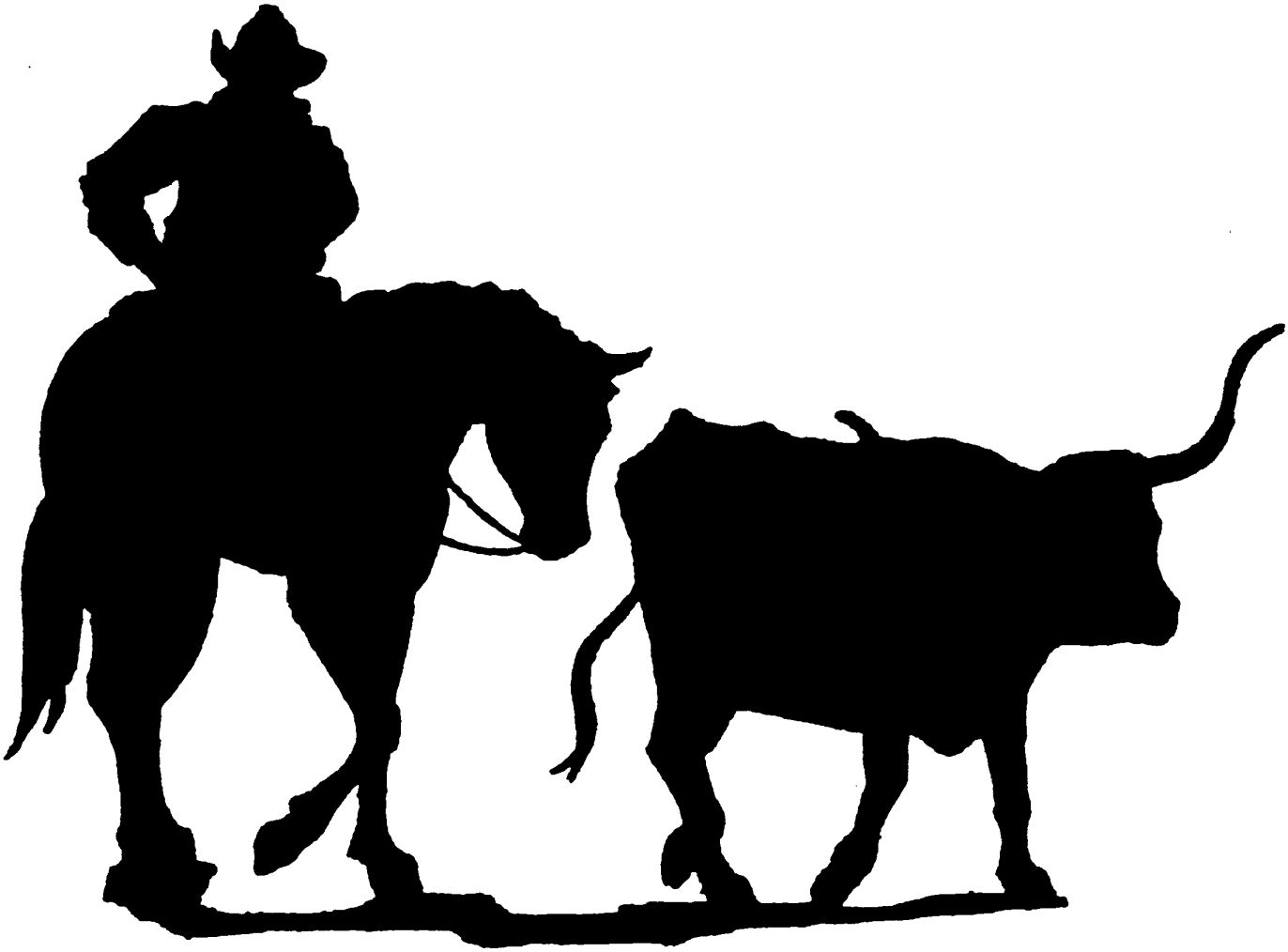
CITY OF OGALLALA

MUNICIPAL CODE

Adopted October 23, 2007



INDEX

1. ALARM SYSTEMS
General Provisions.
Compliance required. 1-102.
Definitions. 1-101.
Permits.
Permits. 1-201.
Penalty.
Penalty. 1-401.
Rules and Regulations.
False alarms. 1-303.
Installation, maintenance, testing, and use. 1-301.
Information required. 1-302.
Liability of City. 1-304.

2. ALCOHOLIC BEVERAGES
General Provisions.
Definitions. 2-101.
Licenses and Permits.
License required. 2-201.
Licensee requirements. 2-202.
License standards and criteria. 2-203.
Penalty.
Penalty. 2-401.
Rules and Regulations.
Hours of sale. 2-304.
Liability of employer. 2-302.
Liability of owner of premises. 2-301.
Minors; prohibited acts involving alcoholic liquor. 2-303.
Responsible beverage server training required. 2-306.
Sanitary conditions. 2-305.

3. ANIMALS
Animals and Fowl.
Animals and fowl. 3-301.
Permits. 3-302.
Dead Animals.
Dead animals. 3-401.
General Provisions.
Abandonment, neglect, and cruelty. 3-102.
Animal shelter. 3-110.
At large dogs. 3-104.
Definitions. 3-101.
Dogs; collar required. 3-106.

Feces disposal and removal. 3-108.
Impoundment. 3-109.
Interference with police. 3-113.
Killing and poisoning of animals. 3-103.
Law enforcement officer; powers; immunity. 3-112.
Limitation on number of dogs and cats. 3-107.
Nuisance dogs. 3-105.
Owner liable for damages. 3-111.
License Requirements.
License requirements. 3-201.
Penalty.
Penalty. 3-501.

4. BIDDING AND CONTRACTS
General Provisions.
Bid opening. 4-102.
Bidding and contracts. 4-101.
Fair labor standards compliance. 4-104.
Preference for resident bidder. 4-103.
Purchase of personal property without bidding. 4-106.
Waiver of bidding procedure. 4-105.
Penalty.
Penalty. 4-201.

5. BINGO
General Provisions.
Adoption of state law. 5-101.
Licenses and Permits.
Licenses and permits. 5-201.
Penalty.
Penalty. 5-401.
Rules and Regulations.
Compliance with state and local law. 5-301.

6. BOARDS AND COMMITTEES
Board of Adjustment.
Appointment of members. 6-201.
Duties. 6-204.
Meetings. 6-203.
Organization. 6-202.
Board of Health.
Appointment of members. 6-301.
Duties. 6-304.
Meetings. 6-303.
Organization. 6-302.
Civil Service Commission.

Appointment of members. 6-401.
Duties. 6-404.
Meetings. 6-403.
Organization. 6-402.
Secretary and chief examiner. 6-405.
Community Redevelopment Authority.
Appointment of members. 6-503.
Creation. 6-501.
Definitions. 6-502.
Director. 6-504.
Funds. 6-505.
Firefighter's Retirement Committee.
Appointment of members. 6-601.
Duties. 6-602.
General Provisions.
Advisory boards. 6-102.
Attendance requirements. 6-101.
Housing Authority.
Appointment of members. 6-703.
Definitions. 6-702.
Duties. 6-706.
Meetings. 6-705.
Organization. 6-704.
Ownership. 6-701.
Library Board.
Annual report; contents. 6-814.
Building sites; acquisition; procedure. 6-811.
Bylaws, rules, and regulations. 6-806.
Definitions. 6-802.
Donations; Library Board may accept. 6-816.
Establishment of public library. 6-801.
Funds; buildings; custody and control. 6-808.
Funds; disbursement; sinking fund; bonds. 6-810.
General powers and duties: discrimination prohibited. 6-812.
Legislative findings. 6-803.
Library Board; members; elected; terms; vacancies, how filled. 6-804.
Mortgages; release or renewal. 6-807.
Organization; officers; quorum. 6-805.
Penalties; action to recover; disposition of funds collected. 6-815.
Private and associate libraries; deposit and use; authorized; requirements. 6-819.
Property; exemption from execution and taxation. 6-818.
Real estate; sale and conveyance; conditions; remonstrance; procedure. 6-817.
Use and purpose. 6-813.
Use of library for City or school purposes; contracts. 6-809.

Planning Commission.
Appointment of members. 6-901.
Duties. 6-904.
Meetings. 6-903.
Organization. 6-902.
Police Officer's Retirement Committee.
Appointment of members. 6-1001.
Duties. 6-1002.
Tree Board.
Appointment of members. 6-1101.
Duties. 6-1104.
Meetings. 6-1103.
Organization. 6-1102.

7. BUILDING REGULATIONS
Adoption of Codes by Reference.
Adoption of building code. 7-101.
Adoption of electrical code. 7-103.
Adoption of life safety code. 7-104.
Adoption of plumbing code. 7-102.
Building Permits.
Building moving permits; fees. 7-202.
Building permits; fees. 7-201.
Electrical Installations.
Electrical installations. 7-301.
Gas Installations and Permits.
Gas installation certificates of approval; fees. 7-402.
Gas installation permits; fees. 7-401.
Penalty.
Penalty. 7-701.
Plumbing Installations and Permits.
Plumbing and appliance installation permits; fees. 7-501.
Plumbing certificates of approval; fees. 7-502.
Unsafe Buildings.
Definitions; nuisance declared. 7-601.
Determination and notice. 7-603.
Emergency repair or demolition. 7-605.
Hearing and appeal. 7-604.
Prohibition on unsafe buildings. 7-602.
Special assessments. 7-606.

8. CEMETERY
Cemetery Manager.
Cemetery Manager. 8-201.
General Provisions.
Operation and funding. 8-101.

Perpetual care fund. 8-102.
Penalty.
Penalty. 8-301.

9. CITY
General Provisions.
City seal. 9-102.
Corporate existence. 9-101.
Powers of City. 9-103.
Service of process. 9-104.

10. CITY CODE OF ORDINANCE
General Provisions.
Application to future ordinances. 10-103.
Captions. 10-105.
Codification of ordinance. 10-104.
Definitions. 10-106.
Errors and omissions. 10-111.
Interpretation. 10-102.
Official time. 10-112.
Ordinances repealed. 10-114.
Ordinances unaffected. 10-115.
Reasonable time. 10-113.
Reference to offices. 10-110.
Reference to other sections. 10-109.
Repeal or modification of ordinance. 10-116.
Rules of interpretation. 10-107.
Severability. 10-108.
Statutory references; historical reference. 10-117.
Supplementation of code of ordinances. 10-118.
Title of code. 10-101.
Penalty.
Penalty. 10-201.

11. CITY COUNCIL
General Provisions.
Compensation. 11-105.
Composition; terms of office. 11-102.
Organization. 11-106.
Powers. 11-101.
President of Council\Mayor. 11-107.
Qualifications; other offices; conflicts of interest. 11-103.
Vacancies. 11-104.

12. CITY OFFICERS AND PERSONNEL
General Provisions.

Appointment, administration, and investigation by Council. 12-101.
Departments, offices, and compensation. 12-102.
Merger of offices. 12-103.
Officers.
Building Inspector. 12-201.
City Attorney. 12-202.
City Clerk. 12-203.
City Manager. 12-204.
City Physician. 12-205.
City Treasurer. 12-206.
Fire Chief and Assistant Fire Chief. 12-207.
Planning & Zoning Administrator. 12-208.
Plumbing Inspector. 12-209.
Police Chief. 12-210.
Public Works Director. 12-211.
Special Engineer. 12-212.
Street Superintendent. 12-213.
Wastewater Superintendent. 12-214.
Water Superintendent. 12-215.
Personnel.
Bond. 12-305.
Compensation. 12-304.
Contracts and conflicts of interest. 12-303.
Oath of office. 12-306.
Personnel manual. 12-301.
Property of City. 12-302.

13. CONTRACTOR LICENSING
Gas Contractors.
Gas contractors. 13-201.
General Provisions.
License applications. 13-101.
Penalty.
Penalty. 13-601.
Plumbers and Appliance Dealers.
Plumbers and appliance dealers. 13-301.
Right of Way Contractors.
Permits. 13-402.
Right of way contractors. 13-401.
Sewer Contractors and Journeymen.
Sewer contractors and journeymen. 13-501.

14. ELECTIONS
General Provisions.
Election procedures; adopted by reference. 14-101.
Initiative and referendum; adopted by reference. 14-102.

15. EMERGENCIES
General Provisions.
Emergency Management Act adopted. 15-102.
Emergency Succession Act adopted. 15-101.

16. FIRE DEPARTMENT
Administration and Enforcement.
Arrest powers. 16-204.
Fire investigations. 16-205.
Fires outside corporate limits. 16-201.
Inspections. 16-202.
Violation procedure. 16-203.
General Provisions.
Equipment of department. 16-104.
Membership. 16-102.
Operation. 16-101.
Records of department. 16-103.
Penalty.
Penalty. 16-401.
Retirement System.
Adoption by reference. 16-301.
Retirement Committee. 16-302.

17. FIRE PROTECTION AND PREVENTION
Fire Prevention.
Adoption of Life Safety Code. 17-201.
Enforcement of fire code. 17-202.
Oil burning; homemade stoves. 17-203.
Open burning. 17-204.
General Provisions.
Disorderly conduct. 17-102.
False alarms. 17-105.
Interference with fire equipment. 17-103.
Obstruction of fire hydrants. 17-104.
Pedestrians. 17-106.
Preservation of property. 17-101.
Penalty.
Penalty. 17-301.

18. FIREWORKS
General Provisions.
Definitions. 18-101.
Discharge of fireworks; permits. 18-102.
Fireworks vendors. 18-103.
Penalty.

Penalty. 18-201.

19. FISCAL MANAGEMENT

General Provisions.

Appropriations. 19-106.
Audit report. 19-105.
Budget filing. 19-104.
Budget hearing. 19-103.
Claims and warrants. 19-118.
Deposit maximums. 19-116.
Depositories. 19-113.
Depository bond. 19-114.
Depository securities. 19-115.
Expenditures. 19-107.
Financial statement. 19-101.
Insufficient funds. 19-111.
Investment of funds. 19-117.
Judgments against City. 19-108.
Lawful transfer of funds. 19-110.
Proposed budget statement; contents; availability; correction. 19-102.
Sinking funds. 19-112.
Unlawful transfer of funds. 19-109.

Miscellaneous Expenditures.

Additional expenditures; City Council; powers; procedures. 19-202.
Definitions. 19-201.
Expenditures; limitations; exception. 19-203.

Penalty.

Penalty. 19-301.

20. FLOOD HAZARD REGULATION

Flood Hazard Regulations.

All applications review. 20-206.
Appeal. 20-213.
Carrying capacity within any watercourse. 20-211.
Construction of Appurtenant Structure. 20-209.
Designation of current FHMB/FIRM. 20-203.
Development permit applications review. 20-205.
Local administrator additional responsibilities. 20-202.
Local administrator responsibilities. 20-201.
Non-conforming use. 20-214.
Permits required. 20-204.
Storage of material and equipment. 20-210.
Subdivision applications. 20-207.
Variance procedures. 20-212.
Water and sewage systems. 20-208.

General Provisions.

Abrogation and greater restrictions. 20-104.
Conflicting ordinances/resolutions. 20-106.
Definitions. 20-108.
Findings of fact. 20-102.
Interpretation. 20-105.
Statement of purpose. 20-103.
Statutory authorization, findings of fact and purposes. 20-101.
Warning and disclaimer of liability. 20-107.
Penalty.
Penalty. 20-301.

21. FRANCHISES
Charter Communications.
Grant of franchise. 21-101.
Kinder Morgan, Inc.
Grant of franchise. 21-201.
Nebraska Public Power District.
Grant of franchise. 21-301.
Qwest Communications.
Grant of franchise. 21-401.

22. HAZARDOUS MATERIAL
Hazardous Material.
Definitions. 22-101.
High explosives. 22-104.
Portable storage and transportation devices. 22-103.
Storage restrictions. 22-102.
Penalty.
Penalty. 22-201.

23. HEALTH AND SANITATION
General Provisions.
Duties of Board of Health. 23-103.
Enforcement authority. 23-102.
Rules and regulations. 23-101.

24. ITINERANT MERCHANTS
Administration and Enforcement.
Enforcement. 24-301.
Records of complaints and violations. 24-302.
General Provisions.
Definitions. 24-101.
Licenses.
License appeals. 24-206.
License application. 24-202.
License fee. 24-203.

License required; location of sales. 24-201.
License revocation. 24-205.
License term. 24-204.
Penalty.
Penalty. 24-401.

25. MEETINGS
Meetings of Council.
Appearances before Council. 25-204.
General provisions. 25-201.
Procedure. 25-203.
Witnesses. 25-202.
Agenda. 25-205.
Meetings of Public Body.
Closed session. 25-103.
Declaration of intent. 25-101.
Definitions. 25-102.
Minutes. 25-106.
Notice of meetings of public body. 25-104.
Rights of the public. 25-105.
Unlawful action. 25-107.

26. MOBILE HOME PARKS
Administration and Enforcement.
Conflicting provisions. 26-502.
Enforcement authority. 26-501.
Violations. 26-503.
Design Standards and Operating Requirements.
Anchoring & blocking. 26-418.
Density. 26-404.
Drainage. 26-417.
Drive names and addresses. 26-407.
Drives. 26-406.
Electrical system. 26-411.
Fire hydrants. 26-415.
Fuel supply. 26-412.
Insect, rodent, and weed control. 26-414.
Life Safety. 26-420.
Location. 26-402.
Mechanical systems. 26-416.
Office and register. 26-401.
Setbacks. 26-405.
Sewer system. 26-410.
Sidewalks. 26-408.
Skirting. 26-419.
Solid waste disposal. 26-413.

Utilities. 26-403.
Water supply. 26-409.
General Provisions.
Applicability of provisions. 26-102.
Definitions. 26-101.
Licenses, Certificates and Permits.
Mobile home park alteration permit. 26-202.
Mobile home park certificate of occupancy. 26-204.
Mobile home park license; fees. 26-201.
Mobile home permit. 26-203.
Park Plans.
Drives. 26-305.
Plan approval. 26-307.
Plan review. 26-306.
Plans required; fees. 26-301.
Site plan. 26-302.
Surface drainage and storm sewer plan. 26-303.
Utility plan. 26-304.
Penalty.
Penalty. 26-601.

27. NUISANCES
General Provisions.
Abatement procedure. 27-102.
Definitions. 27-101.
Enforcement jurisdiction. 27-103.
Nuisances enumerated. 27-104.
Sound amplifiers; permits. 27-105.
Penalty.
Penalty. 27-201.
Graffiti
Purpose and Findings. 27-301.
Definitions. 27-302.
Prohibited acts. 27-303.
Prohibited possession of graffiti implements. 27-304.
Required conduct. 27-305.
Rapid removal of graffiti. 27-306.
. Penalties. 27-307
Severability. 27-308.

28. OFFENSES
Penalty.
Penalty. 28-501.
Property Offenses.
Destruction of City property. 28-101.
Radio interference. 28-103.

Removing and disturbing dirt. 28-102.
Tree damage. 28-104.
Public Peace, Safety, and Convenience Offenses.
Curfew for minors. 28-201.
Disorderly conduct. 28-202.
Hitching rides. 28-203.
Obstruction of public ways. 28-204.
Sexual predator residency restrictions. 28-205.
Soliciting alms. 28-206.
Street games. 28-207.
Tobacco Offenses.
Tobacco possession by minors. 28-301.
Weapons and Explosives.
Carrying a concealed weapon. 28-401.
Discharge of firearms. 28-402.
Firecrackers. 28-403.
Slingshots, airguns, and BB guns. 28-404.

29. ORDINANCES, RESOLUTIONS, AND MOTIONS
Ordinances, Resolutions, and Motions.
Amendment and revision of ordinances. 29-109.
Appropriation ordinances. 29-107.
Emergency ordinances. 29-108.
Form of ordinances. 29-105.
Passage, publication, and proof of ordinances. 29-102.
Powers of Council. 29-101.
Publication of ordinances. 29-104.
Reading of ordinances. 29-103.
Resolutions and motions. 29-110.
Title of ordinances. 29-106.

30. PARKS
General Provisions.
Operation and funding. 30-101.
Penalty.
Penalty. 30-301.
Rules and Regulations.
Destruction of property; litter. 30-201.

31. POLICE DEPARTMENT
General Provisions.
Operation and duties. 31-101.
Retirement System.
Adoption by reference. 31-201.
Retirement Committee. 31-202.

32. PUBLIC RECORDS
General Provisions.
Public records available. 32-101.

33. RAILROADS
Penalty.
Penalty. 33-201.
Rules and Regulations.
Crossings. 33-102.
Drainage. 33-101.
Lights, signals, and flagpersons. 33-104.
Obstruction of streets. 33-103.

34. RECYCLING
General Provisions.
Collection of recyclable materials. 34-103.
Definitions. 34-102.
Permits. 34-106.
Purpose and declaration of policy. 34-101.
Unauthorized activities. 34-105.
Unauthorized collection of recyclable materials. 34-104.
Penalty.
Penalty. 34-201

35. SEXUALLY ORIENTED BUSINESSES
General Provisions.
Classification of businesses. 35-103.
Definitions. 35-102.
Purpose and intent. 35-101.
Licenses.
Application and license fees. 35-204.
Inspections. 35-205.
Investigation of application. 35-202.
License issuance and display. 35-203.
License required; application for license. 35-201.
License revocation. 35-208.
License suspension. 35-207.
License term and renewal. 35-206.
License transfer. 35-209.
Penalty.
Penalty. 35-401.
Rules and Regulations.
Adult motels. 35-302.
Films or videos. 35-303.
Location of businesses. 35-301.
Violations and exemptions. 35-304.

36. SOLID WASTE MANAGEMENT
General Provisions.
Definitions. 36-101.
Prohibited accumulation and disposal. 36-102.
Vehicles conveying refuse and waste. 36-103.
Collection
Garbage Dump. 36-201.
Collection by City contract. 36-202.
Collection by private persons; Permits. 36-203.
Penalty.
Penalty. 36-301.

37. STREETS, SIDEWALKS AND PUBLIC WAYS
General Provisions.
Adoption of Construction Code. 37-102.
Definitions. 37-101.
Obstructions; permits. 37-103.
Street beautification. 37-104.
Penalty.
Penalty. 37-501.
Sidewalks.
Accumulations on sidewalks. 37-201.
Construction by private person; permit. 37-202.
Construction specifications. 37-203.
Maintenance of sidewalks. 37-204.
Repair of sidewalks. 37-205.
Streets.
Benchmarks. 37-301.
Gutters and eave spouts. 37-302.
Harmful liquids. 37-303.
Heavy equipment, studded tires, and tire chains. 37-304.
Manholes. 37-305.
Mixing concrete or plaster on pavement. 37-306.
Pegs and stakes. 37-307.
Street names and numbers. 37-308.
Underground Cable.
Bond and liability insurance. 37-402.
Construction specifications. 37-403.
Interference with utility pipes. 37-404.
Permits. 37-401.
Rental of space; fees; rent collection. 37-405.

38. SUBDIVISIONS
Administration and Enforcement.
Filing approval for maps, plans, and plats required. 38-501.

Municipal planning; additions; incorporation into municipality. 38-502.
Unlawful structures. 38-503.
Design Standards.
Acreage subdivisions. 38-301.
Alleys. 38-302.
Blocks. 38-303.
Curbs and gutters. 38-304.
Drainage. 38-305.
Driveways. 38-306.
Easements. 38-307.
Lights. 38-308.
Lot access. 38-309.
Lot arrangement and design. 38-310.
Lot dimensions. 38-311.
Marginal access streets. 38-312.
Private streets and reserve strips. 38-313.
Schools, parks, and playgrounds. 38-314.
Sewer mains. 38-315.
Sidewalks. 38-316.
Street curves. 38-317.
Street dedication requirements. 38-318.
Street extension. 38-319.
Street grades, widths, and elevations. 38-320.
Street intersections. 38-321.
Street jogs, cul-de-sacs, and half-streets. 38-322.
Street location and right-of-way widths. 38-323.
Street name signs. 38-324.
Street names. 38-325.
Street surfacing. 38-326.
Street system generally. 38-327.
Unsuitable land. 38-328.
Utilities. 38-329.
Water mains. 38-330.
General Provisions.
Amendments. 38-107.
Approval of subdivisions required. 38-104.
Conflicting provisions. 38-106.
Definitions. 38-103.
Interpretation. 38-105.
Jurisdiction. 38-102.
Purpose. 38-101.
Variances, modifications, and waivers. 38-108.
Improvements.
Drainage. 38-404.
Fire hydrants. 38-405.
Improvement acceptance. 38-403.

Improvement construction and guarantees. 38-402.
Improvements required. 38-401.
Monuments. 38-406.
Restrictive covenants. 38-407.
Sewage disposal. 38-408.
Streets. 38-409.
Trees, shrubs, and other plantings. 38-410.
Utilities. 38-411.
Water supply. 38-412.
Penalty.
Penalty. 38-601.
Procedure for Subdivision Approval.
Administrative subdivision. 38-201.
Fees and fee exemptions. 38-210.
Final plat approval and acceptance. 38-207.
Final plat contents. 38-206.
Final plat distribution. 38-208.
Improvement plans and approval. 38-205.
Preliminary plat approval. 38-204.
Preliminary plat contents. 38-203.
Preliminary review. 38-202.
Restrictive covenants. 38-209.

39. TAXATION
General Provisions.
Motor vehicle tax. 39-102.
Occupation tax. 39-103.
Property taxes. 39-101.

40. TREES AND SHRUBS
Administration and Enforcement.
Interference with Tree Board. 40-301.
General Provisions.
Definitions. 40-101.
Penalty.
Penalty. 40-401.
Rules and Regulations.
Dead and diseased trees. 40-204.
Location and spacing of trees on public property. 40-206.
Maintenance and removal of trees on public property. 40-207.
Stumps. 40-205.
Tree care. 40-201.
Tree topping. 40-202.
Trees overhanging right-of-way. 40-203.

41. VEHICLE REGULATIONS

Abandoned Vehicles.
- Abandonment prohibited. 41-201.
- Disposition of impounded vehicles. 41-205.
- Impoundment facilities. 41-204.
- Impoundment notice. 41-203.
- Impoundment. 41-202.
- Title transfer. 41-206.

Administration and Enforcement.
- Emergency regulations. 41-801.
- Enforcement authority. 41-802.
- Refusal to obey police. 41-803.
- Traffic officers. 41-804.

Definitions.
- Definitions. 41-101.

Parking.
- Alleys. 41-301.
- Congested district. 41-302.
- Curbs. 41-303.
- Emergency vehicles. 41-304.
- Fire hydrants and fire stations. 41-305.
- Intersections. 41-306.
- Manner of parking; coasting. 41-307.
- Mobile homes, trailers, and the like. 41-308.
- Obstructing vehicle or pedestrian traffic. 41-309.
- Parking designation of streets. 41-310.
- Parking tags; destruction and disregard. 41-311.
- Parking zones and vehicle restrictions. 41-312.
- Prohibited purposes: display and repair. 41-313.
- Removal of illegally parked vehicles. 41-316.
- Schools and theaters. 41-314.
- Snow accumulation deposited on public ways. 41-318.
- Snow emergency routes. 41-317.
- Time limit on parking. 41-315.
- Trucks. 41-319.
- Violation procedure. 41-320.

Penalty.
- Penalty. 41-901.

Rules and Regulations.
- All terrain vehicles. 41-401.
- Backing. 41-402.
- Bicycle operation. 41-404.
- Bicycle registration. 41-403.
- Clinging to motor vehicles. 41-405.
- Driving abreast. 41-406.
- Driving across sidewalk; emerging from building. 41-407.
- Driving on new pavement. 41-408.

Emergency vehicles. 41-409.
Emissions. 41-410.
Engine brakes. 41-411.
Funeral processions. 41-412.
Noise. 41-413.
Railroad crossings. 41-414.
Riding on outside of vehicle. 41-415.
Snow mobiles. 41-416.
Sound equipment and permits; signs. 41-417.
U-turns. 41-418.
Speed Limits.
Construction zone; signs; authority. 41-501.
Maximum speed. 41-502.
School zones. 41-503.
Street Designations.
Arterial streets. 41-601.
Designated truck routes. 41-602.
One-way streets. 41-603.
Recreational linear corridors. 41-604.
Truck routes. 41-605.
Traffic Control Devices.
Crosswalks. 41-701.
Signs and signals. 41-702.
Traffic lane designation. 41-703.

42. WASTEWATER
Administration and Enforcement.
Customer information required. 42-702.
Inspections. 42-703.
Liability of City and companies. 42-704.
Powers of City. 42-705.
Violations. 42-706.
Wastewater Department. 42-701.
Building Sewers.
Costs and expenses. 42-502.
Excavations. 42-508.
Existing sewer usage. 42-504.
Inspection and connection. 42-507.
Permits. 42-501.
Single premises restriction. 42-503.
Specifications. 42-505.
Stormwater and the like. 42-506.
Definitions.
Definitions. 42-101.
Discharges.
Control manholes. 42-607.

Grease, oil, and sand interceptors. 42-605.
Maintenance of equipment. 42-606.
Measurements, tests, and analyses. 42-608.
Prohibited discharges; preliminary treatment. 42-602.
Remedies and options of City. 42-604.
Restricted discharges. 42-603.
Special agreements. 42-609.
Stormwater, cooling water, and the like. 42-601.
Penalty.
Penalty. 42-801.
Rates and Billing.
Billing. 42-302.
Delinquent accounts; liens. 42-303.
Rates. 42-301.
Rules and Regulations.
Destruction of property. 42-406.
Hookup required. 42-401.
Private sewage disposal. 42-404.
Unlawful deposit of wastes. 42-402.
Unlawful discharge of untreated sewage. 42-403.
Unlawful entry into manholes; unlawful deposits. 42-405.
Service.
Connection and connection fees. 42-203.
Contractors. 42-206.
Installation, connection, and excavation; permits. 42-205.
Repair and replacement. 42-207.
Service applications. 42-201.
Service contracts. 42-204.
Service deposit. 42-202.

43. WATER
Administration and Enforcement.
Duties of police. 43-705.
Inspections. 43-704.
Liability of City. 43-703.
Powers of City. 43-702.
Water Department. 43-701
Cross-Connection Control and Backflow Prevention Code.
Cross-connection control and backflow prevention program. 43-604.
Designation of consumer's representative. 43-603.
Purpose. 43-602.
Surveys and investigations. 43-605.
Title. 43-601.
Violations. 43-606.
Definitions.
Definitions. 43-101.

Penalty.
Penalty. 43-801.
Rates and Billing.
Billing. 43-302.
Delinquent accounts; liens. 43-304.
Discontinuance of service. 43-303.
Rates. 43-301.
Rules and Regulations.
Destruction of property. 43-406.
Hookup required. 43-405.
Hydrants. 43-403.
Private wells. 43-407.
Single premises restriction. 43-401.
Water reduction and shutoff. 43-402.
Water restrictions. 43-404.
Service.
Contractors. 43-206.
Diversion of service. 43-209.
Installation, connection, and excavation; permits. 43-205.
Meters. 43-207.
Repair and replacement. 43-208.
Service applications. 43-201.
Service contracts. 43-204.
Service deposit. 43-202.
Taps and tap fees. 43-203.
Wellhead Protection Area Code.
Definitions. 43-503.
Encroachment of potential sources of contamination. 43-506.
Purpose. 43-502.
Title. 43-501.
Wellhead Protection Area Boundaries. 43-505.
Wellhead Protection Area Plan. 43-504.

44. ZONING REGULATIONS
A-1 Agricultural District.
Area, yard, and height requirements. 44-304.
Permitted uses. 44-302.
Purpose and characteristics. 44-301.
Special uses. 44-303.
A-2 Agricultural Residential District.
Area, yard, and height requirements. 44-404.
Permitted uses. 44-402.
Purpose and characteristics. 44-401.
Special uses. 44-403.
Administration and Enforcement.
Amendments. 44-1901.

Annexations. 44-1902.
Enforcement authority. 44-1903.
Zoning certificates. 44-1904.
Board of Adjustment.
Appeals from Board. 44-1806.
Appeals to Board. 44-1805.
General procedure. 44-1801.
Powers and duties. 44-1803.
Proceedings of Board. 44-1802.
Variances. 44-1804.
C-1 Business District – Central.
Area, yard, and height requirements. 44-504.
Permitted uses. 44-502.
Purpose and characteristics. 44-501.
Special uses. 44-503.
C-2 Business District – Highway.
Area, yard, and height requirements. 44-604.
Permitted uses. 44-602.
Purpose and characteristics. 44-601.
Special uses. 44-603.
C-3 Business District – Neighborhood.
Area, yard, and height requirements. 44-704.
Permitted uses. 44-702.
Purpose and characteristics. 44-701.
Special uses. 44-703.
C-4 Business District – Interstate Highway.
Area, yard, and height requirements. 44-804.
Permitted uses. 44-802.
Purpose and characteristics. 44-801.
Special uses. 44-803.
Design Standards.
Area, yard, and height requirements. 44-1701.
Corner visibility. 44-1702.
Group projects. 44-1703.
Loading and unloading. 44-1704.
Manufactured homes. 44-1705.
Parking. 44-1706.
Projections. 44-1707.
Signs, awnings and billboards. 44-1708.
Telecommunication towers. 44-1709.
Townhouse and townhouse structure. 44-1710.
Districts Generally.
District boundaries; zoning maps. 44-202.
District boundary interpretation. 44-203.
District classifications. 44-201.
General Provisions.

Definitions. 44-104.
Jurisdiction. 44-102.
Nonconforming land, structures, and uses. 44-103.
Purpose. 44-101.
H-1 Historical District.
Area, yard, and height requirements. 44-904.
Permitted uses. 44-902.
Purpose and characteristics. 44-901.
Special uses. 44-903.
I-1 Industrial District.
Area, yard, and height requirements. 44-1004.
Permitted uses. 44-1002.
Purpose and characteristics. 44-1001.
Special uses. 44-1003.
Penalty.
Penalty. 44-2001.
R-1 Residential District – Low Density.
Area, yard, and height requirements. 44-1104.
Permitted uses. 44-1102.
Purpose and characteristics. 44-1101.
Special uses. 44-1103.
R-1s Residential District –Low Density Special.
Area, yard, and height requirements. 44-1204.
Permitted uses. 44-1202.
Purpose and characteristics. 44-1201.
Special uses. 44-1203.
R-2 Residential District – Medium Density.
Area, yard, and height requirements. 44-1304.
Permitted uses. 44-1302.
Purpose and characteristics. 44-1301.
Special uses. 44-1303.
R-3 Residential District – High Density.
Area, yard, and height requirements. 44-1404.
Permitted uses. 44-1402.
Purpose and characteristics. 44-1401.
Special uses. 44-1403.
Standards and Regulations; Generally.
Applicability of provisions. 44-1501.
General restrictions. 44-1502.
Special exceptions. 44-1503.
Use Standards.
Bed and breakfasts. 44-1601.
Family care homes. 44-1602.
Home occupations. 44-1603.
Temporary uses. 44-1604.

DETAILED TABLE OF CONTENTS

1. ALARM SYSTEMS
General Provisions.
1-101. Definitions.
1-102. Compliance required.
Permits.
1-201. Permits; fees.
Rules and Regulations.
1-301. Installation, maintenance, testing, and use.
1-302. Information required.
1-303. False alarms.
1-304. Liability of City.
Penalty.
1-401. Penalty.

2. ALCOHOLIC BEVERAGES
General Provisions.
2-101. Definitions.
Licenses and Permits.
2-201. License required.
2-202. Licensee requirements.
2-203. License standards and criteria.
Rules and Regulations.
2-301. Liability of owner of premises.
2-302. Liability of employer.
2-303. Minors; prohibited acts involving alcoholic liquor.
2-304. Hours of sale.
2-305. Sanitary conditions.
2-306. Responsible beverage server training required.
Penalty.
2-401. Penalty.

3. ANIMALS
General Provisions.
3-101. Definitions.
3-102. Abandonment, neglect, and cruelty.
3-103. Killing and poisoning of animals.
3-104. At large dogs.
3-105. Nuisance dogs.
3-106. Dogs; collar required.
3-107. Limitation on number of dogs and cats.
3-108. Feces disposal and removal.
3-109. Impoundment.
3-110. Animal shelter.

3-111. Owner liable for damages.
3-112. Law enforcement officer; powers; immunity.
3-113. Interference with police.
License Requirements.
3-201. License requirements.
Animals and Fowl.
3-301. Animals and fowl.
3-302. Permits.
Dead Animals.
3-401. Dead animals.
Penalty.
3-501. Penalty.

4. BIDDING AND CONTRACTS
General Provisions.
4-101. Bidding and contracts.
4-102. Bid opening.
4-103. Preference for resident bidder.
4-104. Fair labor standards compliance.
4-105. Waiver of bidding procedure.
4-106. Purchase of personal property without bidding.
Penalty.
4-201. Penalty.

5. BINGO
General Provisions.
5-101. Adoption of state law.
Licenses and Permits.
5-201. Licenses and permits.
Rules and Regulations.
5-301. Compliance with state and local law.
Penalty.
5-401. Penalty.

6. BOARDS AND COMMITTEES
General Provisions.
6-101. Attendance requirements.
6-102. Advisory boards.
Board of Adjustment.
6-201. Appointment of members.
6-202. Organization.
6-203. Meetings.
6-204. Duties.
Board of Health.
6-301. Appointment of members.
6-302. Organization.

6-303. Meetings.
6-304. Duties.
Civil Service Commission.
6-401. Appointment of members.
6-402. Organization.
6-403. Meetings.
6-404. Duties.
6-405. Secretary and chief examiner.
Community Redevelopment Authority.
6-501. Creation.
6-502. Definitions.
6-503. Appointment of members.
6-504. Director.
6-505. Funds.
Firefighter's Retirement Committee.
6-601. Appointment of members.
6-602. Duties.
Housing Authority.
6-701. Ownership.
6-702. Definitions.
6-703. Appointment of members.
6-704. Organization.
6-705. Meetings.
6-706. Duties.
Library Board.
6-801. Establishment of public library.
6-802. Definitions.
6-803. Legislative findings.
6-804. Library Board; members; elected; terms; vacancies, how filled.
6-805. Organization; officers; quorum.
6-806. Bylaws, rules, and regulations.
6-807. Mortgages; release or renewal.
6-808. Funds; buildings; custody and control.
6-809. Use of library for City or school purposes; contracts.
6-810. Funds; disbursement; sinking fund; bonds.
6-811. Building sites; acquisition; procedure.
6-812. General powers and duties: discrimination prohibited.
6-813. Use and purpose.
6-814. Annual report; contents.
6-815. Penalties; action to recover; disposition of funds collected.
6-816. Donations; Library Board may accept.
6-817. Real estate; sale and conveyance; conditions; remonstrance; procedure.
6-818. Property; exemption from execution and taxation.

6-819. Private and associate libraries; deposit and use; authorized; requirements.
Planning Commission.
6-901. Appointment of members.
6-902. Organization.
6-903. Meetings.
6-904. Duties.
Police Officer's Retirement Committee.
6-1001. Appointment of members.
6-1002. Duties.
Tree Board.
6-1101. Appointment of members.
6-1102. Organization.
6-1103. Meetings.
6-1104. Duties.

7. BUILDING REGULATIONS
Adoption of Codes by Reference.
7-101. Adoption of building code.
7-102. Adoption of plumbing code.
7-103. Adoption of electrical code.
7-104. Adoption of life safety code.
Building Permits.
7-201. Building permits; fees.
7-202. Building moving permits; fees.
Electrical Installations.
7-301. Electrical installations.
Gas Installations and Permits.
7-401. Gas installation permits; fees.
7-402. Gas installation certificates of approval; fees.
Plumbing Installations and Permits.
7-501. Plumbing and appliance installation permits; fees.
7-502. Plumbing certificates of approval; fees.
Unsafe Buildings.
7-601. Definitions; nuisance declared.
7-602. Prohibition on unsafe buildings.
7-603. Determination and notice.
7-604. Hearing and appeal.
7-605. Emergency repair or demolition.
7-606. Special assessments.
Penalty.
7-701. Penalty.

8. CEMETERY
General Provisions.
8-101. Operation and funding.

8-102. Perpetual care fund.
Cemetery Manager.
8-201. Cemetery Manager.
Penalty.
8-301. Penalty.

9. CITY
General Provisions.
9-101. Corporate existence.
9-102. City seal.
9-103. Powers of City.
9-104. Service of process.

10. CITY CODE OF ORDINANCE
General Provisions.
10-101. Title of code.
10-102. Interpretation.
10-103. Application to future ordinances.
10-104. Codification of ordinance.
10-105. Captions.
10-106. Definitions.
10-107. Rules of interpretation.
10-108 Severability.
10-109. Reference to other sections.
10-110. Reference to offices.
10-111. Errors and omissions.
10-112. Official time.
10-113. Reasonable time.
10-114. Ordinances repealed.
10-115. Ordinances unaffected.
10-116. Repeal or modification of ordinance.
10-117. Statutory references; historical reference.
10-118. Supplementation of code of ordinances.
Penalty.
10-201. Penalty.

11. CITY COUNCIL
General Provisions.
11-101. Powers.
11-102. Composition; terms of office.
11-103. Qualifications; other offices; conflicts of interest.
11-104. Vacancies.
11-105. Compensation.
11-106. Organization.
11-107. President of Council/Mayor.

12. CITY OFFICERS AND PERSONNEL
General Provisions.
12-101. Appointment, administration, and investigation by Council.
12-102. Departments, offices, and compensation.
12-103. Merger of offices.
Officers.
12-201. Building Inspector.
12-202. City Attorney.
12-203. City Clerk.
12-204. City Manager.
12-205. City Physician.
12-206. City Treasurer.
12-207. Fire Chief and Assistant Fire Chief.
12-208. Planning & Zoning Administrator.
12-209. Plumbing Inspector.
12-210. Police Chief.
12-211. Public Works Director.
12-212. Special Engineer.
12-213. Street Superintendent.
12-214. Wastewater Superintendent.
12-215. Water Superintendent.
Personnel.
12-301. Personnel manual.
12-302. Property of City.
12-303. Contracts and conflicts of interest.
12-304. Compensation.
12-305. Bond.
12-306. Oath of office.

13. CONTRACTOR LICENSING
General Provisions.
13-101. License applications.
Gas Contractors.
13-201. Gas contractors.
Plumbers and Appliance Dealers.
13-301. Plumbers and appliance dealers.
Right of Way Contractors.
13-401. Right of way contractors.
13-402. Permits.
Sewer Contractors and Journeymen.
13-501. Sewer contractors and journeymen.
Penalty.
13-601. Penalty.

14. ELECTIONS
General Provisions.

14-101. Election procedures; adopted by reference.
14-102. Initiative and referendum; adopted by reference.

15. EMERGENCIES
General Provisions.
15-101. Emergency Succession Act adopted.
15-102. Emergency Management Act adopted.

16. FIRE DEPARTMENT
General Provisions.
16-101. Operation.
16-102. Membership.
16-103. Records of department.
16-104. Equipment of department.
Administration and Enforcement.
16-201. Fires outside corporate limits.
16-202. Inspections.
16-203. Violation procedure.
16-204. Arrest powers.
16-205. Fire investigations.
Retirement System.
16-301. Adoption by reference.
16-302. Retirement Committee.
Penalty.
16-401. Penalty.

17. FIRE PROTECTION AND PREVENTION
General Provisions.
17-101. Preservation of property.
17-102. Disorderly conduct.
17-103. Interference with fire equipment.
17-104. Obstruction of fire hydrants.
17-105. False alarms.
17-106. Pedestrians.
Fire Prevention.
17-201. Adoption of Life Safety Code.
17-202. Enforcement of fire code.
17-203. Oil burning; homemade stoves.
17-204. Open burning.
Penalty.
17-301. Penalty.

18. FIREWORKS
General Provisions.
18-101. Definitions.
18-102. Discharge of fireworks; permits.

18-103. Fireworks vendors.
Penalty.
18-201. Penalty.

19. FISCAL MANAGEMENT
General Provisions.
19-101. Financial statement.
19-102. Proposed budget statement; contents; availability; correction.
19-103. Budget hearing.
19-104. Budget filing.
19-105. Audit report.
19-106. Appropriations.
19-107. Expenditures.
19-108. Judgments against City.
19-109. Unlawful transfer of funds.
19-110. Lawful transfer of funds.
19-111. Insufficient funds.
19-112. Sinking funds.
19-113. Depositories.
19-114. Depository bond.
19-115. Depository securities.
19-116. Deposit maximums.
19-117. Investment of funds.
19-118. Claims and warrants.
Miscellaneous Expenditures.
19-201. Definitions.
19-202. Additional expenditures; City Council; powers; procedures.
19-203. Expenditures; limitations; exception.
Penalty.
19-301. Penalty.

20. FLOOD HAZARD REGULATION
General Provisions.
20-101. Statutory authorization, findings of fact and purposes.
20-102. Findings of fact.
20-103. Statement of purpose.
20-104. Abrogation and greater restrictions.
20-105. Interpretation.
20-106. Conflicting ordinances/resolutions.
20-107. Warning and disclaimer of liability.
20-108. Definitions.
Flood Hazard Regulations.
20-201. Local administrator responsibilities.
20-202. Local administrator additional responsibilities.
20-203. Designation of current FHMB/FIRM.

20-204. Permits required.
20-205. Development permit applications review.
20-206. All applications review.
20-207. Subdivision applications.
20-208. Water and sewage systems.
20-209. Construction of appurtenant structure.
20-210. Storage of material and equipment.
20-211. Carrying capacity within any watercourse.
20-212. Variance procedures.
20-213. Appeal.
20-214. Non-conforming use.
Penalty.
20-301. Penalty.

21. FRANCHISES
Charter Communications.
21-101. Grant of franchise.
Kinder Morgan, Inc.
21-201. Grant of franchise.
Nebraska Public Power District.
21-301. Grant of franchise.
Qwest Communications.
21-401. Grant of franchise.

22. HAZARDOUS MATERIAL
Hazardous Material.
22-101. Definitions.
22-102. Storage restrictions.
22-103. Portable storage and transportation devices.
22-104. High explosives.
Penalty.
22-201. Penalty.

23. HEALTH AND SANITATION
General Provisions.
23-101. Rules and regulations.
23-102. Enforcement authority.
23-103. Duties of Board of Health.

24. ITINERANT MERCHANTS
General Provisions.
24-101. Definitions.
Licenses.
24-201. License required; location of sales.
24-202. License application.
24-203. License fee.

24-204. License term.
24-205. License revocation.
24-206. License appeals.
Administration and Enforcement.
24-301. Enforcement.
24-302. Records of complaints and violations.
Penalty.
24-401. Penalty.

25. MEETINGS
Meetings of Public Body.
25-101. Declaration of intent.
25-102. Definitions.
25-103. Closed session.
25-104. Notice of meetings of public body.
25-105. Rights of the public.
25-106. Minutes.
25-107. Unlawful action.
Meetings of Council.
25-201. General provisions.
25-202. Witnesses.
25-203. Procedure.
25-204. Appearances before Council.
25-205. Agenda.

26. MOBILE HOME PARKS
General Provisions.
26-101. Definitions.
26-102. Applicability of provisions.
Licenses, Certificates and Permits.
26-201. Mobile home park license; fees.
26-202. Mobile home park alteration permit.
26-203. Mobile home permit.
26-204. Mobile home park certificate of occupancy.
Park Plans.
26-301. Plans required; fees.
26-302. Site plan.
26-303. Surface drainage and storm sewer plan.
26-304. Utility plan.
26-305. Drives.
26-306. Plan review.
26-307. Plan approval.
Design Standards and Operating Requirements.
26-401. Office and register.
26-402. Location.
26-403. Utilities.

26-404. Density.
26-405. Setbacks.
26-406. Drives.
26-407. Drive names and addresses.
26-408. Sidewalks.
26-409. Water supply.
26-410. Sewer system.
26-411. Electrical system.
26-412. Fuel supply.
26-413. Solid waste disposal.
26-414. Insect, rodent, and weed control.
26-415. Fire hydrants.
26-416. Mechanical systems.
26-417. Drainage.
26-418. Anchoring & blocking.
26-419. Skirting.
26-420. Life safety.
Administration and Enforcement.
26-501. Enforcement authority.
26-502. Conflicting provisions.
26-503. Violations.
Penalty.
26-601. Penalty.

27. NUISANCES
General Provisions.
27-101. Definitions.
27-102. Abatement procedure.
27-103. Enforcement jurisdiction.
27-104. Nuisances enumerated.
27-105. Sound amplifiers; permits.
Penalty.
27-201. Penalty.

28. OFFENSES
Property Offenses.
28-101. Destruction of City property.
28-102. Removing and disturbing dirt.
28-103. Radio interference.
28-104. Tree damage.
Public Peace, Safety, and Convenience Offenses.
28-201. Curfew for minors.
28-202. Disorderly conduct.
28-203. Hitching rides.
28-204. Obstruction of public ways.
28-205. Sexual predator residency restrictions.

28-206. Soliciting alms.
28-207. Street games.
Tobacco Offenses.
28-301. Tobacco possession by minors.
Weapons and Explosives.
28-401. Carrying a concealed weapon.
28-402. Discharge of firearms.
28-403. Firecrackers.
28-404. Slingshots, airguns, and BB guns.
Penalty.
28-501. Penalty.

29. ORDINANCES, RESOLUTIONS, AND MOTIONS
Ordinances, Resolutions, and Motions.
29-101. Powers of Council.
29-102. Passage, publication, and proof of ordinances.
29-103. Reading of ordinances.
29-104. Publication of ordinances.
29-105. Form of ordinances.
29-106. Title of ordinances.
29-107. Appropriation ordinances.
29-108. Emergency ordinances.
29-109. Amendment and revision of ordinances.
29-110. Resolutions and motions.

30. PARKS
General Provisions.
30-101. Operation and funding.
Rules and Regulations.
30-201. Destruction of property; litter.
30-202. Park hours.
30-203. Vehicle parking.
Penalty.
30-301. Penalty.

31. POLICE DEPARTMENT
General Provisions.
31-101. Operation and duties.
Retirement System.
31-201. Adoption by reference.
31-202. Retirement Committee.

32. PUBLIC RECORDS
General Provisions.
32-101. Public records available.

33. RAILROADS
Rules and Regulations.
33-101. Drainage.
33-102. Crossings.
33-103. Obstruction of streets.
33-104. Lights, signals, and flagpersons.
Penalty.
33-201. Penalty.

34. RECYCLING
General Provisions.
34-101. Purpose and declaration of policy.
34-102. Definitions.
34-103. Collection of recyclable materials.
34-104. Unauthorized collection of recyclable materials.
34-105. Unauthorized activities.
34-106. Permits.
Penalty.
34-201. Penalty.

35. SEXUALLY ORIENTED BUSINESSES
General Provisions.
35-101. Purpose and intent.
35-102. Definitions.
35-103. Classification of businesses.
Licenses.
35-201. License required; application for license.
35-202. Investigation of application.
35-203. License issuance and display.
35-204. Application and license fees.
35-205. Inspections.
35-206. License term and renewal.
35-207. License suspension.
35-208. License revocation.
35-209. License transfer.
Rules and Regulations.
35-301. Location of businesses.
35-302. Adult motels.
35-303. Films or videos.
35-304. Violations and exemptions.
Penalty.
35-401. Penalty.

36. SOLID WASTE MANAGEMENT
General Provisions.
36-101. Definitions.

36-102. Prohibited accumulation and disposal.
36-103. Vehicles conveying refuse and waste.
Collection.
36-201. Garbage Dump.
36-202 Collection by City contract.
36-203 Collection by private persons; Permits.

Penalty.
36-301. Penalty.

37. STREETS, SIDEWALKS AND PUBLIC WAYS
General Provisions.
37-101. Definitions.
37-102. Adoption of construction code.
37-103. Obstructions; permits.
37-104. Street beautification.
Sidewalks.
37-201. Accumulations on sidewalks.
37-202. Construction by private person; permit.
37-203. Construction specifications.
37-204. Maintenance of sidewalks.
37-205. Repair of sidewalks.
Streets.
37-301. Benchmarks.
37-302. Gutters and eave spouts.
37-303. Harmful liquids.
37-304. Heavy equipment, studded tires, and tire chains.
37-305. Manholes.
37-306. Mixing concrete or plaster on pavement.
37-307. Pegs and stakes.
37-308. Street names and numbers.
Underground Cable.
37-401. Permits.
37-402. Bond and liability insurance.
37-403. Construction specifications.
37-404. Interference with utility pipes.
37-405. Rental of space; fees; rent collection.
Penalty.
37-501. Penalty.

38. SUBDIVISIONS
General Provisions.
38-101. Purpose.
38-102. Jurisdiction.
38-103. Definitions.
38-104. Approval of subdivisions required.

38-105. Interpretation.
38-106. Conflicting provisions.
38-107. Amendments.
38-108. Variances, modifications, and waivers.
Procedure for Subdivision Approval.
38-201. Administrative subdivision.
38-202. Preliminary review.
38-203. Preliminary plat contents.
38-204. Preliminary plat approval.
38-205. Improvement plans and approval.
38-206. Final plat contents.
38-207. Final plat approval and acceptance.
38-208. Final plat distribution.
38-209. Restrictive covenants.
38-210. Fees and fee exemptions.
Design Standards.
38-301. Acreage subdivisions.
38-302. Alleys.
38-303. Blocks.
38-304. Curbs and gutters.
38-305. Drainage.
38-306. Driveways.
38-307. Easements.
38-308. Lights.
38-309. Lot access.
38-310. Lot arrangement and design.
38-311. Lot dimensions.
38-312. Marginal access streets.
38-313. Private streets and reserve strips.
38-314. Schools, parks, and playgrounds.
38-315. Sewer mains.
38-316. Sidewalks.
38-317. Street curves.
38-318. Street dedication requirements.
38-319. Street extension.
38-320. Street grades, widths, and elevations.
38-321. Street intersections.
38-322. Street jogs, cul-de-sacs, and half-streets.
38-323. Street location and right-of-way widths.
38-324. Street name signs.
38-325. Street names.
38-326. Street surfacing.
38-327. Street system generally.
38-328. Unsuitable land.
38-329. Utilities.
38-330. Water mains.

Improvements.
38-401. Improvements required.
38-402. Improvement construction and guarantees.
38-403. Improvement acceptance.
38-404. Drainage.
38-405. Fire hydrants.
38-406. Monuments.
38-407. Restrictive covenants.
38-408. Sewage disposal.
38-409. Streets.
38-410. Trees, shrubs, and other plantings.
38-411. Utilities.
38-412. Water supply.
Administration and Enforcement.
38-501. Filing approval for maps, plans, and plats required.
38-502. Municipal planning; additions; incorporation into municipality.
38-503. Unlawful structures.
Penalty.
38-601. Penalty.

39. TAXATION
General Provisions.
39-101. Property taxes.
39-102. Motor vehicle tax.
39-103. Occupation tax.

40. TREES AND SHRUBS
General Provisions.
40-101. Definitions.
Rules and Regulations.
40-201. Tree care.
40-202. Tree topping.
40-203. Trees overhanging right-of-way.
40-204. Dead and diseased trees.
40-205. Stumps.
40-206. Location and spacing of trees on public property.
40-207. Maintenance and removal of trees on public property.
Administration and Enforcement.
40-301. Interference with Tree Board.
Penalty.
40-401. Penalty.

41. VEHICLE REGULATIONS
Definitions.
41-101. Definitions.
Abandoned Vehicles.

41-201. Abandonment prohibited.
41-202. Impoundment.
41-203. Impoundment notice.
41-204. Impoundment facilities.
41-205. Disposition of impounded vehicles.
41-206. Title transfer.
Parking.
41-301. Alleys.
41-302. Congested district.
41-303. Curbs.
41-304. Emergency vehicles.
41-305. Fire hydrants and fire stations.
41-306. Intersections.
41-307. Manner of parking; coasting.
41-308. Mobile homes, trailers, and the like.
41-309. Obstructing vehicle or pedestrian traffic.
41-310. Parking designation of streets.
41-311. Parking tags; destruction and disregard.
41-312. Parking zones and vehicle restrictions.
41-313. Prohibited purposes: display and repair.
41-314. Schools and theaters.
41-315. Time limit on parking.
41-316. Removal of illegally parked vehicles.
41-317. Snow emergency routes.
41-318. Snow accumulation deposited on public ways.
41-319. Trucks.
41-320. Violation procedure.
Rules and Regulations.
41-401. All terrain vehicles.
41.402. Backing.
41-403. Bicycle registration.
41-404. Bicycle operation.
41-405. Clinging to motor vehicles.
41-406. Driving abreast.
41-407. Driving across sidewalk; emerging from building.
41-408. Driving on new pavement.
41-409. Emergency vehicles.
41-410. Emissions.
41-411. Engine brakes.
41-412. Funeral processions.
41-413. Noise.
41-414. Railroad crossings.
41-415. Riding on outside of vehicle.
41-416. Snow mobiles.
41-417. Sound equipment and permits; signs.
41-418. U-turns.

Speed Limits.
41-501. Construction zone; signs; authority.
41-502. Maximum speed.
41-503. School zones.
Street Designations.
41-601. Arterial streets.
41-602. Designated truck routes.
41-603. One-way streets.
41-604. Recreational linear corridors.
41-605. Truck routes.
Traffic Control Devices.
41-701. Crosswalks.
41-702. Signs and signals.
41-703. Traffic lane designation.
Administration and Enforcement.
41-801. Emergency regulations.
41-802. Enforcement authority.
41-803. Refusal to obey police.
41-804. Traffic officers.
Penalty.
41-901. Penalty.

42. WASTEWATER
Definitions.
42-101. Definitions.
Service.
42-201. Service applications.
42-202. Service deposit.
42-203. Connection and connection fees.
42-204. Service contracts.
42-205. Installation, connection, and excavation; permits.
42-206. Contractors.
42-207. Repair and replacement.
Rates and Billing.
42-301. Rates.
42-302. Billing.
42-303. Delinquent accounts; liens.
Rules and Regulations.
42-401. Hookup required.
42-402. Unlawful deposit of wastes.
42-403. Unlawful discharge of untreated sewage.
42-404. Private sewage disposal.
42-405. Unlawful entry into manholes; unlawful deposits.
42-406. Destruction of property.
Building Sewers.
42-501. Permits.

42-502. Costs and expenses.
42-503. Single premises restriction.
42-504. Existing sewer usage.
42-505. Specifications.
42-506. Stormwater and the like.
42-507. Inspection and connection.
42-508. Excavations.
Discharges.
42-601. Stormwater, cooling water, and the like.
42-602. Prohibited discharges; preliminary treatment.
42-603. Restricted discharges.
42-604. Remedies and options of City.
42-605. Grease, oil, and sand interceptors.
42-606. Maintenance of equipment.
42-607. Control manholes.
42-608. Measurements, tests, and analyses.
42-609. Special agreements.
Administration and Enforcement.
42-701. Wastewater Department.
42-702. Customer information required.
42-703. Inspections.
42-704. Liability of City and companies.
42-705. Powers of City.
42-706. Violations.
Penalty.
42-801. Penalty.

43. WATER
Definitions.
43-101. Definitions.
Service
43-201. Service applications.
43-202. Service deposit.
43-203. Taps and tap fees.
43-204. Service contracts.
43-205. Installation, connection, and excavation; permits.
43-206. Contractors.
43-207. Meters.
43-208. Repair and replacement.
43-209. Diversion of service.
Rates and Billing.
43-301. Rates.
43-302. Billing.
43-303. Discontinuance of service.
43-304. Delinquent accounts; liens.
Rules and Regulations.

43-401. Single premises restriction.
43-402. Water reduction and shutoff.
43-403. Hydrants.
43-404. Water restrictions.
43-405. Hookup required.
43-406. Destruction of property.
43-407. Private wells.
Wellhead Protection Area Code.
43-501. Title.
43-502. Purpose.
43-503. Definitions.
43-504. Wellhead Protection Area Plan.
43-505. Wellhead Protection Area Boundaries.
43-506. Encroachment of potential sources of contamination.
Cross-Connection Control and Backflow Prevention Code.
43-601. Title.
43-602. Purpose.
43-603. Designation of consumer's representative.
43-604. Cross-connection control and backflow prevention program.
43-605. Surveys and investigations.
43-606. Violations.
Administration and Enforcement.
43-701. Water Department.
43-702. Powers of City.
43-703. Liability of City.
43-704. Inspections.
43-705. Duties of police.
Penalty.
43-801. Penalty.

44. ZONING REGULATIONS
General Provisions.
44-101. Purpose.
44-102. Jurisdiction.
44-103. Nonconforming land, structures, and uses.
44-104. Definitions.
Districts Generally.
44-201. District classifications.
44-202. District boundaries; zoning maps.
44-203. District boundary interpretation.
A-1 Agricultural District.
44-301. Purpose and characteristics.
44-302. Permitted uses.
44-303. Special uses.
44-304. Area, yard, and height requirements.
A-2 Agricultural Residential District.

44-401. Purpose and characteristics.
44-402. Permitted uses.
44-403. Special uses.
44-404. Area, yard, and height requirements.
C-1 Business District – Central.
44-501. Purpose and characteristics.
44-502. Permitted uses.
44-503. Special uses.
44-504. Area, yard, and height requirements.
C-2 Business District – Highway.
44-601. Purpose and characteristics.
44-602. Permitted uses.
44-603. Special uses.
44-604. Area, yard, and height requirements.
C-3 Business District – Neighborhood.
44-701. Purpose and characteristics.
44-702. Permitted uses.
44-703. Special uses.
44-704. Area, yard, and height requirements.
C-4 Business District – Interstate Highway.
44-801. Purpose and characteristics.
44-802. Permitted uses.
44-803. Special uses.
44-804. Area, yard, and height requirements.
H-1 Historical District.
44-901. Purpose and characteristics.
44-902. Permitted uses.
44-903. Special uses.
44-904. Area, yard, and height requirements.
I-1 Industrial District.
44-1001. Purpose and characteristics.
44-1002. Permitted uses.
44-1003. Special uses.
44-1004. Area, yard, and height requirements.
R-1 Residential District – Low Density.
44-1101. Purpose and characteristics.
44-1102. Permitted uses.
44-1103. Special uses.
44-1104. Area, yard, and height requirements.
R-1s Residential District –Low Density Special.
44-1201. Purpose and characteristics.
44-1202. Permitted uses.
44-1203. Special uses.
44-1204. Area, yard, and height requirements.
R-2 Residential District – Medium Density.
44-1301. Purpose and characteristics.

44-1302. Permitted uses.
44-1303. Special uses.
44-1304. Area, yard, and height requirements.
R-3 Residential District – High Density.
44-1401. Purpose and characteristics.
44-1402. Permitted uses.
44-1403. Special uses.
44-1404. Area, yard, and height requirements.
Standards and Regulations; Generally.
44-1501. Applicability of provisions.
44-1502. General restrictions.
44-1503. Special exceptions.
Use Standards.
44-1601. Bed and breakfasts.
44-1602. Family care homes.
44-1603. Home occupations.
44-1604. Temporary uses.
Design Standards.
44-1701. Area, yard, and height requirements.
44-1702. Corner visibility.
44-1703. Group projects.
44-1704. Loading and unloading.
44-1705. Manufactured homes.
44-1706. Parking.
44-1707. Projections.
44-1708. Signs, awnings and billboards.
44-1709. Telecommunication towers.
44-1710. Townhouse and townhouse structure.
44-1711. Perimeter boundary fencing.
Board of Adjustment.
44-1801. General procedure.
44-1802. Proceedings of Board.
44-1803. Powers and duties.
44-1804. Variances.
44-1805. Appeals to Board.
44-1806. Appeals from Board.
Administration and Enforcement.
44-1901. Amendments.
44-1902. Annexations.
44-1903. Enforcement authority.
44-1904. Zoning certificates.
Penalty.
44-2001. Penalty.

SUMMARY TABLE OF CONTENTS

CHAPTER.

DETAILED TABLE OF CONTENTS

CODIFYING ORDINANCE

1. ALARM SYSTEMS
2. ALCOHOLIC BEVERAGES
3. ANIMALS
4. BIDDING AND CONTRACTS
5. BINGO
6. BOARDS AND COMMITTEES
7. BUILDING REGULATIONS
8. CEMETERY
9. CITY
10. CITY CODE OF ORDINANCE
11. CITY COUNCIL
12. CITY OFFICERS AND PERSONNEL
13. CONTRACTOR LICENSING
14. ELECTIONS
15. EMERGENCIES
16. FIRE DEPARTMENT
17. FIRE PROTECTION AND PREVENTION
18. FIREWORKS
19. FISCAL MANAGEMENT
20. FLOOD HAZARD REGULATION
21. FRANCHISES
22. HAZARDOUS MATERIAL
23. HEALTH AND SANITATION
24. ITINERANT MERCHANTS
25. MEETINGS
26. MOBILE HOME PARKS

27. NUISANCES
28. OFFENSES
29. ORDINANCES, RESOLUTIONS, AND MOTIONS
30. PARKS
31. POLICE DEPARTMENT
32. PUBLIC RECORDS
33. RAILROADS
34. RECYCLING
35. SEXUALLY ORIENTED BUSINESSES
36. SOLID WASTE MANAGEMENT
37. STREETS, SIDEWALKS AND PUBLIC WAYS
38. SUBDIVISIONS
39. TAXATION
40. TREES AND SHRUBS
41. VEHICLE REGULATIONS
42. WASTEWATER
43. WATER
44. ZONING REGULATIONS
INDEX

CHAPTER 1
ALARM SYSTEMS

Article.
1. General Provisions.
2. Permits.
3. Rules and Regulations.
4. Penalty.

ARTICLE 1
GENERAL PROVISIONS

Section.
1-101. Definitions.
1-102. Compliance required.

1-101. Definitions.

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

(1) Alarm system means any mechanical or electrical device which are connected directly to or received by telephone at the Public Safety Emergency Center that is arranged, designed, or used to signal the occurrence in the City of a burglary, robbery, or other criminal offense, fire emergency, or medical emergency requiring urgent attention and to which law enforcement, fire, or emergency medical personnel are expected to respond. Alarm systems include those through which public safety personnel are notified directly of such signals through automatic recording devices;

(2) Alarm user means any person, firm, corporation, partnership, or entity who or which purchases, leases, contracts for, or obtains an alarm system;

(3) Alarm vendor means any person, firm, corporation, partnership, or entity associated with an alarm business or company, either indirectly or directly, whose duties include but are not limited to any of the following: selling, replacing, moving, repairing, maintaining, or installing an alarm system on or in any structure, building, or facility;

(4) Altered alarm system shall mean a permitted alarm system which has been modified by installation of a different or additional method of detection the previous alarm system did not contain.

(5) False alarm means any alarm signal eliciting a response by emergency personnel where a situation requiring an emergency response by the emergency personnel does not in fact exist, but does not include an alarm signal caused by violent conditions of nature or other extraordinary circumstances not reasonably subject to control by the alarm business operator or alarm user. Alarms resulting from a utility service malfunction or interruption, verified in writing by the local utility company manager, shall be considered an exception to the above definition. The final determination of whether or not an alarm signal is a false alarm shall be made by the City Manager.

1-102. Compliance required.

(1) Every new system installed after the passage of this code shall comply with this chapter.

(2) Every alarm system existing before the passage of this code shall be placed in compliance with this chapter no later than 30 days after such passage date.

ARTICLE 2
PERMITS

Section.

1-201. Permits; fees.

1-201. Permits; fees.

(1) There is a permit fee, established by the City Council by Resolution, for all alarm systems which are connected directly to or received by telephone at the Public Safety Emergency Center to cover administrative costs. A permit must be obtained within 30 days of installation of a new or altered system. Permits must be obtained by all alarm system users by January 1 each year. Permits must be renewed on an annual basis by January 1 each year.

(2) If permits are not obtained on or before February 1 of each year, they are deemed delinquent. There is an additional charge, established by the City Council by Resolution, for delinquent permits. If a permit is not obtained on or before July 1 of each year, charges may be filed in county court against the individual responsible for the alarm system. Failure to obtain a permit is a misdemeanor.

(3) Alarm system permits shall be purchased from the City Clerk.

ARTICLE 3
RULES AND REGULATIONS

Section.

1-301. Installation, maintenance, testing, and use.
1-302. Information required.
1-303. False alarms.
1-304. Liability of City.

1-301. Installation, maintenance, testing and use.

(1) It shall be the responsibility of each alarm user to insure that the standards of installation and maintenance set forth in this chapter are maintained. All burglar alarm systems directly connected to the Public Safety Emergency Center must be tested at least once a month. All fire alarm systems directly connected to the Public Safety Emergency Center must be tested four times a year on a quarterly basis. Without the prior, express consent of the Fire or Police Department, systems shall not be tested so as to transmit a signal to public safety personnel. Testing is the responsibility of the alarm user and must be coordinated by contacting the Public Safety Emergency Center prior to the testing.

(2) It shall be the responsibility of any alarm vendor installing or maintaining an alarm system to cause such installation or maintenance to conform to the requirements of the fire code and the electric code applicable to the City.

(3) Each alarm system shall be utilized only for the purpose of summoning the public safety personnel for emergency and/or life hazard situations.

1-302. Information required.

Each alarm user must provide to the City on a form provided by the City Clerk the name, address, and telephone number of the alarm user and of the vendor, if any, with whom the alarm user has contracted for maintenance of the alarm system. Each alarm user shall provide the City with the name and address of the individual to whom legal notices should be sent. Each alarm user shall also provide the City with the names, addresses, and telephone numbers of those persons (not less than two) who can be contacted to turn off or deactivate an alarm system. It shall be the obligation of the alarm user to keep this information current and correct through supplementary notification filed on the same form.

1-303. False alarms.

(1) New and altered alarm systems shall be afforded a 30-day adjustment period commencing with the date of activation in order that the system is brought to maximum efficiency. During those periods of time, no false alarms shall be charged against the system.

(2) If any alarm system produces four false alarms in any 12-consecutive-month period, written notice of that fact shall be given by certified mail or personal delivery to the alarm user's designee at the address listed on the notification and permit form.

(3) Thereafter, the City Manager shall have the power to require that the alarm user be charged a fee as established by the City Council by Resolution per false alarm above the four false alarms within a 12-consecutive-month period. The determination of this fee will be made by the City Manager, and notice of determination shall be given in the same manner as provided in this section for notice of excessive false alarms.

1-304. Liability of City.

Nothing in this chapter nor the existence of any other fact shall be construed to require a response by public safety personnel to an address or a location registering an alarm. The City shall neither assume nor bear any liability for its failure to respond to such an alarm signal.

ARTICLE 4
PENALTY

Section.

1-401. Penalty.

1-401. Penalty.

(1) Penalty amounts. Any person who violates any of the prohibitions or provisions of any section of this chapter shall be deemed guilty of a misdemeanor.

Unless otherwise specified in this chapter or by statute, the penalty for such violation shall be in any amount not to exceed $1,000, in the discretion of the court; provided, whenever any section of this chapter shall declare a nuisance, a violation of that section shall be penalized by a fine of not more than $1,000, in which case a new violation shall be deemed to have been committed every 24 hours of such failure to comply.

(2) Abatement of nuisance.

(a) Whenever a nuisance exists as defined in this code, the City may proceed by a suit in equity to enjoin and abate the same, in the manner provided by law; and,

(b) Whenever, in any action, it is established that a nuisance exists, the court may, together with the fine or penalty imposed, enter an order of abatement as a part of the judgment in the case.

Statutory reference: Neb. RS 16-225, 16-240, 16-246, 18-1720

CHAPTER 2
ALCOHOLIC BEVERAGES

Article.
1. General Provisions.
2. Licenses and Permits.
3. Rules and Regulations.
4. Penalty.

ARTICLE 1
GENERAL PROVISIONS

Section.
2-101. Definitions.

2-101. Definitions.

All words and phrases herein used are to have the definitions applied thereto as defined in the Liquor Control Act of the State of Nebraska.

Statutory reference: Neb. RS 53-103

ARTICLE 2
LICENSES AND PERMITS

Section.
2-201. License required.
2-202. Licensee requirements.
2-203. License standards and criteria.

2-201. License required.

It shall be unlawful for any person to manufacture for sale, sell, keep for sale, or to barter any alcoholic liquors within the City unless said person shall have in full force and effect a license as provided by the Nebraska Liquor Control Act.

Statutory reference: Neb. RS 53-168.

2-202. Licensee requirements.

It shall be unlawful for any person or persons to own an establishment that sells at retail any alcoholic beverages unless said person is all of the following:

(1) A resident of the county in which the premises is located;

(2) A person of good character and reputation;

(3) A citizen of the United States;

(4) A person who has never been convicted of a felony or any Class I misdemeanor pursuant to Neb. RS Chapter 28, Article 3, 4, 7, 8, 10, 11, or 12, or any similar offense under a prior criminal statute or in another state;

(5) A person who has never had a liquor license revoked for cause.

(6) A person whose premises, for which a license is sought, meets standards for fire safety as established by the State Fire Marshal; and,

(7) A person who has not acquired a beneficial interest in more than two alcoholic beverage retail establishments since March 4, 1963; provided, the beneficial interest requirement in this section shall not apply to a person applying for an additional license for use in connection with the operation of a hotel containing at least 25 sleeping rooms, or where the request is limited to the on-premises sale of beer only in a restaurant.

Statutory reference: Neb. RS 53-125

2-203. License standards and criteria.

(1) Local governing bodies shall only have authority to approve applications and deny licenses pursuant to the Nebraska Liquor Control Act.

(2) The Council shall consider the following licensing standards and criteria at the hearing and evaluation of any applicant for a retail alcoholic liquor license, for the upgrading of a license to sell alcoholic liquor, or for the expansion or change in location of the premises, and for the purpose of formulating a recommendation from the Council to the Nebraska Liquor Control Commission in accordance with the Nebraska Liquor Control Act:

(a) The adequacy of existing law enforcement resources and services in the area;

(b) The recommendation of the Police Department or any law enforcement agency;

(c) 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;

(d) Zoning restrictions and the City's zoning and land-use policies;

(e) Sanitation or sanitary conditions on or about the proposed licensed premises;

(f) The existence of a citizen's protest and any other evidence in support of or in opposition to the application;

(g) The existing population, and projected growth, both City-wide and within the area to be served;

(h) The existing liquor licenses, the class of each such license, and the distance and times of travel between establishments issued such licenses;

(i) Whether the proposed license would be compatible with the neighborhood or community where the proposed premises are located, as well as its projected growth;

(j) Whether the type of business or activity proposed to be operated or presently operated in conjunction with the proposed license is and will be consistent with the public interest as declared in Neb. RS 53-101.01;

(k) Whether the applicant has taken every precaution to protect against the possibility of the shoplifting of alcoholic liquor, which alcoholic liquor shall be displayed and kept in and sold from an area which is reasonably secured;

(l) Whether the applicant is fit, willing, and able to properly provide the service proposed in conformance with all provisions and requirements of and rules and

regulations adopted and promulgated pursuant to the act;

(m) Whether the applicant has demonstrated that the type of management and control exercised over the licensed premises will be sufficient to ensure that the licensee can conform to all the provisions and requirements of and rules and regulations adopted and promulgated pursuant to the act;

(n) The background information of the applicant established by information contained in the public records of the Commission and investigations conducted by law enforcement agencies;

(o) Past evidence of discrimination involving the applicant as evidenced by findings of fact before any administrative board or agency of the local governing body, any other governmental board or agency of the local governing body, any other governmental unit, or any court of law;

(p) Whether the applicant or the applicant's representatives suppressed any fact or provided any inaccurate information to the Commission or local governing body or the employees of the Commission or local governing body in regard to the license application or liquor investigations. The applicant shall be required to cooperate in providing full disclosure to the investigating agents of the local governing body;

(q) The proximity of and impact on schools, hospitals, libraries, parks, and public institutions;

(r) Whether activities proposed to be conducted on the licensed premises or in adjacent related outdoor areas will create unreasonable noise or disturbance; and,

(s) Compliance with state laws, liquor rules and regulations, and municipal ordinances and regulations and whether or not the applicant has ever forfeited bond to appear in court to answer charges of having committed a felony or charges of having violated any law or ordinance enacted in the interest of good morals and decency or has been convicted of violating or has forfeited bond to appear in court and answer charges for violating any law or ordinance relating to alcoholic liquor.

(3) The preceding standards are not necessarily of equal value that can be computed in a mathematical formula. Rather, they are standards which can be weighed and cumulated positively and negatively. The burden of proof and persuasion shall be on the party filing the application. When applicable, the term “applicant” as used herein is synonymous with “licensee.”

Statutory reference: Neb. RS 53-134
Historical reference: Ord. 845, passed 5-8-86.

ARTICLE 3
RULES AND REGULATIONS

Section.

2-301. Liability of owner of premises.
2-302. Liability of employer.
2-303. Minors; prohibited acts involving alcoholic liquor.
2-304. Hours of sale.
2-305. Sanitary conditions.
2-306. Responsible Beverage Server Training Required.

2-301. Liability of owner of premises.

The owner of any premises used for the sale at retail of alcoholic beverages shall be deemed guilty of a violation of these laws to the same extent as the said licensee if the owner shall knowingly permit the licensee to use the said licensed premises in violation of any municipal code section or Nebraska Liquor Control Act.

Statutory reference: Neb. RS 53-1,101.

2-302. Liability of employer.

The employer of any officer, director, manager, or employee working in a retail liquor establishment shall be liable and guilty of any act or omission or violation of any law or ordinance if such act is committed or omission made with the authorization, knowledge, or approval of the employer or licensee, and each such act or omission shall be deemed and held to be the act of the employer, and will be punishable in the same manner as if the said act or omission had been committed by him or her personally.

Statutory reference: Neb. RS 53-1,102.

2-303. Minors; prohibited acts involving alcoholic liquor.

(1) For purposes of this section, the definitions found in Neb. RS 53-103 shall apply, including, but not limited to, the definitions of the terms alcoholic liquor, consume, minor, sale, and to sell.

(2) Minor's presence. It shall be unlawful for any person or persons who own, manage, or lease an establishment selling alcoholic beverages at retail to allow any minor under the age of 18 years to frequent or otherwise remain in the establishment unless the minor is accompanied by his or her parent or legal guardian, and unless said minor remains seated with, and under the immediate control of, the said parent or legal guardian.

(3) It shall be unlawful for any person under twenty-one years of age to transport, consume, or knowingly possess or have under his or her control beer or other alcoholic liquor in or transported by any motor vehicle.

Statutory reference: Neb. RS 53-103, 53-147, 53-180.02.

2-304. Hours of sale.

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

(a) Off sale shall mean alcoholic beverages sold at retail in the original container for consumption off the premises of the licensed establishment; and,

(b) On sale shall mean alcoholic beverages sold at retail by the drink for consumption on the premises of the licensed establishment.

(2) It shall be unlawful for any licensed person or persons or their agents to sell any alcoholic beverages within the municipality except during the hours provided herein,

provided that such limitations shall not apply after 12:00 p.m. noon on Sunday to a licensee which is a nonprofit corporation and the holder of a Class C license or a Class I license.

HOURS OF SALE

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	6:00 a.m. to 1:00 a.m.
	On Sale	6:00 a.m. 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.

Statutory reference: Neb. RS 53-179

2-305. Sanitary conditions.

It shall be unlawful to open for public use any retail liquor establishment that is not in a clean and sanitary condition. Toilet facilities shall be adequate and convenient for customers and patrons and said licensed premises shall be subject to any health inspections the Council or the City Police may make or cause to be made. All applications for liquor licenses shall be viewed in part from the standpoint of the sanitary conditions, and a report concerning the said sanitary conditions shall be made at all hearings concerning the application for, or renewal of, a liquor license.

Statutory reference: Neb. RS 53-118

2-306. Responsible Beverage Server Training Required.

The Ogallala City Council finds that sales and service of Alcoholic Liquors to persons who are inebriated and to persons under the age of 21 result in serious public health and safety problems, such as alcohol abuse, drunk driving, vehicle accidents, injuries and death. It shall be unlawful for any person, business or entity with a Nebraska Retail Liquor License or Special Designated Permit to allow employees or designated persons to sell, serve or furnish alcoholic beverages within the City of Ogallala without first obtaining a Responsible Beverage Server Training certificate by completion of a Responsible Beverage Server Training course approved by the Nebraska Liquor Control Commission. Such courses can be found on the Nebraska Liquor Control Commission website and include Responsible Hospitality Council, CARE

for Servers, TIPS, Midwest Bartender's School, Servsafe Alcohol, and a free web based course developed by the University of Nebraska-Lincoln, Office of Extended Education & Outreach**.**

(1) Proof of completion will be provided to the Ogallala City Clerk for persons successfully completing the training. The proof of completion is usually in the form of a certificate, which shall remain with said individual wherever employed within the City of Ogallala. It shall be the responsibility of the Liquor License holder to ensure that the certificates on file with the Ogallala City Clerk are valid, and not expired.

(2) All Nebraska Liquor Licensees or Special Designated Permit holders within the City of Ogallala must keep current with the Ogallala City Clerk a list of employees and/or designated persons that serve, sell or furnish alcoholic beverages under the said license or permit.

(3) All persons who serve, sell, or furnish alcoholic beverages under any Nebraska Liquor License or Special Designated Permit must complete the Responsible Beverage Server Training prior to serving, selling or furnishing alcoholic beverages within the City of Ogallala.

ARTICLE 4
PENALTY

Section.
2-401. Penalty.

2-401. Penalty.

(1) Penalty amounts. Any person who violates any of the prohibitions or provisions of any section of this chapter shall be deemed guilty of a misdemeanor. Unless otherwise specified in this chapter or by statute, the penalty for such violation shall be in any amount not to exceed $1,000, in the discretion of the court; and; provided, whenever any section of this chapter shall declare a nuisance, a violation of that section shall be penalized by a fine of not more than $1,000, in which case a new violation shall be deemed to have been committed every 24 hours of such failure to comply.

(2) Abatement of nuisance.

(a) Whenever a nuisance exists as defined in this chapter, the City may proceed by a suit in equity to enjoin and abate the same, in the manner provided by law.

(b) Whenever in any action it is established that a nuisance exits, the court may, together with the fine or penalty imposed, enter an order of abatement as a part of the judgment in the case.

Statutory reference: Neb. RS 16-225, 16-240, 16-246, 18-1720

CHAPTER 3
ANIMALS

Article.
1. General Provisions.
2. License Requirements.
3. Animals and Fowl.
4. Dead Animals.
5. Penalty.

ARTICLE 1
GENERAL PROVISIONS

Section.
3-101. Definitions.
3-102. Abandonment, neglect, and cruelty.
3-103. Killing and poisoning of animals.
3-104. At large dogs.
3-105. Nuisance dogs.
3-106. Dogs; collar required.
3-107. Limitation on number of dogs and cats.
3-108. Feces disposal and removal.
3-109. Impoundment.
3-110. Animal shelter.
3-111. Owner liable for damages.
3-112. Law enforcement officer; powers; immunity.
3-113. Interference with police.

3-101. Definitions.

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

(1) Abandon means to leave any animal, by its owner or other person responsible for its care or custody, any length of time, without making effective provisions for its food, water, or other care as is reasonably necessary for the animal's health and proper care;

(2) Animal means any vertebrate member of the animal kingdom except man. The term shall not include an uncaptured wild creature;

(3) At large animal means any animal not kept confined to the premises of the owner thereof or kept on a leash or under direct supervision and adequate control by the owner to prevent it from doing mischief or being a nuisance or destroying or damaging property of another, and shall for the purposes of this chapter be deemed to be running at large;

(4) Cruelly mistreat means to knowingly and intentionally kill, maim, disfigure, torture, beat, mutilate, burn, scald, or otherwise set upon any animal;

(5) Cruelly neglect means 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;

(6) Humane killing means the he destruction of an animal by a method which causes the animal a minimum of pain and suffering;

(7) Law enforcement officer means any member of the Nebraska State Patrol, any county or deputy sheriff, or any member of the police force of any City or village authorized to enforce state or local animal control laws, rules, regulations, or ordinances; and,

(8) Owner shall mean any person, firm corporation, organization, political subdivision, or department possessing, harboring, keeping, or having control or custody of an animal or permitting any animal to habitually be or remain on, or be lodged or fed within, such person's house, yard, or premises. This term shall not apply to veterinarians or kennel operators temporarily maintaining on their premises animals owned by others for a period of more than 30 days;

(9) Police animal means a horse or dog owned or controlled by the State of Nebraska for the purpose of assisting a Nebraska state trooper in the performance of his or her official enforcement duties.

Statutory reference: Neb RS 28-1008.

3-102. Abandonment, neglect, and cruelty.

(1) Abandonment. No person shall abandon any animal within the City. Any animal abandoned in the City shall be surrendered to the Ordinance Enforcement Officer for impoundment or disposal.

(2) Cruelty to animals.

(a) No person shall cruelly or unnecessarily beat, overwork, or insufficiently shelter or feed any animal within the City. A person commits cruelty to animals if he or she intentionally or recklessly:

(i) Subjects any animal to cruel mistreatment;

(ii) Abandons any animal; or,

(iii) Kills or injures any animal belonging to another.

(b) Any animal treated cruelly after the owner or person in control of said animal has been given written notice of said violation and has not corrected the same within 24 hours thereafter shall be deemed surrendered to the Ordinance Enforcement Officer for impoundment or disposal.

(3) Warrant. Whenever a violation of subsection (1) or (2) has occurred and a citation has been filed, the City Attorney may request a court of competent jurisdiction to issue a warrant authorizing the seizing of the animal affected by the Ordinance Enforcement Officer. Any animal seized as the result of the issuance of a warrant shall be held by the City until final disposition of the action by the issuing court.

(4) Cruelty. A person commits cruelty to animals if he or she abandons, cruelly mistreats, or cruelly neglects an animal.

Statutory reference: Neb. RS 16-235, 16-240, 28-1008, 28-1009, 74-4401.

Historical reference: Ord. 836 passed 10-22-85 and Ord. 951 passed 12-11-90.

3-103. Killing and poisoning of animals.

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

Statutory reference: Neb. RS 28-1008, 28-1009.

3-104. At large dogs.

(1) It shall be unlawful for any person owning, keeping, or harboring any dog to permit, suffer, or allow said dog to run at large within the City. For the purpose of this section, any dog shall be deemed to have been permitted, suffered, or allowed by its owner, keeper, or harborer to run at large when outside of the property of the owner, keeper, or harborer and not effectively physically restrained on a chain or leash or behind a suitable fence or other proper method of physical restraint from which it cannot escape.

(2) A legally blind person using a “seeing eye dog” or a deaf person using a “hearing dog” in the customary manner shall be deemed to be in compliance with this section.

(3) Official use of dogs by any governmental unit shall be deemed in compliance with this section.

(4) Any person owning, keeping, or harboring any dog found to be running at large shall be subject to the penalties and provisions of this chapter.

Statutory reference: Neb. RS 16-206, 16-235.
Historical reference: Ord. 945, passed 2-13-90

3-105. Nuisance dogs.

It shall be unlawful for any person to own, keep, or harbor any dog which by loud, continued, or frequent barking, howling, or yelping may disturb the quiet of the neighborhood after 10:00 p.m. or before 6:00 a.m. prevailing time, or which habitually chases pedestrians, drivers, or owners of horses or vehicles while they are on any public sidewalks, streets, or alleys in the City. It shall be unlawful for any owner or persons responsible to said owner to permit the continual barking of any dog or dogs between 6:00 a.m. and 10:00 p.m. Continued barking shall mean the barking of any dog or dogs for a continuing period of 30 seconds or more on three or more occasions during any twenty minute period. The provisions of this section shall not be construed to apply to the City Animal Shelter. No summons and complaint shall be issued for any single violation of this section unless there are at least two (2) or more complaining witnesses from separate households who have signed the complaint. Accumulation of more than three (3) nuisance dog convictions in a one year period, for the same animal, may cause the animal to be destroyed, at the owner’s expense, upon the recommendation of the court.

Statutory reference: Neb RS 54-605, 54-606, 54-607.

3-106. Dogs; collar required.

(1) It shall be the duty of every owner or owners of any dog or dogs to securely place upon the neck of such dog or dogs a good and sufficient collar with a metallic plate thereon. The plate shall be plainly inscribed with the name of such owner.

(2) Every person who shall harbor about his or her premises a collarless dog for the space of ten days shall be taken and held as the owner, and shall be liable for all damages which such dog shall commit.

(3) Whoever, being the owner of any dog, shall permit the same to run at large for ten days, without such collar as hereinbefore described being securely placed upon the neck of such dog, shall be fined in any sum not exceeding twenty-five dollars.

Statutory reference: Neb RS 54-605, 54-606, 54-607.

3-107. Limitation on number of dogs and cats.

(1) Maximum number; exceptions. It shall be unlawful and a public nuisance for any person in charge of a residence to keep or allow to be kept more than four dogs or cats, or any combination of such animals exceeding four in number, over the age of 90 days at such residence, unless the residence or the owner of the dogs and cats kept there is within one or more of the following exceptions:

(a) The residence is licensed as a commercial animal establishment; or

(b) The owner of the dogs and cats over 90 days of age has applied for and received a permit to keep dogs and cats in excess of four as provided for under this section and, upon request of any officer, presents for inspection such permit.

(2) Application for permit. Application for a permit as provided for under this section shall be made in writing to the Planning and Zoning Administrator on a form furnished by the City Clerk. Such application shall state:

(a) The name and address of the owner of the dogs or cats;

(b) The breed, color, age and sex of the dogs or cats;

(c) Whether such dogs or cats are licensed under this chapter;

(d) Whether such dogs or cats are neutered, spayed or intact;

(e) Such other information as may identify the dogs or cats; and

(f) Such other information as the Planning and Zoning Administrator may require.

The application shall certify to the information contained in such application under penalty of law for the willful making of any untrue statement. The application shall further state, by making and signing the application that the applicant consents to an inspection of premises where the animals are kept. Failure to allow such inspection of premises shall result in denial of the application.

(3) Issuance of permit; revocation; expiration. Upon receipt of an application for a permit provided for under this section, the Planning and Zoning Administrator shall investigate the premises and the manner in which the dogs or cats are kept. A permit shall be issued only if the locating and the keeping of the dogs and cats is, in the opinion of the Planning and Zoning Administrator, such as not to be a health hazard or nuisance to the surrounding neighborhood. An attempt shall be made as a part of the application investigation to contact the neighbors in order to determine if they have any objection to the issuance of the permit. A permit issued under the provisions of this section may be revoked by the Planning and Zoning Administrator for the violation by

the holder of such permit of any provision of this section or any other applicable provision of this chapter. All permits issued under the provisions of this section shall be valid for a period of two years of their issuance.

(4) Violations. When animals in excess of the limit established in this section are found at a residence, the owner of the animals shall have 72 hours to comply with this section. Failure to comply within 72 hours shall constitute a violation of this section and shall be punished as provided. Any combination of dogs or cats in excess of four in number shall be considered one violation of this section, but each day in violation shall constitute a separate offense.

(5) Review of issuance or revocation of permit. The issuance or revocation of a permit shall be reviewable by the City Council upon request of any interested party. The request for the City Council to review the issuance or revocation of a permit shall be in writing to the City Clerk, requesting that it be included on the agenda of the next regularly scheduled meeting of the City Council. In reviewing the commission's action, the City Council may approve, disapprove, or take no action at all, which in the latter case shall mean that the Planning and Zoning Administrator's action shall stand. As part of this review process, the Council shall have the power to grant or revoke a permit.

3-108. Feces disposal and removal.

(1) When any animal defecates on any property other than the property of the owner or custodian of the animal, including common areas of condominiums, townhouses, duplexes or apartments, it shall be the duty of the owner or custodian of the animal to immediately remove and properly dispose of the animal feces.

(2) It is unlawful for any person to allow the accumulation of animal feces on any property owned, occupied or controlled by such person, if such accumulation creates an unsanitary, offensive or unhealthy condition.

(3) It is unlawful for any person to place animal feces in storm sewers or upon the property of another, or to dispose of such feces in any manner except by depositing such feces in a toilet or a covered container normally used for refuse or garbage.

3-109. Impoundment.

It shall be the duty of the City Police to capture, secure, and remove in a humane manner to the City Animal Shelter, any animal violating any of the provisions of this chapter. 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 City Animal Shelter for a period of not less than five days, unless reclaimed earlier by the owner. Notice of impoundment of animals whose owners are not known, including any significant marks or identifications, shall be posted at the Ogallala Police Department as public notification of such impoundment. Any animal may be reclaimed by its owner during the period of impoundment by payment of the impoundment fee as set by resolution of the Council and maintained on file in the office of the City Clerk. The owner shall then be required to comply with the licensing and rabies vaccination requirements within 72 hours after release. If the animal is not claimed at the end of the time specified herein, the City Police may dispose of the animal in accordance with the applicable rules and regulations pertaining to the same; provided, that if in the judgment of the City Police a suitable home can be found for any such animal within the City, said animal shall be

turned over to that person and the new owner shall then be required to pay all fees and meet all licensing and vaccinating requirements provided in this chapter. The City shall acquire legal title to any unlicensed animal impounded in the City Animal Shelter after five days. All animals shall be destroyed in the summary and humane manner as prescribed by applicable laws or rules and regulations.

Statutory reference: RS 16-235, 71-4408.

3-110. Animal shelter.

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

Statutory reference: Neb. RS 16-236.

3-111. Owner liable for damages.

Dogs are hereby declared to be personal property for all intents and purposes, and the owner or owners of any dog or dogs shall be liable for any and all damages that may accrue:

(1) To any person, other than a trespasser, by reason of having been bitten by any such dog or dogs; and,

(2) To any person, firm, or corporation by reason of such dog or dogs killing, wounding, injuring, worrying, or chasing any person or persons or any sheep or other domestic animals belonging to such person, firm, or corporation. Such damage may be recovered in any court having jurisdiction of the amount claimed.

Statutory reference: Neb. RS 54-601, 54-602

3-112. 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 that an animal has been abandoned or is being cruelly neglected or cruelly mistreated may issue a citation to the owner as prescribed by law.

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

Statutory reference: Neb. RS 28-1012.

Historical reference: Ord. 951, passed 12-11-90.

3-113. Interference with police.

It shall be unlawful for any person to hinder, delay, or interfere with any municipal police officer who is performing any duty enjoined upon him or her by the provisions of this chapter 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 animals to the shelter.

Statutory reference: Neb. RS 28-906.

ARTICLE 2
LICENSE REQUIREMENTS.

Section.
3-201. License requirements.

3-201. License requirements.

Any person owning, keeping, harboring, having custody or control over a dog or cat over four months of age within the City, must obtain a license as herein provided:

(1) A license shall be issued only after payment of a fee herein specified and written application, on a form provided by the Chief of Police, which shall include the name, address, and telephone number of the applicant, a description of the dog or cat, proof of vaccination against rabies within twenty-four months.

(2) Application for a license shall be made within 30 days after a dog or cat attains the age of four months or within 30 days after the first day a dog or cat over the age of four months is owned, kept or harbored within the City.

(3) Unless revoked, a license shall be valid for two years from the date if issue.

(4) Upon proper application and payment of the applicable fee the City shall issue a suitable license tag bearing an identification number which shall be public record.

(5) License tags shall be affixed to the collar or harness and worn by the dog or cat when off the premises of the owner.

(6) No person shall place a license tag on any dog or cat other than the dog or cat for which the tag was issued.

Statutory reference: Neb. RS 16-206.

ARTICLE 3
ANIMALS AND FOWL

Section.
3-301. Animals and fowl.
3-302. Permits.

3-301. Animals and fowl.

(1) Running at large. It shall be unlawful for the owner, keeper, or harborer of any animal, or any person having the charge, custody, or control thereof, to permit a horse, mule, cow, sheep, goat, swine, or other animal to be driven or run at large on any of the public ways and property, or upon the property of another.

(2) Fowls running at large. It shall be unlawful for any person to allow poultry, chickens, turkeys, geese, or any other fowls to run at large within the corporate limits, except in enclosed places on private property.

3-302. Permits.

(1) Livestock permit. It shall be unlawful for any person to keep or maintain within the corporate limits any horse, mule, sheep, cow, goat, swine, or other livestock without first obtaining a permit from the Council.

(2) Fowl permit. It shall be unlawful for any person to keep on their private property poultry, chickens, turkeys, geese, or other fowls unless and until they have received a permit from the Council.

Statutory reference: Neb. RS 16-235, 16-240.

ARTICLE 4
DEAD ANIMALS

Section.

3-401. Dead animals.

3-401. Dead animals.

All dead animals shall be immediately removed and properly disposed of by the owner of such animals. If the owner of such animal cannot be found, then such animal shall be removed by the City and properly disposed of by and at the expense of the City. Dead animals shall not be buried within the corporate limits of the City, nor within two miles thereof, nor in or above the course of groundwater that is used for drinking purposes by the City or its inhabitants.

Statutory reference: Neb. RS 16-231, 16-240.

ARTICLE 5
PENALTY

Section.

3-501. Penalty.

3-501. Penalty.

(1) Penalty amounts. Any person who violates any of the prohibitions or provisions of any section of this chapter shall be deemed guilty of a misdemeanor. Unless otherwise specified in this chapter or by statute, the penalty for such violation shall be in any amount not to exceed $1,000, in the discretion of the court; and; provided, whenever any section of this chapter shall declare a nuisance, a violation of that section shall be penalized by a fine of not more than $1,000, in which case a new violation shall be deemed to have been committed every 24 hours of such failure to comply.

(2) Abatement of nuisance.

(a) Whenever a nuisance exists as defined in this chapter, the City may proceed by a suit in equity to enjoin and abate the same, in the manner provided by law.

(b) Whenever in any action it is established that a nuisance exits, the court may,

together with the fine or penalty imposed, enter an order of abatement as a part of the judgment in the case.

(3) Restitution. The court may, together with the fine or penalty imposed, enter an order of restitution as part of the judgment in the case.

Statutory reference: Neb. RS 16-225, 16-240, 16-246, 18-1720

Historical reference: Ord. 909 passed 9-27-88.

CHAPTER 4
BIDDING AND CONTRACTS

Article.
1. General Provisions.
2. Penalty.

ARTICLE 1
GENERAL PROVISIONS

Section.
4-101. Bidding and contracts.
4-102. Bid opening.
4-103. Preference for resident bidder.
4-104. Fair labor standards compliance.
4-105. Waiver of bidding procedure.
4-106. Purchase of personal property without bidding.

4-101. Bidding and contracts.

(1) Except as provided in Neb. RS 18-412.01 for a contract with a public power district to operate, renew, replace, or add to the electric distribution, transmission, or generation system of the City, no contract for enlargement or general improvements, such as water extensions, sewers, public heating system, bridges, work on streets, or any other work or improvement when the cost of such improvement is assessed to the property, costing over $30,000 shall be made unless it is first approved by the City Council.

(2) Except as provided in Neb. RS 18-412.01, before the City Council makes any contract in excess of $30,000 for enlargement or general improvements, such as water extensions, sewers, public heating system, bridges, work on streets, or any other work or improvement when the cost of such enlargement or improvement is assessed to the property, an estimate of the cost shall be made by the City Engineer and submitted to the City Council. In advertising for bids as provided in divisions (3) and (5) of this section, the City Council may publish the amount of the estimate.

(3) Advertisements for bids shall be required for any contract costing over $30,000 entered into:

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

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

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

(a) $30,000 or less;

(b) $60,000 or less and the City electric utility has gross annual revenue from

retail sales in excess of $1,000,000;

(c) $90,000 or less and the City electric utility has gross annual revenue from retail sales in excess of $5,000,000; or,

(d) $120,000 or less and the City electric utility has gross annual revenue from retail sales in excess of $10,000,000.

(5) The advertisement provided for in division (2) and (3) of this section shall be published at least seven days prior to the bid closing in a legal newspaper published in or of general circulation in the City. In case of a public emergency resulting from infectious or contagious diseases, destructive windstorms, floods, snow, war, or an exigency or pressing necessity or unforeseen need calling for immediate action or remedy to prevent a serious loss of, or serious injury or damage to, life, health, or property, estimates of costs and advertising for bids may be waived in the emergency ordinance authorized by Neb. RS 16-405 when adopted by a three-fourths vote of the City Council and entered of record.

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

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

Statutory reference: 16-321.

4-102. Bid opening.

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

Statutory reference: Neb. RS 73-101.

4-103. Preference for resident bidder.

(1) When a public contract is to be awarded to the lowest responsible bidder, a resident bidder shall be allowed a preference over a nonresident bidder from a state which gives or requires a preference to bidders from that state. The preference shall be

equal to the preference given or required by the state of the nonresident bidder. Resident bidder as used herein shall mean any person, partnership, association, or foreign or domestic corporation authorized to engage in business in this state and who shall have met the residence requirements of the state of the nonresident bidders necessary for receiving the benefit of that state's preference law on the date when any bid for a public contract is first advertised or announced, or shall have had bona fide establishment for doing business within this state for the length of time established by the state of the nonresident bidders necessary for receiving the benefit of that state's preference law on the date when any bid for a public contract is first advertised or announced. Any contract entered into without compliance with this section shall be null and void.

(2) The provisions of this section shall not apply to any contract for any project upon which federal funds would be withheld because of these provisions.

Statutory reference: Neb. RS 73-101.01, 73-101.02

4-104. Fair labor standards compliance.

(1) In awarding contracts for public works, each contractor bidding shall be required to file with the City Clerk a statement that he or she is complying with, and will continue to comply with, fair labor standards in the pursuit of his or her business and in the execution of the contract on which he or she is bidding. There shall be written into each and every contract for public works, in addition to such other provisions as are necessary and prescribed by law, a provision that in the execution of such contract fair labor standards shall be maintained.

(2) A showing in a public hearing by interested parties, to the satisfaction of the Council, that any contractor bidding upon public works and having filed the statement as required in subdivision (1) herein, has not complied with fair labor standards in the pursuit of his or her business or occupation shall be the basis for disqualification of the low bid, in which case the Council shall let the bid to the next lowest responsible bidder.

(3) Fair Labor Standards as used herein shall be construed to mean such a scale of wages and conditions of employment as are paid and maintained by a least 50% of the contractors in the same business or field of endeavor as the contractor filing such statement.

Statutory reference: Neb. RS 73-102, 73-103, 73-104.

4-105. Waiver of bidding procedure.

Any City bidding procedure may be waived by the City Council when materials or equipment are purchased at the same price and from the same seller as materials or equipment which have formerly been obtained pursuant to the state bidding procedure in Neb. RS 81-145 through 81-162 or when the contract is negotiated directly with a sheltered workshop pursuant to Neb. RS 48-1503.

Statutory reference: 16-321.01.

4-106. Purchase of personal property without bidding.

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

(2) For purposes of this section:

(a) Personal property includes but is not limited to supplies, materials, and equipment used by or furnished to any officer, office, department, institution, board, or other agency; and

(b) Purchasing or purchase means the obtaining of personal property by sale, lease, or other contractual means.

Statutory reference: Neb. RS 18-1756.

ARTICLE 2
PENALTY

Section.

4-201. Penalty.

4-201. Penalty.

Any officer or person who may be in charge of any such bids prior to the time fixed for the simultaneous opening, who shall open prior to such time, or otherwise disclose to any bidder the contents, amount or other details of any rival bid, shall be guilty of a Class IV misdemeanor. Any person violating any of the provisions of sections 73-101 to 73-104 shall be guilty of a Class IV misdemeanor.

Statutory reference: Neb. RS 73-105.

CHAPTER 5
BINGO

Article.
1. General Provisions.
2. Licenses and Permits.
3. Rules and Regulations.
4. Penalty.

ARTICLE 1
GENERAL PROVISIONS

Section.
5-101. Adoption of state law.

5-101. Adoption of state law.

All applicable state statutes as they now exist or may hereafter be amended shall be, and will constitute, a part of this subchapter as if repeated verbatim herein, and violation of any state statute will be a distinct and separate offense against the City as well as against the state.

Statutory reference: Neb. RS 9-201 et seq.

ARTICLE 2
LICENSES AND PERMITS

Section.
5-201. Licenses and permits.

5-201. Licenses and permits.

(1) Any association duly licensed by the state to conduct the game of bingo shall obtain a written permit from the Council before commencing operation of said game.

(2) Application shall be made to the City Clerk for such permit. Said application form shall contain such information and documents or copies thereof as the Council deems necessary to determine whether to grant or reject the application.

(3) Upon the determination that granting the application would be proper, the Council shall immediately direct the City Clerk to issue a license to the applicant upon the payment of a bi-annual permit fee as established by the City Council by Resolution and payable concurrent with the permit fee payable to the State of Nebraska. Said license shall be subject to revocation at any time for good cause.

(4) Any person or persons so licensed shall be subject to any other fees, rules, and regulations which the Council may designate. Any permit so issued will automatically expire concurrent with the license issued by the State of Nebraska.

(5) The permit shall be on display at any place where a game of bingo is conducted.

Statutory reference: Neb. RS 9-236

ARTICLE 3
RULES AND REGULATIONS

Section.
5-301. Compliance with state and local law.

5-301. Compliance with state and local law.

Games of bingo shall be conducted within the City in accordance with the municipal code and state statutes if the game of bingo is played for or involves profit or gain.

ARTICLE 4
PENALTY

Section.
5-401. Penalty.

5-401. Penalty.

(1) Penalty amounts. Any person who violates any of the prohibitions or provisions of any section of this chapter shall be deemed guilty of a misdemeanor. Unless otherwise specified in this chapter or by statute, the penalty for such violation shall be in any amount not to exceed $1,000, in the discretion of the court; and; provided, whenever any section of this chapter shall declare a nuisance, a violation of that section shall be penalized by a fine of not more than $1,000, in which case a new violation shall be deemed to have been committed every 24 hours of such failure to comply.

Statutory reference: Neb. RS 16-225, 16-240, 16-246, 18-1720.

CHAPTER 6
BOARDS AND COMMITTEES

Article.
1. General Provisions.
2. Board of Adjustment.
3. Board of Health.
4. Civil Service Commission.
5. Community Redevelopment Authority.
6. Firefighter's Retirement Committee.
7. Housing Authority.
8. Library Board.
9. Planning Commission.
10. Police Officer's Retirement Committee.
11. Tree Board.

ARTICLE 1
GENERAL PROVISIONS

Section.
6-101. Attendance requirements.
6-102. Advisory boards.

6-101. Attendance requirements.

Members who are appointed to boards, committees, and commissions by the City Council or City Manager are expected to attend as many meetings of their board, committee, or commission as possible. Members who are absent from three consecutive meetings shall be deemed to be automatically removed from their respective board, committee, or commission and a vacancy shall exist which requires appointment of a new member. Upon the occurrence of the third consecutive unexcused absence, the board, committee, or commission shall certify to the appointing authority (Council or City Manager) that three consecutive unexcused absences have occurred and that a vacancy exists requiring the appointment of a new member. The appointing authority shall then appoint a new member to fill the unexpired term of the previous member.

6-102. Advisory boards.

(1) The City Council, by resolution, may form or dissolve Advisory Boards at any time. The resolution forming the Advisory Board shall establish the length of time for the Advisory Board to exist, the number of members and their term of office. Member of the advisory board shall be appointed by the City Council. No member of the City Council shall serve as a member of an Advisory Board while serving a term of office as a member of the City Council.

(2) At the time of the Board's first meeting in January of each year, the Board shall organize by selecting from their number a Chairperson and Secretary. Advisory

Boards shall meet as often as necessary to conduct their business and perform their duties and obligations. Each Advisory Board shall elect a Chairman and Secretary, and keep minutes of its proceedings. Members shall not be paid. A majority of the Board shall constitute a quorum for the transaction of any business.

(3) The duties and obligations of an Advisory Board shall include, but not be limited to, hearing the requests of the public and City staff, to review, examine, investigate, analyze and other methods necessary to develop recommendations and propose solutions to the City Council based upon its findings of a particular project or Department of the City. An Advisory Board may request, through the office of the City Manager, the assistance of any City staff or other personnel in the performance of the Board's duties and obligations, subject to the condition that the request for assistance shall not increase personnel cost to the City.

(4) The Advisory Boards shall have no authority to act in any administrative or legislative capacity, enter into contracts, supervise or direct City employees or obligate the City in any financial matters or for any services. The Advisory Board shall only act in an advisory capacity to the Council to affect a more efficient operation of City Government.

ARTICLE 2
BOARD OF ADJUSTMENT

Section.

6-201. Appointment of members.
6-202. Organization.
6-203. Meetings.
6-204. Duties.

6-201. Appointment of members.

(1) The Council shall appoint the Board of Adjustment which shall consist of five regular members plus one additional member designated as an alternate who shall attend and serve only when one of the regular members is unable to attend for any reason.

(2) Each member of the Board shall serve a term of three years, unless reappointed, and shall be removable only for good and sufficient cause by the Council upon written charges and after a public hearing. The members of the Board shall serve without compensation and may be required, in the discretion of the Council, to give a bond in a sum set by resolution of the Council, and conditioned upon the faithful performance of their duties. One member of the Board shall be at the same time a member of the Planning Commission at all times. Upon the loss of membership on the Planning Commission, said member shall also lose his or her membership on the Board.

(3) No Member of the Council shall serve as a member of the Board. No member of the Board shall serve in the capacity of both Chairperson and Secretary of the Board.

Statutory reference: Neb. RS 19-907, 19-908.

6-202. Organization.

The Board shall organize at its first meeting in January of each year and elect from its membership a Chairperson and Secretary. It shall be the duty of the Secretary to keep complete and accurate minutes of all Board meetings and to file the same at the office of the City Clerk for examination at any reasonable time by the public. The Board shall be funded from time to time out of the General Fund by the Council.

Statutory reference: Neb. RS 19-908.

6-203. Meetings.

Meetings of the Board shall be held at such times as the Council may designate, or at such other times as the Chairperson may, in his or her discretion, call a meeting. Special meetings may be also held upon the call of any three members of the Board. A majority of the Board shall constitute a quorum for the purpose of doing business.

Statutory reference: Neb. RS 19-908.

6-204. Duties.

(1) It shall be the duty of the Board to hear and decide appeals where it is alleged that there is error in any order, requirement, decision, or determination made by a City official based on any zoning ordinance of the City; to hear and decide, in accordance with the provisions of any zoning ordinance, requests for interpretation of any map; and to authorize a variance from the strict application of any zoning ordinance if it is found that a specific piece of property, due to exceptional specifications existing at the time of passage of the said ordinance, would result in exceptional difficulties and undue hardship; provided, that no variance shall be granted if the undue hardship appears to affect the property in the district generally, or if the situation of the property concerned appears to be so general or recurring in nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Council as an ordinance.

(2) The concurring vote of four members of the Board shall be necessary to reverse any order, requirement, decision, or determination made by a City official on any matter which was governed by any City zoning ordinance. The Board shall be responsible for making such reports and performing such other duties as the Council may designate.

Statutory reference: Neb. RS 19-907 – 19-912

ARTICLE 3
BOARD OF HEALTH

Section.

6-301. Appointment of members.
6-302. Organization.
6-303. Meetings.
6-304. Duties.

6-301. Appointment of members.

The Council shall appoint a Board of Health which shall consist of five members. The members of the Board shall include the President of the Council, who shall serve as Chairperson; the Police Chief, who shall serve as Secretary and Quarantine Officer; a physician, who shall serve as the medical advisor; and two other members.

Statutory reference: Neb. RS 16-238.

6-302. Organization.

The members of the Board shall serve, without compensation, a one-year term of office, unless reappointed, and shall reorganize at the first meeting in January of each year. 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.

Statutory reference: Neb. RS 16-238.

6-303. Meetings.

The Board shall be funded by the Council from time to time out of the General Fund. A majority of the Board shall constitute a quorum for the purpose of doing business. The Board shall meet at such times as the Council may designate. Special meetings may be held upon the call of the Chairperson or any two members of the Board.

Statutory reference: Neb. RS 16-238.

6-304. Duties.

(1) It shall be the duty of the Board to enact rules and regulations, which shall have the full force and effect of law, to safeguard the health of the residents of the City. Included in the duties of the Board shall be to enforce said rules and regulations and to provide fines and punishments for any violations thereof. It may regulate, suppress, and prevent the occurrence of nuisances and shall actively enforce all laws of the state and ordinances of the City relating to matters of sanitation which affect the health and safety of the people. The Board shall regularly inspect such premises and businesses as the Council may direct.

(2) All members of the Board shall be responsible for making such reports and performing such other duties as the Council may, from time to time, designate. No member of the Board shall hold more than one Board position.

Statutory reference: Neb. RS 16-238.

ARTICLE 4
CIVIL SERVICE COMMISSION

Section.

6-401. Appointment of members.
6-402. Organization.
6-403. Meetings.
6-404. Duties.
6-405. Secretary and chief examiner.

6-401. Appointment of members.

(1) There is hereby created a Civil Service Commission which shall be composed of three persons. The members of such Commission shall be appointed by the City Manager. At the time of any appointment, not more than two Commissioners, including the one or ones to be appointed, shall be adherents of the same political party. The members of the Civil Service Commission shall serve without compensation. No person shall be appointed a member of such Commission who is not a citizen of the United States, a resident of such City for at least three years immediately preceding such appointment, and an elector of the county wherein such person resides. The term of office of such Commissioners shall be for six years.

(2) Any member of the Civil Service Commission may be removed from office for incompetency, incompatibility, dereliction of duty, malfeasance in office, or other good cause by the appointing power; provided, that no member of the Commission shall be removed until written charges have been preferred, due notice given such member, and a full hearing had before the appointing power; and provided further, that the Commissioner so removed shall have the right to appeal to the district court.

Statutory reference: Neb. RS 19-1827.

6-402. Organization.

Upon the appointment of a new Commissioner, the Commission shall organize by electing one of its members Chairperson.

Statutory reference: Neb. RS 19-1830.

6-403. Meetings.

The commission shall hold meetings as may be required for the proper discharge of its duties. It shall appoint some person as Secretary and Chief Examiner who shall keep the records of the Commission, preserve all reports made to it, superintend and keep a record of all examinations held under its direction, and perform such other duties as the Commission may prescribe.

Statutory reference: Neb. RS 19-1830.

6-404. Duties.

Said members shall carry out the provisions of the Civil Service Act of the state, Neb. RS 19-1801 et seq. Two members of such Commission shall constitute a quorum. The concurring votes of two members of such Commission shall be sufficient for the decision of all matters and the transaction of all business to be decided or transacted by the Commission.

Statutory reference: Neb. RS 19-1801 et seq.

6-405. Secretary and Chief Examiner.

The commission may merge the positions of secretary and chief examiner and appoint one person to perform the duties of both positions. If the municipality has a personnel officer, the commission shall appoint such personnel officer as secretary and chief examiner, if requested to do so by the appointing authority. The secretary and chief examiner shall be subject to suspension or discharge upon the vote of a majority of the appointed members of the commission.

Statutory reference: Neb. RS 19-1830.

ARTICLE 5
COMMUNITY REDEVELOPMENT AUTHORITY

Section.

6-501. Creation.
6-502. Definitions.
6-503. Appointment of members.
6-504. Director.
6-505. Funds.

6-501. Creation.

There is hereby created the Community Redevelopment Authority of the City which shall operate subject to the laws of the state as set forth in the Community Development Law.

Statutory reference: Neb. RS 18-2101 et seq.

6-502. Definitions.

Except as otherwise specifically provided, the definitions and terms set out in the Nebraska Statutes relating to community redevelopment authorities under the Community Redevelopment Authority Law are hereby adopted by reference as they now exist or may hereafter be amended.

Statutory reference: Neb. RS 18-2103.

6-503. Appointment of members.

Five persons, all of whom shall reside or own a business within the two-mile zoning jurisdiction of the City, shall constitute the Authority. The five members shall be appointed by the City Manager with approval of the City Council. The City Manager shall designate the term of office for each member. The Authority shall select one of its members as Chairperson and one as Vice Chairperson. A total of four members of the Authority shall constitute a quorum for the transaction of business. The Authority shall adopt rules for the transaction of its business and shall keep a record of its resolutions,

transactions, findings, and determinations, which records shall be made available for public inspection during regular business hours.

Statutory reference: Neb. RS 18-2102.01.

6-504. Director.

The Authority shall select a person to serve as the Director and ex officio Secretary of the Community Redevelopment Authority, and that person shall perform such duties as may be assigned by the Authority, including the necessary administrative functions described in Neb. RS 18-2102-01 et seq.

Statutory reference: Neb. RS 18-2102.01.

6-505. Funds.

All income, revenue, profits, and other funds received by the Authority shall be deposited with the City Treasurer as ex officio Treasurer of such Authority without commingling such money with any other money under his or her control and disbursed by check or draft only upon warrants, orders, or requisitions by the Chairperson of the Authority or other person authorized by the Authority, which shall state distinctly the purpose for which the same are drawn; and a permanent record shall be kept by the Authority of any such activity.

Statutory reference: Neb. RS 18-2102.01.

ARTICLE 6
FIREFIGHTER'S RETIREMENT COMMITTEE

Section.

6-601. Appointment of members.
6-602. Duties.

6-601. Appointment of members.

A Firefighter's Retirement Committee shall be established to supervise the general operation of the firefighter's retirement system established pursuant to Neb. RS 16-1034 et seq. The committee shall consist of six members, of which four members shall be selected by the active paid firefighters, excluding firefighters identified in Neb. RS 16-1039. Two members shall be designated by the Council. The members who are not participants in such retirement system shall have a general knowledge of retirement plans. Members of the Council of the City, active members of the Fire Department, and the general public may serve on the Committee. The Committee members shall be appointed to four-year terms. Vacancies shall be filled for the remainder of the term by a person with the same representation as his or her predecessor. Members of the Committee shall receive no salary and shall not be compensated for expenses.

Statutory reference: Neb. RS 16-1035, 16-1037.

6-602. Duties.

The general administration functions of the retirement system shall be the sole responsibility of the Committee. It shall be the duty of the Committee to:

(1) Provide each employee a summary of plan eligibility requirements and benefit provisions.

(2) Provide, within 30 days after a request is made by a participant, a statement describing the amount of benefits such participant is eligible to receive.

(3) Make available for review an annual report of the system's operations describing both the amount of contributions to the system from both employee and employer sources and an identification of the total assets of the retirement system.

(4) Have an analysis made of the investment return that has been achieved on the assets of the retirement system administered by the Committee. Such analysis shall be prepared as of January 1, 1989, and each five years thereafter. The analysis shall be prepared by an independent private organization which has demonstrated expertise to perform this type of analysis and which is unrelated to any organization offering investment advice or which provides investment management services to the retirement system.

Statutory reference: Neb. RS 16-1037, 16-1034 et seq.

ARTICLE 7
HOUSING AUTHORITY

Section.

6-701. Ownership.
6-702. Definitions.
6-703. Appointment of members.
6-704. Organization.
6-705. Meetings.
6-706. Duties.

6-701. Ownership.

The Housing Authority is owned by the City and operated through the Housing Authority Board. The Authority shall constitute a body corporate and politic and shall have all the powers necessary or convenient to carry out and effectuate the purposes and provisions of the Nebraska Housing Authority Law.

Statutory reference: Neb. RS 71-1572 et seq.

6-702. Definitions.

Except as otherwise specifically provided, the definitions and terms set out in the Nebraska Statutes relating to housing authorities under the Nebraska Housing Authority Law are hereby adopted by reference as they now exist or may hereafter be amended.

Statutory reference: Neb. RS 71-1575.

6-703. Appointment of members.

(1) The Council shall appoint five persons who shall constitute the Housing Authority and such persons shall be called the Commissioners. One Commissioner shall be appointed each year. Each Commissioner shall serve a five-year term of office commencing on January 1 and ending on December 31 five years later or until his successor is duly appointed, provided that all vacancies shall be filled for the unexpired terms. The Council may appoint one of its members to serve as one of the five members of the Authority for such term as the Council may determine.

(2) No person shall serve as a Commissioner unless he or she resides within the area of operation of that Authority. A certificate of the appointment or reappointment of any Commissioner shall be filed with the City Clerk, and such certificate shall be conclusive evidence of the proper appointment of such Commissioner. A Commissioner shall receive no compensation for his or her services, but he or she shall be entitled to the necessary expenses, including travel expenses, incurred in the discharge of his or her duties.

(3) During his or her tenure, and for one year thereafter, no Commissioner, officer, or employee of the Authority shall voluntarily acquire any interest, direct or indirect, in any project or in any property included or planned to be included in any project, or in any contract or proposed contract relating to any housing project. If any such Commissioner, officer, or employee voluntarily or involuntarily acquires any such interest, or voluntarily or involuntarily acquires any such interest prior to appointment or employment as Commissioner, officer, or employee, he or she shall immediately disclose his or her interest in writing to the Authority, and such disclosure shall be entered upon the minutes of the Authority and he or she shall not participate in any action by the Authority relating to the property or contract in which he or she has any such interest, provided that nothing herein shall apply to the acquisition of any interest in notes or bonds of the Authority issued in connection with any housing project, or to the execution of agreements by banking institutions for deposit or handling of funds in connection with a project or to act as trustee under any trust indenture, or to utility services, the rates for which are fixed or controlled by a governmental agency.

(4) The Council may remove a Commissioner for neglect of duty or misconduct in office in the manner prescribed hereinafter. The City Clerk shall send a notice of removal to such Commissioner which notice shall contain a statement containing the charges against him or her. Unless within ten days from the receipt of such notice such Commissioner files with the Clerk a request for a hearing before the Council, the Commissioner shall be deemed as removed from office.

(5) If a request for a hearing is filed with the Clerk, the Council shall hold a hearing at which the Commissioner shall have the right to appear in person or by counsel, and the Council shall determine whether the removal shall be disapproved or upheld. If the removal is disapproved, the Commissioner shall continue to hold his or her position. The Housing Authority shall keep an accurate account of all its activities and of all its receipts and disbursements and shall make a report to the Council on all such information.

Statutory reference: Neb. RS 71-1594, 71-1595,71-1596, 71-1598, 71-1599, 71-15,100, 71-15,101, 71-15,105.

6-704. Organization.

The Commissioners shall elect a Chairperson and Vice-Chairperson from among the Commissioners and shall have the power to employ an Executive Director who shall serve as ex officio Secretary of the Authority. The Authority may also employ legal counsel or it may call upon the City Attorney for such services as it may require. It may employ technical experts and such other officers, agents, and employees as it may require and shall determine their qualifications, duties, compensations, and terms of office. The Authority may delegate such other powers and duties to its agents or employees as it may deem proper.

Statutory reference: Neb. RS 71-15,106.

6-705. Meetings.

A majority of Commissioners shall constitute a quorum of the Authority for the purpose of conducting its business, exercising its powers, and for all other purposes. Action may be taken by the Authority upon the vote of the majority of the Commissioners present unless in any case the bylaws of the Authority shall require a larger number.

Statutory reference: Neb. RS 71-1595.

6-706. Duties.

(1) Operation and management. The Authority shall at all times observe the following duties with respect to rentals and tenant selection:

(a) It may rent or lease dwelling accommodations therein only to persons of low income, elderly, or handicapped persons of low income, and displaced persons in need.

(b) There shall be no discrimination in the eligibility or occupancy of tenants on the basis of race, sex, marital status, religion, color, creed, national origin, or ancestry.

(c) It shall not accept any person as a tenant in any dwelling in the housing project if the persons who occupy the dwelling have an aggregate annual income which equals or exceeds the amount which the Authority has conclusively determined to be sufficient to enable one to secure safe, sanitary, and uncongested dwelling accommodations within the area served by the Authority and to provide an adequate standard of living.

(d) It may rent or lease to a tenant a dwelling consisting of a number of rooms which is deemed necessary to provide safe and sanitary accommodations to the occupants without overcrowding.

(e) It shall fix income limits for occupancy and rents after taking into consideration:

(i) The family size, composition, age, physical handicaps, and other factors which might affect the rent-paying ability of the person.

(ii) The economic factors which affect the financial stability and solvency of the project.

(f) It may accept as a tenant any displaced person or persons in need, regardless of income, but in no event shall such person or persons remain as a tenant or tenants of

the Authority for more than a period of six months unless such persons also qualify as persons of low income, elderly, or handicapped persons of low income.

(g) All persons of low income, elderly, or handicapped persons of low income, or displaced persons in need, shall be entitled to the benefits of this section, and the Authority may establish rules and regulations consistent with the purposes of this section concerning eligibility and occupancy of the housing project or other such shelter.

(h) Nothing herein shall prohibit the right of the Authority to inquire into the financial condition, family composition, and medical, personal, and employment history of any tenant or prospective tenant.

(i) It shall prohibit subletting by tenants.

(2) Termination of tenancy. The Authority may establish from time to time rules and regulations consistent with federal and state laws and regulations and the purposes of this section concerning the termination of tenancy. Any tenant so terminated shall be sent a written notice of termination setting out the reasons for such termination and any tenant served with a notice shall be given the opportunity to contest the termination in an appropriate hearing, except that tenants who have created or maintained a threat constituting a serious and clear danger to the health or safety of other tenants or Authority employees need not be given such a hearing by the Authority. Such notice may provide that if the tenant fails to pay his or her rent or comply with any covenant or condition of his or her lease or the rules and regulations of such Authority, or cure a violation or default thereof, as the case may be, as specified in such notice, or follow the procedure for a hearing as set forth in the notice, all within the time or times set forth in such notice, the tenancy shall then be automatically terminated and no other notice or notices need be given of such termination or the intent to terminate the tenancy, and upon such termination, and without any notice other than as provided for in this section, the Authority may file suit against any tenant for recovery of possession of the premises and may recover the same as provided by law.

(3) Personal property of tenants. The Authority may establish from time to time rules and regulations consistent with the purposes of this section concerning personal property of tenants and other persons located in projects of the Authority, and if such personal property is not removed from a dwelling unit at the time of the termination of the lease, at the time of vacation or abandonment of the dwelling unit, or at the time of the death of any tenant, then the Authority may remove the same and store such property at the tenant's risk and expense. In the event that possession of such personal property is not taken by the tenant or other person authorized by law to take possession within 45 days after such termination, vacation, or abandonment, and any storage removal charges remain unpaid, then the Authority may, at its option, dispose of the personal property in any manner which the Authority deems fit, except that any proceeds from the disposal of such personal property shall be paid to the General Fund of the body which created the Authority. No tenant or other person shall have any cause of action against the Authority for such removal or disposition of such personal property.

(4) Eligibility for occupancy. The Authority may establish from time to time rules and regulations consistent with the purposes of this section concerning the priority of eligible applicants for occupancy. The Authority may give preferential treatment to applicants who are servicepersons or veterans, relatives of servicepersons or veterans,

disabled servicepersons or veterans, the elderly or disabled, and those in urgent need of adequate housing or who have no adequate source of income provided that in any such system of priority, displaced persons in need shall have a priority ahead of all other persons, and provided, further, that no tenant in good standing then in occupancy and qualified for continued occupancy shall have his or her tenancy terminated in order to provide dwelling units for classes or categories of applications as the Authority may establish.

(5) Reports. The Authority shall keep an accurate account of all its activities and of all its receipts and disbursements and shall make an annual report at the second regular meeting in January of each year to the Council. Such report shall include all mortgages and other interests in real property held by the Authority, including options to purchase and land sale contracts; a listing of all bond issues and their essential terms and obligations; and all other financial obligations of the Authority over $50,000. Such reports shall be considered public records. If there has been no change from the last report in the status of any of the items reported pursuant to this section, the Authority may file a statement to that effect in lieu of the report.

Statutory reference: Neb. RS 71-1572 et seq.

ARTICLE 8
LIBRARY BOARD

Section.

6-801. Establishment of public library.
6-802. Definitions.
6-803. Legislative findings.
6-804. Library Board; members; elected; terms; vacancies, how filled.
6-805. Organization; officers; quorum.
6-806. Bylaws, rules, and regulations.
6-807. Mortgages; release or renewal.
6-808. Funds; buildings; custody and control.
6-809. Use of library for City or school purposes; contracts.
6-810. Funds; disbursement; sinking fund; bonds.
6-811. Building sites; acquisition; procedure.
6-812. General powers and duties: discrimination prohibited.
6-813. Use and purpose.
6-814. Annual report; contents.
6-815. Penalties; action to recover; disposition of funds collected.
6-816. Donations; Library Board may accept.
6-817. Real estate; sale and conveyance; conditions; remonstrance; procedure.
6-818. Property; exemption from execution and taxation.
6-819. Private and associate libraries; deposit and use; authorized; requirements.

6-801. Establishment of public library.

The City Council shall have the power to establish a public library free of charge for the use of the inhabitants of the City.

Statutory reference: Neb. RS 51-201.

6-802. Definitions.

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

(1) Basic services shall include, but not be limited to, free loan of circulating print and nonprint materials from the local collection and general reference and information services; and

(2) Nonbasic services shall include, but not be limited to, use of:

(a) Photocopying equipment;

(b) Telephones, facsimile equipment, and other telecommunications equipment;

(c) Media equipment;

(d) Personal computers; and

(e) Videocassette recording and playing equipment.

Statutory reference: Neb. RS 51-201.01.

6-803. Legislative findings.

The Legislature finds and declares that public libraries perform services which are vitally important for the maintenance of an educated and democratic society, including, but not limited to, providing information which stimulates thought, awareness, and involvement in issues of public interest and providing avenues for intellectual and cultural growth and enjoyment. The Legislature further finds that an educated and culturally aware society is increasingly important in an economy in which Nebraskans must compete on a global scale. It is the intent of the Legislature that Nebraskans will help lead the nation into the world of the twenty-first century.

Statutory reference: Neb. RS 51-201.02.

6-804. Library Board; members; elected; terms; vacancies, how filled.

The City Council shall establish and maintain a public library and reading room under Neb. RS. 51-201 to 51-219, and shall establish a Library Board. The Library Board shall have five members. Neither the Council President/mayor nor any member of the City Council shall be a member of the Library Board. In cases of vacancies by resignation, removal, or otherwise, the City Council shall fill such vacancy for the unexpired term. No member shall receive any pay or compensation for any services rendered as a member of the board.

Library Board members shall be appointed by a majority vote of the members of the City Council. The term of the members shall be four years. If an interlocal agreement, a memorandum of understanding, or any other contractual agreement between the City and another political subdivision providing for library services allows representation from the other political subdivision on the Library Board from outside the City, the governing board of the other political subdivision may appoint one or more

members to the Library Board as provided in the interlocal agreement, memorandum of understanding, or other contractual agreement.

Statutory reference: Neb. RS 51-202.

6-805. Organization; officers; quorum.

The members of the Library Board shall immediately after their appointment meet and organize by electing from their number a president, secretary, and such other officers as may be necessary. A majority of the members of the Library Board shall constitute a quorum for the transaction of business.

Statutory reference: Neb. RS 51-204.

6-806. Bylaws, rules, and regulations.

The Library Board shall have the power to make and adopt such bylaws, rules, and regulations for its own guidance and for the government of the Library and reading room as it may deem expedient, not inconsistent with Neb. RS 51-201 to 51-219.

Statutory reference: Neb. RS 51-205

6-807. Mortgages; release or renewal.

The president shall have the power to release, upon full payment, any mortgage constituting a credit to the Library fund and standing in the name of the Library Board. The signature of the president on any such release shall be authenticated by the secretary of the board. The president and secretary in like manner, upon resolution duly passed and adopted by the board, may renew any such mortgage.

Statutory reference: Neb. RS 51-206.

6-808. Funds; buildings; custody and control.

The Library Board shall have exclusive control of expenditures, of all money collected or donated to the credit of the Library fund, of the renting and construction of any Library building, and the supervision, care and custody of the grounds, rooms or buildings constructed, leased or set apart for that purpose.

Statutory reference: Neb. RS 51-207.

6-809. Use of library for City or school purposes; contracts.

The Library Board of the City Library may contract with the City Council of any City, with the trustees of any incorporated village, with the county board of the county in which the City Library is located or of any adjacent county, or with the directors of any school district, to furnish the use and privilege of its library to the inhabitants of such city, village, county, township or school district, to the extent and upon such terms as may be agreed upon.

Statutory reference: Neb. RS 51-208.

6-810. Funds; disbursement; sinking fund; bonds.

All taxes levied or collected and all funds donated or in any way acquired for the erection, maintenance, or support of the City Library shall be kept for the use of the Library separate and apart from all other funds of the City, shall be drawn upon and paid out by the Treasurer of the City, upon vouchers signed by the president of the Library Board and authenticated by the secretary of the Board, and shall not be used or disbursed for any other purpose or in any other manner.

The City, may establish a City Library sinking fund for major capital expenditures.

Statutory reference: Neb. RS 51-209.

6-811. Building sites; acquisition; procedure.

The Library Board created under Neb RS. 51-201 to 51-219 shall have power to purchase or lease grounds, to exercise the power of eminent domain, and to condemn real estate for the purpose of securing a site for a Library building. The procedure to condemn property shall be exercised in the manner set forth in Neb. RS 76-704 to 76-724.

Statutory reference: Neb. RS 51-210.

6-812. General powers and duties: discrimination prohibited.

(1) The Library Board shall have the power to erect, lease, or occupy an appropriate building for the use of the Library and to appoint a suitable librarian and assistants, to fix their compensation, and to remove such appointees at pleasure. It shall have the power to establish rules and regulations for the government of the Library as may be deemed necessary for its preservation and to maintain its usefulness and efficiency. It shall have the power to fix and impose, by general rules, penalties and forfeitures for trespasses upon or injury to the Library grounds, rooms, books, or other property, for failure to return any book, or for violation of any bylaw, rule, or regulation and to fix and impose reasonable fees, not to exceed the Library's actual cost, for nonbasic services. The board shall have and exercise such power as may be necessary to carry out the spirit and intent of Neb. RS 51-201 to 51-219 in establishing and maintaining a the City Library and reading room.

(2) The City Library shall make its basic services available without charge to all residents of the political subdivision which supplies its tax support.

(3) No service shall be denied to any person because of race, sex, religion, age, color, national origin, ancestry, physical handicap, or marital status.

Statutory reference: Neb. RS 51-211

6-813. Use and purpose.

Except as provided in section 51-211, the City Library and reading room supported by public tax shall be forever free to the use of the inhabitants of the City maintaining the Library, subject always to such reasonable regulations as the Library Board may adopt to render the Library of the greatest use to the inhabitants of the City. The board may exclude from the use of the Library and reading rooms any person who

willfully violates or refuses to comply with rules and regulations established for the government thereof.

Statutory reference: Neb. RS 51-212.

6-814. Annual report; contents.

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

Statutory reference: Neb. RS 51-213.

6-815. Penalties; action to recover; disposition of funds collected.

Penalties imposed or accruing by any bylaw or regulation of the Library Board and any court costs and attorney's fees may be recovered in a civil action before any court having jurisdiction, such action to be instituted in the name of the Library Board of the City. Money, other than any court costs and attorney's fees, collected in such actions shall be forthwith placed in the treasury of the City, to the credit of the City Library fund. Attorney's fees collected pursuant to this section shall be placed in the treasury of the City and credited to the budget of the City.

Statutory reference: Neb. RS 51-214.

6-816. Donations; Library Board may accept.

Any person may make donation of money, lands or other property for the benefit of the City Library. The title to property so donated may be made to and shall vest in the Library Board of the Library and their successors in office, and the board shall thereby become the owners thereof in trust to the uses of the City Library of the City.

Statutory reference: Neb. RS 51-215.

6-817. Real estate; sale and conveyance; conditions; remonstrance; procedure.

The Library Board may, by resolution, direct the sale and conveyance of any real estate owned by the Library Board or by the City Library, which is not used for library purposes, or of any real estate so donated or devised to the Library Board or to the City Library upon such terms as the Library Board may deem best. Before any such sale is made the Library Board shall advertise such sale once each week for three consecutive weeks in a legal newspaper published or, if none is published, of general circulation in

the City in which the City Library is situated, and such notice shall set out the time, place, terms, manner of sale, legal description of such real estate, and the right to reject any and all bids. If such bid or bids have not been rejected, then the real estate shall be sold to the highest bidder for cash, and the chairperson of the Library Board, upon resolution of the Library Board directing him or her so to do, shall convey such real estate to the purchaser of such real estate upon his or her payment of his or her bid. If within thirty days after the third publication of such notice a remonstrance against such sale is signed by thirty percent of the registered voters of the City, voting at the last regular City election and is filed with the governing body of the City 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 thirty-day period, but the filing shall be considered timely if filed or postmarked on or before the next business day.

Statutory reference: Neb. RS 51-216

6-818. Property; exemption from execution and taxation.

The property of the City Library shall be exempt from execution and shall be exempt from taxation to the extent it is used for a public purpose.

Statutory reference: Neb. RS 51-218.

6-819. Private and associate libraries; deposit and use; authorized; requirements.

The Library Board shall have power to authorize any circulating library, reading matter, or work of art belonging to any private person, association or corporation, to be deposited in the City Library rooms, to be drawn or used outside of the rooms only on payment of such fee or membership as the person, corporation or association owning the same may require. Deposits may be removed by the owner thereof at pleasure, but the books or other reading matter so deposited in the rooms of the City Library shall be separately and distinctly marked and kept upon shelves apart from the books of the City Library. Every such private or associate library or other property so deposited in the City Library, while so placed or remaining, shall, without charge, be subject to use and reading within the City Library room by any person who is an inhabitant of the City and entitled to the use of the free Library.

Statutory reference: Neb. RS 51-219.

ARTICLE 9
PLANNING COMMISSION

Section.

6-901. Appointment of members.
6-902. Organization.
6-903. Meetings.
6-904. Duties.

6-901. Appointment of members.

(1) The Planning Commission shall consist of nine regular members who shall represent, insofar as is possible, the different professions or occupations in the City and shall be appointed by the Mayor, by and with the approval of a majority vote of the members elected to the City Council. Two of the regular members may be residents of the area over which the City is authorized to exercise extraterritorial zoning and subdivision regulation. When there is a sufficient number of residents in the area over which the City exercises extraterritorial zoning and subdivision regulation, one regular member of the Commission shall be a resident from such area. If it is determined by the City Council that a sufficient number of residents reside in the area subject to extraterritorial zoning and subdivision regulation, and no such resident is a regular member of the Commission, the first available vacancy on the Commission shall be filled by the appointment of such an individual. For purposes of this section, a sufficient number of residents shall mean 1,000 residents.

(2) The term of each regular member shall be three years, except that three regular members of the first Commission shall serve for terms of one year, three for terms of two years, and three for terms of three years. All regular members shall hold office until their successors are appointed. Any member may, after a public hearing before the City Council, be removed by the Mayor, with the consent of a majority vote of the members elected to the City Council, for inefficiency, neglect of duty, or malfeasance in office, or other good and sufficient cause. Vacancies occurring otherwise than through the expiration of term shall be filled for the unexpired portion of the term by the Mayor.

(3) The Mayor, with the approval of a majority vote of the other elected members of the City Council, shall appoint one alternate member to the Commission. The alternate member shall serve without compensation and shall hold no other City office. The term of the alternate member shall be three years, and he or she shall hold office until his or 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.

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

Statutory reference: Neb. RS 19-927

6-902. Organization.

The Commission shall elect its Chairperson and a Secretary from its members and create and fill such other of its offices as it may determine. The term of the

Chairperson and the Secretary shall be one year, and they shall be eligible for reelection. No member of the Commission shall serve in the capacity of both the Chairperson and Secretary of the Commission.

Statutory reference: Neb. RS 19-927

6-903. Meetings.

(1) The Commission shall hold at least one regular meeting in each calendar quarter, except the City Council may require the Commission to meet more frequently and the Chairperson of the Commission may call for a meeting when necessary to deal with business pending before the Commission. Special meetings may also be held upon the call of any three members of the Commission. The Commission shall adopt rules and regulations for the transaction of business and shall keep a record of its resolutions, transactions, findings, and determinations, which shall be a public record.

(2) The Commission shall be funded by the City Council from time to time out of the general fund. The expenditures of the Commission, exclusive of gifts, shall be within the amounts appropriated for that purpose by the City Council; and no expenditures nor agreements for expenditures shall be valid in excess of such amounts. A number of Commissioners equal to a majority of the number of regular members appointed to the Commission shall constitute a quorum for the transaction of any business.

(3) It shall be the duty of the Secretary to keep the full and correct minutes and records of all meetings and to file them with the City Clerk where they shall be available for public inspection during office hours.

Statutory reference: Neb. RS 19-927

6-904. Duties.

(1) The Commission shall make and adopt plans for the physical development of the City, including any areas outside its boundaries which, in the Commission's judgment, bear relation to the planning of the City, and shall carry out the other duties and exercise the powers specified in Neb. RS 19-929. All actions by the Commission shall be subject to the review and supervision of the Mayor and City Council.

(2) The Commission shall make its recommendations to the City Council so that they are received by the City Council within the number of days designated by the City Council after the Commission begins consideration of a matter relating to the comprehensive development plan, capital improvements, building codes, subdivision development, the annexation of territory, or zoning. The Commission shall be responsible for making such reports and performing such other duties as the City Council may, from time to time, designate.

Statutory reference: Neb. RS 19-927

ARTICLE 10
POLICE OFFICER'S RETIREMENT COMMITTEE

Section.
6-1001. Appointment of members.
6-1002. Duties.

6-1001. Appointment of members.

A Police Officer's Retirement Committee shall be established to supervise the general operation of the Police Officers retirement system established pursuant to Neb. RS 16-1001 et seq. Each Committee established shall consist of members from both the Police Force and designees of the Council. The Committee shall consist of six members, of which four members shall be selected by the officers from the police force of the City. Election of police officers shall be by secret ballot. Results of the election shall be certified to the City Clerk by the police force. The remaining two members shall be appointed by the Council. The members who are not participants in such retirement system shall have a general knowledge of retirement plans. Members of the Council of the City may serve on the Committee. The Committee members shall be appointed for four-year terms. Vacancies shall be filled for the remainder of the term by a person with the same representation as his or her predecessor. Members of the Committee shall receive no salary and shall not be compensated for expenses.

Statutory reference: Neb. RS 16-1015.

6-1002. Duties.

The general administration functions of the retirement system shall be the sole responsibility of the Committee. It shall be the duty of the Committee to:

(1) Provide each employee a summary of plan eligibility requirements and benefit provisions.

(2) Provide, within 30 days after a request is made by a participant, a statement describing the amount of benefits such participant is eligible to receive.

(3) Make available for review an annual report of the system's operations describing both the amount of contributions to the system from both employee and employer sources and an identification of the total assets of the retirement system.

(4) Have an analysis made of the investment return that has been achieved on the assets of the retirement system administered by the Committee. Such analysis shall be prepared as of January 1, 1989, and each five years thereafter. The analysis shall be prepared by an independent private organization which has demonstrated expertise to perform this type of analysis and which is unrelated to any organization offering investment advice or which provides investment management services to the retirement system.

Statutory reference: Neb. RS 16-1017, 16-1001 et seq.

ARTICLE 11
TREE BOARD

Section.
6-1101. Appointment of members.

6-1102. Organization.
6-1103. Meetings.
6-1104. Duties.

6-1101. Appointment of members.

(1) There is hereby created and established a City Tree Board for this City which shall consist of seven citizens residing within the zoning jurisdiction of the City who shall be appointed by the Council.

(2) The term of the seven persons to be appointed by the Council shall be three years, except that the term of two of the members appointed to the first Board shall be for only one year and the term of two members of the first Board shall be for two years. In the event that a vacancy shall occur during the term of any member, his or her successor shall be appointed for the unexpired portion of the term. Members of the City Tree Board shall serve without compensation.

6-1102. Organization.

The Board shall organize at its first meeting in January of each year and elect from its membership a Chairperson and Secretary. It shall be the duty of the Secretary to keep complete and accurate minutes of all Board meetings and to file the same at the office of the City Clerk for examination at any reasonable time by the public. The Board shall be funded from time to time out of the General Fund by the Council.

6-1103. Meetings.

Meetings of the Board shall be held at such times as the Council may designate, or at such other times as the Chairperson may, in his or her discretion, call a meeting. Special meetings may be also held upon the call of any three members of the Board. A majority of the Board shall constitute a quorum for the purpose of doing business.

6-1104. Duties.

(1) It shall be the responsibility of the City Tree Board to study, investigate, counsel, and develop a written plan for the care, preservation, trimming, planting, replanting, removal, or disposition of trees and shrubs in public ways, streets, and alleys. Further, said plan shall set forth, with specificity, street tree species recommended by the Board to be planted, along with recommendations for spacing, the distance trees may be planted from curbs or curblines and sidewalks, and the distance trees may be planted from street corners and fireplugs and restrictions concerning planting around utilities. Such plan shall be presented to the Council within 90 days from the date of the initial appointment of members to the Board and upon its acceptance and approval by the Council shall constitute the official comprehensive City Tree Plan for the City.

(2) The Board shall review annually and update, if needed, the comprehensive City Tree Plan, which shall be submitted to the Council for its review and approval. The Board shall prepare and present an annual work plan to the Council for its acceptance and approval.

(3) The Board, when requested by the Council, shall consider, investigate, make findings, and report and recommend upon any special matter of question coming within

the scope of its work.

(4) The Board shall further have the duties and authority as set forth in Chapter 41 of this code.

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

Statutory reference: Neb. RS 16-207, 16-248.

CHAPTER 7
BUILDING REGULATIONS

Article.
1. Adoption of Codes by Reference.
2. Building Permits.
3. Electrical Installation.
4. Gas Installations and Permits.
5. Plumbing and Appliance Installations and Permits.
6. Unsafe Buildings.
7. Penalty.

ARTICLE 1
ADOPTION OF CODES BY REFERENCE

Section.
7-101. Adoption of building code.
7-102. Adoption of plumbing code.
7-103. Adoption of electrical code.
7-104. Adoption of life safety code.

7-101. Adoption of building code.

To provide certain minimum standards, provisions, and requirements for safe and stable design, methods of construction, and uses of materials in buildings hereafter erected, constructed, enlarged, altered, repaired, relocated, and converted, the 2009 edition of the International Building Code, as printed in book or pamphlet form, is hereby incorporated by reference in addition to all amendments as though printed in full herein. All prior ordinances of the City in conflict herewith shall be and are hereby repealed. One copy of the current edition of the International Building Code is on file at the office of the City Clerk and is available for public inspection during regular business hours.

Statutory reference: Neb. RS 18-132, 19-902, 19-922.

7-102. Adoption of plumbing code.

To provide certain minimum standards, provisions, and requirements for safe and stable installation, methods of connection, and uses of materials in the installation of plumbing and heating, the 2012 edition of the Uniform Plumbing Code, published by the International Association of Plumbing and Mechanical Officials, as printed in book or pamphlet form, is hereby incorporated by reference in addition to all amended editions as though printed in full herein insofar as said code does not conflict with the statutes of this state. One copy of the plumbing code is on file at the office of the City Clerk and is available for public inspection at any reasonable time. The provisions of the plumbing code shall be controlling throughout the City and throughout its zoning jurisdiction.

Statutory reference: Neb. RS 18-132, 19-902, 19-922.

7-103. Adoption of electrical code.

To provide certain minimum standards, provisions, and requirements for safe and fireproof installation, methods of connection, and uses of materials in the installation of electrical wiring and appliances, the National Electrical Code, as adopted by to the State Electrical Act, Neb. RS §81-2101, et seq, as recommended by the National Fire Protection Association and published by the National Board of Fire Underwriters, as printed in book or pamphlet form, in addition to all amended editions, is hereby incorporated by reference as though printed in full herein insofar as said code does not conflict with the statutes of the state. One copy of the electrical code is on file at the office of the City Clerk and is available for public inspection during regular business hours.

Statutory reference: Neb. RS 18-132, 19-902, 19-922, 81-2101 et seq.

7-104. Adoption of life safety code.

The National Fire Protection Association Life Safety Code, No. 101, 2000 Edition, as printed in book or pamphlet form, is hereby adopted and incorporated by reference as though printed in full herein.

Statutory reference: Neb RS 18-132, 81-502.

ARTICLE 2
BUILDING PERMITS

Section.

7-201. Building permits; fees.
7-202. Building moving permits; fees.

7-201. Building permits; fees.

(1) Any person desiring to commence or proceed to erect, construct, repair, relocate, or demolish any structure requiring a building permit under this municipal code or cause the same to be done shall file with the City Clerk an application therefore in writing on a form to be furnished by the City Clerk for that purpose.

(2) 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.

(3) The application, plans, and specifications so filed with the City Clerk shall be checked and examined by the Planning and Zoning Administrator or his or her authorized assistant, and if they are found to be in conformity with the requirements of this chapter and all other ordinances applicable thereto, said officials shall authorize the City Clerk to issue the permit. The provisions contained herein shall govern.

(4) The Clerk shall, at the time of the filing of any application for the issuance of any building permit, charge and collect in advance a fee for said permit. The amount of the fee shall be set by resolution of the Council and a copy of the fee schedule shall be

kept and made available in the office of the City Clerk. The fee shall be credited to the General Fund for the purpose of defraying administrative costs of the application.

Statutory reference: Neb. RS 16-233, 16-234.

7-202. Building moving permits; fees.

(1) Permit required.

(a) It shall be unlawful for any person, firm, or corporation to move any building or structure requiring a building permit within the City's zoning jurisdiction without a written permit to do so. Application may be made to the City Clerk, and shall include present and future location of the building to be moved, the proposed route, the equipment to be used, and such other information as the Council may require.

(b) The application shall be accompanied by a certificate issued by the County Treasurer to the effect that all the provisions regulating the moving of buildings have been complied with on the part of the owner of the real estate upon which the building is presently located.

(c) The City Clerk shall refer the application to the City police for approval of the proposed route over which the building is to be moved.

(d) Upon approval of the Council, the City Clerk shall then issue the permit, provided that a good and sufficient corporate surety bond, check, or cash in an amount set by motion of the Council and conditioned upon moving said building without doing damage to any private or City property is filed with the City Clerk prior to the granting of any permit.

(e) Whenever the moving of any building necessitates interference with a water main, sewer main, pipes, or wire belonging to the City, notice in writing of the time and route of the building moving operation shall be given to the various City officials in charge of the City utility departments who shall proceed on behalf of the City and at the expense of the mover to make such disconnections and do such work as is necessary.

(f) All applications for a permit shall be accompanied by a permit fee set by resolution of the Council and on file at the office of the City Clerk for each day during which said building is to be moved. The City Treasurer shall credit the fee to the General Fund.

(g) No permit shall be granted to move buildings at will or generally within the City, and no permit shall be issued unless the written consent of 80% of the residential property owners residing within 300 feet of the outer boundaries of the lot to which the building is proposed to be moved are received by the Clerk.

(h) All buildings shall be made to conform to the existing type of structure in the area, and shall be ready for use and occupancy within 180 days from the permit date.

(i) The provisions of this code shall not apply to the moving of a mobile home as defined in 26-101 of the Municipal Code. All provisions herein shall relate to any structure, within the City's zoning jurisdiction, whether moved over public ways of the City or not, and whether or not such moving interferes with any gas main, sewer main, water main, pole, or wire on said public ways or private property.

(2) Deposit.

(a) At such time as the building moving has been completed, the City police shall inspect the premises and report to the City Manager as to the extent of damages, if any,

resulting from the said relocation and whether any provisions of the municipal code have been violated during the said operation.

(b) Upon a satisfactory report from the City police, the City Clerk shall return the corporate surety bond, cash, or check deposited by the applicant. In the event the basement, foundation, or portion thereof is not properly filled, covered, or in a clean and sanitary condition, the City Manager may apply the money deposited for the purpose of defraying the expense of correcting said conditions.

(c) If the expense of correcting the hazardous condition is greater than the amount of the deposit set by resolution of the Council, as required herein, the Council may recover such excess expense by civil suit or otherwise as prescribed by law.

Statutory reference: Neb. RS 16-210, 60-6,228 – 60-6,299.

ARTICLE 3
ELECTRICAL INSTALLATIONS

Section.
7-301. Electrical installations.

7-301. Electrical installations.

All installation of electrical apparatus and electrical construction, including new wiring, the addition of a new circuit or circuits, and the installation or change of the service entrance, and all electrical inspections, within the City of Ogallala shall be governed by the Nebraska State Electrical Act.

Statutory Reference: Neb.RS 81-2101 et seq.

ARTICLE 4
GAS INSTALLATIONS AND PERMITS

Section.
7-401. Gas installation permits; fees.
7-402. Gas installation certificates of approval; fees.

7-401. Gas installation permits; fees.

(1) Permit required. No installation of natural gas or liquid propane gas piping or fittings shall be made without first obtaining from the City Clerk a written permit. For each permit issued by the City Clerk, the Clerk shall charge a permit fee as set by resolution of the Council and on file at the office of the Clerk. Said fee shall then be credited to the General Fund.

(2) Application. Application shall be made to the City Clerk for a written permit to do gas fitting work. Along with said application, the applicant shall submit a plan of installation for approval. The plan shall then be submitted to the Gas Inspector for his or her approval, and if the same complies in all respects with this code the Gas Inspector shall endorse his or her approval thereon. (The Gas Inspector shall be appointed by the City Manager, but in the event of the failure by the City Manager to

appoint a Gas Inspector, the Building Inspector shall be the Gas Inspector ex officio.) The Clerk, upon said approval, shall then issue the Gas Installation Permit. No gas construction shall begin until said permit is granted and issued.

7-402. Gas installation certificates of approval; fees.

No gas fitting shall be used until inspected by the Gas Inspector or his or her authorized assistant and a certificate of approval or completion is issued by the Gas Inspector. Upon completion of the installation of any gas work, the licensed gas fitter installing the same shall notify the Gas Inspector or his or her authorized assistant who shall inspect such plumbing and installation thereof, and if all the provisions of this code have been complied with, then the Gas Inspector shall issue a certificate of approval which shall certify that such gas installation work has been done in accordance with the provisions of this code. The Gas Inspector shall make and keep a record of all inspections, giving the location, the date, the name of the licensed gas fitter doing the work, for whom installed, and a general description of the inspection. For each inspection, the City Clerk shall charge and collect from the record owner of a premise a fee set by resolution of the Council and on file at the office of the City Clerk.

ARTICLE 5
PLUMBING INSTALLATIONS AND PERMITS

Section.

7-501. Plumbing and appliance installation permits; fees
7-502. Plumbing certificates of approval; fees

7-501. Plumbing and appliance installation permits; fees

(1) Permit; fees.

(a) No installation of plumbing fixtures or any other plumbing construction shall be done, except as otherwise hereinafter specifically provided, without first obtaining from the City Clerk a permit to do so. Every such applicant shall pay for each permit issued at the time of issuance in accordance with a written schedule and at a rate provided for each classification shown thereon. The schedule rates shall be set by the Council and be on file at the office of the Clerk. Any person who shall commence any plumbing work for which a permit is required by this chapter without first having obtained a permit therefore shall, if subsequently permitted to obtain a permit, pay double the permit fee fixed by the Council for such work; provided, however, that this provision shall not apply to emergency work when it shall be proven to the satisfaction of the City Manager that such work was urgently necessary and that it was not practical to obtain a permit therefore before the commencement of the work. In all cases, a permit must be obtained as soon as it is practical to do so, and if there is an unreasonable delay in obtaining such permit, a double fee as herein provided shall be charged.

(b) No permit shall be issued to any person to do or cause to be done any plumbing or drainage work regulated by this chapter, except to a person holding a valid, unexpired, and unrevoked plumbing contractor's certificate of qualification or registration except when and as otherwise hereinafter provided.

(c) A permit may be issued to any properly licensed person not acting in violation of any current state or City contractor licensing law for the installation, alteration, or repair of water piping, water treatment equipment, private sewage disposal systems, and building sewers connecting thereto.

(d) A permit may be issued to a person who does not possess a plumbing contractor certificate of qualification or registration from the City under the following conditions:

(i) The plumbing permit will be issued for a single project.

(ii) The applicant shall produce a copy of a current license from another community or state stating that the applicant has been engaged in the business of a plumbing contractor for a period of at least one year and is currently in good standing regarding the license.

(iii) The applicant shall file a bond in an amount required for a licensed plumbing contractor licensed with the City of Ogallala.

(e) A permit required by this chapter may be issued to any unlicensed person to do any plumbing or drainage work regulated by this chapter in a single-family dwelling used exclusively for living purposes, including the usual accessory buildings and quarters in connection with such buildings, in the event that any such person is the bona fide owner of any such dwelling and accessory buildings and quarters, and that the same are occupied by or designated to be occupied by said owner; provided, that said owner shall personally perform all labor in connection therewith, and no such permit shall be issued to a homeowner who has obtained a like permit during the past two years, except on good cause shown and upon official action by the Mayor and City Council of the City. Appliance dealers or employees must have an appliance dealer permit to connect appliances to existing sewer and water lines. No such connection shall be made to any water or sewer line not installed in accordance with this code. Any connection requiring additional waste or water piping shall be installed by a licensed plumber. All such installations by appliance dealers shall be subject to inspection. A fee set by resolution of the Council shall be charged for such permit.

(f) No plumbing contractor shall allow any other person to do or cause to be done any work under a permit secured by said contractor except persons in his or her employ or Journeyman Plumbers who are licensed by the City.

(2) Application. Application shall be made to the City Clerk for a written permit to do plumbing work as defined in the Uniform Plumbing Code. Before requesting the issuance of any such construction permit from the City Clerk, the applicant shall submit to the Plumbing Inspector a plan thereof, and if the same complies in all respects with this code, the Plumbing Inspector shall endorse his or her approval thereon, whereupon the City Clerk shall issue the plumbing construction permit. No plumbing construction shall be begun until said permit is granted and issued.

7-502. Plumbing certificates of approval; fees

No plumbing shall be used until inspected by the Plumbing Inspector or his or her authorized assistant and a certificate of approval or completion is issued by the Plumbing Inspector. Upon completion of the installation of any plumbing work, the licensed plumber installing the same shall notify the Plumbing Inspector or his or her authorized assistant who shall inspect such plumbing and installation, and if all the

provisions of this code have been complied with, then the Plumbing Inspector shall issue a certificate of approval which shall certify that such plumbing work has been installed in accordance with the provisions of this code. The Plumbing Inspector shall make and keep a record of all inspections, giving the location, the date, the name of the licensed plumber doing the work, for whom installed, and a general description of the inspection. For each inspection, the City Clerk shall charge and collect from the record owner of the premises a fee set by resolution of the Council and kept on file at the office of the City Clerk.

ARTICLE 6
UNSAFE BUILDINGS

Section.

7-601. Definitions; nuisance declared.
7-602. Prohibition on unsafe buildings.
7-603. Determination and notice.
7-604. Hearing and appeal.
7-605. Emergency repair or demolition.
7-606. Special assessments.

7-601. Definitions; nuisance declared.

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

(1) Unsafe building shall mean any building, shed, fence, or other man-made structure:

(a) 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;

(b) Which because of faulty construction, age, lack of proper repair, or any other cause is especially liable to fire and constitutes or creates a fire hazard; or

(c) 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.

(2) Any such unsafe building in the City is hereby declared to be a nuisance.

Statutory reference: Neb. RS 18-1729, 18-1722, 18-1722.01

7-602. Prohibition on unsafe buildings.

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.

Statutory reference: Neb. RS 18-1720.

7-603. Determination and notice.

(1) Whenever the Building Inspector, the Fire Official, the Health Official, or the

Council shall be of the opinion that any building or structure in the City is an unsafe building, he or she shall file a written statement to this effect with the City Clerk.

(2) The Clerk shall thereupon cause the property to be posted accordingly, shall file a copy of such determination in the office of the County Register of Deeds, and shall serve written notice upon the owner thereof and upon the occupant thereof if any, by certified mail or by personal service. Such notice shall state that the building has been declared to be in an unsafe condition, that such dangerous condition must be removed or remedied by repairing or altering the building or by demolishing it, that the condition must be remedied within 60 days from the date of receipt; and that appeal of this determination may be made to the 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 a hearing.

(3) Such notice may be in the following terms:

To (owner-occupant of premises) of the premises known and described as (legal description).

You are hereby notified that (describe building) on the premises above-mentioned has been determined to be an unsafe building and a nuisance after inspection by (title of City official). The causes for this decision are (facts as to the dangerous condition).

You must remedy this condition or demolish the building within sixty (60) days from the date of receipt of this notice or the City will proceed to do so. Appeal of this determination may be made to the Council, acting as the Board of Appeals, by filing with the City Clerk within ten (10) days from the date of receipt of this notice a request for a hearing.

(4) If the Clerk is unsuccessful in serving written notice upon the owner thereof, and upon the occupant thereof, if any, by certified mail or by personal service, then the Clerk shall obtain notice by publication in a newspaper of general circulation in the City and such notice of hearing shall be published for two consecutive weeks. Such notice by publication may be in the following terms:

To (owner-occupant of premises) of the premises known and described as (legal description).

You are hereby notified that (describe building) on the premises above-mentioned has been determined to be an unsafe building and a nuisance after inspection by (title of City official). The causes for this decision are (facts as to the dangerous condition).

You must remedy this condition or demolish the building within sixty (60) days from the date of receipt of this notice or the City will proceed to do so. Appeal of this determination may be made to the Council, acting as the Board of Appeals, by filing with the City Clerk within ten (10) days from the date of publication of this notice a request for a hearing.

(5) If the person receiving the notice has not complied therewith and has not taken an appeal within the time allowed by this section, the Building Inspector may, upon orders of the Council, proceed to remedy the condition or demolish the unsafe building.

Statutory reference: Neb. RS 18-1720.

7-604. Hearing and appeal.

(1) 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 Council, sitting as the Board of Appeals, to present reasons why the building should not be repaired or demolished.

(2) The Council shall grant such hearing within ten days from the date of receiving the request. A written notice of the Council's decision following the hearing shall be sent to the property owner by certified mail. If the Council rejects the appeal, the owner shall have 60 days from the sending of the decision to begin repair or demolition and removal.

(3) If after the 60-day period the owner has not begun work, the Council shall proceed to cause such work to be done, provided that the property owner may appeal such decision to the appropriate court for adjudication during which proceedings the decision of the Council shall be stayed.

Statutory reference: Neb. RS 18-1720.

7-605. Emergency repair or demolition.

Where any unsafe building or structure poses an immediate danger to the health, safety, or general welfare of any person or persons, and the owner fails to remedy the situation in a reasonable time after notice by the Building Inspector to do so, the City may summarily repair or demolish and remove such building or structure.

Statutory reference: Neb. RS 18-1720.

7-606. Special assessments

(1) In case the owner of any building or structure shall fail, neglect, or refuse to comply with notice by or on behalf of the City to repair, rehabilitate, or demolish and remove a building or structure which is unsafe and a public nuisance, the City may proceed with the work specified in the notice to the property owner. A statement of the cost of such work shall be transmitted to the Council.

(2) The City Council may do either of the following:

(a) Levy the cost as a special assessment against the lot or real estate upon which the building or structure is located. Such special assessment shall be a lien on the real estate and shall be collected in the manner provided for special assessments.

(b) Collect the cost from the owner or the building or structure and enforce the collection by civil action in any court of competent jurisdiction.

Statutory reference: Neb. RS 18-1720, 77-1725.01

ARTICLE 7
PENALTY

Section.

7-701. Penalty.

7-701. Penalty.

(1) Penalty amounts. Any person who violates any of the prohibitions or provisions of any section of this chapter shall be deemed guilty of a misdemeanor. Unless otherwise specified in this chapter or by statute, the penalty for such violation shall be in any amount not to exceed $1,000, in the discretion of the court; and; provided, whenever any section of this chapter shall declare a nuisance, a violation of that section shall be penalized by a fine of not more than $1,000, in which case a new violation shall be deemed to have been committed every 24 hours of such failure to comply.

(2) Abatement of nuisance.

(a) Whenever a nuisance exists as defined in this chapter, the City may proceed by a suit in equity to enjoin and abate the same, in the manner provided by law.

(b) Whenever in any action it is established that a nuisance exits, the court may, together with the fine or penalty imposed, enter an order of abatement as a part of the judgment in the case.

(3) Restitution. The court may, together with the fine or penalty imposed, enter an order of restitution as part of the judgment in the case.

Statutory reference: Neb. RS 16-225, 16-240, 16-246, 18-1720

CHAPTER 8
CEMETERY

Article.
1. General Provisions.
2. Cemetery Manager.
3. Penalty.

ARTICLE 1
GENERAL PROVISIONS

Section.
8-101. Operation and funding.
8-102. Perpetual care fund.

8-101. Operation and funding.

The City owns and manages the City Cemetery. The Council, by resolution, shall adopt rules and regulations, a copy of which shall be maintained at the City Clerk's office, for the care, management, maintenance, and beautification of the Cemetery. The Council, for the purpose of defraying the cost of the care, management, maintenance, and beautification of the Cemetery, may each year levy a tax not exceeding the maximum limit prescribed by state law on the taxable value of all taxable property within the City. The revenue from the said tax shall be known as the Ogallala Cemetery General Fund and shall include all gifts, grants, deeds of conveyance, bequests, money, stocks, bonds, or other valuable income-producing personal property and real estate from any source for the purpose of endowing the Cemetery. The Ogallala Cemetery General Fund shall at all times be in the custody of the City Treasurer.

Statutory reference: Neb. RS 16-241 – 16-246

8-102. Perpetual care fund.

(1) The City of Ogallala shall set aside:

(a) The Perpetual Care Fee assessed on all lot sales;

(b) The Perpetual Care Fee assessed on all grave open/close, excluding disinterment;

(c) Survey to locate lot fee; and,

(d) Monument Setting Fee, as established by resolution, as a perpetual fund to be invested as provided by ordinance, and the income therefrom shall be used for the care, ornamentation or maintenance of such lots or the Cemetery in general. The City of Ogallala may invest monies from sources other than those described above, as it deems necessary and appropriate to increase the amount of the perpetual fund.

(2) The City of Ogallala may receive money by donation, bequest or otherwise to be held in trust in perpetuity to be invested as provided by ordinance or conditioned by the donor, and the income therefrom shall be used for the care, ornamentation, and maintenance of such property as the donor may designate.

(3) All funds received for the benefit of the perpetual fund shall be invested in certificates of deposit with financial institutions designated by the City as depositories of City funds.

(4) The City Treasurer shall be the custodian of such funds.

Statutory reference: Neb. RS 12-509 – 12-512.08.

ARTICLE 2
CEMETERY MANAGER

Section.
8-201. Cemetery Manager.

8-201. Cemetery Manager.

The Cemetery Manager, under the direction of the City Manager shall be responsible for the enforcement of the rules and regulations and for the care, management, maintenance, and beautification of the Cemetery. It shall be the duty of the Cemetery Manager upon receiving a burial permit to locate and direct the party named in the permit to the lot mentioned therein and to dig and excavate, or cause the same to be dug or excavated, in compliance with the rules and regulations of the Cemetery.

Statutory reference: Neb. RS 12-403

ARTICLE 3
PENALTY

Section.
8-301. Penalty.

8-301. Penalty.

(1) Penalty amounts. Any person who violates any of the prohibitions or provisions of any section of this chapter shall be deemed guilty of a misdemeanor. Unless otherwise specified in this chapter or by statute, the penalty for such violation shall be in any amount not to exceed $1,000, in the discretion of the court; and; provided, whenever any section of this chapter shall declare a nuisance, a violation of that section shall be penalized by a fine of not more than $1,000, in which case a new violation shall be deemed to have been committed every 24 hours of such failure to comply.

(2) Abatement of nuisance.

(a) Whenever a nuisance exists as defined in this chapter, the City may proceed by a suit in equity to enjoin and abate the same, in the manner provided by law.

(b) Whenever in any action it is established that a nuisance exits, the court may, together with the fine or penalty imposed, enter an order of abatement as a part of the judgment in the case.

(3) Restitution. The court may, together with the fine or penalty imposed, enter an

order of restitution as part of the judgment in the case.

Statutory reference: Neb. RS 16-225, 16-240, 16-246, 18-1720

CHAPTER 9
CITY

Article.
1. General Provisions.

ARTICLE 1
GENERAL PROVISIONS

Section.
9-101. Corporate existence.
9-102. City seal.
9-103. Powers of City.
9-104. Service of process.

9-101. Corporate existence.

The City of Ogallala, Nebraska, is hereby found and declared to be a City of more than 5,000 persons. The City shall be governed by the laws of Nebraska regulating cities of the First Class.

Statutory reference: Neb. RS 16-101.

9-102. City seal.

The official Corporate Seal of the City shall be kept in the office of the City Clerk, and shall bear the following inscription: "City of Ogallala, Corporate Seal, Keith County, Nebraska, Incorporated November 25, 1884." The City Clerk shall affix an impression of the said official seal to all warrants, licenses, permits, ordinances, and all other official papers issued by order of the Council and countersigned by the City Clerk.

Statutory reference: Neb. RS 16-115.

9-103. Powers of City.

The City is a body corporate and politic. It shall have the power to:

(1) Sue and be sued.

(2) Purchase, lease, and lease with option to buy.

(3) Acquire property by gift or devise.

(4) Hold real and personal property within or without the limits of the City, and real estate sold for taxes for the use of the City in such manner and upon such terms and conditions as may be deemed in the best interest of the City.

(5) Sell and convey, exchange, or lease any real or personal property owned by the City, including park land, in such manner and upon such terms and conditions as may be deemed in the best interests of the City; provided, however, that real estate owned by the City may be conveyed without consideration to the State of Nebraska or to the Nebraska Armory Board for state armory sites, or if acquired for state armory sites, shall be conveyed in the manner strictly as provided in Neb. RS 18-1001 through 18-1006.

(6) Make all contracts and do all other acts in relation to the property and concerns of the City necessary in the exercise of its corporate powers.

(7) Exercise such other and further powers as may be conferred by law.

Statutory reference: Neb. RS 16-201.

9-104. Service of process.

All process affecting the City may be served by personal, residence, or certified mail service upon the President of the Council or the Clerk.

Statutory reference: Neb. RS 25-510.02 (2).

CHAPTER 10
CITY CODE OF ORDINANCE

Article.
1. General Provisions.
2. Penalty.

ARTICLE 1
GENERAL PROVISIONS

Section.
10-101. Title of code.
10-102. Interpretation.
10-103. Application to future ordinances.
10-104. Codification of ordinance.
10-105. Captions.
10-106. Definitions.
10-107. Rules of interpretation.
10-108 Severability.
10-109. Reference to other sections.
10-110. Reference to offices.
10-111. Errors and omissions.
10-112. Official time.
10-113. Reasonable time.
10-114. Ordinances repealed.
10-115. Ordinances unaffected.
10-116. Repeal or modification of ordinance.
10-117. Statutory references; historical reference.
10-118. Supplementation of code of ordinances.

10-101. Title of code.

This codification of ordinances by and for the City of Ogallala, Nebraska, shall be designated as the Code of Ogallala and may be so cited.

10-102. Interpretation.

Unless otherwise provided herein, or by law or implication required, the same rules of construction, definition, and application shall govern the interpretation of this code as those governing the interpretation of state law.

10-103. Application to future ordinances.

All provisions of Title I compatible with future legislation shall apply to ordinances hereafter adopted amending or supplementing this code unless otherwise specifically provided.

10-104. Codification of ordinance.

The City shall have the power to revise the ordinances of the City from time to time and publish the same in pamphlet or book form. The revision shall be evidenced by a general codification ordinance which shall repeal all other ordinances in conflict and embrace as the governing law of the City all provisions therein. All ordinances in force at the time of codification shall continue in force for the purpose of all rights acquired, fines, penalties, forfeitures, and liabilities incurred and actions therefore.

Statutory reference: Neb. RS 16-247.

10-105. Captions.

Headings and captions used in this code other than the title, chapter, and section numbers are employed for reference purposes only and shall not be deemed a part of the text of any section.

10-106. Definitions.

(1) General rule. Words and phrases shall be taken in their plain, or ordinary and usual sense. However, technical words and phrases having a peculiar and appropriate meaning in law shall be understood according to their technical import.

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

(a) City, municipal, corporation, or municipality shall mean the City of Ogallala, Nebraska.

(b) City Council, Council or governing body shall mean the President and City Council of the City.

(c) City Police shall mean any police officer of the City.

(d) Code, this code or code of ordinance shall mean this City code as modified by amendment, revision, and adoption of new titles, chapters, or sections.

(e) County shall mean Keith County, Nebraska.

(f) Manager shall mean the City Manager for the City.

(g) May shall mean the act referred to is permissive.

(h) Month shall mean calendar month.

(i) Oath shall mean an affirmation in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the words swear and sworn shall be equivalent to the words affirm and affirmed.

(j) Officer, office, employee, commission, or department shall mean an officer, office, employee, commission, or department of this City, unless the context clearly requires otherwise.

(k) Person shall include bodies politic and corporate, societies, communities, the public generally, individuals, partnerships, limited liability companies, joint-stock companies, and associations.

(l) Preceding or following shall mean next before or next after, respectively.

(m) President shall mean the president of the City Council of the City.

(n) Shall shall mean the act referred to is mandatory.

(o) Signature or subscription shall include a mark when the person cannot write.

(p) State shall mean the State of Nebraska.

(q) Subchapter shall mean a division of a chapter, designated in this code by a heading in the chapter analysis and a capitalized heading in the body of the chapter, setting apart a group of sections related by the subject matter of the heading. Not all chapters have subchapters.

(r) Wholesale dealer or seller of a product at wholesale shall mean a manufacturer of any product who sells the said product to other persons for the purpose of future resale to consumers.

(s) Written shall mean any representation of words, letters, or figures, whether by printing or otherwise.

(t) Year shall mean calendar year, unless otherwise expressed.

Statutory reference: Neb. RS 49-801 (16)

10-107. Rules of interpretation.

The construction of all ordinances of this City shall be by the following rules, unless such construction is plainly repugnant to the intent of the Mayor and City Council or of the context of the same ordinance:

(1) And or or. Either conjunction shall include the other as if written “and/or,” if the sense requires it.

(2) Acts by assistants. When a statute or ordinance requires an act to be done which, by law, an agent or deputy as well may do as the principal, such requisition shall be satisfied by the performance of such act by an authorized agent or deputy.

(3) Gender; singular and plural; tenses. Words denoting the masculine gender shall be deemed to include the feminine and neuter genders; words in the singular shall include the plural, and words in the plural shall include the singular; the use of a verb in the present tense shall include the future, if applicable.

(4) General term. A general term following specific enumeration of terms is not to be limited to the class enumerated unless expressly so limited.

10-108 Severability.

If any provision of this code as now or later amended or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions that can be given effect without the invalid provision or application.

10-109. Reference to other sections.

Whenever in one section reference is made to another section hereof, such reference shall extend and apply to the section referred to as subsequently amended, revised, recodified, or renumbered unless the subject matter is materially altered by the amendment or revision.

10-110. Reference to offices.

Reference to a public office or officer shall be deemed to apply to any office, officer, or employee of this City exercising the powers, duties, or functions contemplated in the provision, irrespective of any transfer of functions or change in the official title of the functionary.

10-111. Errors and omissions.

If a manifest error is discovered, consisting of the misspelling of any words; the omission of any word or words necessary to express the intention of the provisions affected; the use of a word or words to which no meaning can be attached; or the use of a word or words when another word or words was clearly intended to express such intent, such spelling shall be corrected and such word or words supplied, omitted, or substituted as will conform with the manifest intention, and the provisions shall have the same effect as though the correct words were contained in the text as originally published. No alteration shall be made or permitted if any question exists regarding the nature or extent of such error.

10-112. Official time.

Whenever words fixing or importing time or the hour of the day are used in this code, they shall be construed to mean Mountain Standard Time or Mountain Daylight Savings Time, whichever is applicable.

10-113. Reasonable time.

(1) In all cases where an ordinance requires an act to be done in a reasonable time or requires reasonable notice to be given, reasonable time or notice shall be deemed to mean the time which is necessary for a prompt performance of such act or the giving of such notice.

(2) The time within which an act is to be done, as herein provided, shall be computed by excluding the first day and including the last. If the last day is Sunday, it shall be excluded.

10-114. Ordinances repealed.

(1) This code, from and after its effective date, shall contain all of the provisions of a general or permanent nature pertaining to the subjects herein enumerated and embraced.

(2) All prior ordinances of a general and permanent nature pertaining to the subjects treated by this code shall be deemed repealed from and after the effective date of this code, provided that in construing the provisions of this section, the following ordinances shall not be considered or held to be ordinances of a general or permanent nature:

(a) Ordinances vacating streets and alleys.

(b) Ordinances authorizing or directing public improvements to be made.

(c) Ordinances levying taxes or special assessments.

(d) Ordinances granting any right, privilege, franchise, or license to persons, firms, or corporations.

(e) Ordinances providing for the issuance of bonds or other instruments of indebtedness.

(f) Ordinances establishing grades.

(g) Real estate transactions.

(h) Any other ordinance which by nature would be considered special.

10-115. Ordinances unaffected.

All ordinances of a temporary or special nature and all other ordinances pertaining to subjects not embraced in this code shall remain in full force and effect unless herein repealed expressly or by necessary implication.

10-116. Repeal or modification of ordinance.

(1) Whenever any ordinance or part of an ordinance shall be repealed or modified by a subsequent ordinance, the ordinance or part of an ordinance thus repealed or modified shall continue in force until the publication of the ordinance repealing or modifying it to give effect thereto.

(2) No suit, proceedings, right, liability, fine, forfeiture, or penalty instituted, created, given, secured, or accrued under any ordinance previous to its repeal shall in any way be affected, released, or discharged, but may be prosecuted, enjoyed, and recovered as fully as if the ordinance had continued in force unless it is otherwise expressly provided.

(3) When any ordinance repealing a former ordinance, clause, or provision is itself repealed, the repeal shall not be construed to revive the former ordinance, clause, or provision, unless it is expressly provided.

10-117. Statutory references; historical reference.

(1) A statutory cite set forth as a “statutory reference” following the text of the section indicates that the reader should refer to that statute for further information. Example:

(2) A historical cite set forth as a “historical reference” following the text of the section indicates the specific number and passage date of the original ordinance, and the most recent three amending ordinances, if any, are listed.

10-118. Supplementation of code of ordinances.

(1) Discretion. When preparing a supplement to this municipal code, the codifier (that is, the person, agency, or organization authorized to prepare the supplement) may make formal nonsubstantive changes in ordinances and parts of ordinances included in the supplement as necessary to embody them into a unified code. For example, the codifier may:

(a) Organize the ordinance material into appropriate sections and subdivisions;

(b) Provide appropriate catchlines, headings, and titles for sections and other subdivisions of the ordinance printed in the supplement and make changes in such catchlines, headings, and titles;

(c) Assign appropriate numbers to sections and other subdivisions to be inserted in the code and, where necessary to accommodate new material, change existing section or other subdivision numbers;

(d) Change the words “this ordinance” or words of the same meaning to “this chapter,” “this article,” “this section,” and the like, as may be appropriate, or to “sections to” (inserting section numbers to indicate the sections of the code which embody the substantive sections of the ordinance incorporated into the code);

(e) Insert appropriate section numbers in references to code sections such as “section” or “sections to” which are not filled in prior to adoption of an ordinance;

(f) Correct the spelling of words, correct obvious typographical errors, correct erroneous division and hyphenation of words, capitalize or decapitalize words, and make other similar changes in accordance with accepted usage or for consistency with other provisions of the code;

(g) Change terminology for consistency with terminology used in other provisions of the code; and

(h) Make other nonsubstantive changes necessary to incorporate ordinance material into the code while preserving the original meaning of the ordinance sections.

(2) Prohibition. In no case shall the codifier make any change in the meaning or effect of ordinance material included in the supplement or already embodied in the code and not repealed by any ordinance.

ARTICLE 2
PENALTY

Section.

10-201. Penalty.

10-201. Penalty.

Any person, or that person's agents or servants, who shall violate any of the provisions of this municipal code, unless otherwise specifically provided herein, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding $1,000. Whoever aids, abets, procures, encourages, requests, advises, or incites another to commit any act which is an offense under this code or under any other ordinance of the City may be prosecuted and punished as though he or she were the principal offender.

CHAPTER 11
CITY COUNCIL

Article.
1. General Provisions.

ARTICLE 1
GENERAL PROVISIONS

Section.
11-101. Powers.
11-102. Composition; terms of office.
11-103. Qualifications; other offices; conflicts of interest.
11-104. Vacancies.
11-105. Compensation.
11-106. Organization.
11-107. President of Council/Mayor.

11-101. Powers.

The governing body of the City shall be the City Council, which shall exercise all the powers which have been or may be conferred upon the City by the Constitution and laws of the state, except as herein otherwise provided.

Statutory reference: Neb. RS 19-611.

11-102. Composition; terms of office.

The City shall be governed by five Council Members. Council Members shall be elected from the City at large and shall serve for a term of four years or until their successors are elected and have qualified.

Statutory reference: Neb. RS 19-612, 32-538

11-103. Qualifications; other offices; conflicts of interest.

(1) Members of the City Council shall be residents and registered voters of the City. The Mayor and members of the City Council shall hold no other elective or appointive office or employment with the City. Any Council Member who ceases to possess any of the qualifications required by this subsection or who has been convicted of a crime while in office shall forthwith forfeit such office.

(2) For purposes of this section, 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 high elective office means a member of the Legislature, an elective office described in Article IV, section 1 or 20, or Article VII, section 3 or 10, of the Constitution of Nebraska, or a county, city, or school district elective office.

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

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

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

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

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

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

Statutory reference: Neb. RS 16-305, 16-311, 19-613, 70-624.04

11-104. Vacancies.

(1) Every elective office shall be vacant upon the happening of any of the events specified in Neb. RS 32-560 and any other reasons provided by law.

(2) In addition to the events listed in paragraph (1) above and any other reasons for a vacancy provided by law, after notice and a hearing, a vacancy on the City Council shall exist if a member is absent from more than five consecutive regular meetings of the Council unless the absences are excused by a majority vote of the remaining members.

(a) The City Council shall take a vote on whether to excuse a member's absence from a meeting upon either: a written request from the members submitted to the City

Clerk; or, a motion of any other Council member.

(b) If a Council member has been absent from more than five consecutive regular meetings and none of the absences have been excused by a majority vote of the remaining members, the City Clerk shall include this as an item on the agenda for the next regular meeting. At that meeting, the Council shall set a date for a hearing and direct the City Clerk to give the member notice of the hearing by personal service or first-class mail to the member's last known address.

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

(3) If a vacancy occurs in the office of the Council Member, a successor Council Member shall be elected at the next regular City election to serve for the remainder of the term, except that a majority of the remaining members of the Council shall appoint a registered voter to serve as Council Member until the successor is so elected and has qualified. If the Council Members are elected by ward, the Council Member elected or appointed to fill the vacancy shall be a registered voter of the ward in which the vacancy exists. If for any reason the seats of a majority of the Council become vacant, the Secretary of State shall conduct a special election to fill the vacancies for the unexpired portion of each term. A vacancy in any office to which the Council elects shall be filled by the Council for the unexpired term.

(4) Except as otherwise provided in division (3) or (6) of this section, vacancies in City elected offices shall be filled by the Mayor and City Council for the balance of the unexpired term. Notice of a vacancy, except a vacancy resulting from the death of the incumbent, shall be in writing and presented to the Council at a regular or special meeting and shall appear as a part of the minutes of such meeting. The Council shall at once give public notice of the vacancy by causing to be published in a newspaper of general circulation within the City or by posting in three public places in the City the office vacated and the length of the unexpired term.

(5) The Mayor shall call a special meeting of the Council or place the issue of filling such vacancy on the agenda at the next regular meeting at which time the Mayor shall submit the name of a qualified registered voter to fill the vacancy for the balance of the unexpired term. The regular or special meeting shall occur upon the death of the incumbent or within four weeks after the meeting at which such notice of vacancy has been presented. The Council shall vote upon such nominee, and if a majority votes in favor of such nominee, the vacancy shall be declared filled. If the nominee fails to receive a majority of the votes, the nomination shall be rejected and the Mayor shall, at the next regular or special meeting, submit the name of another qualified registered voter to fill the vacancy. If the subsequent nominee fails to receive a majority of the votes, the Mayor shall continue at such meeting to submit the names of qualified registered voters in nomination and the Council shall continue to vote upon such nominations at such meeting until the vacancy is filled. The Mayor shall cast his or her vote for or against the nominee in the case of a tie vote of the Council. All Council members present shall cast a ballot for or against the nominee. Any member of the City Council who has been appointed to fill a vacancy on the Council shall have the same rights, including voting, as if such person were elected.

(6) The Mayor and Council may, in lieu of filling a vacancy in a City elected office as provided in divisions (3) through (5) of this section, call a special City election to fill such vacancy.

(7) If vacancies exist in the offices of a majority of the members of the City Council, the Secretary of State shall conduct a special election to fill the vacancies.

(8) 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 or her removal or the removal of any other member of the same governing body during the remainder of his or her term of office.

Statutory reference: Neb. RS 19-3101, 32-560, 32-568(7), 32-569, 32-1308(5).

11-105. Compensation.

The annual compensation of the President of the Council and Council Members shall be payable quarterly in equal installments, and shall be fixed by the Council. The emoluments of any appointive or elective officer shall not be increased or diminished during the term for which such officer was elected or appointed, except that when there are officers elected or appointed to the Council, or a board or commission having more than one member, and the terms of one or more members commence and end at different times, the compensation of all members of such Council, board, or commission may be increased or diminished at the beginning of the full term of any member thereof. No person who shall have resigned or vacated any office shall be eligible to the same during the time for which such person was elected or appointed when, during the same time, the emoluments have been increased. For each absence from regular meetings of the Council, unless authorized by a two-thirds vote of all members thereof, there shall be deducted a sum equal to 2% of such annual salary.

Statutory reference: Neb. RS 19-616, 19-620.

11-106. Organization.

At the first regular meeting in December, following the general election in every even numbered year, the Council shall meet in the usual place for holding meetings and the newly elected Council members shall assume the duties of their office, and the Council shall elect one of its members as President, who shall be ex officio Mayor, and another as Vice President, who shall serve in the absence of the President. Thereafter, the Council shall meet at such time and place as it may be prescribed by Ordinance, but not less frequently than twice each month. In the absence of the President and the Vice President, the Council may elect a temporary Chairperson.

Statutory reference: Neb. RS 19-615, 19-617.

11-107. President of Council/Mayor.

The President shall preside over the Council, and have a voice and vote in its proceedings but no veto. He or she shall be recognized as the official head of the City for all ceremonial purposes. In addition, he or she shall exercise such other powers and perform such duties, not inconsistent with the provisions of the City Manager Plan, as

are conferred upon the Mayor of the City.

Statutory reference: Neb. RS 19-617.

CHAPTER 12
CITY OFFICERS AND PERSONNEL

Article.
1. General Provisions.
2. Officers.
3. Personnel.

ARTICLE 1
GENERAL PROVISIONS

Section.
12-101. Appointment, administration, and investigation by Council
12-102. Departments, offices, and compensation
12-103. Merger of offices

12-101. Appointment, administration, and investigation by Council

(1) The Council shall choose a City Manager and a City Clerk, but no Member of the Council shall be chosen as City Manager. Neither the Council nor any of its committees or Members shall dictate the appointment of any person to office or employment by the City Manager, or in any manner seek to prevent him or her from exercising his or her own judgment in the appointment of officers and employees in the administrative service.

(2) Except for the purpose of inquiry, the Council and its Members shall deal with the administrative service solely through the City Manager, and neither the Council nor any Member thereof shall give orders to any of the subordinates of the City Manager, either publicly or privately.

(3) The Council, or a committee thereof, may investigate the affairs of any department or the official acts and conduct of any City officer. It shall have power to administer oaths and compel the attendance of witnesses and the production of books and papers, and may punish for contempt any person failing to obey its subpoena or refusing to testify. No person shall be excused from testifying, but his or her testimony shall not be used against him or her in any criminal proceeding other than for perjury.

Statutory reference: Neb. RS 19-618.

12-102. Departments, offices, and compensation

The Council shall have authority, subject to the provisions of the City Manager Plan, to create and discontinue departments, offices, and employments and by ordinance or resolution to prescribe, limit, or change the compensation of such officers and employees; provided, however, nothing herein contained shall be construed as to interfere with or to affect the office or powers of city school or school district officers, or of any officer named in the State Constitution.

Statutory reference: Neb. RS 19-620.

12-103. Merger of offices

(1) The City Council, at its discretion, may by ordinance combine and merge any elective or appointive office or employment, except that of Council Member, with any other elective or appointive office or employment so that one or more of such offices or employments may be held by the same officer or employee at the same time.

(2) The City Manager may in his or her discretion combine and merge any elective or appointive offices or employment or any combination of duties of any such offices or employments, except Mayor and Council Member, with any other elective or appointive office or employment so that one or more of such offices or employments may be held by the same officer or employee at the same time. The offices or employments so merged and combined shall always be construed to be separate and the effect of the combination or merger shall be limited to a consolidation of official duties only.

(3) The salary or compensation of the officer or employee holding the merged or combined offices or employments or offices and employments shall not be in excess of the maximum amount provided by law for the salary or compensation of the office, offices, employment, or employments so merged and combined.

Statutory reference: Neb. RS 16-305.

ARTICLE 2
OFFICERS

Section.

12-201. Building Inspector
12-202. City Attorney
12-203. City Clerk
12-204. City Manager.
12-205. City Physician
12-206. City Treasurer
12-207. Fire Chief and Assistant Fire Chief
12-208. Planning & Zoning Administrator
12-209. Plumbing Inspector
12-210. Police Chief
12-211. Public Works Director
12-212. Special Engineer
12-213. Street Superintendent
12-214. Wastewater Superintendent
12-215. Water Superintendent

12-201. Building Inspector

(1) The Building Inspector shall be appointed by the City Manager for an indefinite period of time, and is hereby authorized and directed to enforce all the provisions of the municipal code pertaining to building construction and repair. For such purpose, he or she shall have the powers of the City Police.

(2) In accordance with his or her duties and upon presentation of proper credentials, the Building Inspector, or his or her duly authorized representative, may enter at all reasonable times any building, structure, or premises to perform any duty imposed upon him or her by any building code, electrical code, or plumbing code duly adopted by reference in the municipal code, or any provision of the municipal code.

(3) Whenever any building or construction work is being done contrary to the provisions of said codes, it shall be the duty of the Building Inspector to order the work stopped by notice in writing served on any persons engaged in doing or causing the work to be done. Any such person shall immediately stop or cause to be stopped said work until authorization is received from the Building Inspector to continue the work.

(4) When any structure is in a dangerous condition or the building is being used contrary to the provisions of the laws of the City, the Building Inspector may order such use discontinued or the structure or portion thereof in violation vacated.

(5) The Building Inspector, acting in good faith and without malice in the discharge of the duties of office, shall not thereby render himself or herself personally liable and is hereby relieved from all personal liability for any damage that may accrue to persons or property as the result of any act or omission in the discharge of his or her duties.

(6) The Building Inspector may request, and shall receive so far as may be necessary in the discharge of his or her duties, the assistance and cooperation of other officials of the City.

(7) The Inspector shall have such additional duties and make such reports as the City Manager may prescribe from time to time.

Statutory reference: Neb. RS 16-246.

12-202. City Attorney

(1) The City Attorney shall be designated by the City Manager for an indefinite period of time, and shall be the legal advisor of the Council, City Manager, and City officers. The City Attorney 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 City Manager or the Council. He or she shall attend meetings of the Council and give them his or her opinion upon any matter submitted to him or her either orally or in writing as may be required. He or she shall draw all ordinances, contracts, and other documents requested by the Manager or Council.

(2) The City Manager shall have the right to pay the City Attorney additional compensation for legal services performed by him or her for the City or to employ additional legal assistance and to pay for such legal assistance out of the funds of the City.

Statutory reference: Neb. RS 16-319.

12-203. City Clerk

(1) The Council shall appoint the City Clerk, who shall be responsible to the City Manager. It shall be the duty of the City Clerk to attend every meeting of the Council and keep a record of the proceedings thereof. Whenever required by the President of

the Council or the City Manager, or requested by two Members of the Council, he or she shall deliver a notice to the Members of the Council of any special meeting thereof, and shall notify any and all committees of the Council of the business entrusted to them.

(2) The Clerk shall keep and carefully preserve all papers and books which may come into his or her possession as Clerk, filing and arranging them in a manner convenient for reference.

(3) The Clerk shall keep all orders for money or warrants for the payment of money, and shall enter the same in numerical order in a book to be kept for that purpose. The Clerk shall also make at the end of each month a report showing the amount appropriated to each fund, and the whole amount of warrants drawn thereon.

(4) The Clerk shall also keep a record of all outstanding bonds against the City, showing the number and amount of each, for and to whom said bonds were issued; and when any bonds are purchased, paid, or canceled, said record shall show the fact. In the annual report he or she shall describe particularly the bonds issued and sold during the year, and the terms of the sale, with every item of expense thereof.

(5) The Clerk shall keep a register of all licenses granted and the purpose for which they were issued, and report to the Council at every meeting. At the beginning of each month, he or she shall, if required by the City Council, furnish the Police Department with a true copy of the register of all licenses then in force. He or she shall issue licenses and collect license fees connected therewith as provided by the laws of the state or the City.

(6) Within 30 days after any meeting of the Council, the Clerk shall prepare and publish the proceedings of any such meeting in a legal newspaper. Such publication shall set forth a statement of the proceedings thereof and shall also include the amount of each claim allowed, the purpose of the claim, and the name of the claimant, except that the aggregate amount of all payroll claims may be included as one item, in a newspaper of general circulation in the City. Between July 15 and August 15 of each year, the employee job titles of all employees and their current annual, monthly, or hourly salaries corresponding to such job titles shall be published. The charge for said publication shall not exceed the rates provided by law. The publication charge shall be paid and allowed as other claims against the General Fund.

(7) Wherever the Clerk is required to issue licenses, occupation tax receipts, or permits, the City Clerk shall collect the amount required to be paid by the applicant.

(8) The Clerk shall have such additional duties as may be prescribed by the Council or the City Manager and shall receive such salary as prescribed by the Council.

Statutory reference: Neb. RS 16-317 and 19-1102.

12-204. City Manager

(1) The Chief Executive Officer of the City shall be the City Manager, who shall be responsible for the proper administration of all affairs of the City. He or she shall be chosen by the City Council, solely on the basis of administrative qualifications, and need not be a resident of the City or state when appointed. He or she shall hold office at the pleasure of the Council, and shall receive such salary as the Council shall fix by ordinance.

(2) During the absence or disability of the City Manager, the Council shall

designate some properly qualified person to perform the duties of the office.

(3) The powers and duties of the City Manager shall be as follows:

(a) See that the laws and ordinances are enforced.

(b) Appoint and remove all heads of departments and all subordinate officers and employees in the departments in both the classified and unclassified service, which appointments shall be based upon merit and fitness alone, and in the classified service all appointments and removals shall be subject to the civil service requirements.

(c) Exercise control over all departments and divisions thereof that may be created by the Council.

(d) Attend all meetings of the Council with the right to take part in the discussion, but not to vote.

(e) Recommend to the Council for adoption such measures as he or she may deem necessary or expedient.

(f) Prepare the annual budget and keep the Council fully advised as to the financial condition and needs of the City.

(g) Be and assume the duties of the Public Works Director, Street Superintendent, Water Superintendent, and Sewer Superintendent ex officio of the City.

(g) Act as Personnel Director for the City.

(i) Act as Purchasing Officer for the City.

(j) Perform such other duties as may be required of him or her by ordinance or resolution of the Council.

(4) The City Manager may at any time investigate the affairs of any department or the conduct of any officer or employee. He or she, or any person appointed by him or her for that purpose, shall have the same power to compel attendance of witnesses and the production of books and papers and other evidence and to punish for contempt which has herein been conferred upon the Council in this chapter.

(5) Before taking office, the City Manager shall file with the City Clerk a surety company bond, conditioned upon the honest and faithful performance of his or her duties, in such sum as shall be fixed by the Council pursuant to this chapter. The premium of this bond shall be paid by the City.

Statutory reference: Neb. RS 19-645, 19-646, 19-647, 19-648.

12-205. City Physician

The City Physician shall be designated by the City Manager and shall be a physician who resides permanently in the City. He or she shall be a member of the Board of Health of the City and shall be its medical adviser. He or she shall perform such other duties of a medical and healthful nature as shall be assigned to him or her from time to time by the City Manager. He or she shall receive no compensation as a member of the Board of Health nor any salary as City Physician, but shall be allowed compensation for services so assigned to him or her and rendered the City at the usual rates prevailing in the City for such services.

Statutory reference: Neb. RS 16-238.

12-206. City Treasurer

(1) The Treasurer of the City shall be appointed by the City Manager for an indefinite period of time and shall be custodian of and receive all money belonging to the City. He or she shall keep a separate account of each fund or appropriation, and the debts and credits belonging thereto.

(2) He or she shall, at the end of every month, and as often as may be requested, render an account to the City Manager or City Council, under oath, showing the state of the Treasury at the date of such account, the amount of money remaining in each fund and the amount paid therefrom, and the balance of money in the Treasury. He or she shall accompany such account with a statement of all receipts and disbursements, together with all warrants retained and paid by him or her, which warrants, with all vouchers held by him or her, shall be filed with his or her account in the Clerk's office. He or she shall produce and show all funds shown by such report to be on hand, or satisfy the City Manager that he or she has such funds in his or her custody or under his or her control.

(3) If said Treasurer neglects or fails for the space of ten days from the end of every month to render his or her account, his or her office may be declared vacant by the City Manager, and the Manager shall appoint some person to fill the vacancy. The Treasurer shall keep his or her books and accounts in such a manner as the Manager shall prescribe and shall keep a daily cashbook.

(4) All of the books and accounts of the Treasurer shall always be subject to inspection by the Manager, Members of the Council, and such other persons as they may designate. The Treasurer shall perform such other duties as are required of him or her by the City Manager, the ordinances of the City, and the statutes of the state.

(5) The Treasurer shall keep all money in his or her hands belonging to the City separate and distinct from his or her own money; and he or she is hereby expressly prohibited from using, either directly or indirectly, the corporation money or warrants in his or her custody and keeping same for his or her own use and benefit or that of any other person whomsoever.

(6) Any violation of this subsection shall subject the Treasurer to immediate removal from office by the City Manager, who may declare such office vacant. The Manager shall then appoint a successor to hold said office.

(7) The Treasurer shall give every person paying money into the Treasury and his or her office a receipt therefore, which shall show the source from which such funds are derived, and shall, by distinct lines and columns, show the amount received to the credit of each separate fund, and whether same was paid in cash, in warrants, or otherwise, one of which copies the Treasurer shall deliver to the person making such payment and the other he or she shall retain in his or her office and file such copy with his or her monthly reports.

(8) The Treasurer shall daily, as moneys are received, foot the several columns of his or her cashbook and of his or her register, and carry the amounts forward, and at the close of each year, in case the amount of money received by the Treasurer is insufficient to pay the warrants registered, he or she shall close the account for that year in such register and shall carry forward the excess.

(a) Any Treasurer who shall fail regularly to enter upon his or her cashbook the amounts so received, or who shall fail to keep his or her cashbook footed from day to day for the space of three days, shall forfeit for each offense the sum of $100, to be

recovered in a civil action on his or her official bond by any person holding a warrant drawn on such Treasurer, one-half to the person bringing such action, and one-half to the school fund of the county.

(b) The cashbook, register, and retained receipts of the Treasurer shall at all times be open to the inspection of any person in whose name any warrants are registered and unpaid.

(9) It shall be the duty of the Treasurer to prepare and publish semi-annually, within 60 days following the close of the second quarter and the fourth quarter of the City fiscal year, a statement of the receipts and expenditures by funds of the City for the preceding two fiscal quarters. It shall also be the duty of the Treasurer to prepare and publish annually, within 60 days following the close of the City fiscal year, a statement of the receipts and expenditures by funds of the City for the preceding fiscal year. Not more than the legal rate shall be charged and paid for such publication. Such publication shall be made in one legal newspaper of general circulation in the City. Any Treasurer failing or neglecting to prepare and publish such statement of receipts and expenditures shall be deemed guilty of a misdemeanor and shall, upon conviction, be fined not to exceed $25, and may be removed from office for such failure or neglect or otherwise disciplined by the City Manager.

(10) The Treasurer shall keep a warrant register which shall show in columns arranged for that purpose the number, date, and amount of each warrant presented and registered, 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 notice to the person in whose name such warrant is registered as herein provided.

(a) On presentation of a warrant for payment to the Treasurer when there are not sufficient moneys on hand to the credit of the proper fund to pay the same, it shall be the duty of the Treasurer to enter such warrant in his or her warrant register for payment in the order of its presentation and he or she shall endorse on the warrant the words “registered for payment” with the date of registration and shall sign such endorsement, whereupon the warrant shall draw interest at the rate fixed by the City Council, which rate shall be endorsed on the warrant, until notice of payment shall be given the registered owner.

(b) The Treasurer shall neither directly nor indirectly contract for or purchase any City warrant at any discount whatever upon the sum due on such warrant or order, and if he or she shall so contract for or purchase any such order or warrant, he or she shall not be allowed in settlement the amount of such order or warrant, or any part thereof, and shall also forfeit the whole amount due on such order or warrant.

Statutory reference: Neb. RS 16-318, 16-712 – 16-722, 19-1101 – 19-1104, 77-2209 et seq.

12-207. Fire Chief and Assistant Fire Chief

(1) Fire Chief.

(a) The Chief of the Fire Department shall be a volunteer position elected by the general membership of the Ogallala Volunteer Fire Department, subject to approval of the City Manager for an indefinite period of time.

(b) He or she shall enforce all laws and ordinances covering the prevention of fires; the storage and use of explosives and flammable substances; the installation of fire alarm systems; the maintenance of fire extinguishing equipment; the regulation of fire escapes; and the inspection of all premises requiring adequate fire escapes.

(c) He or she shall within two days investigate the cause, origin, and circumstances of fires arising within his or her jurisdiction.

(d) He or she shall, on or before April 1 and October 1 of each year, cause the Secretary to file with the City Clerk and the Clerk of the District Court a certified copy of the rolls of all members in good standing in their respective companies in order to obtain the exemptions provided by law.

(e) He or she shall report at such other times as the City Manager may require. He or she shall have the power during the time of a fire and for a period of 36 hours thereafter to arrest any suspected arsonist, or any person for hindering the Department's efforts, conducting himself or herself in a noisy and disorderly manner, or who shall refuse to obey any lawful order by the Fire Chief.

(f) The Fire Chief at a fire may command the services of any person present at any fire to assist in extinguishing the same or in the removal, and protection of property. Failure to obey such an order shall constitute a misdemeanor.

(g) The Fire Chief shall have the right to enter at all reasonable hours into buildings and upon all premises within his or her jurisdiction for the purpose of examining the same for fire hazards and related dangers.

(2) Assistant Fire Chief. The Assistant Fire Chief shall be appointed and be subject to removal by the Fire Chief subject to approval of the City Manager at any time. The duties of the Assistant Fire Chief shall be to assist the Fire Chief in the discharge of his or her official duties and to assume the position of Acting Fire Chief in the absence of the regular Fire Chief. As acting Fire Chief, the Assistant Fire Chief shall have all powers, duties, and responsibilities given to the Fire Chief by the municipal code of the City and the laws of the state.

Statutory reference: Neb. RS 16-222, 16-308, 16-309, 19-618, 19-1835, 35-102, 81-506, 81-512, 81-522, 81-531.

12-208. Planning & Zoning Administrator

The Planning & Zoning Administrator shall be appointed by the City Manager for an indefinite period of time and shall enforce the various provisions of the municipal code that relate to zoning. He or she shall act in an advisory capacity to the Planning Commission and the Zoning Board of Adjustment.

Statutory reference: Neb. RS 16-308, 19-618.

12-209. Plumbing Inspector

The City Plumbing Inspector shall be appointed by the City Manager for an indefinite period of time, and shall enforce all laws relating to the installation of plumbing and connections thereto. When acting in good faith and without malice in the scope of his or her official duties, the Plumbing Inspector shall not himself or herself be held personally liable for any damage that may accrue to persons or property as a result of

any act required by him or her or by reason of any act or omission in the discharge of his or her duties. The Plumbing Inspector shall, in the discharge of his or her official duties, and upon proper identification, have authority to enter into any building, structure, or premises at any reasonable hour. The Plumbing Inspector shall perform such other duties and issue any permits that the City Manager may direct.

Statutory reference: Neb. RS 16-246, 16-308, 19-618, 18-1901 et seq.

12-210. Police Chief

(1) The Chief of Police shall be appointed by the City Manager for an indefinite period of time, subject to the Civil Service Commission requirements, and shall have the immediate supervision of the police force.

(2) He or she and the police officers shall have the power, and it shall be their duty, to arrest all offenders against the laws of state or of the City, by day or by night, in the same manner as a sheriff or constable, and keep them in the City prison or other place to prevent their escape, until a trial or examination may be had before the proper officer; and they shall have the same power as a sheriff and constable in relation to all criminal matters arising out of a violation of the municipal code or City ordinance and all process issued by the county court in connection with a violation of a City law.

(3) They shall arrest and detain any person found violating any law of the state or any law of the City until a legal warrant can be obtained. Each member of the City Police Department shall have the duties of becoming well informed as to the laws of the state and laws of the City, of enforcing such laws, of wearing at all times the badge, uniform, and insignia furnished by the City for the police and of properly caring for same, and such further duties as shall be assigned to them by the City Manager or Chief of Police and as are otherwise provided by law.

(4) The Chief of Police shall have custody of all City property used by the City police; shall execute the orders of the Manager; shall be a member of the Board of Health and the Secretary and Quarantine Officer thereof; shall have charge of traffic control on the City streets; shall make and file or cause to be made and filed complaints for violations of the ordinances of the City with the City Attorney; shall have charge of the City jail and the prisoners therein; and shall perform such other duties as are assigned to or required of him or her by the Manager or otherwise provided by law.

12-211. Public works director.

(1) The Public Works Director may be appointed by the City Manager for an indefinite period of time, and shall report to the City Manager. The Public Works Director shall perform complex supervisory, administrative and professional work in planning, organizing, directing, and supervising the Public Works Department, including water, sewer, street, park, cemetery and other public works projects and programs.

(2) The duties and responsibilities of the Public Works Director shall be as follows:

(a) Supervise department superintendents and department support staff, either directly or through subordinates.

(b) Review and standardize department policies and procedures to improve efficiency and effectiveness of operations.

(c) Prepare composite reports from individual reports of subordinates.

(d) Prepare and document budget requests; administer adopted budgets in assigned area of responsibility.

(e) Plan, organize, coordinate, supervise and evaluate programs, plans, services, staffing, equipment and infrastructure of the public works department.

(f) Evaluate public works needs and formulate short and long range plans to meet needs in all areas of responsibility, including street, water, sewer, drainage, light, and park maintenance.

(g) Supervise the preparation of engineering plans and specifications, bidding, competency of contractors and vendors, and the selection criteria for public contracts.

(h) Supervise project management for the construction of the municipal public works projects and assigned projects to ensure contractor compliance with time and budget parameters for the project.

(i) Coordinate the preparation of reviews and updates the sanitary sewer, water, storm drainage, and street system maps, data base, and comprehensive plans.

(j) Supervise the maintenance of infrastructure and other records.

(k) Respond to public or other inquiries relative to department policies and procedures. See O, below

(l) Maintain regular contact with consulting engineers, construction project engineers, City, County, State and Federal agencies, professional and technical groups and the general public regarding division activities and services.

(m) Monitor inter-governmental actions affecting public works.

(n) To perform all other duties as requested by the City Manager.

(o) Evaluate issues and options regarding municipal public works department and make recommendations for improvement of the municipal public works department.

Statutory reference: Neb. RS 19-618.

12-212. Special Engineer

The City Manager may, whenever he or she deems it expedient, employ a Special Engineer to make or assist in making any particular estimate or survey. Any such estimate or survey shall have the same validity and serve in all respects as though the same had been made by the City Engineer.

Statutory reference: Neb. RS 16-322.

12-213. Street Superintendent

(1) The Street Superintendent shall be appointed by the City Manager for an indefinite period of time, and shall report to the City Manager.

(2) The duties and responsibilities of the Street Superintendent shall be as follows:

(a) To determine job priorities and work schedules and assign jobs to personnel.

(b) To supervise and coordinate activities of employees engaged in maintenance of City streets and rights-of-way in safe condition, and to routinely inspect all streets and alleys in the maintenance district.

(c) To plan and coordinate all maintenance to roads.

(d) To interpret City policies to employees and enforce safety regulations, and to interpret specifications, blueprints, and job orders to employees and assign duties.

(e) To train new employees in the use and operation of machines and equipment.

(f) To submit annual maintenance expenditures for use in preparation of the budget, and to send various reports to the state, as required.

(g) To perform all phases of construction on concrete, asphalt, and gravel streets, including ordering materials.

(h) To operate any and all vehicles and equipment used in the Street Department.

(i) To insure proper use and maintenance of all street department vehicles and equipment.

(j) To maintain inventory of all street vehicles, equipment, and machinery, including generations and specifications for replacement.

(k) To be subject to call as needed for street maintenance.

(l) To assist other departments, as needed.

(m) To perform all other duties as requested by the City Manager.

Statutory reference: Neb. RS 16-324, 19-618.

12-214. Wastewater Superintendent

(1) The Wastewater Superintendent shall be appointed by the City Manager for an indefinite period of time.

(2) The duties and responsibilities of the Wastewater Superintendent shall be as follows:

(a) To perform laboratory tests of wastewater for operational control and environmental reports.

(b) To keep all laboratory equipment in stock and all chemical inventories updated.

(c) To keep lab dishes, floors, and equipment clean.

(d) To keep up an educational program for better techniques.

(e) To perform necessary mechanical work and maintenance on the wastewater treatment plant and equipment.

(f) To be able to operate any and all equipment associated with the wastewater treatment plant.

(g) To maintain inventory adequate for efficient operation of the wastewater treatment plant and equipment.

(h) To be aware of and responsible for the Department's annual budget and assist the City Manager in its preparation.

(i) To prepare pollutant discharge reports each month for the Nebraska Department of Environmental Quality.

(j) To keep complete maintenance records in file for the above reports and for a monthly report to the City Manager.

(k) To perform all other duties as requested by the City Manager.

Statutory reference: Neb. RS 16-308, 19-618.

12-215. Water Superintendent

(1) The Water Superintendent shall be appointed by the City Manager for an indefinite period of time, and shall report to the City Manager.

(2) The duties and responsibilities of the Water Superintendent shall be as follows:

(a) To maintain water and sewer mains.

(b) To safely and efficiently perform all duties in the operation and maintenance of the Water and Wastewater Departments, including supervision of the employees of said Departments.

(c) To efficiently use all tools and equipment, and test and meter equipment and all safety devices used in the operation and maintenance of water and sewer lines.

(d) To maintain proper care and use of all vehicles and equipment assigned.

(e) To maintain water storage facilities at optimal limits to be sure of an adequate water supply that will meet the needs of all the residents of the City.

(f) To understand the procedures for the manual pump switching and perform such activity according to the proper procedure.

(g) To change the meters according to established procedure.

(h) To repair and calibrate the water meters in the approved manner.

(i) To check the manholes and flush sewers in accordance with the established procedures.

(j) To inspect all wells and the pumping systems on a regular schedule according to the established procedures.

(k) To perform all digging and trenching operations, pipe installations, and meter installations, according to proper code.

(l) To assist in procuring materials from or returning materials to storage areas and preparing a proper accounting thereof.

(m) To maintain work areas in a clean and orderly condition.

(n) To carry out all the duties according to established safety rules and established procedures of the City.

(o) To read, interpret, and perform work from job orders accurately and to legibly fill out the various forms and reports.

(p) To be on call for any sewer and water problems and be able to troubleshoot the water and sewer complaints for residential and commercial customers and restore optimal service.

(q) To keep adequate inventory.

(r) To perform meter reading duties.

(s) To perform all other duties as required by the City Manager.

Statutory reference: Neb. RS 16-308, 19-618.

ARTICLE 3
PERSONNEL

Section.

12-301. Personnel manual
12-302. Property of City

12-303. Contracts and conflicts of interest
12-304. Compensation
12-305. Bond
12-306. Oath of office

12-301. Personnel manual

There is hereby adopted the City of Ogallala Personnel Manual which shall be in force and effect for all employees of the City. The Personnel Manual may be amended from time to time by resolution of the City Council. Such amendments shall be incorporated by reference without further formality. Three current copies of the Personnel Manual shall be kept available for public inspection at all times in the office of the City Clerk.

12-302. Property of City

Every officer and employee of the City or of any of its boards or departments shall promptly and fully account for and deliver to his or her successor, or as otherwise directed by the City Manager, all money, equipment, and other property of the City which he or she has in his or her possession or has received from the City during his or her term of office or employment.

Statutory reference: Neb. RS 16-246.

12-303. Contracts and conflicts of interest

(1)(a) Business association means a business:

(i) In which the individual is a partner, limited liability company member, director, or officer; or

(ii) In which the individual or a member of the individual's immediate family is a stockholder of closed corporation stock worth $1,000 or more at fair market value or which represents more than a 5% equity interest or is a stockholder of publicly traded stock worth $10,000 or more at fair market value or which represents more than 10% equity interest.

(iii) An individual who occupies a confidential professional relationship protected by law shall be exempt from this definition. This definition shall not apply to publicly traded stock under a trading account if the filer reports the name and address of the stockbroker.

(b) Immediate family means a child residing in an individual's household, a spouse of an individual, or an individual claimed by that individual or that individual's spouse as a dependent for federal income tax purposes.

(c) Officer means:

(i) A member of any board or commission of the municipality which spends and administers its own funds, who is dealing with a contract made by such board or commission; or

(ii) Any elected municipal official.

(iii) Officer does not mean volunteer firefighters or ambulance drivers with respect to their duties as firefighters or ambulance drivers.

(2)(a) Except as provided in Neb. RS 49-1499.04 or 70-624.04, no officer may

have an interest in any contract to which his or her governing body, or anyone for its benefit, is a party. The existence of such an interest in any contract shall render the contract voidable by decree of a court of competent jurisdiction as to any person who entered into the contract or took assignment of such contract with actual knowledge of the prohibited conflict. An action to have a contract declared void under this section may be brought by the county attorney, the governing body, or any resident within the jurisdiction of the governing body and shall be brought within one year after the contract is signed or assigned. The decree may provide for the reimbursement of any person for the reasonable value of all money, goods, material, labor, or services furnished under the contract, to the extent that the governing body has benefited thereby.

(b) The prohibition in division (2) shall apply only when the officer or his or her parent, spouse, or child:

(i) Has a business association with the business involved in the contract; or

(ii) Will receive a direct pecuniary fee or commission as a result of the contract.

(3) Division (2) of this section does not apply if the contract is an agenda item approved at a meeting of the governing body and the interested officer:

(a) Makes a declaration on the record to the governing body responsible for approving the contract regarding the nature and extent of his or her interest prior to official consideration of the contract;

(b) Does not vote on the matters of granting the contract, making payments pursuant to the contract, or accepting performance of work under the contract, or similar matters relating to the contract, except that if the number of members of the governing body declaring an interest in the contract would prevent the body with all members present from securing a quorum on the issue, then all members may vote on the matters; and

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

(4) An officer who has no business association with the business involved in the contract; or, will not receive a direct pecuniary fee or commission as a result of the contract shall not be deemed to have an interest within the meaning of this section.

(5) The receiving of deposits, cashing of checks, and buying and selling of warrants and bonds of indebtedness of any such governing body by a financial institution shall not be considered a contract for purposes of this section. The ownership of less than 5% of the outstanding shares of a corporation shall not constitute an interest within the meaning of this section.

(6) If an officer's parent, spouse, or child is an employee of the officer's governing body, the officer may vote on all issues of the contract which are generally applicable to all employees or, all employees within a classification and do not single out his or her parent, spouse, or child for special action.

(7) Neb. RS 49-14,102 does not apply to contracts covered by this section.

(8)(a) The person charged with keeping records for the governing body shall maintain separately from other records a ledger containing the information listed in subdivisions (i) through (v) of this division (8)(a) about every contract entered into by the governing body in which an officer of the body has an interest and for which disclosure is made pursuant to division (3) of this section. 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:

(i) Names of the contracting parties;
(ii) Nature of the interest of the officer in question;
(iii) Date that the contract was approved by the governing body;
(iv) Amount of the contract; and
(v) Basic terms of the contract.

(b) The information supplied relative to the contract shall be provided no later than ten days after the contract has been signed by both parties. The ledger kept pursuant to this division (8) shall be available for public inspection during the normal working hours of the office in which it is kept.

(9) An open account established for the benefit of any governing body with a business in which an officer has an interest shall be deemed a contract subject to this section. The statement required to be filed by division (8) of this section shall be filed within ten days after such account is opened. Thereafter, the person charged with keeping records for the governing body shall maintain a running account of amounts purchased on the open account. Purchases made from petty cash or a petty cash fund shall not be subject to this section.

(10) Notwithstanding divisions (1) through (9) of this section, the governing body may prohibit contracts over a specific dollar amount in which an officer of the governing body may have an interest.

(11) The governing body may exempt from divisions (1) through (9) of this section, contracts involving $100 or less in which an officer of such body may have an interest.

Statutory reference: Neb. RS 18-305 – 18-312, 49-14,102, 49-14,103.01 – 49-14,103.07, 49-1408, 49-1425, 49-1499.04 and 70-624.04.

12-304. Compensation

Salaries of officers and employees of the City shall be in such amount as the Council shall fix by resolution, except for the City Manager which shall be fixed by ordinance. All salaries shall be on file at the office of the City Clerk and available for public inspection at any reasonable time.

Statutory reference: Neb. RS 19-645.

12-305. Bond

(1) Council Members. Each Council Member before entering upon the duties of his or her office shall be required to give a bond to the City with some responsible surety company. Such bond shall be on file in the office of the City Clerk and shall be conditioned on the faithful discharge of the duties of the Council Member. The bond will be further conditioned that if the Council Member shall vote for any expenditure or appropriation of money or create any liability in excess of the amount allowed by law, the Council Member and the surety signing the bond shall be liable thereon. The bond shall be filed with the Clerk and approved by the President of the Council. Upon approval, the City may pay the premium for such bond. Any liability sought to be incurred or debt created in excess of the amount limited or authorized by law shall be taken and held by any court of the state as the joint and several liability of the Council

Member voting for and the President of the Council approving the same. Any such liability or debt shall not be an obligation upon the City. Voting for or approving of such liability or debt shall be conclusive evidence of malfeasance in office. Any Council Member voting for such an appropriation shall be removed from office.

(2) City Manager. Before taking office, the City Manager shall file with the City Clerk a surety company bond conditioned upon the honest and faithful performance of his or her duties in such sum as shall be fixed by the Council. The premium of the bond shall be paid by the City.

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

Statutory reference: Neb. RS 11-103 – 11-118, 16-219, 16-304, 16-317, 16-318 and19-648.

12-306. Oath of office

(1) Generally. All officials of the City, whether elected or appointed, except when a different oath is specifically provided herein, shall, before entering upon their respective duties, take and subscribe the following oath, which shall be endorsed upon their respective bonds:

I (Name) 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 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 (Name of office) 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.

(2) False statements. Any person convicted of making a false statement while taking the oath prescribed hereinbefore shall be deemed guilty of perjury.

Statutory reference: Neb. RS 11-101, 28-915.

CHAPTER 13
CONTRACTOR LICENSING

Article.
1. General Provisions.
2. Gas Contractors.
3. Plumbers and Appliance Dealers.
4. Right of Way Contractor.
5. Sewer Contractors and Journeymen.
6. Penalty.

ARTICLE 1
GENERAL PROVISIONS

Section.
13-101. License applications.

13-101. License applications.

At the time any license application is made to the City, said applicant, if an individual, must provide his or her Social Security Number on the application form.

ARTICLE 2
GAS CONTRACTORS

Section.
13-201. Gas contractors.

13-201. Gas contractors.

(1) Licenses. No person shall install gas fittings within the corporate limits without first having obtained a license from the City to do so, paid the annual registration fee, and posted the requisite bond. All licenses issued to gas fitters shall continue in force to July 31 after the date on which they are granted unless sooner revoked. Licenses at the time of their expiration may be renewed by the Council upon written recommendation of the Gas Inspector and the written request of the applicant for a period of one year commencing August 1 and ending July 31 next following and upon condition that the annual registration fee is paid and the registrant's bond for the renewal license period is approved by the Council and on file in the office of the City Clerk. All licensees must apply for renewal of their licenses within 60 days following their expiration. Renewal licenses may not be issued after such 60-day period. No gas fitter's license issued hereunder shall be transferable. The City Clerk shall keep a record of all licenses issued, lapsed, or revoked hereunder. All gas fitters' licenses shall be signed by the President and countersigned by the City Clerk. Every license granted may be revoked after reasonable notice and hearing by the Council whenever the licensee fails, neglects, or refuses to comply with the provisions of this Code.

(2) License application. Application for a gas fitter's license shall be made in writing to the Gas Inspector who shall be appointed by the City Manager and shall have the powers and duties prescribed herein. In the event the City Manager shall fail or neglect to appoint a Gas Inspector, the Building Inspector shall be the Gas Inspector ex-officio. Before the gas fitter's license is issued, the applicant shall satisfy the Gas Inspector that he or she possesses the qualifications and fitness, practical and elementary in character, to install gas fittings. If the Gas Inspector should be so satisfied, he or she shall recommend the issuance of such license to the Council. If the applicant is a gas fitting contractor, the license so issued shall cover employees of the applicant who shall install gas fittings under the supervision of the applicant.

(3) Bond. A corporate surety bond in a sum set by resolution of the Council and containing such conditions as the City Attorney shall specify shall accompany the application, and the written approval of the City Attorney, pursuant to action of the Council, shall be endorsed on the bond before the license is issued. The obligee on said bond shall be the City and action may be maintained thereon by anyone injured by a breach of its conditions for a period of one year after the completion of any gas fitting work.

ARTICLE 3
PLUMBERS AND APPLIANCE DEALERS

Section.

13-301. Plumbers and appliance dealers.

13-301. Plumbers and appliance dealers.

(1) Plumbers.

(a) Plumbing contractor certificate. A plumbing contractor's certificate of qualification or registration shall be issued to every person who makes application for such certificate, pays the required fee, and successfully passes the examination conducted by the Planning and Zoning Administrator. Applicants for a plumbing contractor's license must have had at least three years actual experience as a licensed journeyman plumber, and shall present documentary proof thereof in the form of letters or affidavits from employers, former employers, or such other qualified persons as may attest to such fact.

(b) Journeyman plumber certificate. A journeyman plumber's certificate of qualification or registration shall be issued to every person who makes application for such certificate, pays the required fee, and successfully passes the examination conducted by the City. Applicants for a journeyman plumber's license must have had at least two years actual experience as a plumber's apprentice or plumber's helper, and shall present documentary proof thereof in the form of letters or affidavits from employers, former employers, or such other qualified persons attesting to such fact.

(c) Fee. The initial fee for a plumber's or journeyman plumber's certificate of qualification or registration shall be set by resolution of the Council, a copy of which shall be kept available for public inspection in the office of the City Clerk. All certificates of qualification or registration, except certificates that have been cancelled or revoked, may be renewed on or before July 31 from year to year upon written request and

payment of the required renewal fee. No certificate may be renewed more than 90 days after the expiration date of such certificate. The fees for renewal certificates of a plumbing contractor or master plumber and for a journeyman plumber shall be set by resolution of the Council, a copy of which shall be kept available for public inspection in the office of the City Clerk.

(d) Application for certificate. Application for a certificate of qualification or registration shall be made in writing to the City on forms that shall be furnished to the applicants by the City Clerk's office.

(e) Bond. A corporate surety bond in a sum set by the Council and containing such conditions as the City Attorney may specify shall accompany the application, and the written approval of the City Attorney shall be endorsed on the said bond prior to the issuance of a license by the City. The obligee of the bond shall be the City and action may be maintained thereon by any person injured by a breach of its conditions for a period of one year after the completion of any plumbing work by the applicant.

(f) Group coverage. The license of any plumbing contractor shall be deemed to be sufficient to cover employees of the applicant; provided, that such installation shall be done under the supervision of the licensee.

(2) Water softener, water conditioner, and water heater dealers.

(a) Licenses and permits. All dealers handling water softeners, water conditioners, and water heaters shall have a license to install same. A permit as hereinafter prescribed shall be required for all work done and all work and installation shall be subject to inspection. If the installation or work done is to replace a prior appliance, no inspection shall be required. Any such permit shall be limited to the installation of not more than ten feet of water piping and shall not authorize the installation of a sewer drain, waste pipe, or vent line. Such licenses may be granted only upon application and after successful examination by the Planning and Zoning Administrator in the manner hereinbefore prescribed for plumbers generally. Employees of water softener, water conditioner, and water heater dealers shall have a journeyman license. A journeyman license may be granted only upon application and after successful examination by the City.

(b) Fees. The initial fee for a water softener, water conditioner, and water heater dealer's license shall be set by resolution of the Council, a copy of which shall be kept available for public inspection in the office of the City Clerk. Thereafter such license may be renewed on or before July 31 by the payment of a fee set by resolution of the Council, a copy of which shall be kept available for public inspection in the office of the City Clerk. The initial fee and renewal fee for a journeyman dealer's license shall be set by resolution of the Council, a copy of which shall be kept available for public inspection in the office of the City Clerk.

Statutory reference: Neb. RS 18-1918.

ARTICLE 4
RIGHT OF WAY CONTRACTORS

Section.

13-401. Right of way contractors.

13-402. Permits

13-401. Right of way contractors.

(1) Licenses and permits. All contractors performing work within the public right-of-way shall have a contractors license to perform such work. A permit shall be required for any work done and any such work done shall be subject to inspection by the Planning and Zoning Administrator. Such license shall be granted only upon application and approval by the Planning and Zoning Administrator and Street Superintendent. An applicant for a contractor's license must have previous experience as a contractor and must provide references upon request. An applicant for a contractor's license must provide proof of the required liability insurance for such work within the public right-of–way.

(2) Liability insurance. The minimum limits of liability insurance coverage shall be set by resolution of the City Council, a copy of which shall be kept available for public inspection in the office of the City Clerk

(3) Fees. The initial fee and the renewal fee for a contractor's license shall be set by resolution of the City Council, a copy of which shall be kept for public inspection in the office of the City Clerk. The fee shall be paid on or before July 31 of each year.

13-402. Permits

(1) When required. A permit shall be obtained for any work to be done within the public right-of way in the City. Such work may include, but is not limited to, excavations and removals, sidewalk and driveway construction, planting or removal of trees, fencing and landscaping, retaining wall steps.

(2) Who may apply. A permit may be issued to any person who has a current contractor's license to perform work within the public right-of-way.

(3) Permit process. The permit shall be obtained from the office of the City Clerk. Such permit shall be issued under the following condition:

(a) Submittal of the appropriate application.

(b) Approval by the Public Works Department.

(c) Payment of the appropriate fee.

(4) Fees. The City Clerk shall, at the time of the filing of any application for the issuance of any permit to perform work within the public right-of-way, charge and collect in advance a fee for said permit.

ARTICLE 5
SEWER CONTRACTORS AND JOURNEYMEN

Section.

13-501. Sewer contractors and journeymen.

13-501. Sewer contractors and journeymen.

(1) Licenses and permits. All sewer or sewerage disposal contractors shall have a sewerage disposal contractor's license to perform such work. A permit shall be required for any work done and any such work done shall be subject to inspection by the City Plumbing Inspector. Such license shall be granted only upon application and

after successful examination by the City Plumbing Inspector in the manner generally prescribed for plumbers. An applicant for a sewage disposal contractor's license must have two years of experience as a sewer or sewage disposal journeyman before he or she is eligible to apply for examination for a sewage disposal contractor's license. An applicant for a sewage disposal journeyman's license must have one year of experience as an apprentice to a sewage disposal contractor before he or she is eligible to take the examination for sewage disposal journeyman's license. A sewage disposal contractor or sewage disposal journeyman must be present on the job site at all times when work is being performed.

(2) Fees. The initial fee and the renewal fee for a sewer or sewage disposal contractor's license shall be set by resolution of the Council, a copy of which shall be kept available for public inspections in the office of the City Clerk which shall be paid on or before July 31 of each year. The initial and renewal fees for a sewer or sewage disposal journeyman's license fee shall be payable in the same manner as the contractor's license and shall be set by resolution of the Council, a copy of which shall be kept available for public inspection in the office of the City Clerk.

Statutory reference: Neb. RS 18-503.

ARTICLE 6
PENALTY

Section.
13-601. Penalty.

13-601. Penalty.

(1) Penalty amounts. Any person who violates any of the prohibitions or provisions of any section of this chapter shall be deemed guilty of a misdemeanor. Unless otherwise specified in this chapter or by statute, the penalty for such violation shall be in any amount not to exceed $1,000, in the discretion of the court; and; provided, whenever any section of this chapter shall declare a nuisance, a violation of that section shall be penalized by a fine of not more than $1,000, in which case a new violation shall be deemed to have been committed every 24 hours of such failure to comply.

(2) Abatement of nuisance.

(a) Whenever a nuisance exists as defined in this chapter, the City may proceed by a suit in equity to enjoin and abate the same, in the manner provided by law.

(b) Whenever in any action it is established that a nuisance exits, the court may, together with the fine or penalty imposed, enter an order of abatement as a part of the judgment in the case.

(3) Restitution. The court may, together with the fine or penalty imposed, enter an order of restitution as part of the judgment in the case.

Statutory reference: Neb. RS 16-225, 16-240, 16-246, 18-1720.

CHAPTER 14
ELECTIONS

Article.
1. General Provisions.

ARTICLE 1
GENERAL PROVISIONS

Section
14-101. Election procedures; adopted by reference.
14-102. Initiative and referendum; adopted by reference.

14-101. Election procedures; adopted by reference.

The City's election procedures are hereby governed by Nebraska Revised Statutes by Chapter 32, Articles 1 through 16, inclusive which are hereby adopted by reference as if set out fully herein. A copy of said election procedures may be found on file in the office of the City Clerk.

14-102. Initiative and referendum; adopted by reference.

The City's procedures for initiative and referendum are governed by Nebraska Revised Statutes by Chapter 18, Article 25, which is hereby adopted by reference as if set out fully herein. A copy of said election procedures may be found on file in the office of the City Clerk.

CHAPTER 15
EMERGENCIES

Article.
1. General Provisions.

ARTICLE 1
GENERAL PROVISIONS

Section
15-101. Emergency Succession Act adopted.
15-102. Emergency Management Act adopted.

15-101. Emergency Succession Act adopted.

In accordance with the terms and conditions of the Nebraska General Emergency Succession Act, the Council hereby declares that it is necessary and advisable to invoke the provisions of the Act in the City. The provisions of the Act are binding on the officers of the City government, whether now in office or hereafter elected or appointed.

Statutory reference: Neb. RS 84-1101 – 84-1117.

15-102. Emergency Management Act adopted.

In accordance with the terms and conditions of the Nebraska General Emergency Management Act, the Council hereby declares that it is necessary and advisable to invoke the provisions of the Act in the City. The provisions of the Act are binding on the officers of the City government, whether now in office or hereafter elected or appointed.

Statutory reference: Neb. RS 81-829.36 – 81-829.75.

CHAPTER 16
FIRE DEPARTMENT

Article.
1. General Provisions.
2. Administration and Enforcement.
3. Retirement System.
4. Penalty.

ARTICLE 1
GENERAL PROVISIONS

Section.
16-101. Operation.
16-102. Membership.
16-103. Records of department.
16-104. Equipment of department.

16-101. Operation.

The City may operate a City Fire Department through the Fire Chief and firefighters.

Statutory reference: Neb. RS 16-222.

16-102. Membership.

(1) The Fire Chief shall appoint no more than 25 members for each Fire Department Company subject to the review and approval of the Council. All vacancies shall be filled in this manner.

(2) Said members shall be considered to be employees of the City for the purpose of providing them with workers' compensation and other benefits.

(3) Each member shall be entitled to a term life insurance policy in the amount of at least $10,000 dollars for death from any cause to age 65, and such policy shall, at the option of the individual firefighter at his or her sole expense, be convertible to a permanent form of life insurance at age 65, provided that the firefighters covered are actively and faithfully performing the duties of their position.

(4) The Fire Department shall consist of so many members as may be decided by the Council. The members may organize themselves in any way they may decide, subject to the review of the Council. They may hold meetings and engage in social activities with the approval of the Council. The Secretary shall, upon request, keep a record of all meetings and shall make a report to the Council of all meetings and activities of the Fire Department.

(5) The Council may, for services rendered, compensate or reward any member or members of the Fire Department in an amount set by resolution.

(6) All members of the Fire Department shall be subject to such rules and regulations and shall perform such duties as may be prescribed or required of them by

the Fire Chief or the Council.

(7) The members of the Fire Department shall, during the time of a fire or great public danger, have and exercise the powers and duties of police officers and shall have full power and authority to arrest all persons guilty of any violation of the municipal code, or the laws of the state.

Statutory reference: Neb. RS 35-101 – 35-103, 35-108.

16-103. Records of department.

(1) The Fire Chief shall keep or cause to be kept a record of all meetings of the Fire Department, the attendance record of all members, and a record of all fires, and shall make a full report of such records to the City Clerk during the last week in April each year.

(2) The record of any fire shall include the cause, origin, circumstances, property involved, and whether criminal conduct may have been involved. In the event of sizable property damage, he or she shall include the information of whether such losses were covered by insurance, and if so, in what amount.

(3) All records shall be available to the public at any reasonable time.

Statutory reference: Neb. RS 81-506.

16-104. Equipment of department.

The Fire Chief shall have the custody of all apparatus and property used in fire protection either belonging to or used by the City. He or she shall have the authority to direct how it shall be cared for and shall be responsible for its safe and proper keeping. It shall be the duty of the Fire Chief to inform the Council when any of the fire engines, hose, ladders, or other apparatus requires repair or replacement.

ARTICLE 2
ADMINISTRATION AND ENFORCEMENT

Section

16-201. Fires outside corporate limits.
16-202. Inspections.
16-203. Violation procedure.
16-204. Arrest powers.
16-205. Fire investigations.

16-201. Fires outside corporate limits.

The volunteer firefighters shall be considered as acting in the performance and within the scope of their official duties in fighting fires or saving property or life outside the corporate limits when directed to do so by the Chief of the Fire Department or some other person authorized to act for the Fire Chief, provided that no fire equipment shall be taken beyond the corporate limits unless, by resolution of the Council at a regular or special meeting prior thereto, it shall be determined and resolved what fire equipment shall be permitted to leave the corporate limits for the purpose of extinguishing distant

fires. The City deems it necessary, expedient, and in the interest of public safety for certain personnel to go beyond the corporate limits to fight fires and thereby save lives and property.

16-202. Inspections.

It shall be the duty of the Fire Chief, Assistant Fire Chief, or Building Inspector, when directed to do so by the Council, to inspect or cause to be inspected by Fire Department officers, members, or some other official as often as may be necessary, all buildings, premises, and public thoroughfares, except the interiors of private dwellings, for the purpose of ascertaining and causing to be corrected any conditions liable to create a fire hazard. The inspection shall be of the storage, sale, and use of flammable liquids, combustibles, and explosives; electric wiring and heating; the means and adequacy of exits, in case of fire in schools, churches, hotels, halls, theaters, factories, hospitals, and all other buildings in which numbers of persons congregate from time to time for any purpose whether publicly or privately owned; the design, construction, location, installation, and operation of equipment for storing, handling, and utilizing of liquefied petroleum gases, specifying the odorization of said gases and the degree thereof; and chemicals, prozylin plastics, nitrocellulose films, or any other hazardous material that may now or hereafter exist.

Statutory reference: Neb. RS 81-512

16-203. Violation procedure.

(1) Upon the finding that the municipal code has been violated, the Fire Chief, Assistant Fire Chief, or Building Inspector shall notify or cause to be notified the owner, occupant, or manager of the premises where a violation has occurred.

(2) Notice may be made personally or by delivering a copy to the premises and affixing it to the door of the main entrance of the said premises. Whenever it may be necessary to serve such an order upon the owner, such order may be served personally, or by mailing a copy to the owner's last known post office address if the owner is absent from the jurisdiction.

(3) Any such order shall be immediately complied with by the owner, occupant, or manager of the premises or building. The owner, occupant, or manager may, within five days after such order by the Chief of the Fire Department or his or her agent, appeal the order with the Council requesting a review and it shall be the duty of the Council to hear the same within not less than five days nor more than ten days from the time when the request was filed in writing with the City Manager.

(4) The Council shall then affirm, modify, or rescind the said order as safety and justice may require and the decision shall then be final, subject only to any remedy which the aggrieved person may have at law or equity. The said order shall be modified or rescinded only where it is evident that reasonable safety exists and that conditions necessitate a variance due to the probable hardship in complying literally with the order of the Fire Chief, Assistant Fire Chief, or Building Inspector.

(5) A copy of any decision so made shall be sent to both the Fire Chief and the owner, occupant, or manager making the appeal.

16-204. Arrest powers.

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

Statutory reference: Neb. RS 28-908.

16-205. Fire investigations.

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

Statutory reference: Neb. RS 81-506.

ARTICLE 3
RETIREMENT SYSTEM

Section.

16-301. Adoption by reference.
16-302. Retirement Committee.

16-301. Adoption by reference.

The firefighter's retirement system is hereby adopted by reference as if set out full herein. A copy of the retirement system may be found on file in the office of the City Clerk.

16-302. Retirement Committee.

A Firefirefighter's Retirement Committee shall be established pursuant to State Statute to supervise the general operation of the retirement system.

Statutory reference: Neb Res. 16-1020 et seq.

ARTICLE 4
PENALTY

Section.
16-401. Penalty.

16-401. Penalty.

(1) Penalty amounts. Any person who violates any of the prohibitions or provisions of any section of this chapter shall be deemed guilty of a misdemeanor. Unless otherwise specified in this chapter or by statute, the penalty for such violation shall be in any amount not to exceed $1,000, in the discretion of the court; and; provided, whenever any section of this chapter shall declare a nuisance, a violation of that section shall be penalized by a fine of not more than $1,000, in which case a new violation shall be deemed to have been committed every 24 hours of such failure to comply.

(2) Abatement of nuisance.

(a) Whenever a nuisance exists as defined in this chapter, the City may proceed by a suit in equity to enjoin and abate the same, in the manner provided by law.

(b) Whenever in any action it is established that a nuisance exits, the court may, together with the fine or penalty imposed, enter an order of abatement as a part of the judgment in the case.

(3) Restitution. The court may, together with the fine or penalty imposed, enter an order of restitution as part of the judgment in the case.

Statutory reference: Neb. RS 16-225, 16-240, 16-246, 18-1720.

CHAPTER 17
FIRE PROTECTION AND PREVENTION

Article.
1. General Provisions.
2. Fire Prevention.
3. Penalty.

ARTICLE 1
GENERAL PROVISIONS

Section.
17-101. Preservation of property.
17-102. Disorderly conduct.
17-103. Interference with fire equipment.
17-104. Obstruction of fire hydrants.
17-105. False alarms.
17-106. Pedestrians.

17-101. Preservation of property.

The Fire Chief, or any officer in charge of the Fire Department, shall have the authority and power to cause the removal of property whenever it shall become necessary for the preservation of more valuable property, the protection of human life, or to prevent the spreading of fire to adjoining property. The Fire Chief may direct the City firefighters to remove any building, structure, or fence for the purpose of checking the progress of any fire. The Fire Chief shall have the authority to blow up or cause to be blown up with explosives any building or structure during the progress of a fire for the purpose of checking the progress of the same.

Statutory reference: Neb. RS 16-222, 16-246

17-102. Disorderly conduct.

It shall be unlawful for any person during the time of a fire and for a period of 36 hours after its extinguishment to hinder, resist, or refuse to obey the Fire Chief, or to act in a noisy or disorderly manner at the location of the fire. The Fire Chief and Assistant Fire Chief shall have the power and authority during such time to arrest or command any such person to assist them in the performance of their official duties.

Statutory reference: Neb. RS 28-908.

17-103. Interference with fire equipment.

It shall be unlawful for any person except the Fire Chief and the members of the Fire Department to destroy, handle, or in any way interfere with the use and storage of any of the fire trucks and other apparatus belonging to the City.

Statutory reference: Neb. RS 28-908.

17-104. Obstruction of fire hydrants.

It shall be unlawful for any person to obstruct the use of a fire hydrant, or have or place any material within 15 feet of the hydrant. Any vehicle or material found as an obstruction may be immediately removed by law enforcement at the risk, cost, and expense of the owner or claimant.

Statutory reference: Neb. RS 60-6,166.

17-105. False alarms.

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

17-106. 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.

Statutory reference: Neb. RS 28-908.

ARTICLE 2
FIRE PREVENTION

Section.

17-201. Adoption of Life Safety Code.
17-202. Enforcement of fire code.
17-203. Oil burning; homemade stoves.
17-204. Open burning.

17-201. Adoption of Life Safety Code.

(1) Incorporated by reference into this code are the standards recommended by the National Fire Protection Association known as the Life Safety Code, No.101, 2000 Edition. This code shall have the same force and effect as if set out verbatim herein, provided, however, that such code may be hereafter deleted, modified, or amended by ordinance. The Fire Department may supplement the code with additional and associated pamphlets also recommended by the National Fire Prevention Association and the Life Safety Code and said modifications, additions, and deletions are hereby approved and adopted as the standard of efficiency of the most approved methods of fire prevention with respect to the subjects therein contained and are incorporated and made a part of this subchapter.

(2) In construing the subject matter incorporated by reference herein, it is the intention of the Council that if any part of said subject matter shall conflict so that it cannot be reconciled with another ordinance or section of the municipal code, the provision which legislates directly and specifically upon the precise matter in question shall prevail.

(3) The Council hereby directs that the Fire Department and Planning and Zoning

Administrator shall proceed to administer and enforce the provisions of said subject matter incorporated by reference and that complaints shall be made, warrants issued, and trials had in court for the violation of said provisions, if any, without further or additional publication, posting, or promulgation thereof. One copy of the current edition of the Life Safety Code and any additional and associated pamphlets used by the Fire Department or Planning and Zoning Administrator shall be kept on file in the office of the City Clerk and shall be available for public inspection at any reasonable time.

Statutory reference: Neb. RS 18-132, 81-502, 19-901 – 19-933

17-202. Enforcement of fire code.

It shall be the duty of all City officials to enforce the incorporated fire code provisions and all infractions shall be immediately brought to the attention of the Fire Chief.

17-203. Oil burning; homemade stoves.

It shall be unlawful for any person to permit or allow to be burned crank case drainings or to burn oil or any other flammable substance in a homemade stove.

17-204. Open Burning.

It shall be unlawful for any person, firm, or corporation to burn any garbage, hazardous waste, junk, litter, refuse, rubbish, solid waste or waste on any lot, tract of land, street, or alley within the corporate limits, except as otherwise provided in this section.

(1) This section shall not be construed to prohibit:

(a) Fire set in performance of any official duty of any public officer if the fire is necessary for one or more of the following reasons or purposes:

(i) For the prevention of a fire hazard which cannot be abated by any other means.

(ii) For the instruction of public firefighters or industrial employees under supervision of the Fire Department.

(iii) For the protection of the public health and welfare.

(b) The open burning of leaves, grass, weeds and thistles if done pursuant to a permit issued by the Fire Chief.

The prohibition of burning within the corporate limits of the City set forth in this section shall not apply to businesses and industries which burn their garbage, hazardous waste, junk, litter, refuse, rubbish, solid waste or waste in incinerators of a type approved by the Nebraska Department of Environmental Quality. The incinerator must not be installed or used until a permit has been obtained from the Nebraska Department of Environmental Quality and a copy of said permit has been filed with the City Clerk.

Statutory Reference: Neb RS 81-520.01

ARTICLE 3

PENALTY

Section.
17-301. Penalty.

17-301. Penalty.

(1) Penalty amounts. Any person who violates any of the prohibitions or provisions of any section of this chapter shall be deemed guilty of a misdemeanor. Unless otherwise specified in this chapter or by statute, the penalty for such violation shall be in any amount not to exceed $1,000, in the discretion of the court; and; provided, whenever any section of this chapter shall declare a nuisance, a violation of that section shall be penalized by a fine of not more than $1,000, in which case a new violation shall be deemed to have been committed every 24 hours of such failure to comply.

(2) Abatement of nuisance.

(a) Whenever a nuisance exists as defined in this chapter, the City may proceed by a suit in equity to enjoin and abate the same, in the manner provided by law.

(b) Whenever in any action it is established that a nuisance exits, the court may, together with the fine or penalty imposed, enter an order of abatement as a part of the judgment in the case.

(3) Restitution. The court may, together with the fine or penalty imposed, enter an order of restitution as part of the judgment in the case.

Statutory reference: Neb. RS 16-225, 16-240, 16-246, 18-1720.

CHAPTER 18
FIREWORKS

Article.
1. General Provisions.
2. Penalty.

ARTICLE 1
GENERAL PROVISIONS

Section.
18-101. Definitions.
18-102. Discharge of fireworks; permits.
18-103. Fireworks vendors.

18-101. Definitions.

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

(1) Fireworks shall mean 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 49 CFR.

Statutory Reference: Neb. RS 28-1241

18-102. Discharge of fireworks; permits.

(1) Lawful fireworks.

(a) It shall be unlawful for any person to ignite or cause to be exploded fireworks or firecrackers of any description whatsoever, except sparklers, vesuvius fountains, spray fountains, torches, color fire cones, star and comet type color aerial shells without explosive 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.

(b) The provisions of this section shall not apply to any fireworks to be used for the purpose of public exhibitions or display under authorization of the governing body or to fireworks furnished for agricultural purposes pursuant to written authorization from the State Fire Marshal.

(2) Discharge of fireworks.

(a)(i) A person commits the offense of discharging fireworks if he or she discharges fireworks except during the period beginning at 8:00 a.m. on June 25 and ending July 4 at 11:59 p.m. and also beginning at 8:00 a.m. on December 29 and ending December 31 at 11:59 p.m. of each year. Fireworks can be discharged only during said period of time between the hours of 8:00 a.m. and 10:00 p.m. on June 25 through and including July 3 and between the hours of 8:00 a.m. and 10:00 p.m. on

December 29 through and including December 30 and between the hours of 8:00 a.m. and 11:59 p.m. on July 4 and December 31.

(ii) However, a person may discharge fireworks at times other than those times designated herein upon obtaining a permit to do so, which permit may be issued if approved by the City Council upon application.

(b) It shall further be unlawful to discharge fireworks within 300 feet of a fireworks stand, gasoline station, or any commercial area where flammable materials are stored, or in or on any public park.

Statutory reference: Neb. RS 17-556, 28-1241(7), 28-1244, 28-1245

18-103. Fireworks vendors.

(1) It shall be unlawful for any person to sell or offer to sell at retail within the City any fireworks as the same are defined and permitted under the statutes of the state without having first secured a permit from the Planning and Zoning Administrator.

(2) Any person making application for a permit required by this section shall:

(a) File satisfactory proof with the Zoning Inspector that such person has been a resident of, or doing business in, the City for at least six months prior to the date of making such application.

(b) If a for-profit operation, pay to the City Clerk the sum of $200, which sum shall be retained by the City as a permit fee. Separate permit fees shall be collected for either summer or winter.

(c) If a not-for-profit operation with the appropriate IRS designation, pay to the City Clerk the sum of $1, which shall be retained by the City Clerk as a permit fee. Separate permit fees shall be collected for either summer or winter.

(d) File with the Zoning Inspector a written statement giving the location of the retail outlet. All outlets shall be located on commercial property in accordance with Chapter 44 of the municipal code.

(e) File with the Zoning Inspector all applications for permits by June 15 or December 15 of the year for which the applicant wishes the permit.

(f) Provide to the Fire Chief and Police Chief the manner of storage for their fireworks and the location of such storage place. The storage and/or retail place shall be constructed of wood or masonry. Such place must be capable of being secured.

(3) No person under the age of 21 years shall be granted a permit.

(4) A past record of violations may result in the denial of a permit. This determination is to be made by the City Manager or his or her designee.

(5) Permits, when issued by the Zoning Inspector, shall be valid beginning June 25 at 8:00 a.m. and ending July 4 at 11:59 p.m. and also beginning at 8:00 a.m. on December 29 and ending December 31 at 11:59 p.m. of the year of issue, and shall not be transferable.

(6) Fireworks may be sold during the hours of 8:00 a.m. to 10:00 p.m June 25 through July 3 and December 29 through December 30. Fireworks may be sold on July 4 and December 31 during the hours of 8:00 a.m. to 11:59 p.m.

(7) Public exhibitions or displays of discharging fireworks may be conducted without a sales permit, but shall be conducted according to rules and regulations

prescribed by the State Fire Marshal in cooperation with the Fire Chief. Where supervisors are required, the sponsor of such exhibition or display shall hire or engage the services of such supervisors, who shall be approved by the Fire Chief.

(8) Any licensed fireworks stand or firm engaged in the sale of fireworks shall have a person of 21 years or older in charge of the sale of fireworks and on the stand premises at all times.

(9) Any person in violation of this section of the municipal code is guilty of a misdemeanor, and shall be punished as provided in 18-201.

Historical reference: Ord. 1020, passed 8-8-95

ARTICLE 2
PENALTY

Section.
18-201. Penalty.

18-201. Penalty.

(1) Penalty amounts. Any person who violates any of the prohibitions or provisions of any section of this chapter shall be deemed guilty of a misdemeanor. Unless otherwise specified in this chapter or by statute, the penalty for such violation shall be in any amount not to exceed $1,000, in the discretion of the court; and; provided, whenever any section of this chapter shall declare a nuisance, a violation of that section shall be penalized by a fine of not more than $1,000, in which case a new violation shall be deemed to have been committed every 24 hours of such failure to comply.

(2) Abatement of nuisance.

(a) Whenever a nuisance exists as defined in this chapter, the City may proceed by a suit in equity to enjoin and abate the same, in the manner provided by law.

(b) Whenever in any action it is established that a nuisance exits, the court may, together with the fine or penalty imposed, enter an order of abatement as a part of the judgment in the case.

(3) Restitution. The court may, together with the fine or penalty imposed, enter an order of restitution as part of the judgment in the case.

Statutory reference: Neb. RS 16-225, 16-240, 16-246, 18-1720.

CHAPTER 19
FISCAL MANAGEMENT

Article.
1. General Provisions.
2. Miscellaneous Expenditures.
3. Penalty.

ARTICLE 1
GENERAL PROVISIONS

Section.
19-101. Financial statement.
19-102. Proposed budget statement; contents; availability; correction.
19-103. Budget hearing.
19-104. Budget filing.
19-105. Audit report.
19-106. Appropriations.
19-107. Expenditures.
19-108. Judgments against City.
19-109. Unlawful transfer of funds.
19-110. Lawful transfer of funds.
19-111. Insufficient funds.
19-112. Sinking funds.
19-113. Depositories.
19-114. Depository bond.
19-115. Depository securities.
19-116. Deposit maximums.
19-117. Investment of funds.
19-118. Claims and warrants.

19-101. Financial statement.

The President and Council shall cause to be published semiannually a statement of the receipts of the City and the sources thereof and an itemized account of the expenditures and the financial condition of the City.

Statutory reference: Neb. RS 16-722

19.102. Proposed budget statement; contents; availability; correction.

(1) The Governing Body shall annually prepare a proposed budget statement on forms prescribed and furnished by the Auditor of Public Accounts. The proposed budget statement shall be made available to the public prior to publication of the notice of the hearing on the proposed budget statement. A proposed budget statement shall contain the following information, except as provided by state law:

(a) For the immediately preceding fiscal year, the revenue from all sources,

including motor vehicle taxes, other than revenue received from personal and real property taxation, allocated to the funds and separately stated as to each such source: The unencumbered cash balance at the beginning and end of the year; the amount received by taxation of personal and real property; and the amount of actual expenditures.

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

(c) For the immediately ensuing fiscal year, an estimate of revenue from all sources, including motor vehicle taxes, other than revenue to be received from taxation of personal and real property, separately stated as to each such source: The actual or estimated unencumbered cash balances, whichever is applicable, to be available at the beginning of the year; the amounts proposed to be expended during the year; and the amount of cash reserve, based on actual experience of prior years, which cash reserve shall not exceed 50% of the total budget adopted exclusive of capital outlay items;

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

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

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

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

(3) The municipality shall correct any material errors in the budget statement detected by the Auditor of Public Accounts or by other sources.

Statutory reference: Neb. RS 13-504

(4) The estimated expenditures plus the required cash reserve for the ensuing fiscal year less all estimated and actual unencumbered balances at the beginning of the year and less the estimated income from all sources, including motor vehicle taxes, other than taxation of personal and real property shall equal the amount to be received from taxes, and such amount shall be shown on the proposed budget statement

pursuant to this section. The amount to be raised from taxation of personal and real property, as determined above, plus the estimated revenue from other sources, including motor vehicle taxes, and the unencumbered balances shall equal the estimated expenditures, plus the necessary required cash reserve, for the ensuing year.

Statutory Reference: Neb. RS 13-505

19-103. Budget hearing.

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

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

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

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

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

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

Statutory reference: Neb. RS 13-506, 13-507

19.104. Budget filing.

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

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

(b) The amount to be levied for all other purposes. Proof of publication shall be attached to the statements.

(2) The City Council, in certifying the amount required, may make allowance for delinquent taxes not exceeding 5% of the amount required plus the actual percentage of delinquent taxes for the preceding tax year and for the amount of estimated tax loss from any pending or anticipated litigation which involves taxation and in which tax collections have been or can be withheld or escrowed by court order. For purposes of

this section, anticipated litigation shall be limited to the anticipation of an action being filed by a taxpayer who or which filed a similar action for the preceding year which is still pending. Except for such allowances, the City Council shall not certify an amount of tax more than 1% greater or lesser than the amount determined in the proposed budget statement.

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

Statutory reference: Neb. RS 13-508

19-105. Audit report.

(1) The Council shall cause an audit of the City accounts to be made by a qualified accountant as expeditiously as possible following the close of the fiscal year. Such audit shall be made on a cash or accrual method at the discretion of the Council. The said audit shall be completed and the annual audit report made not later than six months after the close of the fiscal year. The accountant making the audit shall submit not less than three copies of the audit report to the Council.

(2) All public utilities or other enterprises which substantially generate their own revenue shall be audited separately, and the results of such audits shall appear separately in the annual audit report, and such audits shall be on an accrual basis and shall contain statements and materials which conform to generally accepted accounting principles.

(3) The audit report shall set forth the financial position and results of financial operations for each fund or group of accounts of the City as well as an opinion by the accountant with respect to the financial statements.

(4) Two copies of the annual audit report shall be filed with the City Clerk, and shall become a part of the public records of the City Clerk's office, and will at all times thereafter be open for public inspection. One copy shall be filed with the Auditor of Public Accounts.

(5) The Council shall provide and file with the City Clerk, within the time frame specified by state statute, financial statements showing its actual and budgeted figures for the most recently completed fiscal year.

Statutory reference: Neb. RS 19-2903 – 19-2909

19-106. Appropriations.

The City shall adopt a budget statement pursuant to the Nebraska Budget Act, to be termed “The Annual Appropriation Bill”, in which are appropriated such sums of money as may be deemed necessary to defray all necessary expenses and liabilities of the City.

Statutory reference: Neb. RS 16-704

19-107. Expenditures.

The Council shall not have the power to appropriate, issue, or draw any order or warrant on the City Treasurer for money unless the same has been appropriated or

ordered by ordinance or the claim has been allowed and a fund has been provided in the adopted budget statement out of which such claim is payable.

Statutory reference: Neb. RS 16-706, 16-726 – 16-729

19-108. Judgments against City.

Should any judgment be obtained against the City, the President, with the sanction of the City Council, may borrow a sufficient amount to pay the same for a period of time not to extend beyond the close of the next fiscal year. The Council shall then add to the amount authorized to be raised in the general tax levy the sum and interest accrued of the judgment.

Statutory reference: Neb. RS 16-706

19-109. Unlawful transfer of funds.

Any transfer or division of the money or credits from any of the funds to another fund or to a purpose other than for which proposed, except as specifically provided is this chapter, shall render any Council Member voting therefore or any City official participating therein guilty of a misdemeanor.

Statutory reference: Neb. RS 16-706

19-110. Lawful transfer of funds.

When the City Council, by a three-fourths vote of the Members, declares the expenditures of any fund for the purpose for which it was created to be unwise and impracticable or where the purpose has been fully accomplished and the whole fund or an unexpended balance remains, and no indebtedness has been incurred on account of such fund which has not been fully paid, such fund may be transferred to any other fund of the City by the affirmative vote of three-fourths of all the Members of the Council.

Statutory reference: Neb. RS 16-721

19-111. Insufficient funds.

(1) The Council may, 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, by a majority vote transfer money from other funds to such fund.

(2) No expenditure during the 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 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.

(3) Notice of a place and time for the 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 original money, and a copy of the summary of the originally adopted budget previously published.

(4) Upon the conclusion of the public hearing on the proposed supplemental budget and the approval of the Council, the Council shall file with the County Clerk and the Nebraska State Auditor a copy of the supplemental budget and shall certify the amount of additional tax to be levied. The Council may then issue warrants in payment for expenditures authorized by the adopted supplemental budget. The warrants shall be referred to as "registered warrants," and shall be repaid during the next fiscal year from funds derived from taxes levied therefore.

Statutory reference: Neb. RS 13-510, 13-511

19-112. Sinking funds.

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

(2) To initiate the sinking fund, the Council shall declare its purpose by resolution to submit to the qualified electors of the City the proposition to provide the improvement at the next general City election. The resolution shall set forth the improvement, the estimated cost, the amount of the annual levy, the number of years required to provide the required revenue, the name of the sinking fund proposed, and the proposition as it will appear on the ballot.

(3) Notice of the proposition shall be published in its entirety three times on successive weeks before the day of the election in a legal newspaper of general circulation in the 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.

(4) The Council may then proceed to establish the fund in conformity with the provisions of the proposition and applicable state law. The funds received by the City Treasurer shall, as they accumulate, be immediately invested with the written approval of the Council in the manner provided by state law. No sinking fund so established shall be used for any purpose or purposes contrary to the purpose as it appeared on the ballot unless the 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.

Statutory reference: Neb. RS 19-1301 – 19-1304, 77-2237 – 77-2339

19-113. Depositories.

(1) The City Treasurer shall deposit, and at all times keep on deposit, for safekeeping, in banks or capital stock financial institutions of approved and responsible

standing, all money collected, received, or held by him or her as City Treasurer. Such deposits shall be subject to all regulations imposed by law or adopted by the City Council for the receiving and holding thereof. The fact that a stockholder, director, or other officer of such bank or capital stock financial institution shall also be serving as Mayor, as a member of the City Council, or as any other officer of such City, shall not disqualify such bank or capital stock financial institution from acting as a depository for such City funds. The provisions of Neb. RS 77-2366 shall apply to deposits in capital stock financial institutions.

Statutory reference: Neb. RS 16-712, 21-1316.01

19-114. Depository bond.

(1) For the security of the fund so deposited, the City Treasurer shall require each depository to give bond for the safekeeping and payment of such deposits and the accretions thereof, which bond shall run to the City and be approved by the Mayor. Such bond shall be conditioned that such a depository shall, at the end of every quarter, render to the Treasurer a statement in duplicate, showing the several daily balances, the amount of money of the City held by it during the quarter, the amount of the accretion thereto, and how credited. The bond shall also be conditioned that the depository shall generally do and perform whatever may be required by the provisions of this code and faithfully discharge the trust reposed in such depository. Such bond shall be as nearly as practicable in the form provided in Neb. RS 77-2304. No person in any way connected with any depository as an officer or stockholder shall be accepted as a surety on any bond given by the depository of which he or she is an officer or stockholder. Such bond shall be deposited with the City Clerk. The provisions of Neb. RS 77-2366 shall apply to deposits in capital stock financial institutions.

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

Statutory reference: Neb. RS 16-714, 77-2362 - 77-2364

19-115. Depository securities.

In lieu of the bond required by this code, any bank or capital stock financial institution making application to become a depository may give security as provided in the Public Funds Deposit Security Act to the City Clerk. The penal sum of the bond shall be equal to or greater than the amount of the deposit in excess of that portion of the deposit insured by the Federal Deposit Insurance Corporation. The provisions of Neb. RS 77-2366 shall apply to deposits in capital stock financial institutions.

Statutory reference: Neb. RS 16-715, 77-2364, 77-2386 - 77-2397

19-116. Deposit maximums.

The Treasurer shall not have on deposit in any bank or capital stock financial

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

Statutory reference: Neb. RS 16-716

19-117. Investment of funds.

(1) Whenever the City has accumulated a surplus of any fund in excess of its current needs or has accumulated a sinking fund for the payment of its bonds and the money in such sinking fund exceeds the amount necessary to pay the principal and interest of any such bonds which become due during the current year, the City Treasurer may, upon resolution of the President and Council authorizing the same, invest any such surplus in certificates of deposit, in time deposits, and in any securities in which the state investment officer is authorized by law and as provided in the authorized investment guidelines of the Nebraska Investment Council in effect on the date the investment is made. The certificates of deposit, time deposits, and securities purchased shall bear interest, and shall be secured as set forth herein; provided, that the penal sum of such bond or the sum of such pledge of assets shall be reduced in the amount of the time deposit or certificate of deposit insured by the Federal Deposit Insurance Corporation.

(2) (a) Whenever the City shall have accumulated a surplus in its general fund in excess of its current needs, or shall have accumulated a sinking fund for the payment of its bonds and the money in such sinking fund shall exceed the amount necessary to pay the principal and interest of any such bonds which become due during the current year, the President and Council are authorized to invest such surplus in its general fund in excess of current needs or such excess in its sinking funds in any securities in which the Board of Educational Lands and Funds of the state is authorized by law to invest the educational funds of the state, including bonds and debentures issued either singly or collectively by any of the 12 federal land banks, the 12 intermediate credit banks, or the 13 banks for cooperatives under the supervision of the Farm Credit Administration.

(b) When any warrant of the City shall have been presented for payment and the same is not paid for want of funds, the Treasurer shall, upon and under the direction of the President and Council, purchase and take up such registered warrant with the sinking funds in the hands of the Treasurer and hold such warrant for the benefit of the fund so invested until the same is paid in its order, as provided by law.

Statutory reference: Neb. RS 77-2335, 77-2341, 77-2341(1)

19-118. Claims and warrants.

(1) All liquidated and unliquidated claims and accounts payable against the City shall be presented in writing; state the name and address of the claimant and the amount of the claim; and fully and accurately identify the items or services for which payment is claimed or the time, place, nature, and circumstances giving rise to the claim.

(2) As a condition precedent to maintaining an action for a claim, other than a tort claim as defined in Neb. RS 13-903, the claimant shall file such claim within 90 days of the accrual of the claim in the office of the City Clerk.

(3) The City Clerk shall notify the claimant or his or her agent or attorney by letter mailed to the claimant's address within five days if the claim is disallowed by the City Council.

(4) No costs shall be recovered against the City in any action brought against it for any claim or for any claim allowed in part which has not been presented to the City Council to be audited, unless the recovery is for a greater sum than the amount allowed with the interest due.

Statutory reference: Neb. RS 16-726

ARTICLE 2
MISCELLANEOUS EXPENDITURES

Section.

19-201. Definitions.
19-202. Additional expenditures; City Council; powers; procedures.
19-203. Expenditures; limitations; exception.

19-201. Definitions.

For purposes of this section, the following definitions shall apply:

(1) Elected and appointed officials and employees shall mean the elected and appointed officials and employees of the City of Ogallala;

(2) Public funds shall mean all money, including nontax money, used in the operation and functions of the City. For purposes of a lottery established under the Nebraska County and City Lottery Act, only those net proceeds which are actually received by the City from a licensed lottery operator shall be considered public funds, and public funds shall not include amounts awarded as prizes;

(3) Public meeting shall mean all regular, special, or called meetings, formal or informal, of any elected or appointed governing body, board, committee or commission for the purposes of briefing, discussion of public business, formation of tentative policy, or the taking of any action; and

(4) Volunteer shall mean a person who is not an elected or appointed official or an employee of the City and who, at the request or with the permission of the City, engages in activities related to the purposes or functions of the City or for its general benefit.

Statutory reference: Neb RS 13-503

19-202. Additional expenditures; City Council; powers; procedures.

In addition to other expenditures authorized by law, the City Council may approve:

(1)(a) The expenditure of public funds for the payment or reimbursement of actual and necessary expenses incurred by elected and appointed officials, employees, or volunteers at educational workshops, conferences, training programs, official functions, hearings, or meetings, whether incurred within or outside the boundaries of the City, if the City Council gave prior approval for participation or attendance at the event and for payment or reimbursement either by the formal adoption of a uniform policy or by a formal vote of the City Council. Authorized expenses may include:

(i) Registration costs, tuition costs, fees, or charges;

(ii) Mileage at the rate allowed by section 81-1176 or actual travel expense if travel is authorized by commercial or charter means; and

(iii) Meals and lodging at a rate not exceeding the applicable federal rate unless a fully itemized claim is submitted substantiating the costs actually incurred in excess of such rate and such additional expenses are expressly approved by the governing body.

(b) Authorized expenditures shall not include expenditures for meals of paid members of a governing body provided while such members are attending a public meeting of the governing body unless such meeting is a joint public meeting with one or more other governing bodies;

(2) The expenditure of public funds for:

(a) Nonalcoholic beverages provided to individuals attending public meetings of the governing body; and

(b) Nonalcoholic beverages and meals:

(i) Provided for any individuals while performing or immediately after performing relief, assistance, or support activities in emergency situations, including, but not limited to, tornado, severe storm, fire, or accident;

(ii) Provided for any volunteers during or immediately following their participation in any activity approved by the governing body, including, but not limited to, mowing parks, picking up litter, removing graffiti, or snow removal; or

(iii) Provided at one recognition dinner each year held for elected and appointed officials, employees, or volunteers of the local government. The maximum cost per person for such dinner shall be established by formal action of the governing body, but shall not exceed twenty-five dollars. An annual recognition dinner may be held separately for employees of each department or separately for volunteers, or any of them in combination, if authorized by the governing body; and

(3) The expenditure of public funds for plaques, certificates of achievement, or items of value awarded to elected or appointed officials, employees, or volunteers, including persons serving on local government boards or commissions. Before making any such expenditure, the governing body shall, by official action after a public hearing, establish a uniform policy which sets a dollar limit on the value of any plaque, certificate of achievement, or item of value to be awarded. Such policy, following its initial adoption, shall not be amended or altered more than once in any twelve-month period.

19-203. Expenditures; limitations; exception.

Nothing in this section shall authorize the expenditure of public funds to pay for any expenses incurred by a spouse of an elected or appointed official, employee, or volunteer unless the spouse is also an elected or appointed official, employee, or volunteer of the local government. Nothing in the act shall be construed to limit, restrict, or prohibit the City Council from making any expenditure authorized by statute, ordinance, resolution, or pursuant to any authority granted by law, either express or implied, except to the extent that such statute, ordinance, resolution, or other grant of authority by law, express or implied, may conflict with this chapter.

Statutory Reference: Neb RS 13-2201 et seq.

ARTICLE 3
PENALTY

Section.
19-301. Penalty.

19-301. Penalty.

(1) Penalty amounts. Any person who violates any of the prohibitions or provisions of any section of this chapter shall be deemed guilty of a misdemeanor. Unless otherwise specified in this chapter or by statute, the penalty for such violation shall be in any amount not to exceed $1,000, in the discretion of the court; and; provided, whenever any section of this chapter shall declare a nuisance, a violation of that section shall be penalized by a fine of not more than $1,000, in which case a new violation shall be deemed to have been committed every 24 hours of such failure to comply.

(2) Abatement of nuisance.

(a) Whenever a nuisance exists as defined in this chapter, the City may proceed by a suit in equity to enjoin and abate the same, in the manner provided by law.

(b) Whenever in any action it is established that a nuisance exits, the court may, together with the fine or penalty imposed, enter an order of abatement as a part of the judgment in the case.

Statutory reference: Neb. RS 16-225, 16-240, 16-246, 18-1720.

CHAPTER 20
FLOOD HAZARD REGULATIONS

Article.
1. General Provisions.
2. Flood hazard regulations.
3. Penalty.

ARTICLE 1
GENERAL PROVISIONS

Section.
20-101. Statutory authorization, findings of fact and purposes.
20-102. Findings of fact.
20-103. Statement of purpose.
20-104. Abrogation and greater restrictions.
20-105. Interpretation.
20-106. Conflicting ordinances/resolutions.
20-107. Warning and disclaimer of liability.
20-108. Definitions.

20-101. Statutory authorization, findings of fact and purposes.

The Legislature of the State of Nebraska has in Sections 31-1001 to 31-1022, R.R.S. 1943 assigned the responsibility to local governmental units to adopt floodplain management regulations designed to protect the public health, safety, and general welfare. Therefore, the City Council of Ogallala, Nebraska ordains as follows.

20-102. Findings of fact.

(1) Flood losses resulting from periodic inundation. The flood hazard areas of Ogallala, Nebraska, are subject to inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base all of which adversely affect the public health, safety and general welfare.

(2) General causes of flood losses. These flood losses are caused by:

(a) The cumulative effect of obstructions in floodplains causing increases in flood heights and velocities;

(b) The occupancy of flood hazard areas by uses vulnerable to floods or hazardous to others, which are inadequately elevated or otherwise unprotected from flood damages.

20-103. Statement of purpose.

It is the purpose of this chapter to promote the public health, safety, and general welfare and to minimize those losses described in 20-102(1) by applying the provisions of this chapter to:

(1) Restrict or prohibit uses which are dangerous to health, safety, or property in

times of flooding or cause undue increases in flood heights or velocities;

(2) Require that uses vulnerable to floods, including public facilities which serve such uses, be provided with flood protection at the time of initial construction;

(3) Protect individuals from buying lands which are unsuited for intended purposes because of flood hazard; and

(4) Assure that eligibility is maintained for property owners in the community to purchase flood insurance in the National Flood Insurance Program.

20-104. Abrogation and greater restrictions.

It is not intended by this chapter to repeal, abrogate, or impair any existent easements, covenants, or deed restrictions. However, where this chapter imposes greater restrictions, the provision of this chapter shall prevail. All other ordinances/resolutions inconsistent with this chapter are hereby repealed to the extent of the inconsistency only.

20-105. Interpretation.

In their interpretation and application, the provisions of this chapter, shall be held to be minimum requirements and shall be liberally construed in favor of the governing body and shall not be deemed a limitation or repeal, of any other powers granted by state statutes.

20-106. Conflicting ordinances/resolutions.

This chapter shall take precedence over conflicting ordinances/resolutions or parts of ordinances/resolutions. The City Council may, from time to time, amend this chapter to reflect any and all changes in the National Flood Disaster Protection Act of 1973. The regulations of this chapter are in compliance with the National Flood Insurance Program Regulations as published in Title 44 of the Code of Federal Regulations and the 1983 Nebraska Floodplain Management Act.

20-107. Warning and disclaimer of liability.

The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on engineering and scientific methods of study. Larger floods may occur on rare occasions or the flood height may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. This chapter does not imply that areas outside floodplain district boundaries or land uses permitted within such districts will be free from flooding or flood damage. This chapter shall not create liability on the part of the City or any officer or employee thereof for any flood damages that may result from reliance on this chapter or any administrative decision lawfully made thereunder.

20-108. Definitions.

Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the same meaning as they have in common usage and so as to give this chapter its most reasonable application.

(1) Appurtenant structure shall mean a structure on the same parcel of property as the principal structure, the use of which is incidental to the use of the principal

structure.

(2) Base Flood shall mean the flood having 1% chance of being equaled or exceeded in any given year.

(3) Basement shall mean any area of the building having its floor subgrade (below ground level) on all sides.

(4) Development shall mean any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operations or storage of equipment or materials.

(5) Existing Mobile Home Park or Subdivision shall mean a mobile home park or subdivision for which the construction of facilities for servicing the lots on which the mobile homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is complete before the effective date of the floodplain management regulations adopted by a community.

(6) Expansion of Existing Mobile Home Park or Subdivision shall mean the preparation of additional sites by the construction of facilities for servicing the lots on which the mobile homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

(7) Flood shall mean a general and temporary condition of partial or complete inundation of normally dry land areas from either of the following:

(a) The overflow of inland or tidal waters; or

(b) The unusual and rapid accumulation of runoff of surface waters from any source.

(8) Flood Insurance Rate Map (FIRM) shall mean an official map of a community, on which the Administrator has delineated both the special flood hazard areas and the risk premium applicable to the community.

(9) Floodplain shall mean any land area susceptible to being inundated by water from any source (see flooding).

(10) Floodproofing shall mean any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

(11) Floodway shall mean the channel of the river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

(12) Historic Structure shall mean any structure that is:

(a) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

(b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

(c) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or

(d) Individually listed on a local inventory of historic places in communities with

historic preservation programs that have been certified either:

(i) By an approved state program as determined by the Secretary of the Interior; or

(ii) Directly by the Secretary of the Interior and states without approved programs.

(13) Lowest Floor shall mean the lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.

(14) Mobile home shall mean a movable or portable dwelling constructed to be towed on its own chassis, connected to utilities, and designed with or without a permanent foundation for year-round living. It may consist of one or more units that can be telescoped when towed and expanded later for additional capacity, or of two or more units, separately towable but designed to be joined into one integral unit, and shall include a manufactured home as defined in section 71-4603; In addition, any mobile home moved into the zoning jurisdiction of the City after March 1, 2002 shall bear a label certifying that it was built to compliance with National Mobile Home Construction and Safety Standards, 24 CFR 3280 et seq., promulgated by the United States Department of Housing and Urban Development, or a modular housing unit as defined in Neb. RS 71-1557 bearing the seal of the Department of Health.

(15) Mobile Home Park or Subdivision shall mean a parcel or contiguous parcels of land which have been so designated and improved that it contains two or more mobile home lots available to the general public for the placement thereon of mobile homes for occupancy; provided, however, that any mobile home park that has not previously been licensed and permitted as a special exception by the City, prior to January 1, 2001, shall contain ten or more mobile home lots available to the general public for the placement thereon of mobile homes for occupancy. The term mobile home park shall not be construed to include mobile homes, buildings, tents, and other structures temporarily maintained by any individual, corporation, company, or other entity on its own premises and used exclusively to house its own labor force.

(16) New Construction shall mean, for floodplain management purposes, structures for which the start of construction commenced on or after the effective date of the floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

(17) New Mobile Home Park or Subdivision shall mean a mobile home park or subdivision for which the construction of facilities for servicing the lots on which the mobile homes are to be affixed (including at a minimum the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.

(18) 100-Year Flood shall mean the condition of flooding having a 1% chance of annual occurrence.

(19) Principally Above Ground shall mean at least 51% of the actual cash value of the structure is above ground.

(20) Recreational Vehicle shall mean a vehicle which is:

(a) Built on a single chassis;

(b) Four hundred square feet or less when measured at the largest horizontal projection;

(c) Designed to be self-propelled or permanently towable by a light duty truck; and

(d) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

(21) Regulatory Flood Elevation shall mean the water surface elevation of the 100-year flood.

(22) Special Flood Hazard Area shall mean the land in the floodplain within a community subject to 1% or greater chance of flooding in any given year.

(23) Start of Construction [For other than new construction or substantial improvements under the coastal Barrier Resources Act (Pub. L. 97-348)] shall include substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a mobile home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not the alteration affects the external dimensions of the building.

(24) Structure shall mean a walled and roofed building that is principally above ground, as well as a mobile home, and a gas or liquid storage tank that is principally above ground.

(25) Substantial Damage shall mean damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred.

(26) Substantial Improvement shall mean any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure before start of construction of the improvement. This includes structures which have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include either:

(a) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or

(b) Any alteration of a historic structure, provided that the alteration will not

preclude the structure's continued designation as a historic structure.

(27) Variance shall mean a grant of relief to a person from the terms of a floodplain management ordinance.

(28) Violation shall mean the failure of a structure or other development to be fully compliant with the community's floodplain management regulations.

ARTICLE 2
FLOOD HAZARD REGULATIONS

Section.

20-201. Local administrator responsibilities.
20-202. Local administrator additional responsibilities.
20-203. Designation of current FHMB/FIRM.
20-204. Permits required.
20-205. Development permit applications review.
20-206. All applications review.
20-207. Subdivision applications.
20-208. Water and sewage systems.
20-209. Construction of appurtenant structure.
20-210. Storage of material and equipment.
20-211. Carrying capacity within any watercourse.
20-212. Variance procedures.
20-213. Appeal.
20-214. Non-conforming use.

20-201. Local administrator responsibilities.

The Building Inspector hereby has these added responsibilities and is authorized and directed to enforce all of the provisions of this chapter and all other ordinances or resolutions of the City now in force or hereafter adopted, related to zoning, subdivision, or building codes.

20-202. Local administrator additional responsibilities.

The Building Inspector shall be appointed to these additional responsibilities by resolution of the City Council and his/her appointment shall continue during good behavior and satisfactory service. During temporary absence or disability of the Building Inspector, the City Council shall designate an acting administrator.

20-203. Designation of current FHMB/FIRM.

The City Council hereby designates the current Flood Hazard Boundary Map/Flood Insurance Rate Map and any revisions thereto, as the official map dated September 30, 2005 to be used in determining those areas of special flood hazard.

20-204. Permits required.

No person, firm, or corporation shall initiate any floodplain development or substantial improvement or cause the same to be done without first obtaining a separate permit for development as defined in this chapter.

(1) Separate permits. Within special flood hazard areas on the official map, separate floodplain development permits are required for all new construction, substantial improvements and other developments, including the placement of mobile homes;

(2) Application. To obtain a floodplain development permit, the applicant shall first file an application therefore, in writing on a form furnished for that purpose. Every such application shall:

(a) Identify and describe the development to be covered by the floodplain development permit for which application is made;

(b) Describe the land on which the proposed development is to be done by lot, block, tract, and house and street address, or similar description that will readily identify and definitely locate the proposed building or development;

(c) Indicate the use or occupancy for which the proposed development is intended;

(d) Be accompanied by plans and specifications for proposed construction;

(e) Be signed by the permittee or his authorized agent who may be required to submit evidence to indicate such authority.

(f) Within designated floodplain areas, be accompanied by elevations of the lowest floor, including basement, or in the case of floodproofed nonresidential structures, the elevation to which it shall be floodproofed. Documentation or certification of such elevations will be maintained by the Building Inspector; and

(g) Give such other information as reasonably may be required by the Building Inspector (such as, a statement from the applicant that they are aware that elevating or floodproofing structures above the minimum levels will result in premium reduction, especially in the case of non-residential floodproofing when a minus one foot penalty is assessed at the time of rating the structure for the policy premium.)

20-205. Development permit applications review.

The Building Inspector shall review all development permit applications to determine if the site of the proposed development is reasonably safe from flooding and that all necessary permits have been received as required by federal or state law.

20-206. All applications review.

The Building Inspector, in reviewing all applications for new construction, substantial improvements, prefabricated buildings, placement of mobile homes and other developments will:

(1) Obtain, review, and reasonably utilize, if available, any regulatory flood elevation data and floodway data available from federal, state or other sources, until such other data is provided by the Federal Insurance Administration in a Flood Insurance Study; and require within special flood hazard areas on the official map that the following performance standards be met:

(a) Until a floodway has been designated. No development or substantial improvement may be permitted within the identified floodplain unless the applicant has demonstrated that the proposed development or substantial improvement, when combined with all other existing and reasonably anticipated developments or substantial improvements, will not increase the water surface elevation of the 100-year flood more

than one foot at any location;

(b) Residential construction. New construction or substantial improvement of any residential structure shall have the lowest floor, including basement, elevated at least one foot above the base flood elevation;

(c) Non-residential Construction. New construction or substantial improvement of any commercial, industrial, or other non-residential structure shall either have the lowest floor, including basement, elevated at least one foot above the base flood elevation or, together with attendant utility and sanitary facilities, be floodproofed so that below such a level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification shall be provided to the local administrator; and

(d) Require for all new construction and substantial improvements. That fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria: a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

(2) Require the use of construction materials that are resistant to flood damage;

(3) Require the use of construction methods and practices that will minimize flood damage;

(4) Require that new structures be designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;

(5) New structures be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;

(6) Assure that all mobile homes shall be anchored to resist flotation, collapse, or lateral movement. Mobile homes must be anchored in accordance with state laws, local building codes, and FEMA guidelines. In the event that over-the-top frame ties to ground anchors are used, the following specific requirements (or their equivalent) shall be met:

(a) Over-the-top ties be provided at each of the four corners of the mobile home with two additional ties per side at the intermediate locations and mobile homes less than 50 feet long requiring one additional tie per side;

(b) Frame ties be provided at each corner of the home with five additional ties per side at intermediate points and mobile homes less than 50 feet long requiring four additional ties per side;

(c) All components of the anchoring system be capable of carrying a force of 4,800 pounds; and

(d) Any additions to mobile homes be similarly anchored;

(7) Assure that all mobile homes that are placed or substantially improved within special flood hazard areas on the community's official map on sites:

(a) Outside of a mobile home park or subdivision;

(b) In a new mobile home park or subdivision;

(c) In an expansion to an existing mobile home park or subdivision; or

(d) In an existing mobile home park or subdivision on which a mobile home has incurred "substantial damage" as the result of a flood, be elevated on a permanent foundation such that the lowest floor of the mobile home is elevated at least one foot above the base hood elevation and be securely anchored to an adequately anchored foundation system in accordance with the provisions of division (6);

(8) Assure that mobile homes to be placed or substantially improved on sites in an existing mobile home park or subdivision within special flood hazard areas on the community's official map that are not subject to the provisions of division (7) be elevated so that either:

(a) The lowest floor of the mobile home is at least one foot above the base flood elevation; or

(b) The mobile home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system in accordance with the provisions of division (6).

(9) Require that recreational vehicles placed on sites within the identified special flood hazard areas on the community's official map either:

(a) Be on the site for fewer than 180 consecutive days;

(b) Be fully licensed and ready for highway use; or

(c) Meet the permit requirements and the elevation and anchoring requirements for "mobile homes" of this chapter. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.

20-207. Subdivision applications.

The City Council shall review all subdivision applications and other proposed new developments (including mobile home parks or subdivisions) and shall make findings of fact and assure that:

(1) All such proposed developments are consistent with the need to minimize flood damage;

(2) Subdivision proposals and other proposed new developments (including proposals for mobile home parks and subdivisions), greater than five acres or 50 lots, whichever is lesser, include within such proposals regulatory flood elevation data in special flood hazard areas;

(3) Adequate drainage is provided so as to reduce exposure to flood hazards; and

(4) All public utilities and facilities are located so as to minimize or eliminate flood damage.

20-208. Water and sewage systems.

New and replacement water and sewage systems shall be constructed to eliminate or minimize infiltration by, or discharge into floodwaters. Moreover, on-site waste disposal systems will be designed to avoid impairment or contamination during flooding.

20-209. Construction of appurtenant structure.

Appurtenant structures used exclusively for storage of motor vehicles and storage of other items readily removable in the event of a flood warning may have their lowest floor below one foot above the base flood elevation provided the structure is capable of withstanding hydrostatic and hydrodynamic forces caused by the base flood and provided that no utilities are installed in the structure except elevated or flood proofed electrical fixtures. If the structure is converted to another use, it must be brought into full compliance with the minimum standards governing such use.

20-210. Storage of material and equipment.

The storage or processing of materials that are in time of flooding buoyant, flammable, explosive, or could be injurious to human, animal, or plant life is prohibited. Storage of other material or equipment may be allowed if not subject to major damage by floods and firmly anchored to prevent flotation or if readily removable from the area within the time available after flood warning.

20-211. Carrying capacity within any watercourse.

The City Council will ensure that the flood-carrying capacity within the altered or relocated portion of any watercourse is maintained. The City will notify, in riverine situations, adjacent communities and the State Coordinating Office (Nebraska Natural Resources Commission) prior to any alteration or relocation of a watercourse, and submit copies of such notifications to the Federal Emergency Management Agency. Moreover, the City will work with appropriate state and federal agencies in every way possible in complying with the National Flood Insurance Program in accordance with the National Disaster Protection Act of 1973.

20-212. Variance procedures.

(1) City Council to decide.

(a) The City Council as established by the City shall hear and decide appeals and requests for variances from the requirements of this chapter.

(b) The City Council shall hear and decide appeals when it is alleged that there is an error in any requirement, decision, or determination made by the Building Inspector in the enforcement or administration of this chapter.

(2) Appeal of Council decision. Any person aggrieved by the decision of the City Council or any taxpayer may appeal such decision to the District Court as provided in Section 23-168, R.R.S. 1943 (for counties); 19-912, R.R.S.1943 (for municipalities).

(3) Factors. In passing upon such applications, the City Council shall consider all technical evaluation, all relevant factors, standards specified in other sections of this chapter, and:

(a) The danger that materials may be swept onto other lands to the injury of others;

(b) The danger to life and property due to flooding or erosion damage;

(c) The susceptibility of proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

(d) The importance of the services provided by the proposed facility to the community;

(e) The necessity to the facility of a waterfront location, where applicable;

(f) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;

(g) The compatibility of the proposed use with existing and anticipated development;

(h) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;

(i) The safety of access to the property in times of flood for ordinary and emergency vehicles;

(j) The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and

(k) The costs of providing governmental, services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

(4) Conditions for Variances.

(a) Generally variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing divisions (4)(b) through (e) have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.

(b) Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

(c) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(d) Variances shall only be issued upon the following:

(i) A showing of good and sufficient cause;

(ii) A determination that failure to grant the variance would result in exceptional hardship to the applicant; and

(iii) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances/resolutions.

(e) The applicant shall be given a written notice over the signature of a community official that

(i) The issuance of a variance to construct a structure below base flood level will result in increased premium rates for flood insurance up to amounts as high as $25 for

$100,000 of insurance coverage; and

(ii) Such construction below the base flood level increases risks to life and property. Such notification shall be maintained with the record of all variance actions as required by this chapter.

20-213. Appeal.

Where a request for a permit to develop or a variance is denied by the Building Inspector the applicant may apply for such permit or variance directly to the Board of Appeals.

20-214. Non-conforming use.

(1) A structure or the use of a structure or premises which was lawful before the passage or amendment of the chapter, but which is not in conformity with the provisions of this chapter may be continued subject to the following conditions:

(a) If such use is discontinued for 12 consecutive months, any future use of the building premises shall conform to this chapter. The Utility Department shall notify the Building Inspector in writing of instances of non-conforming uses where utility services have been discontinued for a period of 12 months; or

(b) Uses or adjuncts thereof which are or become nuisances shall not be entitled to continue as non-conforming uses.

(2) If any non-conforming use or structure is destroyed by any means, including flood, it shall not be reconstructed if the cost is more than 50% of the market value of the structure before the damage occurred except that if it is reconstructed in conformity with the provisions of this chapter. This limitation does not include the cost of any alteration to comply with existing state or local health, sanitary, building, or safety codes or regulations or the cost of any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

ARTICLE 3
PENALTY

Section.

20-301. Penalty.

20-301. Penalty.

(1) Penalty amounts. Any person who violates any of the prohibitions or provisions of any section of this chapter shall be deemed guilty of a misdemeanor. Unless otherwise specified in this chapter or by statute, the penalty for such violation shall be in any amount not to exceed $1,000, in the discretion of the court; and; provided, whenever any section of this chapter shall declare a nuisance, a violation of that section shall be penalized by a fine of not more than $1,000, in which case a new violation shall be deemed to have been committed every 24 hours of such failure to comply.

(2) Abatement of nuisance.

(a) Whenever a nuisance exists as defined in this chapter, the City may proceed by a suit in equity to enjoin and abate the same, in the manner provided by law.

(b) Whenever in any action it is established that a nuisance exits, the court may, together with the fine or penalty imposed, enter an order of abatement as a part of the judgment in the case.

(3) Restitution. The court may, together with the fine or penalty imposed, enter an order of restitution as part of the judgment in the case.

Statutory reference: Neb. RS 16-225, 16-240, 16-246, 18-1720.

CHAPTER 21
FRANCHISES

Article.
1. Charter Communications.
2. Kinder Morgan, Inc.
3. Nebraska Public Power District.
4. Qwest Communications.
5. Allo Ogallala, LLC d/b/a Allo Communications

ARTICLE 1
CHARTER COMMUNICATIONS

Section.
21-101. Grant of franchise.

21-101. Grant of franchise.

Granting to Charter Communications Company the authority to maintain and operate a television station and transmitting system in the city.

Statutory authority: Neb. RS 2201 et seq.

Historical reference: Ord. 921, passed 1-10-89; Res. 931, passed 1-12-99; Res. 963, passed 12-28-99; and Ord. 1275 passed 12-28-10.

ARTICLE 2
KINDER MORGAN, INC.

Section.
21-201. Grant of franchise.

21-201. Grant of franchise.

Granting to Kinder Morgan, Inc., the authority to construct, maintain, and operate a gas transmission and distribution system within the city.

Historical reference: Ord. 625, passed 9-22-75.

ARTICLE 3
NEBRASKA PUBLIC POWER DISTRICT

Section.
21-301. Grant of franchise.

21-301. Grant of franchise.

Granting to Nebraska Public Power District the authority to maintain and operate the light and power system in the city for the purpose of furnishing electric energy to the

city, and fixing charges for such service.

Statutory authority: Neb. RS 16-673, 18-412.01, 18-412.06 – 18-413.10 and, 70-502.

Historical reference: Ord. 993, passed 2-22-94.

ARTICLE 4
QWEST COMMUNICATIONS

Section.

21-401. Grant of franchise.

21-401. Grant of franchise.

Granting to Qwest Communications the authority to maintain and operate a telephone system within the city.

Historical reference: Ord. 420, passed 7-22-63.

ARTICLE 5
ALLO OGALLALA, LLC d/b/a ALLO COMMUNICATIONS

Section.

21-501. Grant of franchise.

21-501. Grant of franchise.

Granting to Allo Ogallala, LLC d/b/a Allo Communications the authority to maintain and operate a television station and transmitting system in the city.

Statutory authority: Neb. RS 2201 et seq.

Ord. 1280 passed 4-26-11.

CHAPTER 22
HAZARDOUS MATERIAL

Article.
1. Hazardous Material.
2. Penalty.

ARTICLE 1
HAZARDOUS MATERIAL

Section.
22-101. Definitions.
22-102. Storage restrictions.
22-103. Portable storage and transportation devices.
22-104. High explosives.

22-101. Definitions.

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

(1) Hazardous Materials shall include:

(a) Flammable liquids having a flash point below 100ºF and having a vapor pressure not exceeding 40 pounds per square inch (absolute) at 100ºF.

(b) Combustible liquids having a flash point at or above 100ºF.

(c) Highly toxic materials so toxic to human beings as to afford an unusual hazard to life and health, including but not limited to anhydrous ammonia, and similar chemicals.

(d) Explosives.

(e) Any other materials which cause an unusual hazard to the life, health, and safety of the citizens of the City.

22-102. Storage restrictions.

(1) Restriction on storage. No tank, receptacle, or other storage device used or intended to be used for the aboveground storage of hazardous materials and having a storage capacity in excess of 1,000 gallons, or, in the case of dry materials, 2,000 pounds, shall hereafter be erected or constructed aboveground upon any premises within the corporate limits of the City unless said tank or storage device be located more than 500 feet from any residence, business, school, or place open to the public, provided that the owner:

(a) Obtains a permit from the Planning and Zoning Administrator; and

(b) Meets the safety requirements of state, federal, and local laws, ordinances, rules, and regulations.

Historical Reference: Ord. 841, passed 1-14-86.

22-103. Portable storage and transportation devices.

(1) No tank car or other portable storage or transportation device having a storage capacity in excess of 1,000 gallons, or, in the case of dry materials, 2,000 pounds, and containing hazardous materials shall be allowed to remain in the corporate limits within 500 feet from any residence, business, school, or any place open to the public, except for the purpose of loading or unloading hazardous materials, but in no event shall said tank car or portable storage transportation device be allowed to remain within said 500 feet for longer than 8 hours; provided, however, that vehicles actively used in transporting hazardous materials may be parked, subject to the provisions of this subchapter, in a hazardous material bulk storage facility or in an adequately protected security area.

22-104. High explosives.

Any person wishing to discharge high explosives within the City must secure a permit from the City Council and shall discharge such explosives in conformance with their direction and under their supervision, and in no case shall any person perform blasting operations unless operating under the direct supervision of a person in possession of a valid user's permit issued by the Nebraska State Patrol.

Statutory reference: Neb. RS 28-1220, 28-1299

ARTICLE 2
PENALTY

Section.

22-201. Penalty.

22-201. Penalty.

(1) Penalty amounts. Any person who violates any of the prohibitions or provisions of any section of this chapter shall be deemed guilty of a misdemeanor. Unless otherwise specified in this chapter or by statute, the penalty for such violation shall be in any amount not to exceed $1,000, in the discretion of the court; and; provided, whenever any section of this chapter shall declare a nuisance, a violation of that section shall be penalized by a fine of not more than $1,000, in which case a new violation shall be deemed to have been committed every 24 hours of such failure to comply.

(2) Abatement of nuisance.

(a) Whenever a nuisance exists as defined in this chapter, the City may proceed by a suit in equity to enjoin and abate the same, in the manner provided by law.

(b) Whenever in any action it is established that a nuisance exits, the court may, together with the fine or penalty imposed, enter an order of abatement as a part of the judgment in the case.

(3) Restitution. The court may, together with the fine or penalty imposed, enter an order of restitution as part of the judgment in the case.

Statutory reference: Neb. RS 16-225, 16-240, 16-246, 18-1720.

CHAPTER 23
HEALTH AND SANITATION

Article.
1. General Provisions.

ARTICLE 1
GENERAL PROVISIONS

Section.
23-101. Rules and regulations.
23-102. Enforcement authority.
23-103. Duties of Board of Health.

23-101. Rules and regulations.

For the purpose of promoting the health and safety of the residents of the City, the Board of Health as established in Chapter 6 of this code shall, from time to time, adopt such rules and regulations relative thereto and shall make such inspections, prescribe such penalties, and make such reports as may be necessary toward that purpose.

Statutory reference: Neb. RS 16-238.

23-102. Enforcement authority.

The City Police Chief shall be the Quarantine Officer of the City. It shall be his or her duty to notify the Council and the Board of Health of health nuisances and of every case of contagious, infectious, or malignant disease within the City and its zoning jurisdiction.

Statutory reference: Neb. RS 16-238.
Historical reference: Ord. 874, passed 2-9-88.

23-103. Duties of Board of Health.

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

CHAPTER 24
ITINERANT MERCHANTS

Article.
1. General Provisions.
2. Licenses.
3. Administration and Enforcement.
4. Penalty.

ARTICLE 1
GENERAL PROVISIONS

Section.
24-101. Definitions.

24-101. Definitions.

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

(1) Transient Merchant, Itinerant Merchant or Itinerant Vendor shall mean every person, firm, or corporation, whether as owner, agent, consignee, or employee, who is a nonresident of this county who engages temporarily within the City in the business of selling and delivering goods, wares, and merchandise or taking orders for goods or merchandise to or at homes, apartments, or other residential premises in the City.

ARTICLE 2
LICENSES

Section.
24-201. License required; location of sales.
24-202. License application.
24-203. License fee.
24-204. License term.
24-205. License revocation.
24-206. License appeals.

24-201. License required; location of sales.

It shall be unlawful for an itinerant vendor to engage in such business within the City without first obtaining a license therefore. It shall be unlawful for any farmer, truck grower, or others who produce, hawk, or peddle products of the farm, fruit, or other staples of food or who peddle, sell, or offer to sell any commodity or article of commerce or trade to park their conveyances or erect a place of business for the purpose of selling said products upon any street within the congested district.

Statutory reference: Neb. RS 16-699

24-202. License application.

Applicants for a license shall file a written sworn application, signed by the applicant if an individual, by all partners if a partnership, and by the president if a corporation, with the City Clerk, showing:

(1) The name or names of the person or persons having the management or supervision of the applicant's business during the time that it is proposed that it will be carried on in the municipality; the local address or addresses of such person or persons while engaged in such business; the permanent address or addresses of such person or persons; the capacity in which such person or persons will act (that is, whether as proprietor, agent, or otherwise); the name and address of the person, firm, or corporation for whose account the business will be carried on, if any; and if a corporation, under the law of what state the same is incorporated.

(2) The place or places in the City where it is proposed to carry on applicant's business, and the length of time during which it is proposed that such business shall be conducted.

(3) A statement of the nature of merchandise to be sold or offered for sale by the applicant.

(4) A brief statement of the nature of the advertising done or proposed to be done in order to attract customers.

(5) Credentials from the person for whom the applicant proposes to do business, authorizing the applicant to act as such representative.

(6) Such other reasonable information as to the identity or character of the person or persons having the management or supervision of the applicant's business or the method or plan of doing such business as the City Manager may deem proper.

24-203. License fee.

If the applicant is approved by the City Manager, the applicant shall pay a license fee set by resolution of the governing body to cover the cost of processing the application and issuing the license. A copy of the said resolution shall be kept on file at the office of the City Clerk and shall be available for inspection at any reasonable hour.

24-204. License term.

All licenses issued shall expire 30 days after the date of issuance thereof unless a prior date is fixed therein.

24-205. License revocation.

(1) The licenses issued may be revoked by the City Manager for any of the following causes:

(a) Any fraud, misrepresentation, or false statement contained in the application for a license.

(b) Any fraud, misrepresentation, or false statement made in connection with the selling of goods, wares, or merchandise.

(c) Any violation of this chapter.

(d) Conviction of the licensee of any felony or of a misdemeanor involving moral turpitude.

(e) Conducting the business licensed under this chapter in an unlawful manner or

in such a manner as to constitute a breach of the peace or a menace to the health, safety, or general welfare of the public.

24-206. License appeals.

Any person aggrieved by the decision of the City Manager in regard to the denial of an application for a license or in connection with the revocation of a license shall have the right to appeal to the Council. Such appeal shall be taken by filing with the Council within 14 days after notice of the decision has been mailed to such person's last-known address a written statement setting forth the grounds for appeal. The Council shall set the time and place for a hearing on such appeal and notice shall be given to such person by registered mail, postage prepaid, at his or her last-known address. The order of the Council on such appeal shall be final.

ARTICLE 3
ADMINISTRATION AND ENFORCEMENT

Section.

24-301. Enforcement.
24-302. Records of complaints and violations.

24-301. Enforcement.

It shall be the duty of the City Police to examine all places of business and persons subject to the provisions of this chapter and to enforce the provisions herein against any person found to be violating the same.

24-302. Records of complaints and violations.

The City Clerk shall deposit the license number of the licensee with the Chief of Police. The Chief of Police shall then report to the Clerk any complaints against the persons licensed under the provisions of this chapter and any conviction for violation of this code or the laws of the state. The City Clerk shall keep a record of all such complaints and violations.

ARTICLE 4
PENALTY

Section.

24-401. Penalty.

24-401. Penalty.

(1) Penalty amounts. Any person who violates any of the prohibitions or provisions of any section of this chapter shall be deemed guilty of a misdemeanor. Unless otherwise specified in this chapter or by statute, the penalty for such violation shall be in any amount not to exceed $1,000, in the discretion of the court; and; provided, whenever any section of this chapter shall declare a nuisance, a violation of that section shall be penalized by a fine of not more than $1,000, in which case a new violation shall be deemed to have been committed every 24 hours of such failure to

comply.

(2) Abatement of nuisance.

(a) Whenever a nuisance exists as defined in this chapter, the City may proceed by a suit in equity to enjoin and abate the same, in the manner provided by law.

(b) Whenever in any action it is established that a nuisance exits, the court may, together with the fine or penalty imposed, enter an order of abatement as a part of the judgment in the case.

Statutory reference: Neb. RS 16-225, 16-240, 16-246, 18-1720.

CHAPTER 25
MEETINGS

Article.
1. Meetings of Public Body.
2. Meetings of Council.

ARTICLE 1
MEETINGS OF PUBLIC BODY

Section.
25-101. Declaration of intent.
25-102. Definitions.
25-103. Closed session.
25-104. Notice of meetings of public body.
25-105. Rights of the public.
25-106. Minutes.
25-107. Unlawful action.

25-101. Declaration of Intent.

It is hereby declared to be the policy of the City that the formation of public policy is public business and may not be conducted in secret.

Every meeting of a public body shall be open to the public in order that citizens may exercise their democratic privilege of attending and speaking at meetings of public bodies, except as otherwise provided by the Constitution of Nebraska, federal statutes, and the Open Meetings Act.

Statutory Reference: Neb RS 84-1408

25-102. Definitions.

For purposes of this subchapter, the following definitions shall apply, unless the context otherwise requires.

(1) Public body shall mean

(a) The City Council:

(b) All independent boards, commissions, bureaus, committees, councils, subunits, or any other bodies created by the City Council, the Constitution of Nebraska, statute, or otherwise pursuant to law,: and,

(c) Advisory committees of the bodies referred to in subdivisions (1) and (2) of this subdivision, and

Public body does not include subcommittees of such bodies unless a quorum of the public body attends a subcommittee meeting or unless such subcommittees are holding hearings, making policy, or taking formal action on behalf of their parent body.

(2) Meetings shall mean all regular, special, or called meetings, formal or informal, of any public body for the purposes of briefing, discussion of public business, formation of tentative policy, or the taking of any action of the public body.

(3) 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.

Statutory Reference: Neb. RS 84-1409 (1 – 3)

25-103. Closed session.

(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 . The subject matter and the reason necessitating the closed session shall be identified in the motion to close. Closed sessions may be held for, but shall not be limited to, such reasons as:

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

(b) Discussion regarding deployment of security personnel or devices;

(c) Investigative proceedings regarding allegations of criminal misconduct; or

(d) Evaluation of the job performance of a person when necessary to prevent needless injury to the reputation of a person and if 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 entire motion, the vote of each member on the question of holding a closed session, and the time when the closed session commenced and concluded shall be recorded in the minutes. If the motion to close passes, then the presiding officer immediately prior to the closed session shall restate on the record the limitation of the subject matter of the closed session. The public body holding such a closed session shall restrict its consideration of matters during the closed portions to only those purposes set forth in the motion to close as the reason for the closed session. The meeting shall be reconvened in open session before any formal action may be taken. For purposes of this section, formal action shall mean a collective decision or a collective commitment or promise to make a decision on any question, motion, proposal, 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)(a) of this section.

(3) Any member of any public body shall have the right to challenge the continuation of a closed session if the member determines that the session has exceeded the reason stated in the original motion to hold a closed session or if the member contends that the closed session is neither clearly necessary for

(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 Open Meetings Act. No closed session, informal meeting, chance meeting, social gathering, email, fax, or other electronic communication shall be used for the purpose of circumventing the requirements of the act.

(5) The act does 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, if there is no vote or other action taken regarding any matter over which the public body has supervision, control, jurisdiction, or advisory power.

25-104. Notice of meetings of public body.

(1) Each public body shall give reasonable advance publicized notice of the time and place of each meeting by a method designated by each public body and recorded in its minutes. Such notice shall be transmitted to all members of the public body and to the public. Such notice shall contain an agenda of subjects known at the time of the publicized notice or a statement that the agenda, which shall be kept continually current, shall be readily available for public inspection at the principal office of the public body during normal business hours. Agenda items shall be sufficiently descriptive to give the public reasonable notice of the matters to be considered at the meeting. Except for items of an emergency nature, the agenda shall not be altered later than

(a) Twenty-four hours before the scheduled commencement of the meeting or

(b) Forty-eight hours before the scheduled commencement of a meeting of the City Council scheduled outside the corporate limits of the municipality. The public body shall have the right to modify the agenda to include items of an emergency nature only at such public meeting.

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

(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 or telephone conferencing was not used;

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

(d) At least one member of the state entity, advisory committee, or governing body is present at each site of the videoconference or telephone conference; and

(e) No more than one-half of the state entity's, advisory committee's, or governing body's meetings in a calendar year are held by videoconference or telephone conference.

Videoconferencing, telephone conferencing, or conferencing by other electronic communication shall not be used to circumvent any of the public government purposes established in the Open Meetings Act.

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

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

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

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

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

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

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

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

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

Nothing in this subsection shall prevent the participation of consultants, members of the press, and other nonmembers of the governing body at sites not identified in the public notice. Telephone conference calls, emails, faxes, or other electronic communication shall not be used to circumvent any of the public government purposes established in the Open Meetings Act.

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

(5) When it is necessary to hold an emergency meeting without reasonable advance public notice, the nature of the emergency shall be stated in the minutes and any formal action taken in such meeting shall pertain only to the emergency. Such emergency meetings may be held by means of electronic or telecommunication equipment. The provisions of subsection (4) of this section shall be complied with in conducting emergency meetings. Complete minutes of such emergency meetings specifying the nature of the emergency and any formal action taken at the meeting shall

be made available to the public by no later than the end of the next regular business day.

(6) A public body may allow a member of the public or any other witness other than a member of the public body to appear before the public body by means of video or telecommunications equipment.

Statutory Reference: Neb. RS 84-1411 (6)

25-105. Rights of the public.

(1) Subject to the Open Meetings Act, the public has 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 sessions called pursuant to section 84-1410, may be videotaped, televised, photographed, broadcast, or recorded by any person in attendance by means of a tape recorder, camera, video equipment, or any other means of pictorial or sonic reproduction or in writing.

(2) It shall not be a violation of subsection (1) 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.

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

(4) No public body shall, for the purpose of circumventing the Open Meetings Act, hold a meeting in a place known by the body to be too small to accommodate the anticipated audience.

(5) No public body shall be deemed in violation of this section if it holds its meeting in its traditional meeting place which is located in this state.

(6) No public body shall be deemed in violation of this section if it holds a meeting outside of this state if, but only if:

(a) A member entity of the public body is located outside of this state and the meeting is in that member's jurisdiction;

(b) All out-of-state locations identified in the notice are located within public buildings used by members of the entity or at a place which will accommodate the anticipated audience;

(c) Reasonable arrangements are made to accommodate the public's right to attend, hear, and speak at the meeting, including making a telephone conference call available at an instate location to members, the public, or the press, if requested twenty-four hours in advance;

(d) No more than twenty-five percent of the public body's meetings in a calendar year are held out-of-state;

(e) Out-of-state meetings are not used to circumvent any of the public government purposes established in the Open Meetings Act;

(f) Reasonable arrangements are made to provide viewing at other instate locations for a videoconference meeting if requested fourteen days in advance and if economically and reasonably available in the area; and

(g) The public body publishes notice of the out-of-state meeting at least twenty-one days before the date of the meeting in a legal newspaper of statewide circulation.

(7) 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.

(8) Public bodies shall make available at the meeting or the instate location for a telephone conference call or videoconference, 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 . Public bodies shall make available at least one current copy of the Open Meetings Act posted in the meeting room at a location accessible to members of the public. At the beginning of the meeting, the public shall be informed about the location of the posted information.

Statutory Reference: Neb. RS 84-1412

25-106. Minutes.

(1) Each public body shall keep minutes of all meetings showing the time, place, members present and absent, and the substance of all matters discussed.

(2) Any action taken on any question or motion duly moved and seconded shall be by roll call vote of the public body in open session, and the record shall state how each member voted or if the member was absent or not voting. The requirements of a roll call or viva voce vote shall be satisfied by a municipality which utilizes an electronic voting device which allows the yeas and nays of each member of the City Council or village board to be readily seen by the public.

(3) The vote to elect leadership within a public body may be taken by secret ballot, but the total number of votes for each candidate shall be recorded in the minutes.

(4) The minutes of all meetings and evidence and documentation received or disclosed in open session shall be public records and open to public inspection during normal business hours.

(5) Minutes shall be written and available for inspection within ten working days or prior to the next convened meeting, whichever occurs earlier.

(6) The City Clerk may record the proceedings of the City Council meetings on magnetic tape for the purpose of assisting in the preparation of the minutes of the proceedings. Said magnetic tapes shall not be a part of the permanent public record and shall be erased at such time as the official minutes of the meeting have been approved by the City Council.

Statutory Reference: Neb. RS 84-1413

25-107. Unlawful Action.

(1) Any motion, resolution, rule, regulation, ordinance, or formal action of a public body made or taken in violation of the Open Meetings Act shall be declared void by the district court if the suit is commenced within one hundred twenty days of the meeting of the public body at which the alleged violation occurred. Any motion, resolution, rule, regulation, ordinance, or formal action of a public body made or taken in substantial violation of the Open Meetings Act shall be voidable by the district court if the suit is

commenced more than one hundred twenty days after but within one year of the meeting of the public body in which the alleged violation occurred. A suit to void any final action shall be commenced within one year of the action.

(2) The Attorney General and the county attorney of the county in which the public body ordinarily meets shall enforce the Open Meetings Act.

(3) Any citizen of this state may commence a suit in the district court of the county in which the public body ordinarily meets or in which the plaintiff resides for the purpose of requiring compliance with or preventing violations of the Open Meetings Act, for the purpose of declaring an action of a public body void, or for the purpose of determining the applicability of the act to discussions or decisions of the public body. It shall not be a defense that the citizen attended the meeting and failed to object at such time. The court may order payment of reasonable attorney's fees and court costs to a successful plaintiff in a suit brought under this section.

(4) Any member of a public body who knowingly violates or conspires to violate or who attends or remains at a meeting knowing that the public body is in violation of any provision of the Open Meetings Act shall be guilty of a Class IV misdemeanor for a first offense and a Class III misdemeanor for a second or subsequent offense.

Statutory Reference: Neb. RS 84-1414

ARTICLE 2
MEETINGS OF COUNCIL

Section.

25-201. General provisions.
25-202. Witnesses.
25-203. Procedure.
25-204. Appearances before Council.
25-205. Agenda.

25-201. General provisions.

(1) Generally.

(a) The meetings of the City Council shall be held in the Council Chambers in the City Administration Building.

(b) Regular meetings shall be held on the second and fourth Tuesday of each month at the hour of 7:00 p.m.

(c) Special meetings may be called by the President of the Council, or by two Members of the City Council, or by the City Manager upon at least 24-hours written notice, the object of which shall be submitted to the City Council and the City Manager in writing. The call and object, as well as the disposition thereof, shall be entered upon the Journal by the City Clerk. On filing the call for a special meeting, the City Clerk shall notify the Council Members of the special meeting, stating the time and its purpose. Notice of a special meeting need not be given to a Council Member known to be out of the state, or physically unable to be present.

(d) 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; provided, that on the request of any two Members, whether a quorum is present or not, all absent Members shall be sent for and compelled to attend.

(e) A majority vote of all Members shall be required to pass any measure. 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 President of the Council, if present, or if absent, by the Vice President of the Council. In the absence of both the President and the Vice President of the Council, the City Council Members shall elect a President pro tempore.

Statutory Reference: Neb. RS 19-517

(2) Change in office. On the first Tuesday in December following the general election in every even-numbered year, the Council shall meet in the Council Chambers at 7:00 p.m., and the newly elected Council Members shall assume the duties of their office. Thereafter, the Council shall meet at such time and place as it may prescribe by ordinance, but not less frequently than twice each month.

Statutory reference: Neb. RS 16-401, 16-402, 19-615

25-202. Witnesses.

The Council or any committee of the Members thereof shall have power to compel the attendance of witnesses for the investigation of matters that may come before them. The presiding officer of the Council, or chairman of such committee for the time being, may administer requisite oaths. The Council or committee shall have the same authority to compel the giving of testimony as is conferred on courts of justice.

Statutory Reference: Neb. RS 16-406

25-203. Procedure.

(1) The President of the Council shall preserve order during meetings of the City Council and shall decide all questions of order, subject to an appeal to the City Council. The President or Vice President of the Council may refer back to any order of business after passing if there are no objections by any Member of the Council. The City Council may reprimand or censure its Members for any breach of trust or disorderly behavior. When the President of the Council is putting the question, no person shall leave the meeting room.

(2) All resolutions or motions shall be reduced to writing before being acted upon, if requested by the City Clerk or any Member of the City Council. Every Member of the City Council who is present when a question is voted upon shall cast his or her vote unless excused by a majority of the City Council present. No motion shall be put or debated unless seconded. When seconded, it shall be stated by the President of the Council before being debatable. In all cases where a motion or resolution is entered on the minutes, the name of the Member of the City Council Member making the motion or resolution shall be entered also.

(3) After each vote, the “yeas” and “nays” shall be taken and entered in the

minutes upon the request of any Member of the City Council. Before the vote is actually taken, any resolution, motion, or proposed ordinance may be withdrawn from consideration by the sponsor thereof with the consent of the Member of the City Council seconding the said resolution, motion, or ordinance.

(4) When, in the consideration of an ordinance, different times or amounts are proposed, the question shall be put on the largest sum, or the longest time. A question to reconsider shall be in order when made by a Member voting with the majority, but such motion to reconsider must be made before the expiration of the third regular meeting after the initial consideration of the question.

(5) 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 meetings may be suspended by a two-thirds vote of the Members present.

(6) 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.

25-204. Appearances before Council.

(1) Whenever any person is invited to speak or asks the privilege of speaking before the Council, his or her name and the organization, interest, or person he or she represents shall be announced before he shall be allowed to speak.

(2) Whenever any person has been invited to speak or has been granted the opportunity of speaking before the Council during a hearing, each person will be requested to be brief, and to limit his or her presentation to ten minutes. When more than one person wishes to address the Council on a given question, the proponents will be given the opportunity to first address the Council, not to exceed a cumulative time of 20 minutes. The opponents of the question will be given the opportunity to speak after the proponents' presentation, not to exceed a cumulative time of 30 minutes. The proponents will be given a brief period for rebuttal of any new material introduced during the opponents' presentation, not to exceed a cumulative time of ten minutes, after which the public hearing will be concluded. Only one speaker will be allowed at the lectern at one time. Those waiting to speak will remain seated.

(3) When any person speaking before the Council is, in the opinion of the presiding officer, out of order, the presiding officer may declare said speaker out of order and may direct said speaker to cease and desist addressing the Council on the subject in question. Any Council Member may challenge any ruling of the presiding officer, and request a roll call vote on the presiding officer's ruling. The vote of four Members shall be required to overrule the presiding officer.

(4) No document shall be read before the City Council unless the person reading the same shall be willing to submit the same to the City Clerk to become a part of the public record.

25-205. Agenda.

(1) Consent agenda. There is hereby established a consent agenda procedure for the transaction of certain routine business at Council meetings. The intent of this procedure is to expedite the conducting of routine business at Council

meetings to allow more time to be devoted to substantive issues by condensing the time necessary to process routine items, but yet allowing an opportunity for full discussion in consideration of said items if appropriate. The procedure to be followed is as follows:

(a) Items considered by the City Manager to be of routine and non-controversial nature may be placed by him or her on the agenda for regular Council meetings and special Council meetings under the heading of "consent agenda." Such items shall be clearly worded to indicate action to be taken by the Council.

(b) At the Council meeting, the President will review those items placed on the consent agenda and ask if any Member of the Council or public in attendance wishes to have an item removed from the consent agenda and placed on the regular agenda. All such requests are not debatable and will be complied with without discussion.

(c) After all items have been removed from the consent agenda as requested by a Member of the Council or public in attendance, the Council will then consider adoption of the actions recommended and specified in the consent agenda by a single motion and vote of the Council.

(d) All items listed on the consent agenda shall be recorded in the minutes individually and in their proper form and the vote recorded adopting the recommended and specified action on the consent agenda shall be shown as the vote on each such item in the minutes.

(2) Regular agenda. The City Clerk shall place on the regular agenda for the next regular Council meeting any and all items for which a request is received, either from a Member of the Council, the City Manager, a City employee, or a Member of the public, with the exception that an item shall not be placed on the agenda if a motion has been previously adopted by the City Council directing the Clerk not to place an item on the agenda for one or more future meetings.

CHAPTER 26
MOBILE HOME PARKS

Article.
1. General Provisions.
2. Licenses, Certificates and Permits.
3. Park Plans.
4. Design Standards and Operating Requirements.
5. Administration and Enforcement.
6. Penalty.

ARTICLE 1
GENERAL PROVISIONS

Section.
26-101. Definitions.
26-102. Applicability of provisions.

26-101. Definitions.

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

(1) Accessory Building shall mean a subordinate building, the use of which is customarily incidental to that of a mobile home on the same lot.

(2) Mobile home shall mean a movable or portable dwelling constructed to be towed on its own chassis, connected to utilities, and designed with or without a permanent foundation for year-round living. It may consist of one or more units that can be telescoped when towed and expanded later for additional capacity, or of two or more units, separately towable but designed to be joined into one integral unit, and shall include a manufactured home as defined in section 71-4603; In addition, any mobile home moved into the zoning jurisdiction of the City after March 1, 2002 shall bear a label certifying that it was built to compliance with National Mobile Home Construction and Safety Standards, 24 CFR 3280 et seq., promulgated by the United States Department of Housing and Urban Development, or a modular housing unit as defined in Neb. RS 71-1557 bearing the seal of the Department of Health.

(3) Mobile Home Lot shall mean a designated portion of a mobile home park designated for the accommodation of one mobile home and its accessory buildings or structures for the exclusive use of the occupants.

(4) Mobile Home Park shall mean a parcel or contiguous parcels of land which have been so designated and improved that it contains two or more mobile home lots available to the general public for the placement thereon of mobile homes for occupancy; provided, however, that any mobile home park that has not previously been licensed and permitted as a special exception by the City, prior to January 1, 2001, shall contain ten or more mobile home lots available to the general public for the placement thereon of mobile homes for occupancy. The term mobile home park shall not be construed to include mobile homes, buildings, tents, and other structures temporarily

maintained by any individual, corporation, company, or other entity on its own premises and used exclusively to house its own labor force.

(5) Mobile Home Park Drives shall mean lanes and roadways within the mobile home park, privately owned.

(6) Mobile Home Stand shall mean that area of a mobile home lot which has been reserved for the placement of a mobile home.

(7) Modular Home shall mean a dwelling made up of several pieces, consisting of standard "modules" transported to or constructed at the site and generally not distinguishable from conventional permanent housing.

(8) Service Building shall mean a building or structure owned by the mobile home park owner.

26-102. Applicability of provisions.

Additions to mobile home parks. Any land area added to a nonconforming mobile home park shall conform to all requirements of this part.

ARTICLE 2
LICENSES, CERTIFICATES AND PERMITS

Section.

26-201. Mobile home park license; fees.
26-202. Mobile home park alteration permit.
26-203. Mobile home permit.
26-204. Mobile home park certificate of occupancy.

26-201. Mobile home park license; fees.

(1) License required.

(a) It shall be unlawful for any person to establish, operate, maintain, or permit to be established, operated, or maintained, upon any property owned or controlled by such person, a mobile home park within the zoning and planning jurisdictional boundaries of the City without having first secured a license from the City Clerk.

(b) Prior to the issuance of the initial license for a mobile home park, the City Clerk shall receive from the Building Inspector a copy of a certificate of occupancy indicating that the park is in compliance with the provisions of this part.

(c) The certificate of occupancy shall be attached to the license register of said park and a copy shall be maintained on file in the office of the City Clerk. All licenses shall expire on July 31. Application for license renewal shall be made at least 30 days prior to expiration of the original license.

(2) Application; fee.

(a) The application for such license or the renewal thereof shall be filed with the City Clerk and shall be accompanied by the annual fee as set by the Council by resolution, a copy of which shall be kept on file and available in the office of the City Clerk.

(b) The cost of any license secured having less than six months to run before the expiration date as herein provided shall be reduced by 50%.

(c) The application for a license or a renewal thereof shall be made on forms

furnished by the City Clerk and shall include the name, address, and signature of the applicant, if other than the owner; and the legal description of the premises upon which the mobile home park is or will be located.

(3) Park plan approval required. No license may be issued for a mobile home park unless the plans for such park have been approved according to the requirements of this part.

(4) Taxes. No license may be issued for a mobile home park unless evidence is presented to show that applicant has paid all real estate taxes, personal property taxes, and special assessments due and owing on all personal property and real estate owned by the applicant within the mobile home park.

(5) Revocation and suspension. It shall be the responsibility of the licensee to insure that all requirements of this part are met and maintained. Any mobile home park issued an initial license after adoption of this part that is found to be in violation of any provisions of this part shall be notified by the Building Inspector to cease such violation within a ten-day time period. If, after such time period has elapsed, the violation has not ceased, the Building Inspector shall forward a notice of license revocation to the owner of the mobile home park. No future licenses or permits shall be issued to the mobile home park until said violation ceases.

26-202. Mobile home park alteration permit.

(1) Permit required. No plans and specifications to construct, expand, remodel, or make alterations upon a mobile home park and the appurtenances thereto shall be approved unless application is made to the City Building Inspector for an appropriate permit.

(2) Denial of application. If the application for a permit to construct, expand, remodel, or make alteration upon a mobile home park and the appurtenances thereto is denied by the Building Inspector, the Building Inspector shall so state in writing giving the reasons for denying the application. If the objection can be corrected, the applicant may amend his or her application and resubmit it for approval.

26-203. Mobile home permit.

Prior to moving or relocating a mobile home into a licensed mobile home park within the zoning jurisdiction of the City, the owner of the mobile home and the individual or entity that has contracted to move or relocate the mobile home shall file an application with the City Clerk for the issuance of a mobile home permit. No mobile home shall be moved or relocated into a licensed mobile home park within the zoning jurisdiction of the City until a mobile home permit has been issued by the City Clerk. All such mobile homes shall meet the definition as denoted in this code. An addition to increase the floor area of a mobile home within the mobile home park may be permitted if the construction is equal to or better than that of the mobile home. Application for permits for such additions shall also be filed with the City Clerk.

26-204. Mobile home park certificate of occupancy.

All improvements required in this part shall be completed for the area being developed for occupancy by mobile homes in accordance with the requirements of this part prior to issuance of a certificate of occupancy. No mobile home may be placed on

an individual mobile home lot which does not front on an improved street or drive or does not have all improvements completed for that mobile home lot.

ARTICLE 3
PARK PLANS

Section.
26-301. Plans required; fees.
26-302. Site plan.
26-303. Surface drainage and storm sewer plan.
26-304. Utility plan.
26-305. Drives.
26-306. Plan review.
26-307. Plan approval.

26-301. Plans required; fees.

(1) Plans required. The plans as required by this part must be submitted by the applicant and approved by the Ogallala Planning & Zoning Administrator prior to the issuance of a proposed new mobile home park license.

(2) Filing; filing fee. A plan of the proposed mobile home park shall be submitted in 13 copies to the City Clerk. At the time of submitting the copies of the proposed plan to the City Clerk, a filing fee shall be paid in the amount as set by the Council by resolution, a copy of which shall be kept on file and available in the office of the City Clerk.

26-302. Site plan.

A site plan must be submitted showing the following:

(1) The name, address, and record owner of the proposed mobile home park.

(2) A legal description of the property upon which the mobile home park is to be located.

(3) The names of all adjacent public streets and roads.

(4) Contour topography lines at two-foot intervals.

(5) The locations and dimensions of all mobile home lots, utility easements, drives, recreation areas, streets, sidewalks, and off-street parking spaces.

(6) Building setback lines from public streets and adjacent property lines.

(7) A scale of plan (no smaller than 1 inch = 100 feet), with complete dimensions.

(8) The numbering system for each individual mobile home lot and the identification names of mobile home park drives.

(9) The density of each mobile home space as defined in 26-404.

(10) The dimensional area of the total site.

(11) Areas designated for all sized waste containers.

(12) The location, mechanical plan, and building plan of shower and toilet facilities, if to be constructed.

26-303. Surface drainage and storm sewer plan.

Mobile home park drive plans must show the directions and calculated quantities

of run-off water. The adequacy of the proposed grade plan will be determined by the Ogallala Planning & Zoning Administrator. Drainage improvements must be sufficient to contain drainage flow.

26-304. Utility plan.

The applicant shall also submit a plan showing the water service system, sanitary sewer service, electrical supply system, and fuel supply system.

26-305. Drives.

(1) Drive width. Interior mobile home park drives shall be improved to a minimum 32 feet from back of curb to back of curb.

(2) Drive surfacing. Interior drives shall be graded and graveled and provided with adequate drainage, including concrete curb and gutter, according to the specifications of the Ogallala Planning & Zoning Administrator. Alley curb and gutters shall be acceptable.

(3) Access to a public street. The interior drive system within the mobile home park shall connect to the public streets at two or more points.

26-306. Plan review.

Upon compliance of the applicant with requirements of 26-301(2), the Ogallala Planning & Zoning Administrator and the City Building Inspector shall examine or cause to be examined the plan and accompanying documents and shall submit their findings to the Planning Commission, which shall consider the plan and forward same to the Council with its recommendations for approval or disapproval. Any fees or costs associated with Ogallala Planning & Zoning Administrator review shall be the responsibility of the developer.

26-307. Plan approval.

Upon recommendation of the Planning Commission and approval by the Council, one reproducible copy of the final plan, as approved, shall be attached to the application for mobile home park license.

ARTICLE 4
DESIGN STANDARDS AND OPERATING REQUIREMENTS

Section.

26-401. Office and register.
26-402. Location.
26-403. Utilities
26-404. Density.
26-405. Setbacks.
26-406. Drives.
26-407. Drive names and addresses.
26-408. Sidewalks.
26-409. Water supply.
26-410. Sewer system.

26-411. Electrical system.
26-412. Fuel supply.
26-413. Solid waste disposal.
26-414. Insect, rodent, and weed control.
26-415. Fire hydrants.
26-416. Mechanical systems.
26-417. Drainage.
26-418. Anchoring & blocking.
26-419. Skirting.
26-420. Life safety.

26-401. Office and register.

Every mobile home park shall have an office in which a copy of the park license and certificate of occupancy shall be posted, and the park register shall be in said office. It shall be the duty of the licensee to keep a register of park occupancy which shall be current at all times and contain the following information:

(1) The full name and address in the park of the owner of each mobile home or his or her tenant or agent.

(2) The make, model, serial number, year, and dimensions of each mobile home.

(3) The date of arrival and departure of each mobile home.

26-402. Location.

(1) The City shall not issue a permit for any mobile home, as defined in this section, outside an approved mobile home park, except in a zoning district classified as A-1 Agricultural. Such mobile home placements shall be subject to the conditions set forth in 45-1503.

(2) Mobile homes may be used as field offices during construction.

(3) Mobile homes may be displayed for sale on approved mobile home sales lots or at mobile home manufacturing plants, one of which may be used as a sales office only and not a residential unit.

26-403. Utilities

(1) The owner or operator shall be responsible for the availability of all utilities to the residents in said mobile home park.

(2) The mobile home park owner or operator shall not allow unqualified personnel to perform any maintenance or hook-up of utilities to any mobile home in the park.

26-404. Density.

The density shall be no more than one mobile home per 6,000 square feet if attached to a public sanitary sewer and 10,000 square feet if on a private disposal system.

26-405. Setbacks.

(1) Mobile homes shall set back a minimum of 15 feet from the rear lot line.

(2) The front setback of a mobile home shall be a minimum of four feet from the curb on interior private drives.

(3) The side setback of a mobile home shall provide for a minimum distance of 25 feet between units. Accessory buildings shall not reduce this distance to less than 16 feet. The side setback of a mobile home shall provide for a minimum distance of 25 feet between units, provided, however, that a minimum distance of 15 feet may be allowed upon approval of the Building Inspector for those mobile homes that comply with the provisions of 45-1705.

26-406. Drives.

(1) Maintenance. All mobile home park drives will be maintained by the owner in a satisfactory and safe condition at all times.

26-407. Drive names and addresses.

All mobile home park drives shall have identification names so designated on the plan submitted by the owner for approval. Each mobile home lot shall also be numerically designated for address and mail purposes and have its own mailbox.

26-408. Sidewalks.

Interior sidewalks shall be of concrete, four inches thick, or its equivalent, and four feet wide. Off-street parking or fences shall not obstruct sidewalks. Exterior sidewalks shall conform to the municipal code.

26-409. Water supply.

The most current edition of the Uniform Plumbing Code and all Appendices thereto, in addition to all amended editions, are hereby adopted by reference as if set forth at length herein.

26-410. Sewer system.

The most current edition of the Uniform Plumbing Code and all Appendices thereto, in addition to all amended editions, are hereby adopted by reference as if set forth at length herein.

26-411. Electrical system.

Any mobile home park electrical system shall be constructed in compliance with the provisions set forth by the Nebraska State Electrical Act.

26-412. Fuel supply.

The most current edition of the Uniform Plumbing Code and all Appendices thereto, in addition to all amended editions, are hereby adopted by reference as if set forth at length herein.

26-413. Solid waste disposal.

(1) The storage, collection, transportation, and disposal of refuse, garbage, and solid waste shall be so conducted as to not create unsanitary conditions, nuisances, rodent harborages, insect breeding areas, accident or fire hazards, or air pollution.

(2) All refuse, garbage, and solid waste shall be stored in flytight, watertight, rodent-proof containers which shall be maintained in clean condition and in good repair.

(3) Containers shall be provided in sufficient number and capacity to properly store all refuse, garbage, and solid waste. Whether the licensee of the mobile home park or each occupant of a mobile home provides the container or containers depends entirely upon the internal rules of each mobile home park.

(4) Concrete platforms, metal racks, or holders shall be provided for all refuse, garbage, and solid waste containers and such platforms, racks, or holders shall be so designed and constructed as to prevent the containers from being tipped, to minimize spillage, and to facilitate cleaning around the containers.

(5) Refuse, garbage, and solid waste shall be removed from the mobile home park premises at least once weekly. Where adequate refuse, garbage, and solid waste removal service is not available, the licensee of the mobile home park shall provide such service and the removal and disposal shall conform to local ordinance, if any is applicable.

(6) All refuse, garbage, and solid waste shall be collected and transported in a leak-proof covered vehicle or covered containers.

(7) Where adequate City or private solid waste disposal service is not available, the mobile home park licensee shall provide for disposal of the refuse, garbage, and solid waste.

26-414. Insect, rodent, and weed control.

(1) Grounds, buildings, and structures shall be maintained free of insect breeding areas, rodent harborage, and infestation of insects, rodents, or vermin that transmit disease to humans.

(2) All exterior openings of management buildings or other applicable structures shall be effectively screened or insects, rodents, and vermin excluded by other effective means.

(3) The growth of grass, brush, and weeds shall be controlled to prevent the harborage of noxious insects.

(4) Mobile home parks shall be so maintained as to prevent the growth of ragweed, poison ivy, poison oak, and other noxious plants detrimental to human health and well-being.

26-415. Fire hydrants.

Each mobile home must be located within 300 feet of a fire hydrant.

26-416. Mechanical systems.

All mobile home mechanical systems shall comply with applicable current laws and ordinances.

26-417. Drainage.

All areas of mobile home parks shall be adequately drained to the mobile home park drives and to dedicated streets or drainage ways.

26-418. Anchoring & blocking.

If a mobile home is not placed on a permanent foundation, the mobile home shall then be placed upon a mobile home stand to provide an adequate and approved

foundation to prevent uplift, sliding, rotation or overturning in accordance with the manufacturer's specifications.

26-419. Skirting.

Skirting shall be required for all mobile homes. The Skirting shall be able to withstand wind load requirements and shall not provide harborage for junk or rodents, nor create a fire hazard. Such skirting shall be provided with removable or hinged access panels sufficient to provide easy access to all utility connection points of the mobile home and its subsequent connection to the utility risers if they are located within the skirted area.

26-420. Life safety.

The owner of a mobile home park shall contact the City of Ogallala to inspect each mobile home when it is initially placed in the owner's park. The City shall inspect each mobile home when initially placed in the park to confirm that the mobile home has a minimum of two (2) exits in working condition and approved smoke detector(s) placed in each sleeping room and at a point centrally located in the corridor or area giving access to each sleeping area. Thereafter, mobile homes shall be maintained in a safe condition by the owner, which includes, but is not limited to maintaining a minimum of two (2) exits in working condition and approved smoke detector(s) placed in each sleeping room and at a point centrally located in the corridor or area giving access to each sleeping area.

ARTICLE 5
ADMINISTRATION AND ENFORCEMENT

Section.

26-501. Enforcement authority.
26-502. Conflicting provisions.
26-503. Violations.

26-501. Enforcement authority.

It is hereby made the duty of the Building Inspector to enforce all provisions of this chapter, except licensing as prescribed herein. For the purpose of securing such enforcement, the Building Inspector or his or her duly authorized representatives shall have the right, and are hereby empowered, to enter any premises on which any mobile homes or travel trailers are located, or are about to be located, and to inspect the same and all accommodations connected therewith at any reasonable time.

26-502. Conflicting provisions.

Whenever the requirements of this chapter are at variance with the requirements of any other lawfully adopted rules, regulations, ordinances, deed restrictions, or covenants, the most restrictive or the higher standard shall govern.

26-503. Violations.

Any person who shall violate any provisions of this chapter or any person

continuing to operate a mobile home park under an expired or revoked license shall be subject to the penalty provided for in 25-601. Each offense shall be deemed to be a separate violation and punishable as a separate offense. Each day for which the violation continues shall constitute a separate offense.

ARTICLE 6
PENALTY

Section.
26-601. Penalty.

26-601. Penalty.

(1) Penalty amounts. Any person who violates any of the prohibitions or provisions of any section of this chapter shall be deemed guilty of a misdemeanor. Unless otherwise specified in this chapter or by statute, the penalty for such violation shall be in any amount not to exceed $1,000, in the discretion of the court; and; provided, whenever any section of this chapter shall declare a nuisance, a violation of that section shall be penalized by a fine of not more than $1,000, in which case a new violation shall be deemed to have been committed every 24 hours of such failure to comply.

(2) Abatement of nuisance.

(a) Whenever a nuisance exists as defined in this chapter, the City may proceed by a suit in equity to enjoin and abate the same, in the manner provided by law.

(b) Whenever in any action it is established that a nuisance exits, the court may, together with the fine or penalty imposed, enter an order of abatement as a part of the judgment in the case.

Statutory reference: Neb. RS 16-225, 16-240, 16-246, 18-1720.

CHAPTER 27
NUISANCES

Article.
1. General Provisions.
2. Penalty.
3. Graffiti

ARTICLE 1
GENERAL PROVISIONS

Section.
27-101. Definitions.
27-102. Abatement procedure.
27-103. Enforcement jurisdiction.
27-104. Nuisances enumerated.
27-105. Sound amplifiers; permits.

27-101. Definitions.

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

(1) Injures or endangers the comfort, repose, health, or safety of others.

(2) Offends decency.

(3) Is offensive to the senses.

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

(5) In any way renders other persons insecure in life or the use of property.

(6) Essentially interferes with the comfortable enjoyment of life and property, or tends to depreciate the value of the property of others.

Statutory reference: Neb. RS 18-1720

27-102. Abatement procedure.

(1) It shall be the duty of every owner or occupant of real estate in the City to keep such real estate free of public nuisances. Upon determination by the Chief of Police that the owner or occupant has failed to keep such real estate free of public nuisances, notice to abate and remove such nuisance and notice of the right to a hearing before the City Council and the manner in which it may be requested shall be given to said owner or occupant, or the owner's or occupant's duly authorized agent, by personal service or certified mail. Such notice shall describe the condition as found by the Chief of Police and state that condition has been declared a public nuisance, and that the condition must be remedied at once. Within ten days after the receipt of such notice, if the owner or occupant of the real estate does not request a hearing or fails to comply with the order to abate and remove the nuisance, the City shall have such work

done and may levy and assess the costs and expenses of the work upon the real estate so benefited in the same manner as other special taxes for improvements are levied and assessed.

(2) If the owner or occupant requests in writing a hearing with the City Council, the City Council shall fix a time and place at which a hearing will be held. Notice of the hearing shall be given by personal service or certified mail and require the owner or occupant to appear before the City Council to show cause why such condition should not be found to be a public nuisance and remedied. Such notice shall be given not less than seven, nor more than 14 days before the time of the hearing. Upon the date fixed for the hearing and pursuant to the notice, the City Council shall hear all objections made by the owner or occupant and shall hear evidence submitted by the Chief of Police. If after consideration of all the evidence, the City Council shall find that the condition is a public nuisance, it shall, by resolution, order and direct the owner or occupant to remedy the public nuisance at once. Should the owner or occupant refuse or neglect to promptly comply with the order of the City Council, the City Council shall proceed to cause the abatement of the described public nuisance and may levy and assess the costs and expenses of the work upon the real estate so benefited in the same manner as other special taxes for improvements are levied and assessed.

Statutory reference: Neb. RS 18-1720

27-103. Enforcement jurisdiction.

The Council and Chief of Police of the City are directed to enforce this municipal code against all nuisances. The jurisdiction of the Council, Chief of 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 two miles thereof and all territory within the corporate limits.

Statutory reference: Neb. RS 18-1720, 17-1001

27-104. Nuisances enumerated.

The following are declared to constitute a nuisance:

(1) The maintaining, using, placing, depositing, leaving, or permitting of any of the following non-exclusive list of specific acts, omissions, places, conditions, and things are hereby declared to be nuisances:

(a) Any odorous, putrid, unsound, or unwholesome grain, meat, hides, skins, feathers, or vegetable matter; or the whole or any part of any dead animal, fish, or fowl, or the hanging thereof, for a period of time longer than is reasonably necessary to process, remove or dispose of the same.

(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 the rear of stores, granaries, vacant lots, houses, buildings, or premises, the placing outdoors or exposing to the elements upholstered or overstuffed furniture with loose cushions that are not waterproof nor specifically designed by the manufacturer for outdoor use or exposure to the elements.

(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. Nothing herein contained shall prevent the temporary retention of waste in receptacles in a manner provided by the City in the code, nor the dumping of non-putrifying waste in a place and manner approved by the City.

(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 be kept in covered bins or galvanized iron receptacles.

(g) Trash, garbage, refuse, litter, rags, accumulations of barrels, boxes, crates, packing crates, mattresses, bedding, excelsior, packing hay, straw or other packing material, lumber not neatly piled, scrap iron, tin, or other metal not neatly piled, old automobiles or parts thereof, or any other waste materials when any of 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 unsightly building, billboard, or other structure, or any old, abandoned, or partially destroyed building or structure or any building or structure commenced and left unfinished, which said buildings, billboards, or other structures are either a fire hazard, a menace to the public health or safety, or are so unsightly as to depreciate the value of property in the vicinity thereof.

(i) All places used or maintained as junkyards or dumping grounds, or for the wrecking and dissembling of automobiles, trucks, tractors, or machinery of any kind, or for the storing or leaving of worn-out, wrecked, or abandoned automobiles, trucks, tractors, or machinery of any kind, or of any of the parts thereof, or for the storing or leaving of any machinery or equipment used by contractors or builders or by other persons, which said places are kept or maintained so as to essentially interfere with the comfortable enjoyment of life or property by others, or which are so unsightly as to tend to depreciate property values in the vicinity thereof.

(j) Stagnant water permitted or maintained on any lot or piece of ground.

(k) Stockyards, granaries, mills, pigpens, cattle pens, chicken pens, or any other place, building, or enclosure in which animals or fowls of any kind are confined or on which is stored waste 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.

(l) Junk motor vehicle. Any motor vehicle on which the engine, brakes, front driver's seat, front windshield, wheels or other parts have been removed, altered, damaged, allowed to deteriorate or in any other way treated so that the motor vehicle is incapable of being safely driven under its own motor power. A motor vehicle which does not have a lawfully affixed unexpired license plate shall be presumed to be a junk motor vehicle. Such presumption may be rebutted only by a showing that the motor vehicle is

capable of being driven under its own power.

(m) Weeds. Any growth of twelve inches or more in height of weeds, grasses, or worthless vegetation on any lots and pieces of ground and the adjoining streets and alleys within the City. Weeds includes, but is not limited to, bindweed (Convolvulus arvensis), puncture vine (Tribulus terrestris), leafy spurge (Euphorbia esula), Canada thistle (Cirsium arvense), perennial peppergrass (Lepidium draba), Russian knapweed (Centaurea picris), Johnson grass (Sorghum halepense), nodding or musk thistle, quack grass (Agropyron repens), perennial sow thistle (Sonchus arvensis), horse nettle (Solanum carolinense), bull thistle (Cirsium lanceolatum), buckthorn (Rhamnus sp.) (tourn), hemp plant (Cannabis sativa), and ragweed (Ambrosiaceae).

(n) All other things specifically designated as nuisances elsewhere in this code.

(2) This section shall not be deemed to be a complete listing of all acts, omissions, places, conditions, and things that constitute nuisances but shall only be used as an illustration of specific acts, omissions, places, conditions, and things that constitute nuisances.

Statutory reference: Neb. RS 18-1720, 16-230

27-105. Sound amplifiers; permits.

(1) It shall be unlawful to maintain or operate any loudspeaker or amplifier connected with any radio, phonograph, microphone, or other device by which sounds are magnified and made heard over any public street or other public place without having first secured a permit therefore.

(2)(a) The deposit for licenses to be granted under this section shall be established by the City Council by Resolution.

(b) The deposit shall be refundable upon the completion of the permit period as long as no law enforcement action was taken concerning the activity for which the license was issued.

(c) The permit shall be effective for no longer than a continuous five day period.

(3) Any person, firm, or corporation desiring a license for the use or operation of such device shall file an application thereof with the City Clerk, upon a form provided by him or her, setting forth the name and address of the applicant, the name of the owner of such device, the dates upon which it is intended to be used, and such other information as may be prescribed.

(4) Such license shall be issued upon the payment of a deposit, as above provided, to the City Clerk, and shall permit the use of any such device subject to the terms and conditions of this section only upon the dates specified on such license and no other. Said permit shall be displayed in plain view in a conspicuous place at the event.

(5) No licensee shall use or operate or employ any such device within the City limits before 9:00 a.m. nor after 1:00 a.m.; and no licensee shall use, operate, or employ any such device within a radius of two blocks from any hospital or within the radius of two blocks from any church while funeral services are being held there.

(6) The Chief of Police or his or her representative shall have the authority to revoke a permit issued pursuant to this section if the Police Department has received two or more signed complaints of loud or disturbing noise within a 12-hour period. The

Police Department shall further be empowered to seize any amplifying equipment that continues to be in use after the revocation of the permit or which is being used without a permit being issued.

(7) If the person, firm, or corporation has his/her/its permit revoked two times within a four-month period, he/she/it cannot reapply for such permit for a period of 12 months from the date of the last revocation.

(8) This section shall not apply to the following:

(a) Radios, phonographs, microphones, or other devices by which sounds are magnified in homes or in private pleasure vehicles when the same are operated in such manner as not to be audible at a distance of 50 feet from such vehicle.

(b) Amplified sound, noise devices, bands, or other musical devices used in any school, county, state or City sponsored activity, or public parade or procession.

(c) Businesses that amplify radio or music transmissions between the hours of 8:00 a.m. and 8:00 p.m.

(9) No licensee shall cause or permit to be emanated or emitted from any such device any lewd, obscene, profane, or indecent language or sounds, or any false representation of any matter, product, or project advertised thereby, the sale of which is prohibited by any law, ordinance, or statute.

(10) Any person who shall violate any of the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction thereof shall be penalized as provided in 27-201.

ARTICLE 2
PENALTY

Section.

27-201. Penalty.

27-201. Penalty.

(1) Penalty amounts. Any person who violates any of the prohibitions or provisions of any section of this chapter shall be deemed guilty of a misdemeanor. Unless otherwise specified in this chapter or by statute, the penalty for such violation shall be in any amount not to exceed $1,000, in the discretion of the court; and; provided, whenever any section of this chapter shall declare a nuisance, a violation of that section shall be penalized by a fine of not more than $1,000, in which case a new violation shall be deemed to have been committed every 24 hours of such failure to comply.

(2) Abatement of nuisance.

(a) Whenever a nuisance exists as defined in this chapter, the City may proceed by a suit in equity to enjoin and abate the same, in the manner provided by law.

(b) Whenever in any action it is established that a nuisance exits, the court may, together with the fine or penalty imposed, enter an order of abatement as a part of the judgment in the case.

(3) Restitution. The court may, together with the fine or penalty imposed, enter an order of restitution as part of the judgment in the case.

Statutory reference: Neb. RS 16-225, 16-240, 16-246, 18-1720.

ARTICLE 3
GRAFFITI

Section.

27-301. Purpose and Findings.
27-302. Definitions.
27-303. Prohibited acts.
27-304. Prohibited possession of graffiti implements.
27-305. Required conduct.
27-306. Rapid removal of graffiti.
27-307. Penalties.
27-308. Severability.

27-301. Purpose and findings.

The purpose of this Section is to prevent the spread of graffiti in the City through measures reasonably calculated to deter graffiti and to encourage and facilitate rapid removal when it occurs.

The City Council makes the following finds in enacting this Section:

(1) Graffiti is a form of vandalism defacing public and private property without the consent of the owner;

(2) Graffiti creates visual pollution and blight that adversely affects the enjoyment and value of public and private property and causes citizens, businesses and the City to incur the cost of removal and repair;

(3) Graffiti is a visual symbol of disorder and lawlessness. It contributes to a downward spiral of blight and decay, decreasing property values, lessening business viability and potentially adversely affecting tax revenues; and

(4) There is substantial evidence that rapid removal of graffiti is an effective prevention strategy that discourages its return. In addition, there is substantial evidence that failure to promptly remove graffiti increases the likelihood that more graffiti will occur on the same site and on other nearby property.

27-302. Definitions.

(1) Aerosol Paint container means any container that is adapted or made for the purpose of applying aerosolized paint or any other aerosolized substance capable of defacing property.

(2) Broad Tipped Marker means any marker or similar implement that contains ink and has a flat or angled writing surface that, at its broadest width, exceeds one eighth inch.

(3) Etching Cream means any caustic cream, gel, liquid, or solution capable, by means of a chemical action, of defacing, damaging, or destroying hard surfaces in a manner similar to acid.

(4) Graffiti means any inscription, word, figure, design, painting, writing, drawing or carving that is marked, etched, scratched, drawn, painted or otherwise applied to property without the prior authorization of the owner of the property regardless of the

content or nature of the material used.

(5) Graffiti implement means an aerosol paint container, a broad-tipped marker, gummed label, paint stick or graffiti stick.

(6) Minor means a person under the age of eighteen.

(7) Owner means the person listed on the Keith County Assessor's records as the owner of property.

(8) Paint Stick or Graffiti Stick means any device containing a solid or liquid form of paint, chalk, wax, epoxy, or other similar substance that leaves a visible mark upon application to a surface.

(9) Property means any real or personal property, including but not limited to any portion of any premises, structure, house, building, fence or vehicle.

(10) Vendor means any person who offers for sale and/or transfer any items that constitute graffiti implements for value or any form of consideration.

27-303. Prohibited acts.

The following acts are prohibited:

(1) Applying graffiti to any private or public property without the permission of the owner;

(2) Soliciting or commanding another person to apply graffiti to any private or public property without the permission of the owner; or

(3) Aiding or abetting or agreeing to aid or abet another person in planning to apply or applying graffiti to any private or public property without the permission of the owner.

27-304. Prohibited possession of graffiti implements.

(1) No person shall possess any graffiti implement under circumstances presumed to evidence intent to violate the provisions of 27-303. A person is presumed to possess the Graffiti implement with an intent to violate the provisions of Section 27-303 if he or she possesses any Graffiti implement:

(a) In or on any part of a publicly-owned or privately-owned property, facility, park, walkway or trail, school ground, library, playground, swimming pool, recreational facility, right-of-way; or

(b) Within fifty (50) feet of any underpass, overpass, bridge abutment, storm drain, or similar type of infrastructure.

(2) It is a defense to enforce action under Subsection (a) of this Section that the Graffiti implement was:

(a) possessed on the property with consent of the Owner; or

(b) possessed in a place where the implement was going to be used for a non-graffiti activity, including but not limited to an employment, school, home, church, art, or similar activity or possessed while enroute to or from such activity.

27-305. Required conduct.

Each vendor selling items constituting graffiti implements shall place a sign in clear public view at or near the display and inventory of graffiti implements. Said sign shall measure not less than eight and a half (8 1/2) inches by eleven (11) inches and state "It is illegal for a person to purchase or possess aerosol spray paint containers, a

broad-tipped marker, or any other graffiti implement for the express illegal purpose of graffiti as stated in Ogallala Municipal Code Chapter 27."

27-306. Rapid removal of graffiti.

Whenever the City Manager, or his or her designee, determines that graffiti is located on public or private property such that graffiti may be viewed by a person using any public right-of-way or other public property, the City Manager will provide written notice to the Owner of said property that City Ordinance requires that Graffiti be removed from public or private property within 48 hours of receipt of such notice unless a correction plan otherwise is approved. The notice will further state that if the property owner does not abate the Graffiti within ten (10) business days after notice, the City will proceed with nuisance enforcement according to Ogallala Municipal Code Chapter 27 regarding declaration and abatement of nuisances.

27-307. Penalties.

(1) Any person violating 27-303 shall:

(a) Pay a fine of not more than five hundred dollars ($500) per violation;

(b) Reimburse the property Owner for all costs reasonably incurred by the property Owner that are directly related to removal of the Graffiti; and

(c) Perform twenty-five (25) hours of community service.

(2) Every parent or legal guardian having custody or control of a Minor who violates 27-303 shall be jointly and severally liable with the minor for the penalties set forth in 27-307 (1)(a) and (b). For the purposes of this section, each act and each property is a separate violation.

(3) Any person violating 27-304 shall pay a fine of two hundred fifty dollars ($250) for the first violation and up to five hundred dollars ($500) for subsequent violations and/or perform up to twenty-five (25) hours of community service.

(4) Any person violating 27-305 shall pay a fine of fifty dollars ($50) for the first violation and up to one hundred dollars ($100) for subsequent violations.

27-308.Severability.

If any section, phrase, sentence or portion of this Article is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

CHAPTER 28
OFFENSES

Article.
1. Property Offenses.
2. Public Peace, Safety and Convenience Offenses.
3. Tobacco Offenses.
4. Weapons and Explosives.
5. Penalty.

ARTICLE 1
PROPERTY OFFENSES

Section.
28-101. Destruction of City property.
28-102. Removing and disturbing dirt.
28-103. Radio interference.
28-104. Tree damage.

28-101. Destruction of City property.

Any person who shall damage or destroy any real or personal property belonging to the municipality and under the jurisdiction of the City Manager or any person who shall commit waste of any kind upon such property shall be guilty of a misdemeanor.

28-102. Removing and disturbing dirt.

It is hereby declared unlawful for any person to remove, disturb, or take away from any street, alley, or public grounds any dirt, earth, stones, or other materials forming a part of such street, alley, or public grounds without first having obtained written permission to do so from the City Manager.

28-103. Radio interference.

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

Statutory reference: Neb. RS 18-1720, 28-1321

28-104. Tree damage.

It shall be unlawful for any person purposely or carelessly and without lawful authority to cut down, carry away, injure, break down, or destroy any fruit, ornamental,

shade, or other tree or trees standing or growing on any land belonging to another person or persons or on any public land in the corporate limits. Any public service company desiring to trim or cut down any tree, except on property owned and controlled by it, shall make an application to the Council to do so, and the written permit of the Council in accordance with its decision to allow such an action shall constitute the only lawful authority on the part of the company to do so.

Statutory reference: Neb. RS 28-519

ARTICLE 2
PUBLIC PEACE, SAFETY, AND CONVENIENCE OFFENSES

Section.

28-201. Curfew for minors.
28-202. Disorderly conduct.
28-203. Hitching rides.
28-204. Obstruction of public ways.
28-205. Sexual predator residency restrictions.
28-206. Soliciting alms.
28-207. Street games.

28-201. Curfew for minors.

(1) Generally. It shall be unlawful for any minor under the age of 17 years to remain upon the public streets or other public places, vacant lots, or other unsupervised places between the hours of 12:00 midnight of any day and 5:00 a.m. of the following day.

(2) Exceptions. Any minor who would otherwise be in violation of the above provisions of this section shall not be in violation if any of the following exceptions apply:

(a) The minor person is accompanied by a parent, guardian, or other adult person having the care, custody, or control of the minor; or accompanied by an adult authorized by a parent, guardian, or other adult having the care or custody of such a minor person to take said person's place in accompanying said minor for a designated period of time and purpose.

(b) The minor person is engaged in lawful employment.

(c) The minor person is on an emergency errand, which includes but is not limited to a fire, natural disaster, automobile accident, or any situation requiring immediate action to prevent serious bodily injury or loss of life.

(d) The minor is involved in legitimate business as directed by his or her parent, guardian, or other adult person having the care or custody of such minor person.

(e) The minor person is upon the sidewalk or property where the minor resides.

(f) The minor person is, with parental consent, engaged in normal interstate travel through this City.

(g) The minor is married or emancipated.

(h) The minor is attending or returning home from an official school or church activity, an activity of a civic organization, or a place of public entertainment such as a movie, play, or sporting event or any such activity of a kind normally attended by minors

under the age of 17 years; provided, that when such activity terminates after or less than one hour prior to the curfew, the curfew shall commence one hour after the termination of such activity.

(3) Responsibility of parent or guardian. It shall be unlawful for the parent, guardian, or other adult person having the care and custody of a minor under the age of 17 years to allow or permit such minor person to do any of the things or acts prohibited by this section.

(4) Proceedings against minor or parent or guardian. No minor person arrested under the provisions of this section shall be placed in custody of juvenile authorities until such minor has been taken home, or the parent, guardian, or legal custodian has been notified, and the arresting officer has ascertained whether such minor person is within the control of his or her parent, guardian, or legal custodian. If such parent, guardian, or legal custodian states that such minor cannot be controlled by him or her, then such minor may be proceeded against.

(5) Penalty. Any minor under the age of 17 years violating the provisions of this section shall be dealt with in accordance with the juvenile court law of the state and the procedure thereunder. Any other person violating the provisions of this section shall be served a citation to appear in court, and upon conviction thereof shall be fined as provided in 28-501.

28-202. 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 other indecent or disorderly conduct or lewd or lascivious behavior.

Statutory reference: Neb. RS 16-228

28-203. Hitching rides.

It shall be unlawful for any person to be found soliciting trucks, automobiles, or other vehicles to stop or slow down for the purpose of asking for a ride or riding on the vehicles.

Statutory reference: Neb. RS 60-6,157

28-204. 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, unless specifically authorized by the Council.

28-205. Sexual Predator Residency Restrictions.

(1) Findings and Intent.

(a) The Nebraska Legislature has found that certain sex offenders present a high risk to commit repeat offenses and has enabled municipalities to restrict such persons' place of residency as provided in the Sexual Predator Residency Restriction Act.

(b) Sex offenders who prey on children and who are high risks to repeat such acts present an extreme threat to public safety. The cost of sex offender victimization to these children and to society at large, while incalculable, is exorbitant.

(c) It is the intent of this ordinance to serve the City's compelling interest to promote, protect and improve the health, safety and welfare of the citizens of the City by creating certain areas around locations where children regularly congregate in concentrated numbers where certain sexual predators cannot reside.

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

(a) Child Care Facility. A facility licensed pursuant to the Child Care Licensing Act;

(b) Reside. To sleep, live, or dwell at a place, which may include more than one location, and may be mobile or transitory;

(c) Residence means a place where an individual sleeps, lives, or dwells, which may include more than one location, and may be mobile or transitory;

(d) School. A public, private, denominational, or parochial school which meets the requirements for state accreditation or approval;

(e) Sex Offender. An individual who has been convicted of a crime listed in Nebr. Rev. Stat. section 28-4003 and who is required to register as a sex offender pursuant to the Sex Offender Registration Act; and

(f) Sexual Predator. An individual who is required to register under the Sex Offender Registration Act, who has been classified as Level 3 because of a high risk of recidivism as determined by the Nebraska State Patrol under Nebr. Rev. Stat. section 28-4013, and who has victimized a person eighteen years of age or younger.

(3) Sexual Predator Residency Restrictions; Penalties; Exceptions.

(a) Prohibited Location of Residence. It is unlawful for any sexual predator to reside within five hundred feet from a school or child care facility.

(b) Measure of Distance. For purposes of determining the minimum distance separation, the distance shall be measured by following a straight line from the outer property line of the residence to the nearest outer boundary line of the school or child care facility.

(c) Penalties. A person who violates this section shall be punished as provided generally in the code.

(d) Exceptions. This ordinance shall not apply to a sexual predator who:

(i) Resides within a prison or correctional or treatment facility operated by the state or a political subdivision;

(ii) Established a residence before July 1, 2006, and has not moved from that residence; or

(iii) Established a residence after July 1, 2006, and the school or child care facility triggering the restriction was established after the initial date of the sexual predator's residence at that location.

28-206. Soliciting alms.

It is hereby declared unlawful for any person to solicit upon the public streets or in any private residences alms, gifts, or contributions for private benefit unless the person so soliciting shall have first secured a permit from the City Clerk authorizing him

or her to conduct such operations within the corporate limits.

Statutory reference: Neb. RS 16-229

28-207. Street games.

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

ARTICLE 3
TOBACCO OFFENSES

Section.

28-301. Tobacco possession by minors.

28-301. Tobacco possession by minors.

(1) It shall be unlawful for any person under the age of 18 years to smoke cigarettes or cigars or to use and possess any tobacco products in any form whatever, provided, however, that the possession of tobacco by a person under the age of 18 years shall not be prohibited when said minor is under the direct supervision of a parent or guardian while in the privacy of the home of the parent or guardian or except while handling tobacco products in the Course Of Employment.

(2) Tobacco Products shall be defined to mean any substance containing tobacco leaf, including but not limited to cigarettes, cigars, pipe tobacco, snuff, chewing tobacco, or dipping tobacco.

(3) Persons convicted of violating the provisions of this section shall be punished as provided by 28-501. Any minor so charged with violation of this section may be free from prosecution when such minor shall have furnished evidence for the conviction of the person or persons selling or giving the minor the tobacco products.

Statutory reference: Neb. RS 28-1418

ARTICLE 4
WEAPONS AND EXPLOSIVES

Section.

28-401. Carrying a concealed weapon.
28-402. Discharge of firearms.
28-403. Firecrackers.
28-404. Slingshots, airguns, and BB guns.

28-401. Carrying a concealed weapon.

It shall be unlawful for any person to carry a weapon or weapons concealed on or about his or her person such as a revolver, pistol, bowie knife, dirk or knife with a dirk

blade attachment, brass or iron knuckles, or any other deadly weapon. Nothing herein shall be construed to apply to the municipal police.

Statutory reference: Neb. RS 16-227, 28-1202

28-402. Discharge of firearms.

It shall be unlawful for any person, except an officer of the law in the discharge of his or her official duty, to fire or discharge any gun, pistol, or other fowling piece within the City, provided that nothing herein shall be construed to apply to officially sanctioned public celebrations if the persons so discharging firearms have written permission from the Council; nor shall it apply to licensed shooting galleries or private shooting ranges within buildings approved by the Council; nor shall it apply when necessary for carrying on of any business when approved by the Council; nor shall it apply to indoor or outdoor public shooting ranges owned by the City. This section shall not be construed to apply when the discharge of such firearms is necessary for the public or individual defense and safety.

28-403. Firecrackers.

It shall be unlawful for any person to throw any firecrackers, or any object which explodes upon contact with another object:

(1) From or into a motor vehicle.
(2) Onto any street, highway, or sidewalk.
(3) At or near any person.
(4) Into any building.
(5) Into or at any group of persons.

Statutory reference: Neb. RS 28-1241, 28-1244

28-404. Slingshots, airguns, and BB guns.

It shall be unlawful for any person to discharge a slingshot, air gun, BB gun, or the like loaded with rock or other dangerous missiles at any time or under any circumstances within the City.

ARTICLE 5
PENALTY

Section.
28-501. Penalty.

28-501. Penalty.

(1) Penalty amounts. Any person who violates any of the prohibitions or provisions of any section of this chapter shall be deemed guilty of a misdemeanor. Unless otherwise specified in this chapter or by statute, the penalty for such violation shall be in any amount not to exceed $1,000, in the discretion of the court; and; provided, whenever any section of this chapter shall declare a nuisance, a violation of that section shall be penalized by a fine of not more than $1,000, in which case a new

violation shall be deemed to have been committed every 24 hours of such failure to comply.

(2) Abatement of nuisance.

(a) Whenever a nuisance exists as defined in this chapter, the City may proceed by a suit in equity to enjoin and abate the same, in the manner provided by law.

(b) Whenever in any action it is established that a nuisance exits, the court may, together with the fine or penalty imposed, enter an order of abatement as a part of the judgment in the case.

(3) Restitution. The court may, together with the fine or penalty imposed, enter an order of restitution as part of the judgment in the case.

(4) Whoever violates section 28-301 shall be punished by a monetary fine of not less than $25 and not more than $100.

(5) Any non-minor violating the provisions of section 28-201 shall be fined not more than $100 for a first offense; not more than $200 for a second offense; and not more than $500 for each subsequent offense.

Statutory reference: Neb. RS 16-225, 16-240, 16-246, 18-1720

CHAPTER 29
ORDINANCES, RESOLUTIONS, AND MOTIONS

Article.
1. Ordinances, Resolutions, and Motions.

ARTICLE 1
ORDINANCES, RESOLUTIONS, AND MOTIONS

Section.
29-101. Powers of Council.
29-102. Passage, publication, and proof of ordinances.
29-103. Reading of ordinances.
29-104. Publication of ordinances.
29-105. Form of ordinances.
29-106. Title of ordinances.
29-107. Appropriation ordinances.
29-108. Emergency ordinances.
29-109. Amendment and revision of ordinances.
29-110. Resolutions and motions.

29-101. Powers of Council.

The Council shall have the responsibility of making all ordinances, bylaws, rules, regulations, and resolutions not inconsistent with the laws of the state as may be necessary and proper for maintaining the peace, good government, and welfare of the City and its trade, commerce, and security.

Statutory Reference: Neb. RS 16-246

29-102. Passage, publication, and proof of ordinances.

All ordinances shall be passed pursuant to such rules and regulations as the Council may provide. All ordinances may be proven by the certificate of the City Clerk under the seal of the City. The passage, approval, and publication or posting of any ordinance shall be sufficiently proven by a certificate under the seal of the City from the Clerk showing that such ordinance was passed and approved, and when and in what paper the same was published and when and by whom and where the same was posted. When ordinances are published in book or pamphlet form purporting to be published by authority of the Council, the same need not be otherwise published. The municipal code shall be received as evidence of the passage and legal publication of its contents in all courts without further proof.

Statutory Reference: Neb. RS 16-403
Historical Reference: Am. Ord. 847, passed 6-24-86

29-103. Reading of ordinances.

Ordinances of a general or permanent nature shall be read by the title on three different days. This requirement may be suspended by three-fourths vote of the Council, in which case said ordinance may be read by title or number and then moved for final passage; provided, however, such requirement shall not be suspended for any ordinance for the annexation of territory. Three-fourths of the Council may require any ordinance to be read in full before final passage.

Statutory Reference: Neb. RS 16-404

29-104. Publication of ordinances.

All ordinances of a general nature shall, within 15 days after they are passed, be published in some newspaper published within the City, or in pamphlet form, to be distributed or sold, as may be provided by ordinance; and every ordinance fixing a penalty or forfeiture for its violation shall, before the same takes effect, be published for at least one week in some manner above prescribed.

Statutory Reference: Neb. RS 16-405

29-105. Form of ordinances.

The style of all City ordinances shall be: "Be it ordained by the President and Council of the City of Ogallala."

Statutory Reference: Neb. RS 16-405

29-106. Title of ordinances.

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

Statutory reference: Neb. RS 16-404

29-107. Appropriation ordinances.

All ordinances, resolutions, or orders for the appropriation or payment of money shall require for their passage or adoption the concurrence of a majority of all Members elected to the Council.

29-108. Emergency ordinances.

In the case of riot, infectious or contagious diseases, or other impending danger or any other emergency requiring its immediate operation, an ordinance shall take effect upon the proclamation of the President of the Council upon its first publication as set forth in 29-104.

Statutory reference: Neb. RS 16-405

29-109. Amendment and revision of ordinances.

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

Statutory Reference: Neb. RS 16-404

29-110. Resolutions and motions.

After a resolution or motion is introduced, it shall be read by title one time in the presence and hearing of a majority of the Members elected to the Council. The issue raised by said resolution or motion 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 viva voce and “yeas” and “nays” thereon shall be recorded by the Clerk, which requirement shall be satisfied by utilizing an electronic voting device, which allows the yeas and nays of each Council Member to be readily seen by the public.

Statutory reference: Neb. RS 16-503

CHAPTER 30
PARKS

Article.
1. General Provisions.
2. Rules and Regulations.
3. Penalty.

ARTICLE 1
GENERAL PROVISIONS

Section.
30-101. Operation and funding.

30-101. Operation and funding.

The City owns and operates the City parks, swimming pool, and other recreational areas through the Parks and Recreation Department. The Council, for the purpose of defraying the cost of the care, management, and maintenance of the City parks, may each year levy a tax not exceeding the maximum limit prescribed by state law on the actual valuation of all real estate and personal property within the corporate limits that is subject to taxation. The revenue from the said tax shall be known as the Park and Recreation Fund and shall remain in the custody of the City Treasurer. The City Manager shall have the authority to adopt rules and regulations for the efficient management of the City parks and other recreational areas of the City.

Statutory reference: Neb. RS 16-695, 16-697.

ARTICLE 2
RULES AND REGULATIONS

Section.
30-201. Destruction of property; litter.
30-202 Park Hours.
30-203 Vehicle Parking.

30-201. Destruction of property; litter.

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

Statutory reference: Neb. RS 16-697.01.

30-202 Park Hours

Ogallala Parks shall be closed from 10:00 PM until 5:00 AM that following morning. No person shall be allowed in the parks during the closed hours. The use of parks during periods in which they are closed may be allowed by permit, specifically allowing use between 10:00 PM and 5:00 AM the following morning, issued by the Ogallala City Clerk.

30-203. Vehicle Parking

Vehicles parked on City Park Property more than 24 hours may be towed away at the cost and expense of the owner thereof. It is unlawful to park any vehicle in other than designated areas.

ARTICLE 3
PENALTY

Section.

30-301. Penalty.

30-301. Penalty.

(1) Penalty amounts. Any person who violates any of the prohibitions or provisions of any section of this chapter shall be deemed guilty of a misdemeanor. Unless otherwise specified in this chapter or by statute, the penalty for such violation shall be in any amount not to exceed $1,000, in the discretion of the court; and; provided, whenever any section of this chapter shall declare a nuisance, a violation of that section shall be penalized by a fine of not more than $1,000, in which case a new violation shall be deemed to have been committed every 24 hours of such failure to comply.

(2) Abatement of nuisance.

(a) Whenever a nuisance exists as defined in this chapter, the City may proceed by a suit in equity to enjoin and abate the same, in the manner provided by law.

(b) Whenever in any action it is established that a nuisance exits, the court may, together with the fine or penalty imposed, enter an order of abatement as a part of the judgment in the case.

(3) Restitution. The court may, together with the fine or penalty imposed, enter an order of restitution as part of the judgment in the case.

Statutory reference: Neb. RS 16-225, 16-240, 16-246, 18-1720.

CHAPTER 31
POLICE DEPARTMENT

Article.
1. General Provisions.
2. Retirement System.

ARTICLE 1
GENERAL PROVISIONS

Section.
31-101. Operation and duties.

31-101. Operation and duties.

(1) The Police Department shall consist of the Chief of Police and such further number of regular police officers as may be duly ordered by resolution of the Council. The Chief of Police shall, subject to the direction of the City Manager, have control and management of all matters relating to the Police Department, its officers and members, and shall have the custody and control of all property and books belonging to the Department. He or she shall devote his or her whole time to the City affairs, the interests of the City, and the preservation of peace, order, safety, and cleanliness thereof.

(2) The Department shall execute and enforce all laws and also the orders of the City Manager. It shall be the duty of the Department to protect the rights of persons and property. The Department shall take notice of all nuisances, impediments, obstructions, and defects in the streets, avenues, alleys, business places, and residences of the City. The Department shall execute, or cause to be executed, the processes issued and shall cause all persons arrested to be brought before the proper court for trial as speedily as possible.

(3) The Chief of Police and all regular and special police officers shall become thoroughly conversant with the laws of the City, and shall see that the same are strictly enforced and shall make sworn complaints against any person or persons for violation of the same.

Statutory reference: Neb. RS 16-225

ARTICLE 2
RETIREMENT SYSTEM

Section.
31-201. Adoption by reference.
31-202. Retirement Committee.

31-201. Adoption by reference.

The police officer’s retirement system is hereby adopted by reference as if set out full herein. A copy of the retirement system may be found on file in the office of the City Clerk.

31-202. Retirement Committee.

A Police Officer's Retirement Committee shall be established pursuant to State Statute to supervise the general operation of the retirement system.

Statutory reference: Neb Res. 16-1001 et seq

CHAPTER 32
PUBLIC RECORDS

Article.
1. General Provisions.

ARTICLE 1
GENERAL PROVISIONS

Section.
32-101. Public records available.

32-101. Public records available.

This municipality shall make available to any person for inspection or copying all public records, unless otherwise exempted by state law.

Statutory reference: Neb. RS 17-614.

CHAPTER 33
RAILROADS

Article.
1. Rules and Regulations.
2. Penalty.

ARTICLE 1
RULES AND REGULATIONS

Section.
33-101. Drainage.
33-102. Crossings.
33-103. Obstruction of streets.
33-104. Lights, signals, and flagpersons.

33-101. Drainage.

It shall be the duty of any railroad company, its employees, agents, or servants owning, maintaining, or operating a railroad within or through the City to construct and keep in repair at their own expense ditches, drains, and culverts along and under its railroad tracks at all places within the limits of the City where the same may be necessary for the escape of water and the proper draining of the territory on either side of the railroad tracks. When any such drains, ditches, or culverts may be necessary for the escape of water and the proper drainage of the territory on either side of any railroad track, the Council may by resolution call upon the proper railroad company to construct or repair the drain, ditch, or culvert and to place the same in proper condition for the escape of water for the proper drainage of the territory on either side of the railroad track. A copy of every such resolution shall be served upon the local agent of the railroad company whose duty it is to construct or keep in repair any drain, ditch, or culvert. For a failure or refusal to comply with any such resolution within 14 days after the service thereof, as aforesaid, the railroad company, its local agent, section foreperson, or employee in charge of the maintenance and way through the City shall be deemed guilty of a misdemeanor.

Statutory reference: Neb. RS 16-212

33-102. Crossings.

It shall be the duty of all railroad companies owning, operating, and maintaining a railroad passing through the City to place, keep, or maintain at their own expense all places within their right-of-way where the public streets or alleys of the City intersect and cross any railroad tracks in a suitable and safe condition for public travel over and across the same.

Statutory reference: Neb. RS 16-212, 16-625, 74-1333 et seq.

33-103. Obstruction of streets.

It is hereby declared unlawful for any railroad company, its employees, agents, or servants operating a railroad into or through the municipality to obstruct any of the public streets by leaving trains or cars standing thereon so as to prevent the public from crossing said railroad track or tracks for a longer period at one time than five minutes, except in the case of inevitable accident. It shall be unlawful to spot cars or to leave the same standing on any switch or service track so that the same obstruct or remain within the limits of any street or within five feet from the boundary thereof.

Statutory reference: Neb. RS 74-1323

33-104. Lights, signals, and flagpersons.

When ordered by the Council, approved automatic lights or signals shall be installed at railroad expense at designated railroad crossings and in keeping with the order, if and when made. Automatic lights and signals shall be kept in good working condition at all hours of the day or night so that all persons approaching said crossings, or any of them, shall be warned of the danger of approaching trains, engines, or cars on the tracks of the railroad companies. The Council may order railroad companies to keep flagpersons on duty during all or any portion of the 24 hours of each day to protect the public, pedestrian, or vehicular traffic at designated railroad crossings.

Statutory reference: Neb. RS 16-212

ARTICLE 2
PENALTY

Section.

33-201. Penalty.

33-201. Penalty.

(1) Penalty amounts. Any person who violates any of the prohibitions or provisions of any section of this chapter shall be deemed guilty of a misdemeanor. Unless otherwise specified in this chapter or by statute, the penalty for such violation shall be in any amount not to exceed $1,000, in the discretion of the court; and; provided, whenever any section of this chapter shall declare a nuisance, a violation of that section shall be penalized by a fine of not more than $1,000, in which case a new violation shall be deemed to have been committed every 24 hours of such failure to comply.

(2) Abatement of nuisance.

(a) Whenever a nuisance exists as defined in this chapter, the City may proceed by a suit in equity to enjoin and abate the same, in the manner provided by law.

(b) Whenever in any action it is established that a nuisance exits, the court may, together with the fine or penalty imposed, enter an order of abatement as a part of the judgment in the case.

(3) Restitution. The court may, together with the fine or penalty imposed, enter an order of restitution as part of the judgment in the case.

Statutory reference: Neb. RS 16-225, 16-240, 16-246, 18-1720.

CHAPTER 34
RECYCLING

Article.
1. General Provisions.
2. Penalty.

ARTICLE 1
GENERAL PROVISIONS

Section.
34-101. Purpose and declaration of policy.
34-102. Definitions.
34-103. Collection of recyclable materials.
34-104. Unauthorized collection of recyclable materials.
34-105. Unauthorized activities.
34-106. Permits.

34-101. Purpose and declaration of policy.

It is the policy of the City to support recycling of recyclable materials and to further the public interest in preserving the environment by reducing the amount of refuse sent to landfills. It is the goal of the City that recycling may present a potential solution to some of the problems associated with solid waste disposal.

34-102. Definitions.

(1) Collection Facility shall mean a center managed for the acceptance by donation, redemption, or purchase of recyclable materials from the public.

(2) Collection Location shall mean a remote location used for the placement of recycling receptacles.

(3) Garbage shall mean any putrescible animal and vegetable wastes resulting from the handling, preparation, cooking and consumption of food, as well as dead animals and animal excrement and other like material that is not recyclable.

(4) Recycling shall mean the process of separating, cleaning, treating, and reconstituting recyclable materials or other discarded materials for the purpose of recovering and reusing the resources contained herein.

(5) Recycling Facility shall mean a building or other space used for the collection and processing of recyclable material which shall be located upon a site owned, operated or utilized for the collection, separation, transportation and transfer, processing and disposal of recyclable materials. All material received at the recycling facility shall be stored at all times in a manner which does not interfere with the comfortable enjoyment of life and property, or which tends to depreciate the value of the property of others.

(6) Recyclable Materials shall mean materials that would otherwise become solid waste that can be source separated, collected, processed, and returned to the economic stream in the form of raw materials or products.

(7) Recycling Receptacle shall mean any unattended bin, container or device used for the collection of recyclable materials.

34-103. Collection of recyclable materials.

(1) It shall be unlawful to place anything other than recyclable materials in a recycling receptacle.

(2) It shall be unlawful to place recyclable materials anywhere other than in the recycling receptacle at the collection facility or permitted locations.

34-104. Unauthorized collection of recyclable materials.

It shall be unlawful for any person to place, locate, establish, maintain, erect, leave or otherwise make available any recycling receptacle unless located within a recycling facility or at a permitted location.

34-105. Unauthorized activities.

It shall be unlawful to operate a recycling facility as a salvage or junk yard.

34-106. Permits.

It shall be unlawful for any person to keep or maintain within the corporate limits a collection location without first obtaining a permit from the City Manager.

ARTICLE 2
PENALTY

Section.

34-201 Penalty.

34-201 Penalty.

(1) Penalty amounts. Any person who violates any of the prohibitions or provisions of any section of this chapter shall be deemed guilty of a misdemeanor. Unless otherwise specified in this chapter or by statute, the penalty for such violation shall be in any amount not to exceed $1,000, in the discretion of the court; and; provided, whenever any section of this chapter shall declare a nuisance, a violation of that section shall be penalized by a fine of not more than $1,000, in which case a new violation shall be deemed to have been committed every 24 hours of such failure to comply.

(2) Abatement of nuisance.

(a) Whenever a nuisance exists as defined in this chapter, the City may proceed by a suit in equity to enjoin and abate the same, in the manner provided by law.

(b) Whenever in any action it is established that a nuisance exits, the court may, together with the fine or penalty imposed, enter an order of abatement as a part of the judgment in the case.

(3) Restitution. The court may, together with the fine or penalty imposed, enter an order of restitution as part of the judgment in the case.

Statutory reference: Neb. RS 16-225, 16-240, 16-246, 18-1720.

CHAPTER 35
SEXUALLY ORIENTED BUSINESSES

Article.
1. General Provisions.
2. Licenses.
3. Rules and Regulations.
4. Penalty.

ARTICLE 1
GENERAL PROVISIONS

Section.
35-101. Purpose and intent.
35-102. Definitions.
35-103. Classification of businesses.

35-101. Purpose and intent

It is the purpose of this chapter to regulate sexually oriented businesses to promote the health, safety, morals, and general welfare of the citizens of the City and to establish reasonable and uniform regulations to prevent the continued deleterious location and concentration of sexually oriented businesses within the City. The provisions of this chapter have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is not the intent nor effect of this chapter to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is the intent nor effect of this chapter to condone or legitimize the distribution of obscene material or sexual activities.

Findings.

Based on convincing documented evidence, studies, findings and reports concerning the negative secondary effects of sexually oriented businesses regarding both commercial and residential areas and the nexus between sexually oriented businesses, obscene materials and sexual exhibits and alcohol consumption, and illegal drug distribution and use, the City Council finds:

(1) Sexually oriented businesses have negative secondary effects on the existing businesses around them and the surrounding residential areas adjacent to them, causing increased crime, the downgrading of property values, the downgrading of adjacent neighborhoods making adjacent neighborhoods significantly less attractive and less safe for raising children and denigrating both residential life and commercial activity for other types of businesses and sexually oriented businesses downgrade the quality of life and fitness of property for other uses in areas both immediate and adjacent to such businesses.

(2) The negative secondary effects of sexually oriented businesses are increased when they are located in close proximity to each other and when the service or

consumption of alcohol is permitted at or near such locations.

(3) Improper conduct involving sexual acts occurs at sexually oriented businesses which provide private or semi-private booths or viewing rooms for the viewing of films, videos or live performances.

(4) The findings noted above raise substantial governmental concerns for the health, safety and welfare of the citizens of the City and it is appropriate for the purpose of promoting and protecting the health, safety and welfare of the citizens of the City particularly the children of the community and those conducting general business that reasonable regulations be enacted so as to address the substantial governmental concerns to minimize and control the negative secondary effects of sexually oriented businesses and thereby promote and protect the health, safety and welfare of the citizens of the City, protect the citizens from increased crime, preserve the value of property, and preserve the quality of life and the quality and character of surrounding neighborhoods for residential and commercial purposes.

(5) The enactment of reasonable regulations of sexually oriented businesses which involve locational criteria, licensing criteria, operational criteria, and the prohibition of alcohol and illegal substance use are appropriate to address the substantial governmental concerns and protect the health, safety and welfare of the citizens of the City.

(6) A reasonable licensing procedure and zoning requirements are appropriate mechanisms to place the burden of reasonable regulations on the owners of sexually oriented businesses and such a licensing procedure will place an incentive on the owners to see that the sexually oriented business is operated in a manner which is consistent with the health, safety and welfare of patrons, employees and citizens of the City.

35-102. Definitions.

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

(1) Adult arcade shall mean any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of “specified sexual activities” or “specified anatomical areas.”

(2) Adult bookstore or adult video store shall mean:

(a) A commercial establishment which, as one of its principal business purposes, offers for sale or rental for any form of consideration any one or more of the following: books, magazines, periodicals, or other printed matter or photographs, films, motion pictures, video cassettes or video reproductions, slides, or other visual representations which depict or describe “specified sexual activities” or “specified anatomical areas.”

(b) A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing “specified sexual activities” or “specified anatomical areas” and still be categorized as an adult bookstore or adult video store. Such other business purposes will not serve to exempt such commercial establishment from being categorized as a adult bookstore or adult

video store so long as one of its principal business purposes is the offering for sale or rental for consideration the specified materials which depict or describe “specified sexual activities” or “specified anatomical areas.”

(3) Adult cabaret shall mean a nightclub, bar, restaurant, or similar commercial establishment which features any of the following:

(a) Persons who appear in a state of nudity.

(b) Live performances which are characterized by the exposure of “specified anatomical areas” or by “specified sexual activities.”

(c) Films, motion pictures, video cassettes or video reproductions, slides, laser or compact discs, or other visual reproductions which are characterized by the depiction or description of “specified sexual activities” or “specified anatomical areas.”

(4) Adult motel shall mean a hotel, motel, or similar commercial establishment which does any of the following:

(a) Offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes or video reproductions, slides, laser or compact discs, or other visual reproductions which are characterized by the depiction or description of “specified sexual activities” or “specified anatomical areas” and has a sign visible from the public right of way which advertises the availability of this adult type of visual reproductions.

(b) Offers a sleeping room for rent for a period of time that is less than ten hours.

(c) Allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than ten hours.

(5) Adult motion picture theater shall mean a commercial establishment where, for any form of consideration, films, motion pictures, video cassettes or video reproductions, slides, laser or compact discs, or similar visual reproductions are shown which are characterized by the depiction or description of “specified sexual activities” or “specified anatomical areas.”

(6) Adult store shall mean a commercial establishment which, as one of its principal business purposes, offers for sale or rental for any form of consideration instruments, devices, “adult toys,” or paraphernalia which are designed or marketed for use in connection with “specified sexual activities”.

(a) A commercial establishment may have other principal business purposes that do not involve the offering for sale of instruments, devices, “adult toys,” or paraphernalia which are designed for use in connection with “specified sexual activities” and still be categorized as an adult store. Such other business purposes will not serve to exempt such commercial establishments from being categorized as adult stores so long as one of its principal business purposes is the offering for sale of instruments, devices, “adult toys,” or paraphernalia which are designed for use in connection with “specified sexual activities.”

(b) A primary factor which shall be considered in determining whether the sale or rental of adult materials is a “principal business purpose” shall be whether the business publicly advertises such materials either through media or signs located on the exterior of its premises or signs located inside the business that can be seen from the exterior. Additional factors which may be considered are the gross income generated by adult materials compared to over-all gross income, and the amount of floor space, both retail and storage, devoted to adult materials.

(7) Adult theater shall mean a theater, concert hall, auditorium, or similar commercial establishment which features persons who appear in a state of nudity or live performances which are characterized by the exposure of “specified anatomical areas” or by “specified sexual activities.”

(8) Escort shall mean a person who, for consideration, agrees or offers to act as a companion, guide, or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

(9) Escort agency shall mean a person or business association who furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes for a fee, tip, or other consideration.

(10) Establishment shall mean any of the following:

(a) The opening or commencement of any sexually oriented business as a new business.

(b) The conversion of an existing business, whether or not a sexually oriented business, to any sexually oriented business.

(c) The addition of any sexually oriented business to any other existing sexually oriented business.

(d) The relocation of any sexually oriented business.

(11) Licensee shall mean a person in whose name a license to operate a sexually oriented business has been issued, as well as the individual listed as an applicant on the application for a license.

(12) Nude model studio shall mean any place where a person who appears in a state of nudity or displays “specified anatomical areas” is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration.

(13) Nudity or state of nudity shall mean the appearance of a human bare buttock, anus, male genitals, female genitals, or female breast.

(14) Operate or cause to be operated shall mean to cause to function or to put or keep in a state of doing business.

(15) Operator shall mean any person on the premises of a sexually oriented business who is authorized to exercise operational control of the business, or who causes to function or who puts or keeps in operation, the business. A person may be found to be operating or causing to be operated a sexually oriented business regardless of whether or not that person is an owner, part owner, or licensee of the business.

(16) Person shall mean an individual, proprietorship, partnership, limited liability company or partnership, corporation, association, or other legal entity.

(17) Residential shall mean a single family, two family, or multiple family use as defined in Ordinances of the City of Ogallala.

(18) Semi-nude shall mean a state of dress in which clothing covers no more than the genitals, pubic region, and areolae of the female breast, as well as portions of the body covered by supporting straps or devices.

(19) Sexual encounter center shall mean a business or commercial enterprise that, as one of its primary business purposes, offers for any form of consideration:

(a) Physical contact in the form of wrestling or tumbling between persons of the opposite sex.

(b) Activities between male and female persons and/or persons of the same sex

when one or more of the persons is in a state of nudity or semi-nude.

(20) Sexually oriented business shall mean an adult arcade, adult bookstore or adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, escort agency, nude model studio, or sexual encounter center, whether on a temporary or regular basis.

(21) Specified anatomical areas shall mean the human bare buttock, anus, male genitals, female genitals, or female breast.

(22) Specified sexual activities shall mean any of the following:

(a) The stimulation, fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts, whether clothed or unclothed.

(b) Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy.

(c) Masturbation, actual or simulated.

(d) Excretory functions as part of or in connection with any of the activities set forth in (a) through (c) above.

(23) Substantial enlargement of a sexually oriented business shall mean the increase in floor areas occupied by the business by more than 25% as the floor areas exists on the date of the issuance of a sexually oriented business license.

(24) Transfer of ownership or control of a sexually oriented business shall mean any of the following:

(a) The sale, lease, or sublease of the business:

(b) The transfer of securities which constitute a controlling interest in the business, whether by sale, exchange, or similar means.

(c) The establishment of a trust, gift, or other similar legal device which transfers the ownership or control of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.

35-103. Classification of businesses.

Sexually oriented businesses are classified as follows:

(a) Adult arcades.

(b) Adult bookstores, adult stores, or adult video stores.

(c) Adult cabarets.

(d) Adult motels.

(e) Adult motion picture theaters.

(f) Adult theaters.

(g) Escort agencies.

(h) Nude model studios.

(i) Sexual encounter centers.

ARTICLE 2
LICENSES

Section.

35-201. License required; application for license.
35-202. Investigation of application.
35-203. License issuance and display.

35-204. Application and license fees.
35-205. Inspections.
35-206. License term and renewal.
35-207 License suspension.
35-208. License revocation.
35-209. License transfer.

35-201. License required; application for license.

(1) It is unlawful to establish, operate, or cause to operate, a sexually oriented business without a valid license issued by the City for the particular type of classification of business. No license shall be required of a bookstore or video store which does not advertise adult materials, either through media, exterior signs, or window signs visible from the exterior of the premises.

(2) An application for a license must be made to the Planning and Zoning Administrator on a form provided by the City Clerk.

(3) The applicant must meet all qualifications stated in this chapter before a license is issued and continuously thereafter during the license term. The application shall require and the applicant shall provide such information and documentation as is specified in this chapter.

(4) If a person who wishes to operate a sexually oriented business is an individual, he must sign the application for a license as applicant. If a person who wishes to operate a sexually oriented business is other than an individual, each officer, director, general partner, managing partner or other person who will participate directly in decisions relating to management of the business shall sign the application for a license as applicant. Each applicant must meet the qualifications as stated in this Chapter and each applicant shall be considered as a licensee if a license is granted.

(5) The completed application for a sexually oriented business license shall contain the following information and shall be accompanied by the following documents:

(a) If the applicant is:

(i) An individual, the individual shall state his or her legal name and any aliases and submit proof that he or she is twenty-one (21) or more years of age;

(ii) A partnership or limited liability company, the partnership or limited liability company shall state its complete name, and the names of all partners or members, residence address and whether the partnership or company is general or limited, a copy of the partnership, LLC/LLP organizational agreement, if any, and verification of current state registration, if any;

(iii) A corporation, the corporation shall state its complete name, the date of its incorporation, evidence that the corporation is in good standing under the laws of its state of incorporation, the name, capacity and address of all officers, directors and principal stockholders, and the name of the registered corporate agent and the address of the registered office for service of process.

(b) Name of business. If the applicant intends to operate the sexually oriented business under a name other than that of the applicant, he or she must state the sexually oriented business's name and submit any registration documents.

(c) Whether the applicant has been convicted of a crime as specified in this chapter, and, if so, the crime, date, place and jurisdiction.

(d) Whether the applicant has had a previous license or holds a present license under this chapter or other similar sexually oriented business ordinances from another City or county and whether any license has been denied, suspended or revoked in this or any other jurisdiction, including the name and location of the sexually oriented business for which the permit was denied, suspended or revoked, as well as the date of the denial, suspension or revocation, and whether the applicant has been a partner or member in a partnership or limited liability company or an officer, director, or principal stockholder of a corporation that is licensed under this chapter or in another jurisdiction or whose license has previously been denied, suspended or revoked, including the name and location of the sexually oriented business for which the license was denied, suspended or revoked as well as the date of denial, suspension or revocation.

(e) Whether the applicant holds any other licenses under this chapter or operates other similar sexually oriented businesses in another City or county and, if so, the names and locations of such other businesses.

(f) The classification of license for which the applicant is filing.

(g) The location of the proposed sexually oriented business, including a legal description of the property, street address and telephone number(s), if any.

(h) The applicant's mailing address and residential address.

(i) The applicant's driver's license number, social security number, and state or federal issued tax identification number.

(j) The application must be accompanied by a sketch or diagram showing the configuration of the premises, including a statement of total floor space occupied by the business. The sketch or diagram need not be professionally prepared but must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six inches (6").

(6) A person commits a misdemeanor if he or she operates a sexually oriented business without a valid license issued by the City for that particular classification of business.

(7) The applicant must be qualified according to the provisions of this Chapter and the premises must be inspected and found to be in compliance with the law and this Chapter by the Planning and Zoning Administrator and the Police Department.

(8) The fact that a person possesses other types of state or county licenses does not exempt him or her from the requirement of obtaining a sexually oriented business license.

35-202. Investigation of application.

Upon receipt of an application for a sexually oriented business license, the Planning and Zoning Administrator and the Police Department, or their designees, shall conduct an investigation of the applicant and application including a location inspection and shall issue a report of the investigation.

35-203. License issuance and display.

(1) The Planning and Zoning Administrator shall approve the issuance of a license to an applicant within 30 days after receipt of an application unless he or she finds one or more of the following to be true:

(a) An applicant is not then 21 or more years of age.

(b) An applicant is currently required to register pursuant to the Nebraska Sex Offender Registration Act.

(c) An applicant or an applicant's spouse is overdue in his or her payment to the City or county of fees, fines, or penalties assessed against him or her or imposed upon him or her in relation to a sexually oriented business.

(d) An applicant has failed to provide information reasonably necessary for issuance of the license including all information requested on the application form or has falsely answered a question or request for information on the application form.

(e) The premises to be used for the sexually oriented business is not in compliance with federal, state or local rules and regulations.

(f) The investigation, inspection and license fees required by this Chapter have not been paid.

(g) An applicant has been convicted of a crime

(g-1) involving:

(i) Any of the following offenses as described in Nebraska State Statutes:

(i-1) prostitution;

(i-2) pandering;

(i-3) keeping a place of prostitution;

(i-4) debauching a minor;

(i-5) obscenity;

(i-6) contributing to the delinquency of a child;

(i-7) child pornography;

(i-8) possession, distribution or sale of child pornography;

(ii) Any of the following offenses as described in Nebraska State Statutes:

(ii-1) incest;

(ii-2) public indecency;

(ii-3) allowing a child to participate in child pornography;

(iii) Sexual assault or sexual assault of a child as described in Nebraska State Statutes;

(iv) Solicitation of a child, or harboring a runaway child as described in Nebraska State Statutes; or

(v) Criminal attempt, conspiracy, or solicitation to commit any of the foregoing offenses;

(g-2) for which:

(i) Less than five (5) years have elapsed since the date of conviction or the date of release from confinement for the conviction, or the date of release from probation or parole, whichever is the later date, if the conviction is a misdemeanor offense;

(ii) Less than ten (10) years have elapsed since the date of conviction or the date of release from confinement for the conviction, or the date of release from probation or parole, whichever is the later date, if the conviction is a felony offense; or

(iii) Less than ten (10) years have elapsed since the date of the last conviction or the date of release from confinement for the last conviction, or the date of release from probation or parole, whichever is the later date, if the convictions are of two (2) or more misdemeanors of the offenses listed in this chapter.

(2) The fact that a conviction is being appealed or has been set aside shall have no effect on the disqualification of the applicant under subsection (1) of this Section.

(3) An applicant who has been convicted of an offense listed in this chapter may qualify for a sexually oriented business license only when the time period required by this chapter has elapsed and all fines reference the criminal offenses have been fully paid.

(4) The Planning and Zoning Administrator, upon approving the issuance of a sexually oriented business license, shall cause to be sent to the applicant, by certified mail, return receipt requested, written notice of that action and that the applicant must pay the investigation/inspection and license fees at the City Clerk's Office. The Planning and Zoning Administrator's approval of the issuance of a license does not authorize the applicant to operate a sexually oriented business until the applicant has paid all fees required by this Chapter and has obtained possession of the license. The Planning and Zoning Administrator, upon denial of the issuance of sexually oriented business license, shall cause to be sent to the applicant, by certified mail, return receipt requested, written notice of that action and the applicant can appeal such decision to the City Council, in writing filed with the City Clerk, within thirty (30) days of the date of denial. The City Council will hear the appeal within thirty (30) days from the date the written appeal is received. The Council may affirm or reverse the decision of the Planning and Zoning Administrator within thirty (30) days after conclusion of the hearing. The hearing will be informal and the rules of evidence will not apply. The applicant has the right to be represented. In case of reversal, the license shall be issued.

(5) The license, if granted, shall state on its face the name of the person or persons to whom it is granted, the expiration date, the address of the sexually oriented business, and the classification for which the license is issued. The license must be posted in a conspicuous place at or near the entrance to the sexually oriented business so that it may be easily read at any time.

(6) A sexually oriented business license shall issue for only one classification and the applicant can operate a sexually oriented business for only one licensed location in the City.

(7) The Police Department and the Planning and Zoning Administrator shall complete their certification that the premises is in compliance or not in compliance within 20 days of receipt of the application by the Planning and Zoning Administrator. The certifications of the Police Department shall be promptly presented to the Planning and Zoning Administrator.

35-204. Application and License fees.

(1) The applicant for an initial sexually oriented business license shall, at the time of making application, pay a nonrefundable application fee established by the Council by resolution to conduct an investigation of the application and to inspect the location to insure that the proposed sexually oriented business is in compliance with the requirements set forth in this Chapter.

(2) The fee for a sexually oriented business license shall be established by the Council by resolution.

35-205. Inspections.

(1) An applicant, licensee, operator or employee shall permit representatives of

any state or local regulatory authority or law enforcement agency, to inspect the premises of a sexually oriented business for the purpose of insuring compliance with the law at any time it is occupied or open for business.

(2) An applicant, licensee, operator or employee of a sexually oriented business commits a misdemeanor if he or she refuses to permit such lawful inspection of the premises at any time it is occupied or open for business.

35-206. License term and renewal.

(1) Annual License.

(a) Each license shall expire one year from the date of issuance and may be renewed only by making application as provided in this chapter. Application for renewal should be made at least 30 days before the expiration date, and when made less than 30 days before the expiration date, the expiration of the license will not be affected.

(b) When the Planning and Zoning Administrator denies renewal of a license, the applicant shall not be issued a license for one year from the date of denial unless. If, subsequent to denial, the Planning and Zoning Administrator finds that the basis for denial of the renewal license has been corrected or abated, the applicant may be granted a license if at least 90 days have elapsed since the date denial became final.

(2) Temporary License.

(a) A temporary license may be granted under the provisions of 35-203 for a period not to exceed 72 hours. A temporary license may be issued only once in any 30 day period.

35-207. License suspension.

(1) The Planning and Zoning Administrator or the City Manager may suspend an annual license for a period not to exceed 30 days if he or she determines that a licensee, operator or employee:

(a) Violated or is not in compliance with any section of this ordinance.

(b) Is required to register under the Nebraska Sex Offender Act and such person required to register is not immediately restricted from access to the sexually oriented business premises while the premises is open to the public.

(c) Engaged in, permitted or did not control excessive use of alcoholic beverages while on the sexually oriented business premises.

(d) Refused to allow an inspection of the sexually oriented business premises as authorized by this chapter.

(e) Knowingly permitted gambling by any person on the sexually oriented business premises.

(2) Appeal of the suspension made by the Planning and Zoning Administrator or the City Manager shall be made to the City Council. Such appeal shall be taken by filing with the City Clerk within seven (7) days after notice of the suspension has been personally served or mailed to such person's last-known address. The hearing will be informal and the rules of evidence shall not apply. The hearing will occur within seven (7) days from the filing of the appeal upon written notice has been personally served or mailed to such person’s last-known address at least four (4) days prior to the hearing.

35-208. License revocation.

(1) The Planning and Zoning Administrator or the City Manager shall revoke an annual license if a cause of suspension in 35-207 occurs and the license has been suspended within the proceeding 12 months.

(2) The Planning and Zoning Administrator or the City Manager may revoke a temporary license if a cause of suspension in 35-207 occurs.

(3) The Planning and Zoning Administrator or the City Manager may revoke any license if he or she determines that:

(a) A licensee gave false or misleading information in the material submitted to the Planning and Zoning Administrator during the application process.

(b) A licensee, operator or an employee has knowingly allowed possession, use, or sale of controlled substances on the premises.

(c) A licensee, operator or an employee has knowingly allowed prostitution on the premises.

(d) A licensee, operator or an employee knowingly operated the sexually oriented business during a period of time when the licensee's license was suspended.

(e) A licensee, operator or an employee has knowingly allowed any act of sexual intercourse, sodomy, oral copulation, masturbation, or other sexual conduct to occur in or on the licensed premises. This subsection shall not apply to an adult motel unless the licensee or employee knowingly allowed such sexual acts to occur either in exchange for money or in a public place or within public view.

(f) A licensee has been convicted of an offense listed in Subsection (1)(g)(g-1) of Section 35-203 for which the time period required in Subsection (1)(g)(g-2) of Section 35-203 has not elapsed.

(g) On two or more occasions within a twenty-four month period, a person or persons committed an offense in or on the licensed premises of a crime listed in Subsection (1)(g)(g-1) of Section 35-203 for which a conviction has been obtained and the person or persons convicted were licensees, operators or employees of the sexually oriented business at the time the offenses were committed.

(4) When the Planning and Zoning Administrator or the City Manager revokes a license, the revocation shall continue for one year, and the licensee shall not be issued a license under this Chapter for one year from the date revocation became effective. If, subsequent to revocation, the Planning and Zoning Administrator finds that the basis for the revocation has been corrected or abated, the applicant may be granted a license if at least 90 days have elapsed since the date the revocation became effective.

(5) Appeal of the revocation made by the Planning and Zoning Administrator or the City Manager shall be made to the City Council. Such appeal shall be taken by filing with the City Clerk within fourteen (14) days after notice of the revocation has been personally served or mailed to such person's last-known address. The hearing will be informal and the rules of evidence shall not apply. The hearing will occur within fifteen (15) days from the filing of the appeal upon written notice has been personally served or mailed to such person’s last-known address at least ten (10) days prior to the hearing.

35-209. License transfer.

A licensee shall not transfer his or her license to another, nor shall a licensee operate a sexually oriented business under the authority of a license at any place other than the address designated in the application.

ARTICLE 3
RULES AND REGULATIONS

Section.
35-301. Location of businesses.
35-302. Adult motels.
35-303. Films or videos.
35-304. Violations and exemptions.

35-301. Location of businesses.

(1) A person commits a misdemeanor if he or she operates or causes to be operated a sexually oriented business outside of a designated C-2 district. All sexually oriented businesses shall be located within a C-2 district.

(2) A person commits a misdemeanor if he or she operates or causes to be operated a sexually oriented business within 1000 feet of:

(a) A church or other building primarily used for religious services or associated church structure such as a parish or fellowship hall.

(b) A public or private educational facility including but not limited to child day care facilities, nursery schools, preschools, home schools, elementary schools, middle schools, high schools, special education schools and community colleges. School includes the school grounds and playgrounds.

(c) A boundary line of any residential district.

(d) A public park.

(e) A hospital or health care facility.

(f) A community recreation center.

(g) A public library.

(h) A facility for youth service such as youth center, boys or girls club, scout, 4-H or other youth program meeting building.

(3) A person commits a misdemeanor if he or she causes or permits the operation, establishment, substantial enlargement, or transfer of ownership or control of a sexually oriented business within 1000 feet of another sexually oriented business. The distance between any two sexually oriented businesses shall be measured in a straight line, without regard to intervening structures or objects, from the closest exterior wall of the structure in which each business is located.

(4) A person commits a misdemeanor if he or she causes or permits the operation, establishment, or maintenance of more than one sexually oriented business in the same building, structure, or portion thereof, or the increase of floor areas of any sexually oriented business in any building, structure, or portion thereof containing another sexually oriented business.

(5) For the purpose of this chapter, measurement shall be made in a straight line, without regard to intervening structures or objects, from the nearest portion of the building or structure used as a part of the premises where a sexually oriented business is conducted to the nearest property line of the premises of use listed in 35-301(2).

(6) A sexually oriented business lawfully operating as a conforming use is not rendered a nonconforming use by the location, subsequent to the grant or renewal of

the sexually oriented business license, of a use listed in 35-301(2) within 1000 feet of the sexually oriented business. This provision applies only to the renewal of a valid license, and does not apply when an application for a license is submitted after a license has expired or has been revoked.

35-302. Adult motels.

(1) Evidence that a sleeping room in a hotel, motel, or a similar commercial establishment has been rented and vacated two or more times in a period of time that is less than ten hours creates a rebuttable presumption that the establishment is an adult motel as that term is defined in this chapter.

(2) A person commits a misdemeanor if, as the person in control of a sleeping room in a hotel, motel, or similar commercial establishment that does not have a sexually oriented license, he or she rents or sub-rents a sleeping room to a person and, within ten hours from the time the room is rented, he or she rents or sub-rents the same sleeping room again. The terms rent or sub-rent mean the act of permitting a room to be occupied for any form of consideration.

35-303. Films or videos.

(1) A person, including a licensee, operator or employee, who operates or causes to be operated a sexually oriented business, other than an adult motel, which exhibits on the premises in a viewing room of less than 150 square feet of floor space a film, video cassette, or other video reproduction which depicts specified sexual activities or specified anatomical areas shall comply with the following requirements:

(a) The application for a license described in this section shall be accompanied by a diagram of the premises showing a plan thereof specifying the location of one or more manager's stations and the location of all overhead lighting fixtures and designating any portion of the premises in which patrons will not be permitted. A manager's station may not exceed 32 square feet of floor area. The diagram shall also designate the place at which the permit will be conspicuously posted, if granted. A professionally prepared diagram in the nature of an engineer's or architect's blueprint shall not be required; however, each diagram should be oriented to the north or to some designated street or object and should be drawn to a designated scale or with marked dimensions sufficient to show the various internal dimensions of all areas of the interior of the premises to an accuracy of plus or minus six inches. The Planning and Zoning Administrator may waive the foregoing diagram for renewal applications if the applicant adopts a diagram that was previously submitted and certifies that the configuration of the premises has not been altered since it was prepared.

(b) No alteration in the configuration or location of a manager's station may be made without the prior approval of the Planning and Zoning Administrator.

(c) One employee shall be on duty and situated in each manager's station at all times that any patron is present inside the premises.

(d) There shall be an unobstructed view from each manager's station of every area of the premises to which any patron is permitted access for any purpose excluding restrooms. Restrooms may not contain video reproduction equipment. The view required in this subsection must be by direct line of sight from the manager's station. The view area shall remain unobstructed by any doors, walls, merchandise, display

racks, or other materials at all times and no patron shall be permitted access to any area of the premises which has been previously designated as an area in which patrons will not be permitted in the application filed for the license.

(e) No viewing room may be occupied by more than one person at any time.

(f) The premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than one foot-candle as measured at the floor level. The illumination described herein shall be maintained at all times that any patron is present in the premises.

(2) A person, including a licensee, operator or employee, having a duty described in subsection (1) above commits a misdemeanor if he or she knowingly fails to fulfill that duty.

35-304. Violations and exemptions.

(1) Exemptions. It is a defense to prosecution under this chapter that a person appearing in a state of nudity did so in a modeling class operated:

(a) By a proprietary school licensed by the state or a college, junior college, or university supported entirely or partly by taxation.

(b) By a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation.

(c) In a structure:

(i) Which has no sign visible from the exterior of the structure and no other advertising that indicates a nude person is available for viewing;

(ii) Where, in order to participate in a class, a student must enroll at least three days in advance of the class; and

(iii) Where no more than one nude model is on the premises at any one time.

(2) Injunction. A person who operates or causes to be operated a sexually oriented business without a valid license or in violation of this chapter is subject to a suit for injunction as well as prosecution for criminal violations.

ARTICLE 4
PENALTY

Section.

35-401. Penalty.

35-401. Penalty.

(1) Penalty amounts. Any person who violates any of the prohibitions or provisions of any section of this chapter shall be deemed guilty of a misdemeanor. Unless otherwise specified in this chapter or by statute, the penalty for such violation shall be in any amount not to exceed $1,000, in the discretion of the court; and; provided, whenever any section of this chapter shall declare a nuisance, a violation of that section shall be penalized by a fine of not more than $1,000, in which case a new violation shall be deemed to have been committed every 24 hours of such failure to comply.

(2) Abatement of nuisance.

(a) Whenever a nuisance exists as defined in this chapter, the City may proceed by a suit in equity to enjoin and abate the same, in the manner provided by law.

(b) Whenever in any action it is established that a nuisance exits, the court may, together with the fine or penalty imposed, enter an order of abatement as a part of the judgment in the case.

Statutory reference: Neb. RS 16-225, 16-240, 16-246, 18-1720.

CHAPTER 36
SOLID WASTE MANAGEMENT

Article.
1. General Provisions.
2. Collection.
3. Penalty.

ARTICLE 1
GENERAL PROVISIONS

Section.
36-101. Definitions.
36-102. Prohibited accumulation and disposal.
36-103. Vehicles conveying refuse and waste.

36-101. Definitions.

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

(1) Garbage shall mean rejected food wastes, including waste accumulation of animal, fruit, or vegetable matter used or intended for food or that attend the preparation, use, cooking, dealing in, or storing of meat, fish, fowl, fruit, or vegetables, and dead animals rejected by rendering plants;

(2) Hazardous Waste shall mean solid waste, or combination of solid wastes, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may

(a) Cause or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness or

(b) Pose a substantial present or potential hazard to human or animal health or the environment when improperly treated, stored, transported, disposed of, or otherwise managed;

(3) Junk shall mean old scrap, copper, brass, iron, steel, rope, rags, batteries, paper, trash, rubber debris, waste, dismantled or wrecked automobiles, or parts thereof, and other old or scrap ferrous or nonferrous material;

(4) Land Pollution shall mean the presence upon or within the land resources of the state of one or more contaminants or combinations of contaminants, including, but not limited to, refuse, garbage, rubbish, or junk, in such quantities and of such quality as will or are likely to

(a) Create a nuisance,

(b) Be harmful, detrimental, or injurious to public health, safety, or welfare,

(c) Be injurious to plant and animal life and property, or

(d) Be detrimental to the economic and social development, the scenic beauty, or the enjoyment of the natural attractions of the state;

(5)(a) Litter shall include, but is not limited to:

(i) Trash, rubbish, refuse, garbage, paper, rags, and ashes;

(ii) Wood, plaster, cement, brick, or stone building rubble;

(iii) Grass, leaves, and worthless vegetation;

(iv) Offal and dead animals; and

(v) Any machine or machines, vehicle or vehicles, or parts of a machine or vehicle which have lost their identity, character, utility, or serviceability as such through deterioration, dismantling, or the ravages of time, are inoperative or unable to perform their intended functions, or are cast off, discarded, or thrown away or left as waste, wreckage, or junk;

(b) Litter. All waste material susceptible to being dropped, deposited, discarded, or otherwise disposed of by any person upon any property in the state, but not including the wastes of primary processes of farming or manufacturing. Waste material as used in this section shall mean any material appearing in a place or in a context not associated with that material's function or origin.

(6) Refuse shall mean putrescible and nonputrescible solid wastes, except body wastes, and includes garbage, rubbish, ashes, incinerator ash, incinerator residue, street cleanings, and solid market and industrial wastes;

(7) Rubbish shall mean nonputrescible solid wastes, excluding ashes, consisting of both combustible and noncombustible wastes, such as paper, cardboard, tin cans, yard clippings, wood, glass, bedding, crockery, or litter of any kind that will be a detriment to the public health and safety;

(8) Solid Waste shall mean any garbage, refuse, or sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility and other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial, and mining operations and from community activities, but solid waste shall not include solid or dissolved materials in irrigation return flows or industrial discharges which are point sources subject to permits under section 402 of the Clean Water Act, as amended, 33 U.S.C. 1251 et seq., or source, special nuclear, or byproduct material as defined by the Atomic Energy Act of 1954, as amended, 68 Stat. 923;

(9) Wastes shall mean sewage, industrial waste, and all other liquid, gaseous, solid, radioactive, or other substances which may pollute or tend to pollute any air, land, or waters of the state

Statutory Reference Neb. RS 81-1502, 18-1541, 16-230

36-102. Prohibited accumulation and disposal.

(1) It shall be unlawful for any person to keep in, on, or about any dwelling, building, or premises, or any other place in the City, garbage, hazardous waste, junk, litter, refuse, rubbish, solid waste or waste of any kind that may be injurious to the public health or offensive to the residents of the City unless the same is kept in receptacles designed to store the specific type of material and of sufficient capacity to keep the material completely contained and as nearly airtight as may be practical.

(2) It shall be unlawful to throw or sweep into the streets, alleys, parks, or other public grounds or vacant lot any garbage, hazardous waste, junk, litter, refuse, rubbish, solid waste or waste of any kind.

(3) No person may permit garbage, hazardous waste, junk, litter, refuse, rubbish,

solid waste or waste to collect and all persons shall remove the same from their property within a set time period after being notified to do so by the City Police Chief or his or her designated representative, who shall represent the Board of Health. The Police Chief or his or her designated representative shall issue a citation for the failure to remove garbage, hazardous waste, junk, litter, refuse, rubbish, solid waste or waste as soon as reasonable upon the expiration of the set time period, if the person has not removed the said garbage, hazardous waste, junk, litter, refuse, rubbish, solid waste or waste

(4) It shall be the duty of all property owners or tenants occupying any premises to have the contents of their garbage, hazardous waste, junk, litter, refuse, rubbish, solid waste or waste receptacles removed at least once a week and the contents thereof disposed of at duly licensed facility at their own expense.

(5) It shall be unlawful to place a garbage container on the surface of a street, or on the surface of a public sidewalk except as follow:

a. Public trash receptacles placed by the City.

b. A garbage container may be placed thereon and removed therefrom on the day of collection.

c. Construction dumpsters may be placed on a street with the appropriate permit issued by the City.

(6) It shall be unlawful to place a garbage container in an alley except as follows:

a. A garbage container designed for 0.5 cubic yard or less of garbage may be placed in an alley where there is no other available space on a lot for access by sanitation personnel for pickup and such placement does not impede the use of the alley by others.

b. A garbage container designed for more than 0.5 cubic yard may be placed in an alley where there is no other available space on a lot for access by sanitation personnel for pickup, such placement does not impede the use of the alley by others, and the lot owner has obtained the appropriate permit issued by the City.

Statutory reference: Neb. RS 16-230, 16-246, 18-1752, and 19-2106

36-103. Vehicles conveying refuse and waste.

No person shall carry, cart, haul, or convey any garbage, hazardous waste, junk, litter, refuse, rubbish, solid waste or waste through the streets, alleys, or public places of the City unless the vehicle is so constructed or loaded as to prevent its contents from dropping, sifting, leaking, or otherwise escaping from the vehicle.

Statutory Reference: Neb. RS 60-6,304

ARTICLE 2

COLLECTION

Section.
36-201. Garbage Dump.
36-202. Collection by City contract.
36-203. Collection by private persons; Permits.

36-201. Garbage Dump.

The Council is empowered to acquire by lease or purchase such suitable place or places outside the corporate limits where garbage may be deposited.

Statutory reference: Neb. RS 19-2101 and 19-2106

36-202. Collection by City contract.

The Council may, in its discretion, by resolution, provide for the letting of a contract for the collection of garbage, rubbish, trash, and waste to any person on a citywide basis. In such event, bids for said service shall be invited under such specifications as the Council shall approve; provided, no such contract shall provide that the cost or expense of any citywide collection shall be paid by the city.

36-203. Collection by private persons; Permits.

In the event the Council deems it neither expedient nor advisable to enter into a contract for the collection of garbage, rubbish, trash, or waste throughout the city as herein provided, any person may upon written application to the City Manager be issued a written permit to engage in said work. Such applicant must satisfy the City Manager that he or she can and will comply with the provisions of the ordinances of the city before the permit may be authorized. A fee may be charged for the issuance of the permit at the discretion of the Council. Said permit shall entitle the recipient thereof to haul and collect garbage, rubbish, trash, and waste from householders or tenants in the city until April 30 after the date of issuance. Such permit may be renewed annually if the Council shall not, in the meantime, have elected to enter into a contract with a licensed collector. The application for said permits shall be on standard forms prepared by the City Manager and shall elicit such information on the subject as the City Manager shall deem in the public interest. It shall be unlawful for any person to haul or collect for hire any garbage, rubbish, trash, or waste for others in said city without first procuring the permit aforesaid.

ARTICLE 3
PENALTY

Section.
36-301. Penalty.

36-301. Penalty.

(1) Penalty amounts. Any person who violates any of the prohibitions or provisions of any section of this chapter shall be deemed guilty of a misdemeanor.

Unless otherwise specified in this chapter or by statute, the penalty for such violation shall be in any amount not to exceed $1,000, in the discretion of the court; and; provided, whenever any section of this chapter shall declare a nuisance, a violation of that section shall be penalized by a fine of not more than $1,000, in which case a new violation shall be deemed to have been committed every 24 hours of such failure to comply.

(2) Abatement of nuisance.

(a) Whenever a nuisance exists as defined in this chapter, the City may proceed by a suit in equity to enjoin and abate the same, in the manner provided by law.

(b) Whenever in any action it is established that a nuisance exits, the court may, together with the fine or penalty imposed, enter an order of abatement as a part of the judgment in the case.

(3) Restitution. The court may, together with the fine or penalty imposed, enter an order of restitution as part of the judgment in the case.

Statutory reference: Neb. RS 16-225, 16-240, 16-246, 18-1720.

CHAPTER 37
STREETS, SIDEWALKS AND PUBLIC WAYS

Article.
1. General Provisions.
2. Sidewalks.
3. Streets.
4. Underground Cable.
5. Penalty.

ARTICLE 1
GENERAL PROVISIONS

Section.
37-101. Definitions.
37-102. Adoption of construction code.
37-103. Obstructions; permits.
37-104. Street beautification.

37-101. Definitions.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning. When no definition is

specified, the normal dictionary usage of the word shall apply.

(1) Person shall mean every natural person, firm, corporation, copartnership, or association.

(2) Sidewalk Space shall mean that portion of a street between curb lines and adjacent property lines.

(3) City Manager shall mean the City Manager or his or her duly appointed agent.

(4) Right-Of Way shall mean that area owned by the City for the purpose of public transit.

37-102. Adoption of construction code.

To provide certain minimum standards, provisions and requirements for safe and stable design, methods of construction and uses of materials in construction, the current edition of the State of Nebraska Department of Roads Standard Specifications for Highway Construction is hereby incorporated by reference in addition to all amendments as though printed in full herein or such specifications as may be required by the Street Superintendent. All work shall be performed in a satisfactory manner by persons proficient in the particular skill being performed.

37-103. Obstructions; permits.

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 building material and equipment as long as is necessary if such persons shall make application to and receive a permit in writing from the City Manager to do so, provided that no permit for the occupancy of the sidewalk space and more than one-half of the roadway of the public space adjacent to the real estate on which said building is to be constructed, erected, reconstructed, wrecked, or repaired shall be granted and provided, further, that a suitable passageway for pedestrians shall be maintained within the public space included in the permit which shall be protected and lighted in the manner required by the official issuing the permit.

37-104. Street beautification.

The Council may by resolution order or permit the improvement for lawn, flowers, or shrubbery on islands or curb space of any portion of any street or avenue in the City which shall not be in its judgment necessarily required for actual travel. When so planted and improved, it shall be unlawful for any person to drive any vehicle upon or in any manner injure or deface the portion of the street so improved.

Statutory reference: Neb. RS 16-207

ARTICLE 2
SIDEWALKS

Section.

37-201. Accumulations on sidewalks.
37-202. Construction by private person; permit.
37-203. Construction specifications.

37-204. Maintenance of sidewalks.
37-205. Repair of sidewalks.

37-201. Accumulations on sidewalks.

(1) Sidewalks to be kept clean. It shall be unlawful for the occupant of any lot or lots or the owner of any vacant lot or lots within the corporate limits to allow snow, sleet, mud, ice, or other substance to accumulate on the sidewalks or to permit any snow, sleet, ice, mud, or other substance to remain upon said sidewalk. All sidewalks shall be cleaned as quickly as possible after the cessation of a storm. In the event that such substances shall be found on sidewalks after a reasonable time within which to clean or remove said substances from the sidewalk, the City Manager or his or her authorized agent shall give notice to have such sidewalks cleaned as provided in subsection (2).

(2) Notice to remove accumulations. Notice to remove snow, sleet, mud, ice, or other such substances from the sidewalk adjacent to any lot shall be served on the owner, agent, or occupant of such premises when such substances are not removed pursuant to subsection (1). Such notice shall demand the removal of such substance forthwith. If the person owning such premises is unknown or cannot be found, or if reasonable service cannot be made upon any such owner, agent or occupant within the City, then service of such notice shall be made by posting a typewritten copy thereof in some conspicuous place on such premises. In case the owner, agent, or occupant shall fail to remove the ice, snow, mud, or other substance, then it shall be the duty of the City Manager or his or her authorized agent to remove such substance, and the expense thereof shall be charged against the property and the owner thereof, and may be recovered by proper action in the name of the City or charged against the property as a special assessment for improvements.

Statutory reference: Neb. RS 16-661 – 16-666

37-202. Construction by private person; permit.

All concrete sidewalks laid, constructed, or reconstructed along any street or avenue shall be built in conformity with such plans and specifications as provided in this subchapter. Any person desiring to construct or cause to be constructed any sidewalk on the sidewalk space abutting his or her property shall obtain a permit as hereinafter provided. It shall be unlawful for any person to construct a sidewalk without first having obtained the permit. Applications for the permit shall be made in writing to and filed in the office of the City Clerk for reference to the Planning and Zoning Administrator. The Planning and Zoning Administrator shall issue the permit unless good cause shall appear why the permit should be denied, provided that if it is desired to construct the sidewalk at other than the regularly prescribed location, grade, or elevation, the City Manager shall submit the application to the Council who shall determine whether the permit shall be granted or denied. All sidewalks shall be built and constructed in accordance with the terms and conditions as set forth in the permit issued by the Planning and Zoning Administrator.

Statutory reference: Neb. RS 16-661 – 16-666

37-203. Construction specifications.

All sidewalks shall be constructed in conformity with such specifications as set forth in the State of Nebraska Department of Roads Standard Specifications or as otherwise approved by the Planning and Zoning Administrator. The Planning and Zoning Administrator may reject the use of any materials that do not comply with such requirements and specifications or any material that is lacking in quality, and it shall be unlawful to construct any sidewalks from any material so rejected. In case any lot owner of a piece of land within the City, under notice given or otherwise, shall construct a sidewalk in violation of this chapter, the Planning and Zoning Administrator may stop the work of such construction and order the same to be constructed in accordance with this chapter and order the work already done to be changed, and on the failure of such owner to change any such work, the expense of the same shall be assessed and taxed to said lot.

Statutory reference: Neb. RS 16-661 – 16-666

37-204. Maintenance of sidewalks.

Every owner of any lot, lots, or piece of land within the corporate limits shall at all times keep and maintain the sidewalk along and contiguous to said lot, lots, or pieces of land, as the case may be, in good and proper repair, and in a condition reasonably safe for travel for all travelers thereon. In the event that the owner or owners of any lot, lots, or lands, abutting on any street, avenue, or part thereof shall fail to construct or repair any sidewalk in front of his, her, or their lot, lots, or lands within the time and in the manner as directed and required herein after having received due notice to do so, they shall be liable for all damages or injury occasioned by reason of the defective or dangerous condition of any sidewalk, and the Council shall have power to cause any such sidewalks to be constructed or repaired and assess the costs thereof against such property.

Statutory reference: Neb. RS 16-661 – 16-666

37-205. Repair of sidewalks.

The City Manager may require sidewalks of the City to be repaired. Written notice to the owners of property upon which such sidewalks in disrepair are located shall require within 48 hours from issuance of said notice said owners to make arrangements to have the sidewalk repaired. Said repairs shall be completed within 21 days after issuance of said notice. No special assessment shall be levied against the property unless said owner shall neglect or refuse to repair within the time prescribed, and in the event that such owner fails to repair, the City shall cause the repairs to be made and assess the property owner the expense of such repairs. In the event the property owner is a nonresident of the county in which the property lies, the City shall, before levying any special assessment against that property, send a copy of any notice required by law to be published by means of certified mail, return receipt requested, to the last-known address of the nonresident property owner. The last-known address shall be that address listed on the current tax rolls at the time such required notice was first published.

Statutory reference: Neb. RS 16-661 – 16-666

ARTICLE 3
STREETS

Section.

37-301. Benchmarks.
37-302. Gutters and eave spouts.
37-303. Harmful liquids.
37-304. Heavy equipment, studded tires, and tire chains.
37-305. Manholes.
37-306. Mixing concrete or plaster on pavement.
37-307. Pegs and stakes.
37-308. Street names and numbers.

37-301. Benchmarks.

It shall be unlawful for any person to break, remove, or destroy any stone or stake that marks any street, block, lot, or public ground except with the written permission of the City Manager.

37-302. Gutters and eave 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 dwelling or building abuts on any sidewalk or street without providing proper drainage to prevent stormwater from collecting or sitting on said sidewalks and streets.

37-303. 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.

37-304. Heavy equipment, studded tires, and tire chains.

(1) It shall hereafter be unlawful for any person or persons to move or operate heavy equipment across any curb, gutter, bridge, culvert, sidewalk, crosswalk, or crossing on any unpaved street without first having protected such curb, gutter, bridge, culvert, sidewalk, 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.

(2) 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 cutting edges, with wheels having lugs, any protruding parts, or bolts thereon that extend beyond a plain tire so as to cut, mark, mar, indent, or otherwise injure or damage any pavement, gutter, or curb, provided that where heavy vehicles, structures, and machines move along paved or unpaved streets, the City Police are hereby authorized and empowered to choose the

route over which the moving of such vehicles, structures, or machines will be permitted and allowed.

(3) Nothing in this section shall be construed to apply to pneumatic tires with metal or metal-type studs not exceeding 5/16-inch in diameter inclusive of the stud-casting with an average protrusion beyond the tread surface of not more than 7/64-inch between November 1 and March 15, provided that 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.

(4) It shall be permissible to use a rubber tired crane with a fixed load when such vehicle will be transported on a state highway or on any road within the corporate limits of the City if the City in which the crane is intended to be transported has authorized a one-day permit for the transportation of the crane and specified the route to be used and the hours during which the crane can be transported, and such vehicle is escorted by another vehicle or vehicles assigned by the City, and such vehicle's gross weight does not exceed the limits set out in Neb. RS 60-6,294(10). 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.

Statutory reference: Neb. RS 60-6,288 (2)(j), 60-6,250

37-305. Manholes.

No person except a duly authorized official or employee of the City shall enter or open any such manhole.

37-306. Mixing concrete or plaster on pavement.

It shall be unlawful for any person to mix any concrete or plastering material directly on the street pavement for any reason whatsoever.

37-307. Pegs and stakes.

It shall be unlawful for any person to drive any peg or stake of any kind into the pavement in any street, alley or public way without first procuring the written consent of the City Manager.

37-308. Street names and numbers.

The Council may at any time, by resolution, rename any street or provide a name for any new street. Buildings used for residence or business purposes and located along such streets shall retain such numbers as the Council may require. It shall be the duty of the Planning and Zoning Administrator, 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 or owners and occupant or occupants of the same.

(1) The purpose of this Ordinance is to establish a system within the City of Ogallala whereby the addresses of all premises will be identified and to provide rules and guidelines to facilitate enforcement thereof.

(2) Definitions.

(a) The term “premise” shall mean any lot or parcel of land owned by any person, firm or corporation, public or private, improved with buildings, whether occupied or not.

(b) The term “house number” and the term “business number” shall mean the official number assigned that premise by the Planning and Zoning Administrator.

(c) The term “street or road name” shall refer to any official name as recognized by government authority. No such named street or road shall be changed without the approval of the Ogallala City Council.

(3) Regulations.

(a) All premises shall bear the distinctive house number or business number assigned to that premise by the Planning and Zoning Administrator.

(i) All premises shall display upon the front of each dwelling or building the distinctive house number or business number assigned to that premise. The number shall be placed in such a position as to be plainly visible to all road traffic coming to the premise from both directions. These numbers shall be no less than three (3) inches in height.

(ii) If a house or building is more than 50 feet from the street or is not clearly visible from the road, every owner of a premise shall place or display adjacent to the road on which the property fronts a sign attached to a fence, post or other structure, the distinctive house number or business number assigned to that premise. These numbers shall be no less than three (3) inches in height. These numbers should be visible from both directions. The sign must be placed at a height to assure it does not become obscured by winter snows or snowplowing.

(iii) All house numbers and business numbers shall be in either block or script style letters and shall be in contrasting colors to their backgrounds whether on the dwelling or on a sign at the road.

(4) Violations and Penalties.

Failure to display house numbers or business numbers within sixty (60) days after the adoption of this ordinance, or in the case of new construction, within thirty (30) days after a letter or certificate of occupancy has been issued, shall be considered a violation of this Ordinance and shall subject such violator the penalties hereinafter provided:

(a) The fine for any offense which is a first repeat offense shall be not less than $100.00, plus costs.

(b) The fine for any offense which is a second repeat offense shall be not less than $250.00, plus costs.

(c) The fine for any offense which is a third repeat offense, or any subsequent repeat offense, shall be not less than $400.00 each, plus costs.

Each day on which any violation of this Ordinance occurs or continues, constitutes a separate offense subject to separate sanctions.

Statutory reference: Neb. RS 16-609, 16-610, 60-614

ARTICLE 4
UNDERGROUND CABLE

Section.

37-401. Permits.
37-402. Bond and liability insurance.
37-403. Construction specifications.
37-404. Interference with utility pipes.
37-405. Rental of space; fees; rent collection.

37-401. Permits.

(1) Permit required. It shall be unlawful for any person to use any space underneath the surface of any street, alley, sidewalk, or other public ground within the City for the installation, operation, and maintenance of any underground optic fiber cable, coaxial cable, or other communication cable unless such person has received a permit therefore granted by resolution of the City Council.

(2) Application for permit. Application for such permit shall be made to the City Manager, and such application shall be in writing stating specifically the space desired, its length, breadth, and depth, and the use intended to be made thereof; and the City Manager shall then refer said application to the City Council.

(3) Revocation of permit; removal of structure.

(a) A permit issued under this chapter may be revoked by resolution of the City Council upon a finding by them, and the giving of five-days written notice to such person by the City Manager, for the following reasons:

(i) Failure of the permit holder to pay the compensation required within ten days after the date for payment is due.

(ii) Failure or neglect of the permit holder to comply with the provisions of this chapter or any of the provisions of the municipal code or provisions of the permit.

(iii) Failure to use the space for which the permit was granted for a continuous period of at least six months.

(iv) A determination by the City that the space for which the permit was granted is needed for public use.

(b) Upon revocation of a permit, the permit holder shall forthwith remove or abandon the optic fiber cable from the space for which the permit was granted at his or her own cost and expense and return that space to the City free and clear of all encroachments of any type, at no expense to the City. Such space shall be filled to the satisfaction of the Planning and Zoning Administrator at the expense of the permit holder. If a removal, abandonment, or fill has been requested and the said removal, abandonment, or fill is not completed within six months after revocation of such permit, the City Council may cause such removal, abandonment, or fill to be so done, and the costs of such work shall become a lien against the property of the permit holder.

37-402. Bond and liability insurance.

(1) Every applicant for a permit shall file with the application a continuing bond in the sum of not less that $5,000, but in the event that the City Council in the resolution authorizing the permit shall fix a different sum, then a bond for such sum so fixed shall be substituted and filed with the application.

(2) All bonds and sureties shall be approved by the City Attorney before such permit becomes effective. All bonds shall be conditioned that the person to whom such permit shall be issued and such person's heirs, successors, or assigns shall strictly

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

(3) Whenever the City Council shall be of the opinion that the surety on such bond given for such permit issued hereunder has become insufficient and shall so declare by resolution, a new bond for such permit shall thereupon be filed with a new surety to be approved by the City Attorney.

(4) In addition to the bond, the applicant shall be required to:

(a) At all times maintain public liability insurance in the form of a commercial or comprehensive general liability policy, or an acceptable substitute policy form as permitted by the City Attorney, with a minimum combined single limit of $500,000 aggregate for any one occurrence. The coverages required herein shall be subject to review and approval by the City Attorney for conformance with the provisions of this section.

(b) At all times keep on file with the City Clerk a current certificate of insurance signed by a qualified agent of an insurance company licensed to do business in this state and approved by the City Attorney for conformance with the provisions of this section evidencing the existence of valid and effective policies of insurance naming the City as an additional insured for the coverage required by subdivision (1), the limits of each policy, the policy number, the name of the insurer, the effective date and expiration date of each policy, the deductibles or self-insurance retainers of each policy, and a copy of an endorsement placed on each policy requiring 30-days notice by mail to the City Clerk before the insurer may cancel the policy for any reason, and, upon request of the City Clerk or the City Attorney, a copy of any endorsements placed on such policies or the declarations page of such policies. Any termination or lapse of such insurance shall automatically revoke any permit issued pursuant to this chapter.

37-403. Construction specifications.

The work shall be constructed in accordance with plans and specifications approved by the City. The cable shall be laid to a minimum depth of 3½ feet from the top of the cable to the surface of the ground. All land surfaces and all pavement shall be restored to their original condition after the work is completed on each segment of the project. “As built” drawings shall be furnished to the City by the permitted to show

the precise locations, depths, and the nature of all materials installed in accordance with the permit. The City shall have the right at any time when, in its judgment, it becomes necessary or advisable to require a change of location of said cable as a matter of safety, or on account of a change of grade, resurfacing, repair, reconstruction of any street, alley, sidewalk, or other public ground, or the construction of any structure thereon, or for any other reason, all of which shall be done at the cost and expense of the permitted in a good and workmanlike manner.

37-404. Interference with utility pipes.

(1) No person shall ever use the space under any such street, alley, or public ground in such manner as to interfere with any traffic-control cable, wastewater collector, gas, water, or any other public works utilities lawfully in such street, alley, or other public ground unless by consent of the City Council specially granted by resolution; and no such permit shall be granted until the applicant therefore has deposited with the City Clerk a sum of money equal to the estimated cost prepared by the City Manager to defray the cost and expense of removing, replacing, and relaying such traffic-control cable, wastewater collector, gas, and water pipes, any cable installed or operated by the holder of any franchise granted by the City, or other public works or utilities, and making the necessary connections therewith.

(2) Each and every applicant disturbing any such traffic-control cable, wastewater collector, gas, or water pipes, any cable installed or operated by the holder of any franchise use granted by the City, or other public works or utilities, shall, within ten days after disturbing it, restore the same to such condition as will meet with the approval of the City Manager.

(3) When such traffic-control cable, wastewater collector, gas, or water pipes, any cable installed or operated by the holder of any franchise granted by the City, or other public works or utilities are so restored by said applicant, the sum so deposited with the City Clerk shall be refunded to such applicant less any sums which may be necessary to defray any damages which might arise from such disruption.

(4) If such applicant shall fail to restore such traffic-control cable, wastewater collector, gas, or water pipes, any cable installed or operated by the holder of any franchise granted by the City, or other public works or utilities within ten days after the same is disturbed, then the City Manager shall cause the same to be restored in a manner meeting with his or her approval, and the cost thereof shall be paid out of the sum thus deposited.

37-405. Rental of space; fees; rent collection.

(1) The permittee shall pay to the City an annual rental for the use and occupancy of the space beneath said public street, alley, sidewalk, or other public ground occupied by such use, which rental shall be a minimum of $.50 per lineal foot of space occupied underneath the public street, alley, sidewalk, or other public ground.

(2) (a) All payments made under the provision of this chapter shall be made to the City Clerk and he or she is the collector thereof; and said rentals shall be due and payable on the October 1 of each year; provided, however, if the permit is issued for such space after October 1 , the amount of the initial payment shall be prorated from the date when such permit is issued to October 1 of the next year, and payments shall be

due and payable on October 1 thereafter.

(b) Any such rent shall become delinquent on December 1 of each year and such delinquent rent shall bear interest at the rate of 1% per month until paid, and if such rent is not paid for six months or more after such delinquent date, a penalty of 5% shall be added thereto, in addition to said interest.

ARTICLE 5
PENALTY

Section.
37-501. Penalty.

37-501. Penalty.

(1) Penalty amounts. Any person who violates any of the prohibitions or provisions of any section of this chapter shall be deemed guilty of a misdemeanor. Unless otherwise specified in this chapter or by statute, the penalty for such violation shall be in any amount not to exceed $1,000, in the discretion of the court; and; provided, whenever any section of this chapter shall declare a nuisance, a violation of that section shall be penalized by a fine of not more than $1,000, in which case a new violation shall be deemed to have been committed every 24 hours of such failure to comply.

(2) Abatement of nuisance.

(a) Whenever a nuisance exists as defined in this chapter, the City may proceed by a suit in equity to enjoin and abate the same, in the manner provided by law.

(b) Whenever in any action it is established that a nuisance exits, the court may, together with the fine or penalty imposed, enter an order of abatement as a part of the judgment in the case.

(3) Restitution. The court may, together with the fine or penalty imposed, enter an order of restitution as part of the judgment in the case.

Statutory reference: Neb. RS 16-225, 16-240, 16-246, 18-1720.

CHAPTER 38
SUBDIVISIONS

Article.
1. General Provisions.
2. Procedure for Subdivision Approval.
3. Design Standards.
4. Improvements.
5. Administration and Enforcement.
6. Penalty.

ARTICLE 1
GENERAL PROVISIONS

Section.
38-101. Purpose.
38-102. Jurisdiction.
38-103. Definitions.
38-104. Approval of subdivisions required.
38-105. Interpretation.
38-106. Conflicting provisions.
38-107. Amendments.
38-108. Variances, modifications, and waivers.

38-101. Purpose.

The subdivision regulations as herein set forth are intended to provide for harmonious development of the City and its environs; for the integration of new subdivision streets with other existing or planned streets or with other features of the Comprehensive Plan of the City; for adequate open spaces for traffic, recreation, light, and air; for the distribution of population and traffic in a manner which will tend to create conditions favorable to health, safety, convenience, or prosperity; to insure conformance of subdivision plans with the capital improvement program of the City and its Planning Area; and, to secure equitable handling of all subdivision plats by providing uniform procedures and standards for observance by subdividers and the Planning Commission and Council.

38-102. Jurisdiction.

The provisions of these regulations shall apply to all land located within the legal boundaries of the City, as the same may be amended by subsequent annexation, and shall also include all land lying within two miles of the corporate limits of the City and not located in any other City.

Statutory reference Neb. RS 16-901, 16-902

38-103. Definitions.

All definitions contained in 44-104 of this code are hereby adopted and incorporated into this chapter and are hereby declared to be in full force and effect as to both Chapters 38 and 44 of this code.

38-104. Approval of subdivisions required.

From and after the time when the Council shall have adopted a Comprehensive Plan, no plat of a subdivision of land lying within the Planning Area of the City shall be filed or recorded until it shall have been submitted to the Planning Commission, and a report and recommendation thereon made by the Planning Commission to the Council and the Council has approved the final plat.

Statutory reference: Neb. RS 16-903, 16-904

38-105. Interpretation.

In interpreting and applying these regulations, they shall be held to be minimum requirements for the promotion of the public safety, health, convenience, comfort, morals, prosperity, and general welfare.

38-106. Conflicting provisions.

No final plat of land within the force and effect of the existing zoning chapter shall be approved unless it conforms to the regulations of this chapter. Whenever there is a discrepancy between minimum standards or dimensions noted herein and those contained in the zoning chapter, building regulations chapter, or other official regulations or ordinances, the most restrictive shall apply.

Statutory reference: Neb. RS 19-914

38-107. Amendments.

Any regulations or provisions of these regulations may from time to time be amended, supplemented, changed, modified, or repealed by the Council; provided, however, that such amendments shall not become effective until after a study and a report by the Planning Commission, and until after a public hearing in relation thereto has been held, public notice of which shall have been published in a newspaper of general circulation at least one time ten days prior to such hearing.

Statutory reference: Neb. RS 19-905, 19-904

38-108. Variances, modifications, and waivers.

(1) Where, in the case of particular proposed subdivision, it can be shown that strict compliance with the requirements of this regulation would result in extraordinary hardship to the subdivider because of unusual topography or other such non-self-inflicted conditions, or that these conditions would result in inhibiting the achievement of the objectives of these regulations, the Council, after report by the Planning Commission and review by the Ogallala Planning & Zoning Administrator, may vary, modify, or waive the requirements so that substantial justice may be done and the public interest secured; provided, however, that: such variance, modifications, or waiver will not adversely affect the development, the character of which shall be in conformance with recommended platting and development practices in the general area of the proposed subdivision; will not have the effect of nullifying the intent and purpose of the regulations; and will not interfere with carrying out the Comprehensive Plan of the Planning Area of the City. The standards and requirements of these regulations may be modified by the Council after report by the Planning Commission and review by the Ogallala Planning & Zoning Administrator in the case of a plan or program for a new town, a complete community, a neighborhood unit, a group housing development, or an urban renewal project involving the resubdividing and rebuilding of blighted or slum areas; provided, however, that the area within which modifications are granted contains not less than five acres; and provided further that the placement of structures within the area is shown on the development plan and becomes a part of the recorded plat.

(2) In granting variances and modifications, the Council may require such conditions as will, in its judgment, secure substantially the objectives of the requirements so varied or modified. Such variances and waivers may be granted only by the affirmative vote of three-fourths of the Members of the Council.

Statutory reference: Neb. RS 19-907

ARTICLE 2
PROCEDURE FOR SUBDIVISION APPROVAL

Section.

38-201. Administrative subdivision.

38-202. Preliminary review.
38-203. Preliminary plat contents.
38-204. Preliminary plat approval.
38-205. Improvement plans and approval.
38-206. Final plat contents.
38-207. Final plat approval and acceptance.
38-208. Final plat distribution.
38-209. Restrictive covenants.
38-210. Fees and fee exemptions.

38-201. Administrative subdivision.

(1) If the proposed subdivision consists of a deed or instrument dividing an existing lot, lots, or blocks in a previously platted subdivision or addition to the City where all public improvements have been installed and no new dedication of public rights-of-way or easements is involved and when such subdivision complies with the ordinance requirements concerning minimum areas and dimensions of such lots and blocks, the subdivider may submit the deed or instrument which will divide the property in question directly to the City Manager, accompanied by the following:

(a) A copy of the recorded plat of the subdivision which contains the said lot, lots, or blocks with the location of existing structures shown on the property being conveyed.

(b) The name or names of the owners placed on said copy of the recorded plat.

(c) The legal description of the property being divided placed on said copy of the recorded plat.

(2) Upon review of the deed or instrument and plat copy as required in subsection (1) herein, the City Manager may approve or disapprove the same. If approved, such plat shall be equivalent to a deed in fee simple absolute to the City from the proprietor of all streets, avenues, alleys, public squares, parks, and commons and of such portion of the land as is therein set apart for public and City use, or is dedicated to charitable, religious, or educational purposes.

(3) If the City Manager disapproves said deed or instrument, the subdivider may, within seven days from said disapproval, file a notice of appeal of the City Manager's decision with the Commission. Said notice shall be accompanied with a copy of the deed or instrument and plat copy, as required in subsection (1) herein. After reviewing the same, the Commission may waive all platting and other subdivision requirements under this chapter and forward the deed or instrument to the Council, with its recommendation for approval.

(4) Upon receipt of the deed or instrument from the Commission pursuant to subsection (3) herein, the Council shall give its approval or disapproval of the same. If disapproved, said deed or instrument shall be returned to the Commission for subdivision requirements consistent with this chapter.

38-202. Preliminary review.

Prior to the subdivision of any land, the subdivider or his or her agent may discuss informally with the Planning Commission the property proposed for subdivision, with reference to these subdivision regulations and procedures, zoning regulations and controls, and the City's Comprehensive Plan.

38-203. Preliminary plat contents.

The preliminary plat shall be drawn to a scale of one inch to 200 feet or larger; shall be plainly marked “Preliminary Plat,” and shall include, show, or be accompanied by the following information:

(1) The proposed name of the subdivision, which must not be so similar to that of an existing subdivision as to cause confusion.

(2) The names and addresses of the owner and subdivider, and the engineer, surveyor, or landscape architect responsible for the survey or design.

(3) The legal description of the area being platted.

(4) The boundary line (accurate in scale, dimensions, and location of the property to be platted), the location of monuments found or set, section lines, contours with intervals of five feet or less, and the approximate acreage of the property to be platted.

(5) A date, scale, and north point, and a key map showing the general location of the proposed subdivision in relation to surrounding developments.

(6) The names and location of adjacent subdivisions and the name of record owners and location of adjoining parcels of unplatted land.

(7) The location of property lines and the width and location of platted streets or alleys within or adjacent to the property; physical features of the property, including the location of watercourses, ravines, bridges, culverts, present structures, and other features affecting the subdivision; and the location of all existing utilities with their sizes indicated. The outline of wooded areas or the location of important individual trees may be required.

(8) The layout or location, numbers or names, and approximate dimensions or widths of all proposed lots; of all building setback lines and easements; and of all streets, alleys, and grounds proposed to be dedicated for public use.

(9) The name, location, and width of proposed streets, roads, lots, alleys, and other features, and their relation to streets and alleys in adjacent subdivisions. If there are not adjacent subdivisions, then the key map shall show the location and distance to the nearest subdivision, and how the streets, alleys, or highways in the subdivision offered for approval may connect with those in the nearest subdivision.

(10) Where a tract of land is proposed for subdivision and is part of a larger logical subdivision unit in relation to the City as a whole, the Commission may require to have prepared a proposed plan of the entire area, such plan to be used by the Commission and the Council as an aid in further judging the proposed plat.

(11) The existing zoning classification and proposed uses of land within the proposed subdivision.

(12) Written and signed statements explaining how and when the subdivider proposes to provide and install all required sewers or other disposal of sanitary wastes, pavement, sidewalks, and drainage structures, and other required improvements.

(13) Written and signed statements of the appropriate officials, obtained by the developer, of the availability of gas, electricity, and water to the proposed subdivision.

(14) Any restrictions proposed to be included in the owner's declaration of plat.

38-204. Preliminary plat approval.

The subdivider shall cause to be prepared a preliminary plat of any proposed

subdivision and shall submit 11 copies of said preliminary plat to the Planning Commission for its study and approval. If the plat is prepared digitally, a copy of the disk shall also be submitted. The preliminary plat shall contain such information and date as is outlined herein. Further, it shall contain the following:

(1) In the case of subdivisions outside the corporate limits of the City, an additional six copies of the preliminary plat shall be submitted. The Commission shall thereafter refer two copies of said plat to the County Register of Deeds and the County Surveyor to insure an accurate property description and referral to the County Board of Commissioners.

(2) The Ogallala Planning & Zoning Administrator shall also examine the proposed plat in terms of its compliance with all laws and regulations of the City, the existing street system, and sound engineering practices, and shall, within 15 days, submit his or her findings to the Commission.

(3) The Commission, upon receiving the Ogallala Planning & Zoning Administrator's report, shall conclude its study of the preliminary plat, within a reasonable time thereafter. The preliminary plat shall be declared void five years after the date of original approval.

(4) Upon approval of the preliminary plat by the Commission, the subdivider may proceed with the preparation of the final plat and detailed construction drawings and specifications for the improvements required under these regulations.

(5) Approval of the preliminary plat by the Commission is revocable and does not constitute final plat approval of the subdivision by the Council or its authorization to proceed on construction of improvements within the subdivision.

(6) Preliminary approval will not be required for minor subdivisions containing three lots or less.

38-205. Improvement plans and approval.

Before the final plat of any subdivided area shall be accepted by the Commission and approved by the Council, the subdivider shall guarantee the construction of all improvements in accordance with approved plans and specifications and insure completion of the improvements within a specified time. Receipt of the signed copy of the preliminary plan by the Commission is authorization for the subdivider to proceed with the preparation of plans and specifications for the minimum improvements that will be required. Prior to the construction of any improvements, the subdivider shall furnish the Ogallala Planning & Zoning Administrator all such plans, information, and data necessary for the construction of said improvements. These plans shall be examined by the Ogallala Planning & Zoning Administrator and will be approved if in accordance with the necessary requirements. The Council will return the performance guarantee to the subdivider upon certification by the Ogallala Planning & Zoning Administrator of satisfactory completion of the installation and construction of the required improvements and acceptance of the required improvements by the Council or County Commissioners. Prior to this certification by the Ogallala Planning & Zoning Administrator, the subdivider shall also file with the Ogallala Planning & Zoning Administrator plans, profiles, and cross-sections of the required improvements as they have been built.

38-206. Final plat contents.

The final plat shall be legibly drawn at a scale of one inch to 200 feet or less, and in ink on a suitable permanent base as specified by the County Register of Deeds . The final plat shall include, show, or be accompanied by the following information:

(1) The title under which the subdivision is to be recorded.

(2) The names of the owners and subdividers.

(3) A date, scale, and North point, the basis of bearings, and a key map showing the general location of the proposed subdivision.

(4) The legal description of the area being platted in metes and bounds, by bearing and distance.

(5) Accurate distances and bearings of all boundary block and lot lines of the subdivision including all sections and U.S. Survey and Congressional township lines.

(6) Centerlines of all proposed and adjoining streets with their right-of-way width and names.

(7) Lines of all blocks and lots with systematic method of numbering to identify all lots and blocks. The lots shall be designated by numbers.

(8) All building setback lines and all easements provided for public service, together with their dimensions and any limitations of the easements.

(9) Any and all dimensions necessary for accurate location of the boundaries of the site to be developed and of all streets, alleys, lots, easements, and dedicated areas. These dimensions shall be expressed in feet and decimals. The streets, avenues and other grounds shall be designated by names or numbers.

(10) All radii, arcs, points of tangency, central angles, and lengths of curves.

(11) All survey monuments and benchmarks, found or set, together with their physical description.

(12) Certification by a surveyor licensed with the State of Nebraska certifying that he or she has accurately surveyed the addition and that the lots, blocks, streets, avenues, alleys, parks, commons and other grounds are well and accurately staked off and marked and that the monuments shown, found, or set are in the positions indicated, and that all necessary information is correctly shown thereon.

(13) The accurate outline, dimensions, and purposes of all property which is offered for dedication or is to be reserved for acquisition for public use, or is to be reserved by deed or covenant for the common use of the property owners in the subdivision.

(14) An affidavit of ownership showing fee simple title and encumbrances and liens, and a certificate of dedication of all land intended for public use, signed by the owner or owners and all other parties who have a mortgage or lien interest in the property.

(15) Private restrictive covenants and their period of existence.

(16) Receipts showing that all taxes are paid.

(17) A certification of approval by the Health Officer of the City, county, or state (whichever is applicable) where public water and public sewer are not available.

(18) Construction drawings, profiles, cross-sections, and specifications subject to certification and approval of the Ogallala Planning & Zoning Administrator.

(19) A waiver of claim for damages occasioned by the establishment of grades or the alternation of any portion of the land surface to conform to the grades so specified

by the Ogallala Planning & Zoning Administrator.

(20) The estimated cost of all improvements for determination of the amount of the performance bond shall be made by the subdivider's engineer and shall be subject to review, approval, and certification by the Ogallala Planning & Zoning Administrator.

(21) Signature spaces for approval of the Commission Chairperson and Secretary and also the Ogallala Planning & Zoning Administrator and authorized representative of the Council.

(22) Such plat shall be acknowledged before some other officer authorized to take the acknowledgements of deeds

(23) When such map or plat is made out, acknowledged and certified, and has been approved by the City Council, the same shall be filed and recorded in the office of the County Clerk by the City of Ogallala at the expense of the Developer.

38-207. Final plat approval and acceptance.

(1) Final plat approval.

(a) Prior to submitting the final plat to the Planning Commission for its approval, the subdivider shall furnish all data and information listed in this chapter which is necessary for a detailed engineering consideration of the improvements required. For final plat approval, the subdivider shall submit to the Commission:

(i) Nine copies of the final plat. If the plat is prepared digitally, a copy of the disk shall also be submitted.

(ii) A performance guarantee as required and approved by the Ogallala Planning & Zoning Administrator and City Attorney.

(iii) One copy of the original tracings and one copy of the certified approved plans, profiles, cross-sections, and specifications.

(iv) A certificate on the final plat, signed by the Ogallala Planning & Zoning Administrator, that the final plat is substantially in accord with the preliminary plat as approved by the Commission.

(b) Where outside the City limits, but within the Planning Area, the County Board of Commissioners shall be given four weeks to officially comment on the appropriateness of the design and improvements proposed in the plat. At such time as the City exercises its control over an unincorporated area by adopting or amending subdivision regulations, its regulations shall supersede those of the county.

(c) The Planning Commission shall approve or disapprove the final plat in a reasonable time after the date of submission thereof to the Commission. Approval of the Commission shall be endorsed in writing on the final plat by a dated signature of the Chairperson and Secretary. Approval of the final plat by the Commission is revocable and does not constitute final approval or acceptance of the subdivision by the Council.

Historical reference: Am. Ord. 1070, passed 6-9-98

(2) Final plat acceptance. When the final plat has been passed favorably by the Commission, nine copies of the final plat shall forthwith be transmitted to the Council, together with a copy of the Commission's minutes showing the action of the Commission and the performance guarantee. The final plat submitted to the Council shall be approved or disapproved within a reasonable time after submission thereof.

The grounds of disapproval of the final plat shall be stated upon the records of the Council. When the final plat has been approved by the Council and the performance guarantee accepted, the original plat tracing and one copy shall be recorded and filed with the office of the County Register of Deeds; one reproducible tracing and six copies shall be delivered to the Ogallala Planning & Zoning Administrator; and one copy to the City Clerk for the respective City files. It shall be the responsibility of the Ogallala Zoning Administrator to record the plat with the County Register of Deeds after approval of the plat at the expense of the Developer. Approval of the final plat by the Council shall not be deemed to constitute or effect an immediate acceptance by the City of any dedication of any street or other public grounds shown on the final plat. Such acceptance shall be made only upon inspection as provided in 38-403. Receipt of the duly certified final plat by the subdivider is authorization that he may proceed with the installation and construction of the required improvements. No building permit shall be issued for the subdivision and no lots shall be sold prior to the subdivider's receipt of said acceptance, unless with the written approval authorized by the Council.

Statutory reference: Neb RS 19-901 et seq

38-208. Final plat distribution.

Upon receipt of the duly certified copies of the final plat, the Ogallala Planning & Zoning Administrator shall transmit copies of the plat, upon which have been placed the official lot and block numbers as determined by his or her office, to the local public utility companies.

38-209. Restrictive covenants.

Where any restrictive covenants are anticipated in a proposed subdivision which do not assist orderly, efficient, and integrated development; promote the public health, safety, and general welfare of the community; and ensure conformance of the subdivision plans with the capital improvements program, Comprehensive Plan, or Major Street Plan, the Council may deem these grounds for disapproval of the subdivision plat.

38-210. Fees and fee exemptions.

(1) Fees. The Ogallala Planning & Zoning Administrator shall calculate the administrative fees and recording fees for each application, and said fees shall be payable in advance of plat processing to the City Clerk. Additionally, the subdivider shall pay to the City Clerk a fee to pay the total cost of consulting, review, and engineering of the improvements. All administrative fees shall be set by resolution of the Council, a copy of which shall be kept available for public inspection in the office of the City Clerk.

(2) Fee exemptions. No administrative fees shall be charged for any of the following:

(a) Public land plats submitted by any governmental department of the City.

(b) Plats submitted by the Board of Education.

(c) Plats of property reserving or dedicating land to the City; provided, no other subdivision of land is shown thereon.

ARTICLE 3
DESIGN STANDARDS

Section.

38-301. Acreage subdivisions.
38-302. Alleys.
38-303. Blocks.
38-304. Curbs and gutters.
38-305. Drainage.
38-306. Driveways.
38-307. Easements.
38-308. Lights.
38-309. Lot access.
38-310. Lot arrangement and design.
38-311. Lot dimensions.
38-312. Marginal access streets.
38-313. Private streets and reserve strips.
38-314. Schools, parks, and playgrounds.
38-315. Sewer mains.
38-316. Sidewalks.
38-317. Street curves.
38-318. Street dedication requirements.
38-319. Street extension.
38-320. Street grades, widths, and elevations.
38-321. Street intersections.
38-322. Street jogs, cul-de-sacs, and half-streets.
38-323. Street location and right-of-way widths.
38-324. Street name signs.
38-325. Street names.
38-326. Street surfacing.
38-327. Street system generally.
38-328. Unsuitable land.
38-329. Utilities.
38-330. Water mains.

38-301. Acreage subdivisions.

Where the parcel of land is subdivided into larger tracts than ordinarily used for building lots, such parcel shall be divided as to allow for the opening of major streets and the ultimate extension of adjacent collector and local streets.

38-302. Alleys.

The minimum right-of-way width of an alley in a residential block, when required because of unusual conditions, shall be 20 feet. A ten-foot cut-off shall be made at all acute and right angle alley intersections. Dead-end alleys shall be prohibited. Where alleys are not provided, easements of not less than ten feet in width shall be provided

on each side of all rear lot lines and side lot lines where necessary for poles, wires, conduits, storm and sanitary sewers, gas, water and heat mains, or other utilities.

38-303. Blocks.

Residential blocks shall not be less than 300 feet nor more than 1,200 feet in length, except as the Council considers necessary to secure efficient use of land or to achieve desired features of the street system. In blocks over 800 feet long, the Council may require public crosswalks at locations other than the intersections. Such crosswalks shall have a minimum easement width of ten feet. Residential blocks shall be deep enough to provide two tiers of lots of at least minimum depth, except where prevented by topographical conditions or size of the property, in which case the Commission may recommend to the Council a single tier of lots of at least minimum depth. Blocks for commercial use should generally not exceed 500 feet.

38-304. Curbs and gutters.

Curb and gutter shall be provided as required by the Ogallala Planning & Zoning Administrator. In areas of notable flash flooding or heavy rain run-off, curbs shall be required on all streets designated for areas where the existing or anticipated residential density of the areas surrounding the proposed subdivision equals or exceeds three dwelling units per net acre. In commercial developments, or where other similar intensive urban uses exist or are anticipated, curbs shall be required. Where curbs exist on abutting properties, their extension shall be required throughout the proposed subdivision. All curb and gutter shall be constructed in conformance with the minimum standards of the City and as approved by the Ogallala Planning & Zoning Administrator.

38-305. Drainage.

Grading shall be designed so that all surface water shall be conducted to a street storm sewer or to a natural watercourse. No watercourse shall be altered so as to divert surface drainage from one watershed to another. No obstruction shall be permitted in natural watercourses unless said obstruction meets with the approval of the Ogallala Planning & Zoning Administrator. The development of areas subject to periodic flooding, poor drainage, or other unsuitable physical conditions is prohibited unless rendered suitable by satisfactory improvements.

38-306. Driveways.

Driveways shall have a maximum grade of 10%. Driveways and curb cuts shall be located not less than three feet from the side lot lines. Curb cuts for straight curbs and the flare for rolled curbs shall be three feet wider than the driveway pavement on each side.

38-307. Easements.

Where there are no streets or alleys, easements of at least ten feet in width shall be provided on each side of all rear lot lines and along side lot lines where necessary for poles, wires, conduits, storm and sanitary sewers, gas, water and heat mains, or other utilities. An adequate easement as approved by the Ogallala Planning & Zoning Administrator may be dedicated along well-defined watercourses for the purpose of

widening, sloping, improving, deepening, or protecting the stream for future drainage or recreational purposes.

38-308. Lights.

The street lights shall be installed by the City. Such lights shall be located at each street and walkway entrance to the subdivision. In addition, whenever the distance between two adjacent street or walkway lights would exceed 300 feet, then additional street lights shall be installed in such manner that proper light intensity shall be provided and maintained. New subdivision street and walkway lighting may be installed with all associated wiring underground or overhead, as required by the City.

38-309. Lot access.

Every lot within a subdivision shall front on a publicly dedicated street.

38-310. Lot arrangement and design.

The lot arrangement and design shall be such that all lots will provide satisfactory and desirable building sites properly related to topography, drainage, sanitation, and the character of adjacent development. Insofar as practical, side lot lines shall be perpendicular or radial to street right-of-way lines.

38-311. Lot dimensions.

The minimum dimensions for lots shall conform to the zoning regulations unless the Council, for special reasons, including absence of utilities, approves otherwise. The following shall apply solely to subdivisions:

(1) The size, shape, and orientation of every lot shall be subject to approval of the Council for the type of development and use contemplated. No lot shall be more than four times as deep as it is wide, nor shall any lot average less than 100 feet deep.

(2) Lot widths shall be measured at the minimum building setback line.

(3) Lots shall have a minimum street frontage in accordance with the zoning regulations.

(4) Corner lots shall be at least 15 feet wider than the minimum lot width, as cited in the zoning regulations, in order to allow for side street building setback lines.

(5) Double frontage lots shall be prohibited except that the Council may approve said double frontage lots where it is essential to provide separation of residential development from major traffic streets or to overcome specific disadvantages of topography.

(a) Building setback lines shall be established on both frontages.

(b) A ten-foot buffer easement may be provided along the lot lines of lots abutting such major street or disadvantageous use and there shall be no right of access across said buffer easement, thus eliminating traffic conflict onto major streets.

(6) Building setback lines shall be shown on all lots intended for residential, commercial, and industrial uses. Such building lines shall not be less than the requirements of the applicable district in the zoning regulations.

(7) The size, shape, and arrangement of commercial and industrial lots, where platted, shall be subject to the approval of the Council.

38-312. Marginal access streets.

(1) Where a subdivision abuts or contains an existing or proposed arterial street, the City may require access streets, reverse frontage with screen planting contained in a non-access reservation along the rear property line, deep lots with rear service alleys, or such other treatment as may be necessary for adequate protection of residential properties and to afford separation of through and local traffic.

(2) Where the proposed subdivision abuts upon or contains an existing or proposed arterial street or highway on which traffic volumes and vehicular speeds warrant special safety considerations, the City may require that marginal access streets be provided in order that no lots front on such existing or proposed arterial street or highway.

(3) Where a subdivision borders on or contains a railway right-of-way or limited access highway right-of-way, the City may require a street approximately parallel to and on intervening land, as for park purposes in residential districts. Such distances shall also be determined with due regard for the requirements of approach grades and future grade separations.

38-313. Private streets and reserve strips.

There shall be no private streets platted within a subdivision. There shall be no reserve strips in a subdivision except where their control is definitely vested in the City or county under conditions approved by the Council as authorized herein.

38-314. Schools, parks, and playgrounds.

(1) In subdividing property, consideration shall be given to suitable sites for schools, parks, playgrounds, and other common areas for public use so as to best conform with recommendations of the Comprehensive Plan. Any provisions for schools, parks, and playgrounds should be indicated on the preliminary plat in order that it may be determined when and in what manner such areas will be provided or acquired by an appropriate agency.

(2) Dedication or reservation of land for schools or parks should be required in all major subdivisions, with the location of such lands as preferably recommended by the School-Park Plan, an element of the Comprehensive Plan for the City. Further:

(a) A minimum of 5% of the net area of subdivisions ten acres or over shall be dedicated for public parks or playgrounds or such dedicated land may be developed and used by residents within the subdivision on a cooperative basis, or a civic, non-profit group.

(b) Public open spaces shall, wherever possible, be located contiguous to other such areas in adjacent subdivisions, in order to provide for the maximum use of the resultant area, and such gross area shall be shown on the preliminary plat. The Council may not approve a site which is undesirable for such public or civic use.

(c) If the Comprehensive Plan required a public open space larger than 5% of the net area of the proposed subdivision, the subdivider shall reserve the area in excess of the 5% dedication requirement for purchase by the appropriate public agency within one year from the endorsement date of the final plat, but may thereafter replat such acreage to his or her own purposes.

(d) Natural features, historic sites, and similar community assets shall be

preserved.

(e) Any such dedicated or reserved land to be used by the general public may be improved or developed by the City or county, whichever is applicable, in accordance with a duly-adopted annual improvement program or through a tax benefit district, which may require special assessment from the adjacent individual property owners.

38-315. Sewer mains.

The location, size, and design of sewer mains shall conform to the Major Sewer Plan as adopted by the Council upon the recommendation of the Planning Commission and Ogallala Planning & Zoning Administrator, the Recommended Standards of Sewage Works, a report of the Committee of the Great Lakes - Upper Mississippi River Board of State Sanitary Engineers, and the Nebraska Department of Environmental Control Guidelines, including all subsequent amendments or additions to the aforementioned.

38-316. Sidewalks.

Sidewalks shall be provided as required by City ordinances and shall be constructed of Portland cement concrete or other acceptable materials as approved by the City Council. Sidewalk thickness shall be not less than four inches and sidewalk width not less than four feet.

38-317. Street curves.

A tangent at least 100 feet long shall be introduced between reverse curves on arterial and collector streets. Where there is a deflection angle of more than 10º in the alignment of a street, a curve with a radius adequate to insure safe sight distance shall be made. The minimum radii of curves provided shall be required. Every change in grade shall be connected by a vertical curve constructed so as to afford a minimum sight distance to 200 feet, said sight distance being measured from a driver's eyes, which are assumed to be 4-1/2 feet above the pavement surface, to an object four inches high on the pavement. Profiles of all streets showing natural or finished grades, drawn to an approved scale, may be required by the City.

38-318. Street dedication requirements.

(1) The dedication width of rights-of-way for new streets measured from lot line to lot line shall be in conformance with 38-320. All streets classified as arterial streets by the Comprehensive Plan shall have all points of access approved by the City Council. Marginal access streets may be required by the City Council for subdivisions fronting on arterial streets.

(2) Subdivisions platted along existing streets shall dedicate additional right-of-way if necessary to meet the minimum street width requirements set forth in this subchapter. The entire minimum right-of-way width shall be dedicated where the subdivision is on both sides of an existing street. When the subdivision is located on only one side of an existing street, one-half of the required right-of-way width, measured from the centerline of the existing roadway, shall be dedicated. Dedication of one-half of the right-of-way for proposed streets along the boundaries of land proposed for subdivision shall be prohibited.

38-319. Street extension.

The street layout of the proposed subdivision shall provide for the continuation of appropriate projection of streets and alleys already existing in areas being subdivided. Where, at the determination of the City Council, it is desirable to provide street access to adjoining properties, proposed streets shall be extended by dedication to the boundaries of such properties. Where the City Council deems it necessary, such dead-end streets shall be provided with a temporary turnaround having a radius of at least 60 feet. The street system for the proposed subdivision shall provide for extending existing streets at the same or greater width, but in no case shall a street extension be of less width than the minimum width required in these regulations for a street in its category.

38-320. Street grades, widths, and elevations.

(1) Street grades and elevations. All streets shall be designed so as to provide for the discharge of surface water from the pavement and from the right-of-way by grading and drainage. For adequate drainage, the minimum street grade shall not be less than 0.5%. The City shall not approve streets which will be subject to inundation or flooding. All streets must be located at elevations which will make them flood-free in order that portions of the subdivision will not be isolated by floods. Where flood conditions exist, the City shall require profiles or elevations of streets in order to determine the viability of permitting the proposed subdivision activity. Fill may be used in areas subject to flooding in order to provide flood-free streets if such fill does not increase flood heights. Drainage openings shall be designed so as not to restrict the flow of water and thereby increase flood height.

(2) Widths and grades. Right-of-way, pavement widths, and grades shall be as set forth in the table below

Street Classification	Minimum Right-of-Way (ft.)	Minimum Pavement Width (ft.)	Maximum Grade (%)
Arterial	100	44	7
Collector	66	44	7
Local	66	44*	10
Cul-de-sac and Loop	61’ Radius	44, 50’ Radius	10
Marginal Access (Frontage Road No Parking)	66	36	10
Alleys	20	12	10

* Provided on-street parking is allowed only on both sides of the street; 32’ required if parking is allowed on only one side of the street.

(3) Grading specifications. All streets, roads, and alleys shall be graded to their full widths by the subdivider, so that street pavements and sidewalks can be

constructed on the same level plane. Deviation from this standard due to special topographical conditions will be allowed only with the approval of the City Council. Before grading is started, the entire right-of-way area shall be first cleared of all tree stumps, roots, brush, and other objectionable materials and of all trees not intended for preservation. The subgrade shall be properly shaped, rolled, and uniformly compacted to conform with the accepted cross-section and grades. In cuts and fills, all tree stumps, boulders, organic material, soft clay, spongy material, and other objectionable materials shall be removed to a depth of at least two feet below the graded surface. This objectionable matter, as well as similar matter from cuts, shall be removed from the right-of-way area and disposed of in such a manner that it will not become incorporated in fills or hinder operation of the drainage system.

(4) Minimum pavement widths. Pavement widths shall be measured between curb faces.

38-321. Street intersections.

Streets shall intersect as nearly as possible at an angle of 90º, and no intersection shall be any angle of less than 60º. Street curb intersections shall be rounded by radii of at least 20 feet. When the smallest angle of street intersection is less than 75º, the City Council may require curb radii of greater length. Wherever necessary to permit the construction of a curb having a desirable radius without reducing the sidewalk at a street corner to less than normal width, the property line at such street corner shall be rounded or otherwise set back sufficiently to permit such curb construction. No lot or parcel of land which abuts on and has access to either a collector or a minor arterial street shall have a service drive, curb cut, or other means of access to an arterial street within 50 feet of the right-of-way of any street which intersects an arterial street on the side on which such lot or parcel is located.

38-322. Street jogs, cul-de-sacs, and half-streets.

(1) Street jogs with centerline offsets of less than 125 feet shall be prohibited. Cul-de-sacs, minor terminal or dead-end streets, or courts which are designed so as to have one end permanently closed shall not be longer than 500 feet and shall be provided at the closed end with a turnaround having a radius at the outside of the right-of-way of at least 61 feet.

(2) No dedication of a half-street will be permitted unless by special approval of the Council. If said special approval is granted, the dedicated half-street shall not be less than one-half of the minimum right-of-way width and whenever subdivided property adjoins a half-street, the remainder of the street shall be dedicated. No dead-end streets shall be approved unless said streets are provided to connect with future streets in adjacent land and are dedicated to the City. Cul-de-sacs may be permitted where the form or contour of the land makes it difficult to plat with connected streets. Cul-de-sacs shall provide proper access to all lots, shall not exceed 500 feet in length, and shall be terminated with a turnaround having a minimum right-of-way radius of 61 feet

38-323. Street location and right-of-way widths.

The location and right-of-way widths for streets shall conform to the Future Circulation Plan and to all subsequent amendments or additions thereto, as adopted by

the Council and approved by the Commission and Ogallala Planning & Zoning Administrator. To the degree possible depending on individual circumstances, acceptance of proposed plats shall include rights-of-way dedications or supplemental rights-of-way dedications which will adhere to the standards herein.

38-324. Street name signs.

Street name signs, of a type in use throughout the City, shall be erected by the subdivider at all intersections.

38-325. Street names.

Proposed streets which are in alignment with other already existing and named streets shall bear the names of such existing streets. The name of a proposed street which is not in alignment with an existing street shall not duplicate the name of any existing street, irrespective of the use of the suffix: street, avenue, boulevard, drive, place, court, lane, road, pike, highway, parkway, or similar suffix. Wherever a street alignment changes direction more than 45º without a return to the original alignment within a distance of 500 feet, then the name of the street shall be changed at the point of curvature. Whenever a cul-de-sac street serves not more than three lots, the name of the intersecting street shall apply to the cul-de-sac. To avoid duplication and confusion, the proposed names of all streets shall be approved by the designated Ogallala Planning & Zoning Administrator prior to such names being assigned or used.

38-326. Street surfacing.

The streets in the proposed subdivision shall be paved and shall be provided by the developer or by special arrangements by the City Council, to include curbs and gutters, and street surfacing shall be of concrete or any other suitable surface as recommended by the designated Ogallala Planning & Zoning Administrator and approved by the City Council. Requirements for paving, including curb and gutter, may be waived at the request of the subdivider. Streets in such subdivision shall have a crushed rock or gravel subsurface which meets the specifications of the City.

38-327. Street system generally.

(1) Unless otherwise approved by the Commission and Council, provision must be made for the extension of major and collector streets as shown on the Future Circulation Plan of the City and local streets must provide free circulation within the subdivision.

(2) The system of streets designated for the subdivision, except in unusual cases, must align with streets already dedicated in adjacent subdivisions, and where no adjacent connections are platted, must in general be the reasonable projection of streets in the nearest subdivisions, and must be continued to the boundaries of the tract subdivided, so that other subdivisions may connect herewith.

(3) Rights-of-way providing for the future opening and extension of such streets as outlined herein may, at the discretion of the Commission, be made a requirement of the plat.

(4) Off-center street intersections will not be approved except in unusual cases.

(5) In general, streets shall be of a width at least as great as that of the streets so

continued or projected.

(6) Local streets shall be arranged to discourage through traffic.

38-328. Unsuitable land.

Land subject to flooding, improper drainage, and erosion, or any land deemed to be topographically unsuitable for residential use, shall not be platted for residential occupancy, nor shall such land be platted for any other uses as may continue or increase the danger to health, safety, life, or property until steps are taken to diminish the above-mentioned hazards. Such land within a proposed subdivision not detrimental to the development of the subdivision shall be set aside for use not incompatible with this section.

38-329. Utilities.

(1) Electric service and telephone service shall be provided within each subdivision. Gas service may be required where reasonably accessible. Whenever such facilities are reasonably accessible and available, they may be required to be installed within the area prior to the approval of the final plat. Telephone, electric, street lighting, and communications conductors may be installed underground at the option of the City Council.

(2) Overhead secondary utility lines, where installed, shall be located at the rear of all lots.

(3) Whenever a sanitary sewer line and electric and/or telephone line is placed underground in the same utility easement, the following provisions shall be applicable:

(a) The total easement width shall not be less than 15 feet.

(b) The sanitary sewer line shall be installed within three feet of the easement, and the electric and/or telephone line shall be installed within three feet of the opposite side of the easement.

38-330. Water mains.

The location, size, and design of water mains shall conform to the Major Water Plan as adopted by the Council upon the recommendation of the Planning Commission and Ogallala Planning & Zoning Administrator, the Recommended Standards for Water Works, a report of the Committee of the Great Lakes - Upper Mississippi River Board of State Sanitary Engineers, and the State of Nebraska, Department of Environmental Engineering Recommended Standards, including all subsequent amendments or additions to the aforementioned.

ARTICLE 4
IMPROVEMENTS

Section.

38-401. Improvements required.
38-402. Improvement construction and guarantees.
38-403. Improvement acceptance.
38-404. Drainage.
38-405. Fire hydrants.

38-406. Monuments.
38-407. Restrictive covenants.
38-408. Sewage disposal.
38-409. Streets.
38-410. Trees, shrubs, and other plantings.
38-411. Utilities.
38-412. Water supply.

38-401. Improvements required.

In addition to the improvements required in this subchapter, the Council or Board of County Commissioners may require the installation of other recommended improvements, constructed in accordance with standards and specifications as approved and adopted by each group.

38-402. Improvement construction and guarantees.

(1) Construction specifications. All related subdivision improvements herein shall also be constructed in accordance with the standards and specifications of the state, where applicable.

(2) Construction inspection. Inspection shall be required for sanitary sewerage systems, storm sewers, curbs, gutters, subgrade, pavement and sidewalks, and other improvements as required. The Ogallala Planning & Zoning Administrator or other appropriate official shall be the Inspector and be responsible for the inspections. The subdivider shall notify the Ogallala Planning & Zoning Administrator one week prior to the start of construction. Upon completion of the improvements, the subdivider shall notify the Inspector in writing pursuant to this subchapter.

(3) Construction guarantee. The subdivider shall provide one of the following guarantees for the completion of improvements subject to approval by the Council according to the following procedures:

(a) Subdivision bond. The subdivider shall post with the Council a bond or other security acceptable to the Council, equal to the Ogallala Planning & Zoning Administrator's approved estimate of the cost of construction, in favor of the Council, guaranteeing satisfactory completion of all improvements whether within the City or the Planning Area, in a period not exceeding two years from the date of the bond. This bond is to be furnished by a reputable bonding company maintaining an office in this state, or other security acceptable to the Council.

(b) Cash bond. The subdivider shall deposit in cash with the Council an amount equal to the Ogallala Planning & Zoning Administrator's approved estimate of the cost of construction of all improvements. Progress payments may be made to the subdivider or his or her contractor as work progresses on the written order of the Ogallala Planning & Zoning Administrator.

(c) Special Assessments. In the case of partially dedicated streets, streets not wholly within the proposed subdivision, or streets where other adjacent property owners are involved, the subdivider may petition the Council or Board of County Commissioners to have the necessary improvements constructed and assessments levied against the property.

(d) Guarantee certificate. A final plat shall contain a guarantee by the subdivider

that he or she will complete, at his or her own expense, all required improvements in accordance with approved plans and specifications within a period of two years after approval of the final plat.

38-403. Improvement acceptance.

The subdivider, upon completion of all the improvements, shall request in writing a final inspection by the Ogallala Planning & Zoning Administrator. The Inspector shall make a final inspection of all streets, utilities, and other improvements as required. The Council or Board of County Commissioners, whichever is applicable, may by resolution accept streets, easements, other public lands, sanitary sewerage facilities, and other improvements after receipt of a written notice of a satisfactory final inspection and the posting of a maintenance guarantee by the subdivider.

38-404. Drainage.

(1) Adequate provision shall be made for the drainage of storm water subject to the approval of the State Department of Health or County Health Officer, whichever is applicable. Storm sewers shall be installed prior to the installation of the street pavement. The Council or Board of County Commissioners may require the installation of storm sewer lines which are in excess of the subdivision design needs and mutually establish with the subdivider a prorated distribution cost to be shared by the City, county, or other persons and the subdivider. Where a natural watercourse intersects a street or bridge, a culvert shall be installed and constructed in accordance with the standards and specifications adopted by the Council. Driveway culverts shall be installed on major, collector, and local streets, shall have a minimum length of 20 feet, and shall be constructed in accordance with the standards and specifications adopted by the Council and Board of County Commissioners. Whenever drainage ditches are used, such ditches shall retain natural topographic characteristics and be so designed that they do not present a hazard to health, safety, life, or property. Drainage improvements shall maintain any natural water flow.

(2) An adequate storm drainage system may be required in accordance with either an existing system or the following table:

Classification	Storm Drainage (Minimum Type)
Parkway, expressway or freeway	Storm sewer*
Major street or highway	Storm sewer*
Collector street	Storm sewer
Local street	Open gutter

* Subject to State of Nebraska Standards

38-405. Fire hydrants.

Fire hydrants shall be provided by the City in all subdivisions with public water supplies. The hydrants shall be located between property lines and curbs with all outlets facing or parallel to the street. Hydrants shall be placed at the corners of all blocks and mid-block for blocks exceeding 800 feet in length. Hydrants shall also be

required at the entrance and end of all cul-de-sacs exceeding 400 feet in length. The type of hydrant and control valves and the location of the hydrant shall be approved by the Fire Chief. The minimum size of any water lines serving any hydrant shall not be less than six inches in diameter and they should be circulating water lines. The size and location of water lines shall be approved by the Ogallala Planning & Zoning Administrator and the Fire Chief.

38-406. Monuments.

All subdivision boundary corners, points of curvature, angles, and intersections of street centerlines shall be marked with permanent monuments subject to approval by the Ogallala Planning & Zoning Administrator or Board of County Commissioners. Monuments shall be of concrete at least four inches in diameter or square, three feet long, with a flat top. The top of the monument shall have an indented cross or metal pin to identify properly the location of the point and shall be set flush with the finished grade. All lot corners shall be marked with metal pins not less than one-half inch in diameter and 24 inches long and driven so as to be flush with the finished grade. Installation of monuments and pins shall be certified by a surveyor. Where circumstances prohibit the installation of monuments or pins at the time of filing the final plat, a written certification by the owner shall be included on the plat stating that no lot will be sold until monuments or pins are placed by a surveyor. A permanent benchmark shall be accessibly placed within the subdivision, the elevation of which shall be referred to the U.S.G.S. datum and accurately noted on the subdivision plat.

38-407. Restrictive covenants.

The subdivider may, at his or her own expense, restrict the use of such premises as are contained in a subdivision plat by means of restrictive covenants, provided that such restrictive covenants are reviewed by the Ogallala Planning & Zoning Administrator and approved by the Council or Board of County Commissioners. Any such covenants shall be included as deed restrictions on the final plat.

38-408. Sewage disposal.

Where a public sanitary sewer is within 500 feet of the subdivision and along an accessible easement or street right-of-way, the subdivider shall connect with said sewer and provide a connection to each lot. Such sanitary sewerage system shall be installed prior to the installation of the street pavement. The Council may require the installation of sanitary sewer lines which are in excess of the subdivision design needs and mutually establish with the subdivider a prorated distribution cost to be shared by the City or other persons and the subdivider. Where a public sanitary sewer is not accessible, each lot in the subdivision shall be serviced by either a disposal plant system or an on-site wastewater treatment system with proper provision for the maintenance thereof. Prior to submittal of a plat of a development area where an on-site wastewater treatment system is proposed on any lot less than three acres in size, the owner of the development area shall submit an application for subdivision review and receive approval by the Nebraska Department of Environmental Quality wastewater section for the use of on-site wastewater treatment systems for the development area. Where it is feasible and practical for an adequate on-site wastewater treatment system

to be made available for every lot, the subdivider shall present evidence to this effect and include deed restrictions on the final plat requiring any such individual on-site wastewater treatment system to comply with the requirements of the Nebraska Department of Environmental Quality Wastewater Section.

38-409. Streets.

(1) Unapproved streets. The City or county shall not accept, lay out, open, improve, grade, pave, curb, or light any street, or lay or authorize water mains or sewers or connections to be laid in any street, within any portion of the Planning Area unless such street shall have been accepted or opened as, or shall otherwise have received the legal status of, a public street, unless it corresponds with a street shown on the Comprehensive Plan or with a street on a subdivision plat approved by the Council or otherwise acceptable to the Board of County Commissioners. However, the Council or Board of County Commissioners may accept any street not shown on or not corresponding with a street on the Comprehensive Plan or on any approved subdivision plat or an approved street plat; provided, the ultimate responsibility for maintenance of said street be accepted by the adopting governmental body according to subsequent capital improvements program of said body.

(2) Approved streets. Streets shall be constructed or reconstructed on approval of the respective level of government according to the following provisions:

(a) Street grading. Streets shall be graded to the full width of the right-of-way, and shall be filled, excavated, or constructed in accordance with specifications adopted by the Council and approved by the Ogallala Planning & Zoning Administrator.

(b) Roadway paving.

(i) Roadway surfacing widths shall be in conformance with the minimum standards as set forth in the Comprehensive Plan and Major Street Plan, subject to recommendation of the Ogallala Planning & Zoning Administrator and approval by the Council.

(ii) Streets not intended for paving shall have a minimum gravel surface thickness of not less than four inches.

(iii) Street or alley pavement intersections shall be rounded by an arc; the minimum radius shall be 20 feet or the shortest distance from pavement to the nearest property line. Where streets meet at acute angles, the foregoing minimum radius shall be increased based on a review by the Ogallala Planning & Zoning Administrator.

(iv) The paved area in a cul-de-sac shall be constructed with a radius of not less than 50 feet measured to the face of the curb or to the edge of the pavement.

(v) Higher standards for the pavement of streets serving commercial and industrial areas may be required.

(c) Curbs. Curbs shall be required on all streets. A standard curb section or integral curb and gutter section shall be constructed in accordance with standards and specifications adopted by the Council.

(d) Gutters. Gutters shall be required on all streets. The standard gutter section shall be constructed in accordance with standards and specifications as adopted by the Council.

(3) Classification table.

Classification	Pavement Type (Minimum)
Parkway, express way, or freeway	Concrete*
Arterial street	Concrete or asphalt*
Collector street	Bituminous mat
Local street	Bituminous mat
Commercial frontage	Concrete

* Subject also to State of Nebraska Standards.

38-410. Trees, shrubs, and other plantings.

Trees or shrubs may be planted within the street rights-of-way or utility or drainage easements, where approved by the Council or Board of County Commissioners. Plantings and fences at intersections shall be so located as to maintain adequate sight distance. A screen planting of not less than ten feet in width prohibiting vehicular access may be required at the rear of all double frontage lots and along expressways, freeways, and major streets. A planting plan of shrubs and trees for such screen planting shall be submitted for approval with the plat.

38-411. Utilities.

Other utilities to be installed in a street shall be located in the grass plat between the curb line or edge of pavement and the street right-of-way line. If stubs to the property lines are not installed, then connections between the lots and the utility lines shall be made without breaking into the wearing surface of the streets.

38-412. Water supply.

Where a public water supply is within 500 feet of a proposed subdivision and along an accessible easement or street right-of-way, the subdivider shall install or have installed a system of water mains and connect to said supply. A connection to each lot shall be installed prior to the paving of the street. The Council may require the installation of water mains which are in excess of the subdivision design need and mutually establish with the subdivider a prorated distribution cost to be shared by the City or other persons and the subdivider. Where a public water supply is not available, each lot in a subdivision shall be furnished with a private water supply system with proper provisions for the maintenance thereof. The design of any such system shall be subject to the approval of the State Department of Health State Water Well Standards Program. Where it is feasible and practical for an adequate private water supply to be made available for every lot, the subdivider shall present evidence to this effect and include deed restrictions on the final plat requiring any such individual private water supply system to comply with the requirements of the State Department of Health State Water Well Standards Program.

ARTICLE 5
ADMINISTRATION AND ENFORCEMENT

Section.

38-501. Filing approval for maps, plans, and plats required.
38-502. Municipal planning; additions; incorporation into municipality.
38-503. Unlawful structures.

38-501. Filing approval for maps, plans, and plats required.

No map, plan, plat, or replat of any subdivision within the jurisdiction of this chapter shall be considered legally filed with the Register of Deeds for the County unless and until the same shall have been approved by the Council.

38-502. Municipal planning; additions; incorporation into municipality.

All additions to the City laid out and previously located within the corporate boundaries of the City shall remain a part of the City. All additions laid out adjoining or contiguous to the corporate limits may be included within the corporate limits and become a part of the City for all purposes whatsoever at such time as the addition is approved as provided in Neb. RS 19-916. If the City Council includes the addition within the corporate limits, the inhabitants of such addition shall be entitled to all the rights and privileges and shall be subject to all the laws, ordinances, rules, and regulations of the City.

Statutory Reference: Neb. RS 19-916

38-503. Unlawful structures.

(1) After the Council shall have adopted a Major Street Plan and filed said Plan with the Register of Deeds for the County, no building shall be erected on any lot within the Plan area which does not conform with the provisions of this chapter. Further, a building may not be located within the Planning Area unless and until the street which will serve as access to the lot is approved by the Council as a public street prior to the time of construction.

(2) Any building erected in violation of this section shall be deemed an unlawful structure and the Inspector or other appropriate official may bring action to enjoin such erection or cause it to be vacated or removed.

Statutory reference: Neb. RS 19-913

ARTICLE 6
PENALTY

Section.
38-601. Penalty.

38-601. Penalty.

(1) Penalty amounts. Any person who violates any of the prohibitions or provisions of any section of this chapter shall be deemed guilty of a misdemeanor. Unless otherwise specified in this chapter or by statute, the penalty for such violation shall be in any amount not to exceed $1,000, in the discretion of the court; and; provided, whenever any section of this chapter shall declare a nuisance, a violation of

that section shall be penalized by a fine of not more than $1,000, in which case a new violation shall be deemed to have been committed every 24 hours of such failure to comply.

(2) Abatement of nuisance.

(a) Whenever a nuisance exists as defined in this chapter, the City may proceed by a suit in equity to enjoin and abate the same, in the manner provided by law.

(b) Whenever in any action it is established that a nuisance exits, the court may, together with the fine or penalty imposed, enter an order of abatement as a part of the judgment in the case.

(3) Restitution. The court may, together with the fine or penalty imposed, enter an order of restitution as part of the judgment in the case.

(4) Whoever being the owner or agent of the owner of the land located within the platting jurisdiction of the municipality knowingly or with intent to defraud transfers, sells, agrees to sell, or negotiates to sell such land by reference to, exhibition of, or by other use of a subdivision of such land before such plat has been approved by the Council and recorded in the office of the Register of Deeds of the county shall pay a penalty of not more than $1,000 for each lot so transferred, sold, or agreed or negotiated to be sold. The description by metes and bounds in the instrument or transfer or other document used in the process of selling or transferring shall not exempt the transaction from such penalties.

Statutory reference: Neb. RS 16-225, 16-240, 16-246, 18-1720, 19-913.

CHAPTER 39
TAXATION

Article.
1. General Provisions.

ARTICLE 1
GENERAL PROVISIONS

Section.
39-101. Property taxes.
39-102. Motor vehicle tax.
39-103. Occupation tax.

39-101. Property taxes.

(1) Subject to the limits in Neb. RS 77-3442, the Mayor and Council shall have power to levy and collect taxes for all municipal purposes on the taxable property within the corporate limits of the City. All City taxes, except special assessments otherwise provided for, shall become due on December 1 of each year.

(2) At the time provided for by law, the Council shall cause to be certified to the County Clerk the amount of tax to be levied for purposes of the adopted budget statement on the taxable property within the corporation for the year then ensuing, as

shown by the assessment roll for such year, including all special assessments and taxes assessed as hereinbefore provided. The Clerk shall place the same on the proper tax list to be collected in the manner provided by law for the collection of county taxes in the county where such City is situated.

(3) In all sales for delinquent taxes for municipal purposes, if there are other delinquent taxes due from the same person or lien on the same property, the sales shall be for all the delinquent taxes. Such sales and all sales made under and by virtue of this section or the provisions of law herein referred to shall be of the same validity and, in all respects, shall be deemed and treated as though such sale had been made for the delinquent county taxes exclusively.

(4) The maximum amount of tax which may be certified, assessed, and collected for purposes of the adopted budget statement shall not require a tax levy in excess of .87.5¢ on each $100 upon the taxable value of the taxable property within the City. Any special assessments, special taxes, amounts assessed as taxes, and such sums as may be authorized by law to be levied for the payment of outstanding bonds and debts may be made by the Council in addition to the levy of .87.5¢ on each $100 upon the taxable value of the taxable property within the City. The Council may certify a further amount of tax to be levied which shall not require a tax levy in excess of $.07 on each $100 upon the taxable value of the taxable property within such City for the purpose of establishing the sinking fund or sinking funds authorized by Neb. RS 19-1301 through 19-1304, and in addition thereto, when required by Neb. RS 18-501, a further levy of .10.5¢ on each $100 upon the taxable value of the taxable property within such City may be imposed.

(5) Nothing in this section shall be construed to authorize an increase in the amounts of levies for any specific municipal purpose or purposes elsewhere limited by law, whether limited in specific sums or by tax levies.

Statutory Reference: Neb. RS 77-3442, 16-702

39-102. Motor vehicle tax.

The governing body of the City may levy a tax on all motor vehicles owned or used in such City, which tax shall be paid to the County Treasurer of the county in which the City is located when the registration fees as provided in the Motor Vehicle Registration Act are paid. Such taxes shall be credited by the County Treasurer to the Road Fund of the City. Such funds shall be used by the City for constructing, resurfacing, maintaining, or improving streets, roads, alleys, public ways, or parts thereof, for the amortization of bonded indebtedness when created for such purposes.

Statutory Reference: Neb. RS 18-1214

39-103. Occupation tax.

For the purpose of raising revenue, the Council has levied an occupation tax on certain businesses. The amounts of the tax may be changed at any time by ordinance. The actual amounts of occupation taxes are on file in the office of the City Clerk and may be inspected by the public at any reasonable hour.

(1) Businesses taxed.

(a) Alcoholic beverage establishments.

(i) No occupation tax prescribed for alcoholic beverage establishments shall in any event exceed two times the amount required to be paid for a state license for the same period of time under the Liquor Control Act.

(ii) No occupation tax in an amount less than the sum provided in this section for a yearly period shall be accepted regardless of the time within the taxing period when such business is commenced.

(iii) The amount of such occupation tax shall be deposited with the City Clerk at the time the application for a state license is made, or within 24 hours after said application has been filed with the Nebraska Liquor Control Commission.

(iv) The City Clerk shall hold said occupation tax in a trust fund until the application is finally passed upon, and if the application is refused and the license is denied, the amount thereof shall be returned to the applicant.

(v) The Clerk shall upon acceptance of the license application credit the tax to the General Fund of the City. Upon failure of any such applicant to pay said occupation tax as herein provided, it shall be mandatory upon the Council to pass a resolution denying the application for a license or requesting the Liquor Control Commission to deny said application, and said resolution shall state the reason therefore and shall be forwarded to the Commission.

(vi) All retail license fees received shall then be remitted to the Treasurer of School District Number One.

(b) Telephone Occupation Tax. All telecommunications companies offering communications services for hire to businesses or residences located within the City of Ogallala are hereby required to pay to the City of Ogallala as an occupation tax, the amount of five percent (5%) on all gross receipts from legally established basic monthly charges collected for local exchange telephone service from subscribers in the City of Ogallala, Nebraska.

(i) Telephone Occupation Tax Exceptions. The telephone occupation tax shall not apply to receipts for telephone service to the following named governmental entities:

City of Ogallala, Nebraska
Public School District 1
Keith County, Nebraska
State of Nebraska
United States Government

(ii) Payment of Telephone Occupation Tax. Telecommunications companies shall compute and pay the occupation tax on a monthly basis. The occupation tax for each month shall become due and owing within thirty (30) days after the last day of the month in which service is billed by the telecommunications company.

(iii) Reporting; Examination of Records. All telecommunications companies shall, at the time they make their monthly payments of the occupation tax levied pursuant to this chapter, file with the City Clerk a full, complete and detailed statement of the gross receipts subject to such occupation tax, which statement shall be duly verified and sworn to by the manager in charge of the business of the particular company in the City or by a higher managerial employee of such company. The City shall have the right at

any time to inspect, through its officers, agents or representatives, the books and records of any telecommunications company for the purpose of verifying any report submitted pursuant to the requirements of this section.

(iv) Delinquent Payments. Any occupation tax not paid when due shall bear interest at the rate of fourteen percent (14%) per annum from the date due until paid.

(c) Cell Phone Occupation Tax. All telecommunications companies offering communications services for hire to businesses or residences located within the City of Ogallala are hereby required to pay to the City of Ogallala as an occupation tax, the amount of five percent (5%) on all gross receipts from legally established basic monthly charges collected for local exchange cell phone service from subscribers in the City of Ogallala, Nebraska.

(i) Cell Phone Occupation Tax; Exceptions. The telephone occupation tax shall not apply to receipts for cell phone service to the following named governmental entities:

(1) City of Ogallala, Nebraska
(2) Public School District 1
(3) Keith County, Nebraska
(4) State of Nebraska
(5) United States Government

(ii) Payment of Cell Phone Occupation Tax. Telecommunications companies shall compute and pay the occupation tax on a monthly basis. The occupation tax for each month shall become due and owing within thirty (30) days after the last day of the month in which service is billed by the telecommunications company.

(iii) Reporting; Examination of Records. All telecommunications companies shall, at the time they make their monthly payments of the occupation tax levied pursuant to this chapter, file with the City Clerk a full, complete and detailed statement of the gross receipts subject to such occupation tax, which statement shall be duly verified and sworn to by the manager in charge of the business of the particular company in the City or by a higher managerial employee of such company. The City shall have the right at any time to inspect, through its officers, agents or representatives, the books and records of any telecommunications company for the purpose of verifying any report submitted pursuant to the requirements of this section.

(iv) Delinquent Payments. Any occupation tax not paid when due shall bear interest at the rate of fourteen percent (14%) per annum from the date due until paid.

(1)(C) Hotel Companies Occupation Tax. Occupation Tax; Requirement to Pay. An occupation tax is hereby levied and imposed on every person or business entity who engages in the business of operating a hotel for revenue in the City of Ogallala. All hotel companies doing business in the City are required to pay an occupation tax as set forth herein.

(i) Hotel Accommodations. Each person engaged in the business of operating a hotel in the City shall pay an occupation tax in the amount of two percent (2%) of the basic rental rates charged per occupied room per night.

(ii) Hotel Defined. Hotel shall mean any facility in which the public may, for a consideration, obtain sleeping accommodations in any space ordinarily used for

accommodations. The term shall include hotels, motels, bed and breakfast accommodations, tourist hotels, campgrounds, courts, lodging houses, inns and nonprofit hotels; but “hotel” shall not be defined so as to include hospitals, sanitariums, nursing homes, chronic care centers, dormitories, or facilities operated by an educational institution and regularly used to house students.

(iii) Occupied Room, Defined; Exceptions.

(a) Occupied room shall mean any space ordinarily used for sleeping accommodations and for which any occupant has, for consideration, obtained the use or possession, or the right to use or possess, for a period not to exceed thirty (30) continuous days. The term shall include camping space, trailer space or recreational vehicle space. The term does not include a function room such as a ballroom, banquet room, reception room or meeting room, provided it is not used as temporary sleeping accommodations.

(b) The term “occupied room” shall not mean, and no tax imposed by this article shall be measured by or collected for:

(1.) Complimentary or other sleeping accommodations for which no consideration is charged;

(2.) Sleeping accommodations for which the consideration is paid by a person not subject to the sales and use tax imposed by the Nebraska Revenue Act of 1967, as it is amended from time to time; or

(3.) Sleeping accommodations leased by an employer for use by its employees when a specified room is the subject of the lease, the lease extends for more than thirty (30) consecutive days, and consideration is actually paid for use during at least thirty (30) consecutive days.

(iv) Collection. The tax imposed by this article shall be collected by the hotel operator from the occupant of each room to which the tax applies. The tax may be shown as an add-on to the charge for occupancy or the rooms and shall be collectible at the time the lodging is furnished, regardless of when the charge for the occupancy is paid. The operator shall remain responsible for payment of all taxes imposed whether or not the taxes are actually collected from the guests.

(v) Records. It shall be unlawful for any hotel operator subject to this article to fail to maintain or fail to make available to the City, upon seventy-two (72) hours notice, written records accurately and completely evidencing the number of rooms occupied, the dates the rooms are occupied, the amount of occupation tax due or paid under this article, and such other information as is required by the City Clerk. Such records shall be maintained for a period of three (3) years after the occupation tax is due.

(vi) Due Date. Notwithstanding any contrary provision of this chapter, the tax imposed by this article shall be due and payable on the first day of each calendar month next succeeding the month during which the room was occupied. All taxes not paid by the twenty-fifth day of the month in which they are due and payable shall be deemed to be delinquent. The operator shall be assessed a penalty of ten percent (10%) on all delinquent amounts as well as interest of one percent (1%) per month or fraction thereof from the first of the month in which such tax becomes due and payable until the date of payment.

(vii) Revenue Measure. The provisions of this Section are enacted solely as a revenue measure of the City.

(viii) Penalty. Any person, partnership, firm, corporation, limited liability company or other entity violating any of the provisions of Section 39-103(1)(d) shall be deemed guilty of a misdemeanor and, upon conviction, unless otherwise specified by statute, the penalty for such violation shall be in an amount not to exceed $10,000.00, in the discretion of the court. Each distinct act or violation of the terms of Section 39-103(1)(d) shall constitute a separate offense.

(2) Collection date.

(a) All occupation taxes shall be due and payable on August 1 of each year, except in the event that said tax is levied either daily, weekly, or monthly, and upon the payment thereof by any person or persons to the City Clerk, the Clerk shall give a receipt, properly dated, and specifying the person paying the tax and the amount paid.

(b) The revenue collected shall then be immediately deposited into the General Fund by the City Treasurer. The City Treasurer shall keep an accurate account of all revenue turned over to him or her. All forms and receipts herein mentioned shall be issued in duplicate. One copy shall then be kept by each party in the transaction.

(3) Certificates. The receipt issued after the payment of any occupation tax shall be the occupation tax certificate. Said certificate shall specify the amount of the tax and the name of the person and business that paid the tax. The occupation tax certificate shall then be displayed in a prominent place, or carried in such a way as to be easily accessible, while business is being conducted.

(4) Failure to pay. If any person, firm, partnership, association, company, or corporation fails or neglects to pay the occupation taxes as provided herein on the day it becomes due and payable, the City shall then proceed by civil suit to collect the amount due. All delinquent taxes shall bear interest at the highest rate allowed by law.

Statutory reference: Neb. RS 16-205, 53-124, 53-170

CHAPTER 40
TREES AND SHRUBS

Article.
1. General Provisions.
2. Rules and Regulations.
3. Administration and Enforcement.
4. Penalty.

ARTICLE 1
GENERAL PROVISIONS

Section.
40-101. Definitions.

40-101. Definitions.

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

(1) Park Trees shall mean 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.

(2) Street Trees. Trees, shrubs, bushes, and all other woody vegetation on land

lying between property lines on either side of all streets, avenues, or ways within the City.

(3) Topping. The severe cutting back of limbs to stubs larger than three inches in diameter in the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree.

(4) Tree Board. The body so designated as such by this code.

Statutory reference: Neb. RS 16-207, 16-248

ARTICLE 2
RULES AND REGULATIONS

Section.

40-201. Tree care.
40-202. Tree topping.
40-203. Trees overhanging right-of-way.
40-204. Dead and diseased trees.
40-205. Stumps.
40-206. Location and spacing of trees on public property.
40-207. Maintenance and removal of trees on public property.

40-201. Tree care.

(1) The City shall have the right to plant, 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.

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

(3) This section does not prohibit the planting of street trees by adjacent property owners provided that the selection and location of said trees is in accordance with the guidelines approved by the Council.

Statutory reference: Neb. RS 16-207

40-202. 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 any other tree on public property. Trees severely damaged by storms or other causes or certain trees under utility wires or other obstructions where other pruning practices are impractical may be exempted from this section at the discretion of the Tree Board.

40-203. Trees overhanging right-of-way.

Every owner of any tree overhanging any street, alley, or right-of-way within the City shall prune the branches so that such branches: shall not obstruct the light from

any street light; shall not obstruct the view of any street intersection; shall not interfere with the visibility of any traffic control device or sign; or if requested by the Street Superintendent, shall provide a clear space of 14 feet above the surface of the street or alley and 8 feet above the sidewalk. Said owners shall remove all dead, diseased, or dangerous trees or broken or decayed limbs which constitute a menace to the safety of the public. The City shall have the right to prune any tree or shrub on private property when it: interferes with the proper spread of light along the street from a street light; obstructs the view of any street intersection; interferes with visibility of any traffic control device or sign; or does not provide a clear space of 14 feet above the street or alley, and 8 feet above the sidewalk after requested by the City Street Superintendent, and to charge the cost of the same as a special assessment on the owner's property.

Statutory reference: Neb. RS 28-1321, 16-207.
Historical reference: Ord. 1075, passed 7-28-98

40-204. Dead and diseased trees.

It is hereby declared to be a nuisance for a property owner to permit, allow or maintain any dead or diseased tree or trees, or any tree or trees which constitute a hazard to life and / or property, or harbor insects or disease which constitutes a potential threat to other trees within the City, within the right of way of streets or on private property within territory adjacent to the limits of the City within two miles thereof and all territory within the corporate limits of the City. Upon determination by the Tree Board that a dead or diseased tree or trees, or any tree or trees which constitute a hazard to life and / or property, or harbor insects or disease which constitutes a potential threat to other trees within the City, is or are being maintained within the right of way of streets or on private property as set forth herein, notice to abate and remove such nuisance and notice of the right to a hearing before the City Council and the manner in which it may be requested shall be given by the Tree Board to said owner or the owner’s duly authorized agent by personal service or certified mail. Such notice shall describe the condition as found by the Tree Board and state that the condition has been declared a public nuisance, and that the condition must be abated and removed at once. Within ten (10) days after the receipt of such notice, if the owner of the real estate does not request a hearing or fails to comply with the order to abate and remove the dead or diseased tree or trees, or any tree or trees which constitute a hazard to life and / or property, or harbor insects or disease which constitutes a potential threat to other trees within the City, the City shall have such work done and may levy and assess the costs and expenses of the work upon the real estate so benefited in the same manner as other special taxes for improvements are levied and assessed.

If the owner requests in writing a hearing with the City Council, the City Council shall fix a time and place at which a hearing will be held. Notice of the hearing shall be given by personal service or certified mail and require the owner to appear before the City Council to show cause why such condition should not be found to be a public nuisance and remedied. Such notice shall be given not less than seven, nor more than fourteen days before the time of the hearing. Upon the date fixed for the hearing and pursuant to the notice, the City Council shall hear all objections made by the owner and shall hear evidence submitted by the Tree Board. If after consideration of all evidence,

the City Council shall find that the condition is a public nuisance, it shall, by Resolution, order and direct the owner to abate and remove such nuisance at once. Should the owner refuse or neglect to promptly comply with the order of the City Council, the City Council shall proceed to cause the abatement and removal of the nuisance and may levy and assess the costs and expenses of the work upon the real estate so benefited in the same manner as other special taxes for improvements are levied and assessed.

40-205. Stumps.

All stumps of street trees 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.

40-206. Location and spacing of trees on public property.

The following restrictions shall apply to the planting of trees upon public property, including any right-of-way:

(1) Spacing. No trees shall be planted closer together than 30 feet except in special plantings described or approved by a landscape architect.

(2) Distance from curb or sidewalk. No trees shall be planted closer than four feet to any curb or sidewalk.

(3) Distance from street intersections. No trees shall be planted within 35 feet of any street intersection, measured from the point of nearest intersecting curbs or curblines, or within 15 feet of any driveway or alley. If no such curb or curbline exists, no tree shall be planted within ten feet from the point of intersection of the property lines.

(4) Distance from utility wires, utility lines, and fireplugs. No trees may be planted under or within ten lateral feet of any overhead utility wire or fireplug or over or within five lateral feet of any underground water line, sewer line, transmission line, or other utility line, wire, or main.

Statutory reference: Neb. RS 16-207, 28-1321

40-207. Maintenance and removal of trees on public property.

(1) Authority of the City Manager. The City Manager or his or her designee shall have the right to plant, prune, maintain, and remove trees, plants, and shrubs within the line of all street rights-of-way, alleys, avenues, lanes, squares, and public grounds as may be necessary to ensure public safety or to preserve or enhance the symmetry and beauty of such public grounds.

(2) Removal of dead street trees. It is hereby declared a nuisance for any property owner to permit, allow, or maintain any dead or diseased trees within the right-of-way of streets within the corporate limits of the City and adjacent to the property owner's property. Notice to abate and remove such nuisance and notice of the right to a hearing before the City Council and the manner in which a hearing may be requested shall be given to each owner or owner's duly authorized agent and to the occupant, if any, by personal service or certified mail. If, within 30 days after receipt of such notice, the owner or occupant of the lot or piece of ground does not request a hearing or fails to comply with the order to abate and remove the nuisance, the City may have such work

done and may levy and assess all or any portion of the costs and expenses of the work upon the lot or piece of ground so benefited in the same manner as other special taxes for improvements are levied and assessed.

Statutory reference: Neb. RS 16-207, 28-1321

ARTICLE 3
ADMINISTRATION AND ENFORCEMENT

Section.
40-301. Interference with Tree Board.

40-301. Interference with Tree Board.

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

ARTICLE 4
PENALTY

Section.
40-401. Penalty.

40-401. Penalty.

(1) Penalty amounts. Any person who violates any of the prohibitions or provisions of any section of this chapter shall be deemed guilty of a misdemeanor. Unless otherwise specified in this chapter or by statute, the penalty for such violation shall be in any amount not to exceed $1,000, in the discretion of the court; and; provided, whenever any section of this chapter shall declare a nuisance, a violation of that section shall be penalized by a fine of not more than $1,000, in which case a new violation shall be deemed to have been committed every 24 hours of such failure to comply.

(2) Abatement of nuisance.

(a) Whenever a nuisance exists as defined in this chapter, the City may proceed by a suit in equity to enjoin and abate the same, in the manner provided by law.

(b) Whenever in any action it is established that a nuisance exits, the court may, together with the fine or penalty imposed, enter an order of abatement as a part of the judgment in the case.

(3) Restitution. The court may, together with the fine or penalty imposed, enter an order of restitution as part of the judgment in the case.

Statutory reference: Neb. RS 16-225, 16-240, 16-246, 18-1720.

CHAPTER 41
VEHICLE REGULATIONS

Article.
1. Definitions.
2. Abandoned Vehicles.
3. Parking.
4. Rules and Regulations.
5. Speed Limits.
6. Street Designations.
7. Traffic Control Devices.
8. Administration and Enforcement.
9. All-Terrain Vehicles and Utility-Type Vehicles.
10. Penalty.

ARTICLE 1
DEFINITIONS

Section.
41-101. Definitions.

41-101. Definitions.

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

Statutory reference: Neb. RS 60-606 – 60-676

ARTICLE 2
ABANDONDED VEHICLES

Section.

41-201. Abandonment prohibited.
41-202. Impoundment.
41-203. Impoundment notice.
41-204. Impoundment facilities.
41-205. Disposition of impounded vehicles.
41-206. Title transfer.

41-201. Abandonment prohibited.

(1) No person shall abandon any vehicle within the City. A motor vehicle shall be deemed to be an abandoned vehicle if left unattended:

(a) If left unattended, with no license plates or valid "in transit" stickers issued pursuant to the Motor Vehicle Registration Act affixed thereto, for more than six hours on any public property;

(b) If left unattended for more than 24 hours on any public property, except a portion thereof on which parking is legally permitted;

(c) If left unattended for more than 48 hours after the parking of the vehicle has become illegal, if left on a portion of any public property on which parking is legally permitted;

(d) If left unattended for more than seven days on private property if left initially without permission of the owner, or after permission of the owner is terminated; or

(e) If left for more than 30 days in the custody of a law enforcement agency after the agency has sent a letter to the last registered owner under this section.

(2) An all-terrain vehicle or mini-bike is an abandoned vehicle:

(a) If left unattended for more than twenty-four hours on any public property, except a portion thereof on which parking is legally permitted;

(b) If left unattended for more than forty-eight hours, after the parking of such vehicle has become illegal, if left on a portion of any public property on which parking is legally permitted;

(c) If left unattended for more than seven days on private property if left initially without permission of the owner, or after permission of the owner is terminated; or

(d) If left for more than thirty days in the custody of a law enforcement agency after the agency has sent a letter to the last-registered owner under section 60-1903.01.

(3) No motor vehicle subject to forfeiture under Neb. RS 28-431 shall be an abandoned vehicle under this chapter.

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

(a) Motor vehicle shall mean every self-propelled land vehicle, not operated upon rails, except mopeds, self-propelled chairs used by persons who are disabled, and electric personal assistive mobility devices.

(b) Private property shall mean any privately owned property which is not included within the definition of public property.

(c) Public property shall mean any public right-of-way, street, highway, alley, park or other City-owned property.

(5) 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 are specifically hereby excluded from this section.

(6) No person in charge or control of any private property, whether as owner, tenant, occupant, lessee, or otherwise, shall allow any partially dismantled, nonoperating, wrecked, junked, or discarded vehicle to remain on such property longer than seven continuous days.

Statutory reference: Neb. RS 60-638, 60-1901.

41-202. Impoundment.

(1) (a) The Chief of Police shall remove or cause to be removed any abandoned vehicle. Such abandoned vehicle shall be impounded until lawfully claimed or disposed of, as provided in section 41-205, provided that any such abandoned vehicle which is located on private property shall not be removed or impounded until the Chief of Police has given written notice of his or her intent to remove said abandoned vehicle after ten days from the date of the notice. Such notice shall be given by any of the following methods:

(i) Affixing written notice on such vehicles;

(ii) Sending notice by mail to the owner of such vehicle at his last known address if the owner is reasonably ascertainable;

(iii) By sending notice by mail to the person owning or occupying the property on which such vehicle is located; or

(iv) By notifying the owner of the vehicle or owner or occupant of the property in person.

(b) The Chief of Police, or his or her duly authorized agent, 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 Chief of Police or his or her authorized agent from entering on private property for the purpose of carrying out his or her duties.

(2) Neither the owner, lessee, or 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 or while in the possession of the City or as a result of any subsequent disposition.

Statutory reference: Neb. RS 60-1906

41-203. Impoundment notice.

(1) Except for vehicles automatically becoming the property of the City, as set forth in section 41-206, the Chief of Police shall make an inquiry concerning the last-registered owner of such abandoned vehicle as follows:

(a) Abandoned vehicle with number plates affixed: to the jurisdiction which issued the number plates.

(b) Abandoned vehicles with no number plates affixed: to the Department of Motor Vehicles.

(2) The Chief of 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 such notice was mailed. If the agency described in subdivisions (1)(a) or (b) of this section also notifies the Chief of 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 removal and storage of such vehicle. In the event the owner does not appear within the time prescribed herein, or in the case that the owner cannot be ascertained, such abandoned vehicle shall be disposed of as hereinafter provided.

Statutory reference: Neb. RS 60-1903.

41-204. Impoundment facilities.

Storage pounds shall be provided or licensed by the City for the purpose of providing a safe place to store abandoned vehicles. Such pounds shall be located in conformity with the Comprehensive Plan and the zoning regulations. A license for a pound shall not be issued unless and until the location and visual features of the pound have been approved by the Chief of Police and the Zoning Inspector. A fee established by the City Council by Resolution shall be charged for each license and the license shall be renewed annually on August 1.

41-205. Disposition of impounded vehicles.

(1) The Chief of Police shall, within 60 days from the date that title to abandoned vehicles is vested in the City, as provided for in section 41-206, sell said abandoned vehicle at public auction to the highest bidder. Such sale and the time and place thereof shall be advertised for one week in a newspaper of general circulation in the City.

(2) 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.

Statutory reference: Neb. RS 60-1905.

41-206. Title transfer.

If an abandoned vehicle, at the time of abandonment, has no license plates of the current year or valid In Transit stickers issued pursuant to Neb. RS 60-376 affixed

and is of a wholesale value, taking into consideration the condition of the vehicle, as determined by the Chief of Police, of $250 or less, title shall immediately vest in the City, and the Chief of Police is not required to follow section 41-203. With respect to those abandoned vehicles governed by section 41-203, title to such abandoned 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 ascertained, when notice of that fact is received by the Chief of Police. Upon the purchase of an abandoned vehicle at auction, the City shall furnish the purchaser with the requisite affidavit to provide to the Clerk of the county where the vehicle was last registered as proof that said vehicle was abandoned and became the property of the City prior to the sale.

Statutory reference: Neb. RS 60-1902, and 60-1903.

ARTICLE 3
PARKING

Section.

41-301. Alleys.
41-302. Congested district.
41-303. Curbs.
41-304. Emergency vehicles.
41-305. Fire hydrants and fire stations.
41-306. Intersections.
41-307. Manner of parking; coasting.
41-308. Mobile homes, trailers, and the like.
41-309. Obstructing vehicle or pedestrian traffic.
41-310. Parking designation of streets.
41-311. Parking tags; destruction and disregard.
41-312. Parking zones and vehicle restrictions.
41-313. Prohibited purposes: display and repair.
41-314. Schools and theaters.
41-315. Time limit on parking.
41-316. Removal of illegally parked vehicles.
41-317. Snow emergency routes.
41-318. Snow accumulation deposited on public ways.
41-319. Trucks.
41-320. Violation procedure.

41-301. Alleys.

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

(2) Parking in alleys. 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.

41-302. Congested district.

Within the “congested” district all vehicles shall be parked diagonally, or when indicated, shall be parked parallel with and adjacent to the curb so as to have both front and back tires located adjacent to and within six inches of the curb. Where stalls are designated either on the curb or pavement in the congested district, vehicles shall be parked within such stalls. No vehicle shall be allowed to be parked more than one tier deep next to the curb.

41-303. Curbs.

(1) 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 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.

(2) It shall be the duty of the City Manager to cause the curb space to be painted and keep the same painted as provided in this chapter. No person, firm, or corporation shall paint the curb of any street, or in any manner set aside or attempt to prevent the parking of vehicles in any street or part thereof, except at such places where the parking of vehicles is prohibited by the provisions of this chapter. The marking or designating of portions of streets or alleys where the parking of vehicles is prohibited or limited shall be done only by the City through its proper officers, at the direction of the Council.

41-304. Emergency vehicles.

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

Statutory reference: Neb. RS 60-6,114.

41-305. Fire hydrants and fire 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 and on the side of a street opposite the entrance to any fire station within 75 feet of such entrance when properly signposted.

Statutory reference: Neb. RS 60-6,166.

41-306. Intersections.

Except in compliance with traffic control devices, no vehicle shall be parked or left standing for any purpose, except momentarily to load or discharge passengers, within 25 feet of the intersection or curb lines, or if none, then within 15 feet of the intersection of property lines, nor where said curb lines are painted yellow to indicate such prohibition. At hazardous intersections, designated by the Council, such prohibition may be made for 50 feet from the intersection curb line.

Statutory reference: Neb. RS 60-6,166.

41-307. Manner of parking; coasting.

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

(2) No person shall park any vehicle, or approach the curb with a vehicle, except when headed in the direction of the traffic. Vehicles, when parked, shall stand parallel with and adjacent to the curb or edge of the roadway, in such manner as to have both right wheels within 12 inches of the curb or edge of the roadway, and so as to leave at least four feet between the vehicle so parked and any other parked vehicles, except where the Council designates that vehicles shall be parked at an angle so as to have the front right wheel at the curb or edge of the roadway. Where stalls are designated either on the curb or pavement, vehicles shall be parked within such stalls. No person shall park a vehicle so as to obstruct a private driveway or drive for any period of time.

41-308. Mobile homes, trailers, and the like.

It shall be unlawful for any person to park or leave standing in on the streets or alleys of the City any mobile home, travel trailer, boat, boat trailer, pontoon, pontoon trailer, utility trailer, pickup camper, horse trailer, or any farm or construction machinery of any kind upon the public streets or alleys of the City, except for the purposes of loading and unloading and then only for the length of time necessary to load or unload the vehicle, trailer, or machinery; provided, however, the enforcement of this section shall be suspended during the period from April 1 to October 1 of each year if the vehicle, trailer, or machinery is parked so as to not violate any other provision of this chapter and does not create a traffic hazard due to its size or obstruction of the view of motorists or pedestrians.

It shall further be unlawful for any person to reside in any mobile home, travel trailer, or in any other motorized vehicle, of any kind, parked or left standing upon the public streets or alleys of the City.

41-309. Obstructing vehicle or pedestrian traffic.

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

41-310. Parking designation of streets.

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

41-311. Parking tags; destruction and disregard.

It shall be unlawful for any person to tear up or destroy a parking tag placed upon

any vehicle by the City Police, or to disregard the summons contained on such tag and fail to appear in court as directed by said tag.

41-312. Parking zones and vehicle restrictions.

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

(2) No-parking and limited parking zones.

(a) The Council may, by resolution, entirely prohibit, or fix a time limit for, the parking and stopping of vehicles on any street, streets, or district designated by such resolution, and the parking, or stopping, of any vehicle in any such street, streets, or district, for a period of time longer than fixed in such resolution shall constitute a violation of this chapter. No person shall park any vehicle for any period of time along that portion of the curb in any street of the City where said curb is painted yellow. Where said curb is painted white, a vehicle shall remain parked along the curb for no longer than 15 minutes.

(b) In addition to the statutorily required notice, the Council shall cause to be posted, in the parking area, signs which state the precise restriction placed on such parking area. Such signs shall be legible from the roadway and frequent enough to leave no doubt as to the boundaries of the parking area.

41-313. Prohibited purposes: display and repair.

It shall be unlawful for any person to park upon any street, alley, or public place within this City any vehicle displayed for sale. No person shall adjust or repair any automobile or motorcycle, or race the motor of same, while standing on the public streets or alleys of this City, 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.

41-314. Schools and theaters.

The Council may, by resolution, prohibit the parking or stopping, except for loading or unloading of passengers or freight, of vehicles at the curb on streets directly in front of any entrance to a schoolhouse, school building, or theater, and such curbs adjacent to the entrance of said schoolhouse, school building, or theater shall be painted yellow to indicate such prohibition.

41-315. Time limit on parking.

The parking of a motor vehicle on a public street for over 48 consecutive hours without moving such vehicle is unlawful, except where a different maximum time limit is posted.

41-316. Removal of illegally parked vehicles.

(1) Whenever any police officer shall find a vehicle standing upon a street or alley in violation of any of the provisions of this chapter, such individual may remove or have such vehicle removed or require the driver or other person in charge of the vehicle to move such vehicle to a position off the roadway of such street or alley or from such street or alley.

(2) The owner or other person lawfully entitled to the possession of any vehicle towed or stored shall be charged with the reasonable cost of towing and storage fees. Any such towing or storage fee shall be a lien on the vehicle prior to all other claims. Any person towing or storing a vehicle shall be entitled to retain possession of such vehicle until such charges are paid. The lien provided for in this section shall not apply to the contents of any vehicles.

Statutory Reference Neb. RS 60-6,165.

41-317. Snow emergency routes.

(1) Establishment of snow emergency routes. The City Manager is hereby authorized, upon approval by the City Council, to establish snow emergency routes upon any street or highway of the City and shall place appropriate signs, marks, lines, signals, or other traffic control devices indicating the existence of said snow emergency routes. The designation of any street, highway, or portion thereof as a snow emergency route shall in no way affect any previous designation of that street or highway as an arterial or other road designation

(2) Declaration of emergencies; automatic prohibition; prohibition of parking on snow emergency routes. Whenever the President of the Council or the City Manager shall find, on the basis of falling snow, sleet, or freezing rain or on the basis of an official forecast by the U.S. Weather Bureau of snow, sleet, or freezing rain, that weather conditions will make it necessary that motor vehicle traffic be expedited and that parking on City snow emergency routes be prohibited or restricted for snow plowing and other purposes, the President or the City Manager may place into effect a parking prohibition on all snow emergency routes by declaring that emergency conditions exit; provided, however, the provisions of this subsection (2) shall take effect automatically when the conditions set forth in subsection (3) herein take place. In such declaration of emergency conditions, the President or the City Manager shall state the time that said emergency shall be in effect, and from the time so designated all parking of vehicles on snow emergency routes shall be prohibited. While the prohibition is in effect, no person shall park or allow to remain parked any vehicle on any portion of a snow emergency route. Once in effect, the parking prohibition imposed under this subsection shall remain in effect until terminated by declaration of the President or the City Manager. However, nothing in this subsection shall be construed to permit parking at any time or place where it is forbidden by any other provision of law.

(3) Parking after snow. Whenever there may have fallen three or more inches of snow on the streets of the City during any 24-hour period, it shall be unlawful for any automobiles to be parked on any snow emergency route within the City until after such accumulated snow shall have been removed by snow removers provided by the City. Any automobile left parked in violation of this subsection may be ordered removed by the Chief of Police and such illegal parking shall constitute appointment of the Chief of

Police as agent of the owner and mortgagee thereof to contract with any other party to remove said automobile as provided this chapter. If such unlawfully parked automobile is not removed, and by reason of its presence any part of the streets of the City are impossible to plow clear of snow, the person in violation of this subsection shall be civilly liable to the City for any added plowing expense necessarily incurred as a result of such unlawful parking, unless the violator shall promptly clean such unplowed area himself or herself.

(4) Operation of motor vehicles on snow emergency routes. Whenever an emergency has been declared pursuant to this chapter, no person operating a motor vehicle on a snow emergency route shall allow such vehicle to become stalled or stuck.

(5) Stalled vehicle on snow emergency route. Whenever a motor vehicle becomes stalled for any reason, whether or not in violation of this chapter, on any snow emergency route on which there is a parking prohibition in effect, the person operating such vehicle shall take immediate action to have the vehicle towed or pushed off the roadway of such snow emergency route, either onto the nearest cross-street which is not a snow emergency route or to another appropriate location. No person shall abandon or leave his or her vehicle in the roadway of a snow emergency route except for the purpose of securing assistance during the actual time necessary to go to a nearby telephone or to a nearby garage, gasoline station, or other place of assistance and return without delay.

(6) Emergency declaration of the President of the Council or City Manager.

(a) The President of the Council or the City Manager shall cause each declaration of a snow emergency made by him or her, pursuant to this chapter, to be publicly announced by means of broadcast from broadcasting stations with a normal operating range covering the City and he or she may cause such a declaration to be further announced in a newspaper of general circulation when feasible. Each announcement shall describe the action taken by the President or the City Manager, including the time it became or will become effective, and shall specify the streets or areas affected. The President or the City Manager shall make or cause to be made a record of each time and date when any declaration is announced to the public by issuing an executive order as soon after the declaration of an emergency as is feasible.

(b) Whenever the President or the City Manager shall find that some or all of the conditions which gave rise to a parking prohibition placed in effect pursuant to the provisions of this chapter no longer exist, he or she may declare the prohibition terminated, in whole or in part, effective immediately upon announcement or at a later specified time.

(7) Provisions temporarily effective to take precedence. Any provision of this chapter which becomes effective by declaration of the President of the Council or City Manager upon the occurrence of a snow emergency, while temporarily in effect, takes precedence over other conflicting provisions of law normally in effect, except that it shall not take precedence over provisions of law relating to traffic accidents, emergency travel of authorized emergency vehicles, or emergency traffic directions by a police officer.

41-318. Snow accumulation deposited on public ways.

It shall be unlawful to deposit any snow removed from private property, on any

sidewalk, alley, street or other public ways within the City of Ogallala, or to deposit said snow in such a manner that in any way impairs visibility of, or hinders, blocks or impedes, pedestrian or motor vehicle traffic on any sidewalk, alley, street or other public ways within the City of Ogallala.

41-319. Trucks.

(1) Freight vehicles. Vehicles of an overall length of less than 18 feet, including load, while discharging or loading freight may back to the curb, but shall occupy as little of the street as possible.

(2) No truck parking areas. It shall be unlawful for the operator of any truck with an overall length of more than 18 feet to stop, park, or unload any such vehicle on a street which the Council has designated to be a “no truck parking area,” unless loading or unloading in an alley is impossible and then said vehicles may stop, stand, or unload only after the operator of said truck has obtained written permission from the City Police to do so. It shall be unlawful for the operator for 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 Council may, by resolution, provide truck parking areas adjoining, or adjacent to, the “no truck parking area,” 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. No truck, including oil tankers, shall park or stop for any period of time within the limits of any street outside the “no truck parking area” except for the purpose of loading or unloading the cargo thereof in the ordinary course of business except in the area or areas provided for by the Council by resolution, provided that the operator may stop and park his or her vehicle one time while en route through the City for a time no longer than 30 minutes for rest and meals. The stop referred to in the previous sentence shall not be within the “no truck parking area.” “No truck parking area” signs shall be erected and placed at or near each means of approach to said area by resolution of the Council.

(3) Trucks in residential districts. Except for pickup trucks, all trucks including tractor-trailers, semi-tractors, semi-trailers, motor carriers, common carriers, or contract carriers of property which stop or park on any street or alley within any residential district must park no less than 25 feet from an intersection, alley, or driveway of abutting property, and except for common carriers making a pickup or delivery, must be parked immediately adjacent to, and in front of, the residence of the truck operator. All semi-trailers stopped or parked in residential areas shall be attached to the semi-tractor and shall be unloaded except for any common carrier making a pick-up or delivery. Refrigeration units or other power units on parked tractor or trailer units are prohibited from operating, provided, however, that engines of parked semi-tractor units are allowed to run for 30 minutes during any 12-hour period. No carrier shall use or employ any portion of the parking space in any residential district for any other commercial purpose.

41-320. Violation procedure.

(1) There is hereby established within the Police Department a Violation Bureau for the collection of administrative fees and fines for parking violations. Such violations shall not be subject to prosecution in the courts, except when payment of the administrative fee and fine is not made within the time prescribed by this section. When

payment is not made within such time, the violation shall be prosecuted in the same manner as other violations of this code.

(2) The Violations Bureau shall collect and account for all monies paid pursuant to this section, issue receipts therefore, and keep records of all violators, showing the name, time, and date of violation and disposition. All monies collected shall be disbursed by the City as provided by law.

(3) Whenever any motor vehicle, with or without driver, is found parked, standing, or stopped in violation of this code or of any statute of the state relating to parking, all of which shall be referred to in this section as “parking violations,” the officer finding such vehicle shall take the registration number of the vehicle and may take any other information displayed on the vehicle which may identify the vehicle owner or operator, and shall conspicuously affix to such vehicle a “parking citation” on a form provided by the Chief of Police for such purpose, which form shall require the owner or operator to answer to the charge against him or her in accordance with this section.

(4) All parking citations for parking violations shall contain, in addition to any other information:

(a) The total amount of the administrative fee and fine if paid within five days.

(b) The total amount of the administrative fee and fine if paid within six to 15 days.

(c) The location where the payment of the administrative fee and fine may be made.

(d) A statement that a complaint will be filed after 15 days if the administrative fee and fine are not paid in that time.

(5) The administrative fee of $1 and a fine of $9 shall be assessed for each violation of the following if paid within five days and the administrative fee of $4 and a fine of $11 if paid within six to 15 days:

(a) Parking Areas (41-312(1)).

(b) Fire Hydrants and Fire Stations (41-305).

(c) Schools and Theaters (41-314).

(d) Declaration of Snow Emergencies (41-317(2)).

(e) Parking After Snow (41-317(3)).

(fi) Operation of Motor Vehicles on Snow Emergency Routes (41-317(4)).

(g) Stalled Vehicle on Snow Emergency Routes (41-317 (5)).

(6) All other improper parking violations including the following shall be subject to an administrative fee of $1 and a fine of $4 for each violation if paid within five days and an administrative fee of $4 and a fine of $6 for each violation if paid within six to 15 days:

(a) Manner of Parking (41-307(2)).

(b) Congested District (41-302).

(c) No Parking and Limited Parking Zones (41-312(2)).

(d) Obstructing Alley (41-301(1)).

(e) Parking in Alleys (41-301(2)).

(f) No Truck Parking Areas (41-319(2)).

(g) Intersections (41-306).

(h) Obstructing Vehicle or Pedestrian Traffic (41-309)

(i) Curbs (31-103(1)).

(j) Prohibited Purposes: Display or Repair (41-313).
(k) Mobile Homes, Trailers, and the Like (41-308).
(l) Time Limit on Parking (41-315).

(7) Any person charged with a parking violation may appear before the Violations Bureau and waive arraignment and right to a hearing and a plea of guilty by payment of the appropriate fine and administrative fee as established above.

(8) If any person charged with a parking violation does not appear in response to a parking citation within a period of five days, the Chief of Police shall, after the fifth day, cause the Violation Bureau to send the registered owner of the motor vehicle to which the parking citation was affixed a letter mailed to the last-known address of such person informing him or her of the violation and that if such letter is disregarded, he or she will become the subject of a complaint after 15 days from the date of the violation.

(9) The Chief of Police shall direct the Police Department to file a complaint against any person who has failed to dispose of a parking violation within 15 days. Such person, on conviction of such violation, shall be punished pursuant to section 41-901.

Presumption of parking violation. In any prosecution charging a violation of any law or regulation governing the standing or parking of a vehicle, proof that the particular vehicle described in the complaint was parked in violation of such law or regulation, together with proof that the defendant named in the complaint was at the time of such parking the registered owner of such vehicle, shall constitute in evidence a prima facie presumption that the registered owner of such vehicle was the person who parked or placed such vehicle at the point where and for the time during which such violation occurred.

Statutory reference: Neb. RS 18-1729, 60-680.

ARTICLE 4
RULES AND REGULATIONS

Section.

41-401. All terrain vehicles.
41-402. Backing.
41-403. Bicycle registration.
41-404. Bicycle operation.
41-405. Clinging to motor vehicles.
41-406. Driving abreast.
41-407. Driving across sidewalk; emerging from building.
41-408. Driving on new pavement.
41-409. Emergency vehicles.
41-410. Emissions.
41-411. Engine brakes.
41-412. Funeral processions.
41-413. Noise.
41-414. Railroad crossings.
41-415. Riding on Outside of vehicle

41-416. Snow mobiles.
41-417. Sound equipment and permits; signs.
41-418. U-turns.

41-401. All terrain vehicles.

(1) Public lands. All-terrain vehicles shall be prohibited from operation on the public lands owned by the City, except where allowed by resolution of the Council.

Historical reference: Ord. 900, passed 9-27-88.

41-402. Backing.

The driver of a vehicle shall not back the same unless such movement can be made safely; provided, such backing shall not exceed a distance of more than one-half block.

Statutory reference: Neb. RS 60-6,169.

41-403. Bicycle registration.

(1) Registration required. It shall be unlawful for any person to operate a bicycle upon any street, sidewalk, or other public place in the City without having first registered such bicycle and secured a registration tag therefore.

(2) Registration application. Application for registration and registration tags for bicycles shall be made by the owner in writing, upon forms furnished by the City Police Department. The bicycle to be registered shall be brought to the City Police at the time of presenting the application for the purpose of examination. The Chief of Police or some person authorized by him or her shall examine the bicycle, and if the mechanical condition thereof is such that it can be safely operated, he or she shall mark the application approved. The City Police Department shall, upon receiving such application, issue to the owner a registration tag which shall contain the registration number of the bicycle contained in the application. Said registration tag shall be affixed to the bicycle by the City Police Department.

41-404. Bicycle operation.

(1) No person shall operate a bicycle on a street or highway within the City with another person on the handlebars or in any position in front of the operator.

(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 highways.

(3) Persons operating bicycles shall observe all traffic signs and stop at all stop signs.

(4) No bicycle shall be operated on any street or highway from sunset to sunrise without a headlight visible from the front thereof for not less than 500 feet on a clear night and a red reflector on the rear of a type which shall be visible on a clear night from all distances between 100 feet and 600 feet to the rear when directly in front of lawful lower beams of headlights on a motor vehicle. A red light visible from a distance of 500 feet to the rear may be used in addition to such red reflector.

(5) 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.

(6) Any person who operates a bicycle upon a roadway at less than the normal speed of traffic at the time and place and under conditions then existing shall ride as near to the right-hand curb or right-hand edge of the roadway as practicable except when:

(a) Overtaking and passing another bicycle or vehicle proceeding in the same direction;

(b) Preparing for a left turn onto a private road or driveway or at an intersection;

(c) Reasonably necessary to avoid conditions that make it unsafe to continue along the right-hand curb or right-hand edge of the roadway, including fixed or moving objects, stopped or moving vehicles, bicycles, pedestrians, animals, or surface hazards;

(d) Riding upon a lane of substandard width which is too narrow for a bicycle and a vehicle to travel safely side by side within the lane, or

(e) Lawfully operating a bicycle on the paved shoulders of a highway included in the state highway system as provided in Neb. RS 60-6,142.

(7) 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 left-hand curb or left-hand edge of the roadway as practicable. Whenever a person operating a bicycle leaves the roadway to ride on the paved shoulder or leaves the paved shoulder to enter the roadway, the person shall clearly signal his or her intention and yield the right-of-way to all other vehicles.

(8) No person shall park a bicycle on any sidewalk unless a bicycle stand is located on said sidewalk.

(9) No person shall operate a bicycle on the sidewalks within the business district.

Statutory reference: Neb. RS 60-6,315, 60-6,317, 60-6,318.

41-405. Clinging to motor vehicles.

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

Statutory reference: Neb. RS 60-6,316.

41-406. 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 that motorcycles may be driven no more than two abreast in a single lane.

Statutory reference: Neb. RS 60-6,139, 60-6,308.

41-407. Driving across sidewalk; emerging from building.

All vehicles before crossing a sidewalk or emerging from a garage, alley, filling station, or other place within the “congested district” 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 in relation to the condition of the street and the traffic thereon.

Statutory reference: Neb. RS 60-6,149.

41-408. Driving on new pavement.

No person shall drive any vehicle over or across any newly laid or repaired pavement where there has been placed a barrier or at which there is a person or sign warning persons against driving over such pavement.

41-409. Emergency vehicles.

Upon the approach of any authorized emergency vehicle, every vehicle 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 case the vehicle shall drive clear of the street intersection and then stop. Every vehicle along the route of such emergency vehicle shall immediately move to a position as near the right-hand curb as possible and remain there until such authorized emergency vehicle or vehicles have passed, provided that the vehicles are operated on official business and the drivers thereof make use of proper visual or audible signals.

Statutory reference: Neb. RS 60-6,151.

41-410. Emissions.

It shall be unlawful for any person to operate upon the public ways any vehicle which emits any unnecessary smoke, gas, steam, offensive odor, or fuel residues of any sort.

41-411. Engine brakes.

It shall be unlawful for any person to use engine brakes on trucks within the City limits of this City.

41-412. 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 procession or cortege except with the permission of a police officer.

Statutory reference: Neb. RS 60-6,140.

41-413. Noise.

No person shall make or cause to be made any unnecessary noise with any signal device, provided that this section shall not apply to emergency vehicles.

41-414. Railroad crossings.

Each watch person, gate person, train person, or other agent of any railroad or railway company, if and when stationed at a railway crossing, shall be vested with the authority and the duty to regulate and control traffic of vehicles at said crossing in such a manner as to prevent congestion and accidents. It shall be unlawful for any person to violate any order or signal given by any such person.

41-415 Riding on Outside of 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. No person shall hang out of a window of a moving vehicle.

Statutory reference: Neb. RS 60-6,179.

41-416. Snow mobiles.

(1) Every snowmobile operated within the City shall be registered with the state, as required by law.

(2) Snowmobiles shall be prohibited from operation on the public lands owned by the City, except where allowed by resolution of the Council.

Statutory reference: Neb. RS 60-6,321, 60-6,338, 60-2016.

41-417. Sound equipment and permits; signs.

No person shall operate or permit to be operated any sound-producing or sound-amplifying equipment in or upon any vehicle while moving, parked, or stopped therein without previously obtaining a permit from the City Council to do so. No motor vehicle shall have any poster, sign, picture, or advertising material on the windshield or glass side of the side or rear window thereof, and no person shall by himself or herself or through his or her agent place or post any poster, sign, picture, or advertising material on the windshield or glass of either his or her own motor vehicle or that of any other person.

Statutory reference: Neb. RS 60-680.

41-418. U-turns.

No vehicle shall be turned so as to proceed in the opposite direction except at an uncontrolled intersection.

Statutory reference: Neb. RS 60-6,160.

ARTICLE 5

SPEED LIMITS

Section.
41-501. Construction zone; signs; authority.
41-502. Maximum speed.
41-503. School zones.

41-501. Construction zone; signs; authority.

(1) The maximum speed limit through any maintenance, repair, or construction zone on the City streets of Ogallala shall be twenty-five miles per hour.

(2) Such speed limits shall take effect only after appropriate signs giving notice of the speed limit are erected or displayed in a conspicuous place in advance of the area where the maintenance, repair, or construction activity is or will be taking place. Such signs shall conform to the Manual on Uniform Traffic Control Devices and shall be regulatory signs imposing a legal obligation and restriction on all traffic proceeding into the maintenance, construction, or repair zone. The signs may be displayed upon a fixed, variable, or movable stand. While maintenance, construction, or repair is being performed, the signs may be mounted upon moving vehicles displaying such signs in advance of the maintenance zone.

(3) The Street Department Superintendent may increase the speed limit through any street maintenance, repair, or construction zone in increments of five miles per hour if the speed set does not exceed the maximum speed limits established in section 41-502. Such increased speed limit through a maintenance, repair, or construction zone shall be effective when the Street Department Superintendent gives a written order for such increase and signs posting such speed limits are erected or displayed.

(4) The Ogallala Street Department shall post signs in maintenance, repair, or constructions zones which inform motorists that the fine for exceeding the posted speed limit in such zones is doubled.

Statutory reference: Neb. RS 60-6,190, 60-6,188.

41-502. Maximum speed.

No person shall operate a motor vehicle on any street, or other place within the corporate limits at a rate of speed greater than 25 miles per hour, except as hereinafter provided. No person shall operate a motor vehicle on any alley within the corporate limits at a rate of speed greater than 15 miles per hour, except as hereinafter provided. Where the Council determines that traffic and road conditions warrant, the speed limit may be increased by resolution. Substantial metal markers and signs shall be erected and maintained along any and all stretches of roadway which have been so designated by the Council. The Council shall cause a marker to be placed indicating the point at which the speed limit changes.

Statutory reference: Neb. RS 60-6,185, 60-6,186, 60-6,190.

41-503. School zones.

It shall be unlawful for the driver of any vehicle when passing premises on which

school buildings are located and which are used for school purposes, during school recess or while children are going to or leaving school during the opening or closing hours to drive such vehicle at a rate of speed in excess of 20 miles per hour past such premises.

Statutory reference: Neb. RS 60-6,190.

ARTICLE 6
STREET DESIGNATIONS

Section.

41-601. Arterial streets.
41-602. Designated truck routes.
41-603. One-way streets.
41-604. Recreational linear corridors.
41-605. Truck routes.

41-601. Arterial streets.

(1) The routes by which the following state and federal highways traverse the City shall be designated as arterial streets within the City:

(a) State and Federal Highway No. 30.

(b) State Highway No. 61.

(c) State and Federal Highway No. 26.

(d) Any other state or federal highway which should now or hereinafter traverse the City.

(2) It shall be unlawful for the operator of any motor vehicle to enter any intersection with an arterial street without coming to a complete stop at said intersection prior to entering it.

Statutory reference: Neb. RS 60-680.

41-602. Designated truck routes.

In accordance with this Chapter, and when signs are erected giving notice thereof, the following truck routes are established:

(1) Through truck traffic shall follow Highways #30 and #26-61 through the City.

41-603. One-way streets.

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

Statutory reference: Neb. RS 60-680.

41-604. Recreational linear corridors.

It shall be unlawful for any person to operate a motor vehicle as defined in Neb. RS Chapter 60, moped, golf cart, go-cart, riding lawn mower, garden tractor, all-terrain

vehicle, minibike, or other off-road vehicle on any recreational linear corridor located in the corporate limits. This section shall not apply to emergency vehicles or municipal vehicles being used for maintenance of the corridor. Recreational linear corridors shall be designated by ordinance, and a copy of a map showing the locations of the corridors shall be kept on file in the office of the City Clerk.

41-605. Truck routes.

(1) Definitions

(a) Road means any street, highway or route within the corporate limits of the City of Ogallala, Nebraska.

(b) Semi-trailer means every vehicle with or without motive power, designed for carrying persons or property and for being drawn by a motor vehicle and so constructed that some part of its weight and that of its load rests upon what is carried by some other vehicle.

(c) Trailer means every vehicle with or without motive power, designed for carrying persons or property and for being drawn by a motor vehicle and so constructed that no part of its weight rests upon the towing vehicle.

(d) Truck means every motor vehicle which is designed, used or maintained primarily for the transportation of property, except a pickup truck or a van designed so as to carry loads of no more than two tons.

(e) Truck tractor means every motor vehicle designed and used primarily for drawing other vehicles, and not so constructed as to carry a load other than a part of the weight of the vehicle and load so drawn.

(f) Person includes an agency, company, organization, firm, association, partnership, joint venture, corporation, limited liability company, trust or equivalent entity or a combination of any of them as well as a natural person.

(2) Rule of Construction. Any word or term not defined herein shall be considered to be defined in accordance with its common or standard definition.

(3) Truck Routes. The following roads in Ogallala, Nebraska to the exclusion of all other roads, are hereby designated as Truck Routes and classified for truck traffic:

(a) US Highway 30, US Highway 26, and NE Highway 61.

(b) Goodall Drive, Clarice Drive, West Riverdale and East Riverdale.

(4) Prohibition Against Travel on Other Than Truck Routes. Except as expressly permitted under this Ordinance, no person shall operate a truck or truck-tractor and semi-trailer or truck-tractor and trailer combination, or truck and trailer combination in Ogallala, Nebraska, on any road other than a designated Truck Route.

(5) Exemptions. The Truck Route limitations described in this Ordinance shall not apply to:

(a) Emergency vehicles of the Police Department, Fire Department, or Street Department, any public utility vehicle where actually engaged in the performance of emergency duties to be performed by said public utilities, any vehicle owned by or performing work for the United States of America or City of Ogallala.

(6) Pick-Ups Deliveries, Service Calls. A vehicle which would otherwise be restricted to Truck Routes and which is being used to make pick-ups, deliveries or service calls in the City of Ogallala on roads other than designated Truck Routes may travel upon any street where such delivery or pick-up is to be made, but shall reach or

leave such location on said street by traveling over the shortest route from the nearest designated Truck Route; however, a direct travel shall be allowed between points of pick up or delivery, without necessity of returning to Truck Routes.

(7) Leaving or Returning to Home or Place of Business. Nothing herein contained shall prevent a truck or truck-trailer and semi-trailer, or truck tractor and trailer combination, or truck and trailer combination from leaving or returning to its customary storage location at the owner or operator's personal residence or a commercial or industrial location in the City of Ogallala, provided the most direct route to and from a designated Truck Route is utilized.

(8) Special Permits. The City Manger shall have authority to grant a written permit in special cases which would otherwise be in violation of the provisions of this Ordinance. Said permit shall be issued, at the discretion of the City Manager, after application therefore and shall describe the vehicle, the time and dates of travel, and the route to be taken by the vehicle. The City Council shall, by Resolution, set a fee for special permits.

(9) Signs. The City Manger or his or her agent, shall procure and have posted appropriate signs along the designated Truck Routes as required by the laws of the State of Nebraska.

(10) Penalties. Any person who violates any provision of this Ordinance shall be guilty of a misdemeanor and upon conviction shall be fined not more than $1,000.00 or shall be imprisoned in the County Jail for not more than ninety (90) days, or both such fine and imprisonment at the discretion of the Court.

(11) Severability. This Ordinance and the various parts, sections, subsections, sentences, phrases and clauses thereof are hereby declared to be severable. If any part, sentence, paragraph, section, subsection, phrase or clause is adjudged unconstitutional or invalid, it is hereby declared that the remainder of this Ordinance shall not be affected thereby.

Statutory Reference: Neb. RS 60-681.

ARTICLE 7
TRAFFIC CONTROL DEVICES

Section.

41-701. Crosswalks.
41-702. Signs and signals.
41-703. Traffic lane designation.

41-701. Crosswalks.

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

Statutory reference: Neb. RS 60-680.

41-702. Signs and signals.

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

Statutory reference: Neb. RS 60-6,119 et seq.

41-703. Traffic lane designation.

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

Statutory reference: Neb. RS 60-680.

ARTICLE 8
ADMINISTRATION AND ENFORCEMENT

Section.

41-801. Emergency regulations.
41-802. Enforcement authority.
41-803. Refusal to obey police.
41-804. Traffic officers.

41-801. Emergency regulations.

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

Statutory reference: Neb. RS 81-2005.

41-802. Enforcement authority.

Any peace officer is hereby authorized to enforce the provisions of this chapter and 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.

Statutory reference: Neb. RS 60-683
Historical reference: Ord. 900, passed 9-27-88

41-803. Refusal to obey police.

It shall be unlawful for any person to refuse or fail to comply with any lawful

order, signal, or direction of a police officer, including identifying themselves to an officer in the course of an investigation.

Statutory reference: Neb. RS 81-2008

41-804. Traffic officers.

The Council or 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.

Statutory reference: Neb. RS 81-2005.

ARTICLE 9
ALL-TERRAIN VEHICLES AND UTILITY-TYPE VEHICLES.

Section.

41-901. All-Terrain Vehicles and Utility-Type Vehicles.

41-901. All-Terrain Vehicles and Utility-Type Vehicles.

Street or Highway means the entire width between the boundary limits of any street, road, avenue, boulevard or way which is publically maintained when any part thereof is open to the use of the public for purposes of vehicular travel.

(1) For the purposes of this section, All-Terrain Vehicle means any motorized off-highway vehicle which is:

(a) Fifty inches (50") or less in width,

(b) Has a dry weight of nine hundred pounds (900 lbs.) or less,

(c) Travels on four (4) or more low-pressure tires,

(d) Is designed for operator use only with no passengers or is specifically designed by the original manufacturer for the operator and one (1) passenger,

(e) Has a seat or saddle designed to be straddled by the operator, and

(f) Has handlebars or any other steering assembly for steering control.

(2) For the purposes of this section, Utility-Type Vehicle means any motorized off-highway vehicle which:

(a) Is not less than forty-eight inches (48"), nor more than seventy-four inches (74") in width,

(b) Is not more than one hundred thirty-five inches (135"), including the bumper, in length,

(c) Has a dry weight of not less than nine hundred pounds, nor more than two thousand pounds,

(d) Travels on four or more low-pressure tires, and

(e) Is equipped with a steering wheel and bench or bucket-type seating designed for at least two people to sit side-by-side. A utility-type vehicle does not include golf

carts or low-speed vehicles.

(f) May include Occupant Protection Systems.

(3) An All-Terrain Vehicle or Utility-Type Vehicle may be operated on streets and highways, other than a controlled-access highway with more than two (2) marked traffic lanes, within the corporate limits of the City of Ogallala, only if the operator and the vehicle comply with the provisions of this Ordinance.

(4) It is unlawful to operate a three-wheeled All-Terrain Vehicle or Utility-Type Vehicle within the city limits of the City of Ogallala.

(5) An All-Terrain Vehicle or Utility-Type Vehicle shall not be operated at a speed in excess of thirty miles per hour (30 mph) and shall observe posted speed limits if lower than thirty miles per hour.

(6) When operating an All-Terrain Vehicle or Utility-Type Vehicle, the headlight and taillight of the vehicle shall be on. Whenever an All-Terrain Vehicle or Utility-Type Vehicle is operated within the city, all cargo must be securely attached to the vehicle in such a manner that the cargo remains secured without any assistance of the operator.

(7) Any owner of an All-Terrain Vehicle or Utility-Type Vehicle who wishes to use a trailer shall insure that the trailer has functioning taillights(s) and brake light(s) and that the trailer is connected by a ball mount or pin type hitch. Whenever a trailer is being used to haul cargo, all cargo must be securely attached to the trailer in such a manner that the cargo remains secured without any assistance of the operator.

(8). Every All-Terrain Vehicle or Utility-Type Vehicle shall be equipped with a bicycle safety flag which extends not less than seven feet (7') above ground attached to the rear of the vehicle. The safety flag shall be triangular in shape with an area of not less than thirty square inches and shall be day-glow in color. Every All-Terrain Vehicle and Utility-Type Vehicle shall also be equipped with:

(a) A brake system maintained in good operating condition, including functioning brake light(s);

(b) An adequate muffler system in good working condition; and

(c) A United States Forest Service Qualified Spark Arrester.

(d) No driver of a Utility-Type Vehicle that is manufactured with Occupant Protection Systems shall operate a Utility-Type Vehicle upon any Ogallala City Street unless the driver and each occupant in the Utility-Type Vehicle are wearing Occupant Protection Systems and all Occupant Protection Systems worn are properly adjusted and fastened in compliance with Neb. Rev. Stat. §60-6,270.

(9) No person shall:

(a) Equip the exhaust system of an All-Terrain Vehicle or Utility-Type Vehicle with a cutout, bypass or similar device;

(b) Operate an All-Terrain Vehicle or Utility-Type Vehicle with an exhaust system so modified; or

(c) Operate an All-Terrain Vehicle or Utility-Type Vehicle with the spark arrester removed or modified, except for use in a closed-course competition event.

(d) Operate an All-Terrain Vehicle or Utility-Type Vehicle on any Ogallala City Street from sunset to sunrise.

(10) Any person operating an All-Terrain Vehicle or Utility-Type Vehicle shall be at least eighteen (18) years old and have obtained a valid Class O Operator's License or a farm permit from the Nebraska Department of Motor Vehicles pursuant to the Motor

Vehicle Operator's License Act.

(11) No passenger is allowed on any All-Terrain Vehicle. Only one passenger is allowed in a Utility-Type Vehicle unless the Utility-Type Vehicle is equipped with rear seats.

(12) Any person operating an All-Terrain Vehicle or Utility-Type Vehicle shall have liability insurance coverage for the All-Terrain Vehicle or Utility-Type Vehicle while operating the All-Terrain Vehicle or Utility-Type Vehicle within the City of Ogallala. The liability insurance coverage required herein shall be provided by policies of liability insurance consistent with the requirements of the Motor Vehicle Safety Responsibility Act, Neb. Rev. Stat. Sec. 60-501 et. seq. to the same extent as if an All-Terrain Vehicle and a Utility Type Vehicle were defined as a motor vehicle therein. For these purpose, the Motor Vehicle Safety Responsibility Act is expressly incorporated herein by this reference. The person operating the All-Terrain Vehicle or Utility-Type Vehicle shall provide proof of such insurance coverage to any peace officer requesting such proof within five (5) days of such request. It shall be unlawful for any person to operate any All-Terrain Vehicle or Utility-Type Vehicle within the City of Ogallala until the owner has demonstrated proof of insurance to the Ogallala Police Department and obtained an insurance decal for the current year. The Ogallala Police Department will issue a decal for the current year that must be affixed to the All-Terrain Vehicle or Utility-Type Vehicle in a conspicuous place. The City of Ogallala will charge a fee set by resolution of the governing body for the issuance of the permit. A copy of the said resolution shall be kept on file at the office of the City Clerk and shall be available for inspection at any reasonable hour.

(13) All-Terrain Vehicles and Utility-Type Vehicles may be operated on streets and highways without complying with paragraphs 3 through 11 of this Ordinance while in parades which have been authorized by the State of Nebraska, any department, board, commission or political subdivision of the State of Nebraska.

(14) An All-Terrain Vehicle or Utility-Type Vehicle shall not be operated on any controlled-access highway with more than two (2) marked traffic lanes, and the crossing of any controlled-access highway with more than two (2) marked traffic lanes shall not be permitted. The crossing of any one of these streets or avenues shall be permitted by an All-Terrain Vehicle or Utility-Type Vehicle if:

(a) The crossing is made at an angle of approximately ninety degrees (90°) to the direction of the street or avenue and at a place where no obstruction prevents a quick and safe crossing;

(b) The vehicle is brought to a complete stop before crossing the shoulder or roadway of the street or avenue;

(c) The operator yields the right-of-way to all oncoming traffic that constitutes an immediate potential hazard;

(d) The crossing is made only at an intersection of such street or avenue with another street or avenue; and

(e) Both the headlight and taillight of the vehicle are on when the crossing is made.

(15) If an accident results in the death of any person or in the injury of any person which requires 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 by Neb. Rev. Stat. §60-699.

(16) Any person who violates any provision of this Ordinance shall be punished as provided in 41-1001 of the Ogallala Municipal Code, unless otherwise provided for in this ordinance. In addition to any penalties for violation hereof, the Ogallala Police Department may impound any All-Terrain Vehicle or Utility-Type Vehicle when operated in violation of Nebraska law or city ordinance, in the same situation as any violation in connection with a motor vehicle.

ARTICLE 10
PENALTY

Section.

41-1001. Penalty.

41-1001. Penalty.

(1) Penalty amounts. Any person who violates any of the prohibitions or provisions of any section of this chapter shall be deemed guilty of a misdemeanor. Unless otherwise specified in this chapter or by statute, the penalty for such violation shall be in any amount not to exceed $1,000, in the discretion of the court; and; provided, whenever any section of this chapter shall declare a nuisance, a violation of that section shall be penalized by a fine of not more than $1,000, in which case a new violation shall be deemed to have been committed every 24 hours of such failure to comply.

(2) Abatement of nuisance.

(a) Whenever a nuisance exists as defined in this chapter, the City may proceed by a suit in equity to enjoin and abate the same, in the manner provided by law.

(b) Whenever in any action it is established that a nuisance exits, the court may, together with the fine or penalty imposed, enter an order of abatement as a part of the judgment in the case.

(3) Restitution. The court may, together with the fine or penalty imposed, enter an order of restitution as part of the judgment in the case.

Statutory reference: Neb. RS 16-225, 16-240, 16-246, 18-1720, 18-1729, 60-6,362, 60-689

Historical reference; Ord. 900, passed 9-27-88.

CHAPTER 42
WASTEWATER

Article.

1. Definitions.
2. Service.
3. Rates and Billing.
4. Rules and Regulations.
5. Building Sewer.
6. Discharges.
7. Administration and Enforcement.
8. Penalty.

ARTICLE 1
DEFINITIONS

Section.

42-101. Definitions.

42-101. Definitions.

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

(1) Biochemical Oxygen Demand (BOD) shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days at 20°C, expressed in milligrams per liter.

(2) Building drain or house drain shall mean that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, or other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five feet (1.5 meters) outside the inner face of the building wall.

(3) Building sewer shall mean the extension from the building drain to the public sewer or other place of disposal, also called a House Connection.

(4) Combined sewer shall mean a sewer intended to receive both wastewater and storm or surface water.

(5) Consumer shall mean all users of the City wastewater system and the owners and tenants of real estate and buildings connected with said sewerage system or served thereby, and all users of said system who in any way use the same or discharge sanitary sewage, industrial wastes, water, or other liquids either directly or indirectly into the sewerage system.

(6) Easement shall mean an acquired legal right for the specific use of land owned by others.

(7) Floatable oil shall mean oil, fat, or grease in a physical state such that it will separate by gravity from wastewater by treatment in an approved pretreatment facility. A wastewater shall be considered free of floatable fat if it is properly pretreated and the wastewater does not interfere with the collection system.

(8) Garbage shall mean the animal and vegetable waste resulting from the handling, preparation, cooking, and serving of foods.

(9) Hearing Board shall mean the Board appointed according to provisions of this chapter.

(10) Industrial wastes shall mean the liquid wastes from industrial manufacturing processes, trade, or business as distinct from sanitary sewage.

(11) Local ventilating pipe shall mean any pipe through which foul air is removed from a room or fixture.

(12) May shall mean a permissive term.

(13) Natural outlet shall mean any outlet, including storm sewers and combined sewer overflows, into a watercourse, pond, ditch, lake, or other body of surface or groundwater.

(14) Normal sewage shall mean sewage not exceeding maximum tolerance of contamination of 300 milligrams per liter BOD or 350 milligrams per liter of suspended solids.

(15) Parts per million shall mean a weight-to-weight ratio. The parts per million value multiplied by the factor 8.345 shall be equivalent to pounds per million gallons of water.

(16) Person shall mean any individual, firm, company, association, society,

corporation, or group.

(17) pH shall mean the logarithm of the reciprocal of the hydrogen-ion concentration. The concentration is the weight of hydrogen ions in grams per liter of solution. Neutral water, for example, has a pH value of 7 and a hydrogen-ion concentration of 107.

(18) Plumbing fixtures shall mean receptacles intended to receive and discharge liquid or water-carried wastes into the sewer system with which they are connected.

(19) 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 ½-inch (1.27 centimeters) in any dimension.

(20) Public sewer shall mean a common sewer controlled by a governmental agency or public utility.

(21) Replacement shall mean expenditures for obtaining and installing equipment, accessories, or appurtenances which are necessary during the service life of the treatment works to maintain the capacity and performance for which such works were designed and constructed.

(22) Sanitary sewer shall mean a sewer that carries liquid and water-carried wastes from residences, commercial buildings, industrial plants, and institutions together with minor quantities of ground, storm, and surface waters that are not admitted intentionally.

(23) Service charge shall mean the basic assessment levied on all users of the public sewer system whose waste does not exceed in strength the concentration values established as representative of normal sewage.

(24) Sewage shall mean the spent water of a community. The preferred term is Wastewater.

(25) Sewer shall mean a pipe or conduit that carries wastewater or drainage water.

(26) Sewer system shall mean all facilities for collecting, pumping, treating, and disposing of sewage.

(27) Shall shall mean a mandatory term.

(28) Single premises shall mean a single lot or tract of land under one ownership.

(29) Sludge shall mean any discharge of water or wastewater which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than 15 minutes more than five times the average 24-hour concentration or flows during normal operation, and shall adversely affect the performance of the wastewater treatment works.

(30) Soil pipe shall mean any pipe which conveys the discharge of water closets with or without the discharge from other fixtures to the house or building drain.

(31) Standard methods shall mean the examination and analytical procedures set forth in the most recent editions of “Standard Methods for the Examination of Water and Wastewater” published jointly by the American Public Health Association.

(32) Storm drain or storm sewer shall mean a drain or sewer for conveying water, groundwater, subsurface water, or unpolluted water from any source.

(33) Surcharge shall mean the assessment in addition to the service charge which is levied on those persons whose wastes are greater in strength than the

concentration values established as representative of normal sewage.

(34) Suspended solids shall mean total suspended matter that either floats on the surface of, or is in suspension in, water, wastewater, or other liquids, and that is removable by laboratory filtering as prescribed in “Standard Methods for the Examination of Water and Wastewater,” expressed in milligrams per liter (mg/l).

(35) 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.

(36) Trap seal shall mean the vertical distance between the crown weir and the dip of the trap.

(37) Unpolluted water shall mean water of quality equal to or better than the effluent criteria of the current DEQ permit or water that would not cause violation of receiving water quality standards and would not be benefited by discharge into the wastewater treatment works.

(38) Vent pipe shall mean any pipe provided to ventilate a house or building drainage system and to prevent trap siphonage and back pressure.

(39) Waste pipe shall mean any pipe which receives the discharge of any fixture, except water closets, and conveys the same to the house drain, soil pipe, or waste stack.

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

(41) Wastewater Treatment Works shall mean the structures, equipment, and processes required to collect, carry away, and treat domestic and industrial wastes and dispose of the effluent.

(42) Water Pollution Control Facility shall mean an arrangement of devices and structures for treating wastewater, industrial wastes, and sludge. Sometimes used as synonymous with Waste Treatment Plant or Wastewater Treatment Plant.

(43) Watercourse shall mean a natural or artificial channel for the passage of water either continuously or intermittently.

ARTICLE 2
SERVICE

Section.

42-201. Service applications.
42-202. Service deposit.
42-203. Connection and connection fees.
42-204. Service contracts.
42-205. Installation, connection, and excavation; permits.
42-206. Contractors.
42-207. Repair and replacement.

42-201. Service applications.

(1) Application for permits to make connection with the City wastewater system

must be in writing and signed by the owner or authorized agent of the owner of the property to be drained and be filed in the office of the City Clerk.

(2) The City shall not incur any cost or expense beyond its commercial mains in providing the means of such service inside and outside its corporate limits.

(3) Permits granted hereunder shall be subject to the condition that the lot owners shall take all risk of damage that may result from water settling back on their premises from the main sewer.

Statutory reference: Neb. RS 18-503, 18-509

Historical reference: Am. Ord. 843, passed 2-11-86; Am. Ord. 963, passed 4-9-91

42-202. Service deposit.

(1) Said applicant for sewer service shall accompany his or her application with a service deposit in an amount set by the Council unless said applicant has a deposit on file for water service at the same location. Said service deposit shall be applied to the applicant's account at the end of twelve months of continuous service providing no more than one disconnection notice has been issued on that account during that twelve month period. The City may waive the service deposit if the applicant/customer supplies the City with two acceptable letters of reference from previous utility providers that verify the applicant/customer has not had a late payment or utility disconnect within the previous twelve months. If the City waives the service deposit after the deposit has been made, the City will credit the deposit amount to the customer's account.

(2) If said applicant is an individual or entity who has previously left the city with an unpaid utility bill, then the service deposit shall be three times the amount set by the Council.

(3) (a) If any consumer has received a total of two disconnection notices in any twelve months of continuous service, an additional deposit shall be required, which shall be the amount of the initial deposit, thereby increasing the total amount on deposit to double the normal service deposit.

(b) If any consumer has received a total of four disconnection notices in any twelve months of continuous service, a third deposit shall be required, which shall be the amount of the initial deposit, thereby increasing the total amount on deposit to triple the normal service deposit.

(4)(a) If a consumer's check or automatic bank withdrawal is not honored by the bank for reason of insufficient funds or no funds, the City shall initiate the appropriate procedure on said consumer's account as though no payment had been made. Consumer shall also be liable for non-sufficient funds (NSF) fee, as established by resolution, for insufficient funds check or non-honored automatic bank withdrawal.

(b) If there is a second occurrence of a consumer's check or automatic bank withdrawal not being honored by the bank for reason of insufficient funds or no funds in any twelve months of continuous service, an additional deposit shall be required, which shall be the amount of the initial deposit, thereby increasing the total amount on deposit to double the normal service deposit. Consumer shall also be liable for non-sufficient funds (NSF) fee, as established by resolution, for insufficient funds check or non-honored automatic bank withdrawal.

(c) If there is a third occurrence of a consumer's check or automatic bank withdrawal not being honored by the bank for reason of insufficient funds or no funds in any twelve months of continuous service, an additional deposit shall be required, which

shall be the amount of the initial deposit, thereby increasing the total amount on deposit to triple the normal service deposit. Consumer shall also be liable for non-sufficient funds (NSF) fee, as established by resolution, for insufficient funds check or non-honored automatic bank withdrawal.

(5) If a consumer has been required to make a new or additional deposit because of disconnection notices or dishonored checks or bank withdrawals, the amount so required to be on deposit shall not be returned by the Clerk until a period of thirty-six months of continuous service has elapsed in which no disconnection notice has been issued, and there have been no instances of dishonored checks or bank withdrawals.

Historical reference: Ord. 1241 passed 6-12-07

42-203. Connection and connection fees.

(1) Customers of the City wishing to connect to the sewer main shall pay a connection fee which shall amount to the cost of all materials furnished by the City plus a fee for labor, as set by resolution of the Council, a copy of which shall be kept available for public inspection in the office of the City Clerk.

(2) Material to be supplied by the City shall consist only of the material necessary to make a connection to the sewer main. No sewer service line shall be provided.

(3) The labor to be furnished by the City shall consist only of the actual tapping of the sewer main. It shall be unlawful for any person, except such persons as may be specifically authorized by the City Manager, to tap the sewer mains of the City or insert saddles thereon under any circumstances. The City shall not perform any excavation as part of the tap or connection. It shall be the responsibility of the customer to expose the main to be tapped.

(4) All applicants for connection to the City's sewer system which seek to connect to the system where a Sewer Extension District has been created and whose property shall not have been charged by way of special assessments for said sewer service, shall pay in addition to the deposit required by the Municipal Code, a sewer connection fee to the City Clerk/Treasurer, which sewer connection fee shall be based upon the same formula used to determine the amount of special assessments charged in the original district; provided that no connection shall be made to the sewer system until such deposit and appropriate sewer connection fee shall have been paid in full.

(5) To prevent such settling back of water the owner shall be required, at the owner's expense, to install and maintain in good repair a self-acting back-flow or check valve.

Statutory reference: Neb. RS 18-503, 18-509

42-204. 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 move from the premises where service is furnished, or if the said premises where service is furnished is destroyed by fire or other casualty, he or she shall at once inform the City Manager who shall cause the sewer service to be shut off

from the premises. If the customer should fail to give notice, he or she shall be charged for that period of time until the official in charge of sewers is otherwise advised of such circumstances.

42-205. Installation, connection, and excavation; permits.

(1) No connection to a sewer main or lateral of the City shall be made prior to obtaining a permit from the City Manager. Such permit shall specify the property to be served by such sewer tap, the size of the service line to be laid into the sewer main, the method of entrance into the sewer main either through an existing Y or T branch or by sewer saddle installed by the City, and such other information as may be deemed necessary and appropriate.

(2) Connections to the main sewer or laterals shall be made into an exiting Y or T branch installed at the time of the construction of the sewer line or into a Y or T saddle installed by the City. No other entrances shall be made into the City sewer main other than those specified above. In those cases where an entrance into the sewer main is requested which requires the installation of a saddle, the applicant will apply at least 48 hours in advance of the time that the tap is required.

(3) 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. The customer shall comply with all procedures required by the City Manager in order to accomplish the sewer tap including the excavation of dirt down to the sewer line, the clearing of dirt around the sewer at the point where the tap is requested, and the proper back-filling around the sewer main after the saddle has been installed. All excavations in the public streets or alleys shall be properly back-filled as provided in this code. Every building shall have an independent connection with a public or private sewer.

(4) No person shall leave an excavation made in the street, alley, or sidewalk open at any time without a barricade and, during the night, warning lights. After the house sewer is laid, the public ways and property shall be restored to good condition. If the excavation in the public ways and property is left open or unfinished for a period of 24 hours or more, the City Manager shall have the duty to finish or correct the work, and all expenses so incurred shall be charged to the owner, occupant, or lessee of the property. All installation shall be done under the supervision and strictly in accordance with the rules, regulations, and specifications for such installation prescribed by the City Manager; provided, that the rules, regulations, and specifications have been reviewed and approved by the Council.

42-206. Contractors.

It shall be unlawful for any person other than a licensed plumber or sewer contractor, as the agent of the owner, to make connection with the City wastewater system upon the premises of the owner.

42-207. Repair and replacement.

(1) The City Wastewater 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 Wastewater Department may also require the owner of any property which is within the City and connected to the public sewers or drains in order to prevent settling back of water to install and maintain in good repair a self-acting back-flow or check valve, at the owner's expense.

(2) The City Manager 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 or installation and maintenance of a self-acting back-flow or check valve, at the owner's expense. If within 30 days of mailing such notice the property owner fails or neglects to cause such repairs or replacements to be made, the City Manager may cause such work to be done and assess the cost upon the property served by such connection.

Statutory reference: Neb. RS 18-1748

ARTICLE 3
RATES AND BILLING

Section.

42-301. Rates.
42-302. Billing.
42-303. Delinquent accounts; liens.

42-301. Rates.

(1) It shall be the duty of the Council to set an administrative fee and a schedule of rates based on monthly water consumption for each consumer of wastewater service. A schedule of said fees, rates and classification of consumer shall be on file at the office of the City Clerk.

(2) A wastewater service consumer shall be liable for the fees and rates provided by resolution unless and until the consumer shall direct the City Clerk to shut off the water at the stop box, in which case he or she shall not be liable thereafter for wastewater fees and rates until the water is turned on again. A wastewater service consumer with a private well, shall remain liable for wastewater fees and rates until such consumer provides evidence to the satisfaction of the City Clerk that the wastewater service is not being used.

(3) All water discharged into the wastewater system from a private well shall be metered by meters installed and maintained at the consumer's expense; provided, however, that any consumer who has his or her own water supply and would be required to meter the water under the above requirements and who fails to have the water metered shall pay a monthly charge set by the Council until such time as the water is properly metered.

(4) No deduction shall be made for the time any service remains out of use.

42-302. Billing.

(1) Wastewater charges shall commence when both a plumbing permit and a tapping permit have been issued for a new residence, commercial building, or other structure. Wastewater service shall be computed by the City Clerk under the direction of the City Manager and bills shall be made up for their collection by the Clerk on or about the first day of each succeeding month when the same are due.

(2) All consumers shall pay in net cash to the City Clerk, at the Clerk's office in the City Hall Building, the amount due the City for wastewater service. All bills for wastewater service shall be due on the first day of the month succeeding said monthly period in which service is used.

(3) If the consumer shall neglect or refuse to pay his or her bill on or before the twentieth day of the month when due, it shall be considered delinquent, and forthwith said consumer's water service shall be discontinued pursuant to the procedure set forth in this code and disconnected until all amounts in arrears are paid in full, together with all late fees and service charge(s) as set by the Council and on file at the office of the Clerk for the resumption of service.

(4) Any disputes or questions on any consumer's bill will be addressed to the City Clerk. In the event the dispute cannot be settled between the City Clerk and the consumer, an appeal may be made, in writing, to the City Manager. In the event the dispute cannot be settled between the City Manager and the consumer, an appeal may be made, in writing, to the City Council.

42-303. Delinquent accounts; liens.

(1) The charges shall become due and payable and shall be collected at the same time and in the same manner and by the same officers as water charges are collected. All charges shall be a lien upon the premises or real estate for which the sewerage system is supplied and used. If the service charge so established is not paid when due, such sum may be recovered by the City in a civil action, 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 municipal taxes are certified, assessed, collected and returned. If the charges are not paid within the time within which water service charges for the same consumer are required to be paid, then the charges shall be deemed to be delinquent and the wastewater service of such consumer shall be discontinued by disconnection of water service until such delinquent charges are paid.

(2) All monies raised from the charges for the use of the City wastewater system shall be used for the maintenance or operation of the existing system and for the principal and interest on bonds issued as provided by law or to create a reserve fund for the purpose of future maintenance or construction of a new wastewater system or construction of a new sewage treatment system. Any funds raised from this charge shall be placed in a separate fund established and designed as the Sewer Revenue Fund and shall not be used for any other purpose or diverted to any other fund.

Statutory reference: Neb. RS 18-503, 18-509

ARTICLE 4
RULES AND REGULATIONS

Section.

42-401. Hookup required.
42-402. Unlawful deposit of wastes.
42-403. Unlawful discharge of untreated sewage.
42-404. Private sewage disposal.
42-405. Unlawful entry into manholes; unlawful deposits.
42-406. Destruction of property.

42-401. Hookup required.

(1) Upon written notice by the City Manager, the property owner, occupant, or lessee shall, without delay, cause the building to be connected with the wastewater system and equipped with inside wastewater facilities. Every building hereafter erected shall be connected with the wastewater system pursuant to this code. In the event that any property owner, occupant, or lessee shall neglect, fail, or refuse, within a period of 90 days after notice has been given to him or her to make such connection, the Council shall have the power to cause the same to be done, to assess the cost thereof against the property, and to collect the assessment thus made in the manner provided for collection of other special taxes and assessments.

(2) The owner of all houses, buildings, or properties used for human employment, recreation, or other purposes, including but not limited to car wash facilities situated within the City and abutting on any street, alley, or right-of-way in which there is now located or may in the future be located a public sanitary or combined sewer of the City, is hereby required at his or her expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of this chapter within 90 days after the date of official notice to do so; provided, that said public sewer is within 500 feet of the property line.

Statutory reference: Neb. RS 18-503
Historical reference: Am. Ord. 837, passed 12-10-85

42-402. Unlawful deposit of wastes.

It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner on public or private property within the City or in any area under the jurisdiction of the City any human or animal excrement, garbage, or other objectionable waste.

42-403. Unlawful discharge of untreated sewage.

It shall be unlawful to discharge within the City or in any area under the jurisdiction of the City any sewage or other polluted waters, except where suitable treatment has been provided in accordance with the provisions of this chapter.

42-404. Private sewage disposal.

(1) 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.

(2) Applicability.

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

(b) At such time as a public sewer becomes available to a property served by a private wastewater disposal system, as provided in this chapter, a direct connection shall be made to the public sewer within 60 days in compliance with this chapter, and any septic tanks, cesspools, and similar private wastewater disposal facilities shall be cleaned of sludge and filled with suitable material.

(3) Permit and fee. Before construction of a private sewage disposal system, the owner shall first obtain a written permit signed by the Plumbing Inspector. The application for such permit shall be made on a form furnished by the City, which the applicant shall supplement by any plans, specifications, and other information as are deemed necessary by the Plumbing Inspector. A permit and inspection fee, as set by resolution of the Council, shall be paid to the City at the time the application is filed.

(4) Permit; when effective. A permit for a private sewage disposal system shall not become effective until the installation is completed to the satisfaction of the Plumbing Inspector. He or she shall be allowed to inspect the work at any stage of construction and, in any event, the applicant for the permit shall notify the Plumbing Inspector when the work is ready for final inspection, and before any underground portions are covered.

(5) Specifications. The type, capacities, location, and layout of a private sewage disposal system shall comply with all recommendations of the Department of Public Health of the state. 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.

(6) 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.

(7) Additional requirements. No statement contained in this chapter shall be construed to interfere with any additional requirement that may be imposed by the City Health Officer

42-405. Unlawful entry into manholes; unlawful deposits.

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 wastewater system any substance which is not the usual and natural waste carried by the wastewater system.

42-406. Destruction of property.

No person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance, or equipment which is part of the wastewater system.

ARTICLE 5
BUILDING SEWERS

Section.

42-501. Permits.
42-502. Costs and expenses.
42-503. Single premises restriction.
42-504. Existing sewer usage.
42-505. Specifications.
42-506. Stormwater and the like.
42-507. Inspection and connection.
42-508. Excavations.

42-501. Permits.

Permit required. No unauthorized person shall uncover, make any connections with or opening into, use, alter, or disturb the wastewater system without first obtaining a written permit from the Plumbing Inspector. The owner or his or her agent shall make application on a form furnished by the City. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the Plumbing Inspector. A permit fee set by resolution of the Council and on file with the City Clerk for a sanitary sewer permit shall be paid to the City at the time the application is filed.

42-502. Costs and expenses.

All costs and expenses incidental to the installation and connection of the sanitary sewer shall be paid by the owner. The owner shall indemnify the City from any loss or damage that may directly or indirectly result from the installation of the sanitary sewer.

42-503. Single premises restriction.

Sanitary sewer service connections shall be from a City owned sanitary sewer main to one single premise. No owner of a single premise that is provided with sanitary sewer by the City of Ogallala shall make a connection of sanitary sewer from their single premises to a service line on other single premises. When deemed in the best interest of the City, the City Manager or City Council may issue permission to allow a single sanitary sewer main connection to service more than one single premises provided that an approved mutual agreement defining the responsibilities of each single premises owner is filed with the register of deeds.

42-504. Existing sewer usage.

Existing sanitary sewers may be connected to new construction only when they are found, on examination and test by the Plumbing Inspector, to meet all requirements of this chapter.

42-505. Specifications.

(1) The size, slope, alignment, and materials of construction of a sanitary 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 and other applicable rules and regulations of the City. In the absence of code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the A.S.T.M. and W.P.C.F. Manual of Practice No. 9 shall apply.

(2) Whenever possible, the sanitary 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 sanitary sewer.

(3) The connection of the sanitary 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 Plumbing Inspector before installation.

42-506. Stormwater and the like.

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

42-507. Inspection and connection.

The applicant for the sanitary sewer permit shall notify the Plumbing Inspector when the sanitary sewer is ready for inspection and connection to the public sewer. The connection and testing shall be made under the supervision of the Plumbing Inspector.

42-508. Excavations.

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

ARTICLE 6
DISCHARGES

Section.

42-601. Stormwater, cooling water, and the like.
42-602. Prohibited discharges; preliminary treatment.
42-603. Restricted discharges.
42-604. Remedies and options of City.

42-605. Grease, oil, and sand interceptors.
42-606. Maintenance of equipment.
42-607. Control manholes.
42-608. Measurements, tests, and analyses.
42-609. Special agreements.

42-601. Stormwater, cooling water, and the like.

(1) No person shall discharge or cause to be discharged any stormwater, surface water, groundwater, roof runoff, subsurface drainage, including interior and exterior foundation drains, uncontaminated cooling water, or unpolluted industrial waters to any sanitary sewer; except stormwater runoff from limited areas, where stormwater may be polluted at times, may be discharged into the sanitary sewer by permission of the City Manager.

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

42-602. Prohibited discharges; preliminary treatment.

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

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

(b) Any waters containing toxic or poisonous solids, liquids, or gases in sufficient quantity, either singly or by interaction with other wastes, to contaminate the sludge of any wastewater works, to injure or interfere with any sewage treatment process, or to constitute a hazard in or have an adverse effect on the water receiving any discharge from the treatment works, including but not limited to cyanides in excess of two mg/l as CN.

(c) 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 wastewater works.

(d) Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the sewage facilities such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails and paper dishes, cups, milk containers, and the like, either whole or ground by garbage grinders.

(2) Any waters or wastes having the following characteristics shall be subject to the review of the City Manager:

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

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

(c) An average daily flow greater than 2% of the average sewage flow of the City; or

(d) A chlorine requirement greater than demanded by normal sewage as evaluated by the City's consulting engineer.

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

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

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

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

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

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

42-603. Restricted discharges.

(1) The following described substances, materials, waters, or wastes shall be limited in discharge to wastewater works to concentrations or quantities which will not harm either the sewers, wastewater treatment process, or equipment, will not have an adverse effect on the receiving stream, or will not otherwise endanger life, limb, public property or constitute a nuisance.

(2) The City Manager may set limitations lower than the limitations established in the regulations (below) if in his or her opinion such more severe limitations are necessary to meet the above objectives. In forming his or her opinion as to the acceptability, the City Manager will give consideration to such factors as the quantity of subject waste in relation to flows and velocities in the sewers, materials of construction of the sewers, the wastewater treatment process employed, the capacity of the water pollution control facility, the degree of treatability of the waste in the water pollution control facility, and other pertinent factors.

(3) The limitations or restrictions on materials or characteristics of waste or wastewaters discharged to the sanitary sewer which shall not be violated without approval of the City Manager are as follows:

(a) Wastewater having a temperature higher than 150° F (65° C).

(b) Wastewater containing more than 100 milligrams per liter of petroleum oil, nonbiodegradable cutting oils, or products of mineral oil origin.

(c) Any garbage that has not been properly shredded. Garbage grinders may be connected to sanitary sewers from homes, hotels, institutions, restaurants, hospitals, catering establishments, or similar places where garbage originates from the preparation of food in kitchens for the purpose of consumption on the premises or when served by caterers.

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

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

such materials.

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

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

(h) Any waters or wastes having a pH in excess of 9.5.

(i) Materials which exert or cause:

(i) 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).

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

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

(iv) Unusual volume of flow or concentration of wastes constituting "sludge" as defined herein.

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

(k) Any water or wastes which, by interaction with other water or wastes in the public sewer system, release obnoxious gases, form suspended solids which interfere with the collection systems, or create a condition deleterious to structures and treatment processes.

42-604. Remedies and options of City.

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

(a) Reject the wastes;

(b) Require pretreatment to an acceptable condition for discharge to the public sewers;

(c) Require control over the quantities and rates of discharge; and/or

(d) Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges under the provisions of 42-705.

(2) When considering the above alternatives, the City Manager shall give consideration to the economic impact of each alternative on the discharger. If the City Manager 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 City Manager.

42-605. Grease, oil, and sand interceptors.

Grease, oil, and sand interceptors shall be provided when, in the opinion of the City Manager, they are necessary for the proper handling of liquid wastes containing floatable grease in excessive amounts as specified in this chapter 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 City Manager and shall be located as to be readily and easily accessible for cleaning and inspection. In the maintaining of these interceptors the owner 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 City Manager. Any removal and hauling of the collected materials not performed by the owner's personnel must be performed by currently licensed waste disposal firms.

42-606. Maintenance of equipment.

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

42-607. Control manholes.

When required by the City Manager, 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 City Manager. The manhole shall be installed by the owner at his or her expense, and shall be maintained by him or her so as to be safe and accessible at all times.

42-608. Measurements, tests, and analyses.

All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in this chapter shall be determined in accordance with the latest edition of “Standard Methods for the Examination of Water and Wastewater,” published by the American Public Health Association. Sampling methods, locations, times, durations, and frequencies are to be determined on an individual basis subject to approval by the City Manager.

42-609. Special agreements.

No statement contained in this chapter 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.

ARTICLE 7
ADMINISTRATION AND ENFORCEMENT

Section.
42-701. Wastewater Department.
42-702. Customer information required.
42-703. Inspections.
42-704. Liability of City and companies.
42-705. Powers of City.
42-706. Violations.

42-701. Wastewater Department.

(1) The City owns the City wastewater system and operates the same through the Wastewater Treatment Operator, who shall be under the control and supervision of the City Manager.

(2) The Council, for the purpose of defraying the cost of the management and maintenance of the City wastewater system, may each year levy a tax not exceeding the maximum limit prescribed by state law on the taxable value of all taxable property within the City.

(3) The City Manager shall have the direct management and control of the Wastewater Department and shall faithfully carry out the duties of his or her office. The City Manager 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 Council.

(4) Among the duties of the City Manager in regard to the City wastewater system shall be the following:

(a) To keep or cause to be kept an accurate and complete record of connections made to the sewerage system and keep posted an up-to-date sectional map of Y branches furnished him or her for this purpose,

(b) To keep, or cause to be kept, the City Wastewater Department and all appurtenances thereof in good working order and as sanitary as possible.

(c) To issue or cause to be issued permits for sewer connections.

(d) To inspect or cause to be inspected all sewer connections.

(e) To enforce the rules relating to sewer construction, repair, and operation.

Statutory reference: Neb. RS 16-667, 18-501, 18-503

42-702. Customer information required.

The City Manager may require a user of sewer services to provide information needed to determine compliance with this chapter. These requirements may include:

(1) The wastewater discharge peak rate and volume over a specified time period.

(2) Chemical analyses of wastewater.

(3) Information on raw materials, processes, and products affecting wastewater volume and quality.

(4) The quantity and disposition of specific liquid, sludge, oil, solvent, or other materials important to sewer-use control.

(5) A plot plan of sewers on the user's property showing sewer and pretreatment facility location.

(6) Details of wastewater pretreatment facilities.

(7) Details of systems to prevent and control the losses of materials through spills to the sewer.

42-703. Inspections.

(1) The City Manager 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 the system in accordance with the provisions of this chapter. The City Manager or other duly authorized employees 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 wastewater works.

(2) The City Manager 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 the easement, shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

42-704. Liability of City and companies.

While performing the necessary work on private properties referred to in this chapter, the City Manager or duly authorized employees of the City shall observe all safety rules applicable to the premises established by the company and the company shall be held harmless for injury or death to the City employees and the City shall indemnify the company against loss or damage to its property by City employees and against liability claims and demands for personal injury or property damage asserted against the company and growing out of the gauging and sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions as required in this chapter.

42-705. Powers of City.

The City has the legal authority to enforce its system of user charges, industrial cost recovery charges, and sewer use regulations on all existing or future users of the system whether located inside or outside the City limits.

42-706. Violations.

(1) Any person found to be violating any provision of this chapter shall be served by the City with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.

(2) Any person violating any of the provisions of this chapter shall be liable to the City for any expense, loss, or damage occasioned the City by reason of such violation.

ARTICLE 8
PENALTY

Section.
42-801. Penalty.

42-801. Penalty.

(1) Penalty amounts. Any person who violates any of the prohibitions or provisions of any section of this chapter shall be deemed guilty of a misdemeanor. Unless otherwise specified in this chapter or by statute, the penalty for such violation shall be in any amount not to exceed $1,000, in the discretion of the court; and; provided, whenever any section of this chapter shall declare a nuisance, a violation of that section shall be penalized by a fine of not more than $1,000, in which case a new violation shall be deemed to have been committed every 24 hours of such failure to comply.

(2) Abatement of nuisance.

(a) Whenever a nuisance exists as defined in this chapter, the City may proceed by a suit in equity to enjoin and abate the same, in the manner provided by law.

(b) Whenever in any action it is established that a nuisance exits, the court may, together with the fine or penalty imposed, enter an order of abatement as a part of the judgment in the case.

(3) Restitution. The court may, together with the fine or penalty imposed, enter an order of restitution as part of the judgment in the case.

Statutory reference: Neb. RS 16-225, 16-240, 16-246, 18-1720.

CHAPTER 43
WATER

Article.
1. Definitions.
2. Service.
3. Rates and Billing.
4. Rules and Regulations.
5. Wellhead Protection Area Code.
6. Cross-Connection Control and Backflow Prevention Code.
7. Administration and Enforcement.
8. Penalty.

ARTICLE 1
DEFINITIONS

Section.
43-101. Definitions.

43-101. Definitions.

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

(1) Backflow shall mean the flow of water or other liquids into the distributing system of the City from any source other than its intended source.

(2) Main shall mean any pipe other than a supply or service pipe that is used for the purpose of carrying water to, and dispersing the same in, the City.

(3) Service pipe shall mean any pipe extending from the edge of the curb or the lot line, whichever is nearest to the main, to the location on the premises where the water is to be dispersed.

(4) Single premises shall mean a single lot or tract of land under one ownership.

(5) Supply pipe shall mean any pipe tapped into a main and extending from there to the edge of the curb or the lot line, whichever is nearest to the main.

ARTICLE 2
SERVICE

Section.
43-201. Service applications.
43-202. Service deposit.
43-203. Taps and tap fees.
43-204. Service contracts.
43-205. Installation, connection, and excavation; permits.
43-206. Contractors.
43-207. Meters.
43-208. Repair and replacement.
43-209. Diversion of service.

43-201. Service applications.

(1) Applications for permits to make connection with the City water system must be in writing upon forms furnished by the City Clerk and signed by the owner or authorized agent of the owner of the property to be served and be filed in the office of the City Clerk.

(2) The City shall not incur any cost or expense beyond its commercial mains in providing the means of such service inside and outside its corporate limits.

Statutory reference: Neb. RS 16-681, 16-682

43-202. Service deposit.

(1) The City Clerk shall require an applicant for water to accompany his or her application with a service deposit in an amount set by the Council. Said service deposit

shall be applied to the applicant's account, at the end of twelve months of continuous service providing no more than one disconnection notice has been issued on that account during that twelve month period. The City may waive the service deposit if the applicant/customer supplies the City with two acceptable letters of reference from previous utility providers that verify the applicant/customer has not had a late payment or utility disconnect within the previous twelve months. If the City waives the service deposit after the deposit has been made, the City will credit the deposit amount to the customer's account.

(2) If said applicant is an individual or entity who has previously left the city with an unpaid water bill, then the service deposit shall be three times the amount set by the Council.

(3)(a) If any consumer has received a total of two disconnection notices in any twelve months of continuous service, an additional deposit shall be required, which shall be the amount of the initial deposit, thereby increasing the total amount on deposit to double the normal service deposit.

(b) If any consumer has received a total of four disconnection notices in any twelve months of continuous service, a third deposit shall be required, which shall be the amount of the initial deposit, thereby increasing the total amount on deposit to triple the normal service deposit.

(4)(a) If a consumer's check or automatic bank withdrawal is not honored by the bank for reason of insufficient funds or no funds, the City shall initiate the appropriate procedure on said consumer's account as though no payment had been made. Consumer shall also be liable for a non-sufficient funds (NSF) fee, as established by resolution, for insufficient funds check or non-honored automatic bank withdrawal.

(b) If there is a second occurrence of a consumer's check or automatic bank withdrawal not being honored by the bank for reason of insufficient funds or no funds in any twelve months of continuous service, an additional deposit shall be required, which shall be the amount of the initial deposit, thereby increasing the total amount on deposit to double the normal service deposit. Consumer shall also be liable for a non-sufficient funds (NSF) fee, as established by resolution, for insufficient funds check or non-honored automatic bank withdrawal.

(c) If there is a third occurrence of a consumer's check or automatic bank withdrawal not being honored by the bank for reason of insufficient funds or no funds in any twelve months of continuous service, an additional deposit shall be required, which shall be the amount of the initial deposit, thereby increasing the total amount on deposit to triple the normal service deposit. Consumer shall also be liable for a non-sufficient funds (NSF) fee, as established by resolution, for insufficient funds check or non-honored automatic bank withdrawal.

(5) If a consumer has been required to make a new or additional deposit because of disconnection notices or dishonored checks or bank withdrawals, the amount so required to be on deposit shall not be returned by the Clerk until a period of thirty-six months of continuous service has elapsed in which no disconnection notice has been issued, and there have been no instances of dishonored checks or bank withdrawals.

Statutory reference: Neb. RS 16-681, 16-682
Historical reference: Ord. 1241 passed 6-12-07

43-203. Taps and tap fees.

(1) Customers of the City wishing to connect to the water main shall pay a tap fee

which shall amount to the cost of all material furnished by the City plus a fee for labor, as set by resolution of the Council, a copy of which shall be kept available for public inspection in the office of the City Clerk.

(2) Any tap material supplied by the customer shall meet the design standards of the City.

(3) The labor to be furnished by the City shall consist only of the actual tapping of the water main. It shall be unlawful for any person, except such persons as may be specifically authorized by the City Manager, to tap the commercial mains of the City or insert ferrules therein under any circumstances. The City shall not perform any excavation as part of the tap. It shall be the responsibility of the customer to expose the main to be tapped.

(4) All applicants for connection to the City's water distribution system which seek to connect to the system where a Water Extension District has been created and whose property shall not have been charged by way of special assessments for said water service, shall pay in addition to the deposit required by the Municipal Code, a water connection fee to the City Clerk/Treasurer, which water connection fee shall be based upon the same formula used to determine the amount of special assessments charged in the original district; provided that no connection shall be made to the water distribution system until such deposit and appropriate water connection fee shall have been paid in full.

43-204. Service contracts.

(1) The City, through its Water Department, shall furnish water to persons within its corporate limits whose premises abut a street or alley in which a commercial main now is or may hereafter be laid. The City may furnish water to persons within its corporate limits whose premises do not abut a street or alley in which a City commercial main is now or may hereafter be laid and may also furnish water to persons whose premises are situated outside the corporate limits of the City as and when, according to law, the Council may see fit to do so.

(2) The rules, regulations, and water rates hereinafter named in this chapter shall be considered a part of every application hereafter made for water service and shall be considered a part of the contract between every consumer now or hereafter served.

(3) Without further formality, the making of an application on the part of any applicant or the use or consumption of water service by present consumers thereof and the furnishing of water service to said consumer shall constitute a contract between the consumer and the City, to which said contract both parties are bound.

(4) If the consumer shall violate any of the provisions of said contract or any reasonable rules and regulations that the Council or City Manager may hereafter adopt, the City Manager or his or her agent may cut off or disconnect the water service from the building or premises or place of such violation until such time as the City Manager is of the opinion that water service may be resumed without violation of said rules and regulations.

(5) Contracts for water service are not transferable. Any person wishing to change from one location to another shall make a new application and sign a new contract. If any consumer shall sell, dispose, or remove from the premises where service is furnished, or if the said premises is destroyed by fire or other casualty, he or

she shall at once inform the City Manager who shall cause the water service to be shut off at the said premises. If the consumer should fail to give such notice, he or she shall be charged for all water used on the said premises until the City Manger is otherwise advised of such circumstances.

43-205. Installation, connection, and excavation; permits.

(1) Upon the filing of the application and payment of all fees, a permit will be issued to the duly licensed plumber, agent, or applicant to do the necessary work in bringing water service from the tap to the applicant's premises.

(2) All water service pipe shall be placed in the manner and at the depth as recommended by the Plumbing Inspector. All plumbing, including check and safety valves on hot water appliances, pipes, cocks, and other appurtenances, shall be sufficiently strong to resist the maximum water pressure. All plumbing shall be skillfully done according to the requirements of the Plumbing Code and shall be installed in such manner as will permit proper drainage to waste cocks and subject to inspection by the Plumbing Inspector.

(3) The quality and pattern of all cocks and appurtenances shall in like manner be subject to the approval of the Plumbing Inspector, and no work shall be covered or final connection made until examined by said Inspector.

(4) In making excavations in streets, alleys, or sidewalks for the purpose of installing pipe or making repairs, the paving, stones, and earth must be removed and deposited in a manner that will occasion the least inconvenience to the public and provide for adequate drainage. No person shall leave an excavation made in the street, alley, or sidewalk open at any time without a barricade and, during the night, warning lights. After service pipes are laid, the streets, alleys, and sidewalks shall be restored to good condition as provided in Chapter 38. If the excavation in any street, alley, or sidewalk is left open or unfinished for a period of 24 hours or more, the City Manager shall have the duty to finish or correct the work, and all expenses so incurred shall be charged to the consumer.

Statutory reference: Neb. RS 16-232, 16-667

43-206. Contractors.

It shall be unlawful for any plumber or pipefitter to do any work upon any of the pipes or appurtenances of the system of waterworks, or to make any connection with or extension of the supply pipes of any consumer taking water from the said system, until such plumber or pipefitter shall have first procured a license and permit as prescribed in this code. All plumbing shall be skillfully done and in a manner required by the Plumbing Board and approved by the Council.

43-207. Meters.

(1) Meter requirement. No water shall be used unless water is furnished through a meter.

(2) All meters shall be placed in a substantially frostproof meter housing or pit to be located at or near the inner line of the sidewalk on the applicant's property and shall be of such specifications as may be prescribed by the City Manager, or placed in

basements or inside residences or business buildings on the premises of the consumer if the Plumbing Inspector shall be convinced that water meters so placed will be properly protected. All meters shall be set in a horizontal position. Meters placed in basements or inside residences and business buildings shall be equipped with the necessary device to permit the reading of such meters from the outside. Water meters shall be of straight or round reading type, Pittsburgh or of similar kind, registering in hundreds or thousand gallons and shall be placed on all water services at the expense of the consumer. The City will set all water metering devices, including the moving of said devices at the expense of the consumer. All water meters set or installed shall be the property of the City; provided, that consumers may surrender to the City meters heretofore purchased by them and in consideration of such surrender the City will repair and replace from time to time said meters so surrendered at City expense.

(3) All water meters shall be read, as close as practically possible, monthly. Any business or residence not equipped with the necessary device to permit the reading of the water meter from the outside shall provide access to a City representative for the purpose of reading the water meter at least once every three months and more often than every three months if requested by a representative of the City. Should a consumer's meter be out of repair or fail to register properly, the consumer shall be billed and charged and shall pay for water during the time the meter is out of order or repair on the basis of monthly consumption during the same month of the preceding year; provided, if no such basis for comparison exists, then the consumer shall be charged such amount as is reasonably established by the City Clerk. Any disputes or questions on any consumer's bill will be addressed to the City Clerk. In the event the dispute cannot be settled between the City Clerk and the consumer, an appeal may be made, in writing, to the City Manager. In the event the dispute cannot be settled between the City Manager and the consumer, an appeal may be made, in writing, to the City Council.

(4) The City Manager shall, whenever it is inconvenient to make reading of any meter or when the meter housing or pit is not frostproof or for any other cause is out of condition, be empowered to give the consumer a ten-day notice in writing to reset the meter in a horizontal position or to reconstruct the meter pit or housing at the consumer's expense; provided, if the consumer fails or neglects to do so, the City shall forthwith do said work and shall charge the expense thereof to the consumer and collect the same as water rent; and provided further, upon similar notice from the City Manager the consumer shall reset any meter located in a building or basement so that the same may be easily read by the City Manager and his or her agents, and upon the consumer's failure or neglect to do so the City shall proceed as in the case of a defective meter pit as above provided. All meters shall be set on swing or offset and not in a straight line with the pipe. All meters shall be sealed and no person shall deface, injure, or break any of said seals unless authorized to do so by the City Manager.

43-208. Repair and replacement.

(1) If any leak or break in any service pipe or any attachment thereto shall occur, the City Manager or his or her agent shall forthwith shut off water to said premises until said leak or break is repaired by the consumer, provided that such repairs or replacements shall be done by licensed plumbers or agents of the consumers under the

supervision of the Plumbing Inspector. The City Manager or his or her agent shall restore water service to the premises upon receipt of written certification by the licensed plumber who made such repairs, that the repairs have been completed in compliance with all code requirements.

(2) If any leak or break in any supply pipe or any attachment thereto shall occur, the City Manager or his or her agent shall repair such leak or break. The costs and expenses of any such repair shall be paid by City.

(3) All supply or service pipe or any attachment thereto when leaking or out of condition shall be replaced or repaired. When the work is performed by a plumber licensed by the City, he or she shall warrant the work during the period of 12 months from and after construction is completed and the work is accepted and approved by the Plumbing Inspector and, after the maintenance period shall have expired, all replacements and repairs to shall be made as in the case of leaks or breaks as provided hereinbefore.

(4) If the consumer permits or allows a water meter to be damaged, injured, or destroyed through his or her own recklessness, carelessness, or neglect so that the meter must be repaired or replaced, the City shall bill and collect from such consumer the cost of such meter repair or replacement in the same manner as water rent. The permitting of a water meter not surrendered to the City to be damaged or destroyed by freezing shall always be considered negligence on the part of the consumer; provided, the City shall keep in repair all water meters belonging to it at City expense.

(5) The City shall have the exclusive power to repair and test all meters. All repairs and tests of water meters belonging to or surrendered to the City shall be made at the expense of the City. If any water meter in service belonging to or surrendered to the City is beyond repair, worn out, and unfit for further use by reason of natural wear and tear, the same shall be replaced at the expense of the City. The meter so replaced shall at all times thereafter be and remain property of the City.

(6) The City reserves the right to test any water meter at any time. The consumer is hereby granted the reciprocal right to have the water meter attached to his or her water pipe tested by the City any reasonable number of times upon request if the consumer shall have reason to believe that the meter is registering inaccurately. Any water meter belonging to the consumer shall, when necessary, be repaired, replaced, or tested by the City at the expense of the consumer or owner of the property who shall be billed for and shall pay for the same in the same manner as water rent regardless of whether or not the consumer requests the City to repair, replace, or test said meter.

43-209. Diversion of service.

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

(2) In any civil action brought pursuant to this section, the City shall be entitled, upon proof of willful or intentional bypassing, tampering, or unauthorized metering, to recover as damages:

(a) The amount of actual damage or loss if the amount of the damage or loss is susceptible of reasonable calculation; or

(b) Liquidated damages of$1000, if the amount of actual damage or loss is not susceptible of reasonable calculation.

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

(4) There shall be a rebuttable presumption that a tenant or occupant at any premises where bypassing, tampering, or unauthorized metering is proven to exist, did cause or had knowledge of such bypassing, tampering, or unauthorized metering if the tenant or occupant 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 was responsible or partially responsible for payment, either directly or indirectly, to the utility or to any other person for utility services to the premises.

(5) There shall be a rebuttable presumption that a customer at any premises where bypassing, tampering, or unauthorized metering is proven to exist, did cause or had knowledge of such bypassing, tampering, or unauthorized metering if the customer controlled access to the part of the utility supply system on the premises where the bypassing, tampering, or unauthorized metering was proven to exist.

(6) The remedies provided by this section shall be deemed to be supplemental and in addition to the remedies 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.

Statutory reference: Neb. RS 86-331.01, 86-331.02, 86-331.03, 86-331.04

ARTICLE 3
RATES AND BILLING

Section.

43-301. Rates.
43-302. Billing.
43-303. Discontinuance of service.
43-304. Delinquent accounts; liens.

43-301. Rates.

(1) It shall be the duty of the Council to set an administrative fee and a schedule of rates based on monthly consumption for each consumer of water service from the City Water Department. A schedule of said fees, rates and classification of consumer shall be on file at the office of the City Clerk.

(2) All water consumers shall be liable for the fees and rates provided by resolution unless and until the consumer shall direct the City Clerk to shut off the water at the stop box, in which case he or she shall not be liable thereafter for water fees and rates until the water is turned on again.

(3) No deduction shall be made for the time any service remains out of use.

(4) All water sold shall be measured and delivered to consumers at the metered or bulk rate as established by resolution. No water shall be furnished to any consumer under any other rate than is provided by this section except to consumers using water service on premises outside the corporate limits in which case the water service shall be furnished to the consumer at such rates as the Council may by resolution uniformly fix.

43-302. Billing.

(1) Water charges shall commence when both a plumbing permit and a tapping permit have been issued for a new residence, commercial building, or other structure. Water service meter readings shall be computed by the City Clerk under the direction of the City Manager and bills shall be made up for their collection by the Clerk on or about the first day of each succeeding month when the same are due.

(2) All consumers shall pay in net cash to the City Clerk, at the Clerk's office in the City Hall Building, the amount due the City for water service. All bills for water service shall be due on the first day of the month succeeding said monthly period in which service is used.

(3) If the consumer shall neglect or refuse to pay his or her bill on or before the twentieth day of the month when due, it shall be considered delinquent, and forthwith said consumer's water service shall be discontinued pursuant to the procedure set forth in this code and disconnected until all amounts in arrears are paid in full, together with all late fees and service charge(s) as set by the Council and on file at the office of the Clerk for the resumption of service.

(4) Any disputes or questions on any consumer's bill will be addressed to the City Clerk. In the event the dispute cannot be settled between the City Clerk and the consumer, an appeal may be made, in writing, to the City Manager. In the event the dispute cannot be settled between the City Manager and the consumer, an appeal may be made, in writing, to the City Council.

43-303. Discontinuance of service.

(1) The City shall have the right to collect a late fee, as established by resolution, and begin procedures to discontinue services and remove its properties if the charges for such services are not paid within twenty (20) days after the date that the same becomes due. Before any termination of service, the Water Department shall first give notice by first class mail or in person to any 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 after notice is sent or given. Holidays and weekends shall be excluded from the seven days. As to any subscriber who has previously been identified as a welfare recipient to the City by the Department of Health and Human Services, such notice shall be by certified mail and notice of such proposed termination shall be given to the Department.

(2) The notice shall contain the following information:

(a) The reason for the proposed disconnection;

(b) A statement of the intention to disconnect unless the domestic subscriber either pays the bill or reaches an agreement with the utility regarding payment of the bill. All agreements must result in account payment in full. No agreement shall be allowed

for any account 90-days or more in arrears. No agreement shall be allowed to exceed 12 months. Payments that are made later than the terms and conditions of the payment agreement shall be assessed the usual and customary late fees;

(c) The date upon which service will be disconnected if the domestic subscriber does not take appropriate action;

(d) The name, address, and telephone number of the employee or department to whom the domestic subscriber may address an inquiry or complaint;

(e) The domestic subscriber's right, prior to the disconnection date, to request a conference regarding any dispute over such proposed disconnection;

(f) A statement that the utility may not disconnect service pending the conclusion of the conference;

(g) A statement to the effect that disconnection may be postponed or prevented upon presentation of a duly licensed physician's certificate which shall certify that the domestic subscriber or resident within such subscriber's household has an existing illness or handicap which would cause such subscriber or resident to suffer an immediate and serious health hazard by the disconnection of the utility's service to that household. Such certificate shall be filed with the utility within five days of receiving notice under this section and will prevent the disconnection of the utilities 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 nonpayment of any due account;

(h) The cost that will be borne by the domestic subscriber for restoration of service;

(i) A statement that the domestic subscriber may arrange with the utility for an installment payment plan;

(j) 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,

(k) Any additional information not inconsistent with this section which has received prior approval from the Council.

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

(4) The City Council shall establish, by resolution a fee for the disconnection and/or reconnection of service.

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

(6) This section shall not apply to any disconnection or interruption of services 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.

Statutory reference: Neb. RS 70-1601 et seq

43-304. Delinquent accounts; liens.

(1) The City shall have the right and power to tax, assess, and collect from the inhabitants thereof such rent or rents for the use and benefit of water used or supplied to them by such waterworks, mains, pump, or extension of any system of waterworks, or water supply, as the Council shall by ordinance deem just or expedient.

(2) Such water rates, taxes or rents, when delinquent, shall be a lien upon the premises or real estate upon or for which the same is used or supplied; and such water taxes, rents or rates shall be paid and collected and such lien enforced in such manner as provided herein.

(3) Any delinquent water rentals which remain unpaid for a period of three months after they become due may be, by resolution of the said Council assessed against said real estate as a special assessment, which said special assessment shall be certified by the City Clerk to the Keith County Clerk. Keith County Clerk shall thereupon place same on the tax rolls for collection, subject to the same penalties and to be collected in like manner as other City taxes; provided, that the City Council shall notify in writing nonoccupying owners of premises or their agents whenever their tenants or lessees are sixty days delinquent in the payment of water rent. Thereafter if the owner of said real estate or his agent within City shall notify the Council in writing to discontinue water service to said real estate or the occupants thereof, it shall be the duty of the City Manager to promptly to discontinue said service; and rentals for any water furnished to the occupants of said real estate in violation of said notice shall not be a lien thereon.

Statutory reference: Neb. RS 16-682

ARTICLE 4
RULES AND REGULATIONS

Section.

43-401. Single premises restriction.
43-402. Water reduction and shutoff.
43-403. Hydrants.
43-404. Water restrictions.
43-405. Hookup required.
43-406. Destruction of property.
43-407. Private wells.

43-401. Single premises restriction.

Water service connections shall be from a City owned water main to one single premise. No owner of a single premise that is provided with water by the City of Ogallala shall make a connection of water from their single premises to other single premises. When deemed in the best interest of the City, the City Manager may issue permission to allow a single water main connection to service more than one single premises provided that an approved mutual agreement defining the responsibilities of each single premises owner is filed with the register of deeds.

43-402. Water reduction and shutoff.

The Council or the City Manager 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.

43-403. 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 City Fire Department under the orders of the Fire Chief or the Assistant Fire Chief, or members of the Water Department, to open or attempt to open any of the hydrants and draw water from the same, or in any manner to interfere with the hydrants without permission of the City Manager.

43-404. Water Restrictions.

(1) Water Emergency restrictions. The City reserves the right to suspend or limit the use of water whenever in the opinion of the City Manager or City Council a public emergency may require the same. The City Manager or City Council is authorized and empowered to declare the existence of an emergency relating to the available water supply of the municipal water system and to impose restrictions on the use of water during such emergency. Whenever an emergency restriction is imposed, public announcement of such restriction shall be made on the local radio stations, and no water shall be used for the restricted purpose.

(2) Water conservation. The City Manager or City Council is authorized and empowered to declare a need to restrict the use of the available water supply of the municipal water system. Whenever such restriction is imposed, public announcement of such restriction shall be made on the local radio stations.

(3) Turning off water for failure to observe restrictions. The City may turn off the water supply to the premises of any person who, after having been notified of the imposition of such emergency restrictions on the use of water, disregards such restrictions. Notice shall be deemed given when a resident of the premises has been personally served with a notice by a City employee informing said resident that the water supply to the premises will be turned off if the watering does not immediately cease. Such supply of water shall not be turned on again until the current resumption fee established by Council and a fine in the sum of $100 dollars has been paid to the City Clerk. Each time the water is turned off shall be deemed a violation and the resumption fee and fine shall be imposed.

43-405. Hookup required.

(1) All private property within the City and located within 300 feet of the City water system shall be required, upon notice by the City Manager, to make a proper connection to the City water system.

(2) It shall be the duty of the owner of such private property to make or cause to be made, maintained, and repaired a proper connection with the City water system within ten days of the notice set forth in division (1) above.

(3) Should the owner of such property fail or neglect for ten days after service of notice to comply with this section, then the City shall cause such connection to be made and the costs thereof, including all necessary water meters, when certified to the City Council, shall by the Council, be assessed against such property as a special assessment, and the costs will be collected as other special assessments and special taxes as provided by law.

Statutory reference: Neb. RS 16-667.03

43-406. 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 abovementioned property without the written permission of the City Manager.

43-407. Private wells.

No private wells shall be drilled, constructed, or used on any private property within the City if the water is being used for human consumption, including drinking, culinary, or domestic purposes, if the water being used for human consumption has been determined by proper authority not to meet safe drinking water requirements.

ARTICLE 5
WELLHEAD PROTECTION AREA CODE

Section.

43-501. Title.
43-502. Purpose.
43-503. Definitions.
43-504. Wellhead Protection Area Plan.
43-505. Wellhead Protection Area Boundaries.
43-506. Encroachment of potential sources of contamination.

43-501. Title.

This subchapter, and any amendments pertaining hereto, shall be known as the Wellhead Protection Area Code.

43-502. Purpose.

The purpose of this subchapter is to protect the public water supply system of the City from contaminants which are reasonably likely to move toward and reach a municipal water well or wellfield.

The City has designated a Wellhead Protection Area and Wellhead Protection Area Plan for the purpose of protecting the public water supply system. The boundaries are based upon the Wellhead Protection Area Map presented to the City by the Nebraska Department of Environmental Quality, dated October 2004, and incorporated by reference herein.

43-503. Definitions.

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

(1) Wellhead Protection Area shall mean the surface and subsurface area surrounding a public water supply well or wellfield, supplying a public water supply system, through which contaminants are reasonably likely to move toward and reach such water well or wellfield.

43-504. Wellhead Protection Area Plan.

The City has adopted a Wellhead Protection Area Plan for the purpose of protecting the public water supply system. The Wellhead Protection Area Plan is incorporated by reference herein.

43-505. Wellhead Protection Area Boundaries.

For the purpose of this subchapter, the following boundaries shall apply:

(1) North Wellfield – Referring to the NW corner of Section 24, Township 14 North, Range 39 West of the 6th P.M. that being the point of beginning; thence east along the north line of said Section 24 to the NE corner of said Section 24; thence south along the east line of said section 24 to the midpoint of the east line of said Section 24 ; thence east to the center point of Section 19 Township 14 North, Range 38 West of the 6th P.M. ; thence north to the midpoint of the north line of said Section 19; thence east to the SW corner of Section 17, Township 14 North, Range 38 West of the 6th P.M. ; thence north along the west line of said Section 17 a distance of 2,050 feet; thence east in a perpendicular manner to the center line of Section 16 Township 14 North, Range 38 West of the 6th P.M.; thence south to the midpoint of the north line of Section 21, Township 14 North, Range 38 West of the 6th P.M.; thence east to the NE corner of said Section 21; thence south to the SE corner of Section 28 Township 14 North, Range 38 West of the 6th P.M.; thence west along the south line of Sections 28, 29 and 30 Township 14 North, Range 38 West of the 6th P.M. a distance of 11,880 feet; thence south a distance of 3,895 feet; thence west in a perpendicular manner to the centerline of North Spruce Street; thence in a southwesterly direction on the centerline of North Spruce Street to a point on the south line of Section 31 Township 14 North, Range 38 West of the 6th P.M.; thence west along the south line of said Section 31 to the SW corner of Section 36 Township 14 North, Range 39 West of the 6th P.M.; thence north to the NW corner of Section 24, Township 14 North, Range 39 West of the 6th P.M. that being the point of beginning.

(3) South Wellfield – Referring to Section 7, Township 13 North, Range 38 West of the 6th P.M. midpoint of the west line of said Section 7 that being the point of beginning; thence east along the centerline of said Section 7 to the centerline of South Highway 61; thence south along said highway centerline to a point being the intersection of the centerlines of Prospector Drive and South Highway 61; thence northeasterly along the centerline of Prospector Drive to a point being the centerline of said Section 7; thence east to the midpoint of the east line of said Section 7; thence south along the east line of said Section 7 for a distance of 3,361 feet ; thence west and parallel to the south line of said Section 7 to the centerline of South Highway 61; thence

in a southwesterly direction along said centerline of the highway to a point being a projection of the south line of Lot 5 of Cumming's First Subdivision; thence west along said south line of Lot 5 to a point being the southeast corner of Koenig's Subdivision; thence north along the east line of said Koenig's Subdivision to the midpoint of the south line of Section 7, Township 13 North, Range 38 West of the 6th P.M.; thence west to the southwest corner of said Section 7; thence north to the point of beginning that being the midpoint of the west line of Section 7, Township 13 North, Range 38 West of the 6th P.M.

43-506. Encroachment of potential sources of contamination.

The minimum distance separating the Municipal water supply wells of the City of Ogallala from potential sources of contamination shall be as follows:

(1) 1,000 Feet - All Water Wells, including but not limited to, Domestic Supply Wells, Irrigation Wells, Stock Wells, and Heat Pump Wells
(2) 1,000 Feet - Sewage Lagoon
(3) 1,000 Feet - Feed Lot, Feed Lot Runoff, or Animal Waste Disposal
(4) 1,000 Feet - Sanitary Landfill
(5) 500 Feet - Septic Tank
(6) 500 Feet - Sewage Treatment Plant
(7) 500 Feet - Sewage Wet Well
(8) 500 Feet - Absorption or Disposal Field for Waste
(9) 500 Feet - Land Application of Solid or Liquid Waste
(10) 500 Feet - Sanitary or Industrial Discharges
(11) 500 Feet - Chemical Storage (Dry or Liquid)
(12) 500 Feet - Petroleum Storage
(13) 500 Feet - Corral or Animal Enclosure
(14) 100 Feet - Sanitary Sewer Connection
(15) 100 Feet - Sanitary Sewer Manhole
(16) 50 Feet - Sanitary Sewer Line
(17) 10 Feet - Sanitary Sewer Line (Permanently Water Tight)

If the City of Ogallala or the Nebraska State Department of Health determine that surface runoff or underground movement from potential sources of contamination may adversely affect the quality of water in a Municipal water supply well, the distance separating these potential sources of contamination and the Municipal water supply well shall be greater than the minimum distance listed in the above schedule, as determined by the City of Ogallala or the Nebraska State Department of Health.

Any person who intends to construct a potential source of contamination or enlarge an existing potential source of contamination shall file a written application for a permit with the City Manager. The City Manager may approve a permit which conforms to the distance requirements of this section; provided, however, if the City Manager determines that the proposed construction poses a risk of contaminating a Municipal water supply well, the City Manager shall deny the permit. The applicant may appeal the decision of the City Manager to the Ogallala City Council by filing a notice with the City Clerk within 30 days of the City Manager's decision. Appeal of the decision of the Ogallala City Council shall be to the District Court of Keith County, Nebraska within 30

days of the Ogallala City Council's decision.

The City Council may consider an application for potential sources of contamination which are proposed to be in closer proximity than the minimum distances listed above. The City Council may only approve such potential sources of contamination when there is no other reasonable location for the potential sources of contamination and when the City Council and the Nebraska State Department of Health determine that such location will not constitute a pollution hazard to a Municipal water supply well. The City of Ogallala shall be required to retain a professional engineer to provide a written report demonstrating that such location will not constitute a pollution hazard to a Municipal water supply well. The cost of the professional engineer, including and fees, and estimated costs and expenses, shall be paid by the applicant prior to the commencement of the engineering report. The applicant may appeal the decision of the Ogallala City Council by filing a notice of appeal with the District Court of Keith County, Nebraska within 30 days of the Ogallala City Council's decision.

Fees for contamination source permits shall be established by resolution of the City Council.

The provisions of this section shall apply to all land within the City of Ogallala, Nebraska, Wellhead Protection Area boundaries.

The provisions of this section shall supersede any land use regulation which allows the installation of a potential source of contamination. Nothing in this section shall be construed to allow the installation of any potential source of contamination which is restricted or prohibited by any federal, state or local law, statute, regulation or ordinance.

Statutory reference: Neb. RS 46-1501 – 46-1509

ARTICLE 6
CROSS-CONNECTION CONTROL AND BACKFLOW PREVENTION CODE

Section.

43-601. Title.
43-602. Purpose.
43-603. Designation of consumer's representative.
43-604. Cross-connection control and backflow prevention program.
43-605. Surveys and investigations.
43-606. Violations.

43-601. Title.

This subchapter, and any amendments pertaining hereto, shall be known as the Cross-Connection Control and Backflow Prevention Code.

43-602. Purpose.

The purpose of this subchapter is to protect the public water supply system of the City from the possibility of contamination by isolating real or potential sources of contamination or pollution which may backflow into the public water supply system. This subchapter in accordance with, and as required by the laws and regulations of the

Nebraska Department of Health, provides for the maintenance of a continuing program of cross-connection control and backflow prevention which will systematically and effectively prevent the contamination or pollution of the potable water supply systems.

43-603. Designation of consumer's representative.

The consumer, if requested by the Water Superintendent, shall designate an individual or individuals who shall be responsible for contact and communications with the Water Superintendent in matters relating to system alteration and construction, monitoring and sampling, maintenance, operation, record keeping, and reporting, as required by law and these regulations. Any change in assigned responsibilities or designated individuals shall be promptly reported to the Water Superintendent.

43-604. Cross-connection control and backflow prevention program.

(1) The Water Superintendent shall be responsible for the implementation of the cross connection control and backflow prevention program in accordance with this subchapter, and as required by the laws and regulations of the Nebraska Department of Health. No person shall install or maintain a water service connection containing cross connections to a public water supply system unless such cross connections are abated or controlled in accordance with this subchapter, and as required by the laws and regulations of the Nebraska Department of Health.

(2) If in the judgment of the Water Superintendent, an approved backflow prevention device is required for the safety of the public water supply system, they shall give notice in writing to the consumer to install said device at each recommended location. The consumer shall obtain and install said approved backflow prevention devices within 90 days of notice. The Water Superintendent shall inspect and approve all installations of the required backflow prevention devices. The cost for purchasing, installing, maintaining, and testing a backflow prevention device will be the responsibility and sole expense of the owner.

(3) Testing of backflow prevention devices equipped with test ports shall be performed annually, prior to the one year anniversary date of the last annual test, by a Certified Grade 6 water operator. All test results shall be certified to the Water Superintendent not more than thirty (30) calendar days after the test. If the owner fails to timely certify the test results or if maintenance or repairs are necessary, the owner will be subject to immediate disconnection of water service as provided in this subchapter.

(4) If maintenance or repairs are necessary, the owner shall immediately make such repairs and submit a test report to the Water Superintendent for certification. If a disconnection occurs, water service shall not be restored until the owner has completed the maintenance or repairs or has certified the test results.

(5) The Water Superintendent shall conduct an on-going public information program to further the public water system customers' understanding and awareness of cross-connection hazards, the types of remedies available and the need to protect the public water system against backflow no less often than once per year.

43-605. Surveys and investigations.

(1) It shall be the responsibility of the water consumer to conduct or cause to be

conducted periodic surveys of water use practices on his or her premises as necessary to determine whether there are actual or potential cross connections in the consumer's water supply system. The Water Superintendent shall have the authority to conduct or cause to be conducted periodic surveys and investigations, of a frequency as determined by the Water Superintendent, of water use practices within a consumer's premises to determine whether there are actual or potential cross connections to the consumer's water supply system through which contaminants or pollutants could backflow into the public water supply system. The Water Superintendent may conduct these surveys to provide information in determining what level of protection will be necessary to protect the public health and safety. If the consumer refuses to submit the proper information or to cooperate in obtaining the proper information, the Water Superintendent shall treat the premises as if no appropriate cross connection survey has been completed, and in such event the consumer shall be required to install an approved backflow prevention device.

(2) The Water Superintendent shall have the right to enter a premises served by the public water supply system at all reasonable times for the purpose of making surveys and investigations of water use practices within the premises after giving at least ten days notice in advance setting forth a proposed date and time to the consumer. If the consumer cannot make the premises available for inspection at the proposed date and time, the consumer shall contact the Water Superintendent and arrange for another date and time for the inspection. If an agreement cannot be reached on a date and time, the Water Superintendent shall treat the premises as if a cross connection exists which constitutes an immediate threat to the safety of the public water system and subject to immediate disconnection of water service as provided in this subchapter.

43-606. Violations.

(1) The Water Superintendent shall deny or discontinue, after notice to the consumer thereof, the water service to any premises wherein:

(a) Any backflow prevention device required by these regulations is not installed or maintained in accordance with the provisions of this subchapter.

(b) It is found that the backflow prevention device has been removed or by-passed.

(c) An unprotected cross connection exists on the premises.

(d) A low pressure cut-off required by this subchapter is not installed and maintained in working order.

(e) The Water Superintendent is denied entry to determine compliance with these regulations.

(2) The Water Superintendent shall immediately deny or discontinue, without notice to the consumer thereof, the water service to any premises wherein a severe cross connection exists which constitutes an immediate threat to the safety of the public water system. The Water Superintendent shall notify the consumer within 24 hours of said denial or discontinuation of service.

(3) Water service to such premises shall not be restored until the consumer has corrected or eliminated such conditions or defects in conformance with this subchapter.

ARTICLE 7
ADMINISTRATION AND ENFORCEMENT

Section.
43-701. Water Department.
43-702. Powers of City.
43-703. Liability of City.
43-704. Inspections.
43-705. Duties of police.

43-701. Water Department.

(1) The City owns and operates the City Water Department through the Water Superintendent, who shall be directly under the control and supervision of the City Manager.

(2) The Council, for the purpose of defraying the cost of the care, management, improvement, and maintenance of the City Water Department, may each year levy a tax, not exceeding the maximum limit prescribed by state law, on the taxable value of all taxable property within the City.

(3) The City Manager shall have the direct management and control of the City Water Department and shall faithfully carry out the duties of the office. The City Manager shall have the authority to adopt rules and regulations for the sanitary and efficient management of the Water Department subject to the supervision and review of the Council.

(4) The Council shall set the rates to be charged for services rendered by resolution and shall file a copy of the rates in the office of the City Clerk for public inspection at any reasonable time.

Statutory reference: Neb. RS 19-1305

43-702. Powers of City.

The Council and the City Manager hereby reserve the right at all times to shut off the water for necessary repairs or extensions. The Council reserves the right to amend or alter any ordinances, rules, or regulations pertaining to water and water service, including the rates herein established when they deem advisable.

43-703. Liability of City.

The City shall not be liable for any damage suffered by any person through any portion of its waterworks system by virtue of the fact that the Plumbing Inspector may have supervised, inspected, or approved said water services.

43-704. Inspections.

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

43-705. Duties of police.

It shall be the duty of the City Police to report to the City Manager all cases of leakage and waste in the use of water and all violations of the municipal code relating to the Water Department. They shall have the additional duty of enforcing the observance of all such regulations.

ARTICLE 8
PENALTY

Section.
43-801. Penalty

43-801. Penalty

(1) Penalty amounts. Any person who violates any of the prohibitions or provisions of any section of this chapter shall be deemed guilty of a misdemeanor. Unless otherwise specified in this chapter or by statute, the penalty for such violation shall be in any amount not to exceed $1,000, in the discretion of the court; and; provided, whenever any section of this chapter shall declare a nuisance, a violation of that section shall be penalized by a fine of not more than $1,000, in which case a new violation shall be deemed to have been committed every 24 hours of such failure to comply.

(2) Abatement of nuisance.

(a) Whenever a nuisance exists as defined in this chapter, the City may proceed by a suit in equity to enjoin and abate the same, in the manner provided by law.

(b) Whenever in any action it is established that a nuisance exits, the court may, together with the fine or penalty imposed, enter an order of abatement as a part of the judgment in the case.

(3) Restitution. The court may, together with the fine or penalty imposed, enter an order of restitution as part of the judgment in the case.

Statutory reference: Neb. RS 16-225, 16-240, 16-246, 18-1720.

CHAPTER 44
ZONING REGULATIONS

Article.

1. General Provisions.
2. Districts Generally.
3. A-1 Agricultural District.
4. A-2 Agricultural Residential District.
5. C-1 Business District – Central.
6. C-2 Business District – Highway.
7. C-3 Business District – Neighborhood.
8. C-4 Business District – Interstate Highway.
9. H-1 Historical District.
10. I-1 Industrial District.
11. R-1 Residential District – Low Density.
12. R-1S Residential District – Low Density Special.

13. R-2 Residential District – Medium Density.
14. R-3 Residential District – High Density.
15. Standards and Regulations; Generally.
16. Use Standards.
17. Design Standards.
18. Board of Adjustment.
19. Administration and Enforcement.
20. Penalty.

ARTICLE 1
GENERAL PROVISIONS

Section.
44-101. Purpose.
44-102. Jurisdiction.
44-103. Nonconforming land, structures, and uses.
44-104. Definitions.

44-101. Purpose.

The regulations for the zoning districts set forth in this chapter are made in accordance with a Comprehensive Plan for the purpose of setting minimum standards to promote the public health, safety, morals, convenience, order, prosperity, and general welfare of the community. They are designed to lessen congestion in the streets; to secure safety from fire, panic, and other dangers; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; and to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements, among other things, as to the character of each district and its peculiar suitability for particular uses and with a view of conserving the value of buildings and encouraging the most appropriate use of land throughout the City.

Statutory reference: Neb. RS 19-901

44-102. Jurisdiction.

The provisions of this chapter shall apply within the corporate limits of the City and within the territory beyond said corporate limits, as now or hereafter fixed, for a distance of two miles in all directions, as established on the two maps entitled “The Official Zoning Maps of the City of Ogallala, Nebraska,” as the same may be amended by subsequent annexation. Said maps and amendments, and all explanatory matter accompanying them, are made a part of this chapter. Said maps shall be on file in the office of the City Clerk and a certified copy thereof shall be furnished to the County Assessor.

Statutory reference: Neb. RS 16-901

44-103. Nonconforming land, structures, and uses.

After November 8, 1967, land or structures or the uses of land or structures that

would be prohibited under the regulations for the district in which they are located shall be considered nonconforming. It is the intent of this chapter to permit these nonconforming uses to continue, provided that they conform to the following provisions:

(1) The use of a building, structure, or land existing at the time of the adoption of a zoning regulation, or at the time of an amendment of a regulation, may, except as provided in this section, be continued, although such use does not conform with provisions of such regulation or amendment; and such use may be extended throughout the same building if no structural alteration of such building is proposed or made for the purpose of such extension. Except as provided above, no existing structure devoted to a use not permitted by this chapter in the district in which it is located shall be enlarged, extended, constructed, moved, or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located.

(2) If no structural alterations are made, any nonconforming use of a structure, or structure and premises, may be changed to another nonconforming use; provided, that the City Council, either by general rule, or by making findings in the specific case, shall find that the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use. In permitting such change, the City Council may require appropriate conditions and safeguards in accord with the provisions herein.

(3) When a nonconforming use of a structure, or structure and premises in combination, is, in fact, discontinued or abandoned for 12 consecutive months, the structure, or structure and premises in combination, shall not thereafter be used except in conformance with the regulations of the district in which it is located.

(4) No structure, or structure and premises in combination, devoted to a use not permitted by this chapter in the district in which it is located which has been damaged to the extent of more than 60% of its assessed fair market value immediately prior to damage, shall be rebuilt, altered, or repaired, except in conformity with the district regulations.

Statutory reference: Neb. RS 19-904.01

44-104. Definitions.

(1) Generally. For the purpose of interpreting this chapter, certain terms are herein defined. Except as defined herein, all other words used in this chapter shall have their customary dictionary meanings.

(2) Interpretation.

(a) Words used in the present tense include the future tense.

(b) Words used in the singular include the plural, and words used in the plural include the singular.

(c) The word shall is always mandatory.

(d) The word lot includes the word plot or parcel.

(e) The word building includes the word structure.

(f) The word used or occupied, as applied to any land or buildings, shall be construed to include the words intended, arranged, or designed to be used or occupied.

(g) The word maps or official zoning maps of Ogallala shall mean the “official zoning maps of the City of Ogallala, Nebraska” and the area comprising its two-mile extraterritorial zoning jurisdiction.

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

(a) 100-Year Flood shall mean the condition of flooding having a 1% chance of annual occurrence.

(b) Alley shall mean a public or private thoroughfare which affords only a secondary means of access to abutting property.

(c) Apartment shall mean a part of a building consisting of a room or rooms intended, designed, or used as a residence by an individual or a single family; also known as a multi-family residence.

(d) Areas of Special Flood Hazard shall mean the land within a community subject to a 1% or greater chance of flooding in any given year. This land is identified as Zone A on the official map.

(e) Basement shall mean a portion of a building located partly or wholly below grade.

(f) Board shall mean the Board of Adjustment as provided in section 44-1801 et seq.

(g) Boarding House shall mean a residential establishment other than a hotel or motel where sleeping and eating accommodations are offered to the public on a non-transient basis.

(h) Borrow Pit shall mean any place or premises where dirt, soil, sand, gravel, or other material is removed below the grade of surrounding land for any purpose other than that necessary and incidental to site grading or building construction.

(i) Building shall mean a structure that is completely enclosed by a roof and by solid exterior walls along the outside faces of which an unbroken line can be traced for the complete circumference of the structure, which is permanently affixed to a lot or lots, and used or intended for the shelter, support, or enclosure of persons, animals, or property of any kind. The connection of two buildings by means of an open porch, breezeway, passageway, carport, or other such open structures, with or without a roof, shall not be deemed to make them one building.

(i) Accessory Building shall mean a subordinate building, the use of which is customarily incidental to that of a principal building on the same lot.

(ii) Principal Building shall mean a structure which houses the principal use of the lot on which it is situated.

(j) Building Height shall mean the vertical distance to the highest point of a roof; to the deck line of mansard roofs; and to the average height between eaves and ridge for gable, hip, and gambrel roofs, measured from the curb level if the building is not more than 10 feet from the front lot line, or from the grade in all other cases.

(k) Comprehensive Plan shall mean the Comprehensive Plan for the City.

(l) Development shall mean any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operations.

(m) Dwelling:

(i) Model Home shall mean a structure used by a contractor for the purpose of displaying features of that particular home. A model home may have a business office that shall be used only for transacting business associated with selling homes built by that contractor. A model home shall not be used as a real estate office.

(ii) Multi-Family Dwelling shall mean a building used by or designed for three or more dwelling units, each independently containing cooking facilities.

(iii) Single-Family Dwelling shall mean a building having accommodations for one family.

(iv) Two-Family Dwelling shall mean a building having two dwelling units and also known as a duplex.

(n) Dwelling Unit shall mean a building, or portion thereof, providing complete and permanent living facilities for one family.

(o) Family shall mean one or more persons, related or unrelated, living together as a single housekeeping unit with or without domestic servants, caregivers, foster children, and supervisory personnel in a group living arrangement. The term family shall not include occupancy of a residence by persons living in fraternities, sororities, clubs, or transient or permanent commercial residential facilities catering to the general public. Also excluded are nursing and convalescent homes.

(p) Flood shall mean a temporary rise in a stream's flow or stage that results in water overflowing its banks and inundating areas adjacent to the channel or an unusual and rapid accumulation of runoff or surface waters from any source.

(q) Floodproofing shall mean any combination of structural and nonstructural additions, changes, or adjustments to structures, including utility and sanitary facilities, which would preclude the entry of water. Structural components shall have the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

(r) Floor Area shall mean the sum of the gross horizontal areas of all floors of a building measured from the exterior faces of the exterior walls or from the centerline of walls separating buildings.

(s) Frontage shall mean the width of property between two side lot lines abutting the street and measured along the right-of-way line.

(t) Garage:

(i) Private Garage shall mean a building for the private use of the owner or occupant of a principal building situated on the same lot of the principal building for the storage of motor vehicles with no facilities for mechanical service or repair of a commercial or public use.

(ii) Public Garage shall mean a garage other than a private garage.

(u) Home Occupation shall mean any occupation or activity carried on within a dwelling unit or accessory building by a member of the family residing on the premises which occupation or activity is incidental and secondary to the residential occupancy and does not change the residential character thereof. The regulations pertaining to home occupations can be found in section 44-1603.

(v) Improvements shall mean pavements, curbs, gutters, sidewalks, water mains, sanitary sewers, storm sewers, grading, street signs, plantings, and other items for the welfare of the property owners and the public.

(w) Junkyard shall mean a lot or parcel of land used for storage, keeping, or abandonment of junk (including scrap metal or vehicles or machinery or parts thereof) and necessary salvage operations related to the sale of parts or components.

(x) Lot shall mean a parcel of land defined by metes and bounds or boundary lines in a recorded deed fronting on a street. In determining lot area on boundary lines, no part thereof within the limits of the street, including right-of-way, shall be included.

(i) Corner lot shall mean a lot at the junction of and fronting on two or more intersecting streets.

(ii) Interior lot shall mean a lot other than a corner lot.

(iii) Through lot shall mean an interior lot having frontage on two parallel or approximately parallel streets and also known as a double fronted lot.

(y) Lot Depth shall mean the average horizontal distance between front and rear lot lines.

(z) Lot Lines shall mean the legal division between two lots.

(aa) Lot of record shall mean a lot which is a part of a plot, a map of which has been recorded in the office of the County Assessor.

(bb) Lot width shall mean the horizontal distance between side lot lines measured at the required front setback line.

(cc) Major Street Plan shall mean a plan adopted by the Commission for the guidance of alignment, function, and improvements of City streets, including modifications or refinements which may be made from time to time.

(dd) Home shall mean a factory-built structure which is to be used as a place for human habitation; which is not constructed or equipped with a permanent hitch or other device allowing it to be moved other than to a permanent site; which does not have permanently attached to its body or frame any wheels or axles; and which bears a label certifying that it was built to compliance with National Manufactured Home Construction and Safety Standards, 24 CFR 3280 et seq., promulgated by the United States Department of Housing and Urban Development, or a modular housing unit as defined in Neb. RS 71-1557 bearing the seal of the Department of Health. In addition to this definition, manufactured homes located outside mobile home parks shall be subject to the conditions and protective restriction set forth in sections 44-1503 and 44-1705.

(ee) Mobile Home Park shall mean a parcel or contiguous parcels of land which have been so designated and improved that it contains two or more mobile home lots available to the general public for the placement thereon of mobile homes for occupancy; provided, however, that any mobile home park that has not previously been licensed and permitted as a special exception by the City, prior to January 1, 2001, shall contain ten or more mobile home lots available to the general public for the placement thereon of mobile homes for occupancy. The term mobile home park shall not be construed to include mobile homes, buildings, tents, and other structures temporarily maintained by any individual, corporation, company, or other entity on its own premises and used exclusively to house its own labor force.

(ff) Performance Guarantee shall mean a corporate surety or cash deposit made out to the City in an amount equal to the full cost of the improvements which are required by these regulations, said cost being estimated by the City Engineer or his or her designee and said surety or cash deposit being legally sufficient to secure to the City that the said improvements will be constructed in accordance with these regulations.

(gg) Person shall mean an individual, firm, partnership, corporation, company, association, syndicate, or any legal entity, including any trustee, receiver, assignee, or other similar representative thereof.

(hh) Planning Area shall mean the City and two miles surrounding it in all directions.

(ii) Plat shall mean a map, drawing, or chart on which the subdivider's plan of the subdivision of land is presented and which he or she submits for approval and intends, in final form, to record.

(i) Final Plat shall mean a finished drawing showing completely and accurately all legal and engineering information and certification necessary for recording.

(ii) Preliminary Plat shall mean a drawing which shows the proposed layout of a subdivision in sufficient detail to indicate unquestionably its workability in all aspects (but not drafted in final form for recording) and the details of which are not completely computed.

(jj) Professional Office shall mean a use of a building that includes but is not limited to offices of accountants, architects, attorneys, auditors, bookkeepers, engineers, real estate and abstractors and financial planners.

(kk) Regulatory Flood Elevation shall mean the water surface elevation of the 100-year flood.

(ll) Right-of-Way shall mean a strip of land separating private property from the street or alley existing or dedicated in public ownership.

(mm) Shopping Center shall mean a group of retail business and service uses on a single site with common parking facilities.

(nn) Sign shall mean any advertisement, announcement, direction, or communication produced in whole or in part by the construction, erection, affixing, or placing of a structure on any land or on any other structure, or produced by painting on or posting or placing any printing, letter printed, lettered, pictured, figured, or colored material on any building, structure, or surface. Signs placed or erected by governmental agencies for a public purpose in the public interest shall not be included herein, nor shall this include signs which are a part of the architectural design of a building.

(i) Billboard Sign shall mean a sign that identifies or communicates a commercial or noncommercial message related to an activity conducted, a service rendered, or a commodity sold at a location other than where the sign is located.

(ii) Illuminated Sign shall mean a sign designed to give forth artificial light or through transparent translucent material from a source of light within such sign, including, but not limited to, neon and exposed lamp signs.

(iii) Off-Premises Sign shall mean any sign which is not an on-premises sign.

(iv) On-Premises Sign shall mean a sign located on the property which is being advertised, consisting solely of the name of the establishment and information which identifies the establishment's principal or accessory products or services offered on the property.

(v) Temporary Sign shall mean a freestanding sign advertising sale or rental of property not attached to the structure it serves, nor intended nor designed as a permanent fixture.

(oo) Story shall mean that portion of a building, other than a basement, included between a floor and the floor next above it.

(pp) Street shall mean a public or private thoroughfare which is used, or intended to be used, for passage or travel by motor vehicles. Streets are further classified by the functions they perform.

(i) Collector Street shall mean a street which carries traffic from a local street to a

major street and is so designated on the major street plan for the City.

(ii) Commercial Frontage Street shall mean a street located in a nonresidential district which is approximately parallel to and adjacent to or part of a controlled access street and provides access to the abutting properties on one side only and protection from through traffic, and is so designated on the major street plan for the City.

(iii) Dead-End Street shall mean a short street having one end opened to vehicular traffic and the other end terminated, but not with a vehicular turnaround.

(iv) Local Street shall mean a street which is used primarily for access to abutting properties.

(v) Major Street shall mean a street of considerable continuity connecting various sections of the City, and is so designated on the major street plan for the City.

(qq) Street Right-of-Way Line shall mean a line separating private property from the street or alley existing or dedicated in public ownership.

(rr) Structure shall mean anything constructed or erected, including a building which has permanent foundations on the ground, or anything attached to something having a permanent location on the ground.

(ss) Subdivider shall mean any person, firm, or corporation undertaking the subdivision or resubdivision of a tract or parcel of land for the purpose of laying out a platted addition or subdivision of land.

(tt) Subdivision shall mean the division of any parcel of land shown as a unit or as contiguous units on the last preceding tax roll prior to November 8, 1967, into two or more parcels, sites, or lots for the purpose, whether immediate or future, of transfer of ownership; the improvement of one or more parcels of land for residential, commercial, or industrial structures or groups of structures involving the division or allocation of land for the opening, widening, or extension of any street or streets, except private streets; or, the division or allocation of land as open spaces for common use by owners, occupants, or lease holders, or as easements for the extension and maintenance of public sewer, water, storm drainage, or other public facilities; provided, however, that any division of land for agricultural purposes into lots or parcels of ten acres or more shall not be deemed a subdivision unless street dedications, easements, improvements, or other public facilities are involved. This definition shall be held to include resubdivision and, when appropriate to the context, relate to the process of subdividing or to the land or territory subdivided.

(i) Major Subdivision shall mean any subdivision other than a minor subdivision.

(ii) Minor Subdivision shall mean a subdivision in which no land is dedicated for street purposes other than street widening.

(uu) Substantial Improvement shall mean any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure, either before the improvement is started or, if the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition Substantial Improvement is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences whether or not that alteration affects the external dimension of the structure. The term does not, however, include any alteration to comply with existing state or local health, sanitary, building, or safety codes or regulations as well as structures listed in national or state registers of historic places.

(vv) Townhouse shall mean a dwelling unit having a common wall with or abutting one or more adjacent dwelling units in a townhouse structure, with its own front and rear access to the outside, and neither above or below any other dwelling unit.

(ww) Townhouse Ownership shall mean ownership of a townhouse is allowed whereby the title of each unit of occupancy, and the real estate on which the unit resides, is held in separate ownership. The minimal ownership shall be the unit and footprint of property on which the unit occupies. The maximum ownership shall be the unit and any area of land which shall reflect the property if the common wall was extended to serve as a property line.

(xx) Townhouse Structure shall mean a building formed by at least two townhouses and not more than twelve contiguous townhouses with common walls. For the purpose of the side yard regulations, the structure containing a group of townhouses shall be considered as one building occupying a single lot.

(yy) Common Wall shall mean a wall between two adjacent dwelling units in a Townhouse Structure extending from the foundation through the roof without openings.

(zz) Trailer shall mean any vehicle used or so constructed as to permit its use as a conveyance upon the public streets or highways and duly licensed as such. Trailer shall include self-propelled and non-self-propelled vehicles, and those designed, constructed, reconstructed, or added to by means of an enclosed addition or room in such manner as will permit the occupancy there of as a dwelling unit.

(aaa) Truck Terminal shall mean a commercial facility where truck freight is stored, handled, and dispatched between various locations by way of different major truck carriers and including facilities for the storage and repair of trucks and trailers while awaiting consignment.

(bbb) Use shall mean any activity, occupation, business, or operation carried on, or intended to be carried on, in a building or structure or on a tract of land.

(ccc) Yard:

(i) Required Yard shall mean the minimum open space between the property line and the yard line. The required yard shall contain no building or structure other than the projection of the usual steps, unenclosed balconies, or open porches.

(ii) Front Yard shall mean any open space from the front line of the building to the street right-of-way line. There shall be a required front yard on each side of a corner lot.

(iii) Rear Yard shall mean the open space between the rear line of the lot (the line which is opposite the addressed street) and the rear line of the main building.

(iv) Side Yard shall mean an open, unoccupied space between the closest portion of the building to the side line of the lot. There shall be only one required side yard on a corner lot.

ARTICLE 2
DISTRICTS GENERALLY

Section.

44-201. District classifications.
44-202. District boundaries; zoning maps.
44-203. District boundary interpretation.

44-201. District classifications.

For the purpose of this chapter, the City is hereby divided into 12 districts, designated as follows:

(1) Agricultural District (A-1)
(2) Agricultural Residential (A-2)
(3) Business District – Central (C-1)
(4) Business District – Highway (C-2)
(5) Business District – Neighborhood (C-3)
(6) Business District – Interstate Highway (C-4)
(7) Historical District (H-1)
(8) Industrial District (I-1)
(9) Residential District – Low Density (R-1)
(10) Residential District – Low Density Special (R-1S)
(11) Residential District – Medium Density (R-2)
(12) Residential District – High Density (R-3)

44-202. District boundaries; zoning maps.

The boundaries of the districts are hereby established as shown on the maps entitled "Official Zoning Maps of the City of Ogallala, Nebraska." Said maps and all explanatory matter are hereby made a part of this chapter as if fully written herein.

Statutory reference: Neb. RS 19-904

44-203. District boundary interpretation.

Where uncertainty exists with respect to the boundaries of any of the aforesaid districts as shown on the zoning map, the following rules shall apply:

(1) Where district boundaries are indicated as approximately following the centerlines of streets, highways, streams or rivers, street or railroad right-of-way lines or said lines extended, such lines shall be construed to be the boundaries.

(2) Where district boundaries are so indicated that they approximately follow lot lines, such lot lines shall be construed to be said boundaries.

(3) Where district boundaries are so indicated that they are approximately parallel to the centerlines of streets, highways, railroads, or reservoirs, such district boundaries shall be construed as being parallel thereto and at such distance therefrom as indicated on the zoning maps. If no distance is given, such dimension shall be determined by use of the scale shown on said zoning maps.

(4) Where a district boundary line divides a lot in single ownership, the district boundary lines shall be determined by the use of the scale or dimensions shown on the zoning maps.

(5) Where physical or cultural features existing on the ground are in variance with those shown on the zoning maps, or in other circumstances not covered previously in this section, the Board of Adjustment shall interpret the district boundaries.

Statutory reference: Neb. RS 19-904

ARTICLE 3

A-1 AGRICULTURAL DISTRICT

Section.
44-301. Purpose and characteristics.
44-302. Permitted uses.
44-303. Special uses.
44-304. Area, yard, and height requirements.

44-301. Purpose and characteristics.

The purpose of the (A-1) Agricultural District is to fix the location of predominantly agricultural sections of the Planning Area, to annotate those land uses which are agricultural or basically related to agriculture, and to further record those land uses deemed compatible with agriculture or with an agricultural area in transition to an area of more urban character.

44-302. Permitted uses.

Within the (A-1) Agricultural District, a building or premises shall be used only for the following purposes:

(1) Agricultural uses, farming, livestock raising, greenhouses, truck gardens, and other agricultural activities commonly required for the operation of a farm or ranch.

(2) Single-family dwellings.

(3) Customary incidental home occupations in accordance with the provisions set forth in section 44-1603.

(4) Manufactured homes which comply with the provisions of section 44-1705.

(5) Public uses including, but not limited to, public parks, playgrounds, trails, golf courses, recreational uses, fire stations, public elementary and high schools, public utilities and utility distribution systems.

(6) Accessory bridges, structures, or uses subordinate and customarily incident to and located on the same lot with any of the foregoing principal uses.

(7) Major off-street parking facilities in conjunction with all uses in the foregoing listing.

(8) Signs. The following on-premises signs shall be permitted, so long as they do not exceed 35 feet in height:

(a) Permanent advertising signs identifying the use of the building, structure, or premises. Such signs shall be in harmony with the intended use of the land and the character of the zoning district in which they are to be erected. Said signs shall be limited to the following:

(i) One single freestanding sign with a maximum area of 90 square feet;

(ii) One single sign, attached to the facade of the building, occupying no more than 10% of the surface area of said facade; or

(iii) One single billboard-type sign, 24 square feet in area, for use in advertising products or services considered incidental to the primary use of the building or premises, attached to and parallel with the facade of the building.

(b) One temporary on-site, non-illuminated sign, not to exceed 32 square feet in area, advertising the sale or rental of the property.

Approval of permits for advertising signs and advertising sign specifications shall

conform to the specifications of section 44-1708.

44-303. Special uses.

The City Council may authorize the following special uses in the (A-1) Agricultural District, but only after receiving the recommendation of the Planning Commission, after a public hearing, and subject to the conditions and protective restrictions set forth in section 44-1503:

(1) Mobile homes, which meet the definition of section 26-101.

(2) Churches, Sunday schools, and other places of worship;

(3) Private clubs, private lodges, private social recreational areas and entertainment facilities or grounds for games, sports, and camping;

(4) Cemeteries;

(5) Airports, airplane landing fields, radio or television transmitter stations, gas, electricity, or other necessary utilities;

(6) Automotive wrecking, salvage, junk yards and establishments or use areas conducting vehicle maintenance or storage activities of a heavier nature than gasoline service stations or general vehicle garage repair provided that such establishments or use areas are enclosed by a solid fence or vegetative screening of at least 8 feet in height, and is not located closer than one-half mile to any residential district, incorporated area or dwelling other than the dwelling of the lessee or owner of the site;

(7) Mental institutions and places of detention;

(8) Additional single-family dwelling unit which provides housing for relatives by blood and marriage or farm workers;

(9) Livestock feed lots and sale barns, kennels and veterinary establishments, but not nearer than 1,000 feet to any zoned residential district, incorporated area or dwelling other than the dwelling of the lessee or owner of the site;

(10) Mining of sand and gravel or creation of borrow pits;

(11) Recycling facilities as provided for in Chapter 34 of this code.

(12) Collection and composting of yard waste.

44-304. Area, yard, and height requirements.

Area, yard, and height requirements for the (A-1) Agricultural District shall be the following:

(1) Minimum lot size shall be ten acres, with not less than 100 feet width.

(2) Minimum yard requirements shall be the following:

(a) Front yard depth: not less than 50 feet.

(b) Side yard depth: not less than ten feet.

(c) Rear yard depth: not less than 25 feet.

(3) There shall be no height limits placed on buildings constructed in this district.

ARTICLE 4
A-2 AGRICULTURAL RESIDENTIAL DISTRICT

Section.

44-401. Purpose and characteristics.
44-402. Permitted uses.

44-403. Special uses.
44-404. Area, yard, and height requirements.

44-401. Purpose and characteristics.

The (A-2) Agricultural Residential District is intended to provide for low-density acreage residential development in selected areas adjacent or in close proximity to the corporate limits of the City and other developed areas within the City jurisdiction. Generally, these districts are located near urban and built-up areas within reasonable reach of fire protection and hard surfaced roads.

44-402. Permitted uses.

Within the (A-2) Agricultural Residential District, a building or premises shall be used only for the following purposes:

(1) Agricultural uses, with a maximum of one animal unit per acre.

(2) One single-family dwelling.

(3) Manufactured homes which comply with the provisions of section 44-1705.

(4) Irrigation and flood control projects.

(5) Public parks and recreational areas.

(6) Community buildings and/or facilities owned and/or occupied by public agencies.

(7) Public and/or private schools.

(8) Customary incidental home occupations in accordance with the provisions of section 44-1603.

(9) Accessory buildings, structures, or uses subordinate and customarily incidental to and located on the same lot with any of the foregoing uses.

(10) Major off-street parking facilities in conjunction with all uses in the foregoing list.

(11) Signs. The following on-premises signs shall be permitted, so long as they do not exceed eight feet in height:

(a) Permanent advertising signs identifying the use of the building, structure, or premises. Such signs shall be in harmony with the intended use of the land and the character of the zoning district in which they are to be erected. Said signs shall be limited to the following:

(i) One single sign with a maximum area of four square feet, with the exception that a maximum area of 50 square feet shall be allowed for the uses specified in subsections (2), (3), (4), and (5) above.

(b) One temporary on-site, non-illuminated sign, not to exceed six square feet in area, advertising the sale or rental of the property.

Approval of permits for advertising signs and advertising sign specifications shall conform to section 44-1708.

44-403. Special uses.

The City Council may authorize the following special uses in the (A-2) Agricultural Residential District, but only after receiving the recommendation of the Planning Commission; after a public hearing; and subject to the conditions and protective restrictions set forth in section 44-1503:

(1) Airports and heliports, including crop-dusting.
(2) Agricultural service establishments primarily engaged in performing agricultural, animal husbandry, or horticultural services.
(3) Places of worship such as churches, synagogues, and temples.
(4) Cemeteries, crematories, mausoleums, and columbaria.
(5) Child-care centers.
(6) Radio and television towers and transmitters.
(7) Recreation camps
(8) Wind generating systems.
(9) Kennels.
(10) Public and private charitable institutions.
(11) Greenhouses and nurseries of a commercial nature.
(12) Collection and composting of yard waste.

Statutory reference: Neb RS 71-3101.

44-404. Area, yard, and height requirements.

Area, yard, and height requirements for the (A-2) Agricultural Residential District shall be the following:
(1) Minimum lot size shall be three acres with not less than 220 feet width.
(2) Minimum yard requirements shall be the following:
(a) Front yard depth: not less than 50 feet.
(b) Side yard width: not less than 15 feet.
(c) Rear yard depth: not less than 50 feet or 20% of lot depth.
(3) The maximum height of a non-agricultural building in this district shall be 35 feet.

ARTICLE 5
C-1 BUSINESS DISTRICT – CENTRAL

Section.
44-501. Purpose and characteristics.
44-502. Permitted uses.
44-503. Special uses.
44-504. Area, yard, and height requirements.

44-501. Purpose and characteristics.

The purpose of the (C-1) Business District – Central is to establish the location of the downtown or predominant shopping area of the City in relation to its intended use, that being to best serve the largest number of patrons within the community's service area with the widest variety of goods and services. Through the proper zoning classification and use of restrictions, it is the intent of this section to prevent the scattering of commercial uses and to centralize together the predominant retail and service activities needed to satisfy the local shopping public.

Historical reference: Ord. 1092, passed 8-10-99

44-502. Permitted uses.

Within the (C-1) Business District – Central, buildings and premises shall be used only for the following purposes:

(1) Theaters and auditoriums.

(2) Lodges, clubs, fraternal organizations, and places for entertainment and public gatherings.

(3) Banks, financial institutions, loan offices, and tax services.

(4) Insurance, real estate, and business offices or establishments.

(5) Medical, dental, and health offices, clinics, and establishments, excluding veterinary clinics.

(6) Funeral homes.

(7) Professional offices and establishments.

(8) Barber shops, beauty salons, reducing salons, and photographic studios.

(9) Restaurants, cafes, short order establishments, bars, liquor stores, and nightclubs.

(10) Ice cream and dairy stores and establishments selling specialty food items, but not exclusively drive-in type facilities.

(11) Furniture, appliance, radio and television, and office furniture and supply stores.

(12) Clothing, haberdashers, shoe stores, specialty clothing and dressmaking shops.

(13) Drug stores, record shops, jewelry, hardware, and variety stores, and specialty item establishments.

(14) Department stores, florist shops, farm and garden supplies, sporting goods and hobby shops.

(15) Transportation depots, communication offices, and travel agencies.

(16) Dry cleaning pick-up establishments; laundromats, but not laundries; shoe and clothing repair shops; furniture and appliance repair and upholstery establishments.

(17) Hotels.

(18) Paint stores, rugs and floor covering shops, and gun and firearms establishments.

(19) Major off-street parking facilities as an integral design consideration with all of the uses in the C-1 Zone.

(20) Public works, public buildings, public utility facilities, such as transformer stations, pumping stations, water towers, radio or television transmitter stations, and telephone exchanges.

(21) Libraries, private clubs, lodges, and social, recreational, and entertainment facilities and structures only for games and sports.

(22) Accessory uses and buildings that are clearly incidental to the permitted use and that will not create a nuisance or hazard.

(23) Single and multi family dwellings.

(24) Signs. The following on-premises signs shall be permitted:

(a) Permanent advertising signs identifying the use of the building, structure, or premises. Such signs shall be in harmony with the intended use of the land and the character of the zoning district in which they are to be erected, and shall be part of the

architectural design or theme of the building. Said signs shall be limited to the following:

(i) One single sign, attached to the facade of the building, occupying no more than 10% of the surface area of said facade.

(b) One temporary on-site, non-illuminated sign, not to exceed eight square feet in area and advertising the sale or rental of the property.

Approval of permits for advertising signs and advertising sign specifications shall conform to section 44-1708.

Historical reference: Ord. 1092, passed 8-10-99

44-503. Special uses.

The City Council may authorize the following special uses in the (C-1) Business District – Central, but only after receiving the recommendation of the Planning Commission; after a public hearing; and subject to the conditions and protective restrictions set forth in section 44-1503:

(1) Churches, Sunday schools, and other places of worship.

(2) Private and/or parochial schools.

(3) Day-care facilities and preschools.

Historical reference: Ord. 1092, passed 8-10-99

44-504. Area, yard, and height requirements.

Area, yard, and height requirements for the (C-1) Business District – Central shall be the following:

(1) There shall be no limitations placed on the size of the lot.

(2) Minimum yard requirements shall be the following:

(a) Front yard depth: none.

(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 than eight feet shall be provided. If a side yard is allowed, built, or used, it shall be not less than five feet in width.

(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 25 feet shall be provided.

(3) The maximum height of a building in this district shall be 45 feet.

(4) Freestanding on-premises signs shall not exceed 90 square feet in area and 35 feet in height.

Historical reference: Ord. 1092, passed 8-10-99

ARTICLE 6
C-2 BUSINESS DISTRICT – HIGHWAY

Section.

44-601. Purpose and characteristics.
44-602. Permitted uses.
44-603. Special uses.
44-604. Area, yard, and height requirements.

44-601. Purpose and characteristics.

The purpose of the (C-2) Business District – Highway is to establish the location of areas best suited for the needs of highway-related business within the planning area, those commercial types being characterized by the need for larger lot sizes, off-street parking, and immediate access to transient traffic.

44-602. Permitted uses.

Within the (C-2) Business District – Highway, a building or premises shall be used only for the following purposes:

(1) Farm equipment sales and service.

(2) Automotive sales, services, and storage.

(3) Restaurants, cafes, drive-in restaurants, and drinking establishments.

(4) Motels, hotels, and tourist accommodations.

(5) Trailer sales, separate from trailer parks.

(6) Commercial recreation and entertainment, such as drive-in theaters, miniature golf courses, bowling alleys, dance halls, skating rinks, drag strips, golf driving and target ranges.

(7) Truck terminals and related storage facilities.

(8) Commercial storage or rental storage facilities completely within an enclosed building.

(9) Gas stations.

(10) Public and private parking lots.

(11) Food, drug, dairy, liquor, furniture, and appliance stores.

(12) Dry cleaners, laundries, barber and beauty shops, lumber yards, paint stores, clothing stores, farm and garden supply, sporting goods, and hobby shops.

(13) Medical clinics, hospitals, convalescent homes, funeral homes, and veterinary clinics excluding kennels.

(14) Public or private clubs, lodges, social, recreational, and entertainment facilities, or grounds for games and sports, including public or privately owned museums.

(15) Public works and public utility facilities such as transformer stations pumping stations, water towers, radio or television transmitter stations, and telephone exchanges.

(16) Banks, financial institutions, loan offices, and tax services.

(17) Insurance, real estate, and business offices or establishments.

(18) Professional offices and establishments.

(19) Accessory uses and buildings that are clearly incidental to the permitted use and that will not create a nuisance or hazard.

(20) Lumber wood sales.

(21) Signs. The following on-premises signs shall be permitted, so long as they do not exceed 35 feet in height:

(a) Permanent advertising signs identifying the use of the building, structure, or premises. Such signs shall be in harmony with the intended use of the land and the character of the zoning district in which they are to be erected, consisting of no more than:

(i) One single sign, attached to each facade of the building, occupying no more than 10% of the surface area of said facade.

(ii) One freestanding on premise sign not to exceed 90 square feet in area.

(b) One temporary on-site, non-illuminated sign, not to exceed eight square feet in area and advertising the sale or rental of the property.

Approval of permits for advertising signs and advertising sign specifications shall conform to section 44-1708.

44-603. Special uses.

The City Council may authorize the following special uses in the (C-2) Business District – Highway, but only after receiving the recommendation of the Planning Commission; after a public hearing; and subject to the conditions and protective restriction set forth in section 44-1503:

(1) Mobile home parks or courts, subject to the regulations outlined in section 44-1503(B).

(2) The open storage, parking, or sale of building materials and supplies, wholesale and warehousing goods, and contractors' equipment.

(3) Recycling facilities as provided for in Chapter 34 of this code. Such a facility in this zone shall only be permitted if it is limited in the scope of its operation. Factors to be considered in determining the scope of operation shall include, but not be limited to, area covered, odor produced, noise produced, and ability to control loose material resulting from the operation.

(4) Churches, Sunday schools, and other places of worship.

(5) Freestanding off-premises signs or billboards which meet the following requirements:

(a) Having a total sign area of 256 square feet or less;

(b) Placed at least 250 feet from any other off-premises sign; and

(c) Having an overall height of 35 feet or less.

(6) Collection and composting of yard waste.

(7) Single family dwellings

44-604. Area, yard, and height requirements.

Area, yard, and height requirements for the (C-2) Business District – Highway shall be the following:

(1) There shall be no limitations placed on the size of the lot.

(2) Minimum yard requirements shall be as follows:

(a) Front yard depth: none.

(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 than eight feet shall be provided. If a side yard is allowed, built, or used, it shall be not less than five feet in width.

(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 25 feet shall be provided.

(3) The maximum height of a building in this district shall be 45 feet.

(4) Freestanding on-premises signs shall not exceed 90 square feet in area and 35 feet in height.

ARTICLE 7
C-3 BUSINESS DISTRICT – NEIGHBORHOOD

Section.
44-701. Purpose and characteristics.
44-702. Permitted uses.
44-703. Special uses.
44-704. Area, yard, and height requirements.

44-701. Purpose and characteristics.

The purpose of the (C-3) Business District – Neighborhood is to establish the types of business that are considered desirable immediately accessible to single-family low density residential neighborhoods. Although it is desirable to have some types of business enterprise adjacent to residential areas, it can be easily seen that other types, which by their intended nature generate large amounts of vehicular traffic, can better be accommodated in the Business District – Central, or in highway business zones which are served by major arterial streets or highways.

44-702. Permitted uses.

Within the (C-3) Business District – Neighborhood, a building or premises shall be used only for the following purposes:

(1) Food and dairy product stores, but excluding supermarket-type operations.

(2) Laundromat and dry cleaning pick-up stations.

(3) Barber and beauty shops.

(4) Medical and dental offices.

(5) Insurance and real estate offices.

(6) Accessory uses and buildings that are clearly incidental to the permitted use and that will not create a nuisance or hazard.

(7) Signs. The following on-premises signs shall be permitted, so long as they do not exceed 12 feet in height:

(a) Permanent advertising signs identifying the use of the building, structure, or premises. Such signs shall be in harmony with the intended use of the land and the character of the zoning district in which they are to be erected. Said signs shall be limited to the following:

(i) One single freestanding sign with a maximum area of 24 square feet.

(ii) One single sign, attached to the facade of the building, occupying no more than 10% of the surface area of said facade.

(b) One temporary on-site, non-illuminated sign, not to exceed eight square feet in area, advertising the sale or rental of the property.

Approval of permits for advertising signs and advertising sign specifications shall conform to section 44-1708.

(8) Off-street parking facilities for any of the above listed uses.

44-703. Special uses.

The City Council may authorize the following special uses in the (C-3) Business District – Neighborhood, but only after receiving the recommendation of the Planning

Commission; after a public hearing; and subject to the conditions and protective restrictions set forth in section 44-1503:

(1) Public works and public utility facilities such as transformer stations, pumping stations, water towers, radio or television transmitter stations, and telephone exchanges.

(2) Churches, Sunday schools, and other places of worship.

(3) Single family dwellings

44-704. Area, yard, and height requirements.

Area, yard, and height requirements for the (C-3) Business District – Neighborhood shall be the following:

(1) There shall be no minimum requirements on the lot size, except that the width of such lot shall be not less than 80 feet.

(2) Minimum yard requirements shall be the following:

(a) Front yard depth: not less than 25 feet.

(b) Side yard width: same as that indicated for the Business District – Central (C-1).

(c) Rear yard depth: same as that indicated for the Business District – Central (C-1).

(3) The maximum height of a building in this district shall be 35 feet.

ARTICLE 8
C-4 BUSINESS DISTRICT – INTERSTATE HIGHWAY

Section.

44-801. Purpose and characteristics.
44-802. Permitted uses.
44-803. Special uses.
44-804. Area, yard, and height requirements.

44-801. Purpose and characteristics.

The purpose of the (C-4) Business District – Interstate Highway is to establish the location of areas best suited to the needs of highway-related business types within the Planning Area, those commercial types being characterized by a need for larger lot sizes, off-street parking, and immediate access to transient traffic.

44-802. Permitted uses.

Within the (C-4) Business District – Interstate Highway a building or premises shall be used only for the following purposes:

(1) Farm equipment sales and service.

(2) Automotive sales, services, and storage.

(3) Restaurants, cafes, drive-in restaurants, and drinking establishments.

(4) Motels, hotels, tourist accommodations, and souvenir shops.

(5) Mobile home and recreational vehicle sales, separate from mobile home parks.

(6) Commercial recreation and entertainment, such as drive-in theaters, miniature golf courses, bowling alleys, dance halls, skating rinks, drag strips, and golf

driving and target ranges.

(7) Truck terminals and related storage facilities containing a maximum of 3,000 square feet.

(8) Commercial storage or rental storage facilities completely within an enclosed building.

(9) Gas stations with below-ground storage facilities.

(10) Public and private parking lots.

(11) Food, dairy, liquor, furniture, and appliance stores.

(12) Dry cleaners, laundries, lumberyards, paint stores, farm and garden supply, sporting goods, and hobby shops.

(13) Public or private clubs, lodges, social, recreational, and entertainment facilities; or grounds for games and sports, including public or privately owned museums.

(14) Public works and public utility facilities such as transformer stations, pumping stations, water towers, radio or television transmitter stations, and telephone exchanges.

(15) Shopping centers, strip malls, or regional commercial centers.

(16) Banks, financial institutions, loan offices, and tax services.

(17) Insurance, real estate, and business offices or establishments.

(18) Medical, dental, and health offices, clinics, and establishments, excluding veterinary clinics.

(19) Professional offices and establishments.

(20) Accessory uses and buildings that are clearly incidental to the permitted use and that will not create a nuisance or hazard, which may include a dwelling unit for occupancy only by the owner or proprietor.

(21) Signs. The following on-premises signs shall be permitted, so long as they do not exceed 80 feet in height:

(a) Permanent illuminated or non-illuminated advertising signs identifying the use of the building, structure, or premises. Such signs shall be in harmony with the intended use of the land and the character of the Zoning District in which they are to be erected, including but not limited to the following:

(i) One single sign, attached to the facade of the building, occupying no more than 10% of the surface area of said facade.

(b) One temporary on-site sign, non-illuminated, not to exceed 32 square feet in area, advertising the sale or rental of the property.

Approval of permits for advertising signs and advertising sign specifications shall conform to section 44-1708.

(22) Customer Parking. Customer parking may be permitted in the front yard area, except the front 15 feet may be excluded or controlled by rules and regulations of the City.

44-803. Special uses.

The City Council may authorize the following special uses in the (C-4) Business District – Interstate Highway, but only after receiving the recommendation of the Planning Commission; after a public hearing; and subject to the conditions and protective restrictions set forth in section 44-1503:

(1) Mobile home parks, subject to the regulations outlined in chapter 26.

(2) The open storage, parking, or sale of building materials and supplies, wholesale and warehousing goods, and contractors' equipment.

(3) Churches, Sunday schools, and other places of worship.

(4) Collection and composting of yard waste.

(5) Single family dwellings.

44-804. Area, yard, and height requirements.

Area, yard, and height requirements for the (C-4) Business District – Interstate Highway shall be the following:

(1) There shall be no minimum lot size.

(2) Minimum yard requirements shall be the following:

(a) Front yard depth: not less than 25 feet.

(b) Side yard width: not less than ten feet.

(c) Rear yard depth: not less than 20 feet.

(3) There shall be no maximum building height.

ARTICLE 9
H-1 HISTORICAL DISTRICT

Section.

44-901. Purpose and characteristics.
44-902. Permitted uses.
44-903. Special uses.
44-904. Area, yard, and height requirements.

44-901. Purpose and characteristics.

The purpose of the (H-1) Historical District is to emphasize the character and architectural theme of buildings present in the City at the time the community was first developed. At the same time, commercial structures are encouraged as long as the older type of architectural treatment and appropriate choice of building materials are used and the commercial complex carries out the design theme. This zone is created to complement the Business District – Highway Zone and to add interest and tourist appeal to the community.

44-902. Permitted uses.

Within the (H-1) Historical District, a building or premises shall be used only for the following purposes:

(1) Restaurants, cafes, drive-in restaurants, and drinking establishments.

(2) Motels and tourist accommodations and personal services.

(3) Mobile home sales, separate from mobile home parks.

(4) Commercial recreation and entertainment, such as drive-in theaters, miniature golf courses, bowling alleys, dance halls, skating rinks, drag strips, and golf driving and target ranges.

(5) Gas stations.

(6) Public and private parking lots.

(7) Food, drug, dairy, liquor, furniture, and appliance stores.

(8) Dry cleaning pick-up stations, laundries, barber and beauty shops, clothing stores, farm and garden supply, sporting goods, and hobby shops.

(9) Public and private clubs, private lodges, private social, recreational, and entertainment facilities, or grounds for games and sports.

(10) Public works and public utility facilities, such as transformer stations, pumping stations, water towers, radio or television transmitter stations, or telephone exchanges.

(11) Accessory uses and buildings that are clearly incidental to the permitted use and that will not create a nuisance or hazard.

(12) Signs. The following on-premises signs shall be permitted, so long as they do not exceed 35 feet in height:

(a) Permanent illuminated or non-illuminated advertising signs identifying the use of the building, structure, or premises. Such signs shall be in harmony with the intended use of the land and the character of the Zoning District in which they are to be erected, and shall be advertising signs which are part of the architectural design or theme of the building and historical theme of the (H-1) Zoning District. Said signs shall be limited to:

(i) One single free standing sign with a maximum area of 90 square feet.

(2) One single sign attached to the facade of the building, occupying no more than 10% of the surface area of said facade.

(b) One temporary on-site, non-illuminated sign, not to exceed 16 square feet in area, advertising the sale or rental of the property.

Approval of permits for advertising signs and advertising sign specifications shall conform to section 44-1708.

44-903. Special uses.

The City Council may authorize the following special uses in the (H-1) Historical District, but only after receiving the recommendation of the Planning Commission; after a public hearing; and subject to the conditions and protective restrictions set forth in section 44-1503:

(1) Churches, Sunday schools, and other places of worship.

44-904. Area, yard, and height requirements.

Area, yard, and height requirements for the (H-1) Historical District shall be the following:

(1) Minimum lot size shall be 10,000 square feet with not less than an 80-foot width and a 100-foot depth.

(2) Minimum yard requirements shall be the following:

(a) Front yard depth: not less than 50 feet.

(b) Side yard width: same as that indicated for the Business District – Central (C-1).

(c) Rear yard depth: same as that indicated for the Business District – Central (C-1).

(3) The maximum height of a building in this district shall be 35 feet.

ARTICLE 10

I-1 INDUSTRIAL DISTRICT

Section.
44-1001. Purpose and characteristics.
44-1002. Permitted uses.
44-1003. Special uses.
44-1004. Area, yard, and height requirements.

44-1001. Purpose and characteristics.

The purpose of the (I-1) Industrial District is to establish the area or areas within the planning area where manufacturing or processing of products can be grouped together and set apart from the residential and business areas because of bulk, noise, odor, or the need for segregation of placement due to unusual circumstances related to the manufacturing or industrial processes.

44-1002. Permitted uses.

Within the (I-1) Industrial District, a building or premises shall be used only for the following purposes:

(1) Lumber and building materials manufacturing.
(2) Appliance and mechanical instruments manufacturing and sales.
(3) Electronic equipment manufacture.
(4) Food processing.
(5) Hatcheries.
(6) Machine shops and sheet metal shops.
(7) Milling, animal feed preparation, and grain elevators.
(8) Contractors' offices and shops.
(9) Furniture and cabinet manufacture.
(10) Garages for storage, repair, and servicing of motor vehicles.
(11) Dry cleaning and laundry plants.
(12) Printing and publishing plants.
(13) Textile manufacturing.
(14) Manufacturing, wholesale, warehousing, and commercial storage or rental storage completely within an enclosed building.
(15) Commercial storage or rental storage facilities completely within an enclosed building.
(16) Transportation terminals and freight yards.
(17) Utility offices, installation, and shops.
(18) Plumbing, heating, and air conditioning manufacture and service.
(19) Oil and water wells, drilling, and associated activities.
(20) Sign manufacturing.
(21) Concrete, asphalt, and ready-mix operations.
(22) Gasoline, oil, and petroleum products, production, and storage.
(23) Paint, glue solvents, or alcohol production.
(24) Woodcutting and splitting.
(25) Accessory uses and buildings that are clearly incidental to the permitted use and that will not create a nuisance or hazard, which may include a dwelling unit for

occupancy only by the owner or proprietor.

(26) Signs. The following on-premises signs shall be permitted, so long as they do not exceed 35 feet in height:

(a) Permanent illuminated or non-illuminated advertising signs identifying the use of the building, structure, or premises. Such signs shall be in harmony with the intended use of the land and the character of the zoning district in which they are to be erected. Said signs shall be limited to the following:

(i) One single free standing sign with a maximum area of 90 square feet;

(ii) One single sign, attached to the facade of the building, occupying no more than 10% of the surface area of said facade; or

(iii) One single billboard-type sign 24 square feet in area, for use as advertising products or services considered incidental to the primary use of the building or premises, attached to and parallel with the facade of the building.

(b) One temporary on-site sign, non-illuminated, not to exceed 16 feet in area and advertising the sale or rental of the property.

Approval of permits for advertising signs and advertising sign specifications shall conform to section 44-1708.

44-1003. Special uses.

The City Council may authorize the following special uses in the (I-1) Industrial District, but only after receiving the recommendation of the Planning Commission; after a public hearing; and subject to the conditions and protective restriction set forth in section 44-1503:

(1) Solid waste transfer facilities, which shall be enclosed buildings with safety and environmental controls where small trucks can deposit solid waste for transfer to larger trucks for long distance hauling or larger transport containers which can be moved by large trucks designed for efficient long distance hauling.

(2) Churches, Sunday schools, and other places of worship.

(3) Recycling facilities as provided for in Chapter 34 of this code.

(4) Collection and composting of yard waste.

(5) Livestock feed lots and sale barns, kennels and veterinary establishments.

44-1004. Area, yard, and height requirements. Area, yard, and height requirements for the (I-1) Industrial District shall be as follows:

(1) Minimum lot size shall be 10,000 square feet and not less than 80 feet in width and 100 feet in depth.

(2) Minimum yard requirements shall be the following:

(a) Front yard depth: not less than 35 feet.

(b) Side yard width: same as that indicated for the Business District – Central (C-1).

(c) Rear yard depth: none.

(3) There shall be no height limits placed on buildings constructed in this district.

ARTICLE 11
R-1 RESIDENTIAL DISTRICT – LOW DENSITY

Section.

44-1101. Purpose and characteristics.
44-1102. Permitted uses.
44-1103. Special uses.
44-1104. Area, yard, and height requirements.

44-1101. Purpose and characteristics.

The purpose of the (R-1) Residential District is to establish the general location of single-family, low density residential neighborhoods throughout the Planning Area of the City. Other uses complementary to, but not in conflict with, single-family dwellings are also allowed. However, it is the intent that the R-1 Residential Zone should basically retain the characteristics of a quiet residential area.

44-1102. Permitted uses.

Within the (R-1) Residential District, a building or premises shall be used only for the following purposes:

(1) Single-family dwellings.

(2) Manufactured homes which comply with the provisions of section 44-1705.

(3) Public uses including, but not limited to, public parks, playgrounds, trails, golf courses, recreational uses, fire stations, public elementary and high schools, public utilities and utility distribution systems.

(4) Churches, Sunday schools, and other places of worship.

(5) Customary incidental home occupations in accordance with the provisions set forth in section 44-1603.

(6) Accessory buildings, structures, or uses subordinate and customarily incidental to and located on the same lot with any of the foregoing principal uses.

(7) Major off-street parking facilities in conjunction with all uses in the foregoing list.

(8) Signs. The following on-premises signs shall be permitted, so long as they do not exceed eight feet in height:

(a) Permanent advertising signs identifying the use of the building, structure, or premises. Such signs shall be in harmony with the intended use of the land and the character of the zoning district in which they are to be erected. Said signs shall be limited to the following:

(i) One single sign with a maximum area of four square feet, with the exception that a maximum area of 50 square feet shall be allowed for the uses specified in subsections (3), (4), and (5).

(b) One temporary on-site, non-illuminated sign, not to exceed six square feet in area, advertising the sale or rental of the property.

Approval of permits for advertising signs and advertising sign specifications shall conform to section 44-1708.

44-1103. Special uses.

The City Council may authorize the following special uses in the (R-1) Residential District, but only after receiving the recommendation of the Planning Commission; after a public hearing; and subject to the conditions and protective

restriction set forth in section 44-1503:

(1) Private clubs; private lodges; private social, recreational, and entertainment facilities; or grounds for games and sports.

(2) Radio or television transmitter stations and telephone exchanges.

(3) Private and/or parochial schools.

(4) Signs, not to exceed a maximum of 50 square feet for private clubs and private lodges.

(5) Day-care facilities and preschools.

(6) Model homes as defined in section 44-104.

44-1104. Area, yard, and height requirements.

Area, yard, and height requirements for the (R-1) Residential District shall be the following:

(1) Minimum lot size shall be 7,500 square feet with not less than a 60-foot width and a 125-foot depth.

(2) Minimum yard requirements shall be the following:

(a) Front yard depth: not less than 25 feet.

(b) Side yard width: not less than eight feet.

(c) Rear yard depth: not less than 25 feet.

(3) The maximum height of a building in this district shall be 35 feet.

ARTICLE 12
R-1S RESIDENTIAL DISTRICT – LOW DENSITY SPECIAL

Section.

44-1201. Purpose and characteristics.
44-1202. Permitted uses.
44-1203. Special uses.
44-1204. Area, yard, and height requirements.

44-1201. Purpose and characteristics.

The purpose of the (R-1S) Residential District – Low Density Special is to establish the general location of single-family, low density residential neighborhoods throughout the Planning Area of the City. Other uses complementary to, but not in conflict with, single-family dwellings are also allowed. However, it is the intent that the R-1S Residential Zone should basically retain the characteristics of a quiet residential area.

44-1202. Permitted uses.

Within the (R-1S) Residential District – Low Density Special, a building or premises shall be used only for the following purposes:

(1) Single-family dwellings.

(2) Manufactured homes which comply with the provisions of section 44-1705.

(3) Public uses including, but not limited to, public parks, playgrounds, trails, golf courses, recreational uses, fire stations, public schools, public utilities and utility distribution systems.

(4) Churches, Sunday schools, and other places of worship.

(5) Customary incidental home occupations in accordance with the provisions of section 44-1603.

(6) Accessory buildings, structures, or uses subordinate and customarily incidental to and located on the same lot with any of the foregoing principal uses.

(7) Major off-street parking facilities in conjunction with all uses in the foregoing list.

(8) The keeping of one head of roping stock for each saddle horse and livestock other than saddle horses and roping stock under the following conditions:

(a) A minimum area of 3,000 square feet shall be required for each horse and each head of roping stock in addition to the minimum lot size for the district.

(b) For livestock other than horses, only one animal per member of each family occupying each residence will be permitted; provided, an area of 3,000 square feet per animal is required.

(9) Signs. The following on-premises signs shall be permitted, so long as they do not exceed eight feet in height:

(a) Permanent advertising signs identifying the use of the building, structure, or premises. Such signs shall be in harmony with the intended use of the land and the character of the zoning district in which they are to be erected. Said signs shall be limited to the following:

(i) One single sign with a maximum area of four square feet, with the exception that a maximum area of 50 square feet shall be allowed for the uses specified in subsections (3), (4), and (5).

(b) One temporary on-site, non-illuminated sign, not to exceed six square feet in area, advertising the sale or rental of the property.

Approval of permits for advertising signs and advertising sign specifications shall conform to section 44-1708.

44-1203. Special uses.

The City Council may authorize the following special uses in the (R-1S) Residential District – Low Density Special, but only after receiving the recommendation of the Planning Commission; after a public hearing; and subject to the conditions and protective restrictions set forth in section 44-1503:

(1) Private clubs, private lodges, private social, recreational, and entertainment facilities, or grounds for games and sports.

(2) Radio or television transmitter stations and telephone exchanges.

(3) Private and/or parochial schools.

(4) Signs, not to exceed a maximum of 50 square feet for private clubs and private lodges.

(5) Day-care facilities and preschools.

(6) Model homes as defined in section 44-104.

(7) Utility structures of non-commercial use.

44-1204. Area, yard, and height requirements.

Area, yard, and height requirements for the (R-1S) Residential District – Low Density Special shall be the following:

(1) Minimum lot size shall be 6,000 square feet with a minimum width of 60 feet and a minimum depth of 100 feet.

(2) Minimum yard requirements shall be the following:

(a) Front yard depth: not less than 25 feet.

(b) Side yard depth: not less than eight feet.

(c) Rear yard depth: not less than 25 feet.

(3) The maximum height of a building in this district shall be 35 feet.

ARTICLE 13
R-2 RESIDENTIAL DISTRICT – MEDIUM DENSITY

Section.

44-1301. Purpose and characteristics.
44-1302. Permitted uses.
44-1303. Special uses.
44-1304. Area, yard, and height requirements.

44-1301. Purpose and characteristics.

The purpose of the (R-2) Residential District – Medium Density is to provide for single-and multiple-family living, but also to afford flexibility for the establishment of uses, other than residential, that are not detrimental to the overall intent of the residential neighborhood. This zone, although it accommodates both residential and semi-commercial uses, is not a business zone since the overall consideration is for residential habitation and transcending into a two- or multiple-family high density district.

44-1302. Permitted uses.

Within the (R-2) Residential District – Medium Density, a building or premises shall be used only for the following purposes:

(1) Single-family dwellings.

(2) Two-family dwellings.

(3) Manufactured homes which comply with the provisions of section 44-1705.

(4) Multi-family dwellings.

(5) Rooming and boarding houses not intended as tourist accommodations.

(6) Public uses including, but not limited to, public parks, playgrounds, trails, golf courses, recreational uses, fire stations, public schools, public utilities and utility distribution systems.

(7) Hospitals, convalescent or nursing homes, and medical clinics, excluding veterinary hospitals and mental institutions.

(8) Churches, Sunday schools, and other places of worship.

(9) Customary incidental home occupations in accordance with the provisions of section 44-1603.

(10) Accessory buildings, structures, or uses subordinate and customarily incidental to and located on the same lot with any of the foregoing principal uses.

(11) Public and private off-street parking facilities as an integral design feature in the development of any of the above-listed uses.

(12) Signs. The following on-premises signs shall be permitted, so long as they

do not exceed eight feet in height:

(a) Permanent illuminated or non-illuminated advertising signs identifying the use of the building, structure, or premises. Such signs shall be in harmony with the intended use of the land and the character of the zoning district in which they are to be erected. Said signs shall be limited to the following:

(i) One single sign with a maximum area of four square feet, with the exception that a maximum area of 50 square feet shall be allowed for the uses specified in sections (4), (5), (6), (7), (8), and (9).

(b) One temporary on-site, non-illuminated sign, not to exceed six square feet in area, advertising the sale or rental of the property.

Approval of permits for advertising signs and advertising sign specifications shall conform to section 44-1708.

(13) Townhouses.

44-1303. Special uses.

The City Council may authorize the following special uses in the (R-2) Residential District – Medium Density, but only after receiving the recommendation of the Planning Commission; after a public hearing; and subject to the conditions and protective restriction set forth in section 44-1503:

(1) Private clubs, private lodges, private social, recreational, and entertainment facilities, or grounds for games and sports.

(2) Radio or television transmitter stations or telephone exchanges.

(3) Mortuary or funeral homes.

(4) Medical clinics, where part of a civic center.

(5) Private and/or parochial schools.

(6) Day-care facilities and preschools.

(7) On-premises signs, not to exceed a maximum of 50 square feet for private clubs and private lodges.

(8) Model homes as defined in section 44-104.

(9) Professional offices and establishments.

(10) Barber and beauty shops.

(11) Utility structures of non-commercial use.

44-1304. Area, yard, and height requirements.

Area, yard, and height requirements for the (R-2) Residential District – Medium Density shall be the following:

(1) Minimum lot size shall be 6,000 square feet with not less than a 60-foot width and a 100-foot depth.

(2) Minimum yard requirements shall be the following:

(a) Front yard depth: not less than 25 feet.

(b) Side yard width: not less than eight feet.

(c) Rear yard depth: not less than 25 feet.

(3) The maximum height of a building in this district shall be 35 feet.

(4) These requirements are applicable to single-family, two-family, and multi-family dwellings alike, with the following exceptions:

(a) Minimum lot size for a duplex shall be 3,000 square feet per family dwelling

unit.

(b) Minimum lot size for a multi-family dwelling shall be 2,500 square feet per family dwelling unit.

ARTICLE 14
R-3 RESIDENTIAL DISTRICT – HIGH DENSITY

Section.

44-1401. Purpose and characteristics.
44-1402. Permitted uses.
44-1403. Special uses.
44-1404. Area, yard, and height requirements.

44-1401. Purpose and characteristics.

The purpose of the (R-3) Residential District – High Density is to provide for the use of land for mobile home courts and individually owned lots in mobile home courts or single and multiple-family living. Other uses complementary to, but not in conflict with, single and multiple-family living are also allowed. It is, however, the intent that the R-3 District should basically retain the characteristics of a quiet residential area.

44-1402. Permitted uses.

Within the (R-3) Residential District – High Density, a building or premises shall be used only for the following purposes:

(1) Single-family dwellings.

(2) Two-family dwellings.

(3) Multi-family dwellings.

(4) Manufactured homes which comply with the provisions of section 44-1705.

(5) Public uses including, but not limited to, public parks, playgrounds, trails, golf courses, recreational uses, fire stations, public schools, public utilities and utility distribution systems.

(6) Churches, Sunday schools, and other places of worship.

(7) Customary incidental home occupations in accordance with the provisions of section 44-1603.

(8) Accessory buildings, structures, or uses subordinate and customarily incidental to and located on the same lot with any of the foregoing principal uses.

(9) Major off-street parking facilities in conjunction with all uses in the foregoing list.

(10) Signs. The following on-premises signs shall be permitted, so long as they do not exceed eight feet in height:

(a) Permanent advertising signs identifying the use of the building, structure, or premises. Such signs shall be in harmony with the intended use of the land and the character of the zoning district in which they are to be erected. Said signs shall be limited to the following:

(i) One single sign with a maximum area of four square feet, with the exception that a maximum area of 50 square feet shall be allowed for the uses specified in subsections (4), (5) and (6).

(b) One temporary on-site, non-illuminated sign, not to exceed six square feet in area, advertising the sale or rental of the property.

Approval of permits for advertising signs and advertising sign specifications shall conform to section 44-1708.

(11) Townhouses.

44-1403. Special uses.

The City Council may authorize the following special uses in the (R-3) Residential District – High Density, but only after receiving the recommendation of the Planning Commission; after a public hearing; and subject to the conditions and protective restriction set forth in section 44-1503:

(1) Private clubs, private lodges, private social, recreational, and entertainment facilities, or grounds for games and sports.

(2) Radio or television transmitter stations and telephone exchanges.

(3) Private and/or parochial schools.

(4) Mobile home parks.

(5) Vehicle storage facilities.

(6) Day-care facilities and preschools.

(7) Signs, not to exceed a maximum of 50 square feet for private clubs and private lodges.

(8) Model homes as defined in section 44-104.

(9) Utility structures of non-commercial use.

44-1404. Area, yard, and height requirements.

Area, yard, and height requirements for the (R-3) Residential District – High Density shall be the following:

(1) Minimum lot size shall be 5,000 square feet with a minimum width of 50 feet and a minimum depth of 100 feet.

(2) Minimum yard requirements shall be the following:

(a) Front yard depth: not less than 20 feet.

(b) Side yard depth: not less than five feet.

(c) Rear yard depth: not less than 15 feet.

(3) The maximum height of a building in this district shall be 35 feet.

(4) These requirements are applicable to single-family, two-family, and multi-family dwellings alike, with the following exceptions:

(a) Minimum lot size for a two-family dwelling shall be 2,500 square feet per family dwelling unit.

(b) Minimum lot size for a multi-family dwelling shall be 2,000 square feet per family dwelling unit.

ARTICLE 15
STANDARDS AND REGULATIONS; GENERALLY

Section.

44-1501. Applicability of provisions.
44-1502. General restrictions.

44-1503. Special exceptions.

44-1501. Applicability of provisions.

No building or land shall hereafter be used or occupied and no building or structure or part thereof shall be erected, moved, or structurally altered except in conformity with the regulations of this chapter, or amendments, for the district in which it is located.

44-1502. General restrictions.

(1) No lot, even though it may consist of one or more adjacent lots of record, shall be reduced in size so that the lot width or depth, front, side, or rear yards, lot area per family, or other requirements of this chapter are not maintained. This prohibition shall not be construed to prevent the condemnation of strips of land for public utilities or street right-of-way purposes.

(2) No part of a yard or other open space required in connection with any building or structure for the purpose of complying with the provisions of this chapter shall be included as a part of a yard or other open space similarly required for another building or structure.

(3) Only one principal building and its customary accessory buildings may hereafter be erected on any lot.

(4) No building or use of land for other than agricultural purposes shall be established on a lot that does not abut a public or private street.

Statutory reference: Neb. RS 19-902, 19-904.01

44-1503. Special exceptions.

(1) Generally. Upon application, pursuant to the provisions of this municipal code, the Council, upon receiving the recommendation of the Planning Commission, shall grant or refuse special exceptions in accordance with the following standards and the intent of this chapter. A written notice of the public hearing stating the time, date, and place of the Planning Commission and City Council meeting shall be sent to all property owners of record within 100 feet of the subject property, said notice to include the type of special exception being requested, prior to the request of special exception being considered. In addition, a notice, in sign form, of the hearing shall be posted in a conspicuous place on or near the property on which such action is pending. The sign shall be placed at least ten days prior to either hearing. In granting any special exceptions, the Council may prescribe and impose appropriate conditions and safeguards, including a specified time limit.

(2) Standards.

(a) Classified special exceptions shall be authorized only if they meet the following standards:

(i) Fire hazard. The use shall not include any activity involving the use or storage of flammable or explosive material unless protected by adequate firefighting and fire-suppression equipment and by such safety devices as are normally used in the handling of any such material.

(ii) Noise. The use shall not include noise which is objectionable due to volume,

frequency, or beat unless muffled or otherwise controlled.

(iii) Vibration. The use shall not include vibration which is discernible without instruments on any adjoining lot or property.

(iv) Air pollution. The use shall not involve any pollution of air by flying ash, dust, vapors, or other substances which are harmful to health, animals, vegetation, or other property or which can cause soiling, discomfort, or irritation.

(v) Odors. The use shall not involve any malodorous gas or matter which is discernible on any adjoining lot or property.

(vi) Glare. The use shall not involve any direct or reflected glare that is visible from any adjoining property or from any public street, road, or highway.

(vii) Traffic hazard. The use shall not involve any activity substantially increasing the movement of traffic on public streets unless procedures are instituted to limit traffic hazards and congestion.

(viii) Overtaxing of public utilities and facilities. The use shall not involve any activity substantially increasing the burden on any public utilities or facilities, unless provision is made for any necessary adjustments.

(ix) Character of neighborhood. The use shall not involve any activity not in character with the majority of the uses in the neighborhood unless, by design, setback, nature of operation, and other devices, the character of the neighborhood will be maintained.

(x) General welfare of the community. The use shall not involve any activity which adversely affects the general welfare of the community.

(xi) Conformity with Comprehensive Plan. The use shall be in conformance with the Comprehensive Plan.

ARTICLE 16
USE STANDARDS

Section.

44-1601. Bed and breakfasts.
44-1602. Family care homes.
44-1603. Home occupations.
44-1604. Temporary uses.

44-1601. Bed and breakfasts.

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

(1) Bed and Breakfast shall mean a home used to provide residential-style accommodations to the traveling public for 12 or fewer individuals.

(2) Authorized shall mean a bed and breakfast, as defined by this code, is permitted as a special exception in all districts within the City which are zoned for residential use when said bed and breakfast is approved by the City Council, but only after receiving the recommendation of the Planning Commission; after a public hearing; subject to the conditions and protective restrictions set forth in section 44-1503; and subject to all provisions of this code and of state statutes relating to bed and breakfast establishments.

(3) Building, fire, health, and safety standards shall mean a bed and breakfast shall meet all minimum building, fire, health, and safety standards set by state and local laws and regulations applicable to such an establishment.

(4) Supervision shall mean no bed and breakfast shall be permitted to operate without a caretaker or owner present at all times while patrons are in the building.

(5) License.

(a) License required shall mean a bed and breakfast shall not be established, operated, or maintained upon any property within the planning jurisdictional boundaries of the City without having first secured a license from the City Clerk. Prior to the issuance of the initial license for a bed and breakfast establishment, the City Clerk shall receive from the Building Inspector a copy of a certificate of occupancy indicating that the establishment is in compliance with the provisions of this section. The certificate of occupancy shall be maintained on file in the office of the City Clerk. All licenses shall expire on July 31. Application for license renewal shall be made at least 30 days prior to expiration.

(b) License application. The application for such license or renewal thereof shall be filed with the City Clerk and shall be accompanied by the annual fee of $50. The cost of any license secured having less than six months to run before the expiration date as herein provided shall be reduced to one-half the original amount. The application for a license or renewal thereof shall be made on forms furnished by the City Clerk and shall include the name, address, and signature of the applicant, if other than the owner; and the address and legal description of the premises upon which the bed and breakfast establishment will be located.

44-1602. Family care homes.

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

(1) Family Care Home shall mean a home operated for rehabilitation and/or habilitation purposes and licensed by the state to provide residential services to one individual per 300 square feet of living area plus residential staff, who need not be related to each other or to the residential staff, and which home provides some services which meet needs beyond a basic provision of food and shelter.

(2) Authorized shall mean a family care home, as defined by this code, is permitted as a use in all districts within the City's jurisdictional boundaries which are zoned for residential use, subject to all provisions of this code relating to family care homes.

(3) Building, fire, health, and safety standards shall mean a family care home shall meet all minimum building, fire, health, and safety standards set by state and local laws and regulations applicable to such a home.

(4) License shall mean a family care home shall be not constructed or operated until the agency, organization, or institution supervising such a home certifies to the Planning and Zoning Administrator that the family care home and its operation have met all licensing requirements of the certifying agency.

44-1603. Home occupations.

(1) Restrictions and limitations. A home occupation may be carried on in a

dwelling unit or accessory building under the following conditions:

(a) No person other than members of the family residing on the premises shall be engaged in such occupation.

(b) The use of the dwelling unit for the one occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants. The maximum allowable area that may be utilized in conducting such home occupation shall be equal to 25% of the floor area of the dwelling unit.

(c) There shall be no change in the outside appearance of the building or premises or other visible evidence of the conduct of such home occupation other than one sign, not exceeding three square feet in area, non-illuminated and mounted flat against the wall of the principal building.

(d) The maximum allowable area that may be utilized in conducting a home occupation in an accessory building shall not exceed 200 square feet.

(e) No traffic shall be generated by such home occupation in greater volume than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of such home occupation shall be met off the street and other than in a required front yard.

(f) No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot, if the occupation is conducted in a single-family residence or outside the dwelling unit if conducted in other than a single-family residence. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises or causes fluctuation in the line voltage off the premises.

(g) No outdoor storage of materials or equipment used in the home occupation shall be permitted.

(h) After December 31, 1996, all home occupations must be registered and a permit must be received from the office of the Building Inspector.

(2) Particular home occupations permitted. Customary home occupations include, but are not limited to, the following list of occupations; provided however, that each listed occupation is subject to the requirements of subsection (1) of this section:

(a) Art, dancing, and music schools, provided that instruction is limited to five pupils at one time.

(b) Professional offices for architects, engineers, planners, lawyers, accountants, bookkeepers, and similar professions.

(c) Offices for realtors, insurance agents, brokers, sales representatives, and manufacturing representatives when no exchange of tangible goods is made on the premises.

(d) Radio, television, VCR/CD, recorder, and small appliance repair services.

(e) Home crafts and hobbies such as model making, rug weaving, lapidary work, cabinetmaking, and the like.

(f) Tailoring, alterations, and seamstresses.

(g) Saw filing.

(h) Beauty parlor or barber services.

(i) Auto detailing.

(3) Particular home occupations prohibited. Permitted home occupations shall

not in any event be deemed to include:

(a) Mortuaries or funeral homes.
(b) Restaurants.
(c) Stables or kennels.
(d) Antique shops.
(e) Physicians, dentists, or other licensed medical practitioners.
(f) Auto repair.
(g) Small engines/engine repair.

44-1604. Temporary uses.

(1) Contractors' offices. Contractors' offices and equipment sheds (containing no sleeping or cooking accommodations) accessory to a construction project and to continue only during the duration of such project.

(2) Real estate offices. Real estate offices (containing no sleeping or cooking accommodations unless located in a model dwelling unit) incidental to a new housing development to continue only until the sale or lease of all dwelling units in the development.

(3) Seasonal sales. Seasonal sale of farm produce grown on the premises in an agricultural 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.

(4) Carnivals and circuses. A carnival or circus, but only in a nonresidential or in an agricultural district, and then only for a period that does not exceed three weeks. Carnivals and circuses shall be approved by the City Council. Such uses 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 confirm to the requirements of the sight triangle as defined by these regulations.

(5) Garage or yard sales. The sale of personal items on an infrequent basis at a residential use. Sales shall be limited to no more than three days in any one-month period and no more than three sales per year. Sales shall be conducted on the owner's or renter's property and not on or within the public right-of-way.

(6) Fireworks. The sale of controlled pyrotechnics or explosives permitted under state and local regulations for the purpose of celebrations or festivals. Fire and safety regulations and section 18-103 shall apply.

ARTICLE 17
DESIGN STANDARDS

Section.

44-1701. Area, yard, and height requirements.
44-1702. Corner visibility.
44-1703. Group projects.
44-1704. Loading and unloading.
44-1705. Manufactured homes.
44-1706. Parking.
44-1707. Projections.

44-1708. Signs awnings and billboards.
44-1709. Telecommunication towers.
44-1710. Townhouse and townhouse structure.

44-1701. Area, yard, and height requirements.

(1) Lot of record. Where the owner of a lot of official record in any district prior to November 8, 1967, or his or her successor in title does not own sufficient contiguous land to enable him or her to conform to the minimum lot size requirements of this chapter, such lot may be used as a building site provided that said lot requirements are not reduced below the minimums specified in this chapter by more than 20%. If, however, the owner of two or more adjoining lots with insufficient land dimensions decides to build on or sell said lots, he or she must first combine said lots to comply with the dimensional requirements of the chapter. Any lot requiring dimensional variances below the 20% minimum set forth in this section may request a variance of the Board of Adjustment.

(2) Setbacks. The front yard depth requirements of this chapter for dwellings shall not apply to any lot where the average setback of existing buildings located wholly or partially within 100 feet on either side of the proposed dwelling is less than the minimum required front yard depth; provided, said buildings are on the same side of the same block, in the same use district, and fronting on the same street as said lot. In such case the setback on the lots may be less than the required setback, but not less than the average of the existing setbacks on the aforementioned lots, or a distance of ten feet from the street right-of-way line, whichever is greater.

(3) Side yard. The required side yard setback shall be maintained on each side of a dwelling, but such setback may be reduced to 10% of the lot width on lots of less than 60 feet in width; provided, however, that no setback be less than five feet. For the purpose of side yard regulation, a two-family or multiple-family dwelling shall be considered as one building occupying one lot. An accessory building or addition to an accessory building to be constructed in the rear yard area shall be no closer than two feet to the side yard lot line nor five feet from the main structure nor two feet from any other accessory building on that lot. Attached garages are considered as part of the principal building and must comply with all minimum yard requirements. Carports, with a minimum of three open sides, no walls, may be constructed with a minimum of five feet side yard setback. Carports with a minimum of three open sides, no walls, may be constructed with a minimum of two feet side yard setback if said carport is constructed of noncombustible materials and detachable from the principal residence. For the purposes of this section, detachable shall mean that the carport has a separate roof which can be removed without structural modification of the adjoining residence.

(4) Rear yard depth. The required rear yard may be reduced to 20% of the depth of the lot on any lot not exceeding 100 feet in depth. An accessory building may be built within a required rear yard when located at least six feet from the rear lot line and when occupying not more than 30% of the area of such required rear yard.

(5) Height limitations. The height limitations of this chapter shall not apply to chimneys, cooling or water towers, elevators, bulkheads, fire towers, monuments, stacks, storage towers, tanks, spires, church steeples, radio towers, or necessary mechanical apparatus, except as otherwise provided in the vicinity of airports.

Statutory reference: Neb. RS 19-901
Historical reference: Am. Ord. 1044, passed 10-22-96

44-1702. Corner visibility.

On a corner lot in any residential district, no planting, structure, sign, fence, wall, or obstruction to vision between the range of three feet and eight feet in height, measured from the centerline of the street, shall be placed or maintained within the triangular area formed by the intersecting street right-of-way lines and a straight line connecting points on said right-of-way lines, each of which is 35 feet in distance from the point of intersection.

44-1703. Group projects.

In the case of two or more buildings to be constructed on a plot of ground of at least two acres not subdivided into the customary streets and lots and which will not be so subdivided, the application of the terms of this chapter may be varied by the Planning Commission and City Council in a manner that will be in harmony with the character of the neighborhood, provided:

(1) Such uses are limited to those permitted within the zoning district in which the project is located.

(2) The overall intensity of land use is no higher, and the standard of open space is no lower, than that permitted in the district in which the project is located.

(3) The distance of every building from the nearest property line shall meet the front, side, and rear yard requirements of the district in which the project is located.

(4) If the property lies within or abuts upon a residential district and is to be used for a nonresidential purpose, there shall be a densely planted buffer strip at least ten feet in height along the rear and/or side lot lines abutting the residential properties. No such buffer shall, however, extend nearer to a street right-of-way line than the established building line of the adjoining residential lot.

Statutory reference: Neb. RS 19-910

44-1704. Loading and unloading.

Every building or structure used for business, trade, or industry hereafter erected except in the (C-1) Business District – Central and the (H-1) Historical District shall provide space as indicated herein for the loading and unloading of vehicles off the street or public alley. Such space shall have access to an alley or, if there is no alley, to a street. For the purpose of this section, an off-street loading space shall have minimum dimensions of 12 feet by 40 feet and an overhead clearance of 14 feet in height above the alley or street grade.

(1) Retail businesses: one space for each 5,000 square feet of floor space.

(2) Wholesale and industry: one space for each 10,000 square feet of floor space.

44-1705. Manufactured homes.

All manufactured homes located outside mobile home parks shall meet the

following standards:

(1) The home shall have not less than 900 square feet of floor area.

(2) The home shall have not less than an 18-foot exterior width.

(3) The roof shall be pitched with a minimum vertical rise of 2½ inches for each 12 inches of horizontal run.

(4) The exterior material shall be of a color, material, and scale comparable with those existing in residential site-built, single-family construction.

(5) The home shall have a nonreflective roof material which is or simulates asphalt or wood shingles, tile, or rock.

(6) The home shall have wheels, axles, transporting lights, and removable towing apparatus removed.

(7) Nothing in this section shall be deemed to supersede any valid restrictive covenants of record.

(8) The home must meet building code requirements adopted by the City.

44-1706. Parking.

Off-street automobile parking or storage space shall be provided on every lot on which any of the following uses are hereafter established in all districts except the (C-1) Business District – Central; or, provided that no parking space can be reasonably provided on the same lot, such space shall be provided with vehicular access to a street or alley; such use shall be equal in number to at least the minimum requirements for the specific use set forth herein. Parking spaces shall be allowed in any required yard except as provided by section 44-802(21) in the (C-4) Business District – Interstate Highway:

(1) Vehicles sales and repair: one space for each two employees at a maximum employment on a single shift, plus two spaces for each 300 square feet of repair or maintenance space.

(2) Automobile service station: two spaces for each gas pump plus three spaces for each grease rack or similar facility.

(3) Bowling alley: two spaces for each alley, plus one additional space for each two employees.

(4) Churches: one space for each five seats.

(5) Elementary and junior high schools, both public and private: one space for each classroom and administrative office.

(6) Hospitals: one space for each four patient beds plus one space for each staff or visiting doctor, plus one space for each four employees.

(7) Mortuary or funeral homes: one space for each four seats in the assembly room or chapel.

(8) Motels, tourist homes, or tourist courts: one space for each accommodation; two additional spaces for employees.

(9) Offices - professional, business, or public, including banks: one space for each 200 square feet of gross floor area.

(10) Medical offices and clinics: four spaces for each doctor practicing at the clinic, plus one space for each employee.

(11) Places of public assembly and entertainment: one space for each four seats provided for patron use, plus one space for each 100 square feet of floor or ground area

used for amusement or assembly, but not containing fixed seats.

(12) Residential dwellings: one space for each single-family dwelling unit and 1.5 spaces per multi-family dwelling unit.

(13) Retail businesses: one space for each 200 square feet of gross salesroom area.

(14) Sanitariums, rest homes, and similar institutions: one space for each six patient beds, plus one space for each staff or visiting doctor, plus one space for each four employees.

(15) Senior high schools and colleges, both public and private: one space for each five students for which the school was designed plus one space for each classroom and administrative office.

(16) Mobile home parks: one space for each dwelling unit.

(17) Wholesaling and industrial uses: one space for each two employees at maximum employment on a single shift.

44-1707. Projections.

Every part of a required yard or court shall be open from its lowest point to the sky unobstructed, except:

(1) The ordinary projection of sills, eaves, belt courses, cornices, and ornamental features may be permitted, but not to exceed more than 24 inches in any required yard.

(2) An open, uncovered porch or paved terrace may extend not more than ten feet into any required yard and not closer than five feet to any lot line.

(3) A carport may be constructed in the required front yard of R-1, R-1S, R-2, R-3 districts provided they meet the following criteria:

(a) Detachable meaning that the carport has a separate roof which can be removed without structural modification of the adjoining residence.

(b) Engineered to meet City snow and wind load requirements

(c) Pre-manufactured

(d) Flat roofed

(e) Non-combustible

(f) Non-galvanized

(g) Minimum 28 gauge steel

(h) Constructed entirely on private property and not on City right of way

(i) Completely open on three or more sides

(j) Constructed as a subordinate structure to an existing garage no wider than the driveway approach leading into the garage.

(k) Conforms to side yard setback requirements for a carport set forth in 44-1701 (3) of this code

(4) Open or enclosed fire escapes, fireproof outside stairways, and balconies may be permitted, but may not project into a yard or court for more than 50% of the required yard.

44-1708. Signs awnings and billboards.

(1) Generally. Advertising signs shall not be erected, constructed, or altered except in compliance with the requirements and the regulations of the zoning district in which they are to be located.

Statutory reference: Neb. RS 19-901, 19-902

(2) Permits.

(a) Any person who desires to erect any awning or sign upon or projecting wholly or in part over any City property, or who desires to erect any billboard or to suffer it to remain on private property, shall file in the office of the City Clerk a written application for a permit to do so, giving full information as to size, weight, and character of the sign or awning, and the distance it will project outside the lot line, together with drawings or other data showing the method of securing and fastening the same, or giving the general construction specifications or description of the billboard.

(b) The Clerk shall forthwith refer said application to the Building Inspector and if he or she shall find that such sign shall not present a menace to the public passing along such thoroughfare, and that the building to which it is or will be attached is of sufficient strength and size to safely support the sign, or if a lighted sign, that it complies with this code, and if a billboard, that it complies with this code, the Building Inspector shall endorse his findings on said application to that effect and shall grant such permit. Any such permit shall be revocable at any time by the Building Inspector for cause.

(c) All such signs, awnings, or billboards shall be periodically inspected under the direction of the Building Inspector, and if it appears that any sign, billboard, or awning is insecure, unsafe, or that it fails to conform with the requirements of this code, then such sign, awning, or billboard shall be ordered by notice in writing to be made safe or removed forthwith by the person maintaining such sign, awning, or billboard, and on such person's failure, refusal, or neglect to comply with said order within three days, it shall be the duty of the Building Inspector to cause such awning, sign, or billboard, as the case may be, to be removed and the expense of such removal shall be charged to the person refusing to comply with such order or removal, and the costs may be collected by the City from such person the same as any other debt or liability.

(3) Location and specifications.

(a) Advertising signs shall not overhang public streets, alleys, or ways, except sidewalks in the (C-1) Business District – Central In which advertising signs overhanging the sidewalk shall not project or extend closer than two feet to the curb line, shall be no more than 12 inches below any marquee, shall be no more than 48 square feet maximum size, and shall not extend above the facade of the building on which they are erected by more than four feet.

(b) Advertising signs may be erected on the roof of any building only in a C-2 or C-4 zoning district within or outside the corporate limits and shall comply will all of the following conditions:

(i) Only one roof mounted sign per street frontage shall be allowed;

(ii) The sign shall be illuminated from within. LED signs are permissible;

(iii) Signs shall be no more than six (6’) in height; and,

(iv) Signs shall be no wider than 1/3 of the distance of the width of the roof no longer than 1/3 the distance of the length of the roof.

(c) Structural supports for free standing advertising signs shall not be exposed to public view, but shall be an integral part of the design of the advertising sign. Signs shall be structurally safe and in good repair, as determined by the Building Inspector,

including those connected to a building facade. Signs shall not be located in such a manner as to obscure or otherwise interfere with the effectiveness of any existing business advertising, or an official traffic sign, signal, or device, or otherwise interfere with the driver's view of approaching, merging, or intersecting traffic, as determined by the Planning and Zoning Administrator.

(d) Signs shall not flash all elements simultaneously and shall not resemble any traffic sign, signal, or device. Revolving beacons are prohibited.

(e) All awnings erected or suffered to remain in the sidewalk space shall be of canvas on iron frames. All awnings shall be elevated at least 6½ feet at their lowest part from the top of the public sidewalk and shall not project over said sidewalk to exceed three-fourths of the width thereof. They shall be supported without posts by iron brackets or by an iron framework attached firmly to the building so as to leave the sidewalk wholly unobstructed thereby, provided that nothing herein shall be construed to prevent the owner of any building from constructing a substantial awning or marquee of noncombustible material supported without posts over the sidewalk space if located flush with the outer edge thereof and if a building permit shall have first been secured for the construction of the same. All awnings shall comply with all applicable zoning requirements now in effect or as may hereafter be enacted except as specifically exempted.

(f) Marquees shall not project or extend closer than two feet to the curb-line and the lowest part of any marquee shall be at least nine feet above the sidewalk or front doorsill, if no sidewalk is used.

(4) Political Signs.

(a) Temporary political signs may be placed upon City owned right of way only in a residential zoning district as hereinafter provided; and upon private property with the property owner’s permission in any zoning district provided that the following terms and conditions are satisfied:

(i) Signs located in City owned right of way, in a residential zone, shall not exceed ten (10) square feet in area;

(ii) Signs located on private property, in any zone, shall not exceed thirty-two (32) square feet;

(iii) A deposit shall be filed in the Office of the City Clerk in the amount of $100 dollars for an individual or committee placing more than ten (10) signs, but not more than twenty (20) signs and in the amount of $200 dollars for an individual or committee placing more than twenty (20) signs. Such fee to be refunded upon satisfactory evidence that the signs have been removed from display;

(iv) Signs shall be placed on the interior side of the curb, sidewalk, or edge of the street if no curb or sidewalk;

(v) In order to maintain visibility at an intersection, no sign greater that three (3) feet in height from the ground shall be placed closer that 35 feet from the back of the curb, or edge of the pavement if no curb exists, at an intersection;

(vi) Private property shall be limited to one (1) sign larger than 10 square feet but less than thirty-two (32) square feet in area.

(vii) Signs shall be placed no closer to a polling place than as prescribed by Nebraska State Statute;

(viii) Signs shall conform to Nebraska State Statute regarding placement in State

owned right of way.

(ix) Permission must be obtained from the property owner abutting the City owned right of way prior to installing any signs in the right of way;

(x) Signs shall not be installed more than four (4) weeks in advance of any primary, general or special election and shall be removed within seven (7) days after the election day;

(xi) The provisions of this section shall apply to right-of-way owned by the City of Ogallala and to private property. In no case shall political signs be placed in City owned parks, parking lots or other City owned real estate;

(xii) Political signs shall be defined as temporary signs in support of or against a candidate or a proposition which is the candidate for or the subject of a general, primary or special election held in the City of Ogallala, Nebraska. The terms of this section shall not apply to permanent billboard signs that are permitted by special exception under section 44-603.

(xi) Political signs placed on City owned right of way that do not conform to the foregoing terms and conditions, or any political signs placed on any City owned park, parking lot or other City owned real estate, may be removed and disposed of by the City Manager or by City Employees designated by the City Manager of the City of Ogallala, Nebraska. Temporary political signs placed on private property that do not conform to the foregoing terms and conditions shall be deemed to be in violation of this chapter.

44-1709. Telecommunication towers.

(1) Definitions. For the purpose of this Section, the following terms shall have the meaning ascribed to them below:

(a) Abandonment shall mean:

(i) To cease operation for a period of sixty (60) or more consecutive days;

(ii) To reduce the affected radiated power of an antenna by seventy-five percent (75%) for sixty (60) or more consecutive days;

(iii) To relocate an antenna at a point less than eighty percent (80%) of the height of an antenna support structure; or

(iv) To reduce the number of transmissions from an antenna by seventy-five percent (75%) for sixty (60) or more consecutive days.

(b) Antenna shall mean any exterior apparatus designed for telephonic, radio, data, Internet or television communications through the sending and/or receiving of electromagnetic waves including equipment attached to a tower, pole, light standard or building for the purpose of providing personal wireless services including, for example, unlicensed wireless telecommunications services, wireless telecommunications services utilizing frequencies authorized by the Federal Communications Commission for "cellular," "paging," "enhanced specialized mobile radio," "low power mobile radio" and "personal communications services" telecommunications services, and its attendant base station.

(c) Antenna Height shall mean the vertical distance measured from the base of the antenna support structure at grade to the highest point of the structure even if said highest point is an antenna. Measurement of tower height shall include antenna, base pad, and other appurtenances and shall be measured from the finished grade of the parcel. If the support structure is on a sloped grade, then the average between the

highest and lowest grades of the parcel shall be used in calculating the antenna height.

(d) Antenna Support Structure shall mean any pole, light standard, telescoping mast, tower, tripod or other structure which supports a device used in the transmitting or receiving of radio, telephonic or television frequency or television signals.

(e) Cell Site shall mean a tract or parcel of land that contains the telecommunications service facilities including any antenna, tower support structure, accessory buildings, and parking, and may include other uses associated with and ancillary to telecommunications services.

(f) FAA shall mean the Federal Aviation Administration.

(g) FCC shall mean the Federal Communications Commission.

(h) Governing Authority shall mean the governing authority of the City, namely the City Council.

(i) Personal Wireless Service and Personal Wireless Service Facilities, as used in this Section, shall be defined in the same manner as in Title 47, United States Code, Section 332(c)(7)(C), as they may be amended now or in the future.

(j) Tower shall mean any structure that is designed and constructed primarily for the purpose of supporting one (1) or more antennas, including any antenna support structure, self-supporting lattice towers, guy towers, or monopole towers. The term encompasses personal wireless service facilities, radio and television transmission towers, microwave towers, common carrier towers, cellular telephone towers or personal communications services towers, alternative tower structures, and the like.

(2) Exemptions. The following are exempt from the provisions of this Section and shall be permitted in all zones:

(a) Industrial processing equipment and scientific or medical equipment using frequencies regulated by the FCC.

(b) Antennas and related equipment no more than three (3) feet in height that are being stored, shipped, or displayed for sale.

(c) Radar systems for military and civilian communications and navigation.

(d) Wireless radio utilized for temporary emergency communications in the event of a disaster.

(e) Licensed amateur (ham) radio operations.

(f) Satellite dish antennas less than two (2) meters in diameter, including direct to home satellite services, when used as a secondary use of the property.

(g) Routine maintenance or repair of a personal wireless service facility and related equipment (excluding structure work or changes in height or dimensions of antennas, towers, or buildings), provided that compliance with the standards of this Section are maintained.

(h) Subject to compliance with all other applicable standards of this Section, a building permit application need not be filed for emergency repair or maintenance of a personal wireless service facility until thirty (30) days after the completion of such emergency activity.

(3) Tower siting.

(a) It is the policy of the City of Ogallala to encourage co-location of new communications towers with existing towers or as part of suitable existing structures. All applications for approval of a communications tower location shall include evidence that all potential alternatives for location on existing towers have been explored and

exhausted. Applicants may not be denied space on an existing tower within the City of Ogallala and its jurisdiction unless mechanical, structural, regulatory factors, or legitimate business expansions plans prohibit co-location.

(b) The applicant for a communications tower location is required to demonstrate as part of its application that the tower must be located on the proposed site in order to satisfy its function in the company's system. The applicant must also demonstrate that the proposed height is the minimum height necessary for the successful functioning of the tower.

(4) Tower Setback, Design, Maintenance and Height.

(a) Free standing towers shall be located so that the distance from the base of the tower to any adjoining property line or the supporting structure of a separate neighboring tower is a minimum of 100% of the tower height. The Planning Commission may recommend and the City Council approve a reduction to the setback with a special use permit if they determine that such reduction does not constitute a hazard to safety or property on adjacent properties or rights-of-way.

(b) The tower installation shall be designed to be aesthetically and architecturally compatible with the built environment of the City of Ogallala. The City encourages efforts to hide towers or restrict their visibility from public right-of-way or neighboring properties. Associated support buildings shall be designed with materials that are consistent with those in the surrounding neighborhood.

(c) All tower installations shall maintain landscaped peripheral yards with a minimum depth of 35 feet from surrounding property lines. One tree shall be planted for every 500 square feet of required peripheral yard area.

(d) As part of the Special Use Permit approval process, the City Council may permit the tower to exceed the height restrictions otherwise allowable in the district.

(e) Towers shall have a color generally matching the surroundings or background that minimizes their visibility, unless a different color is required by the Federal Communications Commission (FCC) or Federal Aviation Administration (FAA).

(f) Lights, signals and signs: No signals, lights or signs shall be permitted on towers unless required by the FCC or the FAA. Should lighting be required, at the time of construction of the tower in cases where there are residential users located within a distance which is 300% of the height of the tower from the tower, then dual mode lighting shall be requested from the FAA. Lighting on towers shall not exceed the minimum requirements of the FAA or other regulatory agencies.

(g) Adequate security measures are required at the base of the tower to prevent vandalism or hazards resulting from casual access to the facility.

(h) Each year after a facility becomes operational; the facility operator shall conduct a safety inspection in accordance with the EIA and FCC Standards and, within sixty (60) days of the inspection, file a report with the City Manager. Submission of a FCC required, and duly filed, safety inspection report, or the facility operator's maintenance reports for the prior twelve (12) months in the event no FCC report is required for such year, to the City Manager shall satisfy the requirements of this section.

(5) City Site Selection criteria in Evaluating Applications for Communications Towers.

(a) The City Council shall authorize towers and antennas as a special use in all zoning districts except the Central Business District but only after receiving the

recommendation of the Planning Commission; after a public hearing; and subject to the conditions and protective restrictions set forth in section 44-1503 of the Municipal Code.

(b) Consistent with the policies of this Ordinance, the telecommunications company proposing to construct an antenna support structure, or mount an antenna on an existing structure, shall demonstrate, using technological evidence, that the antenna must go where it is proposed in order to satisfy its function in the company's grid system, Further, the company must demonstrate by technological evidence that the height requested is the minimum height necessary.

(c) Applications for necessary permits will only be processed when the applicant demonstrates that it is either an FCC licensed telecommunications provider or has in place necessary agreements with an FCC licensed telecommunications provider for use or lease of the support structure.

(d) Personal wireless service facilities should be located and designed to minimize any impacts on residential property values, Sites should be placed in locations where the existing topography, vegetation, buildings or other structures provide the greatest amount of screening.

(e) Location and design of sites in all districts should consider the impact of the site on the surrounding neighborhood and the visual impact within the zone district. In residential districts and residential land use areas, the minimum lot size for towers shall be three acres.

(f) Applicants for a special use for a new tower shall file Federal Aviation Administration form 7460-1 (Notice of Proposed Construction or Alteration) and submit a copy of the FAA report to the City.

(6) Priorities for Siting. The following establishes the priorities for locating new communications facilities:

(a) Public property, (excluding parks, prairie, conservation or wildlife areas or historic structures).

(b) Appropriate existing structures, such as buildings, towers, water towers, and smokestacks.

(c) A-1 and A-2 districts that do not adjoin or adversely impact residential neighborhoods.

(d) Private non-residential property in C-2, C-3, C-4 and I-1 districts.

(e) Place antennas on multi-family residential structures exceeding thirty feet (30') in height in districts zoned R-2, and R-3.

(f) Residential districts only if locations for which a need has been demonstrated are not available on existing structures or in non-residential districts; and only on or in existing churches, parks, schools, utility facilities or other appropriate public facilities.

(g) An applicant for a new antenna support structure to be located in a residential zoning district shall demonstrate that a diligent effort has been made to locate the proposed communications facilities on a government structure, a private institutional structure, or other appropriate existing structures within a non-residential zoning district, that due to valid considerations including physical constraints, or technological feasibility, no appropriate location is available. The telecommunications company is required to demonstrate that it contacted the owners of structures in excess of thirty feet (30') within a one-quarter mile radius of the site proposed, asked for permission to install the antenna on those structures and was denied for reasons other than economic

ones. The information submitted by the applicant shall include a map of the area to be served by the tower, its relationship to other antenna sites in the applicant's network, and an evaluation of existing buildings taller than thirty feet (30'), towers and water tanks within one-quarter mile of the proposed tower.

44-1710. Townhouse and townhouse structure

(1) Permitted Land Use. A townhouse shall be restricted to residential use in which each unit shall be occupied by one family. Each unit shall be separated by vertical side common walls extending from foundation through roof without openings, and shall have at least two exposed exterior walls.

(2) Site Development Regulations.

(a) Minimum Site Area/"Foot Print" per Townhouse (square feet)	1250
(b) Minimum Lot Area (square feet)	3000
(c) Minimum Lot Width (feet)	50
(d) Minimum Yards (feet)	
(i) Front Yard	25
(ii) Side Yard	10
(iii) Street Side Yard	15
(iv) Rear Yard	25
(e) Maximum Height (feet)	35
(f) Maximum Building Coverage	45%

(3) Ownership and Maintenance of Common Open Space.

(a) Townhouses shall provide for ownership and maintenance of common open space. Common open space within a development shall be owned, administered, and maintained by any of the following methods, either individually or in combination, and subject to approval by the City.

(i) Offer of Dedication. The City of Ogallala or Keith County shall have the first and last offer of dedication of undivided open space in the event said land is to be conveyed. Dedication shall take the form of a fee simple ownership. The City or County may, but shall not be required to accept undivided open space provided: (1) such land is accessible to the residents of the City; (2) there is no cost of acquisition other than any costs incidental to the transfer of ownership such as title insurance; and (3) the City agrees to and has access to maintain such lands. Alternatively, the City or County may accept an easement subject to the above conditions.

(ii) Recorded Documents. The Plat shall be filed with the Keith County Register of Deeds within 90 days of approval by the Ogallala City Council. The Plat shall include all proposed amenities such as a club house, tennis courts, swimming pool, etc.

(iii) Homeowners Association. If not dedicated, the undivided open space and associated facilities shall be held in common ownership by a homeowners' association. The association shall be formed and operated under the following provisions:

(4) The developer shall provide a description of the association, including its bylaws and methods for maintaining the open space.

(5) The association shall be organized by the developer and shall be operated with financial assistance from the developer, before the sale of any lots within the development.

(6) Membership in the association is automatic (mandatory) for all

purchasers of homes therein and their successors. The conditions and timing of transferring control of the association from developer to homeowners shall be identified.

(7) The association shall be responsible for maintenance of insurance and taxes on undivided open space, enforceable by liens placed by the City or county on the association. The association may place liens on the homes or house lots of its members who fail to pay their association dues in a timely manner. Such liens may require the imposition of penalty interest charges.

(8) The members of the association shall share equitably the costs of maintaining and developing such undivided open space. Shares shall be defined within the association bylaws.

(9) In the event of a proposed transfer, within the methods here permitted, of undivided open space land by the homeowners' association, or of the assumption of maintenance of undivided open space land by a public agency, notice of such action shall be given to all property owners within the development.

(10) The homeowners' association may lease open space lands to any other qualified person, or corporation, for operation and maintenance of open space lands.

44-1711. PERIMETER BOUNDARY FENCING.

(1) For purposes of this section, perimeter boundary fencing shall be defined as a manmade fence that is located parallel to and within 5 feet of a property line that is intended to delineate a property line boundary.

(2) Persons desiring to construct a perimeter fence shall obtain a building permit.

(3) It shall be the responsibility of the applicant to show the location of all of the surveyed property corners pertaining to the fencing project.

(4) Fencing shall be located on private property and not on City right-of-way.

(5) Fencing located within a required side and rear yard in any zoned district shall be no higher than 6 (six) feet above adjacent grade.

Exception A: Fencing next to a neighboring retaining wall that is 2 feet or higher may be permitted to be a maximum of 8 (eight) feet in height provided that a structural analysis is completed.

Exception B: Correctional and detention facilities may have security fencing in excess of 6 (six) feet in height.

(6) Fencing located within a required front yard in any district, shall be no higher than 4 (four) feet above adjacent grade.

Exception: Public or private school play grounds and sport venues.

(7) Permitted fencing materials shall include dimensional lumber, synthetic fencing materials such as plastic and vinyl, stone, brick, concrete, stucco, decorative wrought iron, split rail, chain link with a top rail to guard exposed tines. Materials other than those specified in this regulation may be approved by special exception.

(8) Prohibited fencing materials include corrugated building panels, railroad ties, wire mesh, ranch-type livestock fencing, barbed wire fencing, and razor wire and electric-shock fences.

Exception A: Corrugated building panels may be permitted in zoned C-2 Highway Business Districts and I-1 Industrial Districts.
Exception B: Ranch type livestock fencing is permitted in agricultural zoned districts and where specifically approved by City Council for livestock permits.
Exception C: Barbed wire and electric shock fencing are permitted in agricultural zoned districts and where specifically approved by City Council for livestock permits or deemed by the zoning official as being necessary for security purposes.
Exception D: Razor wire fencing is permitted in locations of correctional facilities for security purposes provided the razor wire is located on the interior of the fence and/or a minimum of 8 feet above grade.

(9) Fence installations shall have an appearance that looks identical on both sides or has the finished-favorable side facing towards the public street or neighboring property.

10) Fencing on corner lots in residential zones shall provide for corner visibility in conformance to Municipal Code 44-1702.

ARTICLE 18
BOARD OF ADJUSTMENT

Section.

44-1801. General procedure.
44-1802. Proceedings of Board.
44-1803. Powers and duties.
44-1804. Variances.
44-1805. Appeals to Board.
44-1806. Appeals from Board.

44-1801. General procedure.

It is the intent of this chapter that all questions of interpretation and enforcement shall be first presented to the administrative official, and that such question shall be presented to the Board of Adjustment only on appeal. Appeal from the decisions of the Board of Adjustment shall be to the courts as provided by law and particularly by Neb. RS 19-912.

44-1802. Proceedings of Board.

(1) The Board of Adjustments shall adopt rules necessary to the conduct of its affairs, and in keeping with the provisions of this chapter. Meetings shall be held at the call of the Chairperson and at such other times as the Board may determine. The Chairperson, or in his or her absence the Acting Chairperson, may administer oaths and compel the attendance of witnesses. All meetings shall be open to the public.

(2) The Board of Adjustments 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, and shall keep records of its examinations and other official actions, all of which shall be a public record and be immediately filed in the office of the Board.

44-1803. Powers and duties.

(1) The Board of Adjustment shall have only the following powers and duties:

(a) Administrative review. To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by any Planning and Zoning Administrator or agency based on or made in the enforcement of this chapter or any regulation relating to the location or soundness of structures.

(b) Interpretation; special questions. To hear and decide, in accordance with the provisions of this chapter, requests for interpretation of any map, requirement, or provision of the Zoning Ordinance.

(c) Variances; conditions governing applications; procedures. Where by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of the enactment of this chapter, or by reason of exceptional topographical conditions or other extraordinary and exceptional situations or conditions of such piece of property, or exceptional and undue hardships upon the owner of such property, the Board of Adjustment may, upon an appeal of a decision relating to the property, authorize a variance from such strict application so as to relieve such difficulties or hardship, if such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of this chapter.

(2) In exercising the above-mentioned powers, the Board may, in conformity with the provisions of this chapter, reverse or affirm, wholly or partly, or may modify, the order, requirement, decision, or determination appealed from, and may make such order, requirement, decision, or determination as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken.

(3) The concurring vote of four members of the Board shall be necessary to reverse any order, requirement, decision, or determination of any such Planning and Zoning Administrator, to decide in favor of the applicant on any matter upon which it is required to pass under this chapter, or to effect any variation in the application of this chapter.

44-1804. Variances.

(1) No variance shall be authorized by the Board unless it finds that:

(a) The strict application of this chapter would produce undue hardship.

(b) Such hardship is not shared generally by other properties in the same zoning district and the same vicinity.

(c) The authorization of the variance will not be of substantial detriment to adjacent property and the character of the district will not be changed by the granting of the variance.

(d) The granting of such variance is based upon reason of demonstrable and exceptional hardship as distinguished from variation for purposes of convenience, profit, or caprice.

(e) Such hardship does not result from the actions of the owner of such property.

(f) The granting of such variance will not confer on the owner of such property any special privilege that is denied by this chapter to other lands, structures, or buildings in the same district.

(2) No variance shall be authorized unless the Board finds that the condition or situation of the property concerned or the intended use of the property is not so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to this ordinance.

(3) No nonconforming use of neighboring land, structures, or buildings in the same district and no permitted or nonconforming use of lands, structures, or buildings in other districts shall be considered grounds for issuance of a variance.

(4) A variance from the terms of this chapter shall not be granted by the Board of Adjustment unless and until:

(a) A written application for a variance is submitted indicating the terms of this chapter under which the variance is sought, stating the ground on which it is requested, and the specific variance requested.

(b) Notice shall be given at least ten days in advance of public hearing. The owner of the property for which variance is sought or his or her agent shall be notified by mail. Notice of such hearing shall be posted on the property for which variance is sought, at the City Hall, and in one other public place, at least ten days prior to the public hearing.

(c) The public hearing shall be held. Any party may appear in person, or by agent or attorney.

(d) The Board of Adjustment shall make a finding that the reasons set forth in the application justify the granting of the variance under the terms of this chapter, and that the variance is the minimum variance that will make possible the reasonable use of the land, building, or structure.

(e) The Board of Adjustment shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of this chapter and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

(5) In granting any variance, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with this chapter. Violation of such conditions and safeguards when made a part of the terms under which the variance is granted shall be deemed a violation of this chapter and punishable under section 44-2001.

(6) Under no circumstances shall the Board of Adjustment grant a variance to allow a use not permissible under the terms of this chapter in the district involved or any use expressly or by implication prohibited by the terms of this chapter in said district.

44-1805. Appeals to Board.

(1) Generally.

(a) Appeals to the Board of Adjustment concerning the interpretation or administration of this chapter may be taken by any person aggrieved or by any officer or bureau of the governing body of the City affected by any decision of the administrative official. Such appeal shall be taken within a reasonable time, not to exceed 60 days, or such lesser period as provided by the rules of the Board, by filing a notice of appeal with the administrative official and with the Board of Adjustment specifying the grounds for the appeal. The administrative official shall immediately transmit to the Board all papers

constituting the record upon which the action appealed from was taken.

(b) The Board of Adjustment shall fix a reasonable time for the hearing of the appeal, give public notice and notice to the parties in interest of the appeal hearing, and decide the same within a reasonable time. At an appeal hearing, any party may appear in persons or by agent or attorney.

(2) Stay of proceedings. An appeal stays all proceedings in furtherance of the action appealed from, unless the administrative official from whom the appeal is taken certifies to the Board of Adjustment after the notice of appeal is filed with him or her that, by reason of facts stated in the certificate, a stay would, in his or her opinion, cause imminent peril to life and property. In such case proceedings shall not be stayed other than by a restraining order which may be granted by the Board of Adjustment or by a court of record on application, on notice to the administrative official from whom the appeal is taken and on due cause shown.

44-1806. Appeals from Board.

Any person, board, taxpayer, department, or board of the City aggrieved by a decision of the Board of Adjustment may seek review of such decision by the district court for the county in the manner provided by the laws of the state.

ARTICLE 19
ADMINISTRATION AND ENFORCEMENT

Section.

44-1901. Amendments.
44-1902. Annexations.
44-1903. Enforcement authority.
44-1904. Zoning certificates.

44-1901. Amendments.

(1) Generally. This chapter, including the Official Zoning Maps, may be amended from time to time, but no amendments shall become effective unless they have been proposed by, or been submitted to, the Planning Commission for review and recommendation. The Planning Commission shall have 30 days within which to submit its report to the Council. If the Planning Commission fails to submit a report within the 30 days, it shall be deemed to have approved the proposed amendment. A public hearing shall be held by the Planning Commission before adoption of any proposed amendment to this chapter. A notice of such public hearing shall be given once a week for two successive calendar weeks in a newspaper of general circulation in the City, said notice to be published the first time not less than 15 days prior to the date established for the public hearing.

(2) Application. In order to have a proposed change of district or amendment introduced and considered by the Planning Commission, persons requesting the same shall comply with the following:

(a) At the time an application for the change of a zoning district or amendment to the zoning text is filed with the Planning Commission, there shall be deposited with the City Clerk a fee as established by resolution of the City Council.

(b) An application for a change of district to a commercial district shall contain a minimum area of three acres. The area, should more than one parcel of land be involved, shall be contiguous exclusive of any streets or easements.

(c) An application for a change of district to an industrial district shall contain a minimum area of five acres. The area, should more than one parcel of land be involved, shall be contiguous exclusive of any streets or easements.

(d) The foregoing requirements in subsections (a) and (b) will not apply in the case of an extension of a commercial or industrial district.

(e) A person presenting an application for a change of district shall not be entitled to have such change considered and acted upon by the Council unless and until the Planning Commission has certified that such change is not inconsistent with the principles of the Land Use Plan of the City.

(f) When an application for change of zoning district for a lot or parcel of land specifically described and identified has been submitted to and denied by the Council, a period of six months must elapse before the aforementioned lot or parcel, either separately or as a component of a larger parcel, can again be brought before the Planning Commission for further consideration.

(3) Public hearing. Before enacting an amendment to this chapter, the Council shall hold a public hearing thereon. At least ten days prior to the hearing, a notice containing the time and place shall be published in a newspaper of general circulation in the City. Additionally, notice shall be posted in a conspicuous place on or near the property on which action is pending. At the option of the Council, in place of the posted notice provided above, the owners or occupants of real estate within three hundred feet of the affected real estate may be personally served with a written notice thereof at least ten days prior to the date of the hearing if they can be served within Keith County, Nebraska. If the record title owners or occupants of any lots included in such proposed change are nonresidents of the county, then a written notice of such hearing shall be mailed by certified mail to such owners or occupants addressed to their last-known addresses at least ten days prior to such hearing. All notices provided for herein shall conform to the requirements of Neb. RS 19-904, 19-905 & 19-923.

(4) Protest. If a protest against such change is signed by the owners of 20% or more either of the area of the lots included in such proposed change, or of those immediately adjacent thereto, extending 300 feet therefrom, and of those directly opposite thereto extending 300 feet from the street frontage of such opposite lots, the amendment shall not become effective except by favorable vote of three-fourths of all Members of the Council.

Statutory reference: Neb. RS 19-905

44-1902. Annexations.

(1) The City Council desiring to annex land under the authority of this section shall first adopt both a resolution stating that the City is considering the annexation of the land and a plan for extending City services to the land. The resolution shall state:

(a) The time, date, and location of the public hearing required below.

(b) A description of the boundaries of the land proposed for annexation.

(c) That the plan of the City for extension of City services to the land proposed for

annexation is available for inspection during regular business hours in the office of the City Clerk.

(2) The plan adopted by the City Council shall contain sufficient detail to provide a reasonable person with a full and complete understanding of the intentions of the City for extending City services to the land proposed for annexation. The plan shall:

(a) State the estimated cost impact of providing the services to such land.

(b) State the method by which the City plans to finance the extension of services to the land and how any services already provided to the land will be maintained.

(c) Include a timetable for extending services to the land proposed for annexation.

(d) Include a map drawn to scale clearly delineating the land proposed for annexation, the current boundaries of the City, the proposed boundaries of the City after the annexation, and the general land-use pattern in the land proposed for annexation.

(3) A public hearing on the proposed annexation shall be held within 60 days following the adoption of the resolution to allow the City Council to receive testimony from interested persons. The City Council may recess the hearing, for good cause, to a future time and date specified at the hearing.

(4) A copy of the resolution providing for the public hearing shall be published in the official newspaper in the City, at least once not less than ten days preceding the date of the public hearing. A map drawn to scale delineating the land proposed for annexation shall be published with the resolution. A copy of the resolution providing for the public hearing shall be sent by first-class mail following its passage to the school board of any school district in the land proposed for annexation.

Statutory reference: Neb. RS 16-117

44-1903. Enforcement authority.

The provisions of this chapter shall be enforced by the Planning and Zoning Administrator.

Statutory reference: Neb. RS 19-909, 19-913

44-1904. Zoning certificates.

(1) A zoning certificate shall be required to erect, construct, reconstruct, alter, maintain, or use any building or structure, or to use any land as herein specified. It shall be the duty of the Planning and Zoning Administrator to issue a zoning certificate if the building or other structure and the proposed use thereof, or the proposed use of the land or premises, conforms with all of the requirements herein set forth.

(2) To obtain a zoning certificate, the applicant shall submit the required documents established herein.

(a) An application on a form prescribed by the Planning and Zoning Administrator containing information sufficient to show compliance with the requirements of this chapter.

(b) A plat drawn to scale showing the actual shape and dimensions of the lot to be built upon, the exact size and location on the lot of existing buildings and structures, the lines within which the proposed building or structure and driveways shall be located

or altered, the existing and intended use of the property, and such other information with regard to the lot and neighboring lots and their use as may be necessary to determine compliance with and provide for the enforcement of this chapter.

(c) In the Historical District (H-1), in addition to any other requirements set forth herein, the following criteria are also required:

(i) Appropriate drawings, plans, renderings, perspectives, or illustrations in sufficient number and detail to accurately depict the proposed design and architectural character of any proposed development so that uniformity of design style can be established and adhered to.

(d) Where a zoning certificate is requested for a C-2 Business District – Highway or H-1 Historical District use, and said structure or use lies directly across a public roadway from an R-2 Residential District – High Density or immediately abuts any residential district, regardless if a roadway exists, a vegetative buffer of no less than eight feet in height shall be required along the entirety of the lot frontage facing said R-2 Residential District – High Density, except for egress and ingress points.

(e) In areas which are not served with public water or sewer, a certified statement that the proposed water and sewer facilities will be installed to conform to the minimum requirements of the State Department of Health.

(f) Any zoning certificate issued shall become invalid unless the work authorized by it shall be commenced within six months of its date of issue or if the work authorized by it is suspended or abandoned for a period of one year. A record of zoning certificates shall be kept on file in the office of the Planning and Zoning Administrator.

Statutory reference: Neb. 19-902

ARTICLE 20
PENALTY

Section.
44-2001. Penalty.

44-2001. Penalty.

(1) Penalty amounts. Any person who violates any of the prohibitions or provisions of any section of this chapter shall be deemed guilty of a misdemeanor. Unless otherwise specified in this chapter or by statute, the penalty for such violation shall be in any amount not to exceed $1,000, in the discretion of the court; and; provided, whenever any section of this chapter shall declare a nuisance, a violation of that section shall be penalized by a fine of not more than $1,000, in which case a new violation shall be deemed to have been committed every 24 hours of such failure to comply.

(2) Abatement of nuisance.

(a) Whenever a nuisance exists as defined in this chapter, the City may proceed by a suit in equity to enjoin and abate the same, in the manner provided by law.

(b) Whenever in any action it is established that a nuisance exits, the court may, together with the fine or penalty imposed, enter an order of abatement as a part of the judgment in the case.

(3) Restitution. The court may, together with the fine or penalty imposed, enter an order of restitution as part of the judgment in the case.

(4) In case any building is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or any building or land is used in violation of this chapter, the Planning and Zoning Administrator, or any other appropriate City authority, or any person who would be damaged by such violation, in addition to other remedies, may institute an action for injunction or mandamus or other appropriate action or proceeding to prevent such violation.

Statutory reference: Neb. RS 16-225, 16-240, 16-246, 18-1720, 19-909, 19-913