 and shall be acted upon by the City Council at a regular or special meeting.

SECTION 5-402: APPLICATION REQUIREMENTS

All driveway applications shall contain the following information:

- (1) The addition, block and lot which the driveway is to serve;
- (2) The location of the proposed driveway with reference to adjacent lot lines;
- (3) The width of the driveway and type of street surface to which the driveway will connect.

SECTION 5-403: 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, it shall issue a permit for construction of such requested driveway.

SECTION 5-404: PENALTIES

Any person, firm or corporation violating the terms of this article and who constructs a driveway onto a city street or alley without first securing a permit therefore shall be deemed guilty of a misdemeanor and shall be fined in a sum not to exceed \$500.00, and each day's maintenance of the same shall constitute a separate offense.

ARTICLE V - PENAL PROVISIONS

SECTION 5-501: VIOLATION; PENALTY

Any and all persons violating any of the provisions of the several articles of this chapter, for which penalty is not therein provided, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined in a sum of not more than \$500.00 for each offense. Each day's maintenance of the same shall constitute a separate offense.

CHAPTER VII FIRE REGULATIONS

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CHAPTER VII FIRE REGULATIONS

ARTICLE I - FIRE REGULATIONS

SECTION 7-101: FIRE PREVENTION CODE

The rules and regulations promulgated by the office of the State Fire Marshal of the State of Nebraska relating to fire prevention are incorporated by reference into this code and made a part of this article as though spread at large herein, together with all subsequent amendments thereto. Three copies of the Fire Prevention Code shall be on file with the city clerk and shall be available for public inspection at any time that the city office is open for business.

SECTION 7-102: FIRE CODE ENFORCEMENT

It shall be the duty of all city officials to enforce the incorporated fire code provisions, and all infractions shall be immediately brought to the attention of the City Council.

SECTION 7-103: LAWFUL ENTRY

It shall be the duty of the owner, lessee, or occupant of any building or structure, except the interiors of private dwellings, to allow the fire inspector, as designated by the City Council, to inspect the structure for purposes of ascertaining and enumerating all conditions therein that are likely to cause fire, or any other violations of the provisions of the city ordinances affecting the hazard of fire.

SECTION 7-104: VIOLATION NOTICE

It shall be the duty of the owner, lessee, or occupant of any building or structure that was lawfully inspected as herein prescribed, and who receives written or verbal notice of a violation of any of the provisions of the city ordinances, to correct the condition within five days of the date of receipt of such notice.

SECTION 7-105: POISONOUS OR FLAMMABLE GAS

Any person, firm or corporation desiring to store or keep any form of poisonous or flammable gas in the City for any period of time must first get permission from the City Council. The Council shall require the name of the gas, the place of storage, and the amount of gas stored. It shall then be the duty of the City Council to prescribe such rules, regulations and precautionary actions as it may deem necessary.

SECTION 7-106: SMOKING IN PUBLIC PLACES

It shall be unlawful for any person to ignite a lighter, strike a match, or indulge in

the smoking of tobacco on or in any building or structure where public gatherings take place within the corporate limits while any entertainment, program, show, amusement, game, exhibition or other spectacle to which the general public is invited is in progress, or while patrons thereof are finding or leaving seats and standing room; provided, the foregoing shall not be construed to apply to banquets, dinners or entertainments held in any of the aforesaid buildings or structures where food is served and the entertainment takes place incidental thereto or in connection therewith.

SECTION 7-107: PROHIBITED FUELS

It shall be unlawful for any person to permit or allow crank case drainings, oil or other flammable substances, other than wood, to be burned in a homemade stove.

SECTION 7-108: BURNING PROHIBITED

It shall be unlawful for any person to set a fire of any kind, either contained fires, such as garbage and other refuse in barrels, or open burning of any kind.

SECTION 7-109: STOVES, FURNACES AND CHIMNEYS

All furnaces, stoves and other heating devices shall be installed at a proper distance from combustible materials and portions of the building. Any combustible materials or portions of the building that are dangerously close to such heating devices shall be protected by non-combustible material. This section shall apply both to existing structures and those which may hereafter be erected.

SECTION 7-110: PRESERVATION OF PROPERTY

Any police officer or official of the rural fire district shall have the power during the time of a fire to cause the removal of any private or public property whenever it shall become necessary to do so for the preservation of such property from fire, to prevent the spreading of fire, or to protect adjoining property. The said officials may direct the removal of any building, erection, fence or any part thereof for the purpose of checking the progress of any fire. The official in charge of the firefighting effort shall have the power to blow up, or cause to be blown up, with powder or otherwise, any building or erection during the progress of a fire for the purpose of extinguishing or halting the same.

SECTION 7-111: POWER OF ARREST

The city police or rural fire department chief shall have the power during the time of a fire and after its extinguishment to arrest any suspected arsonist or any person hindering or resisting the firefighting effort.

SECTION 7-112: FIRE INVESTIGATION

It shall be the duty of the city police department and the State Fire Marshal to investigate, or cause to be investigated, the cause, origin and circumstances of every fire occurring in the City in which property has been destroyed or damaged when the damage exceeds \$500.00. All fires of unknown origin shall be reported, and such officers shall especially make an investigation and report as to whether such fire was the result of carelessness, accident or design. The officer making the investigation of fires occurring within the City shall immediately notify the State Fire Marshal and shall, within one week of the occurrence of the fire, furnish him/her with a written statement of all the facts relating to the cause and origin of the fire, and such further information as he/she may call for.

SECTION 7-113: DRIVING OVER HOSE

It shall be unlawful for any person to drive a vehicle over any unprotected hose of the fire department unless authorized to do so by the fire department.

SECTION 7-114: TRAFFIC

Every vehicle within 500 feet of the fire station which is already stationary when the fire alarm shall have been sounded must remain so for a period of five minutes after the sounding of the fire alarm. No vehicle shall follow, approach or park closer than 500 feet to any fire vehicle or to any fire hydrant to which a hose is connected. Nothing herein shall be construed to apply to vehicles carrying doctors, members of the fire department or emergency vehicles.

SECTION 7-115: FALSE ALARM

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

SECTION 7-116: PEDESTRIANS

It shall be unlawful for any pedestrian to enter or remain in any street after a fire alarm shall have sounded until the fire trucks shall have completely passed.

SECTION 7-117: FIRE EQUIPMENT

It shall be unlawful for any person except the fire chief and the members of the fire department to molest, destroy, handle or in any other way to interfere with the use and storage of any of the fire trucks and other apparatus belonging to the fire department.

SECTION 7-118: INTERFERENCE

It shall be unlawful for any person or persons to hinder or obstruct the fire chief or other members of the fire department in the performance of their duty.

SECTION 7-119: OBSTRUCTION

It shall be unlawful for any person to obstruct the use of any fire hydrant, or have or place any material within 15 feet of said hydrant. Any vehicle or material found as an obstruction may be immediately removed by the fire chief or any member of the fire department at the risk, cost and expense of the owner or claimant.

SECTION 7-120: ASSISTANCE

It shall be unlawful for any person to refuse to aid in extinguishing a fire or to assist in the removal and protection of property after the command of the fire chief or assistant fire chief.

SECTION 7-121: OPEN BURNING BAN; WAIVER

There shall be a statewide open burning ban on all bonfires, outdoor rubbish fires, and fires for the purpose of clearing land. The fire marshal or his/her designee may waive an open burning ban issued under this section for an area under his/her jurisdiction by issuing an open burning permit to a person requesting permission to conduct open burning. Said permit issued by the fire marshal shall be in writing, signed by the fire marshal and on a form provided by the state fire marshal.

The fire marshal or his/her designee may waive the open burning ban in his/her district when conditions are acceptable to the marshal. Anyone burning in such district when the open burning ban has been waived must notify the marshal of his/her intention to burn.

(Ref. Neb. Rev. Stat. §81-520.01)

SECTION 7-122: FIRE LIMITS; DEFINED

The following prescribed territory in the City shall embrace and constitute the fire limits of said city, to-wit:

Beginning at a point where the south line of Eighth Street is intersected by the west line of the alley between Main Street and First Avenue and extending southward along the west line of said alley to the south line of Third Street; thence easterly along the

south line of Third Street to the west line of First Avenue; thence southerly along said west line of First Avenue to the north line of Railroad Street; thence northwesterly along the north line of Railroad Street to the east line of Avenue B; thence northerly along the east line of Avenue B to the south line of Fourth Street; thence easterly along the south line of Fourth Street to the east line of the alley between Avenue A and Main Street; thence northerly along the east line of said alley to the south line of Eighth Street; thence easterly along the south line of Eighth Street to the point of beginning.

SECTION 7-123: FIRE LIMITS; MATERIALS

Within the aforesaid fire limits, no structure shall be built, altered, moved or enlarged unless such structure will be enclosed with such incombustible materials as will satisfy the fire chief that the said structure will be reasonably fireproof; provided, the construction requirement above shall not apply to buildings less than eight feet by 12 feet in size, and buildings to be used for other than business purposes.

(Ref. Neb. Rev. Stat. §17-550)

SECTION 7-124: FIRE LIMITS; BUILDING PERMIT

Prior to the moving or construction of any building in the fire limits, application must be made to the City Council. Construction shall include the enlarging or alteration of any building in the fire limits. Such application shall be furnished by the city clerk and shall require such information as the City Council deems necessary to determine whether or not to grant a building permit.

SECTION 7-125: FIRE LIMITS; REMOVAL REQUIRED

In the event that any wooden or combustible building or structure or any non-combustible building which stands within the fire limits is damaged to the extent of 50% or more of its value, exclusive of the foundation, it shall not be repaired or rebuilt but shall be taken down and removed within 60 days from the date of such fire or casualty.

ARTICLE II - EXPLOSIVE MATERIAL

SECTION 7-201: STORAGE

Dynamite and other explosives shall be stored in a proper receptacle made of concrete, metal or stone, which shall be closed at all times except when actually in use. Such receptacle shall not be located in any room where there is a flame or flammable materials.

SECTION 7-202: BULLETS

Cartridges, shells and percussion caps shall be kept in their original containers away from flame, flammable materials and high explosives.

SECTION 7-203: 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 such directives and precautions as may be prescribed under the direction and supervision of the Council, 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.

(Ref. Neb. Rev. Stat. §17-556)

SECTION 7-204: REGISTRATION

Any person keeping or storing dynamite, nitroglycerin, gun powder or other high explosives in any quantity shall register such information as the City Council may require with the city clerk, who shall forward such information to the fire chief.

ARTICLE III - FIREWORKS

(Article Am. by Ord. No. 496, 1/16/10)

SECTION 7-301: REGULATION OF USE, SALE, POSSESSION

The use, sale, offer for sale, and possession of permissible fireworks in the City, as defined by Neb. Rev. Stat. §28-1241 (Reissue 2008), shall be governed and regulated by Neb. Rev. Stat. §28-1241 to 28-1252 (Reissue 2008), including any and all amendments thereto, together with any rules and regulations adopted by the state fire marshal for the enforcement of Neb. Rev. Stat. §28-1241 to 28-1252 (Reissue 2008) which is included herein and made a part of this code.

SECTION 7-302: DEFINITIONS.

As used in Neb. Rev. Stat. Sections 29-1239.01 and 28-1241 to 28-1252, unless the context otherwise requires:

1. "Distributor" means any person engaged in the business of making sales of fireworks at wholesale in this state to any person engaged in the business of making sales of fireworks either as a jobber or as a retailer or both.
2. "Jobber" means any person engaged in the business of making sales of fireworks at wholesale to any other person engaged in the business of making sales at retail.
3. "Retailer" means any person engaged in the business of making sales of fireworks at retail to consumers or to persons other than distributors or jobbers.
4. "Sale" includes barter, exchange, or gift or offer therefor and each such transaction made by any person, whether as principal, proprietor, agent, servant, or employee.
5. "Fireworks" means any composition or device designed for the purpose of producing a visible or audible effect by combustion, deflagration, or detonation and which meets the definition of common or special fireworks set forth by the United States Department of Transportation in Title 49 of the Code of Federal Regulations.
6. "Common fireworks" means any small firework device designed to produce visible effects by combustion and which is required to comply with the construction, chemical composition, and labeling regulations of the United States Consumer Product Safety Commission set forth in 16 C.F.R., small devices designed to produce audible effects such as whistling devices, ground devices containing 50 milligrams or less of explosive composition, and aerial devices and firecrackers containing 130 milligrams or less of explosive composition. Class C explosives as classified by the United States Department of Transportation shall

be considered common fireworks.

7. "Permissible fireworks" means only sparklers, Vesuvius fountains, spray fountains, torches, color fire cones, star- and cornet-type color aerial shells without explosive charge for the purpose of making a noise, lady fingers, not to exceed seven-eighths of an inch in length or one-eighth inch in diameter, total explosive composition not to exceed 50 milligrams in weight, color wheels, and any other fireworks approved under Section 28-1247.

8. "Display fireworks" means those materials manufactured exclusively for use in public exhibitions or displays of fireworks designed to produce visible or audible effects by combustion, deflagration, or detonation. Display fireworks includes, but is not limited to, firecrackers containing more than 130 milligrams of explosive composition, aerial shells containing more than 40 grams of explosive composition and other display pieces which exceed the limits for classification as common fireworks. Class B explosives, as classified by the United States Department of Transportation, shall be considered display fireworks. Display fireworks shall be considered an explosive as defined in Section 28-1213 and shall be subject to Sections 28-1213 to 28-1230, except that display fireworks may be purchased, received and discharged by the holder of an approved display permit issued pursuant to Section 28-1230.01.

(Ref. Neb. Rev. Stat §28-1241, Reissue 2008)

SECTION 7-303: UNLAWFUL THROWING OF FIREWORKS; PENALTY

A person commits the offense of unlawful throwing of fireworks if he or she throws any firework or any object which explodes upon contact with another object: (A) From or into a motor vehicle; (B) onto any street, highway, or sidewalk; (C) at or near any person; (D) into any building; or (E) into or at any group of persons. Unlawful throwing of fireworks is a Class III misdemeanor.

(Ref. Neb. Rev. Stat §28-1242, Reissue 2008). A Class III misdemeanor is a maximum of zero to three months imprisonment, a \$500.00 fine, or both; statutory minimum is none.

SECTION 7-304: UNLAWFUL ACTS

Except as provided in Neb. Rev. Stat. Section 28-1245, it shall be unlawful for any person to possess, sell, offer for sale, bring into this state, or discharge any fireworks other than permissible fireworks. (Ref. Neb. Rev. Stat. §28-1244, Reissue 2008)

SECTION 7-305: WHEN PROHIBITIONS NOT APPLICABLE

Section 28-1244 shall not apply to:

1. Any display fireworks purchased from a licensed distributor; or
2. Any display fireworks purchased by the holder of a display permit issued

pursuant to Neb. Rev. Stat. §28-1239.01; or

3. Any fireworks brought in to this state for storage by a licensed distributor and held for sale outside of this state; or

4. Any fireworks furnished for agricultural purposes pursuant to written authorization from the state fire marshal to any holder of a distributor's license; or

5. Toy cap pistols or toy caps, each of which does not contain more than twenty-five hundredths of a grain of explosive material.

(Ref. Neb. Rev. Stat. §28-1245, Reissue 2008)

SECTION 7-306: SALE; LICENSE REQUIRED; FEES

1. It shall be unlawful for any person to sell, hold for sale, or offer for sale as a distributor, jobber, or retailer any fireworks in this state unless such person has first obtained a license as a distributor, jobber, or retailer. Application for each such license shall be made to the state fire marshal on forms prescribed by him or her. If the applicant is an individual, each application shall include the applicant's social security number. Each application shall be accompanied by the required fee, which shall be \$500.00 for a distributor's license, \$200.00 for a jobber's license, and \$25.00 for a retailer's license. Each application for a license as a retailer postmarked after June 10 shall be accompanied by an additional fee of \$50.00. All licenses shall be good only for the calendar year in which issued and shall at all times be displayed at the place of business of the holder thereof.

2. The funds received pursuant to this section shall be remitted to the state treasurer for credit to the State Fire Marshal Cash Fund.

(Ref. Neb. Rev. Stat. §28-1246, Reissue 2008)

SECTION 7-307: SUBMISSION OF SAMPLES TO DETERMINE SAFETY; DUTIES OF STATE FIRE MARSHAL

Before any permissible fireworks may be sold, held for sale, or offered for sale in this state, they shall first be submitted to the state fire marshal for examination to determine their compliance with Neb. Rev. Stat. §28-1241(7) and their safety for general use. Fireworks not specifically listed in Neb. Rev. Stat. §28-1241(7) may be added to the list of permissible fireworks by the state fire marshal, by rule or regulation, after having been submitted to him or her and tested to determine their safety for general use. (Ref. Neb. Rev. Stat. §28-1247, Reissue 2008)

SECTION 7-308: IMPORTATION INTO STATE; DUTIES OF LICENSEES; RETENTION OF INVOICES FOR INSPECTION

1. It shall be unlawful for any person not licensed as a distributor or as a jobber under the provisions of Neb. Rev. Stat. §28-1241 to 28-1252 to bring any fireworks into this state.

2. It shall be unlawful for any retailer or jobber in this state to sell any fireworks in this state which have not been purchased from a distributor licensed under the provisions of Neb. Rev. Stat. §28-1241 to 28-1252.

3. Any person licensed under the provisions of Neb. Rev. Stat. §28-1241 to 28-1252 shall keep, available for inspection by the state fire marshal or his agents, a copy of each invoice for fireworks purchased as long as any fireworks included on such invoice are held in his possession, which invoice shall show the license number of the distributor or jobber from which the purchase was made.

(Ref. Neb. Rev. Stat §28-1248, Reissue 2008)

SECTION 7-309: SALE AND DISCHARGE OF CONSUMER FIREWORKS; POSSESSION FOR SALE; GIFTS; USE

It shall be unlawful for any person, firm, partnership or corporation to sell at retail, possess for sale at retail, give away, use, discharge or cause to be discharged consumer fireworks and any other fireworks approved under the provisions of this Article. Consumer fireworks may be sold at retail only between June 25 at 12:01 A.M. and July 4 at 11:59 P.M. and between December 29 at 12:01 A.M. and December 31 at 11:59 P.M. each year. Consumer fireworks may be discharged only between 8:00 A.M. and 10:00 P.M. June 25 through July 3, and from 8:00 A.M. through 11:59 P.M. July 4. Consumer fireworks may be discharged between 4:30 P.M. December 31 and 12:30 A.M. January 1. Provided, toy cap pistols and toy caps may be sold, given away, used, discharged or caused to be discharged at any time. Provided further, fireworks of any description are authorized for purposes of public exhibitions or displays as provided in this Article, and public exhibition or displays under the auspices of any govern-mental subdivision of the State of Nebraska, and according to Nebraska law.

(Ref. Neb. Rev. Stat. §28-1249, Reissue 2008) (Am Ord. No. 529, 8/15/17)

SECTION 7-310: FIREWORKS; PROHIBITED ACTS; VIOLATIONS; PENALTIES

1. Any person who violates any of the provisions of Neb. Rev. Stat. §28-1244 to 28-1249 commits a Class III misdemeanor. If such person is a licensed distributor or jobber, he or she shall be subject to the revocation of his or her license for a period of one year.

2. It shall be unlawful for any person, association, partnership, limited liability company, or corporation to have in his, her, or its possession any fireworks in violation of any of the provisions of such sections. If any person shall have in his, her, or its possession any fireworks in violation of such sections, a warrant may be issued for the seizure of such fireworks and when the warrant is executed by the seizure of such fireworks, such fireworks shall be safely kept by the magistrate to be used as evidence. Upon conviction of the offender, the fireworks

shall be destroyed but if the offender is discharged, the fireworks shall be returned to the person in whose possession they were found. Nothing in such sections shall apply to the transportation of fireworks by regulated carriers.

(Ref. Neb. Rev. Stat. §28-1250, Reissue 2008)

**SECTION 7-311: UNLAWFUL TESTING OR INSPECTION OF FIRE ALARMS;
PENALTY; CERTIFICATION OF APPLICANTS;
EXAMINATION; FEE**

1. It shall be unlawful for any person, association, partnership, limited liability company, or corporation to conduct fire alarm tests and fire alarm inspections without prior written certification by the state fire marshal as to the qualifications of such persons conducting such tests and inspections.

2. The state fire marshal shall formulate reasonable guidelines to determine qualifications for fire alarm inspectors and shall administer an examination pursuant to such guidelines prior to certification of applicants. He or she may charge a fee of \$100.00 to cover costs of administering such examinations.

3. Unlawful testing or inspection of fire alarms is a Class III misdemeanor.

(Ref. Neb. Rev. Stat. §28-1251, Reissue 2008). A Class III misdemeanor is a maximum of zero to three months imprisonment, a \$500.00 fine, or both; statutory minimum is none.

**SECTION 7-312: STATE FIRE MARSHAL; RULES AND REGULATIONS;
ENFORCEMENT OF SECTIONS**

The state fire marshal shall adopt and promulgate reasonable rules and regulations for the enforcement of Neb. Rev. Stat. §28-1239.01 and 28-1241 to 28-1252 and, together with all peace officers of the state and its political subdivisions, shall be charged with the enforcement of Neb. Rev. Stat. §28-1239.01 and 28-1244 to 28-1249. (Ref. Neb. Rev. Stat. §28-1252, Reissue 2008)

ARTICLE IV - PENAL PROVISION

SECTION 7-401: VIOLATION; PENALTY

Any person who shall violate or refuse to comply with the enforcement of any of the provisions of this chapter, whether set forth at full length herein or incorporated by reference, shall be deemed guilty of a misdemeanor and fined in a sum of not more than \$500.00. Each day's maintenance of the same shall constitute a separate offense.

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CHAPTER VIII BUILDING REGULATIONS

ARTICLE IV - BUILDING REGULATIONS

SECTION 8-101: BUILDING INSPECTOR; POWERS AND AUTHORITY

A building inspector may be appointed in the manner of other appointed officials and shall hold office at the pleasure of the City Council. He/she shall be the city official who shall have the duty of enforcing all building and housing regulations as herein pre-scribed. He/she shall inspect all buildings repaired, altered, built, moved or demolished in the City as often as necessary to ensure compliance with all city ordinances. He/she shall have the power and authority to order, at the direction of the City Council, 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 peace officer.

SECTION 8-102: BUILDING INSPECTOR; RIGHT OF ENTRY

It shall be unlawful for any person to refuse to allow the building inspector entry into any building or structure where the work of construction, alteration, repair or relocation is taking place for the purpose of making official inspections at any reasonable hour.

SECTION 8-103: BUILDING PERMITS REQUIRED; APPLICATION, ISSUANCE; FEES

1. Any person desiring a building permit to erect, construct, repair, relocate or destroy any building or dwelling or cause the same to be done, including but not limited to a lawful burning pursuant to Neb. Rev. Stat. § 28-506, shall file with the city clerk, for consideration by the City Council, an application therefor on a form to be furnished by the city clerk, before proceeding with the work. Every such application shall set forth the legal description of the land upon which the construction or relocation is to take place, the nature of the use or occupancy, the principal dimensions, the estimated cost, the names of the owner, architect, and contractor, and such other information as may be requested thereon. The application, plans and specifications so filed with the city clerk shall be checked and examined by the City Council, and if they are found to be in conformity with the provisions of the ordinances of the City, the council shall authorize the clerk to issue the said applicant a permit upon payment of the permit fee set by ordinance of the City Council.

2. Fees for each building permit shall be paid to the city clerk as set forth in Table No. 1. The determination of value or valuation under any of the provisions of this code shall be made by the building official.

TABLE NO. 1	
Building Permit Fees	
Total valuation of \$1,000.00 or less	\$30.00
Each additional \$1,000.00 or fraction thereof	\$5.00

3. All construction or work for which a permit is required shall be subject to inspection by the building inspector and all work shall conform to the provisions of the code in all respects.
(Neb. Stat. §18-1743) (Am. Ord. No. 533, 9/18/18)

SECTION 8-104: BUILDING PERMIT; DUPLICATE TO COUNTY ASSESSOR

Whenever a building permit is issued for the erection, alteration or repair of any building within the City's jurisdiction and the improvement is \$1,000.00 or more, a duplicate of such permit shall be issued to the county assessor.
(Neb. Rev. Stat. §18-1743)

SECTION 8-105: BUILDING PERMIT; VARIANCE NOT PERMITTED

It shall be unlawful for any person to whom a permit to construct or repair a building within the corporate limits of the City is issued, as provided in this article, to vary in any manner from the plans and specifications submitted to the City Council in the construction or repair authorized, so that such construction or repair does not conform to the ordinances of the City.

SECTION 8-106: BUILDING PERMIT; TIME OF INSPECTION

1. The building inspector, upon notification from the permit holder or his/her agent, shall make the following inspections of the building or structure and shall either approve that portion of the construction as completed or shall notify the permit holder or his/her agent that the work fails to comply with the requirements of the municipal code:

- A. Foundation inspection shall be made after trenches are excavated and the necessary forms erected;
- B. Frame inspection shall be made after the roof, framing, fire-blocking and backing is in place and all pipes, chimneys and vents are complete; and
- C. Final inspection shall be made after the building is completed and ready for occupancy.

2. It shall be unlawful for any person to do work or cause work to be done beyond the point indicated in each successive inspection without the written approval of the building inspector.

SECTION 8-107: PERMIT LIMITATION

If the work for which a permit has been issued shall not begin within three months of the date thereof, or if the construction shall be discontinued for a period of three months, or if work shall not have been completed or a show of reasonable progress within one year from the date of issuance, the permit shall be void; and before such work can be resumed, a new permit shall be obtained in the same manner and form with a permit fee equal to the original permit. Failure to complete a building in the time allowed by a permit could result in the City enforcing ordinances or state law pertaining to health and safety violations, nuisances, or other ordinances or statutes pertaining to said property.

(Am. Ord. No. 457, 9/16/03)

SECTION 8-108: BOND REQUIREMENT

It shall be the duty of the owner, lessee or tenant intending the destruction of any building or improvement to post a \$1,000.00 cash bond with the city clerk prior to such destruction. This bond will be refunded upon payment of all damages to city property occasioned by such destruction and any cleanup work resulting from such destruction. In the event that a nuisance remains on the building permit site for more than six months after the issuance of the building permit, then the bond shall be forfeited and shall be applied to offset the cleanup by the City.

SECTION 8-109: BUILDING WITHOUT PERMIT; NUISANCE

Every building or other structure hereafter erected, remodeled or moved into or within the City without a permit therefor, as herein required or which is not constructed, remodeled or located in accordance with the permit granted and issued therefor, shall be deemed and considered to be a public nuisance and may be abated or removed by the City at the expense of the owner.

SECTION 8-110: UNIFORM CODES; ADOPTED BY REFERENCE

1. The following official codes, in their present form and as they may hereafter be amended, are designated as Uniform Codes and incorporated by reference when the same are applicable to the City of Minatare. The City hereby adopts the most recent editions of the following codes and any amendments hereafter and incorporates them herein by reference:

- A. International Structural Code, Version 2009;
- B. International Building Code, Version 2009 except Section 150.001;
and
- C. International Property Maintenance Code, Version 2009.

2. One copy of each such code shall be filed in the office of the city clerk and shall be available for public inspection during office hours.

(Am. Ord. Nos. 459, 3/16/04; 469, 6/21/05; 487, 6/17/08; 511, 4/15/13)

ARTICLE II - MOVING BUILDINGS

SECTION 8-201: TERMS DEFINED

"Building" is a structure designated, built or occupied as a shelter or roofed enclosure for persons, animals or property and used for residential, business, mercantile, storage, industrial, institutional, assembly, educational or recreational purposes. A structure with the following dimensions or less shall not fall within this definition: 10 feet wide, 20 feet long, and, when in a position to move, 15 feet high.

SECTION 8-202: PERMIT REQUIRED

No person shall move any building over, along or across any highway, street or alley in the City without first obtaining a permit from the city clerk.

SECTION 8-203: APPLICATION

Any person seeking issuance of a permit hereunder shall file an application for such permit with the city clerk. Upon approval of the City Council, the city clerk shall then issue the said permit.

A. Form. The application shall be made in writing upon forms provided by the city clerk and shall be filed in the office of the city clerk.

B. Contents. The application shall set forth:

1. A description of the building proposed to be moved, giving street number, construction materials, dimensions, number of rooms and condition of exterior and interior;

2. A legal description of the lot from which the building is to be moved, giving the lot, block and tract number, if located in the City.

3. A legal description of the lot to which the proposed such building be removed, giving lot, block and tract number, if located in the City.

4. The portion of the lot to be occupied by the building when moved;

5. The highways, streets and alleys over, along or across which the building is proposed to be moved;

6. Proposed moving date and hours;

7. Any additional information which the City Council shall find necessary to a fair determination of whether a permit should be issued.

C. Accompanying Papers.

1. Tax Certificate. The owner of the building to be moved shall file with the application sufficient evidence that the building and lot from which it is to be removed are free of any entanglements and that all taxes and any city charge against the same are paid in full.

2. Certificate of Ownership or Entitlement. The applicant, if other than the owner, shall file with the application a written statement of bill of sale signed by the owner, or other sufficient evidence, that he/she is entitled to move the building.

3. Liability Policy. The applicant shall file with the application a certificate of insurance providing coverage for both personal injury or property damage which might occur during the moving of said building. The minimum amount of coverage allowable shall be \$10,000.00 property damage coverage and \$10,000.00 personal injury coverage. The City Council may require coverage in greater amounts if they deem it to be necessary.

D. Fee. The application shall be accompanied by a permit fee in the amount of \$25.00 which shall be paid over by the city clerk to the city treasurer, who shall credit it to the general fund.

SECTION 8-204: INTERFERENCE

Whenever it shall be necessary for any permittee in moving a building to interfere with any electric, telephone or telegraph poles or wires, the public service company or companies owning, using or operating such poles or wire shall, upon such notice as is provided in their respective franchises, or if no provisions for notice is made therein, then upon 48 hours notice, be present and assist, or, if necessary remove such poles and wires; and the expense of said removal, as estimated, shall be paid in advance by applicant, unless it is otherwise provided in said companies' franchises. Whenever the moving of any building necessitates interference with any water main or sewer main belonging to the City, notice in writing of the time and route of such building moving operations shall be given to the building inspector of the City, who shall proceed in behalf of the city marshal as the managing officers or public service companies are required to proceed in the premises in behalf of the companies. The notice herein provided for shall be given to said city official or public service company or companies, as the case may be, by the licensed housemover.

SECTION 8-205: DUTIES OF PERMITTEE

Every permittee under this ordinance shall:

- A. Use Designated Streets. Move a building only over streets designated for such use in the written permit.
- B. Notify of Revised Moving Time. Notify the city clerk in writing of a desired change in moving date and hours as proposed in the application.
- C. Notify of Damage. Notify the city clerk in writing of any and all damage done to property belonging to the City within 24 hours after the damage or injury has occurred.
- D. Display Lights. Cause red lights to be displayed during the night time on every side of the building, while standing on the street, in such a manner as to warn the public of the obstruction, and shall at all times erect and maintain barricades across the streets in such a manner as to protect the public from damage or injury by reason of the removal of the building.
- E. Street Occupancy Period. Remove the building from the city streets after four days of such occupancy, unless an extension is granted by the mayor and the City Council.
- F. Comply with Governing Law. Comply with the building code, the fire zone, and any zoning ordinances now existing or hereinafter adopted and all other applicable ordinances and laws, if any upon relocating the building in the City.
- G. Clear Old Premises. Within ten days from the removal of the building, the permittee shall remove all rubbish and materials and fill all excavations to existing grade at the original site so that the premises are left in a safe and sanitary condition.
- H. Remove Services Connections. See that the sewer line is plugged with a concrete stopper, the water shut off, and the meter returned to the city water office. Permittee shall notify the gas and electric service companies to remove their services.

SECTION 8-206: NO GENERAL LICENSE

There shall be no license issued or general permit given to anyone to move buildings at will or generally within the City.

ARTICLE III - UNSAFE BUILDINGS

SECTION 8-301: DEFINITION

The term "unsafe building" as used in this article is hereby defined to mean and include any building, shed, fence or other man-made structure (1) which is dangerous to the public health because of its condition, and which may cause or aid in the spread of disease or injury to the health of the occupants of it or neighboring structures; (2) which because of faulty construction, age, lack of proper repair, or any other cause is especially liable to fire and constitutes or creates a fire hazard; (3) which by reason of faulty construction or any other cause is liable to cause injury or damage by the collapse or fall of all or any part of such structure. Any such unsafe building in the City is hereby declared to be a nuisance.

(Neb. Rev. Stat. §18-1720, 18-1722, 18-1722.01)

SECTION 8-302: PROHIBITION

It shall be unlawful to maintain or permit the existence of any unsafe building in the City and it shall be unlawful for the owner, occupant or person in custody of any dangerous building to permit the same to remain in an unsafe condition or to occupy such building or permit it to be occupied while it is in an unsafe condition.

(Neb. Rev. Stat. §18-1720, 18-1722, 18-1722.01)

SECTION 8-303: DETERMINATION AND NOTICE

1. Whenever the building inspector, fire chief, health official or the City Council shall be of the opinion that any building or structure in the City is an unsafe building, he/she shall file a written statement to this effect with the city clerk. The clerk shall thereupon cause the property to be posted accordingly and shall file a copy of such determination in the office of the county register of deeds. The clerk shall then serve written notice upon the owner thereof and upon the occupant thereof, if any, by certified mail or by personal service. Such notice shall state that the building has been declared to be in an unsafe or dangerous condition, that such condition must be removed or remedied by repairing or altering the building or by demolishing it, and that the condition must be remedied within 60 days from the date of receipt. Such notice may be in the following terms:

"To: _____ (owner-occupant of premises)
of the premises known and described as _____:

"You are hereby notified that _____ (describe building) on the premises above-mentioned has been determined to be an unsafe or dangerous building and a nuisance after inspection by _____. The causes for this decision are:

_____ (here insert the facts as to the dangerous condition).

"You must remedy this condition or demolish the building within 60 days from the date of receipt of this notice or the City shall proceed to do so. Appeal of this determination may be made to the City Council, acting as the Board of Appeals, by filing with the city clerk within ten days from the date of receipt of this notice a request for hearing."

2. If the person receiving the notice has not complied therewith or taken an appeal from the determination of the officer or employee finding that an unsafe or dangerous building exists within ten days from the time when this notice is served upon such person by personal service or certified mail, the building inspector may, upon orders of the City Council, proceed to remedy the condition or demolish the unsafe or dangerous building.

3. The following standards shall be followed in substance by the building inspector, fire chief, health official, or City Council in ordering repairs, rehabilitation, vacation or demolition:

- a. If the cost of repairing or rehabilitating an unsafe building so that it will no longer exist in violation of the terms of this Article does not exceed 50 percent of the actual appraised value of the building as shown by the records of the office of the county assessor, it shall be ordered repaired or rehabilitated.
- b. If the unsafe building is in such condition as to render it dangerous to the health, safety or general welfare of its occupants, it shall be ordered to be vacated.
- c. In any case where the cost of repair or rehabilitation of the unsafe building so that it no longer will exist in violation of the terms of this Article is in excess of 50 percent of the actual appraised value of the building as shown by the records of the office of the county assessor, it shall be ordered demolished unless repaired or rehabilitated so that it no longer will exist in violation of the terms of this Article.

(Neb. Rev. Stat. §18-1720, 18-1722, 18-1722.01) (Am. Ord. No. 528, 8/15/17)

SECTION 8-304: HEARING AND APPEAL

Upon receiving the notice to repair or demolish the building, the owner of the building, within the time stipulated, may in writing to the city clerk request a hearing before the City Council, sitting as the Board of Appeals, to present reasons why the building should not be repaired or demolished. The City Council shall grant such hearing within ten days from the date of receiving the request. A

written notice of the decision by the City Council following the hearing shall be sent to the property owner by certified mail. If the 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 City shall proceed to cause such work to be done; provided, the property owner may appeal such decision to the appropriate court for adjudication, during which proceedings the decision of the City Council shall be stayed. Should building and other codes adopted by the City fail to specifically cover such matters, the statutes of Nebraska relating to bonded indebtedness and collection of delinquent taxes shall apply.

(Neb. Rev. Stat. §18-1720, 18-1722, 18-1722.01)

SECTION 8-305: EMERGENCY

Where any unsafe building or structure poses an immediate danger to the health, safety or general welfare of any person, and the owner fails to remedy the situation in a reasonable time after notice by the building inspector to do so, the City may summarily repair or demolish and remove such building or structure.

SECTION 8-306: SPECIAL ASSESSMENTS; COST OF REMOVAL

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 an unsafe building or structure and a public nuisance, the City may, after the property owner's failure to comply with the notice herein, proceed with the work specified in said notice. If the owner or occupant of the lot or piece of ground fails to comply with the order to abate and remove the nuisance within 15 days from the receipt of the notice to abate, the City may have such work performed and the cost and expense of such work shall be paid by the owner of the property. A statement of the cost of such work shall be transmitted to the City Council. If unpaid for two months after such work is completed, the City may:

1. 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

2. Collect the cost from the owner of the building or structure and force the collection by civil action in any court of competent jurisdiction.

(Neb. Rev. Stat. §18-1720, 18-1722, 18-1722.01, 77-1725) (Am. Ord. No. 523, 3/16/16)

ARTICLE IV - PENAL PROVISION

SECTION 8-401: VIOLATION; PENALTY

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

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CHAPTER IX ZONING REGULATIONS

(Am. Ord. No. 518, 8/26/15)

ARTICLE I - TITLE, PURPOSE AND INTENT

SECTION 9-101: TITLE

These regulations, including the Official Zoning Map made a part hereof, shall be known and may be cited and referred to as the Minatare Zoning Ordinance.

SECTION 9-102: PURPOSE AND INTENT

This zoning ordinance, adopted pursuant to the provisions of Neb. Rev. Stat. Chapter 19, is intended to serve the following purposes:

1. To promote the health, safety, morals, comfort and general welfare of the City and its surrounding area; and
2. To preserve and protect property values throughout the City and its surrounding area; and
3. To restrict and regulate the height, number of stories, and size of buildings; the percentage of lot coverage; the size of yards, courts and other open spaces; the density of population; and
4. To divide the City and its extraterritorial jurisdiction into zones and districts; and
5. To regulate and restrict the location and use of buildings and land within each district or zone; and,
6. To conform to objectives and policies of the Comprehensive Plan.

ARTICLE II - GENERAL PROVISIONS

SECTION 9-201: JURISDICTIONAL AREA

The provisions of these regulations shall apply to all structures and land in the incorporated area of Minatare, Nebraska; and that portion of the unincorporated area within one mile of the corporate limits of Minatare as shown on the Official Zoning Map.

1. The jurisdictional area shall be shown on the Official Zoning Map and filed in the office of the city clerk.
2. All land which may hereafter be annexed to the City shall be classified in the same district as it had in the unincorporated area unless otherwise changed by ordinance.
3. All land in the unincorporated area which may hereafter fall under the jurisdiction of the City because of an increase in the jurisdictional area shall be classified as "AG Agricultural District" unless otherwise changed by ordinance.

SECTION 9-202: ESTABLISHMENT OF DISTRICTS

The jurisdictional area is hereby divided into six zoning districts which are designated as follows:

"AG"	Agricultural District
"R-A"	Residential District- A
"R-B"	Residential District - B
"C"	Commercial District
"HC"	Highway Commercial District
"I"	Industrial District

SECTION 9-203: ZONING MAP

The boundaries of the districts are shown on the Official Zoning Map, which is filed in the office of the city clerk. Said zoning map and all notations, references, and other information shown thereon are as much a part of these zoning regulations as if such notations, references, and other information were specifically set forth herein.

SECTION 9-204: RULES WHERE UNCERTAINTY MAY ARISE

Where uncertainty exists with respect to the boundaries of the various districts as shown on the Official Zoning Map, incorporated herein, the following rules apply:

1. The district boundaries are the centerlines of streets, alleys and waterways, unless otherwise indicated; and where the designation of a boundary line on the zoning map coincides with the location of streets, alleys or waterways, the centerline of such streets, alleys or waterways shall be construed to be the boundary line of such district.
2. Where the district boundaries do not coincide with the location of streets, alleys or waterways, but do coincide with lot lines, such lot lines shall be construed to be the boundary of such district.
3. Where the district boundaries do not coincide with the location of streets, alleys, waterways or lot lines, the district boundaries shall be determined by the use of the scale shown on the zoning map.

SECTION 9-205: EXEMPTIONS

The following structures and uses shall be exempt from the provisions of these regulations:

1. Poles, wires, cables, conduits, vaults, laterals, pipes, mains, valves or other similar equipment for the distribution to consumers of telephone or other communications, electricity, gas or water, or the collection of sewage or surface water operated or maintained by a public utility but not including substations located on or above the surface of the ground.
2. Retaining walls.
3. Public signs.

SECTION 9-206: APPLICATION OF REGULATIONS

The following general requirements shall apply to all zoning districts: No building, structure or land shall hereafter be used or occupied in whole or in part, and no building, structure or part thereof shall hereafter be erected, constructed, reconstructed, moved or structurally altered except in conformity with these regulations.

SECTION 9-207: INTERPRETATION

1. **Minimum Requirements.** In their interpretation and application, the provision of these regulations shall be held to be the minimum requirements for the promotion of the public health, safety, morals and welfare.
2. **Overlapping or Contradictory Regulations.** Where the conditions imposed by any provisions of these regulations upon the use of land or structures are either more restrictive or less restrictive than comparable conditions imposed by

any other provision of these regulations or of any other law, ordinance, resolution, rule or regulations of any kind, the regulations which are more restrictive shall govern

unless specifically excepted.

3. Private Agreements. These regulations are not intended to abrogate, annul or otherwise interfere with any easement, covenant or any other private agreement or legal relationship; provided, however, that where the provisions of these regulations are more restrictive (or impose higher standards or requirements) than such easements, covenants or other private agreements or legal relationships, the provisions of these regulations shall govern.

4. Unlawful Uses. The adoption of these regulations shall not be interpreted as retroactively legalizing a use or structure which was illegal under previous law.

SECTION 9-208: SEPARABILITY

It is hereby declared to be the intention of the City that the provisions of these regulations are separable, in accordance with the following rules:

1. If any court of competent jurisdiction shall adjudge any provision of these regulations to be invalid, such judgment shall not affect any other provisions of these regulations.

2. If any court of competent jurisdiction shall adjudge invalid the application of any provisions of these regulations to a particular property or structure, such judgment shall not affect the application of said provisions to any other property or structure.

SECTION 9-209: OVERLAPPING OR CONTRADICTING REGULATIONS

Where the conditions imposed by any provision of these regulations upon the use of land or structures are either more restrictive or less restrictive than comparable conditions imposed by any other provisions of these regulations or any provision of any other law, ordinance, rule, or regulation of any kind, the regulations which are more restrictive shall govern unless specifically excepted.

SECTION 9-210: ZONING PROCEDURE

The requirements of this zoning ordinance permit only those uses listed in each district under USE REGULATIONS. Any person desiring to use a property for some use other than the listed uses may request the Planning Commission to consider amending the regulations.

SECTION 9-211: PRIVATE AGREEMENTS

These regulations are not intended to abrogate, annul or otherwise interfere with any easement, covenant or other private agreement or legal relationship, provided, however, that where the provisions of these regulations are more restric-

tive (or impose higher standards or requirements) than the easements, covenants or other private agreements or legal relationships, the provisions of these regulations shall govern.

SECTION 9-212: UNLAWFUL USES

The adoption of these regulations shall not be interpreted as retroactively legalizing a use or structure which was illegal under previous laws or ordinance.

ARTICLE III - RULES AND DEFINITIONS

SECTION 9-301: RULES

In the construction of these regulations, the provisions and rules of this section shall be preserved and applied, except when the context clearly requires otherwise. Any word or phrase which is defined in this article or elsewhere in these regulations shall have the meaning as so defined whenever the work or phrase is used in these regulations, unless such definition is expressly limited in its meaning or scope.

1. Words used in the present tense shall include the future tense.
2. Words in the singular number include the plural number, and words in the plural number include the singular number.
3. The phrase "used for" shall include the phrases "arranged for", "designed for", "intended for", "maintained for", and "occupied for."
4. The word "shall" is mandatory; the word "may" is permissive.
5. The word "person" includes individuals, firms, corporations, associations, governmental bodies and agencies, and all other legal entities.
6. The word "Board" means the Board of Adjustment.
7. Unless otherwise specified, all distances shall be measured horizontally.
8. The word "City" means City of Minatare, Nebraska.
9. The abbreviation N/A means "not applicable".
10. In the event that there is any conflict or inconsistency between the heading of an article, section, or paragraph of this ordinance and the context thereof, the said headings shall not be deemed to affect the scope, meaning, or intent of such context.
11. The words "City Council" shall mean the City Council of Minatare, Nebraska.
12. The words "Planning Commission" shall mean the Planning Commission duly appointed by the City Council.

SECTION 9-302: DEFINITIONS

For the purpose of these Zoning Regulations, certain terms or words used herein

shall be interpreted or defined as follows, unless the context clearly indicates otherwise.

1. **Accessory Building.** A subordinate building which serves a function customarily incidental to that of the main building. Customary accessory buildings include but are not limited to garages, carports, and small storage sheds.
2. **Accessory Use.** A subordinate use which serves an incidental function to that of the main use of the premises. Customary accessory uses include tennis courts, swimming pools, air conditioners, barbecue ovens, solar panels, dish antennas and fireplaces.
3. **Alley.** A dedicated public right-of-way, other than a street, which provides only a secondary means of access to abutting property and has a right-of-way which is 20 feet or less in width.
4. **Alteration.** As applied to a building or structure, is a change or rearrangement in the structural parts of an existing building or structure. Enlargement, whether by extending a side, increasing in height, or the moving from one location or position to another, shall be considered an alteration.
5. **Animal Hospital or Clinic.** An establishment where animals are admitted principally for examination, treatment, board or care by a Doctor of Veterinary Medicine; does not include open kennels or runs.
6. **Automobile Service Station.** Any building, land area, or other premises, or portion thereof, used for the retail dispensing or sales of vehicular fuels: servicing and repair of automobiles; and including as an accessory use the sale and installation of lubricants, tires, batteries, and similar vehicle accessories.
7. **Automobile Wrecking Yard.** Any lot, or the use of any portion of a lot, for the dismantling or wrecking of automobiles, tractors, farm machinery, or other motor vehicles, or for the storage or keeping for sale of parts and equipment resulting from such dismantling or wrecking.
8. **Basement.** That portion of a building having more than one-half of its height below finished grade.
9. **Block.** An area of land within a subdivision that is entirely bounded by streets, or by streets and the exterior boundary or boundaries of the subdivision, or a combination of the above with a river or lake, and which has been designated as such on a plat for description purposes.
10. **Board of Adjustment.** That board which has been designated by the City Council to hear and determine appeals and variances to the zoning regulations.

11. Boarding or Lodging House. A building other than a hotel or motel where, for compensation and by pre-arrangement for definite periods, meals or lodging and meals are provided for three to 20 persons. Individual cooking facilities are not provided.
12. Buildable Area. The portion of a lot remaining after required yards have been provided.
13. Building. Any structure designed or intended for the enclosure, shelter or protection of persons, animals or property. It is a structure which is entirely separated from any other structure by space or by walls in which there are no communicating doors or windows or similar openings.
14. Building, Height. The vertical dimension measured from the average elevation of the finished lot grade at the front of the building to the highest point or ceiling of the top story in the case of a flat roof; to the deck line of a mansard roof; and to the average height between the plate and ridge of a gable, hip or gambrel roof.
15. Campground. Any premises where two or more camping units are parked/ placed for camping purposes, or any premises used or set apart for supplying to the public camping space for two or more camping units for camping purposes, which include any buildings, structures, vehicles or enclosure used or intended for use or intended wholly or in part for the accommodation of transient campers.
16. Camping Unit. Any vehicle, tent, trailer, or other moveable shelter used for camping purposes.
17. Clinic. (See Medical, Dental, or Health Clinic)
18. Collector Street. (See Street Network, Collector)
19. Common Open Space. An area of land or water or combination thereof planned for passive or active recreation, but does not include area utilized for streets, alleys, driveways or private roads, off-street parking or loading areas. However, the area of recreational activities such as swimming pools, tennis courts, shuffleboard courts, etc., may be included as common open space.
20. Common Sewer System. A sanitary sewage system in public ownership which provides for the collection and treatment of domestic effluent in a central sewage treatment plant which meets the minimum requirements of the Nebraska Department of Environmental Quality for primary and secondary sewage treatment and which does not include individual septic tanks or portable sewage treatment facilities.
21. Common Water System. A water system which provides for the supply,

storage and distribution of potable water on an uninterrupted basis and which is in public ownership.

22. Comprehensive Plan. The plan or series of plans for the future development of the City recommended by the Planning Commission and adopted by the City Council.

23. Conditional Use Permit. A written permit issued by the zoning administrator with the written authorization of the Board of Adjustment. This conditional use permit provides permission under specific conditions to make certain conditional use of land in certain zoning districts as stipulated under exceptions in each of the district zoning regulations.

24. Condominium. A single dwelling unit under individual ownership within a two-family or multiple dwelling unit structure.

25. Cul-de-Sac. A street having one end open to traffic and being terminated by a vehicular turnaround.

26. Day Care Center. A facility in the business of providing care as defined by Nebraska Department of Health and Human Services as a group day care home.

27. Day Care Home. A private residence as defined by Nebraska Department of Health and Human Services as a family day care home.

28. District. A section or sections of the zoning area for which uniform regulations governing the use of land, the height, use, area, size, and intensity of use of buildings, land and open spaces are herein established.

29. Dog. Any canine species over six months of age.

30. Drive-In Restaurant or Refreshment Stand. Any place or premises used for sale, dispensing or serving of food, refreshments, or beverages in automobiles, including those establishments where customers may serve themselves and may eat or drink the food, refreshments, or beverages on the premises.

31. Dwelling. Any building or portion thereof which is designed and used exclusively for residential purposes.

32. Dwelling, Single-Family. A dwelling having accommodations for and occupied exclusively by one family.

33. Dwelling, Single-Family Attached or Town House. A portion of a dwelling having accommodations for and occupied exclusively by one family, and which is located on a separate lot of record apart from the remaining portions of the building where each dwelling may be sold independently of the other portions.

34. Dwelling, Two-Family. A dwelling on a single lot of record having accommodations for and occupied exclusively by two families, independently.
35. Dwelling, Multi-Family. A dwelling having accommodations for and occupied exclusively by more than two families, independently.
36. Dwelling Unit. One or more rooms connected together, constituting a separate, independent housekeeping establishment for owner occupancy or rental or lease on a weekly, monthly, or longer basis and physically separated from any other rooms or dwelling units which may be in the same structure, containing independent cooking and sleeping facilities.
37. Earth-Sheltered Residence. A residence designed as a complete structure below or partially below ground level, which was not intended to serve as a sub-structure or foundation for a building.
38. Easement. A grant by the property owner to the public, a corporation, or persons of the use of a tract of land for a specified purpose or purposes.
39. Exception. A use that would not be appropriate generally or without restriction throughout the zoning district, but which, if controlled as to number, area, location or relation to the neighborhood, would promote the public health, safety, welfare, morals, order, comfort, convenience, appearance, prosperity, or general welfare. Such uses may be permitted in such zoning districts as exceptions, where specific provision for such exceptions is made in this ordinance. (See Conditional Use Permit)
40. Family. One person or more than one person related by blood, marriage or adoption, living together as a single housekeeping unit; or a group of not more than four unrelated persons living together as a single housekeeping unit; plus in either case, usual domestic servants. A family does not include a boarding house, fraternity or sorority house, club, lodging house, hotel or motel.
41. Farm. The use of a tract of land of 20 acres or more for the growing of crops, pasturage, nursery, or the raising of poultry and livestock, including the structures necessary for carrying out farming operations and the residence or residences of those owning or operating the premises, or persons employed thereon.
42. Feed Lot. The land and process of confined feeding or holding of cattle, sheep, swine, poultry or other livestock on non-grazeable land or in a confined shelter.
43. Floor Area. The total of all floor areas of a building, excluding stairwells and elevator shafts, equipment rooms, interior vehicular parking and attic space with headroom more than 7 feet.

44. Garage, Private. A detached accessory building or a portion of the main building used for the storage of not more than three motor-driven vehicles per family occupying the residence.
45. Gasoline Service Station. (See Automobile Service Station)
46. Governing Body. The City Council of Minatare, Nebraska.
47. Group Home. A facility licensed by the State of Nebraska in which at least four but not more than eight persons, not including resident managers or house parents, who are unrelated by blood, marriage or adoption reside while receiving therapy, training or counseling for the purposes of adaptation to living with or rehabilitation from cerebral palsy, autism or mental retardation.
48. Home Occupation. A business, profession, service or trade conducted for gain or support entirely within a residential building or its accessory structures. (See Article V for requirements.)
49. Hotel or Motel. A building or portion thereof or a group of buildings used as a transient abiding place which may or may not serve meals and whether such establishments are designated as a hotel, inn, automobile court, motel, motor inn, motor lodge, motor court, tourist cabin, tourist court, or other similar designations.
50. Inoperable Motor Vehicle. A motor vehicle that is wrecked, dismantled or unable to move under its own power or is not currently licensed.
51. Institution. A building occupied by a non-profit corporation or a non-profit establishment for public use.
52. Kennel, Boarding. Any place, area, building or structure where dogs (including those under one year of age) are boarded, housed, cared for, fed or trained by someone other than the owner.
53. Kennel, Breeding. Any place, area, building or structure where more than one dog is kept for purposes of breeding or raising for a fee.
54. Kennel, Dog. Any premises upon which are located more than two dogs over the age of six months.
55. Livestock. All cattle, bison, horses, mules, burros, sheep, goats, swine, poultry, llamas, ostriches, and elk shall be considered livestock. Additionally, any other animal or fowl which are being produced primarily for use as food or food products for human consumption shall be considered livestock.
56. Loading Space, Off-street. Space logically and conveniently located for

bulk pickups and deliveries, scaled to delivery vehicles expected to be used, and accessible to such vehicles when required off-street parking spaces are filled. Required off-street loading space is not to be used as off-street parking space in computation of required off-street parking space.

57. Loop Street. A street having both ends terminating on another single street.

58. Lot. A designated parcel, tract, or area of land established by plat, subdivision, or as otherwise permitted by law, to be separately owned, used, developed, or built upon.

59. Lot, Corner. A lot abutting upon two or more streets at their intersection.

60. Lot, Depth of. The mean horizontal distance between the front and rear lot lines.

61. Lot, Double Frontage. A lot having a frontage on two non-intersecting streets.

62. Lot, Front. The front lot line of a lot shall be that narrowest dimension abutting a street right-of-way. On corner lots which have two equal sides which abut on a street right-of-way, either side may be considered the front lot line of the lot.

63. Lot, Rear. The rear of a lot shall be that side opposite the front of the lot.

64. Lot, Zoning. A parcel or tract of land used, developed or built upon as a unit under single ownership or control. Said parcel may be a tract or may consist of one or more lots of record, one or more portions of a lot or lots of record, or any combination thereof.

65. Lot of Record. A lot which is a part of a subdivision, the plat of which has been recorded in the office of the county register of deeds, or a lot described by metes and bounds, the description of which was recorded in the office of the register of deeds prior to the adoption of these regulations.

66. Major Recreation Equipment. Includes boats and boat trailers, travel trailers, pickup campers or coaches, designed to be mounted on automotive vehicles, motorized dwellings, tent trailers and the like, and shall include the term Recreational Vehicle.

67. Medical, Dental or Health Clinic. Any building designed for use by one or more persons lawfully engaged in the diagnosis, care and treatment of physical or mental diseases or ailments of human beings; including but not limited to, doctors of medicine, dentists, chiropractors, osteopaths, optometrists, podiatrists and

in which no patients are lodged overnight, but which may include an apothecary.

68. Mini-Warehouse. A building or group of buildings that contains varying sizes

of individual, compartmentalized and controlled-access cubicles, stalls, bays or lockers for the dead storage of a customer's goods or wares.

69. Mobile Home. A transportable structure larger than 320 square feet in floor area, designed to be used as a year-round residential dwelling, and built prior to the enactment of the federal Mobile Home Construction and Safety Act of 1974, which became effective for all mobile home construction on June 15, 1976.

70. Mobile Home Park. A site containing spaces with required improvements that are leased for the long-term placement of mobile homes and that may include services and facilities for the residents.

71. Nonconforming Structure. A structure that was lawful prior to the adoption, revision or amendment of the zoning ordinance but that fails by reason of such adoption, revision, or amendment to conform to the present requirements of the zoning district.

72. Nonconforming Use. A use or activity that was lawful prior to the adoption, revision or amendment of the zoning ordinance but that fails by reason of such adoption, revision, or amendment to conform to the present requirements of the zoning district.

73. Nursing Home or Convalescent Home. An institution or agency licensed by the state for the reception, board, care, or treatment of three or more unrelated individuals, but not including facilities for the care and treatment of mental illness, alcoholism, or narcotics addiction.

74. Off-street Parking. An area that is laid out for the purpose of parking motor vehicles of residents, customers, employees or visitors and is not located on public right-of-way. Off-street parking shall be considered as an accessory use to the principal use for which parking is provided. Off-street parking spaces shall not open directly on a public street but shall open directly on a driveway or aisle that is adequate to provide a safe means of access.

75. Parking Space. An all-weather surfaced area for the purpose of storing one parked automobile.

76. Pedestrian Ways. A tract of land dedicated to public use which cuts across a block to facilitate pedestrian access to adjoining streets or properties

77. Permanent Wall Foundation. An exterior wall, constructed of concrete, concrete block, brick, stone or other equivalent masonry material, designed to resist frost action and to safely support a building.

78. Planning Commission. The Minatare Planning Commission.

79. Planned Development. Special development of certain tracts of land, planned and designed as a unit for one or more land uses under the regulations and procedures contained in this ordinance and as approved by the City Council.

80. Principal Building. A building in which is conducted the principal use of the lot on which it is located.

81. Private Club. A non-profit association of persons who are bona fide members paying annual dues, which owns, hires or leases a building or premises, or portion thereof, the use of such building or premises being restricted to members and their guests. The affairs and management of such private clubs are conducted by a board of directors, executive committee, or similar body chosen by the members at their annual meeting.

82. Professional Office. Any building or part thereof used by one or more persons engaged in the practice of law, accounting, architecture, engineering or other occupation customarily considered as a profession.

83. Public Utility. A closely regulated enterprise with a franchise for providing to the public a utility service deemed necessary for the public health, safety, and welfare.

84. Recreational Vehicle. A vehicular-type unit built on or for use on a chassis and designed primarily as living quarters for recreational, camping, vacation or travel use and which has its own motive power or is mounted or drawn by another vehicle and which has a body width not exceeding 8 feet and a body length not exceeding 40 feet.

85. Recreational Vehicle Park. (See Campground)

86. Right-of-Way. An area dedicated to public use which provides vehicular and pedestrian access to adjacent properties.

87. Salvage or Junk Yard. A building or premises where junk, waste, inoperable motor vehicles or discarded and salvaged materials are bought, sold, exchanged, stored, baled, packed, disassembled, crushed, handled or prepared for recycling, including auto wrecking yards.

88. Service Station. (See Automobile Service Station)

89. Sign. Any device which shall display or include any letter, word, model, banner, flag, pennant, insignia, device, or representation used as or which is in the nature of an advertisement or announcement which directs attention to an object, product, place, activity, person, institution, organization, or business but shall not include any display of governmental notice or official flag.

90. Sign, On-Site. A sign relating in its subject matter to the premises on which it is located or to products, accommodations, services, or activities on the premises. On-site signs do not include signs erected by the outdoor advertising industry in the conduct of the outdoor advertising business.

91. Sign, Off-Site. A sign other than an on-site sign.

92. Sight Triangle. An area at a street intersection in which nothing shall be erected, placed, planted, or allowed to grow in such a manner as to materially impede vision between a height of 2½ feet and 10 feet above the grades of the bottom of the curb of the intersecting streets, measured from the point of intersection of the centerline of the streets, 90 feet in each direction along the centerline of the streets. At the intersection of major or arterial streets, the 90-foot distance shall be increased to 120 feet for each arterial leg of the intersection.

93. Story. That portion of a building, other than a basement, included between the surface of any floor and the surface of the floor next above it or, if there is no floor above it, then the space between the floor and the ceiling next above it.

94. Street. The traveled surface of a right-of-way.

95. Street Line. A dividing line between a lot, tract, or parcel of land and the contiguous street. The right-of-way line of a street.

96. Street, Marginal. A minor street which is parallel to and adjacent to an arterial street and which serves to reduce the number of access points to the arterial street and thereby increase traffic safety.

97. Street, Network.

a. Expressway: A street which provides fast and efficient movement of large volumes of traffic between areas and does not provide a land service function.

b. Arterial: A street which provides for through traffic movement between and around areas with direct access to abutting property, subject to necessary control of entrances, exits, and curb use.

c. Collector: A street which provides for traffic movement between arterials and local streets, with direct access to abutting property.

d. Local: A street which provides direct access to abutting land, and local traffic movement whether in business, industrial, or residential land.

98. Structure. Anything constructed or erected, the use of which requires a permanent location on the ground or attachment to something having a perma-

ment location on the ground, but not including fences or public items such as utility poles, street light fixtures, and street signs.

99. Structural Alterations. Any change in the supporting members of a building, such as bearing walls or partitions, columns, beams, or girders, or any complete rebuilding of the roof or the exterior walls. For the purpose of this regulation, the following shall not be considered a structural alteration:

- a. Attachment of new façade where structural supports are not changed.
- b. Addition of fire escapes where structural supports are not changed.
- c. New windows; lintels and support walls are not materially changed.
- d. Repair or replacement of non-structural members.

100. Tavern. An establishment in which the primary function is the public sale and serving of alcoholic beverages for consumption on the premises, including establishments commonly known as key clubs, which are open to and in which alcoholic beverages are served only to members and their guests.

101. Trailer. (See Mobile Home)

102. Traveled Way. The portion of a roadway of a street or highway used for the movement of vehicles, exclusive of shoulders and auxiliary lanes.

103. Variance. A relaxation of the terms of the zoning ordinance where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of the ordinance would result in unnecessary and undue hardship.

104. Yard. A space on a lot that is open, unoccupied and unobstructed by buildings or structures from the ground upward.

105. Yard, Front. A yard extending across the full width of the lot, the depth of which is the least distance between the street right-of-way and the front building setback line.

106. Yard, Rear. A yard extending across the full width of the lot, the depth of which is the least distance between a rear lot line and the rear setback line.

107. Yard, Side. A yard extending from the front yard, or front lot line where no front yard is required, to the rear yard.

108. Zone or District. A section of the zoning area for which uniform regulations governing the use, height, area, size and intensity of the use of buildings, land, and open spaces about buildings are herein established.

109. Zoning Administrator. The person or persons authorized and empowered

by the City Council to administer the requirements of these zoning regulations.

110. Zoning Area. The area that is zoned as set out on the Official Zoning Map filed of record.

111. Zoning Regulations. The term “zoning regulations” or “these regulations” shall mean the requirements stipulated in the regulations set forth in this chapter.

ARTICLE IV - REGULATIONS

SECTION 9-401: "AG" AGRICULTURAL DISTRICT

A. Intent. It is the intent of this district to provide for agricultural and related uses which can exist harmoniously with residential and commercial uses in Minatare. It is intended to only restrict uses and structures in the Agricultural District that are necessary to protect and preserve the health, safety, general welfare, property values, and tax base of Minatare.

B. Permitted Uses. In District "AG" no building, structure, land or premises shall be used and no building or structure shall be hereafter erected, constructed, reconstructed, moved or altered, except for one or more of the following uses:

1. Farming, truck gardening, orchards, greenhouses and nurseries, including the sale of products raised on the premises.
2. The grazing of livestock.
3. Horse stables and ranches.
4. Publicly owned or operated parks, playgrounds, golf courses, and recreational uses including fairgrounds.
5. One single-family dwelling per legal lot or parcel.
6. On-site sign.
7. Home occupations in accordance with Section 9-506.
8. Cemeteries.
9. Accessory buildings and uses customarily incidental to those listed above.
10. Wind energy conversion systems.

C. Conditional Uses. The following conditional uses may be permitted subject to approval procedures outlined in Section 9-1005 of these regulations:

1. Airports and airfields.
2. Commercial transmitting towers.
3. Kennels, breeding and boarding.
 - a. All kennels shall be adequately screened from adjacent residential districts.
 - b. No kennel buildings or runs shall be located nearer than 75 feet to any property line.
 - c. Every kennel shall be completely enclosed by fencing of sufficient height to retain the dogs kept within it. If necessary, fencing may be required across the top of any such kennel in order to retain a dog within the kennel.

4. Seasonal or temporary uses such as recreation camp or similar enterprises.
5. Telephone exchanges, electric substations or similar public utility uses.
6. The extraction of minerals or raw materials and the processing, treating or storing of such minerals or materials.
7. Solid waste disposal and processing sites which include landfills, incinerators, compactors, transfer stations and other similar functions.
8. Privately owned parks, playgrounds or other outdoor recreational areas such as campgrounds, youth camps, gun clubs, rodeo arenas, golf courses and archery, trap and skeet shooting ranges.
9. Recreational vehicle parks.
10. Animal hospitals and clinics.

D. Intensity of Use Regulations

1. Minimum lot area: 5 acres.

E. Height Regulations. None.

F. Yard Regulations.

1. Minimum front yards:

- a. The front yard shall be a minimum of 25 feet in depth measured from the front lot line.
- b. Where lots have a double frontage, the required front yard shall be provided on both streets.

2. Minimum side yards: 15 feet on each side of a zoning lot.

3. Minimum rear yards: 20 feet.

SECTION 9-402: "R-A" RESIDENTIAL DISTRICT

A. Intent. The intent of this district is to provide areas for residential development, including those uses which reinforce residential neighborhoods.

B. Permitted Uses. In District "R-A", no building, structure, land or premises shall be used and no building or structure shall be hereafter erected, constructed,

reconstructed, moved or altered, except for one or more of the following uses:

1. One single-family dwelling per legal lot.
2. One two-family dwelling per legal lot.
3. Public parks, playgrounds and schools.
4. Day care homes.
5. Home occupations in accordance with Section 9-506.
6. Churches.
7. Accessory buildings and uses customarily incidental to the above uses.
8. Hospitals.
9. Library.

C. Conditional Uses. The following conditional uses may be permitted subject to approval procedures outlined in Section 9-1005 of these regulations:

1. Day care centers.
2. Rooming and boarding houses.
3. Telephone exchanges, electric substations or other similar public utilities.
4. Group homes.
5. Multi-family dwellings.
6. Nursing or convalescent homes.
7. Funeral homes.

D. Intensity of Use Regulations.

1. Minimum lot area: 7,500 square feet if on a public sewer system; 40,000 square feet if not on a public sewer system.
2. Minimum lot width: 50 feet.

E. Height Regulations.

1. Maximum structure height: 35 feet.

F. Yard Regulations.

1. Front yard shall not be less than 25 feet from the front lot line. The front yard requirements shall be adjusted in the following situations:

- a. If there are already two or more homes existing on a block with the same street frontage, a new home cannot have a front yard smaller than any other aforementioned homes on that block.
- b. In cases of corner lots with more than two street frontages, front yard requirements shall be subject to the following limitations:

- i. At least one front yard shall be 25 feet with the respective lot line.
 - ii. The other front yard on the lot shall be at least 10 feet in the respective lot line.
 - iii. Neither front yard can be less than any other front yard along the same street on that same block.
2. Side yard: Not less than 5 feet, except none required for a common wall of a single-family attached.
3. Rear yard: 5 feet.

G. Design Guidelines: All dwellings in the "R-A" District shall meet these minimum design guidelines:

1. All dwellings shall be built on a permanent foundation.
2. No dwelling shall have wheels, axles and hitch mechanisms.
3. All dwellings shall be connected to public water and sewer.
4. All dwellings shall have siding material of one of the follow types:
 - a. Residential horizontal aluminum siding.
 - b. Residential horizontal vinyl lap siding.
 - c. Cedar or other wood siding.
 - d. Wood weather resistant press board siding.
 - e. Stucco siding.
 - f. Brick or stone.
 - g. Other siding materials which are aesthetically compatible as determined by the zoning administrator.
5. All dwellings shall have roofing material of a type used on site-constructed residence such as:
 - a. Fiberglass shingles on a pitched roof according to the design specifications of the shingles.
 - b. Shake shingles on a roof pitched according to the design specifications of the shingles.
 - c. Asphalt shingles on a roof pitched according to the design specifications of the shingles.
 - d. Tile materials on a roof pitched according to the design specifications of the shingles.
 - e. Other roofing materials which are aesthetically compatible as determined by the zoning administrator.
 - f. All dwellings shall be at least 900 square feet.
 - g. All dwellings shall have a minimum exterior width of 18 feet.

- h. The roofs of all dwellings shall have a minimum vertical rise of 2½ inches.

SECTION 9-403: "R-B" RESIDENTIAL DISTRICT

A. Intent. The intent of this district is to establish the general location for high-density single- and multiple-family living including the use of mobile homes, but to afford flexibility for the establishment of uses, other than residential, that are not detrimental to the overall intent of the residential neighborhood.

B. Permitted Uses. In District "R-B" no building, structure, land or premises shall be used and no building or structure shall be hereafter erected, constructed, reconstructed, moved or altered, except for one or more of the following uses:

1. Single-family dwellings.
2. Two-family dwellings.
3. Multi-family dwellings.
4. Mobile home.
5. Churches and other places of worship.
6. Home occupations in accordance with Section 9-506.
7. Public parks and recreational areas.
8. Day care homes.
9. Accessory buildings and uses incidental to those listed above.

C. Conditional Uses. The following conditional uses may be permitted in the "R-B" District subject to approval procedures outlined in Article X of this ordinance:

1. Mobile home parks.
2. Day care centers.
3. Rooming and boarding houses.
4. Telephone exchanges, electric substations or other similar public utilities.
5. Group homes.
6. Nursing or convalescent homes.
7. Funeral homes.

D. Intensity of Use Regulations.

1. Minimum Lot Area: 7,000 square feet.
2. Minimum lot width: 50 feet.

E. Height Regulations: Maximum structure height: 35 feet.

F. Yard Regulations.

1. Front yard shall not be less than 25 feet from the front lot line. The front yard requirements shall be adjusted in the following situations:
 - a. If there are already two or more homes existing on a block with the same street frontage, a new home cannot have a front yard smaller than any other aforementioned homes on that block.
 - b. In cases of corner lots with more than two street frontages, front yard requirements shall be subject to the following limitations:
 - i. At least one front yard shall be 25 feet with the respective lot line.
 - ii. The other front yard on the lot shall be at least 10 feet from the respective lot line.
 - iii. Neither front yard can be less than any other front yard along the same street on that same block
 - iv. Side yard: Not less than 5 feet, except none required for a common wall of a single-family attached.
 - v. Rear yard: 5 feet.

SECTION 9-404: "C" COMMERCIAL DISTRICT

A. Intent. The intent of this district is to provide a zone which will accommodate the broad range of retail shopping activities and service and office uses that are normally found in the core area of a city.

B. Permitted Uses. In District "C" no building, structure, land or premises shall be used and no building or structure shall be hereafter erected, constructed, reconstructed, moved or altered, except for one or more of the following uses:

1. Restaurants, cafes, drive-in restaurants and drinking establishments.
2. Retail sales.
3. Personnel services.
4. Gasoline service station.
5. Gift and curio shop.
6. Public utilities and public and municipal corporations and government entities.
7. Motels, hotels and other places which provide temporary lodging.
8. Commercial and public recreation and entertainment.
9. Office buildings and clinics.
10. Public, semi-public, or governmental buildings, office, and facilities.
11. Public parks.
12. Accessory uses and buildings that are clearly incidental to the permitted use and that will not create a nuisance or hazard.
13. Telephone exchanges, cellular phone exchanges, cellular phone towers, radio towers.

C. Conditional Uses. The following conditional uses may be permitted subject to approved procedures outlined in Section 9-1005 of these regulations.

1. Apartment dwellings.
2. Farm equipment repair or body service.
3. Auto sales.
4. Farm equipment sales.
5. Motor vehicle repair service; provided, all work shall be performed and all materials shall be stored within an enclosed building; and provided further that all operable or inoperable motor vehicles determined to be a safety hazard or visual blight shall be screened from public view and access by a solid or semi-solid fence having a minimum height of 6 feet.
6. Motor vehicle body shop; provided, all work shall be performed and all materials shall be stored within an enclosed building; and provided further that all operable or inoperable motor vehicles determined to be a safety hazard or visual blight shall be screened from public view and access by a solid or semi-solid fence having a minimum height of 6 feet.
7. Storage and warehousing except for products of a highly explosive, combustible or volatile nature.
8. Wholesale establishments, except those which handle products of a highly explosive, combustible or volatile nature.
9. Light assembly and processing operations such as electronics, garment works, plate making, pattern shops and other similar uses.
10. Accessory uses and buildings that are clearly incidental to these uses and that will not create a nuisance or hazard.

D. Intensity of Use Regulations.

1. Minimum lot area: None.
2. Minimum lot width: None.

E. Height Regulations. Maximum structure height: None.

F. Yard Regulations.

1. Minimum front yard: None.
2. Minimum side yard: 10 feet when adjacent to a residential district; otherwise none.
3. Minimum rear yard: 20 feet when adjacent to a residential district; otherwise none.

G. Use Limitations.

1. No outdoor storage, except the display of merchandise for sale to the public, shall be permitted.
2. Exterior lighting fixtures shall be shaded so that no direct light is cast upon any residential property and so that no glare is visible to any traffic on any public street.
3. A solid or semi-solid fence, hedge or wall at least 6 feet but not more than 8 feet high shall be provided adjacent to an adjoining residential district unless the adjacent residential district and the commercial development are separated by a street right-of-way or if residential homeowners provide written permission not to erect fence. Said fence or wall shall be maintained in good condition by the owner or owners of the property in the C-1 District.

SECTION 9-405: "HC" HIGHWAY COMMERCIAL DISTRICT

A. Intent. The purpose of this zoning district is to provide high access areas for services to highway travelers.

B. Permitted Uses. In the "HC" Highway Commercial District, buildings, structures and land shall be used only for the following purposes:

1. Restaurants, cafes, drive-in restaurants and other dining establishments.
2. Motels, hotels and other places which provide temporary lodging.
3. Gas stations, truck stops and other vehicle service stations.
4. Public or private tourist, recreation and entertainment.
5. Retail shops that cater primarily to travelers or tourists.
6. Parks, Playgrounds and rest areas.
7. Accessory uses and buildings that are clearly incidental to the permitted use and that will not create a nuisance or hazard.

C. Conditional Uses. The following conditional uses may be permitted subject to approved procedures outlined in Section 9-1005 of these regulations.

1. Bed and breakfast facility.
2. Retail uses not listed as permitted uses.
3. Services not listed as permitted uses.

D. Area, yard and height requirements for this district shall be:

1. Minimum lot size shall be 10,000 square feet.
2. Minimum yard requirements.
 - a. Front yard depth: Not less than 25 feet.
 - b. Side yard width: None, except on the side of a lot adjoining a residential district, in which case a side yard of not less 8 feet shall be provided.
 - c. Rear yard depth: None, except on the rear of a lot adjoining a residential district, in which case a rear yard of not less than 8 feet shall be provided.
3. Minimum height requirements: None

SECTION 9-406: "I" INDUSTRIAL DISTRICT

A. Intent. The intent of this district is to provide locations for all types of industrial uses. Some of these uses have characteristics that may create incompatibilities with adjacent uses and, therefore, will require conditional use approval.

B. Permitted Uses. In District "I" no building, structure, land or premises shall be used and no building or structure shall be hereafter erected, constructed, reconstructed, moved or altered, except for one or more of the following uses:

1. Any use allowed in the "C" District.
2. Light manufacturing or fabrication establishments which are not noxious or offensive by reason of vibration, noises dust, fumes gas odor, or smoke.
3. Storage and warehousing except for products of a highly explosive, combustible or volatile nature.
4. Public utilities.
5. Contractor storage yard.
6. Grain elevators.
7. Grain storage facilities.
8. Raising field crops and horticulture.
9. Greenhouses.
10. Communication towers.
11. Rail terminals.
12. Accessory buildings and uses customarily incidental to the listed permitted uses.

C. Conditional Uses.

1. Auto wrecking yards, junk yards, salvage yards and scrap processing plants, subject to the following:
 - a. Located on a tract of land at least 300 feet from a residential district zone.
 - b. The operation shall be conducted wholly within a noncombustible building or within an area completely screened from the streets to obscure the junk from view of the public.
 - c. No junk shall be loaded, unloaded or otherwise placed, either temporarily or permanently outside the enclosing building, the secured area or within the public right-of-way.
 - d. Burning of paper, trash, junk or other waste materials shall be permitted only after approval of the fire department, except when prohibited by the state fire marshal.
2. Manufacturing or storage of bulk oil, gas and explosives.
3. Other uses which may be noxious or offensive by reason of the emission of odor, dust, smoke, gas, noise or vibration.
4. Ready-mixed concrete and asphalt mix plants.
5. Storage and warehousing of products of a highly explosive, combustible or volatile nature.
6. Wholesale and retail establishments which handle products of a highly explosive, combustible or volatile nature.

D. Intensity of Use.

1. Minimum lot area: 10,000 square feet.
2. Minimum lot width: 100 feet.

E. Height Regulations. Maximum height of structure: None

F. Yard Regulations.

1. Minimum front yard:
 - a. The front yard shall be a minimum of 25 feet in depth measured from the front lot line.

b. Where lots have a double frontage, the required front yard shall be provided on both streets.

2. Minimum side yard: 15 feet.

3. Minimum rear yard: 20 feet.

G. Use Limitations.

1. All operations and activities shall be conducted within a building or buildings; however, storage may be maintained outside said building or buildings provided said storage area is properly screened from adjacent streets and residential areas.

2. A solid or semi-solid fence or wall at least 6 feet but not more than eight feet high, shall be provided adjacent to an adjoining residential district unless the adjacent residential district and the industrial district are separated by a street right-of-way. Said fence or wall shall be maintained in good condition by the owner or owners of the property in the "I" District.

3. No building shall be used for residential purposes except that a watchman may reside on the premises within the principal building.

ARTICLE V - SUPPLEMENTARY DISTRICT REGULATIONS

SECTION 9-501: HEIGHT REGULATIONS

Chimneys, cooling towers, elevator head-houses, fire towers, grain elevators, monuments, stacks, stage towers, or scenery lofts, tanks, water towers, ornamental towers, and spires, church steeples, radio and television towers, antennas or necessary mechanical appurtenances, usually required to be placed above the roof level and not intended for human occupancy, are not subject to the height limitations contained in the district regulations. In all districts, two additional feet of height above the specified height limitation shall be permitted for each one foot of additional front yard provided over the minimum requirements.

SECTION 9-502: YARD REGULATIONS

A. Accessory Buildings.

1. No accessory uses, buildings or structures shall be erected in any required front or side yard.
2. Accessory buildings shall not be closer than 5 feet from another building.
3. No accessory building shall cover more than 30% of the required rear yard.
4. Accessory buildings shall not be constructed until construction has begun on the principal structure.
5. Accessory buildings shall not be used for dwelling purposes.
6. Detached accessory garages or carports shall not exceed a three-car capacity or floor dimensions of 36' x 24' and the side walls of said buildings shall not exceed 10 feet in height.
7. Detached accessory storage buildings for residences shall not exceed 180 square feet in gross floor area and shall be permanently anchored to a foundation.

SECTION 9-503: MOBILE HOME PARKS

The following shall apply in addition to all other regulations of the City with respect to mobile home parks:

- A. A mobile home park shall not be closer to a street or road right of way or other property line than 25 feet.

B. In residential districts, a mobile home park shall conform to the following additional requirements:

1. Each mobile home park shall have an area of not less than 3,000 square feet.
2. Each mobile home lot shall have attachments for waste disposal and water supply.
3. The waste disposal and water supply facilities shall be properly connected to city sewer and water systems.
4. Mobile home parks shall conform to all state regulations governing mobile home parks.

SECTION 9-504: SIGHT TRIANGLE

On a corner lot in all districts, except the "C" Commercial District, development shall conform to the sight triangle as defined in Section 9-302.

SECTION 9-505: ACCESS OF BUSINESS AND INDUSTRIAL DISTRICTS

No land which is located in a residential district shall be used for a driveway, walkway or access to any land which is located in any business or industrial district.

SECTION 9-506: HOME OCCUPATIONS

Home occupations shall conform to the following restrictions and limitations:

A. The home occupation shall be incidental and subordinate to the principal residential use of the premises and not more than 25% of the floor area of any one floor of a dwelling unit, or one room, whichever is the smaller, shall be used for a home occupation.

B. No outdoor storage of materials or equipment used in the home occupation shall be permitted except in the "AG" District.

C. No alteration of the exterior of the principal residential building shall be made which changes the character thereof as a residence. The home occupation shall be carried on entirely within the principal residential structure except in the "AG" District.

D. No sign shall exceed 2 square feet in area, shall not be illuminated, and shall be placed flat against the main wall of the building.

E. No equipment shall be utilized that creates a nuisance due to noise or electrical interference.

F. Parking needs generated by the conduct of a home occupation shall be provided off-street in an area other than the required front yard.

SECTION 9-507: TEMPORARY USES PERMITTED

A. Street Sales. The retail sale of merchandise not within an enclosed structure for a period not to exceed three days. Street sale displays need not comply with the yard and setback requirements of these regulations, provided that no merchandise shall be displayed in the sight triangle.

B. Christmas Tree Sales. Christmas tree sales in any district for a period not to exceed 60 days. Display of Christmas trees need not comply with the yard and setback requirements of these regulations, provided that no trees shall be displayed in the sight triangle.

C. Contractor's Office. Contractor's office and equipment sheds (containing no sleeping or cooking accommodations) accessory to a construction project and to continue only during the duration of such project.

D. Seasonal Sales. Seasonal sale of farm produce grown on the premises in an "AG" District. Structures incidental to such sale need not comply with the applicable front yard requirements if the structures are removed or moved back of the required front yard setback line at the end of the season during which they are used. All permanent structures must comply with the front yard requirement.

E. Carnivals and Circuses. A carnival or circus, for a period that does not exceed three weeks. Carnivals and circuses must be approved by the City Council. Such use need not comply with the front yard requirements, provided that structures or equipment which might block the view of operators of motor vehicles on the public streets shall conform to the requirements of the sight triangle as defined by these regulations.

F. Garage, Yard, Basement or Porch Sales. The sale of used or secondhand merchandise shall be permitted in any district, providing that such use shall not exceed three consecutive days in duration nor shall it occur more than twice each year at any particular location.

SECTION 9-508: AREA REQUIREMENTS

In no case shall any structure be located on a lot less than 40,000 square feet in area if it is not connected to a public sewer system.

SECTION 9-509: OPEN STORAGE

The storage of salvage or scrap materials, inoperable motor vehicles, household goods or furniture, or business equipment or materials for more than 48 consecutive hours shall not be allowed in any residential district unless such items are

stored in a completely enclosed building and are clearly secondary to the primary use of the property.

SECTION 9-510: DETERMINATION OF BUILDING SETBACK LINE

The building setback line shall be determined by measuring the horizontal distance between the property line and the vertical plane of the architectural projection of the existing or proposed structure nearest the property line.

SECTION 9-511: FENCES

A. Intent. The regulations in this section govern the type, location and construction of fences, walls and hedges.

B. Classes. Fences, walls and hedges are classified as:

1. Masonry walls;
2. Ornamental iron fences;
3. Woven wire fences;
4. Wood fences (wood or metal less than 50%); and
5. Hedges.

The term "fence" as used in this section is a generic term including all such classes, except where the context otherwise indicates.

C. Residence, business zones; dwellings; requirements. Fences in residence and business zones, and those enclosing a lot or tract of land used for dwelling purposes in any zone, must conform to the following requirements:

1. Front. Fences constructed between the front building setback line and the front lot line may be of any class but shall not exceed 42 inches in height; provided, however, that fences of Class (2) and Class (3) may exceed 42 inches in height but may not exceed 48 inches in height.
2. Side. Side yard fences back of the front building setback line may be of any class, but may not exceed 72 inches in height.
3. Rear. Rear yard fences may be of any class but may not exceed 72 inches in height.
4. Corner Lot. Notwithstanding any other provisions of this section to the contrary, no fence exceeding 30 inches in height may be built;
 - a. On a corner lot, within a triangular area bounded on two sides by the intersecting street right-of-way lines and on the third side by a line connecting points on each right-of-way line which are 20 feet from

their intersection, or

- b. On a corner lot adjoining an alley, within a triangular area bounded on two sides by the intersecting right-of-way lines of the alley and adjoining side street and on the third side by a line connecting points on each right-of-way line which are located at the distance from their intersection which is equal to the applicable side street setback requirement.
5. On Retaining Wall. If a fence is constructed on the top of a retaining wall, the height of the fence is measured from the ground on the low side of the retaining wall, except that a Class (2), (3), (4) or (5) fence may be constructed on top of a retaining wall to a height not more than 30 inches above the ground measured on the high side of the retaining wall.
6. Retaining Wall Design. A retaining wall must be adequately designed, constructed and drained to withstand any lateral pressure to which it is subject.
7. Obstruction of Vision. Anything in this section to the contrary notwithstanding, no fence, retaining wall, shrub, tree or similar obstruction may be constructed or maintained if it will obstruct traffic vision.
8. Dangerous, Prohibited. No barbed wire, other sharp-pointed, or electrically charged fence may be constructed or maintained.
9. Dilapidated, Dangerous; Removal. The building inspector may order any dilapidated or dangerous fence removed.
10. Utility Substations. Anything in this section to the contrary notwithstanding, fences enclosing public or private utility substations in residential zones need conform only to the requirements set forth in Section C(1)-(10).

D. Commercial, Industrial Zones; Requirements. Fences in commercial and industrial zones must conform to the following requirements:

1. Front. A fence constructed between the front setback line and the front lot line may not exceed 42 inches in height, and must be of either Class (2), (3), or (5) construction. If the fence is of Class (2) or (3) construction, such fence may not exceed 48 inches in height. If it is of Class (5) construction, such fence may not exceed 42 inches in height. If no front setback line has been established, fences may be of any height or type of construction.

2. Barbed Wire. Barbed wire or similar material may be used to construct that part of a fence situated in a rear or side yard setback area of a tract of land in "C" or "I" zoning district which is more than 84 inches in height, providing that the city building inspector determines that the barbed wire will not be detrimental to the adjoining property.
3. Electrically Charged. An electrically charged fence may not be constructed or maintained.
4. Repair, Removal. Fences must be kept in repair. The city building inspector may order any dilapidated or dangerous fence removed.

E. Screen Fence. Where a lot or tract of land in a business, commercial or industrial zone adjoins a lot or tract of land in a residential zone, the occupant of the business, commercial or industrial lot or tract of land shall construct and maintain thereon adjacent to the common boundary line a suitable screen fence not less than 72 inches high which the building inspector determines will not be detrimental to the adjoining property.

1. Children's Areas. A security fence may be constructed in any zone within a side or rear yard or a playground of a public or private school, nursery or day care facility, or a public park or playground. Such a fence shall be of an open design having a ratio of open portion to solid portion of not less than 6:1 and shall not exceed 8 feet in height.
2. Tennis Courts; Game Areas. A fence may be constructed in any zone to enclose tennis courts and public game areas and a game area within a rear yard of a residential lot or tract of land. Such a fence shall be constructed of wire mesh which will admit not less than 90% of light as measured by a light meter.

F. Perimeter Fences; Residence; Generally. Perimeter fences in residential zones shall conform to the requirements in Section C(1)-(10), except as follows:

1. Adjacent to Streets. Segments of a perimeter fence which are constructed substantially parallel with and adjacent to the boundary lines of front and side streets, or either, shall be of a single uniform class and height, which latter shall not exceed 72 inches; provided, any segment of a perimeter fence constructed pursuant to a special permit within the right-of-way of a street, alley or other public way outside the corporate limits of the City shall be a Class (2), (3) or (4) fence.
2. Side. Any segment of a perimeter fence which is constructed on or adjacent to and substantially parallel with a boundary line between abutting blocks, lots or tracts of land shall conform to the requirements for side yard fences which are contained in this section.

3. Rear. Any segment of a perimeter fence which is constructed on or adjacent to and substantially parallel with the rear boundary line or any blocks, lots or tracts of land shall be of a single, uniform class and height and shall otherwise conform to the requirements for rear yard fences which are contained in this section.
4. Corner. Perimeter fences on corner lots, anything in Section C(1-10), inclusive, to the contrary notwithstanding, shall conform to the requirements for fences on corner lots which are contained in this section.
5. Special Permit. Perimeter fences are permitted in residential zones if a special permit therefore is issued by the Planning Commission, subject to conditions stated in Article X of this chapter.

G. Utility Easements. Anything in any other part of this section to the contrary notwithstanding, any fence or part thereof erected within that part of any lot, block or other tract of land which is subject to an easement for the construction, maintenance, operation or replacement of any water, sanitary or storm sewer or gas line, or electric power, telephone or other utility poles, cables or lines shall be constructed of such material and so designed as to be readily removable, as determined by the building inspector, whenever necessary to enable the owner of the easement to enjoy the use thereof; provided permission of the Planning Commission and city building inspector to erect a fence on land that is subject to such an easement shall not bind, and shall be without prejudice to the rights of, owners of easements other than the City. Such fences shall be subject to removal by or upon the request of the owner of the easement whenever necessary to enable the owner of the easement to enjoy the easement and, if removed or replaced, shall be removed or replaced at the expense of the owner of the premises.

H. Height; Measurement. The height of a fence means, for purposes of this article:

1. In the case of a fence situated in a required building setback area which abuts a street, the height measured from the finished grade on the side nearest the street.
2. In the case of a fence situated in other areas, the height measured from the finished grade of the immediately adjacent part of the area for which the fence constitutes a barrier; provided, if a fence required by any provision of this chapter is situated adjacent to a property line on one side of which the level of the finished grade is different than the finished grade on the other side, the required height of the fence is the height measured from the higher level.

SECTION 9-512: RECREATIONAL VEHICLES

No recreational vehicle or camper shall be utilized for permanent living, sleeping or housekeeping purposes when parked on a residential lot or in any location not approved for such use.

SECTION 9-513: COMMUNICATION TOWERS

Communication towers shall be permitted in an agricultural or an industrial district, providing the height of said communication tower does not conflict with any airport approach or landing zone or with any other city ordinances. In all other districts, communication towers are not permitted.

SECTION 9-514: LIVESTOCK AND POULTRY

A. No cattle, sheep, goats, swine, horses or any other animal commonly classified as livestock nor any chickens, ducks, geese, turkeys or any other fowl or poultry of any description shall be kept, housed, penned or otherwise held in the "R-A," "R-B," or "C" zoning districts.

B. Feedlots shall not be permitted in the City of Minatare or in the City's one-mile planning jurisdiction.

SECTION 9-515: AIRPORT ZONING REGULATIONS

A. Purpose. This section shall be known as the airport zoning regulations, intended to provide for the safe operation of aircraft into and out of Western Nebraska Regional Airport aka William B. Heilig Field.

B. Definitions. The following definitions shall be used for terms contained in this section that are not otherwise defined.

1. Airport. Western Nebraska Regional Airport aka William B. Heilig Field, Scottsbluff, Nebraska.
2. Airport elevation. 3,944 feet MSL.
3. Airport encroachment. Any structure, tree or use of land which obstructs the airspace required for the flight of aircraft in landing or taking off at Western Nebraska Regional Airport or is otherwise hazardous to the operation of aircraft.
4. Airport encroachment area. Any area of land or water upon which an airport hazard might be established if not prevented by this article.
5. City. The City of Minatare, Nebraska.

6. Departure limit. The horizontal line perpendicular to the runway center line, established as the beginning of the usable takeoff runway.
7. Electrical facility. An overhead electrical line, including poles or other supporting structures, owned or operated by an electric supplier as defined in Neb. Rev. Stat. §70-1001.01, for the transmission or distribution of electrical power to the electric supplier's customers.
8. Landing area. The area of the airport intended for use for the landing, taking off or taxiing of aircraft.
9. Landing threshold. A horizontal line, perpendicular to the runway center line, established as the beginning of the usable landing runway.
10. Locations and borders. Vicinity of the airport located in Sections 16, 17, 20 and 21, Township 22, Range 54, Scotts Bluff County, Nebraska.
11. Mean sea level. The United States Coast and Geodetic Survey zero datum plane, abbreviated "MSL".
12. Nonconforming use. Any structure, tree or use of land which does not conform to the requirements of this article, or an amendment thereto, as of the effective date of this article or amendment.
13. Person. Any Individual, firm, partnership, corporation, company, association, joint stock association, or body politic, and includes any trustee, receiver, assignee or other similar representatives thereof.
14. Political subdivision. Any municipality, city, village or county.
15. Runway. A defined area at an airport that is prepared for the landing and takeoff of aircraft along its length.
16. Runway, existing. An instrument runway or a visual runway that is paved or made of turf that has been constructed or is under construction.
17. Runway, proposed. An instrument runway or a visual runway that has not been constructed and is not under construction but that is depicted on the airport layout plan that has been conditionally or unconditionally approved by or has been submitted for approval to the Federal Aviation Administration.
18. Structure. Any object constructed or installed by man, including but without limitation buildings, towers, smokestacks and overhead transmission lines.

19. Tree. Any object of natural growth, except farm crops which are cut at least once a year, and except shrubs, bushes or plants which do not grow to a height of more than 5 feet.
20. Zoning reference point. The point of intersection of the center line of William B. Heilig Field, Runway 12/30 with the center line of William B. Heilig Field, Runway 5/23.

C. Airport Hazard Area Description. The airport hazard area shall consist of operation zones, approach zones, turning zones and transition zones as described in this section. The zone descriptions are as follows:

1. The operation zones are longitudinally centered on each existing or proposed runway.
 - a. Length. For existing and proposed paved runways, the operation zones begin and end 200 feet beyond the end of each runway. For existing and proposed turf runways, the operation zones begin and end at the runway ends.
 - b. Width. For existing and proposed instrument runways, the operation zones are 1,000 feet wide, with 500 feet on either side of the runway centerline. For all other existing and proposed runways, the operation zones are 500 feet wide, with 250 feet on either side of the runway centerline.
 - c. Height. The height limit of the operation zones is the same as the height of the nearest point on an existing or proposed runway or the surface of the ground, whichever is higher.
2. The approach zones extend from the end of each operation zone and are centered along extended runway centerlines. An approach zone's dimensions are as follows:
 - a. Instrument Runways.
 - i. Length and Width. The approach zone extends ten miles from the operation zone, measured along the extended runway centerline. The approach zone is 1,000 feet wide at the end of the nearest runway (i.e., adjacent to the operation zone) and expand uniformly to 16,840 feet wide at the farthest end of the zone (i.e., ten miles from the operation zone).
 - ii. Height Limit. The height limit of an approach zone begins at the elevation of the runway end for which it is the approach and rises 1 foot vertically for every 50 feet horizontally (50:1), except that the

height limit shall not exceed 150 feet above the nearest existing or proposed runway end elevation within three miles from said operation zone, the height limit resumes sloping 1 foot vertically for every 50 feet horizontally (50:1) and continues to the ten mile limit.

b. Visual Runways.

i. Length and Width. An approach zone extends from the operation zone to the limits of the turning zone, measured along the extended runway centerline. The approach zone is 500 feet wide at the end of the zone nearest the runway (i.e., adjacent to the operation zone) and expands uniformly so that at a point on the extended runway centerline three miles from the operation zone, the approach zone is 3,700 feet wide.

ii. Height. The height limit of an approach zone begins at the elevation of the runway end for which it is the approach and rises 1 foot vertically for every 40 feet horizontally (40:1), except that the height limit shall not exceed 150 feet above the nearest existing or proposed runway end elevation within three miles of the end of the operation zone at the runway end.

3. The transition zones extend outward at a right angle to the runway centerline and upward at a rate of 1 foot vertically for every 7 feet horizontally (7:1). The height limit of a transition zone begins at the height limit of the adjacent approach zone or operation zone and ends at a height of 150 feet above the highest elevation on the existing or proposed runway.

4. The turning zones are located at the distance of three miles radius from the corners of the operational zone of each runway and connection adjacent arcs with tangent lines, excluding any area within the operation zone, approach zone or transition zone. The height limit of the turning zone is 150 feet above the highest elevation on the existing or proposed runway.

D. Adoption of Western Nebraska Regional Airport Layout Plan. In order to define the dimensions of the zones established by these regulations, the City hereby adopts Airport Project No. 3-31-0072-22, Airport Layout Plan, dated May 16, 1994. All subsequent adopted airport layout plans are hereby incorporated by reference.

E. Airport Encroachment Area. There is hereby created an airport encroachment area which consists of runway area zones, approach departure zones, transition zones, horizontal zone and conical zone, which are shown on the airport zoning map and defined as follows:

1. Runway Area Zone. Runway area zones are established along the runways, having a width of 1,000 feet symmetrically located along both sides of the center line of the runway and all other area between parallel runways, and extended longitudinally 200 feet beyond the outermost landing threshold, departure limit or of the runway.
2. Approach/Departure Zones. Approach/departure zones are established beyond and outward from the landing thresholds and departure limits of the runways, having a width of 1,000 feet at their beginning, and a distance of 200 feet outward from the landing thresholds and departure limits, symmetrically located along both sides of the extended center line of the runway, and widening uniformly to a width of 16,000 feet at the outer limit of the zone, a distance of 50,000 feet outward from the landing thresholds and department limits.
3. Transition Zones.
 - a. Transition zones are established along both sides of all runways and adjacent to the runway area zone, extending laterally outward therefrom for varying distances to a line formed by the locus of the points where the height limits of the transition zones equal the height limit of the horizontal zone or equal the transition zone of runway area zones, and being between the beginning of the approach/departure zones at each end of the runway.
 - b. Further, transition zones are established along both sides of all approach/departure zones, extending laterally outward therefrom for varying distances to a line formed by the locus of the points where the height limits of the transition zones equal the height limits of the horizontal zone or the height limits of the conical zone, or for a distance of 5,000 feet, whichever is less. Transition zones so established extend longitudinally between the inner and outer limits of the approach/departure zones, which is a distance of 50,000 feet.
4. Horizontal Zone. A horizontal zone is established which has as its outer boundary a line which is at all times 10,000 feet beyond the landing area and 150 feet above airport elevation.
5. Conical Zone. The conical zone is established as the area that commences at the periphery of the horizontal zone and extends outward therefrom a horizontal distance of 4,000 feet.
6. Conflicts of Height Limits. Where an area is subject to more than one height limit, the most restrictive limit shall apply.

F. Height Limits. No building, transmission line, pole, tower, chimney, wires, or other structures or appurtenances of any kind or character shall hereafter be erected, constructed, repaired or established nor shall any tree or other object of natural growth be allowed to grow above the heights described in Subsection E (Airport Encroachment Area).

G. Use Regulations. Notwithstanding any other provision of this section, no use may be made of any land within any runway area zone, approach/departure zone, horizontal zone, conical zone or transition zone in any manner as to:

1. Create electrical interference with the radio or radar communication or navigation aids between the airport and aircraft;
2. Make it difficult for air crews to distinguish between airport lights and others;
3. Result in glare in the eyes of air crews using the airport;
4. Impair visibility in the vicinity of the airport; or,
5. Otherwise endanger the landing, taking off or maneuvering of aircraft within these zones.

H. Nonconforming Uses.

1. Continuation of Lawful Nonconforming Uses. Any land use lawfully existing on the effective date of this chapter may continue, subject to the provisions of this section.
2. Enlarging Degree of Nonconformance. No nonconforming structure or tree shall be built, replaced, altered, replanted or allowed to grow to a height that increases the degree of nonconformance or that violates the height limits established by this section.
3. Damage or Destruction.
 - a. Should a structure occupied by a lawful nonconforming use be damaged to the extent that the cost of restoration exceeds 50% of the replacement cost of the structure, the nonconforming use shall no longer be permitted.
 - b. Any nonconforming tree which has been damaged or has decayed to the extent of 50% or more shall be removed.
4. Abandonment. If any structure or property containing a lawful nonconforming use becomes vacant or unused for a continuous period of six

months, any subsequent use must conform to airport zoning regulations.

5. Unlawful Nonconforming Uses. These provisions shall not be interpreted as authorization for or approval of the continuation of any structure, use or tree in violation of any zoning regulations in effect on or before the effective date of this chapter.

I. Administration and Enforcement of Section.

1. Enforcement by Appropriate Political Subdivision. The locations of various encroachment areas are within the zoning authority of the City.
2. Administrative Agency. It shall be the duty of the City to enforce this section and the appropriate political subdivision is hereby appointed the administrative agency provided for in Neb. Rev. Stat. §3-3. The appropriate administrative agency shall have all the powers and perform all duties as provided by the Airport Zoning Act.
3. Permit Applications. Applications for permits shall be made to the City upon forms furnished by the city clerk. Any application shall be promptly considered and granted or denied. Applications for action by the Zoning Board of Adjustment shall be transmitted in accordance with the applicable provisions provided herein, appropriate city ordinances and state law.

J. Permit Required; Exceptions.

1. Permit Required. It shall hereafter be unlawful to erect, construct, reconstruct, repair or establish any building, transmission line, pole, tower, chimney, wires or any other structure or appurtenance within the hazard area without first obtaining a permit from the City upon a form furnished by the city clerk. Any application shall be promptly considered and granted or denied. Applications for action by the City shall be transmitted in accordance with the application provisions of the City, appropriate city and/or county ordinances, and/or state law. It shall also be unlawful to plant or replant any tree or other object of natural growth without the necessary permit.
2. Permit Exceptions. Within the outer area of the approach zones and within the turning zones, no permit shall be required for any construction or planting that is not higher than 75 feet above the nearest existing or proposed runway end. The repair, reconstruction or replacement of nonconforming electric facilities will be permitted in compliance with Neb. Rev. Stat. §3-311(3).

3. Location Sketch and Zoning Map. The boundaries, approach zones, operations zones, transition zones and turning zones of the airport are indicated on the zoning map that is made a part hereof by reference. A copy of the airport hazard and zoning regulations shall at all times be on file in the office of the airport director located at Western Nebraska Regional Airport.

K. Appeals.

1. Designation of Board of Adjustment. The City Council or its designee shall be the Board of Adjustment with respect to this section and shall have and exercise the powers conferred by Neb. Rev. Stat. §3-320 and such other powers and duties as are conferred and imposed by law. Any person aggrieved or affected by any decisions or actions made in administration of this article may appeal such decision or action to the appropriate Board of Adjustment. Any appeal taken pursuant to this section shall be by the procedure established by law.
2. Powers of the Zoning Board of Adjustment. The City Council shall have the power to hear and decide:
 - a. Appeals from any order, requirement or decision made by the permits and inspections division in the enforcement of this section.
 - b. Any special exemptions to the terms of this section which such board may be required to pass under this section.
 - c. Specific variances under Neb. Rev. Stat. §3-312.
3. Appeal from Decisions of the Board of Adjustment. Any person aggrieved or affected by a decision of the City may appeal to the District Court for Scotts Bluff County, Nebraska, in the manner provided in Neb. Rev. Stat. §3-324 et seq.

(Ord. No. 521, 1/19/16)

ARTICLE VI - OFF-STREET PARKING REGULATIONS

SECTION 9-601: APPLICABILITY

Off-street parking space, as required in this article, shall be provided for all new buildings and structures or additions and enlargements thereto. Existing parking area previously required shall not be used to satisfy required off-street parking for any new structures or additions to existing buildings, structures, or uses of land unless the existing parking exceeds these requirements. Such existing parking space shall be maintained and shall not be reduced so long as the main building, structure or use remains, unless an equivalent number of such spaces are provided elsewhere as provided in this article; except that no off-street parking space shall be required for any use in the "C" Commercial District.

SECTION 9-602: GENERAL PROVISIONS

A. Utilization. Required accessory off-street parking facilities provided for the uses hereinafter listed shall be solely for the parking of motor vehicles in operating condition of patrons, occupants, or employees of such uses.

B. Residential Districts. Required off-street parking spaces may be located within the front yard in all residential districts.

C. Accessory Use. Off-street parking shall be considered as an accessory use to the use for which the parking is provided. Parking not located on the same tract as the main use must be located within the same zoning district in which parking or storage lots are permitted as a main use. In no instance shall off-street parking required by this article be located more than 300 feet (as measured along lines of public access) from the use which it serves.

D. Repair Service. No motor vehicle repair work or service of any kind shall be permitted in association with any off-street parking facilities.

E. Computation. When determination of the number of off-street parking spaces required by this regulation results in a requirement of a fractional space, the fraction of one-half or less may be disregarded, and a fraction in excess of one-half shall be counted as one parking space.

F. Mixed Uses. When a building or development contains mixed uses, the off-street parking requirements shall be calculated for each individual use and the total parking requirement shall be the sum of individual parking requirements.

SECTION 9-603: LAYOUT AND DESIGN REQUIREMENTS

A. Area. A required off-street parking space shall be at least 8 feet 6 inches in width and at least 19 feet in length, exclusive of access drives or aisles, ramps

and columns.

B. Access. Each required off-street parking space shall open directly upon aisle or driveway of such width and design as to provide safe and efficient means of vehicular access to such parking space.

C. Design. Off-street parking spaces shall comply with the design standards relating to curb length, stall depth, driveway width, island width, barriers and ingress and egress as contained in the off-street parking standards of this article.

D. Surfacing. All open off-street parking and loading areas, including drive-ways and aisles, shall be graded and provided with an all-weather surface.

E. Lighting. Any lighting used to illuminate off-street parking and loading areas shall be directed away from residential properties in such a way as not to interfere with the residential uses.

SECTION 9-604: PLANS AND APPROVAL REQUIRED

Plans showing the layout of all required off-street parking and loading areas shall be submitted to and approved by the zoning administrator prior to issuance of a building permit. Before approving any parking layout, the zoning administrator shall determine that the spaces provided are usable and meet standard design criteria contained herein.

SECTION 9-605: REQUIRED SPACES

Off-street parking spaces shall be provided as follows:

A. Dwelling and Lodging Uses.

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|---|---|
| 1. Boarding or rooming houses: | One space per each three sleeping rooms |
| 2. Dormitories, fraternities, sororities: | Two spaces for each three occupants based on the maximum design capacity of the building |
| 3. Hotels and motels: | One space per each rental unit plus one space per each two employees in the largest working shift and such spaces as are required for restaurants, assembly rooms, and other affiliated facilities provided |

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|--|--|
| 4. Mobile homes: | Two spaces for each home |
| 5. Nursing homes, rest homes, etc.: | One space per each five beds based on the designed maximum capacity of the building plus one one space for each employee |
| 6. Single-family dwellings: | Two spaces per dwelling unit |
| 7. Two-family and multiple-family dwellings: | Two spaces per dwelling unit |
| 8. Dwelling units designed specifically for the elderly: | One space per two dwelling units |

B. Business, Commercial and Industrial Uses.

- | | |
|---|---|
| 1. Automobile, truck, recreational vehicle and mobile home sales and rental lots: | One space for each area devoted to the sale, display and rental of said vehicles, plus one space for each employee |
| 2. Automobile salvage yards: | One space for each employee, plus one space for each 10,000 square feet of storage area |
| 3. Financial, business and professional offices: | One space for each 300 square feet of gross floor area |
| 4. Bowling alleys: | Five parking spaces for each lane |
| 5. Cartage, express parcel delivery and freight terminal establishments: | One space for each two employees in the largest working shift in a 24-hour period, plus one space for each vehicle maintained on the premises |
| 6. Automobile wash: | Three holding spaces for each car washing stall plus two drying spaces for each car washing stall |
| 7. Funeral homes and mortuaries: | One space for each four seats based upon the designated maximum capacity of the parlor, plus |

	one additional space for each employee and each vehicle maintained on the premises
8. Furniture and appliance stores, household equipment or furniture repair shop:	One space for each 400 square feet of floor area
9. Manufacturing, production, processing, assembly, disassembly, cleaning, servicing, testing or repairing of goods, materials or products:	One space per three employees based upon the largest working shift in any 24-hour period
10. Medical and dental clinics or offices:	One space for each 100 square feet of gross floor area
11. Restaurants, private clubs and taverns:	One space for 2.5 seats based on the maximum designed seating capacity; drive-in restaurants shall have a minimum of at least ten spaces
12. Retail stores and shops:	One space per 200 square feet of floor area
13. Service stations:	One space for each employee plus two spaces for each service bay
14. Theaters, auditoriums and places of assembly, with or without fixed seats:	One space for each four people, based upon the designed maximum capacity of the building
15. Warehouse, storage and wholesale establishments:	One space for each two employees based upon the largest working shift in any 24-hour period
16. All other business and commercial establishments not specified above:	One space for each 300 square feet of floor area
C. Other Uses.	
1. Churches:	None

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|---|---|
| 2. Hospitals: | One space for each two beds, plus one space for each resident or staff doctor plus one space for every two employees based on the largest working shift in any 24-hour period |
| 3. Laundromats: | One space for each two washing machines |
| 4. Nursery schools and day care centers, public or private: | One space for each employee |
| 5. Fraternal associations and union headquarters: | One space for each three seats based upon the designed maximum seating capacity |
| 6. Trade and commercial schools: | One space for each three students and employees |

ARTICLE VII - SIGN REGULATIONS

SECTION 9-701: APPLICABILITY

Any sign shall, by definition, be a structure. No land or building or structure shall be used for sign purposes except within the stipulated districts listed in the sign use regulations specified herein. All signs legally existing at the time of passage of these regulations may remain in use under the conditions of legal nonconformance. Signs in legal nonconformance shall not be enlarged, moved, lighted or reconstructed; however, the change of the advertising display shall not be restricted except as previously stated. After the effective date of these regulations, no sign shall be erected, enlarged, constructed or otherwise installed unless it is in compliance with this sign regulation. All signs shall be constructed in such a manner and of such materials that they shall be safe and substantial.

SECTION 9-702: CLASSIFICATION OF SIGNS

A. Advertising Sign. A sign which directs the attention of the public to any goods, merchandise, property, business, service, entertainment or amusement conducted or produced which is bought or sold, furnished, offered or dealt in elsewhere than on the premises where such sign is located or to which it is affixed.

B. Bulletin Board Sign. A sign that indicates the name of an institution or organization on whose premises it is located and which contains the name of the institution or organization, the name or names of persons connected with it, and announcement of persons, events or activities occurring at the institution. Such sign may also present a greeting or similar message.

C. Business Sign. A sign which directs attention to a business or profession conducted, or to products, services or entertainment sold or offered upon the premises where such sign is located or to which it is affixed.

D. Construction Sign. A temporary sign indicating the names of the architects, engineers, landscape architects, contractors and similar artisans involved in the design and construction of a structure, complex or project. This sign is permitted only during the construction period and only on the premises on which the construction is taking place.

E. Identification Sign. A sign giving the name and address of a building, business, development or establishment. Such signs may be wholly or partly devoted to a readily recognized symbol.

F. Name Plate Sign. A sign giving the name and/or address of the owner or occupant of a building or premises on which it is located, and where applicable, a professional status.

G. Real Estate Sign. A sign pertaining to the sale or lease of a lot or tract of land on which the sign is located, or to the sale or lease of one or more structures, or a portion thereof on which the sign is located.

SECTION 9-703: STRUCTURAL TYPES

A. Awning, Canopy or Marquee Sign. A sign that is mounted on, painted on, or attached to an awning, canopy or marquee. No such signs shall project above, below or beyond the awning, canopy or marquee.

B. Ground Sign. Any sign placed upon, or supported by, the ground independent of the principal building or structure on the property.

C. Projecting Sign. A sign that is wholly or partly dependent upon a building for support and which projects more than 12 inches from such building.

D. Wall Sign. A sign fastened to or painted on a wall of a building or structure in such a manner that the wall becomes merely the supporting structure or forms the background surface, and which does not project more than 12 inches from such building.

E. Roof Sign. A sign totally supported on the roof of a structure; shall not project more than 12 inches beyond the face of the building.

SECTION 9-704: GENERAL STANDARDS

A. Sign Height. Sign height shall be measured from the ground elevation at the base of the sign to the highest element of the sign.

B. Illuminated Sign. A sign designed to give forth artificial light or designed to reflect light derived from any source.

1. Illuminated signs shall be designed so as to reflect or direct light away from any residential dwelling district.

2. Lighted signs in direct vision of a traffic signal shall not be in red, amber or green illumination.

C. Flashing or Moving Sign. Any illuminated sign on which the artificial light is not constant in intensity or color at all times shall be considered as a flashing sign. For the purpose of this regulation, any revolving, rotating, moving, animated signs with moving lights or signs which create the illusion of movement shall be considered as a flashing sign.

1. Flashing signs shall not be permitted in any district.

2. A sign which displays the current time and/or temperature by use of intermittent lighting shall not be deemed a flashing sign if the lighting changes are limited to text indicating time, temperature or other public messages.

D. Accessway or Window. No sign shall block any required accessway or window.

E. Signs on Trees or Utility Poles. No sign shall be attached to a tree or utility pole, whether on public or private property.

F. Metal Signs. Signs constructed of metal and illuminated by any means requiring internal wiring or electrically wired accessory fixtures attached to a metal sign shall maintain a free clearance to grade of nine feet. An accessory lighting fixture attached to a non-metal frame sign shall also maintain a clearance of nine feet to grade. No metal ground sign shall be located within eight feet vertically and four feet horizontally of electric wires or conductors in free air carrying more than 48 volts, whether or not such wires or conductors are insulated or otherwise protected.

G. Traffic Safety.

1. No sign shall be maintained at any location where, by reason of its position, size, shape or color it may obstruct, impair, obscure, interfere with the view of or be confused with any traffic or railroad control sign, signal or device or where it may interfere with, mislead or confuse traffic.
2. Any sign located within 3 feet of a driveway or within a parking area shall have its lowest elevation at least 10 feet above the curb level; however, in no event shall any sign except wall signs and awnings, canopy or marquee signs be placed so as to project over any public right-of-way.
3. Under no circumstances shall any sign be placed in the sight triangle as defined by Section 9-302.

H. Portable Signs. Portable signs shall be permitted on a temporary basis in only the "C", "HC" and "I" Districts, subject to the following conditions:

1. Portable signs shall not be placed on public right-of-way except within the "C" District.
2. An applicant may utilize a portable sign for a period of not more than seven consecutive days and shall be permitted to utilize a portable sign a maximum of four times per calendar year.

3. No portable sign shall be utilized without first obtaining a sign permit from the zoning administrator.
4. A portable sign shall contain no more than 64 square feet of advertising space, including all sides of the sign.

SECTION 9-705: EXEMPTIONS

The following signs shall be exempt from the requirements of this article, except for the provisions of Section 9-703:

- A. Flags or emblems of a governmental or of a political, civic, philanthropic, education or religious organization, displayed on private property.
- B. Signs of a duly constituted governmental body, including traffic or similar regulatory signs, legal notices, warnings at railroad crossings and other instructional or regulatory signs having to do with health, safety, parking, swimming, dumping, etc.
- C. Memorial signs and tablets displayed on public or private property.
- D. Small signs, not exceeding 3 square feet in area, displayed on private property for the convenience of the public, including signs to identify entrance and exit drives, parking areas, one-way drives, restrooms, freight entrances, and other similar signs.
- E. Scoreboards in athletic stadiums.
- F. Political campaign signs may be displayed for a period beginning on the last day of the statutory filing period and ending one week after the general or special election. Political signs may remain up between the primary and general elections, except that signs for candidates who lost in the primary and signs that become deteriorated or partially destroyed shall be removed.
- G. Temporary signs for the sale of household goods at a residence (garage sales) for a period not to exceed three days and temporary signs to promote auctions.

SECTION 9-706: DISTRICT REGULATIONS

- A. "AG" Agricultural District, "R-A" Residential District, "R-B" Residential District.
 1. Functional Types Permitted.
 - a. Advertising signs in "AG" only.

- b. Business signs pertaining to a home occupation and subject to the sign requirements of the home occupation section of this regulation.
- c. Bulletin board signs.
- d. Construction signs.
- e. Identification signs.
- f. Name plate signs.
- g. Real estate signs.

2. Structural Types Permitted.

- a. Ground signs.
- b. Wall signs.

3. Number of Signs Permitted: One sign per zoning lot.

4. Maximum Gross Area:

- a. Business signs - home occupation only: 2 square feet.
- b. Bulletin board and identification signs: 100 square feet.
- c. Construction signs: 32 square feet.
- d. Name plate signs: 2 square feet.
- e. Real estate signs: 6 square feet.
- f. Advertising signs: N/A.

5. Maximum Height: 15 feet.

6. Required Setback: None.

7. Illumination: Bulletin boards and identification signs may be indirectly illuminated with incandescent or fluorescent lighting.

B. "C" Commercial District, "HC" Highway Commercial, and "I" Industrial District.

1. Functional Types Permitted.

- a. Advertising signs.
- b. Bulletin board signs.
- c. Business signs.
- d. Construction signs.
- e. Identification signs.
- f. Name plate signs.
- g. Real estate signs.

2. Structural Types Permitted.

- a. Awning, canopy or marquee signs.
 - b. Ground signs.
 - c. Projecting signs.
 - d. Wall signs.
3. Number of Signs Permitted.
- a. Awning, canopy or marquee signs and wall signs: No limitations.
 - b. Ground signs: 2 per zoning lot.
 - c. Projecting signs: 1 per zoning lot.
4. Maximum Gross Area: N/A.
5. Maximum Height: 30 feet.
6. Required Setback: None, except that advertising signs shall maintain the same setback that is required for principal structures.
7. Illumination: Illuminated signs shall be permitted.

ARTICLE VIII - NONCONFORMITIES

SECTION 9-801: GENERAL

Nonconformities are of three types, as defined below:

- A. Nonconforming Lot of Record. A lot which is part of a recorded subdivision or a parcel of land, the deed to which was recorded prior to these regulations and said lot does not comply with the lot width or area requirements of the district in which it is located.
- B. Nonconforming Structure. A structure that existed prior to the adoption of these regulations that does not comply with the lot coverage, height or yard requirements which are applicable to structures in the zoning district in which it is located.
- C. Nonconforming Use. A use of a structure or of land that lawfully existed prior to the adoption of these regulations which does not comply with the use regulations applicable in the zoning district in which it is located.

SECTION 9-802: NONCONFORMING LOTS OF RECORD

The zoning administrator may issue a building permit for any nonconforming lot of record provided that:

- A. Said lot is shown by a recorded plat or deed to have been owned separately and individually from adjoining tracts of land at a time when the creation of a lot of such size and width at such location would not have been prohibited by any zoning regulations.
- B. Said lot has remained in separate and individual ownership from adjoining tracts of land continuously during the entire time that the creation of such Lot has been prohibited by any zoning regulations.
- C. Said lot can meet all yard regulations for the district in which it is located.
- D. Said lot can meet minimum sanitation requirement by either connecting to a sanitary sewer line or having adequate area to support a septic system.

SECTION 9-803: NONCONFORMING STRUCTURES

- A. Authority to Continue. Any existing structure which does not comply with the applicable intensity of use regulations and/or the applicable yard and height regulations may be continued, so long as it remains otherwise lawful.

B. Enlargement, Repair, Alterations. Any nonconforming structure may be enlarged, maintained, repaired or remodeled; provided, however, that no such enlargement, maintenance, repair or remodeling shall either create any additional nonconformity or increase the degree of existing nonconformity of all or any part of such structure. Notwithstanding the above, a porch which is covered by a roof which extends into a front setback area may be enclosed but not in excess of the area covered by the existing roof.

C. Damage or Destruction. In the event that any nonconforming structure is damaged or destroyed by any means to the extent of more than 60% of its replacement value, such structure shall not be restored unless it shall hereafter conform to the regulations for the zoning district in which it is located. When a structure is damaged to the extent of 60% or less, no repairs or restoration shall be made unless a building permit is obtained within six months and restoration is actually begun one year after the date of such partial destruction and is diligently pursued to completion.

D. Moving. No nonconforming structure shall be moved in whole or in part for any distance whatever, to any other location on the same or any other lot unless the entire structure shall thereafter conform to the regulations of the zoning district in which it is located after being moved.

SECTION 9-804: NONCONFORMING USES

A. Termination: The City Council may provide for the termination of nonconforming uses.

1. When terminating a nonconforming use, the City Council shall either:
 - a. Specify the period or periods in which nonconforming uses shall be required to cease, or
 - b. Provide a formula whereby the compulsory termination of a nonconforming use may be so fixed as to allow for the recovery of amortization of the investment in the nonconformance.
2. However, in the case of a legally erected outdoor advertising sign, display, or device, no amortization schedule shall be used.

B. Ordinary Repair and Maintenance.

1. Normal maintenance and incidental repair or replacement, installation or relocation of nonbearing walls, nonbearing partitions, fixtures, wiring or plumbing, may be performed on any structure that is devoted in whole or in part to a nonconforming use.

2. Nothing in these regulations shall be deemed to prevent the strengthening or restoring to a safe condition of a structure in accordance with an order of a public official who is charged with protecting the public safety and who declares such a structure to be unsafe and orders its restoration to a safe condition.

C. Extension. A nonconforming use shall not be extended, expanded, enlarged or increased either in land area or floor area.

D. Enlargement. No structure that is devoted in whole or in part to a nonconforming use shall be enlarged or added to in any manner unless the use thereof shall thereafter conform to the regulations of the district in which it is located.

E. Damage or Destruction. In the event that any structure that is devoted in whole or in part to a nonconforming use is damaged or destroyed, by any means, to the extent of more than 60% of its replacement value, such structure shall not be restored unless such structure and the use thereof shall thereafter conform to all regulations of the zoning district in which it is located. When such damage or destruction is 60% or less, no repairs or restoration shall be made unless a building permit is obtained and restoration is actually begun within one year after the date of such partial destruction and is diligently pursued to completion.

F. Moving. No structure that is devoted in whole or in part to a nonconforming use and no nonconforming use of land shall be moved in whole or in part for any distance whatever to any location on the same or any other lot, unless the entire structure and the use thereof and the use of land shall thereafter conform to all regulations of the zoning district in which it is located after being so moved. Mobile homes may be replaced on an existing utility hookup outside a mobile home park unless such hookup has not been used for the previous 12 consecutive months.

G. Change in Use. If no external structural alterations are made which will expand the area or change the dimensions of the existing structure, any nonconforming use of a structure, or structure and premises, may be changed to another nonconforming use as a conditional use application; provided that the City Council, after receiving the recommendation of the Planning Commission, shall find that the proposed use is as appropriate or more appropriate to the district than the existing nonconforming use. In permitting such change, the City Council, after receiving the recommendation of the Planning Commission, may require conditions and safeguards to protect surrounding areas and properties. Once such use has changed, it may no longer be returned to the original use or any other less appropriate use.

H. Abandonment or Discontinuance. When a nonconforming use is discontinued or abandoned for a period of 12 consecutive months, such use shall not hereafter be re-established or resumed and any subsequent use of occupancy of

such land or buildings shall comply with the regulations of the zoning district in which such land or buildings are located.

I. Nonconforming Accessory Use. No use which is accessory to a principal nonconforming use shall continue after such principal use shall cease or terminate unless said accessory use is permitted in the district.

J. Nonconforming Residential Uses. Notwithstanding the provisions of (C) and (D) of this section, any structure which is devoted to a residential use and which is located in a business or industrial district may be remodeled, extended, expanded and enlarged; provided that after such remodeling, expansion or enlargement, such structure shall not be used to accommodate a greater number of dwelling or lodging units than such structure accommodated prior to any such work.

K. Open Storage in Residential Districts. The storage of salvage or scrap materials, inoperable vehicles, household goods, and other similar items shall not be continued in any residential district for more than 60 days past the effective date of this ordinance.

SECTION 9-805: STATUS OF CONDITIONAL USES

Where a use exists at the effective date of these regulations and is permitted by these regulations only as a conditional use in the zoning district in which it is located, it shall be deemed to be a nonconforming use. Such conditional use shall not be enlarged or expanded unless an application is approved as set out in Article X of these regulations.

ARTICLE IX - BOARD OF ADJUSTMENT

SECTION 9-901: CREATION

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

SECTION 9-902: MEETINGS AND VOTING

The Board shall adopt rules in accordance with this chapter and shall annually appoint a chairman and vice-chairman from its membership. Meetings of the Board shall be held at the call of the chairman and at such other times as the Board may determine. The chairman or, in his/her absence, the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings of the Board shall be open to the public. Any resident or property owner in the City shall have the right to appear before the Board when he/she has a reasonable interest in the matter to be determined. A majority of the Board shall constitute a quorum for the transaction of business. The Board shall keep minutes of its proceedings showing the vote of each member upon each question or, if absent or failing to vote, indicating such fact. Records of its examinations and other official actions shall be immediately filed in the office of the city clerk and shall be a public record. The concurring vote of four members of the Board shall be necessary to reverse any order, requirement, decision or determination of any such administrative official or to decide in favor of the applicant on any matter upon which the Board is required to act.

SECTION 9-903: DUTIES

The Board of Adjustment is hereby authorized to:

- A. Hear appeals where it is alleged that there is an error in any order, decision or determination made by the officer charged with the administration of this chapter.
- B. Hear and decide upon petitions for variances and, subject to such standards, principles, and procedures provided in this chapter, to vary the strict application of the height, area, parking or sign requirements to the extent necessary to

permit the owner a reasonable use of his/her land. In granting a variance, the Board may impose such conditions, safeguards and restrictions upon the premises benefited by the variance as may be necessary to reduce or minimize any potentially injurious effect of such variance upon other property in the neighborhood, and to carry out the general purpose and intent of these regulations. A request for a variance may be granted upon a finding of the Board that all of the following conditions have been met. The Board shall make a determination on each condition, and the finding shall be entered in the record.

1. The variance requested arises from such conditions that are unique to the property in question and which are not ordinarily found in the same zone or district or vicinity; and are not created by an action or actions of the property owner or applicant.
2. The granting of the permit for the variance will not be of substantial detriment to adjacent property, and the character of the district will not be changed by granting the variance.
3. The strict application of the provisions of the zoning regulations of which the variance is requested will constitute unnecessary hardship upon the property owner represented in the application.
4. The granting of the variance is based upon reasons of demonstrable and exceptional hardship as distinguished from variances for purposes of convenience, profit or caprice.
5. The variance desired will not adversely affect the public health, safety, morals, order, convenience, profit or caprice.
6. The granting of the variance desired will not be opposed to the general spirit and intent of the zoning regulations.

C. Make interpretations of the provisions of this chapter with regard to zoning district boundaries as shown on the map made a part of this chapter.

D. Affirm or reverse, wholly or in part, after public hearing, the determination appealed from. Every decision of the Board of Adjustment shall be accompanied by a written finding of fact specifying the reason for granting or denying the request.

SECTION 9-904: APPLICATIONS

A. Procedure. The procedure for requesting a hearing before the Board shall be as follows:

1. All applications to the Board shall be in writing on forms provided by the

Board and filed with the zoning administrator.

2. All applications shall be accompanied by an ownership list obtained from an abstractor or from county records, listing the legal description and the name and address of the owners of all property located within 300 feet of the boundaries of the property included in the application.
3. The Board shall fix a reasonable time for the hearing of an application and notice of the time, place and subject of each bearing shall be published in a newspaper of general circulation at least ten days prior to the date fixed for the public hearing. A copy of the notice of public hearing shall be mailed by the applicant, return receipt requested, to each person on the ownership list and each Planning Commission member at least ten days prior to the meeting. The applicant shall submit the receipts and returned notices to the Board of Adjustment prior to the public hearing.
4. An application shall be accompanied by a filing fee of \$25.00. A separate filing fee of \$25.00 shall be required for each request.

B. Additional Requirements. In addition to the above requirements, certain applications require additional information as follows:

1. Appeals and Interpretations.
 - a. An application for an appeal or interpretation must be filed within 60 days after a ruling has been made by the zoning administrator.
 - b. A copy of the order, requirement, decision or determination of the zoning administrator which the applicant believes to be in error shall be submitted.
 - c. A clear and accurate, written description of the proposed use, work or action in which the appeal or interpretation is involved and a statement justifying the appellant's position.
 - d. Where necessary, a plot plan, drawn to scale, in duplicate showing existing and proposed plans for the area in question shall be submitted.
2. Variances.
 - a. The applicant shall submit a statement, in writing, justifying the variance requested; indicating specifically the enforcement provisions of the zoning regulations from which the variance is requested, and outlining in detail the manner in which it is believed that this application will meet each of the five conditions as set out in Section 9-903 of

this article.

- b. The applicant shall submit a sketch, in duplicate, drawn to scale and showing the lot or lots included in the application; the structures existing thereon; and the structures contemplated necessitating the variance requested. All appropriate dimensions and any other information which would be helpful to the Board in consideration of the application should be included.

C. Performance.

1. In making any decision varying or modifying any provisions of the zoning regulations, the Board shall impose such restrictions, terms, time limitations, landscaping, screening, and other appropriate safeguards as needed to protect adjoining property.
2. The Board may require cash, a letter of credit or a performance bond to guarantee the installation of required improvements such as parking lot surfacing, landscaping, etc. The amount of the bond shall be based on a general estimate of cost for the improvements as determined by the Board and shall be enforceable by or payable to the City Council in the sum equal to the cost of constructing the required improvements.
3. In lieu of the performance bond requirement, the Board may specify a time limit for the completion of such required improvements and in the event the improvements are not completed within the specified time, the Board may declare the granting of the application null and void after reconsideration.

SECTION 9-905: APPEALS FROM THE BOARD OF ADJUSTMENT

Any person or persons aggrieved by any decision of the Board of Adjustment, or any officer, department or board of the City may present to the District Court a petition setting forth that any decision of the Board of Adjustment is illegal, in whole or in part, and specifying the grounds of the illegality. Such petitions must be presented to the Court within 15 days after the filing of the decision in the office of the city clerk and shall follow the provisions of the Nebraska statutes.

ARTICLE X - AMENDMENTS

SECTION 9-1001: GENERAL PROVISIONS

A. Authority. The City Council may, by ordinance, amend, change, supplement, or repeal these regulations and the district boundaries. No such amendment, change or repeal shall be adopted by the City Council until the Planning Commission has held a public hearing and submitted its recommendations.

B. Proposal of Amendments. Amendments may be initiated by the City Council, the Planning Commission, or upon application by the owners of the property affected. However, no person may apply for an amendment within a period of six months following the denial by the City Council of the same application.

C. Application. When the owner of the property affected initiates an amendment to the regulations or the district boundaries, an application for such amendment shall be obtained from the city clerk. Said application shall be completed in its entirety and filed with the clerk so that a public hearing date can be established.

D. Ownership List. The application for an amendment shall be accompanied by an ownership list obtained from an abstractor or county records listing the legal description and the name and address of the owners of all property located within 300 feet of the boundaries of the property for which the zoning change is requested.

E. Fees. For the purpose of wholly or partially defraying the costs of the amendment proceedings, fees shall be paid upon the filing of each application for a change of district boundaries or conditional use permit, as follows:

1. Agricultural District	\$ 35.00
2. Residential District	\$ 35.00
3. Commercial District	\$ 35.00
4. Industrial District	\$ 35.00
5. Conditional Use	\$ 35.00

F. Disposition of Amendment Proposals. Upon receipt of a proposed amendment from the City Council or an application for an amendment from the owner of the property affected, the Planning Commission shall hold a public hearing on the proposed amendment and forward its findings and recommendations with respect to the proposed amendment to the City Council.

SECTION 9-1002: PLANNING COMMISSION PUBLIC HEARING

A. Public Hearing. The Planning Commission shall hold a public hearing on each proposed amendment that is referred to, filed with, or initiated by it. The

Planning Commission shall select a reasonable hour and place for such public hearing, and it shall hold such hearing within 60 days from the date on which the proposed amendment is referred to, filed with, or initiated by it. An applicant for an amendment may waive the requirement that such hearing be held within 60 days.

B. Notice of Hearing.

1. Public notice of a hearing on a proposed amendment shall be published once in a newspaper of general circulation and at least ten days shall elapse between the date of the publication and the date set for such hearing. Such notice shall state the date, time and place of the hearing and shall contain a statement regarding the proposed change in regulations or restrictions, or the zoning classification or zoning district boundaries of the property.
2. If the proposed amendment would change the zoning classification of any property, or the boundaries of any zoning district, such notice shall contain the legal description and street address or general street location of such property, its present zoning classification, and the proposed classification.
3. When a proposed amendment will affect the zoning classification of specific property, in addition to the publication of the notice described above, a notice shall be posted in a conspicuous place on or near the property on which action is pending. Such notice shall not be less than 18 inches in height and 24 inches in width with a white or yellow background and black letters not less than one and one-half inches in height. Such posted notice shall be so placed upon such premises that it is easily visible from the street nearest the same and shall be so posted at least ten days prior to the date of such hearing. It shall be unlawful for anyone to remove, mutilate, destroy or change such posted notice prior to such hearing. Any person so doing shall be deemed guilty of a misdemeanor. If the record title owners of any lots included in such proposed change or within 300 feet thereof be non-residents of the City, then a written notice of such hearing shall be mailed by certified mail to them addressed to their last known addresses at least ten days prior to such hearing by the secretary of the Planning Commission.
4. The Planning Commission shall also send such notice to the Board of Education. The Commission may give such additional notice to other persons as it may from time to time provide by its rules.

C. Conduct of Hearing. The hearing shall be conducted and a record of the proceedings shall be preserved in such manner and according to such proce-

dures as the Planning Commission may from time to time prescribe by rule. Any interested person or party may appear and be heard at the hearing in person, by agent or by attorney. The Planning Commission may request a report on any proposed amendment from any governmental official or agency or any other person, firm or corporation. If such a report is made, a copy thereof shall be made available to the applicant and any other interested persons and shall be available for review in the office of the city clerk at least three days before the date set for public hearing. The Planning Commission may also require such reports after such public hearing if additional information is deemed necessary. Such reports shall again be made available to the applicant and any other interested persons.

SECTION 9-1003: ACTION BY THE PLANNING COMMISSION

A. Recommendations. Upon the conclusion of the public hearing, the Planning Commission shall prepare and adopt its recommendations and shall submit the same, together with a record of the hearing thereon, to the City Council. Said recommendations may be for approval or disapproval, or approval for less land area or a less intense zoning district, and reasons for the recommendation shall be included.

B. Amendments to Text. When a proposed amendment would result in a change in the text of these regulations but would not result in a change of zoning classification of any specific property, the recommendation of the Planning Commission shall contain a statement as to the nature and effect of such proposed amendment.

SECTION 9-1004: ACTION BY THE CITY COUNCIL

A. Adoption of Amendments.

1. The City Council shall consider the proposed amendment at a duly advertised public hearing. Upon the receipt of the recommendation of the Planning Commission and any protest petitions that have been submitted, the City Council shall consider the application and may approve the recommendations of the Planning Commission or take whatever action it deems necessary.
2. If a proposed amendment is not acted upon finally by the City Council within 120 days after the recommendation of the Planning Commission is submitted to it, such proposed amendment shall be deemed to have been defeated and denied, unless the applicant for such amendment shall have consented to an extension of such period of time. Whenever a proposed amendment is defeated, either by vote of the City Council or by reason of the operation of this section, such amendment shall not thereafter be passed without a further public hearing and notice thereof as provided by this article.

B. Notice of Hearing. Public notice of the City Council hearing on a proposed amendment shall be published once in a newspaper of general circulation and at least ten days shall elapse between the date of the publication and the date set for such hearing. Such notice shall state the date, time and place of the hearing and shall contain a statement regarding the proposed change in regulations or restrictions, or the zoning classification or zoning district boundaries of the property. When a proposed amendment will affect the zoning classification of specific property, in addition to the publication of the notice described above, a notice shall be posted in a conspicuous place on or near the property on which action is pending. Such notice shall not be less than 18 inches in height and 24 inches in width with a white or yellow background and black letters not less than one and one-half inches in height. Such posted notice shall be so placed upon such premises that it is easily visible from the street nearest the same and shall be so posted at least ten days prior to the date of such hearing. It shall be unlawful for anyone to remove, mutilate, destroy or change such posted notice prior to such hearing. Any person so doing shall be deemed guilty of a misdemeanor. If the record title owners of any lots included in such proposed change be non-residents of the City, then a written notice of such hearing shall be mailed by certified mail to them addressed to their last-known addresses at least ten days prior to such hearing by the city clerk.

C. Protest. If a protest against a proposed amendment shall be filed in the office of the city clerk within 14 days after the date of the conclusion of the hearing on a proposed amendment by the Planning Commission, which protest is duly signed and acknowledged by the owners of 20% or more either of the area of the lot or lots included in such proposed change, or of those immediately adjacent on the sides and in the rear thereof extending 300 feet therefrom, and of those directly opposite thereto extending 300 feet therefrom, and of those directly opposite thereto extending 300 feet from the street frontage of such opposite lots, then such proposed amendment shall not be passed except by a three-fourths vote of the City Council.

D. Approved Action. If the City Council approves a change, it shall adopt an ordinance to that effect. If the Official Zoning Map has been adopted by reference, the amending ordinance shall define the change or boundary as amended, shall order the Official Zoning Map to be changed to reflect such amendment, and shall amend the section of the ordinance incorporating the same and shall reincorporate such map as amended.

SECTION 9-1005: CONDITIONAL USES

A. Definition. Conditional uses are those types of uses which, due to their nature, are dissimilar to the normal uses permitted within a given zoning district or where the product, process, mode of operation, or nature of business may prove detrimental of the health, safety, welfare or property values of the immediate

neighborhood and its environs. Within the various zoning districts, conditional uses that are specifically listed in the district regulations may be permitted only after additional requirements are complied with as established within this section.

B. Procedure. The consideration of a conditional use application shall be handled in the same manner as a zoning amendment regarding the requirements for public hearing, notices, protests and action by the Planning Commission and City Council.

C. Minimum Requirements. A conditional use permit shall not be granted unless specific written findings of fact directly based upon the particular evidence presented support the following conclusions:

1. The proposed conditional use complies with all applicable provisions of these regulations, including intensity of use regulations, yard regulations and use limitations.
2. The proposed conditional use at the specified location will not adversely affect the welfare or convenience of the public.
3. The proposed conditional use will not cause substantial injury to the value of other property in the neighborhood in which it is to be located.
4. The location and size of the conditional use, the nature and intensity of the operation involved in or conducted in connection with it, and the location of the site with respect to streets giving access to it are such that the conditional use will not dominate the immediate neighborhood so as to prevent development and use of neighboring property in accordance with the applicable zoning district regulations. In determining whether the conditional use will so dominate the immediate neighborhood, consideration shall be given to:
 - a. The location, nature and height of proposed buildings, structures, walls and fences on the site, and
 - b. The nature and extent of landscaping and screening proposed or already on the site.
5. Off-street parking and loading areas will be provided in accordance with the standards set forth in these regulations.
6. Adequate utility, drainage and other such necessary facilities have been or will be provided.
7. Adequate access roads or entrance and exit drives will be provided and shall be so designed to prevent traffic hazards and to minimize traffic congestion in public streets and alleys.

D. Additional Requirements. In granting a conditional use permit, the City Council may impose such conditions, safeguards and restrictions upon the premises benefited by the conditional use as may be necessary to reduce or minimize any potential injurious effect of such conditional uses upon other property in the neighborhood, and to carry out the general purpose and intent of these regulations.

ARTICLE XI - ADMINISTRATION

SECTION 9-1101: ADMINISTRATIVE PROCEDURE

The mayor and City Council shall appoint a zoning administrator who shall be responsible for the administration of this chapter. The zoning administrator shall have the following powers and duties:

- A. To enter upon any premises at reasonable times and make all inspections necessary to the performance of his/her duties.
- B. To order work or activities stopped by written notice served on the proper person, firm or corporation when such work is being done contrary to the provisions of this chapter.
- C. To allow a period of ten days for compliance with this chapter after issuance of a "stop work" notice.

ARTICLE XII - PENAL PROVISION

SECTION 9-1201: VIOLATION; PENALTY

A. Any person who violates any provision of this chapter shall be guilty of a misdemeanor and shall be punished by a fine not to exceed \$500.00 for each offense. Each and every day that such violation continues shall constitute a separate offense.

B. Whenever a violation exists as defined in these regulations, the City may proceed by a suit in equity to enjoin and abate the same in the manner provided by law. Whenever in any action it is established that a violation exists, the court may, together with the fine or penalty imposed, enter an order of abatement as a part of the judgment in the case.